

Why the new amendment of POCSO is necessary

The Union law ministry has cleared a proposal to amend the Protection of Children from Sexual Offences (POCSO) Act, 2012, for enhancing punishment in cases of sexual assault against young boys. The amendment is necessary because of the passage of the Criminal Law (Amendment) Ordinance, 2018, on April 22 which provides for death penalty only for those convicted of raping a girl below 12 years of age.

The April ordinance amended Section 376 of the Indian Penal Code (IPC) and also changed Section 42 of the POCSO Act, to say that newly-amended IPC section would apply to girls below the age of 12 years. While POCSO is gender-neutral, the amended Section 376 mentions the word "woman". This meant that those guilty of raping boys below the age of 12 would not be subject to the death penalty provision. To correct this anomaly, the women and child development ministry wants to amend Sections 4, 5 and 6 of the POCSO Act, which will make rape committed against "any child" below 12 punishable with death. The amendments will be placed before the Cabinet this week.

While there are strong arguments against the death penalty, this amendment is necessary to ensure that POCSO remains gender neutral in legal terms. It also acknowledges the fact that boys are as susceptible to grievous sexual assault as girls. The Centre's 2007 study on child abuse reports that a shocking 53.2% of children say they have experienced one or more form of sexual abuse. Of this number, 52.9% are boys. Boys of all ages, and of all backgrounds, across locations and states, report that they have experienced sexual abuse.

A strong law can help victims justice, irrespective of gender.

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