

[AS INTRODUCED IN THE RAJYA SABHA
ON THE 11TH JULY, 2014]

Bill No. XXXII of 2013

**THE GIRLS AND WOMEN (PREVENTION OF BEASTLY AND
BARBAROUS BRUTALITY, RAPE, TEASING, MOLESTATION,
STRIPPING AND OTHER ATROCITIES) BILL, 2013**

A

BILL

to prohibit and prevent the commission of atrocities and offences against the girls and women leading to beastly and barbarous brutality such as committing rape and inserting any foreign objects into the private parts thereby damaging the internal body parts, battering, killing after committing rape, chopping the body, burning alive, committing gangrape, publicly stripping and parading naked or raping pregnant women resulting in her miscarriage or death, committing rape on girl child of tender age, teasing, outraging modesty, molestation, branding or killing as witches, forcing into prostitution and such other offences and to provide for deterrent punishment including surgical castration and capital punishment and for the establishment of Fast Track Courts to try the offences and for the rehabilitation of victims and for matters connected therewith and incidental thereto.

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

1. (1) This Act may be called the Girls and Women (Prevention of Beastly and Barbarous Brutality, Rape, Teasing, Molestation, Stripping and other Atrocities) Act, 2013.

(2) It extends to the whole of India.

(3) It shall come into force with immediate effect.

Short title,
extent and
commence-
ment.

Definition.

2. In this Act, unless the context otherwise requires,—

(a) "appropriate Government" means in the case of a State the Government of that State and in other cases the Central Government.

(b) "atrocities" in respect of girls and women includes assault, torture, beating, branding as witch or performer of black magic, parading naked, painting face or body black, blaming as loose character, forcing to do bonded labour, misusing position to harass or to get sexual favour, insulting or intimidating to humiliate publicly, taking pictures or videography without consent or forcing into prostitution in any manner or such other acts which are punishable under the Indian Penal Code, 1860; 45 of 1860.

(c) "bestiality and barbarous brutality" include,— 10

(i) committing rape on a girl or women, as the case may be, and then killing her by battering, strangulation or by any other means;

(ii) committing rape on a girl child of tender age or toddler;

(iii) committing rape or gangrape on a woman or girl, as the case may be, and piercing with or putting any blunt foreign objects through the private parts of the victim which damages her internal body system in any manner; 15

(iv) after killing a girl or woman, as the case may be, mutilating the face and other parts of the body of the victims by stones or any other blunt object, or disposing off her body by chopping into pieces or by burning or throwing at secluded place or river, canal or *nullah* or by burying; 20

(v) burning an alive girl or woman, as the case may be, leading to her permanent incapacitation or death;

(vi) committing gangrape on a girl or woman;

(vii) killing a girl or woman, as the case may be, by way of gangrape;

(viii) committing rape on a pregnant woman resulting in her miscarriage or death; 25

(ix) committing incestuous rape; and

(x) throwing acid on the girl or woman as the case may be.

(d) "castration" includes chemical castration wherein administration of a drug testosterone in leydig cells in the tests of a male to make him impotent and surgical castration of removal of male testes; 30

(e) "fast track court" means a Court established under section 8;

(f) "prescribed" means prescribed by rules made under this Act;

(g) "stripping" includes forcibly removing or getting removed under threat or tearing off any cloth or part thereof worn by a girl or woman, as the case may be, in order to expose her body or any part thereof or such a girl or woman, as the case may be; 35

(h) "teasing" in relation to a girl or woman includes uttering of words, song, making sound of whistle, suggestive gesture, touching in any manner whatsoever, leaning or forcing over her, exhibiting any object or part of the body, throwing any object or doing any act to attract the attention, sending SMS or making obscene calls through mobile or landline phone thereby intentionally harassing a girl or woman, as the case may be; 40

(i) words and expressions used but not defined in this Act and defined in the Indian Penal Code, 1860 and the Code of Criminal Procedure, 1973 shall have the meaning respectively assigned to them in those Acts. 45 45 of 1860.
2 of 1974.

3. (1) Notwithstanding anything contained in any other law for the time being in force, the committing of beastly and barbarous brutality, rape, teasing, molestation, stripping and other atrocities on girls and women are hereby prohibited.

Prohibition of
beastly and
barbarous
brutality, rape,
teasing,
molestation,
stripping and
other atrocities
on girls and
women.

5 (2) Whoever contravenes the provisions of sub-section (1) of section 3 shall be guilty of an offence under this Act.

4. whoever,—

Penalty.

(a) commits beastly and barbarous brutality on a girl or woman, as the case may be, shall be punished with death:

10 Provided that if the accused opts for voluntary surgical castration and pleads before the trial court to reduce his sentence the trial court may reduce the sentence to life imprisonment to remain in jail custody till the end of his life and no remission shall be granted by the appropriate Government or any authority to such convict;

15 (b) commits atrocity on a girl or woman, as the case may be, shall be liable for rigorous imprisonment for a term which shall not be less than seven years but may extend to ten years and also with fine which may extend to five lakh rupees;

(c) commits the offence of stripping on a girl or woman, as the case may be, shall be liable for rigorous imprisonment for a term which shall not be less than ten years but may extend to life imprisonment and also with fine which may extend to five lakh rupees; and

20 (d) commits the offence of teasing against a girl or woman, as the case may be shall be liable for rigorous imprisonment for a term which shall not be less than five years but may extend to ten years and also with fine which may extend to two lakh rupee.

56 of 2000. 25 5. Notwithstanding anything contained in the Juvenile Justice (case and protection of Children) Act, 2000, any Juvenile who has attained the age of fifteen years and above, if commits beastly and barbarous brutality on a girl or woman, as the case may be shall be administered surgical castration.

Special
provision for
Juveniles.

2 of 1974. 6. Notwithstanding anything contained in the Code of Criminal Procedure, 1973 an offence committed under this Act shall be cognizable and non-bailable.

Offence to be
cognizable and
non bailable.

30 7. Notwithstanding anything contained in any other law for the time being in force no court other than a High Court or Supreme Court of India shall have the authority to grant anticipatory bail to any person accused of committing an offence under this Act.

Bar on granting
anticipatory
bail.

8. (1) All the offences committed under this Act shall be tried exclusively in Fast Track Courts.

Establishment
of Fast Track
Courts.

35 (2) The appropriate Government shall establish such number of Fast Track Courts preferably headed by women judges, as it may deem necessary for carrying out the purposes of this Act, within its territorial jurisdiction in consultation with the Chief Justice of the concerned High Courts.

40 (3) Every Fast Track Court established under this Act shall exercise all the jurisdiction powers and authority exercisable immediately before that day by all Courts except the concerned High Court and Supreme Court of India in relation to all matters of offences committed against girls and women under the Indian Penal Code, 1860 or any other law for the time being in force relating to women.

45 of 1860.

45 (4) From the date of commencement of this Act, the jurisdiction, powers and authority in relation to offences committed under this Act shall be exercisable by a Fast Track Court established under this Act and no other Court except the High Court

concerned and the Supreme Court of India shall have jurisdiction, powers or authority in relation to such offences.

(5) Every suit or other proceedings pending before any other Court, Tribunal or Authority immediately before the date of commencement of this Act, being a suit or proceeding, the cause of action wherein it is based, is such that if it had arisen after such constitution of the Fast Track Court within its jurisdiction, shall stand transferred on that date to such special court:

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Provided that nothing contained in this section shall apply to a suit or other proceedings pending in a High Court or Supreme Court of India, as the case may be.

(6) The judicial proceedings in the Fast Track Court shall be conducted in a camera on day to day basis without any adjournment till the verdict is declared by the Court as early as possible.

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(7) There shall be created special deposition rooms in every Fast Track Court established under this Act to protect the victims privacy and it shall be ensured that no one shall inquire prior sexual history of the victims, notions about signs of physical struggle being indicative of rape and posing horrendous questions which may increase rape victims trauma.

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Miscellaneous provisions.

9. (1) Whoever, being a public servant, willfully neglects his duties required to be performed by him under this Act or any police personnel who willfully does not register a complaint or First Information Report or shooed away the victim or any person intending to register a complaint or lodge an First Information Report about a crime committed under this Act shall be dismissed from service forthwith.

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(2) The appropriate Government shall,—

(a) provide quick medical help to the victim of rape or other atrocities punishable under this Act;

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(b) get the victims medically examined forthwith and the doctors doing so shall submit the medical report within forty eight hours to the appropriate Government;

(c) ensure time bound probe by Police or any investigating agency not beyond one month;

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(d) provide protection to witnesses and ensure concealing of their identity;

(e) improve policing system to provide security to girls and women and law abiding citizens;

(f) provide Free legal aid to needy women who wish to free pursue their cases in Special Courts;

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(g) initiate rehabilitation measures for the victims covered under this Act;

(h) implement such welfare measures for the victims covered under this Act, as it may deem expedient and necessary.

Power to remove difficulty.

10. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act as appears to it to be necessary or expedient for removing the difficulty.

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Central Government to provide funds.

11. The Central Government shall, after due appropriation made by Parliament by law in this behalf, provide requisite funds for carrying out the purposes of this Act.

Act to have overriding effect.

12. Save as otherwise provided in this Act, the provisions of this Act and rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

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13. The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force applicable to the subject matter of this Act.

Act to
supplement
other laws.

14. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make
rules.

STATEMENT OF OBJECTS AND REASONS

Recently, a girl was brutally gang raped by six sex starved maniacs including a juvenile Short of only three months to attain majority in a moving bus and their beastly act did not stop in raping her as they inserted an iron rod in her private parts and also severely hit her with that rod which totally damaged her intestines. They also beat her friend and both the girl and the boy were thrown out of the moving bus totally naked and the hapless girl later expired in a Singapore Hospital where she was taken for specialized treatment. This heinous crime jolted the whole nation leading widespread protests in the National Capital and other parts of the Country in which the inhumane approach and apathy of Police and authorities was also witnessed by the people of largest democracy of the world. Girls and women remain vulnerable to various kinds of exploitations mostly sexual ones and other atrocities. Such atrocities include day-to-day teasing and molestation even at public places and means of transport. The goons pass vulgar remarks, throw objects including stones, whistle on hapless girls and women, touch their body parts, pinch them, sing vulgar songs and such other acts. In many cases, if the girl or woman resists the advances of the goons, they even throw acid on them spoiling their whole lives. In many places girls and women are publicly stripped and paraded naked mostly by influential ones to show their might, power, position and to teach the victim lesson or to take revenge. In many parts women are being branded witches and killed either to grab their properties or in case they refuse to accept the sexual advances of the culprits.

Cases of rape on girl child of few months or years and on pregnant women are on increase. To destroy evidence, girls and women are killed brutally and thrown at secluded places. In many cases, the rapists commit incestuous rape on their own daughters and sisters. Besides, increasing incidents of gang rape are also matters of serious concern. Needless to say, offence of rape and afflicting brutality on girls and women in the course of rape only indicates an element of fearlessness and disrespect to the law by the offenders.

Since the existing legislative measures have not created any deterrence, the time has come to take stern action by providing deterrent punishment including capital punishment, chemical castration, etc. for the rapists and rigorous imprisonment varying various terms and life imprisonment for other atrocities committed on them and by setting up special courts to try such offences on day-to-day basis to provide timely justice to the victims. The victims are also needed to be suitably rehabilitated. It is also felt that crimes against women by perpetrators be made cognizable and non-bailable. A more stringent and effective legislation is need of the hour to address all these issues.

Hence this Bill.

DR. AKHILESH DAS GUPTA

FINANCIAL MEMORANDUM

Clause 8 of the Bill provides for the establishment of Fast Tracks Courts to try the crimes against girls and women in the Country. Clause 9 provides for medical help to the victim, provide free legal aid, initiate rehabilitation measures and welfare measures for the victim. Clause 11 makes it obligatory for the Central Government to provide requisite funds to implement the provisions of this Bill. The Bill, if enacted, will involve expenditure from the Consolidated fund of India. It is not possible to quantify the amount right now but it is estimated that a sum of rupees twenty five thousand crore may involve as recurring expenditure per annum. A sum of rupees fifty thousand crore may also involve as non-recurring expenditure to create infrastructure throughout the Nation.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 14 of the Bill gives powers to the Central Government to make rules for carrying out the purposes of this Bill. The rules will relate to matters of details only.

The delegation of legislative power is of normal character.

RAJYA SABHA

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(Dr. Akhilesh Das Gupta, M.P.)