

Criminal Law (Amendment) Act 2018, Provisions, Enforcement

July 24, 2026 • vajiramandravi.com



The **Criminal Law (Amendment) Act 2018** strengthened India's criminal justice framework by introducing stricter punishments for rape, particularly offences committed against minors. It amended the Indian Penal Code 1860 (IPC), Code of Criminal Procedure 1973 (CrPC), Indian Evidence Act 1872 and the Protection of Children from Sexual Offences (POCSO) Act 2012. The law aimed to improve deterrence, ensure faster investigation and appeals and strengthen legal protection for victims of sexual offences.

Criminal Law (Amendment) Act 2018

The Criminal Law (Amendment) Bill 2018 was introduced in the **Lok Sabha** on 23 July 2018, passed by the Lok Sabha on 30 July 2018 and the **Rajya Sabha** on 6 August 2018. It received Presidential assent on 11 August 2018 and replaced the ordinance promulgated in April 2018, bringing stricter punishments and several new offences into law.

Criminal Law (Amendment) Act 2018 Background

The Criminal Law (Amendment) Act 2018 was enacted to strengthen legal safeguards against sexual offences:

- Need for amendment: The Unnao and Kathua rape case highlighted serious concerns regarding crimes against women and children, leading to public protests and demands for stricter criminal provisions and faster justice.
- Crime statistics: According to the **National Crime Records Bureau (NCRB)** annual report for 2013, around 24,923 rape cases were reported across India in 2012, with nearly 98% of accused persons known or related to the victim.
- International concern: A Thomson Reuters Foundation report ranked India among the most dangerous countries for women due to issues including sexual violence, **human trafficking**, child labour, child marriage and **female foeticide**.
- Legislative objective: The amendment enhanced punishments for rape, especially offences against girls below 16 and 12 years of age, while introducing provisions for speedy investigation, victim compensation, restricted **anticipatory bail** and quicker disposal of appeals.

Criminal Law (Amendment) Act 2018 Provisions

The Criminal Law (Amendment) Act 2018 brought several changes to the IPC, CrPC, IEA and POCSO regarding the procedure and trials of the cases related to offences against women and children. The major changes brought include:

Indian Penal Code 1860 (IPC)

The major changes introduced under the **Indian Penal Code 1860 (IPC)** are:

- **Section 376:** The minimum punishment for rape was increased from seven years to ten years, extendable to life imprisonment. A new Section 376(3) prescribed rigorous imprisonment of at least twenty years, extendable to imprisonment for the remainder of the offender's natural life, along with fine, for rape of a girl below sixteen years.
- **Section 376AB:** A new offence was introduced for rape of a girl below twelve years. The punishment includes rigorous imprisonment of at least twenty years, imprisonment for the remainder of natural life, along with fine, or death penalty.
- **Section 376DA:** Gang rape of a girl below sixteen years by persons acting together or with common intention became punishable with imprisonment for the remainder of natural life and fine for every offender.
- **Section 376DB:** Gang rape of a girl below twelve years attracted the strictest punishment, including imprisonment for the remainder of natural life with fine or death penalty for every accused.

Code of Criminal Procedure 1973 (CrPC)

The major changes introduced under the **Code of Criminal Procedure 1973 (CrPC)** are:

- **Section 173(1A):** Investigation of offences under Sections 376AB, 376B, 376C, 376D, 376DA, 376DB and 376E of the IPC must be completed within two months from the date of recording the information.

- **Sections 374(4) and 377(4):** Appeals against convictions or sentences under Sections 376, 376A, 376AB, 376B, 376C, 376D, 376DA, 376DB and 376E of the IPC must be disposed of within six months from the date of filing.
- **Section 438(4):** Anticipatory bail was barred for persons accused under Section 376(3), Section 376AB, Section 376DA and Section 376DB of the IPC.
- **Section 439(1) and Section 439(1A):** Before granting bail in specified rape cases, the High Court or Court of Session must notify the Public Prosecutor at least fifteen days in advance and the informant or authorised representative must remain present during the bail hearing.

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Indian Evidence Act 1872

The major changes introduced under the **Indian Evidence Act 1872** are:

- **Section 53A:** The amendment extended the rule that a victim's character or previous sexual experience is irrelevant in rape trials to newly inserted Sections 376AB, 376B, 376C, 376D, 376DA and 376DB of the IPC.
- **Section 146:** Cross examination provisions were amended to include the newly inserted rape offences, ensuring that questions regarding the victim's previous sexual history remain legally irrelevant during trial.

Protection of Children from Sexual Offences (POCSO) Act 2012

The major changes introduced under the **Protection of Children from Sexual Offences (POCSO) Act 2012** are:

- **Section 42:** The amendment aligned the POCSO Act with the newly inserted IPC provisions by including Sections 376AB, 376B, 376C, 376D, 376DA and 376DB, ensuring that the provision providing alternative punishment also covered these newly created offences.

Source: <https://vajiramandravi.com/current-affairs/criminal-law-amendment-act-2018/>

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