

## **Concept Note**

### **Consultation on “Review of Criminal Law”**

**Date:** 22.01.2022

**Time:** 11:00 a.m. onwards

The National Commission for Women being the apex statutory body to work for women empowerment in the country is mandated to review legal and constitutional safeguards pertaining to women under Section 10 of the NCW Act, 1990. The Ministry of Home Affairs through Ministry of Women and Child Development has sought recommendations on possible amendments to Criminal Law namely Indian Penal Code, 1860, the Code of Criminal Procedure 1973 and the Indian Evidence Act, 1872. The objective is to revisit the law to better facilitate needs and aspirations of public.

A hallmark of any civilized society lies in the maturity and the erudition of its Criminal Justice System. Criminal Law like every other law has to meet the pace at which society is evolving. The deviant minds, whom Criminal Law seeks to apprehend and bring to justice have also become sophisticated and nuanced in their modus operandi, the 21st Century ‘criminal mind’ is far more multi-dimensional than what perhaps age old law could envision and account for. It is this fundamental reality which brings to the forefront the challenging responsibility for Reforms in Criminal Laws. It is now imperative to re-examine these laws and to suggest potential and practicable solutions to cure the deficiencies that threaten to derail the effective operation of our criminal justice system.

In this regard, the Commission has decided to conduct a consultation on "**Review of Criminal law**" through online mode on **22.01.2022** from **11:00** onwards.

The objective of this consultation is to review and analyze the position of law; and formulate consolidated recommendations for viable amendments keeping in view the perspective and position of women in India.

The Commission through series of consultations has identified some recommendations for suitable amendments in the law in the previous years. Following are the suggestions:-

#### **A. Laws relating to Cyber Crime**

1. Amendment of section 354D, IPC – Stalking- Substitute the term '*Any man*' with '*Anyone*'
2. Insertion of a new provision on Chapter XVI of the Indian Penal Code as S.354E – Image based Sexual Abuse (or revenge porn)
3. Insertion of a new clause (d) in subsection (1) of Section 505, IPC to punish misogynistic hate speech - Statements conducing to public mischief.
4. Insertion of a new explanation after section 509, IPC – Word, gesture or act intended to insult the modesty of a woman.

#### **Suggested Amendments in the Criminal Procedure Code**

5. Insertion of a new clause (iii) in section 108, CrPC- Security for good behaviour from persons disseminating seditious matters

## **B. Law relating to Dowry Death**

### 1. Recommendation on section 304B IPC regarding the “Seven years” limit

A first issue of Section 304 B, which requires some perusal is the seven years limit for dowry death, claims to benefit from the presumption that the defendant caused the death. Section 113 B of the Indian Evidence Act, 1872 will only allow this presumption if evidence of cruelty is shown and only if unnatural death occurred within the first seven years of marriage. The seven years limit must be reassessed since the reasoning for its existence is flawed. The rationale behind providing this limitation was that seven years would be an ample time to calm an abusive relationship. But as we hear about cases where criminals are waiting until the seven years are over to kill their victims, it becomes clear that the abuse will not stop as long as there is economic gain from it. Seven years limit only postpones murder since demands for dowry recur throughout a marriage; time should not be a determining factor when claims may be brought. As long as the abuse continues it should be punishable by law.

**C. Exception to Section 375, Indian Penal Code, 1860** – deletion of exception II to section 375, IPC regarding sexual intercourse by a man with his own wife without consent.

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