

2021-22

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Sexual Harassment & POCSO

MAVERICKS INTERNATIONAL SCHOOL, MULLANA

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- The Protection of Children from Sexual Offences (Amendment) Bill, 2019 was introduced in Rajya Sabha by the Minister of Women and Child Development, Ms. Smriti Zubin Irani on July 18, 2019. The Bill amends the Protection of Children from Sexual Offences Act, 2012. The Act seeks to protect children from offences such as sexual assault, sexual harassment, and pornography.

- **Penetrative sexual assault:** Under the Act, a person commits “penetrative sexual assault” if he: (i) penetrates his penis into the vagina, mouth, urethra or anus of a child, or (ii) makes a child do the same, or (iii) inserts any other object into the child’s body, or (iv) applies his mouth to a child’s body parts. The punishment for such offence is imprisonment between seven years to life, and a fine. The Bill increases the minimum punishment from seven years to ten years. It further adds that if a person commits penetrative sexual assault on a child below the age of 16 years, he will be punishable with imprisonment between 20 years to life, with a fine.

- **Aggravated penetrative sexual assault:** The Act defines certain actions as “aggravated penetrative sexual assault”. These include cases when a police officer, a member of the armed forces, or a public servant commits penetrative sexual assault on a child. It also covers cases where the offender is a relative of the child, or if the assault injures the sexual organs of the child or the child becomes pregnant, among others. The Bill adds two more grounds to the definition of aggravated penetrative sexual assault. These include: (i) assault resulting in death of child, and (ii) assault committed during a natural calamity, or in any similar situations of violence. Currently, the punishment for aggravated penetrative sexual assault is imprisonment between 10 years to life, and a fine. The Bill increases the minimum punishment from ten years to 20 years, and the maximum punishment to death penalty.

- **Aggravated sexual assault:** Under the Act, “sexual assault” includes actions where a person touches the vagina, penis, anus or breast of a child with sexual intent without penetration. “Aggravated sexual assault” includes cases where the offender is a relative of the child, or if the assault injures the sexual organs of the child, among others. The Bill adds two more offences to the definition of aggravated sexual assault. These include: (i) assault committed during a natural calamity, and (ii) administering or help in administering any hormone or any chemical substance, to a child for the purpose of attaining early sexual maturity.

- **Pornographic purposes:** Under the Act, a person is guilty of using a child for pornographic purposes if he uses a child in any form of media for the purpose of sexual gratification. The Act also penalises persons who use children for pornographic purposes resulting in sexual assault. The Bill defines child pornography as any visual depiction of sexually explicit conduct involving a child including photograph, video, digital or computer generated image

indistinguishable from an actual child. In addition, the Bill enhances the punishments for certain offences as shown in Table 1.

Table 1: Punishment for offences for using child for pornographic purposes

Offence	POCSO Act, 2012	2019 Bill
Use of child for pornographic purposes	Maximum: 5 years	Minimum: 5 years
Use of child for pornographic purposes resulting in penetrative sexual assault	Minimum: 10 years Maximum: life imprisonment	Minimum: 10 years (in case of child below 16 years: 20 years) Maximum: life imprisonment
Use of child for pornographic purposes resulting in aggravated penetrative sexual assault	Life imprisonment	Minimum: 20 years Maximum: life imprisonment, or death.
Use of child for pornographic purposes resulting in sexual assault	Minimum: Six years Maximum: Eight years	Minimum: Three years Maximum: Five years
Use of child for pornographic purposes resulting in aggravated sexual assault	Minimum: Eight years Maximum: 10 years	Minimum: Five years Maximum: Seven years

Note: Punishment for using child for pornographic purposes resulting in any form of sexual assault is in addition to minimum five years for use of child for pornographic purposes.

Sources: Protection of Children from Sexual Offences (Amendment) Bill, 2019; Protection of Children from Sexual Offences Act, 2012; PRS.

- Storage of pornographic material:** The Act penalises storage of pornographic material for commercial purposes with a punishment of up to three years, or a fine, or both. The Bill amends this to provide that the punishment can be imprisonment between three to five years, or a fine, or both. In addition, the Bill adds two other offences for storage of pornographic material involving children. These include: (i) failing to destroy, or delete, or report pornographic material involving a child, and (ii) transmitting, displaying, distributing such material except for the purpose of reporting it.

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No such case found. (online session)

~~A. Pahua~~
~~4 May 2021~~