

THE PROTECTION OF THE CHILDRENS FROM SEXUAL OFFENCES ACT, 2012 (AS PASSED BY THE 'RAJYA SABHA')

On 10th may 2012



The Protection of Children from Sexual Offences Act, 2012, has been passed by the Lok Sabha today, 22nd May, 2012. The Bill was earlier passed by the Rajya Sabha on 10th May, 2012. The Protection of Children from Sexual Offences Act, 2012 has been drafted to strengthen the legal provisions for the protection of children from sexual abuse and exploitation. For the first time, a special law has been passed to address the issue of sexual offences against children. Sexual offences are currently covered under different sections of IPC. The IPC does not provide for all types of sexual offences against children and, more importantly, does not distinguish between adult and child victims.

The Protection of Children from Sexual Offences Act, 2012 defines a child as any person below the age of 18 years and provides protection to all children under the age of 18 years from the offences of sexual assault, sexual harassment and pornography. These offences have been clearly defined for the first time in law. The Act provides for stringent punishments, which have been graded as per the gravity of the offence. The punishments range from simple to rigorous imprisonment of varying periods. There is also provision for fine, which is to be decided by the Court. A Bill to protect Children from offences of sexual assault, sexual harassment and pornography and provide for establishment of special court for trial of such offence and for matters connected therewith or incidental thereto.

Whereas Clause (3) of Article 15 of the constitution, inter alia, empowers the state to make special provision for children's.

And whereas the government of India has acceded on the 11th December, 1992 to the convention on the rights of the child, adopted by the General assembly of the United nations, Which has prescribed a set of Standards to be followed by all State parties in securing the best interest of the child.

And whereas it is necessary for the proper development of the child that his or her right to privacy and confidentiality be protected and respected by every person by all means and through all stages of a judicial process involving the child.

And whereas it is imperative that the law operates in a manner that the best interest and well being of the child are regarded as being of paramount importance at every stage, to ensure the healthy physical, emotional, intellectual and social development of the Childs.



The lok sabha has passed the protection of children from sexual offences bill,2011. The bill already passed the by the Rajya sabha, has been drafted to strengthen the legal provision for the protection of children from sexual abuse the issue of sexual offences against any children.

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The protection of children from sexual offence Act, 2011 defines a child as any person below the age of 18 years old and provides protection to all children under the age of 18 years from the offence of sexual assault, sexual harassment and pornography. These offences have been clearly defined for the first time in law. The act provides for stringent punishment, which have been graded as per the gravity of the offence. The punishment range from simple to rigorous imprisonment of varying periods. There is also provision for fine, which is to be decided by the court.

Punishments for offences covered in the act are:

- Penetrative sexual Assault (Section 3) – Not less than seven years which may extend to imprisonment for life, and fine (Section 4)
- Aggravated penetrative sexual assault (section 5) – Not less than 10 Years which may extent to imprisonment for life, and fine (section 6)
- Sexual assault (Section 7) – Not less than three years which may extend to five years and fine (section 8)
- Aggravated sexual assault (section 9) – Not less than five years which may extend to seven years, and fine (section 10)
- Sexual harassment of the child (section 11)- Three years And fine (section 12)

- Use of child for pornographic purposes (section 13) – Five years and fine and in the event of subsequent conviction, seven years and fine [Section 14 (1)]

Subsequent conviction, seven years imprisonment and fine [Section 14(1)]

An offence is treated as “Aggravated” when committed by a person in a position of trust or authority of a child as a member of security forces, public servant, police officer, etc.

The act also recognizes that the intent to commit an offence, even when unsuccessful for whatever reason, needs to be penalized. The attempt to commit an offence under the act has been made liable for punishment for up to half the punishment prescribed for the commission of the offence.

The act also provides punishment for abetment of the offence, which is the same as for the commission of the offence. this would cover Trafficking of the children from sexual purposes.

For the more heinous offences of penetrative Sexual assault and aggravated Sexual assault, the burden of the proof is shifted on the accused. The provision has been made keep in view the greater vulnerability and innocence of the children. At the same time, to prevent misuse of the law, Punishment has been provided for making false complaint or providing false information with malicious intent. Such punishment has been kept relatively light (six months) to

encourage reporting. If false complaint is made against a child, Punishment is higher (one year).



The media has been barred from disclosing the identity of the child without the permission of the special court. The punishment for breaching this provision by media may be from six month to one year.

For speedy trial the act provides the evidence of the child to be recorded within a period of 30 days. Also, the special court is to complete the Trial within a period of one year, as far as possible.

To provide for relief and rehabilitation of the child, as soon as the complaint is made to the special juvenile police unit (SJPU) or the local police, these will make immediate arrangements to give the child, care and protection such as admitting the child into shelter home or to the nearest hospital within Twenty four hours of the report.

The SJPU or the local police are also required to report the matter to the child matter to the welfare committee within 24hrs of recording the complaint, for long term rehabilitation of the child.

The act casts duty on the Central and state govt. to spread awareness through media including the television, radio and print media at regular intervals to make the general public and children as well as their parents and guardian aware of the provision of this act.

The national Commission for the Protection of Child Rights (NCPCR) and State Commission for the protection of the child Rights (SCPCRs) have been made the designated authority to monitor the Implementation of this act.

“Recent activity on improvement of children’s moral in satyamev jayte”.

Superstar Aamir Khan, who highlighted the issue of child sexual abuse in the second episode of his show 'Satyamev Jayate', is happy that the Parliament has approved a bill to protect kids below 18 from such exploitation.

The Protection of Children from Sexual Offences Bill, 2011, was earlier cleared by Rajya Sabha and approved by the Lower House by voice vote Tuesday. "Hey guys, great news! The Lok Sabha has passed the Protection of Children against Sexual Offences Bill today!!! Unbelievable!!! Super News!!!" Aamir posted on face book.

The 47-year-old actor had spoken to several such abuse victims and their family members on the episode which was aired on May 12. The victims had narrated their experiences of being molested or abused in

their childhood. He even called for the Bill to be quickly passed, writing a letter to the government regarding the same According to The bill, special courts will be set up for the speedy trial of cases Against the victims and provide stringent punishment extending up to life term for offenders. Earlier in the month, Aamir met Rajasthan Chief Minister Ashok Gehlot and pressed for speedy trial of female feticides cases as he had promised in the first episode of his debut TV show.

RKS ASSOCIATES



Aamir Khan with Children's

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Provision by court under this Act.

The Act provides for the establishment of Special Courts for trial of offences under the Act, keeping the best interest of the child as of paramount importance at every stage of the judicial process. The Act incorporates child friendly procedures for reporting, recording of evidence, investigation and trial of offences. These include:

- Recording the statement of the child at the residence of the child or at the place of his choice, preferably by a woman police officer not below the rank of sub-inspector
- No child to be detained in the police station in the night for any reason.
- Police officer to not be in uniform while recording the statement of the child
- The statement of the child to be recorded as spoken by the child
- Assistance of an interpreter or translator or an expert as per the need of the child
- Assistance of special educator or any person familiar with the manner of communication of the child in case child is disabled
- Medical examination of the child to be conducted in the presence of the parent of the child or any other person in whom the child has trust or confidence.
- In case the victim is a girl child, the medical examination shall be conducted by a woman doctor.
- Frequent breaks for the child during trial
- Child not to be called repeatedly to testify
- No aggressive questioning or character assassination of the child
- In-camera trial of cases

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For speedy trial, the Act provides for the evidence of the child to be recorded within a period of 30 days. Also, the Special Court is to complete the trial within a period of one year, as far as possible. To provide for relief and rehabilitation of the child, as soon as the complaint is made to the Special Juvenile Police Unit (SJPU) or local police, these will make immediate arrangements to give the child, care and protection such as admitting the child into shelter home or to the nearest hospital within twenty-four hours of the report. The SJPU or the local police are also required to report the matter to the Child Welfare Committee within 24 hours of recording the complaint, for long term rehabilitation of the child.

The Act casts a duty on the Central and State Governments to spread awareness through media including the television, radio and the print media at regular intervals to make the general public, children as well as their parents and guardians aware of the provisions of this Act.

The National Commission for the Protection of Child Rights (NCPCR) and State Commissions for the Protection of Child Rights (SCPCRs) have been made the designated authority to monitor the implementation of the Act.

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Parliament passed Protection of Children from Sexual Offences Bill 2012

Parliament finally approved a bill to protect children below 18 from sexual abuse, harassment and pornography and to set up special courts for speedy trial of cases against them and provide stringent punishment extending up to life term for offenders

Parliament gave its seal of approval to the Protection of Children from Sexual Offences Bill, 2012 . The Lok Sabha passed it yesterday. The Rajya Sabha had passed the bill earlier.

The bill provides for protection of children from offences of sexual assault, sexual harassment and pornography and provides for establishment of special courts for trial of such offences.

Replying to the debate on the Bill, Minister for Women and Child Development Krishna Tirath said that the government is committed to ensuring a protective environment for children as they are the future leaders of the country.

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