

Bill No. 124 of 2019

THE INDIAN PENAL CODE (AMENDMENT) BILL, 2019

By

DR. SHASHI THAROOR, M.P.

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BILL

further to amend the Indian Penal Code, 1860

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

Short title and commencement.

1. (1) This Act may be called the Indian Penal Code (Amendment) Act, 2019.

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

45 of 1860. 5

2. Sections 354 and 509 of the Indian Penal Code, 1860 shall be omitted.

Omission of sections 354 and 509.

STATEMENT OF OBJECTS AND REASONS

Section 354 of the Indian Penal Code, 1860 criminalizes the act of using force against a woman with the intent to '*outrage her modesty*'. This section has been used against individuals who have committed acts of sexual harassment or other sexual crimes against women. However, the section is premised on the archaic notion of honour and female modesty. Instead of focusing on the dignity of an individual and penalizing any violation of his or her body, the law focuses on the so-called modesty of a woman.

Since the law does not define 'modesty', the Supreme Court in *Rupan Deol Bajaj v. K.P.S Gill* (1996 AIR 309), incorporated the dictionary meaning of the term in Indian jurisprudence. It held that modesty in relation to a woman means "*womanly propriety of behaviour; scrupulous chastity of thought, speech and conduct (in man or woman); reserve or sense of shame proceeding from instinctive aversion to impure or coarse suggestions*". The social expectation of women to be 'modest' and the belief that one's modesty or honour is violated due to the acts of a criminal, is the manifestation of patriarchal notions of the female gender.

The Criminal Law (Amendment) Act, 2013 introduced new provisions in the Indian Penal Code, to address sexual offences such as sexual harassment, voyeurism and stalking. Since the main purpose of section 354 has been covered by the ambit of these provisions, the Omission of this section will not adversely affect women survivors of sexual violence. Section 500 of the Indian Penal Code is similar to section 354, as it penalizes acts meant to insult the modesty of a woman. This section also requires an amendment.

The language employed by the law is not a mere technicality. It is an important indicator of how society perceives various identities. Therefore, over time, it is important to revise laws which employ archaic and patriarchal language.

Hence this Bill.

NEW DELHI;
June 6, 2019.

SHASHI THAROOR

ANNEXURE

EXTRACT FROM THE INDIAN PENAL CODE, 1860

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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.

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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 three years, and also with fine.

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

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further to amend the Indian Penal Code, 1860

(Dr. Shashi Tharoor, M.P.)