

By Speed Post

जयदीप सिंह कोचर
संयुक्त सचिव (प्रशिक्षण)
Jaideep Singh Kochher
JOINT SECRETARY (TRAINING)



राष्ट्रीय मानव अधिकार आयोग
फरीदकोट हाऊस, कॉपरनिकस मार्ग
नई दिल्ली- 110 001 भारत
National Human Rights Commission
Faridkot House, Copernicus Marg,
New Delhi-110 001 INDIA

D. No. 7/16/2012-PRP&P

Dated 21 January 2013

Dear Shri Mishra,

Please refer to Rajya Sabha Secretariat's advertisement appearing in national newspapers inviting suggestions on the Criminal Law (Amendment) Bill, 2012 for examination by the Department-related Parliamentary Standing Committee on Home Affairs headed by Shri M. Venkaiah Naidu, Member of Parliament, Rajya Sabha.

2. A list of Commission's recommendations/suggestions on the Bill is enclosed. While preparing the same, the Commission had the benefit of taking into account the outcome of the deliberations held in the Consultation on Violence Against Women organized by NHRC on 08 January 2013.

With regards,

Yours sincerely,

(J. S. Kochher)

Shri D. K. Mishra
Joint Director
Rajya Sabha Secretariat
Room No. 142, First Floor
Parliament House Annexe
New Delhi - 110001

ISSUED

21 JAN 2013

Recommendations / Suggestions

LEGISLATIVE REFORMS

Comments on Criminal Law Amendment Bill, 2012

1. The definition of penetrative sexual assault u/s 375 IPC should be broad and beyond the peno-vaginal rape. Further, the offence of sexual assault should be kept gender specific with only men being accused of sexual assault rather than making it gender neutral.
2. The present definition of consent u/s 375 IPC works against the interest of justice for women. Accordingly, appropriate changes will have to be made in the process of investigation. Further, the age of consent for sexual intercourse should be retained at 16 years and not increased to 18 years.
3. Recognizing the structural and graded nature of sexual violence based on concepts of hurt, harm and injury, stalking, stripping and parading naked in public etc., there is need to codify these sexual crimes as new offences of sexual violence against women and girls. All these need to be suitably defined and procedural laws need to be made accordingly.
4. Punishment under Section 354 of IPC may be enhanced upto five years depending upon the seriousness of the offence.
5. In the 2012 Bill, the amendments proposed in Sections 154 and 161 Cr.P.C. are a step in the right direction. However, as far as possible, the statement of women victims should be recorded in the presence of woman police officer.
6. There is need to look into the deteriorating standards of public prosecutors which leads to low conviction rate for which there is no accountability on them. In order to address this problem, there is need to explore how the victim may engage her own private lawyer.
7. In an appeal preferred by the convict in the High court, other than the State, victim or nearest next of kin of deceased victim also be made party. Notice of any proceeding initiated by the accused in the High Court should also be issued to the next of kin of deceased victim or victim as the case may be, and opportunity of hearing should be afforded.

Comments on Code of Criminal Procedure, 1973

8. Death penalty in every rape case, as a punishment is not desirable.
9. Need to examine the severity of punishment to be imposed with regard to rape and other kinds of sexual assault/offence/crime.