

Clamour for death: On hanging rapists of minors

Each time a horrific sexual crime hits the headlines, there is a clamour for prescribing the death penalty for such offences. Given this, it is perhaps no surprise that the gang-rape and murder of an eight-year-old girl in Jammu and Kashmir has evoked a similar response. Union Minister for Women and Child Development Maneka Gandhi has said her ministry will seek an amendment to the Protection of Children from Sexual Offences Act, 2012, to provide for death as the maximum punishment for the rape of those below 12. The anger is understandable but legislation ought to be a well-considered exercise and not a response based on a sense of outrage over particular incidents. The last time a ghastly crime led to legislative change was in 2013, following a national outcry over the gang rape and murder of a woman in Delhi in December 2012. That set of amendments to criminal law was a structured response, largely based on the recommendations of a committee of eminent jurists. In its January 2013 report, the committee, headed by former Chief Justice of India J.S. Verma, decided against recommending the death penalty for rape, despite demands. It rightly took into account the possibility of awarding life sentences without remission for aggravated sexual assault, as well as “the current thinking in favour of the abolition of the death penalty”. However, the Criminal Law (Amendment) Act, 2013, set the death penalty for rape in the event of it causing the victim’s death or a persistent vegetative state, and for repeat offenders.

In recent months, [Madhya Pradesh](#), [Rajasthan](#), [Haryana](#) and [Arunachal Pradesh](#) have sought to amend the law to prescribe the death penalty for the rape of a minor below the age of 12. There is a clear dichotomy of views on the desirability of prescribing a death penalty. Enlightened public opinion would not approve of a vengeful state response to individual brutality, even if outraged public opinion clamoured for it. Moreover, it should not be forgotten that the death penalty has never been a deterrent against any sort of crime. There is little empirical evidence to show that those about to commit a capital offence would stop themselves merely out of the fear of being hanged. Further, there is a legitimate concern that the country’s judicial system has not been consistent in awarding the death penalty. The Law Commission, while recommending abolition of the death penalty, except in terrorism-related cases, observed that it is difficult to operate the ‘rarest of rare cases’ principle without a hint of arbitrariness. It will be especially wrong to force judges to compare the relative ‘merits’ of rape victims based on their age and choose between death sentence and life. Lengthy prison sentences, constituting both well-deserved consequences for grave crimes and a life-long opportunity for penitence, will adequately meet the ends of justice.

Receive the best of The Hindu delivered to your inbox everyday!

Please enter a valid email address.

The revival of the Trans-Pacific Partnership, sans U.S., must buttress the free trade debate

END

Downloaded from [crackIAS.com](#)

© **Zuccess App** by crackIAS.com