Spain’s ‘Only Yes is Yes’ Bill

Why in news?

Spain’s draft law defines consent as an explicit expression of a person’s will while silence or passivity does not count as consent.

What are the highlights of the Bill?

- The Comprehensive Guarantee of Sexual Freedom Bill, popularly known as “only yes is yes” frees victims from having to prove that violence or intimidation was used against them.
- Spain’s La Manada rape case is considered to be the primary reason that indicated the need for a law like the Comprehensive Guarantee of Sexual Freedom.
- **Clarity-** The draft law eliminates the legal distinction between ‘sexual assault’ and ‘sexual abuse’.
- It classifies all behaviours that violate sexual freedom without the consent of the other person as sexual assault.
- **Sexual violence**- The Bill brings female genital mutilation, forced marriage, harassment with sexual connotations, and trafficking for the purpose of sexual exploitation within the ambit of sexual violence.
- **Assistance for victims**- It details the availability of care and guidance for victims of sexual assault, including legal assistance, medical and psychological care, and economic and other needs.
- 24-hour crisis centres will be set up to provide support and assistance in crisis situations for victims and their family members.
- **Minors**- The Bill also says minors who commit sexual crimes have to undergo sex education and gender equality training.
- **Penalty**- Sharing and resharing of intimate photos without consent would be punishable.
- Non-consensual sex can be considered aggression and perpetrators can be subject to imprisonment for up to 15 years.

What laws do other countries have about non-consensual sex?

- According to a report by Amnesty International, 9 countries around the world have defined consensual sex in their laws considering sex without consent as rape.
- These include the United Kingdom, Ireland, Belgium, Cyprus, Luxembourg, Iceland, Germany, Sweden and Switzerland.
- Other than this, three other countries which have amended their laws to define non-consensual sex as rape are Austria, Montenegro, and Portugal.

What are the international guidelines regarding sexual

violence?

- **Istanbul Convention-** Non-consensual sexual acts are defined as rape under the Council of Europe Convention on preventing and combating violence against women and domestic violence.
- Article 36 of the Istanbul Convention urges signatories to criminalise non-consensual sexual acts.
- **CEDAW**- The Convention on the Elimination of All Forms of Discrimination against Women, adopted in 1979 by the UN General Assembly, is as an international bill of rights for women.
- The Convention is the only human rights treaty which affirms the reproductive rights of women and targets culture and tradition as influential forces shaping gender roles and family relations.

*India **signed** CEDAW on July 39, 1980 and **ratified** it on July 9, 1993, with certain reservations. India has **not yet ratified** the Optional Protocol to CEDAW.*

*India is **not** a signatory to Istanbul Convention.*

References

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