

DATABASE ON THE USAGE OF SECTION 377, INDIAN PENAL CODE

1. Introduction: This document puts together statistics collected from the National Crime Records Bureau (NCRB) by Jyoti Puri, Professor of Sociology, Simmons College of Arts and Sciences, Boston, USA in 2005 regarding the number of FIRs filed under Section 377 between 1996 and 2005. State specific statistics for Delhi and Madhya Pradesh are provided. The document also has statistics for Karnataka for 1994-2014 collected by Danish Sheikh of Alternative Law Forum, Bangalore. Data on West Bengal is expected to be added soon.

2. Nationwide Statistics (1996-2005):

No.	States	'96	'97	'98	'99	'00	'01	'02	'03	'04	'05	Total
1	Andaman & Nicobar Islands											0
2	Andhra Pradesh (erstwhile united)	4	4	6	6	8	5	2				35
3	Arunachal Pradesh	2					1	2	1			6
4	Assam	2	5	3		1	1	2				14
5	Bihar						1	2		1		4
6	Chandigarh				4	5	4	1				14
7	Chhattisgarh											0
8	Dadra Nagar & Haveli											0
9	Daman & Diu											0
10	Delhi		11	5	66	64	41	27	15			229
11	Goa			1		1	2		2	2		8
12	Gujarat	12	2	10	5	3	5	3	2	5		47
13	Haryana	36	33	30	36	49	44	46	27	11	111	312
14	Himachal Pradesh		9	2	5	17	10	5	22	2		52
15	Jammu & Kashmir											0
16	Jharkhand											0
17	Karnataka	6	3	4	10	5	4	8	1	5		46
18	Kerala		10	11	11	15	35	30	16			128
19	Lakshadweep											0
20	Madhya Pradesh	35	40	21	27	49	72	4	84	57	12	401
21	Maharashtra			36	24	29	43	19	23	19	5	198
22	Manipur											0
23	Meghalaya							2	1			0
24	Mizoram											0
25	Nagaland											0
26	Odisha	7	4	6	4	9	13	12				55
27	Pondicherry		2					1				3
28	Punjab	2	8	4	5	18	20	25	4	10		96
29	Rajasthan	37	30	24	10	9	65	61	71	26	4	337
30	Sikkim	2										2
31	Tamil Nadu	5	5	2	9	1	5	8				35
32	Tripura							2				2

33	Uttaranchal						2			1		3
34	Uttar Pradesh ¹			6	9				48	31	1	144
35	West Bengal		12	9	12	10	6	9		9	2	69
	Total	150	178	180	243	313	392	287	297	175	24	2243

3. State-specific Statistics:

- a) **Madhya Pradesh:** The state of Madhya Pradesh appears to have the highest number of total FIRs between 1996 and 2005. In fact, for the year 2003, Madhya Pradesh records the highest number of FIRs, 84 in number, filed under Section 377 across all the states and across all the years. Therefore, the researcher obtained a breakdown of the 84 FIRs for the year 2003 in order to assess relevant patterns. The information was electronically generated and was incomplete. For example, there was no information about the complainant or the victim. Therefore, the disaggregated data is not included here.
- b) **Delhi:** These are the statistics from the Delhi area for 1999-2004 for the FIRs filed under Section 377. For purposes of comparison, the statistics for FIRs filed under Section 376 are also included:

Year	Section 377	Section 376
1999	67	402
2000	67	435
2001	65	381
2002	49	403
2003	61	490
2004	NA	551

In order to supplement the statistical data related to FIRs in the Delhi metropolitan area, data was also gathered in the form of copies of 83 FIRs. The purpose was to supplement the statistics with the details from FIRs indicating patterns of use (and abuse). The copies of the 83 FIRs were gathered from the following districts of Delhi: South-West District, North-West District, South District and Central District. The FIRs for these districts and their police stations ranged from 1999-2005:

Area	Gender of victim		Mean age of victim (Yrs)	Total cases
	Male	Female		
South-West District	2	1	11	3
North-West District	46	10	9.5*	56
South District	16	0	7**	16
Central District	8	0	15.5***	8
Total	72	11	11	83

¹ **Compiler's note:** The well-known case of FIRs under Section 377 being filed against health outreach workers and leaders of NGO Bharosa Trust in Lucknow, Uttar Pradesh in 2001 does not seem to be reflected in the NCRB data.

* The ages of two victims were not specified though it was clear from the description that they were children.

** The South District data did not include the ages of four victims. From the descriptions, it was clear that two victims were children and the description was too sketchy to determine the ages of the other two victims.

*** The age of one victim was unspecified in the Central District data, though it was clear that he was a child.

The bulk of the cases involved sexual assault against underage boys. Eleven girls were also victims, and their ages were lower than the overall mean of 11 years. The complaints were filed by mothers, fathers, uncles, employers, etc. on behalf of the young victims. Older boys, especially those without the protection of family members, filed the complaints on their own behalf. The FIRs suggested that all the cases involved minors or non-consensual sexual assault. Two exceptions reinforce this point. In the Central District, a case was filed involving a 40 year old man and in the North West District, there was a case filed by a 25 year old man. According to the FIR descriptions in both cases, the men sought out the police and reported the crimes committed against them.

c) Karnataka (1994-2014):

Methodology of data collection (2014-15): Activist and researcher, Danish Sheikh of Alternative Law Forum (ALF), Bangalore filed RTI applications to the NCRB to collect data regarding the number of cases filed under Section 377 but this did not yield much result. Following this, he filed an application with the DGP, Karnataka who forwarded the RTI query to individual police stations and district offices. Till now, ALF has received about 80 responses. Of these, 16 police stations have responded with one or more Section 377 related complaints within the timeframe of 1994-2014, for a total of 34 cases. The majority (at least 20 cases) were from 2013 onwards. Fresh RTI reports have continued to come in on a weekly basis but it will probably be another month till ALF gets the responses from every station.

The details asked for in the RTI included persons arrested, cases registered, stage of trial, number of convictions, and gender and age-wise breakup of persons arrested.

Problems with the approach: The problem with this approach is that it still left a lot of leeway to the information officer's discretion when it comes to questions like year of case being registered – most police stations gave that information but some just chose to give the bare figures. The other issue was that this approach only revealed cases registered under Section 377 irrespective of the question of consent. Even after POCSO being in place and rendering Section 377 irrelevant when it comes to child sexual abuse cases, there are at least four cases where both Section 377 and POCSO have been applied. Finally, the police stations didn't always answer all of the questions asked, or answered them in as vague a manner as possible.

Way forward: To deal with these gaps, what is required is following up with individual police stations that have one or more Section 377 cases and procuring copies of the FIRs. ALF has already started on this process in the form of fresh RTI applications to individual police stations, appending the copy of that police station's RTI report and asking for the FIRs pertaining to the cases mentioned within the report.

The data collected so far has been tabulated in the next few pages:

Year	No.	Sections applied (IPC / others)	Persons arrested	Stage	Other notes
2014	1.	377	1 Male, Age 35	Trial stage	
	2.	377 with Sec 4 of POCSO	1 Male, Age 50	-	
	3.	377	1 Male, Age 21	Trial stage	
	4.	377 with Sec 4 of POCSO	1 Male, Age not given		
	5.	377, 498A	1 Male, Age 27	'B' false report submitted	
	6.	377, 384	7 Males between the ages of 19-22, 1 Male age 52	Trial stage	
	7.	377, 420	1 Male, Age 32	Trial stage	
	8.	377	Across these 4 cases, 8 persons were arrested: 7 Males, Age range of 15-30; 1 Male, Age range of 30-45	1 - Trial stage	Police stations haven't specified which cases involved which accused
	9.	377		3 - PT	
	10.	377			
	11.	377			
2013	12.	377, 511, 504, 506 read with 34	3 Males, Age 30, 28 and 20	Inquiry stage	Complainant was a 35 year old woman
	13.	377 with a number of other sections across multiple FIRs	13 Males	Trial stage	Hassan case, details available http://altnlawforum.org/gender-and-sexuality/13-people-arrested-under-section-377-of-the-indian-penal-code-in-november-2013/
	14.	377, 506; Sec 4 of POCSO	1 Male, Age 18	Inquiry stage	
	15.	377	Nobody arrested, accused not mentioned	Investigation stage	
	16.	377, 506	1 Male, Age 56	'B' report filed	
	17.	377 with Sec 4, 6, 8 and 10 of POCSO	1 Male, Age 40		
	18.	377	1 Person	Chargesheet filed	
	19.	377	Across these 2 cases, 2 persons were arrested: 1 Male in the Age range of 15-30; 1 Male in the Age range of 30-45	1 - Investigation stage	Police station hasn't specified which case involved which accused
	20.	377			
	2012	21.	323, 377	1 Male, Age 23	Inquiry stage
2011	22.	377	1 Male, Age 22	Acquitted	
	23.	377	1 Person	'B' report filed	
2010	24.	377, 511	1 Male, Age 55	Trial stage	
	25.	377, 506	1 Male, Age not mentioned	Convicted - 1 year sentence, Rs. 25,000 fine	Complainant was a male

Year	No.	Sections applied (IPC / others)	Persons arrested	Stage	Other notes
2009	26.	377	1 Male, Age 21	Acquitted	
2008	27.	377	1 Male, Age 21	Convicted	
2007	28.	377	1 Male, Age 35	LPT	
2004					
2003					
2002					
2001					
2000					
1999					
1998					
1997	29.	377	3 Males, Age range of 15-30	PT	
Year Not Mentioned	30.	377	Across these 4 cases, 3 persons were arrested: 1 Male, Age 16; 1 Male, Age 19; 1 Male, Age 35	1 - PT 2 - Acquitted 1 - 'B' report filed	Police station hasn't specified which cases involved which accused
	31.	377			
	32.	377			
	33.	377			
	34.	377	1 Male, Age 29	Trial stage	

Notes:

POCSO - Protection of Children from Sexual Offences Act

323 IPC - Causing hurt

384 IPC - Extortion

498A IPC - Cruelty against woman by husband or relatives

504 IPC - Intentional insult to provoke breach of peace

506 IPC - Criminal intimidation

511 IPC - Punishment for attempting offences which are punishable with imprisonment for life or other imprisonment

Compilation: Diksha Sanyal, Pawan Dhall