
A CRITICAL ANALYTICAL STUDY OF LANDMARK JUDICIAL DECISIONS UNDER THE POCSO ACT AND THEIR IMPACT ON CHILD PROTECTION IN INDIA

Satyameshwari Chouhan, Ph.D. (Research Scholar), Dr. K. N. Modi University

Dr. Mrs. Santosh Sharma, Assistant Professor, Dr. K. N. Modi University

ABSTRACT

In India, a Protection of Children from Sexual Offences Act was passed in 2012 to enact effective laws to provide protection to children against sexual abuse, harassment and exploitation. The Act established procedures for reporting, investigation and trial of children that focuses child-friendly, with the aim of achieving justice and protection of child victims' dignity. The judiciary has been instrumental in giving effect to the provisions of the Act with several landmark judgments since its implementation. Many such judgments have shaped the interpretation and implementation of the Children Protection laws in India.

This comprises an analysis of the judicial order of the POCSO Act and its effect in the child protection systems in the country which will also be done in a critical manner. The study examines the issues of consent, age identification, evidentiary requirement, physical contact and procedural protections for child victims. It also assesses the impact of judicial rulings on the purpose of the Act and potential difficulties or problems in taking it forward.

The paper also emphasises some of the more controversial decisions that led to public discussion and concern about the scope and purpose of child safety and welfare. Further, the paper examines the practical problems arising in the investigation and trial, such as delays in disposal of cases, absence of infrastructure for children's cases and variations in the judicial approach. The research finds that although the judicial bench has helped shape the child protection jurisprudence in India, there was a crying need for a more streamlined, symbiotic and child friendly judicial judgment considering the implementation of the POCSO Act.

Keywords: POCSO Act, Child Protection, Child Rights, Sexual Offences, Judicial Interpretation, Child Sexual Abuse, Criminal Justice System, Victim Protection.

➤ Introduction

Children were considered as the building blocks of all societies and children protection is one of the main duties of State. Children's physical, emotional, intellectual and social growth requires a safe and secure childhood. The incidences of child sexual abuse and exploitation are seen to have increased over the years in India and there is concern about the safety and dignity of the children in the vulnerable situation of exploitation. Child sexual abuse and Exploitation have increased in India over the years and there is concern of child being in vulnerable situation of being exploited and hence affected child safety and dignity. Fear, social stigma, family pressures, lack of awareness, and poor support systems prevent many more instances of abuse from being reported. The rise of offences against children has led one to believe that there is a need for a specially structured legal framework which can address crimes specifically against children and give the child-sensitive justice mechanisms.

Prior to the Protection of Children from Sexual Offences Act, 2012, was the primary statute to handle CSAs-related crime. The specific provisions on child victims were not included in the several forms of sexual abuse were poorly defined or not included at all. There is a lack of mechanisms in the current laws for children's investigations and trials, as well as awareness of the psychological effects of sexual offenses on children. General criminal law principles were frequently used in the courts, though this was challenging for effective justice with regard to child victims. Following the growing concern on rising incidents of children being victims of crime and India's international commitment in UN Convention on the Rights of the Child¹, the legislature introduced a comprehensive regulation specifically for protecting children.

Protection of Children from Sexual Offences Act, 2012 (POCSO Act) was enacted to safeguard children below 18 years age from sexual exploitation in the form of sexual assault, sexual harassment and pornography. The Act acknowledges various forms of abuse and sets out harsh penalties for those that commit this. It also provides for a child-friendly procedure in reporting offences, making statements, medical examination, investigation and trial. The law aims to minimise victimisation's impact on the trial, recognises the dignity and identity of children and ensures the control of victimisation throughout the trial. The Act also provided for the speedy disposal of cases involving offences against children by creating Special Courts².

¹ United Nations Convention on the Rights of the Child art. 19, Nov. 20, 1989, 1577 U.N.T.S. 3.

² Protection of Children from Sexual Offences Act, No. 32 of 2012, § 28, India Code (2012).

Judiciary have a key role in interpreting and implementation of the provisions of POCSO Act. Courts should weigh the need for the strict application of criminal law against the broader goal of ensuring children's rights and welfare. Important legal issues covered by the Act have been cleared up by several landmark judgments issued by the Supreme Court and different High Courts. Court decisions have addressed issues of consent, age, the definition of sexual assault, the application of evidence, the standard for mandatory reporting, procedural protections and conditions, and sentencing guidelines. These decisions have had a bearing on how the POCSO framework is practically working and on how investigating agencies, prosecutors and trial courts have been going by the framework.

Some decisions of the government on children being pulled up and put back to the main school have been commended for being child-centred and more victim-friendly. The relevance and importance of maintaining the dignity of children and achievement of timely justice in all matters pertaining with commission of sexual offences have been stressed at the courts. Judges have also broadened the definition of child abuse to include psychological abuse and exploitation that is not physical. There are some decisions which have upheld the constitutional protection guaranteed in Article 21 of the Constitution of India, which protects the right to life and the right to personal liberty including the right to live in dignity and security.

Meanwhile, some contentious decisions have been criticized by legal analysts, child activists and the general public. Some interpretations appeared to be limited, or not in line with the protective purpose of the legislation. Issues arose about what constitutes physical contact, skin-to-skin contact³, adolescent-to-adolescent romantic relationships and what constitutes required reporting duties. These controversies brought to the forefront the challenges encountered by courts in understanding a welfare-aimed criminal law through the prism of conventional criminalist. Judiciary thus has a crucial role to play in the success and future course of child protection laws in India.

Child sexual abuse has a close relationship with the factors of poverty, illiteracy, discrimination of gender, silence of family, unelevated awareness of children rights. Most victims have long-term emotional and psychological issues, for example trauma, depression, fear and social isolation. These offences can be prevented only if there is social awareness, institutional responsibility and effective mechanisms in place in addition to legal protection. The

³ Satish v. State of Maharashtra, 2021 SCC OnLine Bom 56 (India).

responsibility of the police, doctors, child custodial groups (CCs), schools; and those in a support role plays an important role in the provision of justice and rehabilitation to victims. The POCSO Act strives to establish a streamlined mechanism that is sensitive and child friendly in its legal working.

The Ulug bor was complemented by the strengthening of legal guarantees against women and children's sexual offences via the Criminal Law (Amendment) Act, 2013⁴ and the Criminal Law (Amendment) Act, 2018⁵. Due to the recent enactment of the modified POCSO Act, 2019⁶, a Death penalty was imposed in Special cases of Aggerated PSSA. These changes were made in the wake of general concerns of society and the State about offences against children. However, difficulties remain with the law in practice. The legal process is compromised by delay or faulty investigations, insufficient Special Courts, lack of adequately trained officials, accusations of misuse and the social pressure from hostile witnesses.

The research paper critically analyzes the important judgments rendered by the courts under the POCSO Act and gauges its effectiveness in safeguarding children in India. The study sets out to consider how far judicial interpretations have enhanced the purpose of the Act or given rise to uncertainties in regard to victim protection. It also aims to learn about the changing role of justice, and how justice provides a medium for harmonising legal principles and the welfare and dignity of children. The paper tries to analyse some of the key cases and statutes addressing child protection and significant constitutional principles; to draw conclusions on the role the judiciary plays in shaping child protection jurisprudence in India. Finally, the study identifies general implementation gaps and sets an agenda for the judicial implementation in such cases with a more consistent and sensitive attitude towards children.

➤ Overview of the POCSO Act, 2012

The Protection of Children from Sexual Offences Act, 2012 aims at bringing a comprehensive legislation for the protection of children from sexual offences in India. The Act entered into force 14 November 2012, with the aim of addressing different types of sexual abuse and exploitation experienced by minors. Before this bill, there were few specific laws related to offences against children in the Indian Penal Code, 1860 and several types of child abuse were

⁴ Criminal Law (Amendment) Act, No. 13 of 2013, India Code (2013).

⁵ Criminal Law (Amendment) Act, No. 22 of 2018, India Code (2018).

⁶ Protection of Children from Sexual Offences (Amendment) Act, No. 25 of 2019, India Code (2019).

not defined under criminal law. With the rise in the number of cases against children, and the increasing demands for laws to specifically protect children, the desire arose for a separate law that could result in effective legal protection and child-friendly justice mechanisms.

According to the POCSO Act, the restrict definition of child is applied to everyone under the age of 18 years. Categorises offences in detail, including penetrative sexual assault, aggravated penetrative sexual assault, sexual assault, aggravated sexual assault, sexual harassment and use of children in pornographic production⁷. The Act sets guidelines for very severe punishment, depending on the type and seriousness of the crime. Under the Criminal Law (Amendment) Act, 2018 and the POCSO Amendment Act, 2019, fines for heinous crimes were made harsher, including life imprisonment and death penalty in aggravated cases.

One of the uniquely important characteristics of the Act is its processes which are both kid-friendly and viewer centered. The child's statement shall be made under conditions conducive to the recording of the child's statement, and this shall be recorded by a female police officer of subinspector rank. Section 23 of the Act will provide for confidentiality of the child⁸. Medical examination should be done sensitively in the presence of parent(s) or trusted person(s). The Act also stipulates the evidence to be recorded in the absence of repeated harassment and intimidation towards the person being harassed.

According to the legislation, the Special Courts are established under Section 28 to speed up the trial of offences entailed by the Act. The thirty days⁹ limitation period as per Section 35 is the time when the evidence of child is to be recorded from the date of taking cognizance, and the children's trial time is within one year of taking cognizance wherever possible. There has also been a change in the compulsory reporting requirement of offences against children since the Act came into force, as set out in Section 19. Failure to report the offense may lead to the punishment provided for under the statute.

The objectives of the POCSO Act align with the constitutional values that are enshrined in the following articles of the Constitution of India: Article 14¹⁰, which promotes equality; Article

⁷ Protection of Children from Sexual Offences Act, No. 32 of 2012, §§ 3–10, India Code (2012).

⁸ Protection of Children from Sexual Offences Act, No. 32 of 2012, § 23, India Code (2012).

⁹ Protection of Children from Sexual Offences Act, No. 32 of 2012, § 35, India Code (2012).

¹⁰ INDIA CONST. art. 14.

15(3)¹¹, which provides for the protection of children; Article 21¹², which guarantees Dignity; and Article 39¹³, which emphasizes on child development. It also complements the international instruments which India has enacted like the United Nations Convention on the Rights of the Child. The act is a significant move towards reinforcing the child protection system in India to bring a victim-centric approach into the criminal justice system.

➤ **Judicial Interpretation of Key Provisions under the POCSO Act**

- **Interpretation of “Child” under the POCSO Act¹⁴**

In all the decisions in India Section 2(d) of the POCSO Act has been read with extreme literalness and liberally granting the benefit of any doubt, has only ever accepted a restriction on age as part of the definition. A person under 18 years is considered a “child” regardless of consent and social background, and regardless of their relationship. Under judicial precedent if a minor looks mature or if he/she proceeds willingly into a relationship, there is no legal consent because of the Act. Age statement is normally based on the birth certificate, school records and medical documentation. This interpretation deepens the protection of the law and provides consistency in the implementation of the law.

- **Judicial Interpretation of Consent in Cases Involving Minors**

Indian courts have reiterated many times that consent of minors in offences under the POCSO Act is of no value in law. Children's vulnerability and limited understanding have been the basis upon which the judiciary has insisted that children are incapable of consenting to sexual activity. The Act's stringent rules on judicial consent to sexual intercourse led to a number of cases concerning relationships between young people with the debate revolving around the misuse of the rules. In some courts, a balancing test was utilized in dealing with consensual teenage relationships based on the facts of each case, but more typically, the judge ruled that statutory protection outweighed consent when the victim is under the age of eighteen.

¹¹ INDIA CONST. art. 15, cl. 3.

¹² INDIA CONST. art. 21.

¹³ INDIA CONST. art. 39(f).

¹⁴ Protection of Children from Sexual Offences Act, No. 32 of 2012, § 2(d), India Code (2012).

- **Interpretation of “Sexual Assault”¹⁵ and Physical Contact**

Sexual Assault and Physical Contact are considered sexual offences. The term “sexual assault” found in Section 7 and 8 of the Act has been a key to the definition of child protection in judiciary rulings. Courts have considered whether physical contact, intent and nature of the contact were the elements of the offence? The recent comment by the Bombay High Court on ‘skin to skin contact’ caused a furore across the country, as it had a tendency to restrict the understanding of sexual assault. The Supreme Court went on to reject that logic and comment: Abuse of any kind taking place, sexual abuse or otherwise, on the premises shall not be allowed to create a technical or restrictive interpretation of the law which would deprive kids of equal safety considerations.

- **Interpretation of Aggravated Sexual Assault**

The judiciary has interpreted aggravated offences under Section 5 and 9 of the Act, taking into account the position of the child victim and the trust, authority and vulnerability of the child victim. Offences by teachers, police officers, family members or others in position of responsibility have been taken more seriously. In cases of abuse by someone a child trusted, judicial reasoning emphasizes the increased psychological harm done to children that makes the punishment under the statute more deserving. This understanding promotes accountability and brings about the protective aspect of the law.

- **Evidentiary Standards in POCSO Cases**

Courts have made it clear that even if the child victim does not have extensive corroborative evidence for the offences documented under POCSO Act, his/her testimony could be relied upon to secure convictions. Judiciary is aware that due to trauma and fear, a child may become distressed, inconsistent or reluctant in their testimony. Medical evidence is key, but being free from injuries do not essentially diminish the prosecution's case. The judiciary has paid attention to being sensitive in several pivotal cases and has also affirmed evidence in offences against minors.

- **Mandatory Reporting under Section 19¹⁶**

Under the provisions of Section 19 of the POCSO Act, there is a legal obligation to report

¹⁵ Attorney General for India v. Satish, 2021 SCC OnLine SC 1076 (India).

¹⁶ Protection of Children from Sexual Offences Act, No. 32 of 2012, § 19, India Code (2012).

offences against children. This provision has been given a highly restrictive reading to guarantee early help and protection for victims. Justices have also ruled that it is a crime to not report sex abuse of children, otherwise they may be subjected to continued abuse and impede the cause of justice. However, challenges have also been voiced when it comes to handling sensitive cases involving teenagers when it comes to dealing with families, schools and health workers. Issues of balancing strict reporting requirements with social realities are ongoing in the court system.

- **Child-Friendly Trial Procedures**

Indian courts have highlighted that the trial proceedings under POCSO are to be child friendly, without intimidation. For children, the meaning of the procedural safeguards may depend upon the judicial interpretation that they not be repeatedly questioned, subjected to intensive cross-examination, or subjected to a hostile courtroom atmosphere. That Courts have set the guidelines to maintain the confidentiality of identity of a victim and to dispose speedily the case through Special Courts created through the Act. Interpretations are consistent with the overall goal of securing child victims' dignity, mental health and emotional well-being while they are engaged in criminal proceedings.

- **Critical Analysis of Landmark Judicial Decisions under the POCSO Act**

- **Alakh Alok Srivastava v. Union of India¹⁷ (2018)**

This case was about the substandard care of child care facilities and rising reports of sexual abuse reported in shelter homes. Guidance was given to various States on carrying out social audits and reinforcing existing monitoring mechanisms of children in places of care. The judgement pointed out that children can be at risk of being exploited or subject to violence when they are in the care of authorities due to their lack of care. The State's constitutional obligations to the safety and dignity of minors were addressed. The decision was important to enhance the accountability of institutions in relation to child protection issues.

- **Satish v. State of Maharashtra (2021)**

This judgment gained much controversy after it said 'skin-to-skin contact' was required to

¹⁷ Alakh Alok Srivastava v. Union of India, (2018) 17 S.C.C. 291 (India).

constitute sexual assault as per Section 7 of the POCSO Act. There was sharp (legitimate) criticism from child rights activists and lawyers over the interpretation which limited the child protection accorded to children. It was suggested that this type of argument might undermine the intent of the law. The case raised a firm discussion about how the judges should interpret cases related to child sexual abuse. It later emerged as a big case of a 'restrictive interpretation' of the welfare legislation.

- **Attorney General for India v. Satish (2021)**

In this decision, the broad interpretation of 'sexual assault' in the POCSO Act was restored. Sexual intent was considered to be the key element (AS opposed to direct contact with skin). The ruling stated that such technical explanations shouldn't frustrate the protection intent of the legislation. A high focus was placed on protecting children from all aspects of sexual abuse. The judgment reflected the child-centric philosophy in the child law enforcement framework of POCSO.

- **Independent Thought v. Union of India (2017)**

It was a historic case about the problem of marital rape of the minors. At law, sex with a wife, who was under the age of eighteen, was declared to be rape. Child marriage was not recognized as justification for sexual offences of minors. The principle of constitutional morality and the dignity of the child was the yardstick used for the interpretation of judgments. This was an important judgment which extended the legal rights of the married minor girls in India¹⁸.

- **Eera through Dr. Manjula Krippendorf v. State (NCT of Delhi) (2017)**

The question before the court was whether a mentally challenged adult woman can be granted protection of the POCSO Act on grounds of mentally age. Final decision was to use biological age as the criterion for applicability of legislation¹⁹. Seeing mentally handicapped adults excluded from the special statutory care that was available to children made debate inevitable. Citing restrictions under the law, disability rights organizations voiced concerns. Dwell upon the significant deficits in understanding vulnerability in the context of child protection laws.

¹⁸ Independent Thought v. Union of India, (2017) 10 S.C.C. 800 (India).

¹⁹ Eera through Dr. Manjula Krippendorf v. State (NCT of Delhi), (2017) 15 S.C.C. 133 (India).

- **Bijoy v. State of West Bengal (2017)**

Strong medical evidence was not required and reliable testimony of the child victim was sufficient to secure conviction. When taking evidence, that emotional trauma, fear and pressure experienced by children was recognized and appreciated. The ruling cut down the over-reliance on physical injuries in sexual offence cases against minors. Judicial reasoning developed an increasing awareness of the child victim. Such a move further implored the value of victim statements in the context of the POCSO Act.

- **State of Karnataka v. Shivanna²⁰ (2014)**

The guidelines were issued to register FIRs immediately and to conduct medical examination of the victims within time in sexual offences cases. There was an awareness of the disadvantages of delay in investigation, as well as in respect of victim welfare. Police powers were instructed to take action quickly in cases of sexual violence and children. The judgment placed significant emphasis on procedural efficiency and support for victims. It had a cascading effect in the entire procedures of investigations of POCSO cases in India.

- **Prajwala v. Union of India²¹ (2015)**

The issues were raised about the distribution of child pornography and the exploitation of minors online. Advices aimed at prohibiting and monitoring contents deemed as exploitative that can be accessed via Internet platforms. The decision acknowledged that it is harder to only see one way, as technology has raised risks with regards to child abuse and trafficking. There was an increased responsibility on authorities to safeguard children in the online world. The ruling opened the eyes of judges to the significance of child protection in respect of cyber-related matters.

- **Nipun Saxena v. Union of India²² (2018)**

A key issue in this case was protection of the victim's identity. Restriction for publication of names, photos and personal information about the victims was strictly enforced. Privacy was accorded a constitutional status as a fundamental right under Article 21 of the Constitution.

²⁰ State of Karnataka v. Shivanna, (2014) 8 S.C.C. 913 (India).

²¹ Prajwala v. Union of India, (2015) 8 S.C.C. 140 (India).

²² Nipun Saxena v. Union of India, (2019) 2 S.C.C. 703 (India).

The media and law enforcement authorities were ordered to keep the confidentiality of sexual offense investigations. The decision clarified the prevention of social stigma and secondary victimization of children.

• **Bachpan Bachao Andolan v. Union of India²³ (2014)**

This case focused on the fate of the alleged missing children and child trafficking. All child Missing from Care reports were to be taken seriously and urgently. The judgment noted the link between trafficking, exploitation and sexual abuse of the children. There was a focus on the need for more integrated work between police and child welfare agencies. The ruling helped to bolster broader child protection systems in India.

➤ **Impact of Judicial Decisions on Child Protection in India**

Judicial rulings issued in cases brought under the POCSO Act have had a significant impact on enhancing child protection policies and practices in India. Courts have been making important decisions with regard to the unclear areas in the law that clarify the law, and they have provided a broader definition of what is meant by the term "sexual abuse of a child. In several critical decisions, courts have shed light on the vague portions of the law and deepened the meaning of "sexual abuse of a child. Key decisions have paved the way for welfare and dignity of children to be at the heart of how the provisions of the Act are interpreted. The child friendly approach raised awareness levels among investigative agencies, educational institutions, parents and society about the gravity of such an offence against children. Judicial application also helped to strengthen the implementation of the child protection legislation and to show greater sensitivity to child victims in the criminal process.

The protection of the fundamental rights of children outlined under Article 21 of the Constitution of India (right to life and dignity) is an outcome of several decisions. Children are physically and mentally vulnerable and need special protection of the law, said courts. In the context of children involving the criminal justice system, direction on the conduct of speedy investigations, victim confidentiality, child friendly trial procedures and immediate medical assistance enhanced the functioning of the criminal justice system. The judicial interventions led to an increased faith in legal framework provided under POCSO Act.

²³ Bachpan Bachao Andolan v. Union of India, (2014) 16 S.C.C. 616 (India).

Judicial decisions also had an impact on the evidentiary standards in cases involving child sexual abuse²⁴. Courts understood that children's statements can sometimes not seem to be as reliable due to trauma, fear, social pressure or emotional distress. Even when there was not ample evidence of medical injury, and no medical or technical evidence, the judiciary accepted credible testimony from child victims. This ensured that the justice process was more attuned to child survivors' realities. It also urges victims and families to report offences without any fear as if there was no medical evidence the case would be weak.

One of the key effects of judicial rulings is also on institutional accountability and administrative responsibility. Courts provided directions for keeping watch over children in the care of organizations, safeguarding the identity of victims and child pornography-distribution via digital platform. These decisions went over and above child protection for physical abuse, and extended it to include new experiences like cyber exploitation and trafficking. This kind of judicial activism promoted cooperation among the-member institutions of the police, child welfare committees, educational institutions, and social welfare departments. This led to a shift in the role of child protection from criminal law, to become increasingly a constitutional and social concern.

➤ Challenges in the Judicial Implementation of the POCSO Act

Realizing the promise of POCSO Act via judiciary remains a challenge in practice and law in India. Delay in investigation and trial of cases on child victims is among the biggest issues. Numerous cases are pending in Special Courts which have been set up under the Act for faster disposal, due to the lack of sufficient infrastructure and shortage of judges as well as the case load. Excessive delay makes the emotional burden on the victims worse and undermines public faith in the efficiency of lawyers.

Misinterpretation of the Act by judges has also caused problems in the implementation of the Act. Some guidelines taken were confusingly interpreted of provisions on sexual assault and physical contact, which resulted in some controversial rulings. Competing interpretations can have an impact on uniform application of the law in different courts. There has been some concern that in certain situations, the steps that employers are taking will decrease the traditional protection for which the statute exists and provide confusion to victims trying to

²⁴ Bijoy v. State of West Bengal, (2017) 10 S.C.C. 754 (India).

seek justice.

Lack of child friendly infrastructure outside courts and police stations is still another serious challenge. Numerous child victims are still encountering hugely threatening settings for investigations and trials. Numerous evident victims still have to experience such intimidating surroundings during investigations and during trial. Children's participation in the legal process can be dissuaded through repeated questioning, insensitive questioning and social stigma. Poorly trained and inadequately equipped police, prosecutors, health and legal systems respond inadequately to child sensitive procedures put in place under the Act. Survivors also lack psychological after-care and rehabilitation mechanisms, which adds to their challenges. In some cases, allegations of misuse have surfaced under the POCSO Act, even though the relationships may have been consensual between adolescents. In some such cases of consensual relationships between adolescents, allegations of misuse have come up under the POCSO Act. Counties have noted that, at times, enforcing the law rigorously in all youth relationships can lead to criminalization of consensual emotional relationships between youth. This led to discussion of the "dilemma between child protection and social realities of adolescents. Simultaneously, a loosening of statutory protection can lead children to be more vulnerable to exploitation and/or coercion. Judiciary continues to be challenged in finding balance between strict legal protection and social realities.

➤ **Judicial Gaps and Need for Legal Reforms**

Certain lapses in both architecture and procedure remain in the effective implementation of the POCSO Act in India. An uncommon problem is the inconsistent application of several key provisions of the law by judges. Courts have faced and addressed various issues relating to the elements of sexual intent, physical contact, consent, and the standard of proof, yet some courts have come to the opposite conclusions as others have. These imbalances lead to confusion in the law and erode trust in child protection legislation by victims and society. Judges should have a more uniform and child-friendly perspective to ensure that the goals of this Act are achieved. Delays in investigation and disposal of cases is another important gap that can be highlighted in this report. Special Courts have been formed for the speedy trial, but shortage of infrastructure and pendency of cases is hampering the justice process. Legal proceedings and frequent contact with the authorities can cause emotional trauma in child victims. The lack of adequately trained investigators, prosecutors and counsellors also impacts the quality of justice

under the Act. The need to build institutional capacity and provide routine training of officials engaged in child protection matters is now required.

Reforms are also needed in the existing laws and enforcement of rehabilitation and psychological assistance for the victims. The law primarily targets punishment of culprits, and address is limited to the long-term care, counselling and social reintegration of children survivors. There is a need to improve coordination between courts, child welfare committees, education and health systems in order to effectively protect victims in a comprehensive manner. Reforms need to be made in the law regarding challenges of exploitation of children in cyberspace, online grooming and dissemination of child sexual abuse content via digital means. Enforcement of technological monitoring systems and cyber laws can contribute to child safety in the digital era.

➤ **Suggestions and Recommendations**

A child-centric and victim-sensitive judicial system are necessary to effectively implement the POCSO Act. Special courts for child sexual abuse cases needs to be improved by setting up proper infrastructure, training and provision of psychological assistance for victims. Those cases should be disposed of swiftly through fast-track courts to prevent that children have to experience traumatic experiences during the long and tedious legal process. Some court offices have designated waiting areas, video conferencing rooms, and kids' zones within the courts that could lessen the fear or intimidation for victims to attend court proceedings. There is a need to provide regular training sessions to those working with POCSO cases in police, prosecution, judiciary, medical and counselling capacities. Improving quality of Justice to victims through sensitisation on child psychology and trauma-informed ways of investigation. There should be absolute confidentiality, concerning the identity of the child victim, at all stages of investigation, with a particular emphasis during trial. Education and information-raising campaigns, including in schools, the community and on digital platforms, may also promote reporting of crime and awareness about what the law provides.

Leg clearer rules are needed to minimize the discrepancies of the court's interpretation of key points of the Act. Consistent standards on how to appraise evidence, negotiate procedural boundaries and how adolescent relationships are treated could assist in equal law application. In this current technology, even more powerful monitoring systems are needed and more stringent measures are required to combat children's online exploitation. Post abuse

rehabilitation programs, counsellors and compensation mechanisms should be scaled up to provide child survivors with effective legal and emotional support following incidents of child abuse.

➤ Conclusion

The Protection of Children from Sexual Offences Act (PCSO), 2012 has taken a step to protect children from sexual abuse and sexual exploitation in India. The Act has been interpreted by judges in a number of landmark cases, which have helped develop child protection jurisprudence and enhanced the rights of victims. Courts have helped to expand the range of protections afforded to children, advance child-friendly court processes, and ensure that the dignity, privacy and welfare of victims of crime is a key consideration in criminal proceedings. Another judgment also spoke about the constitutional duties placed on the State as well as institutions to ensure the safety and security of children. Meanwhile, problems having to do with diverging interpretations, delays in the process, and poor infrastructure as well as social stigma remain a part of the law's implementation. Some of the decisions were controversial because they revealed deficiencies in judicial reasoning and in connection to the overarching goal of child welfare, they offered a variety of issues for debate. An increasing threat of online exploitation and cyber abuse has also led to the need for more robust legal and institutional child protection strategies. A uniform, compassionate and victim-centric judicial attitude is required to realize the true intent of the POCSO Act. Child survivors can be better protected in India by a variety of legal reforms, institutional strengthening, public awareness campaigns and appropriate rehabilitation systems. However, the cooperation of society, families, schools, police and other governmental agencies and the judiciary is necessary for a child protection law to be effectively put into practice.

References

- Alakh Alok Srivastava v. Union of India, (2018) 17 S.C.C. 291 (India).
- Aparna Chandra & Mrinal Satish, Discretion, Discrimination and the Rule of Law: Reforming Rape Sentencing in India, 20 Colum. J. Asian L. 1 (2013).
- Attorney General for India v. Satish, 2021 SCC OnLine SC 1076 (India).
- Bachpan Bachao Andolan v. Union of India, (2014) 16 S.C.C. 616 (India).
- Bijoy v. State of West Bengal, (2017) 10 S.C.C. 754 (India).
- Criminal Law (Amendment) Act, No. 13 of 2013, India Code (2013).
- Criminal Law (Amendment) Act, No. 22 of 2018, India Code (2018).
- Eera through Dr. Manjula Krippendorf v. State (NCT of Delhi), (2017) 15 S.C.C. 133 (India).
- Flavia Agnes, Protecting Children from Sexual Offences: A Legal and Social Analysis, 50 Econ. & Pol. Wkly. 12 (2015).
- Independent Thought v. Union of India, (2017) 10 S.C.C. 800 (India).
- INDIA CONST. art. 14.
- INDIA CONST. art. 21.
- Jaya Sagade, Child Sexual Abuse and the Law in India: Emerging Issues under the POCSO Act, 4 Indian L. Rev. 85 (2020).
- Nipun Saxena v. Union of India, (2019) 2 S.C.C. 703 (India).
- Prajwala v. Union of India, (2015) 8 S.C.C. 140 (India).
- Protection of Children from Sexual Offences (Amendment) Act, No. 25 of 2019, India Code (2019).

- Protection of Children from Sexual Offences Act, No. 32 of 2012, § 2(d), India Code (2012).
- Protection of Children from Sexual Offences Act, No. 32 of 2012, § 19, India Code (2012).
- Protection of Children from Sexual Offences Act, No. 32 of 2012, § 23, India Code (2012).
- Protection of Children from Sexual Offences Act, No. 32 of 2012, §§ 3–10, India Code (2012).
- Satish v. State of Maharashtra, 2021 SCC OnLine Bom 56 (India).
- State of Karnataka v. Shivanna, (2014) 8 S.C.C. 913 (India).
- Ved Kumari, The POCSO Act and Child-Friendly Justice System in India, 62 J. Indian L. Inst. 233 (2020).
- United Nations Convention on the Rights of the Child art. 19, Nov. 20, 1989, 1577 U.N.T.S. 3.