



## RAPE : SOCIAL AND LEGAL PERSPECTIVE

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### ABSTRACT

The study has to show that how the sexual offence is increasing and how it is increasing day by day. The whole study revolve around the loop holes of the government department and the government because they are unable to made the policy which are effective for stopping this crime or they are not executing or interpreting the law properly and they also find the safe side of the law and misinterpreted it by getting bribe to change the case. This study also says about the loop hole in executing the Criminal procedure code sections departments find the safe side to fill their pockets. It also explain the meaning of the Rape and the definition of it and also explain the different sexual offences .

### INTRODUCTION

This offence is happen when a person touch other person without his/her permission or consent or do coercion/undue influence or fraudulently get the consent of the other by putting a quasi condition in front of that person . Simply it means unwanted sexual o physical contact with that person by touching his /him o penetration etc.

Some major sexual offences are

- Grouping
- Sexual harassment
- Child sexual abuse
- Rape

Now we will discuss all this offences one by one but fist e got to know that in Indian Penal Code the sexual offences are given from Section 376 to Section 376 E.

### Grouping

It means touching or fondling another person in an unwelcome sexual way using the hands i.e. touching the person private areas of body that private part of women are buttocks, breast , valve & thighs and in men Penis , Testicles. This happen only when person touch by hands not do anything else.

Now a days this offences or assault is increasing because of people political relation and by other things boy touch a girl private parts in a bus, train and other transport but the girl didn't says anything because of fear. Because of the strong political support they do this freely without any fear or the punishment for this offence is not very much or more. The same problem also arises with boys also the women touch there parts and molest them by threatening in the name of society. The big offences is always start with this small things then they are free to do the big crime or major offence.

### Sexual harassment

Sexual harassment is request for sexual favors , sexual advance or sexual conduct by dominating the other person . it will be oral o with written form both

Major element

1. Unwanted sexual statements
2. Unwanted personal attentions
3. Unwanted physical or sexual advancing

In recent era this generally happens in between the servant and the boss or employees and employee to get the increment. Employees fulfill sexual need of



high post official of work place this is known as harassment at workplace to stop this every company placed a human resource department under his office to solve the problem and harassment of the high officials The offence is happen when a person touch other person without his/her permission or consent or do coercion/undue influence or fraudulently get the consent of the other by putting a quasi condition in front of that person . Simply it means unwanted sexual o physical contact with that person by touching his/he o penetration etc.

**Child sexual abuse**

Child sexual abuse is a form of child abuse that includes sexual activity with a minor. A child cannot consent to any form of sexual activity, period. When a perpetrator engages with a child this way, they are committing a crime that can have lasting effects on the victim for years. Child sexual abuse does not need to include physical contact between a perpetrator and a child. Some forms of child sexual abuse include:

- Exhibitionism, or exposing oneself to a minor
- Fondling
- Intercourse
- Masturbation in the presence of a minor or forcing the minor to masturbate
- Obscene phone calls, text messages, or digital interaction
- Producing, owning, or sharing pornographic images or movies of children
- Sex of any kind with a minor, including vaginal, oral, or anal
- Sex trafficking

- Any other sexual conduct that is harmful to a child's mental, emotional, or physical welfare<sup>1</sup>

In IPC the major focus on the sexual offences which is rape .

Now what is rape and hat punishment is given for this and is this punishment is sufficient and women are using this provision in right way or misusing it? Is this right to provide so much power to women?

**According to Indian Penal Code 1860 S375 says Rape is**

Rape.—A man is said to commit “rape” who, except in the case hereinafter excepted, has sexual intercourse with a woman under circumstances falling under any of the six following descriptions:—

(First) — Against her will.

(Secondly) —Without her consent.

(Thirdly) — With her consent, when her consent has been obtained by putting her or any person in whom she is interested in fear of death or of hurt.

(Fourthly) —With her consent, when the man knows that he is not her husband, and that her consent is given because she believes that he is another man to whom she is or believes herself to be lawfully married.

(Fifthly) — With her consent, when, at the time of giving such consent, by reason of unsoundness of mind or intoxication or the administration by him personally or through another of any stupefying or unwholesome

<sup>1</sup> <https://www.rainn.org/articles/child-sexual-abuse>



substance, she is unable to understand the nature and consequences of that to which she gives consent.

(Sixthly) — With or without her consent, when she is under sixteen years of age. Explanation.—Penetration is sufficient to constitute the sexual intercourse necessary to the offence of rape.

(Exception) —Sexual intercourse by a man with his own wife, the wife not being under fifteen years of age, is not rape.] STATE AMENDMENT<sup>2</sup>

In general sense rape is sexual involvement with person without his/her consent. If her/his consent. If he/his consent not present then it comes under the offence sexual assault. There is the thing which gives in above given section of Indian Penal Code.

In report of al jazera media network they said 34651 cases of rape were reported by the National Crime Record Bureau (NCRB) has revealed in year 015 at India and 4437 cases are reported as attempt to rape in 2015 and the report of India Today (sep 4 2014) 92 women's were raped on average every day in India and National capital with 1636 cases recorded the highest no. in 2013<sup>3</sup>

In report of the Indian Express no. of rape in Delhi registered a rise in 2015 with data suggesting a average of six cases every day as many 2095 cases of rape were reported in 2015 till December 2015 compare to 2085 in 2014.

<sup>2</sup> <https://indiankanoon.org/doc/623254/>

<sup>3</sup> <https://www.indiatoday.in/india/story/india-rape-92-women-every-day-4-delhi-statistics-207241-2014-09-04>

If the capital is unsafe then hat is the condition of the other stated obviously there are more cases reported in the head.

### Why this Crime increasing day by day?

Because of the mentality of people this crime is increasing a d also because of less punishment for this brutal crime and also because of management or government carelessness.

As I see this is increasing also because of fear of losing respect in society so people didn't open this type of cases and police don't take action against them after this they became braver and do these things again. Police blame girl or do question wrong questions to victim. If the punishment is fully rigorous then may be this crime get decrease there is need of some more policy or law to put stop or reduce on no of cases against women. one more major reason behind this is corruption and the carelessness of police department there is some recent example of unawareness of police recently one rape case was happen near police station in Bhopal ( capital of Madhya Pradesh) but the police didn't know anything they know the things after victims come to laugh FIR. Fact of this case The daughter of a Railway Protection Force (RPF) assistant sub-inspector was allegedly gang-raped, robbed and abandoned near a railway track in central Bhopal on Tuesday evening, police said on Thursday.

All the four accused, identified as rag pickers, have been arrested.

The FIR was lodged 24 hours after the crime was committed because of an intra-police dispute. Though the woman — a civil



services aspirant — was allegedly raped barely 200 meters from the Habibganj government railway police (GRP) station, they insisted that the crime scene fell in the MP Nagar police station limits.

When relatives of the victim approached the MP Nagar police station on Wednesday morning, they were reportedly told that the area falls in the Habibganj police station limits.

If this crime happen near the station then obviously other areas are not safe for the people and there is so many cases of corruption in which Police and other department take bribe and involve a innocent person in case and made charges against them or threatening to cancel the corruption.

### **Is the provision are misusing by people or not ?**

There is a 50 : 50 chance of this some people are misusing it and some are not so many take advantages of this and made false charges on innocent person for that act which he not do with her/his. Main cases are of the rape or people who didn't do the rape of that person by with malice intention he/she do this type of things.

When the victim goes to police station the officer didn't follow the procedure as given in the Criminal procedural code according to CRPC S-154. IF the offence is cognizable (Rape) the officer should react promptly but in real they ask unnecessary question which are are not needed to ask on that time and spend or waste the time and also the victim not file the complain because of this the accused are free to do the act again only because of the mismanagement of the authorities.

The investigation done by then was not according to S-157 of CRPC they got the bribe and change the evidence and tha actual statement which are given by the witnesses and the victim an at the time of investigation they didn't search properly the crime scèn .the actual procedure is follow only on those case which are highlight in eye of general public like Nirbhaya rape case , Kathua rape case and other famous or rare case of rape but the other infamous case not investigated properly because of carelessness of department. If there is deficient in the evidence then the accused is released according to S -169 of CRPC because the investigation of case by office is not up to the mark according to S-157. Sometimes the report of investigation completed because of corruption that report also change which presented under S-173 of CRPC.

One more problem is also arises that the crime which are happen in area are not related to concern area then the police officer say no to record FIR by saying that this case is not of our area but to cope up from this problem the concept of 'Zero FIR' introduce i.e. Zero FIR means the victim can file the FIR at any police station irrespective of that the area in which the things happen. the police office lodge FIR under the head Zero either of any numeric and after this the FIR is transfer to the concern police station .this concept is introduce because there is too much delay in the investigation and the accused is escaped from the area .

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