Criminal Laws (Rajasthan Amendment) Bill, 2018

Why in news?

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Rajasthan recently passed a Bill providing for death penalty to those convicted of raping girls of 12 years and below.

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What is the Bill about?

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- The Bill seeks to amend the Indian Penal Code with the insertion of new provision.
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- The Bill had inserted **two new sections**, 376-AA and 376-DD, in the IPC.
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- **Section 376-AA** provides for capital punishment or rigorous imprisonment ranging between 14 years and lifelong incarceration.
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- **Section 376-DD** makes a similar provision for gang-rape of a girl child.
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- It lays down death penalty or imprisonment from 20 years to lifelong incarceration for those convicted of the offence.
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- Each of the persons constituting the gang will be deemed to be guilty of the offence.
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- The Bill will become a law after it gets the Presidential assent.
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- Rajasthan became the second State, after Madhya Pradesh, to pass such a Bill.
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What is the need?

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- Offences relating to child rape and child gang-rape are taking place every now and then.
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- National Crime Records Bureau’s 2016 report highlights a steady increase of cases of crimes against children in Rajasthan.
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- The State recorded around 4,000 such cases in 2016, which was 3.8% of the crimes against children registered across the country.
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- The legislation is said to aim at protecting the girl child by laying down a deterrent punishment, including death sentence, to the offenders.
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What are the drawbacks?

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- How far will institutionalising capital punishment really act as a deterrent remains a long-pending debate.
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- The demand for the death penalty in a rape case puts forth the idea of ultimately equating rape with death.
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- Progressive groups and individuals condemn sexual violence but opposes death penalty.
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- They argue that patriarchal notions of ‘honour’ lead society to believe that rape is the worst thing that can happen to a woman.
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- Rape is a tool of patriarchy, an act of violence, and has nothing to do with morality, character or behaviour of the woman.
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- There is a thus a need to strongly challenge this stereotype of the ‘destroyed’ woman who loses her honour and who has no place in society after she’s been sexually assaulted.
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- In this line, the Justice Verma Committee ruled against recommending death penalty even in the rarest of the rare rape cases.
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- Justice Verma Committee was formed in 2013 to look into crimes against women after the infamous Delhi gang rape case.
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- The committee also rejected the suggestion of chemical castration, saying it would violate human rights.
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- As, mutilation of the body is not permitted under the constitution.
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- It would be unconstitutional and inconsistent with basic human rights treaties to expose any citizen without the consent to potentially dangerous medical side effects.
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What is the way forward?

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- The mandatory minimum sentences for sexual offences have already been increased by the POCSO Act and the Criminal Law Amendment Act, 2013.
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- So the need of the day is successful prosecutions, an increase in number of convictions and social awareness.
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- It is the lack of fear of being caught which drives most criminals and rapists.
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- Thus, a robust criminal justice system would act as a more effective deterrent against rape or sexual violence.
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Source: The Hindu, The Wire

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