

Review Research Paper

Criminal Amendment Act 2013 and Issue of Age

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Abstract

The Criminal Amendment Act 2013 has redefined crime and has labeled some activities criminal. This seems appropriate with changing sensitivity of people to issues like privacy, exploitation and helplessness. There is a definite aggression towards preventing crime against women, which is evident in the Act. One aspect although which seems unjustified and out of modern context is enhancing the age for consent of sexual intercourse by women. With more freedom and opportunities for self-exploration available to adolescents and greater acceptance of western culture, there seems to be greater acceptability for physically intimate associations amongst the two genders. Consensual sexual intercourse is getting commoner, even in the absence of a formal relationship.

In this context, increasing the age of consent for sexual intercourse by women puts any sexual relationship before the age of 18 years of the female in category of a crime and the male as accused for the crime. It seems to be unfair and holds a disproportionate gender bias. The relevance of age of maturity, its origin, acceptance in the present scenario and its consequences discussed in this paper.

Key Words: Crime against women, Consent, Age, sexual intercourse, Gender

Introduction:

The **2012 Delhi gang rape** case involved a rape and fatal assault that occurred on 16 December 2012 in Munirka, a neighbourhood in South Delhi, when a 23-year-old female physiotherapy intern was beaten and gang raped in a private bus in which she was travelling with a male friend. [1]

There were six others in the bus, including the driver, all of whom raped the woman and beat her friend. The woman died from her injuries thirteen days later while undergoing emergency treatment in Singapore. [2, 3] The incident generated widespread national and international coverage and was widely condemned, both in India and abroad.

Subsequently, public protests against the state and central governments for failing to provide adequate security for women took place in New Delhi, where thousands of protesters clashed with security forces. Similar protests took place in major cities throughout the country.

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As a result of the protests, in December 2012, a judicial committee was set up to study and take public suggestions for the best ways to amend laws to provide quicker investigation and prosecution of sex offenders.

After considering 80,000 suggestions, the committee submitted a report which indicated that failures on the part of the government and police were the root cause behind crimes against women.

The central government has amended section 375 & section 376 of IPC. The amendments in all these sections are important & need to be discussed but we want to focus on one very important issue regarding amendment in age of woman in section 375 of IPC for giving consent for sexual intercourse.

The section 375 of IPC stating that "A man is said to commit Rape if he has done any of the act mentioned in clause (a), (b), (c) or (d) of section 375 of IPC with or without her consent, when she is under eighteen years of age". [4]

Here as per this section 'consent' means an unequivocal voluntary agreement when the woman by words, gestures or any form of verbal or non-verbal communication, communicates willingness to participate in the specific sexual act. [4]

Discussion:

Now question arise that has central government taken correct step by raising age for

consensual sexual intercourse from 16 years to 18 years in section 375 of IPC?

Now we are living in 21st century and there is a remarkable change in the attitude of the society. 21st century is century of internet, mobile & television, now younger generation is exposed to various kind of knowledge exposure to which was prohibited by the society up to a certain age so is it a right step by government to increase the age from 16 years to 18 years for consensual sexual relation?

If we compare the laws of various countries regarding age for informed consent for sexual act by woman Age of consent laws vary widely from jurisdiction to jurisdiction, though most jurisdictions set the age of consent in the range 14 to 18.

Global Scenario:

In Europe, countries that have the age of consent set at 16 include **Cyprus, Finland, Georgia, Latvia, Lithuania, Luxembourg, the Netherlands, Norway, and Switzerland**. For **Austria, Germany, Portugal and Italy** it is 14, and in **France, the Czech Republic, Denmark, and Greece** it is 15. **Spain** did have one of the lowest ages of consent on the continent at just 13, but recently agreed to raise this to 16.

Throughout the rest of the world, there are big variations. In **Bahrain**, it is set at 21 for women who want to marry without their father's consent, while in nearby **Saudi Arabia**, all sex outside of marriage is illegal but there are no laws limiting the age at which you can get married. In **China**, the age of consent is 14, in **Iraq** it is 18, while in **Japan** it is five years lower at 13.

The countries likes of **Brazil, Peru, Paraguay, Ecuador and Colombia** all have it set at 14 and in some countries - such as **Chile** the minimum age of consent is 14, but there are legal restrictions on sexual activities up to the age of 18, and homosexual sex is illegal before that age.

Australia's age of consent varies between 16 and 17 depending on which territory you are in, and the same goes for **America** where it ranges from 16 to 18 between different states. In **Angola**, the age of consent is just 12. [5]

Each US state has its own age of consent. State laws set the age of consent at 16, 17 or 18. The most common age is 16.

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Age of consent laws are designed to protect children and young people from sexual exploitation and abuse. Such laws effectively determine that children and young people below the age of consent do not have the emotional maturity to consent to sexual activities.

A big question is regarding consensual sexual intercourse if both the parties are under the age of consent as described in section 375 of IPC. Basically all these laws are made to stop sexual exploitation of children & teen age from adults. As teen age becoming more & more aware of all these aspects of life & government has raised the age from 16 years to 18 years it may increase complexities in the society like increase in numbers of criminal abortion to hide these relations.

After amendment in Section 375 of IPC, There is already increasing trend of complaints by parents/guardians in police stations of various states in cases of consensual sexual intercourse between boys and girls when age of girl is less than 18 years and this trend are going to increase day by day.

As happened in case of misuse section 498-A of IPC & its consequences, now government is re-thinking about section 498-A of Indian Penal Code & trying to modify it. Same will happen in case of Section 375 IPC and Government will be bound to make amendment in this section in future.

Suggestions:

As society becoming more liberal, government should think about to modify law particularly when there is a consensual sexual act between two under age persons.

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