

**Bill No. 303 of 2016**

THE INDIAN PENAL CODE (AMENDMENT) BILL, 2016

By

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BILL

*further to amend the Indian Penal Code, 1860.*

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

**1.** (1) This Act may be called Indian Penal Code (Amendment) Act, 2016.

Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification  
5 in the Official Gazette, appoint.

45 of 1860.

**2.** In section 292 of the Indian Penal Code, 1860 (hereinafter referred to as the Code), in sub-section (2), for the words, "shall be punished on first conviction with imprisonment of either description for a term which may extend to two years, and with fine which may extend to two thousand rupees, and in the event of a second or subsequent conviction, with

Amendment of section 292.

imprisonment of either description for a term which may extend to five years and also with fine which may extend to five thousand rupees", the words "shall be punished on first conviction with imprisonment of either description for a term which may extend to five years, and with fine which may extend to five thousand rupees, and in the event of a second or subsequent conviction, with imprisonment of either description for a term which may extend to seven years and also with fine which may extend to ten thousand rupees" shall be substituted. 5

Amendment of section 354. **3.** In section 354 of the Code, for the words "shall be punished with imprisonment of either description for a term which shall not be less than one year but which may extend to five years, and shall also be liable to fine", the words "shall be punished with imprisonment of either description for a term which shall not be less than five years but which may extend to seven years, and shall also be liable to fine" shall be substituted. 10

Amendment of section 354A. **4.** In section 354A of the Code,—  
 (a) in sub-section (2), for the words "shall be punished with rigorous imprisonment for a term which may extend to three years, or with fine, or with both", the words "shall be punished with rigorous imprisonment for a term which may extend to ten years and shall also be liable to fine" shall be substituted; and 15

(b) in sub-section (3), for the words "shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both", the words "shall be punished with imprisonment of either description for a term which may extend to seven years and shall also be liable to fine" shall be substituted. 20

Amendment of section 354B. **5.** In section 354B of the Code, for the words "shall be punished with imprisonment of either description for a term which shall not be less than three years but which may extend to seven years, and shall also be liable to fine", the words "shall be punished with imprisonment of either description for a term which shall not be less than eight years but which may extend to ten years, and shall also be liable to fine" shall be substituted. 25

Amendment of section 354C. **6.** In section 354C of the Code, for the words "shall be punished on first conviction with imprisonment of either description for a term which shall not be less than one year, but which may extend to three years, and shall also be liable to fine, and be punished on a second or subsequent conviction, with imprisonment of either description for a term which shall not be less than three years, but which may extend to seven years, and shall also be liable to fine", the words "shall be punished on first conviction with imprisonment of either description for a term which shall not be less than three years, but which may extend to five years, and shall also be liable to fine, and be punished on a second or subsequent conviction, with imprisonment of either description for a term which shall not be less than six years, but which may extend to eight years, and shall also be liable to fine" shall be substituted. 30 35

Amendment of section 354D. **7.** In section 354D of the Code, for sub-section (2), the following sub-section shall be substituted, namely:—

"(2) Whoever commits the offence of stalking shall be punished on first conviction with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine; and be punished on a second or subsequent conviction, with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine." 40

Insertion of new section 354E. **8.** After section 354D of the Code, the following section shall be inserted, namely:

Eve teasing. "354E. Any act punishable under sections 292, 354, 354A, 354B, 354C, 354D or 509 shall be deemed to be an offence of eve teasing and punished accordingly." 45

**9.** In section 376 of the Code,—

Amendment  
of section  
376.

5 (a) in sub-section (1), for the words " shall be punished with rigorous imprisonment of either description for a term which shall not be less than seven years, but which may extend to imprisonment for life, and shall also be liable to fine", the words "shall be punished with rigorous imprisonment for fourteen years or with death and shall also be liable to fine" shall be substituted; and

10 (b) in sub-section (2), for the words "shall be punished with rigorous imprisonment for a term which shall not be less than ten years, but which may extend to imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, and shall also be liable to fine", the words "shall be punished with rigorous imprisonment for life, or with death, and shall also be liable to fine" shall be substituted.

15 **10.** In section 376A of the Code, for the words "shall be punished with rigorous imprisonment for a term which shall not be less than twenty years, but which may extend to imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, or with death", the words "shall be punished with rigorous imprisonment for life, or with death" shall be substituted."

Amendment  
of section  
376A.

20 **11.** In section 376B of the Code, for the words "shall be punished with imprisonment of either description for a term which shall not be less than two years but which may extend to seven years, and shall also be liable to fine", the words "shall be punished with imprisonment of either description for a term which shall not be less than seven years but which may extend to ten years, and shall also be liable to fine" shall be substituted.

Amendment  
of section  
376B.

25 **12.** In section 376C of the Code, for the words "shall be punished with rigorous imprisonment of either description for a term which shall not be less than five years, but which may extend to ten years, and shall also be liable to fine", the words "shall be punished with rigorous imprisonment of either description for a term which shall not be less than eight years, but which may extend to ten years, and shall also be liable to fine" shall be substituted.

Amendment  
of section  
376C.

30 **13.** In section 376D of the Code, for the words "shall be punished with rigorous imprisonment for a term which shall not be less than twenty years, but which may extend to life which shall mean imprisonment for the remainder of that person's natural life, and with fine", the words "shall be punished with rigorous imprisonment for life, or with death and with fine" shall be substituted.

Amendment  
of section  
376D.

35 **14.** In section 376E of the Code, for the words "shall be punished with imprisonment for life which shall mean imprisonment for the remainder of that person's natural life, or with death", the words "shall be punished with rigorous imprisonment for life or with death and with fine" shall be substituted."

Amendment  
of section  
376E.

40 **15.** In section 509 of the Code, for the words "shall be punished with simple imprisonment for a term which may extend to three years, and also with fine", the words "shall be punished with simple imprisonment for a term which may extend to five years, and with fine" shall be substituted.

Amendment  
of section  
509.

## STATEMENT OF OBJECTS AND REASONS

In the Indian Penal Code (IPC), 1860 in its current form, eve-teasing of women is not concretely defined. Eve-teasing, as it is understood by the Indian courts, is dispersed across various sections under Indian Penal Code. In addition, the offences under these varied Sections relating to eve-teasing are bailable and non-cognisable. These laws have failed to check the rise in cases of eve-teasing in India. As per the National Crime Records Bureau (NCRB) data, offences against women under section 354 of Indian Penal Code have increased from 70,739 to 82,235, at 16.3% between 2013 and 2014.

According to the data collected by the National Crime Records Bureau, as many as 3,37,922 cases of crimes against women were registered in 2014. This is an increase of 9.2% from the registered crimes against women in 2013. Crimes committed under Indian Penal Code against women, as proportion of total Indian Penal Code crimes have increased to 11.4% in 2014.

The Criminal Law (Amendment) Act, 2013 did widen the definition of most acts of harassment aimed against women. But the crimes registered against women continue to rise.

Thus the possibility exists that the current form and term of punishments are not sufficient to deter the individuals from committing the crime. Evidence from the United States during 1980's points to increased sentence for a crime or making it harsher, having a positive impact on reducing the crime rate and overall incidence of crime in US. It is true that the effectiveness of the deterrence principle is much debated in the Criminal Justice system. The need is to provide harsher punishments in the Indian context.

The Bill, therefore, seeks to amend the Indian Penal Code, 1860 with a view to make eve-teasing an offence punishable under the Code and also to increase the penalties for various crimes committed against women.

Hence this Bill.

NEW DELHI;  
*November 4, 2016.*

SUPRIYA SULE

*ANNEXURE*

EXTRACTS FROM THE INDIAN PENAL CODE, 1860

(No. 45 OF 1860)

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**292.** \* \* \* \* \* Sale of obscene pictures.  
(2) Whoever,

\* \* \* \* \*

(e) \* \* \* \* \*

shall be punished on first conviction with imprisonment of either description for a term which may extend to two years, and with fine which may extend to two thousand rupees, and, in the event of a second or subsequent conviction, with imprisonment of either description for a term which may extend to five years, and also with fine which may extend to five thousand rupees.

\* \* \* \* \*

**354.** Whoever assaults or uses criminal force to any woman, intending to outrage or knowing it to be likely that he will thereby outrage her modesty, shall be punished with imprisonment of either description for a term which shall not be less than one year but which may extend to five years, and shall also be liable to fine. Assault or criminal force to woman with intent to outrage her modesty.

\* \* \* \* \*

**354A.** 1. A man committing any of the following acts— Sexual harassment.

- i. physical contact and advances involving unwelcome and explicit sexual overtures; or
- ii. a demand or request for sexual favours; or
- iii. showing pornography against the will of a woman; or
- iv. making sexually coloured remarks, shall be guilty of the offence of sexual harassment.

2. Any man who commits the offence specified in clause (i) or clause (ii) or clause (iii) of sub-Section (1) shall be punished with rigorous imprisonment for a term which may extend to three years, or with fine, or with both.

3. Any man who commits the offence specified in clause (iv) of sub-Section (1) shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

\* \* \* \* \*

**354B.** Any man who assaults or uses criminal force to any woman or abets such act with the intention of disrobing or compelling her to be naked, shall be punished with imprisonment of either description for a term which shall not be less than three years but which may extend to seven years, and shall also be liable to fine. Assault or use of criminal force to woman with intent to disrobe.

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**354C.** Any man who watches, or captures the image of a woman engaging in a private act in circumstances where she would usually have the expectation of not being observed either by the perpetrator or by any other person at the behest of the perpetrator or disseminates such image shall be punished on first conviction with imprisonment of either description for Voyeurism.

a term which shall not be less than one year, but which may extend to three years, and shall also be liable to fine, and be punished on a second or subsequent conviction, with imprisonment of either description for a term which shall not be less than three years, but which may extend to seven years, and shall also be liable to fine.

Explanations—

1. For the purpose of this Section, "private act" includes an act of watching carried out in a place which, in the circumstances, would reasonably be expected to provide privacy and where the victim's genitals, posterior or breasts are exposed or covered only in underwear; or the victim is using a lavatory; or the victim is doing a sexual act that is not of a kind ordinarily done in public.

Where the victim consents to the capture of the images or any act, but not to their dissemination to third persons and where such image or act is disseminated, such dissemination shall be considered an offence under this Section.

\* \* \* \* \*

Stalking.

**354D.** (1) Any man who—

i. follows a woman and contacts, or attempts to contact such woman to foster personal interaction repeatedly despite a clear indication of disinterest by such woman; or

ii. monitors the use by a woman of the internet, email or any other form of electronic communication,

iii. commits the offence of stalking;

Provided that such conduct shall not amount to stalking if the man who pursued it proves that—

i. it was pursued for the purpose of preventing or detecting crime and the man accused of stalking had been entrusted with the responsibility of prevention and detection of crime by the State; or

ii. it was pursued under any law or to comply with any condition or requirement imposed by any person under any law; or

iii. in the particular circumstances such conduct was reasonable and justified.

(2) Whoever commits the offence of stalking shall be punished on first conviction with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine; and be punished on a second or subsequent conviction, with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine.

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Punishment for Rape.

**376.** (1) Whoever, except in the cases provided for in sub-Section (2), commits rape, shall be punished with rigorous imprisonment of either description for a term which shall not be less than seven years, but which may extend to imprisonment for life, and shall also be liable to fine.

(2) Whoever—

(a) being a police officer, commits rape,

i. within the limits of the police station to which such police officer is appointed; or

ii. in the premises of any station house; or

iii. on a woman in such police officer's custody or in the custody of a police officer subordinate to such police officer; or

(b) being a public servant, commits rape on a woman in such public servant's custody or in the custody of a public servant subordinate to such public servant; or

(c) being a member of the armed forces deployed in an area by the Central or a State Government commits rape in such area; or

(d) being on the management or on the staff of a jail, remand home or other place of custody established by or under any law for the time being in force or of a women's or children's institution, commits rape on any inmate of such jail, remand home, place or institution; or

(e) being on the management or on the staff of a hospital, commits rape on a woman in that hospital; or

(f) being a relative, guardian or teacher of, or a person in a position of trust or authority towards the woman, commits rape on such woman; or

(g) commits rape during communal or sectarian violence; or

commits rape on a woman knowing her to be pregnant; or

commits rape on a woman when she is under sixteen years of age; or

(h) commits rape, on a woman incapable of giving consent; or

being in a position of control or dominance over a woman, commits rape on such woman; or

(i) commits rape on a woman suffering from mental or physical disability; or

(j) while committing rape causes grievous bodily harm or maims or disfigures or endangers the life of a woman; or

commits rape repeatedly on the same woman,

shall be punished with rigorous imprisonment for a term which shall not be less than ten years, but which may extend to imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, and shall also be liable to fine.

\* \* \* \* \*

**376A.** Whoever, commits an offence punishable under sub-Section (1) or sub-Section (2) of Section 376 and in the course of such commission inflicts an injury which causes the death of the woman or causes the woman to be in a persistent vegetative state, shall be punished with rigorous imprisonment for a term which shall not be less than twenty years, but which may extend to imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, or with death.

Punishment for causing death or resulting in persistent vegetative state of the victim.

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**376B.** Whoever has sexual intercourse with his own wife, who is living separately, whether under a decree of separation or otherwise, without her consent, shall be punished with imprisonment of either description for a term which shall not be less than two years but which may extend to seven years, and shall also be liable to fine.

Sexual intercourse by husband upon his wife during separation.

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**376C.** Whoever, being—

a. in a position of authority or in a fiduciary relationship; or

b. a public servant; or

c. superintendent or manager of a jail, remand home or other place of custody established by or under any law for the time being in force, or a women's or children's institution; or

Sexual intercourse by person in authority.

d. on the management of a hospital or being on the staff of a hospital, abuses such position or fiduciary relationship to induce or seduce any woman either in his custody or under his charge or present in the premises to have sexual intercourse with him, such sexual intercourse not amounting to the offence of rape,

shall be punished with rigorous imprisonment of either description for a term which shall not be less than 5 years, but which may extend to ten years, and shall also be liable to fine.

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Gang Rape.

**376D.** Where a woman is raped by one or more persons constituting a group or acting in furtherance of a common intention, each of those persons shall be deemed to have committed the offence of rape and shall be punished with rigorous imprisonment for a term which shall not be less than twenty years, but which may extend to life which shall mean imprisonment for the remainder of that person's natural life, and with fine:

Provided that such fine shall be just and reasonable to meet the medical expenses and rehabilitation of the victim:

Provided further that any fine imposed under this Section shall be paid to the victim.

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Punishment for repeat offenders.

**376E.** Whoever has been previously convicted of an offence punishable under Section 376 or Section 376A or Section 376D and is subsequently convicted of an offence punishable under any of the said Sections shall be punished with imprisonment for life which shall mean imprisonment for the remainder of that person's natural life, or with death.

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Word, gesture or act intended to insult the modesty of a woman.

**509.** Whoever, intending to insult the modesty of any woman, utters any word, makes any sound or gesture, or exhibits any object, intending that such word or sound shall be heard, or that such gesture or object shall be seen, by such woman, or intrudes upon the privacy of such woman, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both.

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further to amend the Indian Penal Code, 1860.

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*(Shrimati Supriya Sule, M.P.)*