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ABOUT US

WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal providededicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

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AN ANALYSIS OF CRIMINAL LAW **AMENDMENT ACT 2013.**

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Division—D

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PART-1

INTRODUCTION

The Criminal Law (Amendment) Bill of 2013, often known as the Anti-Rape Bill, has been passed into law. The Act went into force on February 3, 2013, in reaction to the nation's outrage over the December 16, 2012, brutal gang rape in New Delhi. The outcry in Delhi following the horrific Rape Incident demonstrated the enormity and significance of swift reform in Rape Laws for the entire country.

On the cold night of December 16, 2012, a 23-year-old medical student was viciously gang-raped on a moving bus and abandoned unconscious in the middle of the road. The government formed a committee led by Justice J.S. Verma to investigate the laws governing sexual offences and give recommendations to improve the current system. The Committee laid the framework for the Criminal Law (Amendment) Act of 2013¹, which was approved into law by the President on April 2, 2013. This Act amends the Indian Penal Code 1860², the Code of Criminal Procedure 1973³, the Evidence Act 1860⁴, and the Protection of Children from Sexual Offenses Act, 2012⁵. And, with incidences of

¹ The criminal (amendment) act,2013

² the Indian Penal Code, 1860

³ the Code of Criminal Procedure ,1973

⁴ the Evidence Act 1860

⁵ the Protection of Children from Sexual Offenses Act, 2012

threats to individual privacy on the rise in India, it was past time for the criminal code to be amended to include physical privacy violations.

This project effort focuses on the significant changes to the sections of the Indian Penal Code dealing with sexual offences. In the current scenario, the addition of new provisions and the modification of existing parts have been thoroughly considered.

RESEARCH QUESTIONS

1. Whether the amendment of the act is actually beneficial for women?
2. If the enactment of the criminal amendment act is truly a milestone for the Indian legislature

RESEARCH OBJECTIVE

1. To understand why the criminal amendment act came into existence?
2. To understand and analyse the major differences before and after the criminal amendment act, of 2013.
3. To discuss the goals of the act.

RESEARCH METHODOLOGY

In the investigation, the doctrinal research approach has been used. Several case laws, committee views, and research papers under various laws connected to dwelling, encountering someone in India, and the modern world are offered as it assists in concluding this study and theoretical writing. As a result, the research activity's proposal formulation and construction process has taken a clarifying and exploratory method. Additionally, the results and recommendations are evaluated using basic and diagnostic approaches to find flaws and errors in the legal system. On the basis of the results, websites, journals, articles, and books, a comprehensive report will be created. This study drew on primary, secondary, and tertiary sources of data. Secondary reference material, such as scholarly publications and newspaper reports, will be used in studies. The researchers use the qualitative technique to examine the data, which does not involve any calculating or numerating.

LITERATURE REVIEW

1. Aaron Karp (2015) “Unheard and Uncounted: Violence against Women in India ”⁶

This article firstly talks about the increasing number of rape cases in India and it tries to reason for the many rape cases going unheard and unaccounted for and it not only talks about the situation in India but also internationally and also tries to categorise the violence against women

2. Bhattacharyya, Rituparna. (2013). “Criminal Law (Amendment) Act, 2013: Will it ensure women’s safety in public spaces? Space and Culture, India”⁷.

The horrible gang rape and subsequent murder of Nirbhaya in December 2012 compelled the Indian government to adopt the Criminal Law (Amendment) Act of 2013. The primary goal of this article is to examine the Act in light of women's safety in public places and this article also talks about the changes the act has made to the Indian legislation

3. Suvir Raghuvansh, Criminal Law Amendment Act. (2013).⁸

This article discusses the brutal rape incident that occurred in Delhi as a result of the mindset of our legislators. Additionally, the march in Delhi demonstrated for the entire nation the urgency and importance of swift improvements to India's rape laws.

To calm India's fury, the Criminal Law (Amendment) Ordinance, 2013, which changed several laws relating to the protection of women, was implemented. The 2013 Ordinance was inconsistent because it was rushed into effect. Therefore, both the advantages and disadvantages have been discussed.

⁶ Aaron Karp , “Unheard and Uncounted: Violence against Women in India”,16,(2015)

⁷ Bhattacharyya, Rituparna. (2013). Criminal Law (Amendment) Act, 2013: Will it ensure women’s safety in public spaces?. Space and Culture, India

⁸Suvir Raghuvansh , Criminal Law Amendment Act, (2013).

PART -2

ANALYSIS

REASON FOR THE ENACTMENT OF THE CRIMINAL LAW (AMENDMENT) ACT, 2013

Nirbhaya Case [*Mukesh And Anr V. State (Nct Of Delhi) And Ors*]⁹

This is well-known as the Nirbhaya case. happened on December 16, 2012, in Munirka, a neighbourhood in New Delhi's southern outskirts.

FACTS OF THE CASE

She had gotten on a bus with a guy friend on the way home. Among the 6 males were a driver and a young child. Before attacking her guy friend and bringing her to the back of the bus to be raped, the men started taunting them and using foul language. She was beaten, sexually assaulted, and had a rod shoved into her body before the perpetrators dumped them both naked in the middle of the road. An onlooker called for help, and a PCR van showed up. The injured were taken to the Safdarjung Hospital in Delhi for medical attention.

The victim had been invaded by a blunt instrument, most likely like a rod, which had severely injured the victims inside organs, according to a medical assessment of the woman. 2 blood-stained metal rods from the bus were discovered during a police inquiry, and it was later proven by medical experts that they were the penetration tools that severely damaged the victim's uterus, genitalia, and abdomen.

Within a day of the crime's occurrence, the Delhi police made arrests in the case, and all six culprits, including a youngster, were taken into custody. The woman, named Nirbhaya, passed away on December 29, 2012, in a hospital in Singapore, as a result of injuries that comprised multiple organ failure, internal bleeding, and cardiac arrest.

⁹ *Mukesh And Anr V. State (Nct Of Delhi) And Ors*, SCC Online SC 533.

CHARGES LEVELED ON THE ACCUSED

The perpetrators were charged with the following offences:

1. Penalty for criminal conspiracy under Section 120-B of the Indian Penal Code¹⁰
2. Sections 365 and 366 of the IPC¹¹: kidnapping or abduction
3. Section 307¹²: Attempt to murder
4. Before the amendment, Section 376 (2)(g) and Section 377 IPC¹³: gang rape, unnatural offences
5. IPC Sections 395 and 396¹⁴: Punishment for dacoity and dacoity with murder
6. Section 302 of the Indian Penal Code¹⁵ deals with the punishment for murder.
7. Section 201 of the Indian Penal Code¹⁶: causing the disappearance of evidence of an offence or providing false information
8. Section 412 IPC¹⁷: Receiving stolen goods in the commission of a felony.

JUDGEMENT

In its judgment, the Court found four out of the six defendants guilty of the aforementioned offences. The prisoners were sentenced to death. The proceedings against the accused, Ram Singh, were ended after he committed suicide in prison during his trial. The minor involved in the case was separately prosecuted under the Juvenile Justice Board, convicted, and sentenced to spend three years in a reformation home. The Apex Court upheld the death sentence pronounced by the HC because the aggravating factors outweighed the mitigating ones in the case. Furthermore, the court dismissed all of the accused's appeals. Given the severity and heinousness of the deed, the Court categorized this case as "the rarest of the rare," a concept established in the case of *Bachan Singh v. State of Punjab* (1980)¹⁸.

¹⁰ Indian Penal Code, 1960, § 120-B.

¹¹ Indian Penal Code, 1960, § 365 and § 366.

¹² Indian Penal Code, 1960, § 307.

¹³ Indian Penal Code, 1960, § 376(2)(g) and § 377.

¹⁴ Indian Penal Code, 1960, § 395 and § 396.

¹⁵ Indian Penal Code, 1960, § 302.

¹⁶ Indian Penal Code, 1960, § 201.

¹⁷ Indian Penal Code, 1960, § 412.

¹⁸ *Bachan Singh v. State of Punjab*, (1980) 2 SCC 684.

THE CRIMINAL LAW (AMENDMENT) ACT, 2013¹⁹

The Criminal Law (Amendment) Act, 2013 (hereafter referred to as CLA, act), a piece of legislation passed by the LS on March 19, 2013, and the RS on March 21, 2013, alters the rules governing sexual offences under the Indian Penal Code, Indian Evidence Act, and Code of Criminal Procedure, 1973. The law is considered to have gone into effect on February 3, 2013, after receiving the assent of the president on April 2, 2013. In reaction to demonstrations surrounding the Delhi gang rape case from 2012, India's President Pranab Mukherjee first introduced it as an Ordinance on February 3, 2013.

CONSEQUENCES

Following the gang rape. There were national and worldwide protest movements calling for tighter regulations to prevent violence against women. Because of the horrible nature of the crime committed, this episode became extremely popular. As a result of the widespread protests, the Government of India established the Justice Verma Committee to recommend revisions to the current legislation.

JUSTICE VERMA COMMITTEE²⁰

Following this occurrence, the government established the Committee led by Justice J.S. Verma to investigate the necessary changes in criminal law to make laws regarding protecting women more strict. The committee was formed on December 23, 2012, and promised to present the Committee Report within thirty days, given the importance of the Nirbhaya case. The primary goal of this Committee was to suggest changes to criminal legislation in order to expedite trials in situations involving crimes against women.

The detailed 630-page study, finished in 29 days, was well received both domestically and internationally. This finally resulted in the CLA Act, of 2013, which was criticised for not sufficiently implementing the Committee's findings and recommendations. In its report, the committee blamed the increased number of crimes against women in the country on the government, police insensitivity, and gender bias.

¹⁹ The Criminal Law (Amendment) Act, 2013.

²⁰ Justice J.S. Verma Committee, Report of the Committee on Amendments to Criminal Law, 66 (January 23, 2013).

Key Recommendations of The Justice Verma Committee

1. It promoted the use of life sentences rather than the death penalty as rape punishment because the former has a greater deterrent effect on society.
2. It is proposed that homosexual, transgender, or transsexual rape and sexual assault against men be included in the criminal code.
3. It also calls for the legislation's provision that legalises "marital rape" to be repealed.
4. Sexual assault should be understood as any non-consensual or non-penetrative sexual behaviour.
5. The Committee also supports the 2013 legislation known as the Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act²¹, which was being debated in Parliament at the time.
6. The charge of "acid attack," which was previously punished under the offence of "grievous hurt," was proposed to be separated.
7. It also offers several modifications to the rape victim's medical evaluation, such as getting rid of the two-finger test.
8. It also suggested creating a Rape Crisis Cell to provide rape victims with legal assistance.
9. The police are expected to report any rape instances that come to their attention and to file rape complaints. If they don't carry out their responsibilities, they must be disciplined in accordance with the Act's guidelines. The Committee also suggests running programmes for the kids to teach them about sex.
10. It also suggested several changes to the Representation of the People Act of 1951²²(hereafter referred to as RPA) regarding elections and suggested that candidates be disqualified if they are under investigation for sexual offences.

²¹ the Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013.

²² Representation of the People Act, 1951.

INDIAN PENAL CODE, 1860²³

Following the CLA, act 2013, the following sections were introduced or altered in the Indian Penal Code:

Acid attack

These provisions were added to the Code as a result of the case of *Laxmi v. Union of India* (2015)²⁴, in which a 16-year-old girl was assaulted with acid. Following this instance, it became clear that stricter regulations were required to combat the aforementioned offence.

1. **Section 100**²⁵ general exemption of the "right to private defence" was expanded to encompass acts or attempted acts of acid throwing. It suggests that a person may now exercise their right to private defence in the event of an acid attack.

2. **Sections 326A and 326B**²⁶ were introduced as new sections. In contrast to Section 326B, which makes attempts to throw acid an offence punishable by a minimum of five years in prison, up to seven years in prison, and a fine, Section 326A makes "acid attack" an offence punishable by a minimum of 10 years in prison, up to life in prison, and a fine.

Sexual offences

In light of the increasing number of sexual harassment cases in the country, this Amendment included four new sexual offences. These are as follows:

1. **Sexual Harassment (Section 354A)**²⁷

This section covers acts such as making physical contact, requesting sexual favours, and having a guy show pornography to a female. An individual who commits these offences faces a harsh jail sentence that might last up to three years. It also covers the offence of making sexually suggestive statements to a lady, which carries a maximum one-year sentence in jail.

²³ Indian Penal Code, 1860.

²⁴ *Laxmi v. Union of India*, (2016) 3 SCC 669.

²⁵ Indian Penal Code, 1860, § 100.

²⁶ Indian Penal Code, 1860, § 326A and 326B.

²⁷ Indian Penal Code, 1860, § 354A.

2. Assault or criminal force with intent to disrobe women (Section 354B)²⁸

This Section establishes a minimum sentence of three years in prison, which may be enhanced to seven years, and a fine for assaulting or threatening to use criminal force to cause a woman to undress or force her to be nude.

3. Voyeurism (Section 354C)²⁹

Voyeurism is defined as "the act of deriving pleasure from viewing others nude or engaged in sexual activity." According to this Section, any such offences committed by a male are punishable by a minimum of one year in jail, which may be increased to three years, and a fine. It can also be used to describe watching or taking pictures of a woman while she is engaged in a private activity. Men who are found guilty of the same crime twice must serve a minimum of three years and a maximum of seven years in prison.

4. Stalking (Section 354D)³⁰

Any guy who commits this conduct faces a maximum three-year prison sentence; for repeat offenders, the sentence increases to five years in prison as well as a fine.

There are some exceptions to this crime; specifically, if the man can demonstrate that his actions were taken in accordance with any of the following conditions:

1. He was assigned by the State to prevent or discover the crime;
2. He complied with any conditions imposed by any law; and
3. They were reasonable and justified.

Rape

This CLA Act, 2013, broadens the definition of "rape" in order to give harsher sanctions for more heinous offences. It also expanded the provision to include non-penetrative actions such as oral sex and inserting any item or other object in any part of a woman's body as an offence under Section 375's definition of "rape."

²⁸ Indian Penal Code, 1860, § 354B.

²⁹ Indian Penal Code, 1860, § 354C.

³⁰ Indian Penal Code, 1860, § 354D.

Provisions for the authorities

Sections 166A and 166B were added following the modification to hold authorities, such as public officials or hospital administrators, accountable if they failed to execute their duty to the victims of the crime.

1. **Section 166A**³¹ holds any public official accountable if they fail to respect the law's orders or conduct an inquiry wherever it is necessary, particularly if they fail to record an FIR in cases of sexual crimes under Section 154 of the Crpc. Any such public official would face a minimum of six months in jail, which could be increased to two years, as well as a fine.
2. Similarly, **Section 166B**³² holds hospital administration or personnel accountable if they fail to give free care, including first aid, to victims of sexual offences, as required by Section 357C of the Crpc. It made no difference whether the hospital was private or public. Any such violation would be penalised by imprisonment for up to a year, a fine, or both.

CODE OF CRIMINAL PROCEDURE, 1973³³

The Code of Criminal Procedure, 1973 was changed by the CLA Act of 2013 to accommodate new provisions added to the Indian Penal Code's First Schedule and to create a more hospitable environment for women during inquiries, trials, and examinations. The Code underwent the following noteworthy changes:

Relief programmes for sexual offence victims

1. **154, 161, and 164 sections**³⁴ : A clause requiring that only a female police officer record the victim's statements were added to sections 154 and 161. Additionally, according to Section 154, if the victim is physically or intellectually disabled, recording the victim's statements must be done at their home or another appropriate location in the presence of an interpreter or special educator, and the recording must be videotaped. Along with the filming of the statements, Section 164 also covered language interpretation or special education assistance. It also came to the conclusion that during the trial, the statements provided in accordance with

³¹ Indian Penal Code, 1860, § 166A

³² Indian Penal Code, 1860, § 166B.

³³ Code Of Criminal Procedure, 1973.

³⁴ Code Of Criminal Procedure, 1973, § 154, 161, and 164.

Section 164 should be taken as statements in lieu of cross-examination throughout the trial.

2. **Section 273³⁵**: It was amended to add a clause requiring the court to take reasonable measures to ensure that women under the age of sixteen and those who have been the victims of rape or other sexual offences are not confronted by the accused while upholding the right to cross-examination.
3. **Section 357C³⁶**: It contained a clause obliging hospitals, whether public or private, to provide victims of sexual offences with free medical care and to quickly alert police authorities to the situation.

Measures that are taken to make the provisions more stringent

1. **Section 197³⁷**: This Section needs the government's permission to prosecute judges, magistrates, or public workers who are suspected of any offences committed while doing their official duties. This Amendment inserts an 'explanation' in this Section clarifying that in circumstances of sexual offences, no prior sanction from the respective governments is necessary for the prosecution of public workers, magistrates, and judges.
2. **Section 309³⁸**: Clause (1) was altered for this Section to add a provision requiring that all processes connected to inquiry or trial be completed within two months of the date of the charge sheet in the case of sexual offences.

INDIAN EVIDENCE ACT, 1872³⁹

Following the Amendment, the following significant sections were added or substituted in the Act:

1. Exclusion of prior sexual encounters in evidence

Section 53A⁴⁰ was introduced to the Act, which states that during prosecution for sexual offences, the character of the person or the victim's past sexual encounters are irrelevant as evidence for the victim's consent or the quality of the victim's consent.

³⁵ Code Of Criminal Procedure, 1973, § 273.

³⁶ Code Of Criminal Procedure, 1973, § 357C.

³⁷ Code Of Criminal Procedure, 1973, § 197.

³⁸ Code Of Criminal Procedure, 1973, § 309.

³⁹ Indian Evidence Act, 1872.

⁴⁰ Indian Evidence Act, 1872, § 53A.

2. Absence of consent is presumed.

The Act was amended to include Section 114A⁴¹, which stipulates that it is necessary for the victim of a sexual offence to indicate before the court in her testimony that she did not consent to sexual intercourse in order to infer the absence of consent in the case.

3. The nature of questions asked during the cross-examination

In order to show or assess the quality of the victim's consent, a clause was added to Section 146 of the Indian Evidence Act⁴² stating that no inquiries of an immoral nature or those connected to the victim's prior sexual encounters may be posed to the victim during cross-examination.

4. Provision for dumb witnesses

In accordance with Section 119⁴³, witnesses who are unable to communicate vocally may deliver their testimony in writing, sign language, or other ways that will be considered oral evidence. These witnesses must use an interpreter or special educator, and their testimony must be videotaped.

PROTECTION OF CHILDREN FROM SEXUAL OFFENCES ACT, 2012⁴⁴

In accordance with an amendment to **Section 42**⁴⁵ of this Act, the offender shall be punished under either this Act or the IPC, whichever provides a harsher punishment for such an offence, if the offence was committed under the POCSO Act and the same offence is punishable under provisions related to sexual offences in the IPC.

Differences between the Committee's recommendations and the modifications enacted as a result of the 2013 Criminal Law (Amendment) Act

1. The Committee does not support the use of a "death penalty" for perpetrators of sexual offences such as rape, gang rape, and so on, believing that it has failed to have a deterrent impact on society. Whereas the Act permitted "death sentences" in heinous instances of rape,

⁴¹Indian Evidence Act, 1872, § 114A.

⁴² Indian Evidence Act, 1872, § 146.

⁴³ Indian Evidence Act, 1872, § 119.

⁴⁴ Protection Of Children From Sexual Offences Act, 2012.

⁴⁵ Protection Of Children From Sexual Offences Act, 2012, § 42.

including as causing the victim's death or forcing the victim to go into a vegetative condition, and for repeat offenders.

2. The Committee proposed criminalising "marital rape," or sexual contact between a husband and his wife without her permission. However, the Criminal Law Amendment Act of 2013 does not make it a crime.
3. The CLA Act of 2013 rejects the Committee's recommendation that candidates facing sexual offence charges be disqualified from running for office.
4. The Committee also suggested that high police and army officers be held accountable for sexual offences committed by their subordinates, which was rejected by the CLA Act of 2013.
5. The Committee recommended that measures be made for sexual assaults perpetrated against men, transgender people, or homosexuals, but this was not included in the Amendment Act.

CRITICISMS OF THE AMENDMENT

It is not gender-neutral legislation.

In light of recent occurrences of sexual attacks against men, transgender people, or homosexuals, the Committee urges the addition of provisions that would afford redress to such victims. However, this suggestion was rejected. The criminal legislation has been criticised for focusing solely on women. It excluded offences done against groups other than women. The existing law perceives only males as perpetrators and only women as victims, but the current circumstance was different, and this Amendment fails to establish gender neutrality in the corresponding laws' provisions.

Provisions for marital rape are not included.

This Amendment was also chastised for failing to criminalise "marital rape," despite the Committee's recommendation. Section 375⁴⁶ has an exemption that stipulates that sexual intercourse between a husband and his wife who is not under the age of 15 is not rape. As a result of this rule, any male who compels his wife into sexual intercourse without her agreement is immune from responsibility. As a result, many jurists advocate for repealing this exemption, which this Amendment fails to achieve.

⁴⁶ Indian penal code, 1860, § 375.

Politicians accused of sexual offences are not barred from running for office.

The Committee's suggestion contains a provision under the RPA, 1951, that prohibits candidates guilty of sexual offences from running for office, but the CLA Act, 2013, does not include such measures.

CRITICISM OF THE ACT

Many human rights and women's rights groups have harshly criticised the CLA Act, 2013, for leaving out some of the recommendations made in the Verma Committee Report, including those regarding marital rape, lowering the age of consent, and amending the Armed Forces (Special Powers) Act so that no penalty is necessary for prosecuting an armed force member accused of a crime against a woman. The Indian government reacted by saying that while it has not entirely accepted the proposals, changes might be made after further discussion.

The 2013 Act's critics come from a diverse variety of political and ideological perspectives. The Act's failure to outlaw marital rape, as recommended by the Verma Committee, is one of its most notable omissions, placing India in the same small group of nations as China, Pakistan, and Saudi Arabia. The criminalization of marital rape, according to the 2013 Act's critics, would destroy the sacred institution of marriage and empower females to fabricate rape claims because such crimes are "difficult to establish."

CONCLUSION

Indian philosopher Swami Vivekananda once said that a country's treatment of its women serves as the best barometer of its growth. It suggests that the most developed nation is the one that shields females from such heinous crimes and provides an environment that allows them to realise their ambitions and objectives. It is obvious that affluent nations with lower rates of crime against women include Spain, Singapore, Norway, and Canada. India is ranked as the ninth most dangerous country for women in the world by the World Population Review 2022. It amply demonstrates the need for additional reforms under the current government.

Widely regarded as one of the most significant efforts made by the Indian government to address violence against women, the CLA Act, 2013, was passed in 2013. The IPC has undergone significant

amendments as a result of the Act, which not only expands the scope of existing offences but also recognises new offences such as acid attacks that did not previously have a specific provision or definition.

Despite its flaws, the Act reflects a forward-thinking strategy for fighting violence against women. To seek redress and justice for violence against women, however, the Act is insufficient on its own. For this, the Indian government must invest heavily in the infrastructure required to combat crime, along with significant judicial reforms (such as the creation of women's courts with accelerated processes, increased participation of women lawyers, and female doctors examining victims).

REFERENCES

1. <https://hyderabadpolice.gov.in/acts/Nirbhaya-IPC.pdf>
2. <http://ijlljs.in/criminal-law-amendment-act2013-analysis-suvir-raghuvansh-amity-law-schoolnoida-ba-1-1-bh-4th-year/>
3. <https://www.nls.ac.in/wp-content/uploads/2021/04/Indian-Law-Review-Published.pdf>
4. https://www.researchgate.net/publication/260144553_Criminal_Law_Amendment_Act_2013_Will_it_ensure_women's_safety_in_public_spaces
5. <https://www.lawctopus.com/academike/criminal-law-amendment/>
6. https://www.jstor.org/stable/43953281?searchText=rules+for+crimes+against+women+in+india&searchUri=%2Faction%2FdoBasicSearch%3FQuery%3Drules%2Bfor%2Bcrimes%2Bagainst%2Bwomen%2Bin%2Bindia&ab_segments=0%2Fbasic_search_gsv%2Fcontrol&refreqid=fastly-default%3Ad63c73e11213d9dcd5f2f2face9e4608#metadata_info_tab_contents
7. <https://blog.ipleaders.in/criminal-law-amendment-act-2013/#:~:text=The%20Criminal%20Amendment%20Act%2C%202013,against%20women%20to%20a%20halt.>
8. <https://www.thehindu.com/opinion/lead/a-task-only-half-finished/article5065462.ece>
9. <https://www.lloydlawcollege.edu.in/blog/criminal-law-amendment-act-2013.html>
10. <https://www.iitk.ac.in/wc/data/TheCriminalLaw.pdf>