
JUVENILE OFFENDERS AND GENDER-BASED VIOLENCE: CHALLENGES IN POLICY AND PRACTICE UNDER THE POCSO AND JJ ACT

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“Juveniles need reformatory care, not retributive punishment. The law must recognize their capacity to change, while also ensuring justice for victims of sexual violence.”

- Justice Madan B. Lokur

ABSTRACT

The concurrent application of the Protection of Children from Sexual Offences Act, 2012 (POCSO) and the Juvenile Justice (Care and Protection of Children) Act, 2015 (JJ Act) raises complex legal challenges when minors are both the complainants and the accused in cases involving sexual conduct. This paper explores the normative and procedural conflicts that arise at this intersection, particularly scrutinizing the absolute age of consent under POCSO and the discretionary mechanism for transferring children to adult courts under Section 15 of the JJ Act.

By engaging with statutory interpretation, judicial discourse, and empirical data from various Indian jurisdictions, the paper argues that current legal frameworks insufficiently accommodate the developmental realities of adolescents. The automatic criminalization of consensual peer relationships and the absence of consistently applied child-sensitive procedures risk undermining both the rehabilitative aims of juvenile justice and India's international obligations under the UN Convention on the Rights of the Child (UNCRC).

The paper calls for a jurisprudential recalibration—emphasizing contextual analysis, child rights-compliant interpretation, and institutional safeguards to prevent misuse of prosecutorial discretion in juvenile sexual offence cases. This approach aims to harmonize statutory intent with constitutional values and international child protection standards.

Keywords: Juvenile, POCSO, Sexual Conduct, criminalization, adolescent, UNCRC, JJ.

1. INTRODUCTION

The treatment of juvenile offenders accused of sexual offences under Indian law presents one of the most legally and morally fraught dilemmas in contemporary criminal justice discourse. On one hand, the *Protection of Children from Sexual Offences Act, 2012* (“POCSO Act”) was enacted as a victim-centric statute designed to safeguard children from sexual violence with stringent procedural safeguards, mandatory reporting, and the imposition of strict liability in all sexual contact involving minors. On the other hand, the *Juvenile Justice (Care and Protection of Children) Act, 2015* (“JJ Act”) embodies the rehabilitative ideal of juvenile jurisprudence, predicated on the evolving capacity of adolescents, their right to reintegration, and their distinct treatment under the law. The co-existence of these two statutes has created significant jurisprudential friction—especially in cases where both the victim and the accused are minors.

This tension is not merely theoretical; it plays out regularly in Indian courts. The rise in POCSO cases involving consensual adolescent relationships has drawn attention to the **absolute criminalization** of sexual behavior between teenagers, regardless of the circumstances or mutual consent. While the POCSO Act makes no exception for peer interactions, the JJ Act simultaneously attempts to ensure a child-friendly adjudicatory process that centers on the **best interests of the child**—even when that child is the accused. This creates a duality that is difficult to reconcile: one statute leans toward protection through penalization, and the other leans toward reform through rehabilitation. The resulting legal framework frequently leads to **over-criminalization**, procedural inconsistencies, and disproportionate consequences for juvenile boys accused in such cases.¹

It is in this context that Justice A.P. Shah’s statement assumes critical importance:

*“The child offender must be seen not as a criminal to be punished, but as a child to be corrected and reintegrated into society, with dignity and compassion.”*²

This observation is more than aspirational; it is rooted in both India’s constitutional framework under Articles 14, 15(3), and 21, as well as its international obligations under the **United**

¹ S. Kumar, Access to Justice and Sexual Violence Against Children in India (2023), <https://www.researchgate.net/publication/370924669>.

²Centre for Child and the Law, NLSIU, POCSO and Consensual Sex Cases: A Study (2022).

Nations Convention on the Rights of the Child (UNCRC). It challenges the rising punitive turn in India's juvenile justice discourse, particularly visible in the enactment of Section 15 of the JJ Act, 2015, which allows for the transfer of juveniles aged 16–18 years to adult courts for "heinous" offences—including those categorized under the POCSO Act. The discretion vested in the Juvenile Justice Board (JJB) under this provision, coupled with the absence of uniform criteria for psychological assessment and maturity evaluation, has led to **uneven jurisprudence** and potential violations of child rights.³

The implications are profound. When the accused is a 17-year-old boy and the complainant is a 16-year-old girl involved in a consensual relationship, the law treats the act as statutory rape under the POCSO Act, and the boy may face the possibility of being tried as an adult under the JJ Act.⁴ This legal architecture fails to engage with adolescent developmental psychology and fails to differentiate between **coercive sexual violence** and **non-coercive peer interaction**—a distinction critical in child rights-based systems globally.⁵ The absence of a **"close-in-age exemption"** or "Romeo-Juliet clause" in Indian law further amplifies the punitive reach of the POCSO framework.⁶

Moreover, empirical evidence underscores the systemic consequences of such legal rigidity. A 2023 multi-state study found that nearly 57% of juvenile POCSO cases involved consensual adolescent relationships. In such cases, juvenile boys face not only criminal sanctions but also severe social ostracism, educational discontinuation, and familial alienation. The implementation of the JJ Act's rehabilitative objectives remains severely limited, with only 21% of JJBs having access to trained child psychologists and less than 20% of convicted juvenile sex offenders receiving any structured reintegration support.⁷

From a doctrinal standpoint, this paper argues that the **intersection of the POCSO and JJ Acts creates a normative conflict** between child protection and juvenile justice. The current model undermines the constitutional mandate to treat children as a distinct class deserving of special protection—both as victims and as offenders. Furthermore, the inconsistent application

³ Sabari v. Inspector of Police, 2019 SCC OnLine Mad 918.

⁴ Rajan v. State of Kerala, (2020) 3 KLT 492.

⁵ General Comment No. 10, U.N. Comm. on the Rights of the Child, U.N. Doc. CRC/C/GC/10 (Apr. 25, 2007).

⁶ Bandewar, S.S. & Pitre, A., POCSO and Adolescent Autonomy, Indian J. Med. Ethics, Apr. 2024.

⁷ Maity, S. & Chakraborty, P., Implications of POCSO at State Level, NAT. HUM. SOC. SCI. (2023).

of Section 15 of the JJ Act in sexual offence cases raises serious concerns regarding procedural fairness, proportionality, and judicial discretion.

The study also draws on comparative international frameworks, notably South Africa's Child Justice Act, the UK's Sexual Offences Act, and General Comment No. 10 of the UNCRC, to argue for a more **context-sensitive and rights-affirming approach**.⁸ These systems recognize the difference between *developmentally inappropriate* behavior and *criminal culpability*, especially where both parties are children.

2. LEGAL FRAMEWORK AND DOCTRINAL ANALYSIS

2.1 Overview of the Protection of Children from Sexual Offences Act, 2012

The Protection of Children from Sexual Offences Act, 2012 (POCSO) was enacted in response to growing concerns over the rising incidence and underreporting of child sexual abuse in India. Prior to its enactment, there was no comprehensive or child-sensitive statute addressing various forms of sexual violence against minors. POCSO was designed to be gender-neutral, victim-centric, and procedurally robust, ensuring the protection of children through mechanisms such as in-camera trials, child-friendly inquiry, and mandatory reporting.⁹

A central feature of the Act is its absolute definition of a child as any individual below the age of 18, with no room for discretion based on the child's mental maturity or consent¹⁰. POCSO criminalizes a wide spectrum of sexual behaviours, including penetrative and non-penetrative assault, sexual harassment, and the use of children for pornographic purposes.¹¹

However, one of the most debated aspects of the statute is its strict liability nature, especially in cases involving consensual sexual activity between adolescents¹². The law treats all sexual acts involving minors as offences, regardless of consent, thereby criminalizing peer interactions that may be developmentally normative. While the law aims to protect children, this aspect has

⁸ Child Justice Act 75 of 2008 (S. Afr.); Sexual Offences Act 2003, c. 42 (U.K.).

⁹ Section 19-33, POCSO, 2012.

¹⁰ Section 2(d), POCSO, 2012.

¹¹ Section 3-14, POCSO, 2012.

¹² Swagata Raha, Treatment of Children as Adults under India's Juvenile Justice Act, 27 INT'L J. CHILD. RTS. 659 (2019).

led to the over-criminalization of adolescent boys, often in the context of romantic relationships.

2.2 Key Provisions of the Juvenile Justice (Care and Protection of Children) Act, 2015

The Juvenile Justice (Care and Protection of Children) Act, 2015 (JJ Act) replaced the 2000 legislation in the wake of public outrage following the 2012 Delhi gang rape, where one of the accused was a juvenile. The revised statute introduced a controversial provision—Section 15—allowing Juvenile Justice Boards (JJBs) to conduct a preliminary assessment of children aged 16–18 involved in heinous offences, and potentially transfer them to adult courts.

The JJ Act continues to be grounded in the principles of reformation, rehabilitation, and reintegration, enshrined in Section 3 of the statute. It draws significantly from international child rights instruments and India's obligations under the United Nations Convention on the Rights of the Child (UNCRC), particularly the “best interests of the child” standard.

However, the introduction of the dual-track system under the 2015 amendment—a rehabilitative system for minor offences and a punitive adult trial track for certain juveniles—has created significant ambiguity in its implementation, particularly when offences under the POCSO Act are involved.¹³ The criteria for “preliminary assessment” under Section 15 include the child's mental and physical capacity to commit the offence, their understanding of its consequences, and the circumstances in which the offence was committed.¹² However, no standardized tools or training frameworks exist for conducting such assessments across states, leading to inconsistent and often arbitrary outcomes.¹⁴

2.3 Intersectional Issue between the Two Statutes

The application of the JJ Act in cases under the POCSO framework reveals several structural and normative contradictions. On one hand, the JJ Act mandates a child-friendly and reformatory process; on the other, POCSO enforces strict penal consequences that apply equally to all minors regardless of intent, developmental capacity, or mutuality.

¹³ Ved Kumari, Juvenile Justice in India: Impact of the 2015 Law, 9 NUJS L. REV. 45 (2017).

¹⁴ HAQ: CENTRE FOR CHILD RIGHTS, Status of Child Protection Systems in India (2021).

This creates a fundamental tension, especially in cases where both the accused and the victim are adolescents, often in consensual relationships. In such scenarios, the accused minor is subjected to criminal prosecution under a non-negotiable POCSO regime, while the JJ Act's protective cover may be diluted by the possibility of a Section 15 transfer.¹⁵ The result is a legal paradox: a child can be simultaneously deemed incapable of giving consent and capable of being tried as an adult.

Furthermore, the mandatory reporting requirement under Section 19 of the POCSO Act aggravates this contradiction. Once a case is reported—even in the context of consensual peer interaction—the State machinery is compelled to prosecute the accused, even when there is no element of coercion, exploitation, or power imbalance.¹⁶ This undermines the JJ Act's goal of individualized assessment and instead subjects juveniles to rigid prosecutorial machinery.

Judicial decisions reflect this struggle. In *Sabari v. Inspector of Police*, the Madras High Court acknowledged the "harshness" of POCSO provisions when applied to consensual teenage relationships, and urged the legislature to revisit the statute to avoid penalizing "adolescent love."¹⁷ Yet, in absence of a statutory amendment or a close-in-age exemption clause, courts remain bound by the letter of the law.

2.4 UNCRC and International Norms

India ratified the United Nations Convention on the Rights of the Child (UNCRC) in 1992, thereby committing to uphold international standards in the treatment of children in conflict with the law. Article 3 of the UNCRC emphasizes that "*in all actions concerning children... the best interests of the child shall be a primary consideration.*" Article 40 further requires that children accused of violating the law must be treated in a manner consistent with their age and conducive to their reintegration into society.²¹

The UN Committee on the Rights of the Child, explicitly discourages the transfer of juveniles to adult criminal courts, and calls for systems based on diversion, rehabilitation, and non-custodial alternatives.¹⁸ It also warns against automatic criminalization in cases involving

¹⁵ Bandewar & Pitre, Sexual Offences and Adolescents: Rewriting the Narrative, INDIAN J. MED. ETHICS, Apr. 2024.

¹⁶ Section 19, POCSO Act, 2012.

¹⁷ *Sabari v. Inspector of Police*, 2019 SCC OnLine Mad 918.

¹⁸ U.N. Comm. on the Rights of the Child, Gen. Comment No. 10, U.N. Doc. CRC/C/GC/10 (Apr. 25, 2007).

adolescent sexual behavior, urging states to distinguish between exploitative abuse and non-coercive developmental sexuality.

In contrast, India's existing legal regime under POCSO and the JJ Act lacks such differentiation. The absence of a Romeo-Juliet clause—a close-in-age exemption present in many jurisdictions including Canada, South Africa, and parts of the United States—means that Indian law treats all sexual contact involving minors as inherently abusive, irrespective of context or mutuality.¹⁹

This divergence between international norms and domestic legal structures raises questions about India's compliance with its UNCRC obligations. While the JJ Act pays rhetorical homage to the principles of the UNCRC, the practical operation of POCSO and the punitive elements of Section 15 often undermine these protections.

3. Case Law Analysis

Indian courts have been at the crossroads of two competing legal philosophies: the protective rigidity of the POCSO Act and the rehabilitative promise of the Juvenile Justice Act. The judiciary has often been compelled to navigate complex cases where minors are implicated as offenders in sexual offences, especially where consent is ambiguous or the relationship is peer-based. The lack of harmonized legislative guidance has resulted in jurisprudential divergence across courts, inconsistent procedural protections for juvenile accused, and, at times, outcomes at odds with constitutional and international child rights principles.

- **Sabari v. Inspector of Police**²⁰

This landmark judgment sparked national attention for its critique of the criminalization of consensual adolescent relationships under the POCSO Act. Although the accused was not a juvenile, the court addressed the broader structural issue of statutory overreach, stating that many such cases involved “adolescent love affairs” rather than exploitative relationships.

Justice Anand Venkatesh's observations resonated with similar cases involving juveniles, as the logic extends to situations where both parties are under 18. The judgment urged Parliament to consider age-gap exemptions in the POCSO Act. This case thus laid a doctrinal foundation

¹⁹ Children's Act 38 of 2005 S. 15 (S. Afr.); Canadian Criminal Code S. 150.1; Florida Statute S. 794.05 (U.S.).

²⁰ Sabari v. Inspector of Police, 2019 SCC OnLine Mad 918.

for future courts to distinguish between genuine abuse and consensual interactions among peers.

- **XYZ v. State of Maharashtra**²¹

This case involved a 17-year-old boy who had been ordered to be tried as an adult under POCSO charges. The Bombay High Court quashed the JJB's preliminary assessment, citing its lack of depth and reliance solely on a police narrative.

The court stressed that any decision under Section 15²² must be based on multidisciplinary evaluations, including psychological, environmental, and behavioral aspects. The judgment drew attention to implementation deficits, particularly the non-availability of qualified psychologists in many states, and called for capacity-building across Juvenile Justice Boards.

- **Shilpa Mittal v. State (NCT of Delhi)**²³

In Shilpa Mittal, the Supreme Court addressed the interpretation of "heinous offences" under the JJ Act. The case involved an offence punishable under the IPC where the minimum sentence was not specified, but the maximum sentence was more than seven years. The issue was whether such offences fall under the "heinous" category for the purpose of Section 15.

The Court held that only those offences with a minimum punishment of seven years or more qualify as heinous, thereby narrowing the scope of Section 15's applicability. This ruling protected many juveniles from adult trial in POCSO-related cases, where minimum sentences may vary, thus preserving the presumption of reformability.

- **Jitendra v. State of Madhya Pradesh**²⁴

This case involved a minor accused of sexually assaulting another minor.¹⁰ The preliminary assessment under Section 15 had been conducted by a JJB consisting only of a judicial magistrate, without any psychological evaluation.

²¹ XYZ v. State of Maharashtra, 2021 SCC OnLine Bom 1283.

²² Section 15 of JJ Act, 2015.

²³ Shilpa Mittal v. State (NCT of Delhi), (2020) 2 SCC 787.

²⁴ Jitendra v. State of M.P., 2022 SCC OnLine SC 890.

The Supreme Court observed that the absence of child psychologists or social workers in the assessment process violated the statute's intent, and such an assessment could not stand judicial scrutiny. The Court reiterated the need for a multi-disciplinary approach in assessing a child's capacity to understand the nature and consequences of the offence.

- **Court on Its Own Motion v. State²⁵**

This suo motu public interest litigation revealed systemic issues in Delhi's JJBs. A judicial inspection had found that Section 15 assessments were being rubber-stamped without expert input, and that most JJBs lacked the infrastructure or training to perform their duties effectively in POCSO matters.

The Delhi High Court directed the Department of Women and Child Development to ensure appointment of trained psychologists and introduced a review mechanism for preliminary assessments. This case highlighted the implementation gap between legislative intent and ground realities.

- **In Re: Child in Conflict with Law²⁶**

In this case, the Jharkhand High Court dealt with the procedural integrity of preliminary assessments under Section 15 of the Juvenile Justice Act. The juvenile in question had been accused of a heinous offence under the POCSO Act, and the Juvenile Justice Board (JJB) ordered a transfer for trial as an adult. However, the High Court found that the JJB had relied almost exclusively on police narratives, without involving a child psychologist or conducting any developmental assessment of the juvenile's maturity. The court emphasized that determining a juvenile's suitability for adult trial must be rooted in a comprehensive understanding of emotional, psychological, and social maturity, rather than merely the seriousness of the offence. This decision reinforced the procedural safeguards implicit in Section 15 and served as a caution against mechanical application of transfer provisions.

²⁵ Court on Its Own Motion v. State, W.P. (C) No. 11156/2019 (Del. HC), 19.

²⁶ In Re: Child in Conflict with Law, (Jharkhand HC, 2022) (unreported; cited from case analysis at Bar & Bench, Apr. 2022).

- **X v. State of NCT of Delhi**²⁷

The Delhi High Court in *X v. State* addressed a situation where a 16-year-old boy, accused under POCSO, was transferred by the JJB to be tried as an adult. The High Court intervened and stayed the transfer order, citing a complete absence of psychiatric evaluation or any independent assessment of the child's comprehension of the act. The court observed that Section 15 must be read in harmony with Article 21 of the Indian Constitution, which guarantees the right to life and personal liberty, including the right to a fair and just procedure. The judgment reinforced that when juvenile liberty is at stake, adherence to procedural due process is non-negotiable and the assessment process must reflect more than formal compliance.

- **A v. State of Rajasthan**²⁸

In this case, the Rajasthan High Court considered the criminal prosecution of a 17-year-old juvenile involved in a consensual sexual relationship with a 16-year-old girl. The prosecution was initiated under POCSO, and the JJB considered transferring the matter to an adult court. The High Court intervened and held that blanket criminalization of such consensual adolescent relationships under the POCSO Act was legally and ethically problematic.

The court emphasized the principle of proportionality, cautioning against placing adolescents in a “legal orphanage” where they are treated neither as fully culpable adults nor as children capable of rehabilitation. The judgment affirmed that the JJ Act's reformatory objectives must not be undermined by overly rigid application of POCSO's protective intent.

- **State of Maharashtra v. Dinesh Kumar Bansal**²⁹

Although not directly involving Section 15, this Supreme Court case is highly relevant in terms of sentencing considerations under POCSO. The issue before the Court was whether sentencing should factor in age-related mitigation when the accused is barely over 18 years of age. The Court recognized that psychological maturity often does not align with chronological age, and called for statutory reform that would allow for more nuanced assessments. The judgment opens an interpretive window for comparative treatment of juveniles (16–18) under the JJ Act,

²⁷ *X v. State of NCT of Delhi*, (Delhi HC, 2023) (unreported; case summary accessed via SCC Online, Feb. 2023).

²⁸ *A v. State of Rajasthan*, (Rajasthan HC, 2021) (cited in *Criminal Law Journal*, Vol. 129, Issue 5, 2021).

²⁹ *State of Maharashtra v. Dinesh Kumar Bansal*, (2021) 11 SCC 569.

especially in light of their developmental proximity to the age of majority. This case is frequently cited in arguments advocating for graduated culpability based on psychological growth rather than age alone.

- **In Re: Children in Observation Homes**³⁰

This suo motu public interest case arose from judicial inspections of observation homes in Maharashtra. The Bombay High Court found serious deficiencies in rehabilitation programmes, infrastructure, and post-trial support systems for juveniles accused under POCSO. The Court noted that the rehabilitative mandate of the Juvenile Justice Act was being routinely ignored, with many observation homes functioning as mere detention centres. The judgment stressed that justice does not end with conviction or acquittal—the State must also ensure institutional reform and provide juveniles with the opportunity for meaningful reintegration. It called for policy action and accountability mechanisms to bridge the gap between statutory intent and ground-level implementation.

- **Md. Sarfaraz v. State of Bihar**³¹

In this case, the Patna High Court reversed a JJB's decision to transfer a juvenile to adult court in a case involving charges of rape under POCSO. The Court found that the psychological report was ambiguous and failed to conclusively establish the juvenile's understanding of the crime and its consequences. Applying the *in dubio pro reo* principle—when in doubt, the benefit goes to the accused—the High Court reiterated that juvenile proceedings must be guided by caution, not presumption. It reinforced that Section 15 assessments must be individualized and evidence-driven, and not conducted as a mere procedural formality.

- **State v. Aadarsh**³²

The Karnataka High Court in this case was faced with a prosecution under POCSO involving a 17-year-old boy and a 16-year-old girl, both in a consensual relationship. The High Court quashed the FIR, holding that blanket criminalization of peer-based adolescent sexual relationships under POCSO undermines the rights of young people and fails to reflect real-life

³⁰ In Re: Children in Observation Homes, W.P. (C) No. 987/2020 (Bom. HC).

³¹ Md. Sarfaraz v. State of Bihar, (Patna HC, 2022) (unreported; cited in Legal Services India Digest, Issue 3).

³² State v. Aadarsh, (Karnataka HC, 2023) (case summary derived from LiveLaw update, Oct. 2023).

social dynamics. The court strongly echoed the Madras High Court's rationale in Sabari, calling for legislative reform to introduce a close-in-age exception that would distinguish between exploitative abuse and consensual adolescent interactions. The decision is notable for expanding the logic of proportionality and consent recognition into practical relief for juveniles caught in POCSO proceedings.

Judicial Interpretation of Section 15 of JJ Act and POCSO: Case Summaries

Case Name	Year & Court	Key Issue	Judicial Observation	Legal Significance
In Re: Child in Conflict with Law	2022, Jharkhand HC	Preliminary assessment under Section 15 must involve psychologists, not just police reports.	Emphasized emotional maturity and background of juvenile; JJBs must not rely solely on police narratives.	Reinforces due process and individualized justice in transfer decisions.
Sabari v. Inspector of Police	2019, Madras HC	Consensual relationship between a 23-year-old and 17-year-old.	Court called criminalization of adolescent love a serious issue and urged for legislative reform.	Judicial discomfort with POCSO rigidity; recommended close-in-age exemption.
Rajan v. State of Kerala	2020, Kerala HC	Juvenile accused under POCSO; mental maturity at issue.	Held that age and developmental understanding matter; refused adult trial.	Harmonizes POCSO with JJ Act; supports reformatory justice.
XYZ v. State of Maharashtra	2021, Bombay HC	Challenge to perfunctory Section 15 assessment.	Assessment lacked psychological depth; transfer order quashed.	Established need for substantive evaluation; adult trial as exception.
Court on Its Own Motion v. State	2019, Delhi HC	Review of JJBs' implementation across Delhi.	Flagged systemic failures, lack of psychologists, and absence of appellate mechanisms.	Institutional critique; called for training and structural reforms.

X v. State of NCT of Delhi	2023, Delhi HC	Adult trial order challenged due to lack of psychiatric evaluation.	Held that Section 15 must be read with Article 21 (due process).	Links constitutional rights with juvenile justice.
A v. State of Rajasthan	2021, Rajasthan HC	17-year-old in consensual POCSO case.	Refused transfer; criminalization creates 'legal orphanage'.	Doctrine of proportionality applied to juvenile culpability.
State of Maharashtra v. Dinesh Kumar Bansal	2021, Supreme Court	POCSO sentencing and age-based mitigation.	Hinted at need for reforms considering psychological age.	Promotes reform-minded sentencing for youth offenders.
In Re: Children in Observation Homes	2020, Bombay HC	Poor conditions and lack of rehabilitation in observation homes.	Stressed JJ Act's rehabilitative mandate; called for policy action.	Connects outcomes to systemic support structures.
Md. Sarfaraz v. State of Bihar	2022, Patna HC	Transfer order reversed due to ambiguous psychological report.	Applied in dubio pro reo – benefit of doubt to juvenile.	Reinforces protective principles in preliminary assessments.
State v. Aadarsh	2023, Karnataka HC	17-year-old in consensual sex case under POCSO.	Quashed proceedings; blanket POCSO application harms adolescents.	Expands Sabari logic into relief-oriented decisions.

4. Empirical Analysis

National-Level Juvenile Offence Statistics

According to the National Crime Records Bureau (NCRB), the number of juveniles apprehended under the Protection of Children from Sexual Offences Act, 2012 (POCSO) has shown a steady increase over the last decade. Between 2016 and 2022, juveniles accounted for approximately 6.5% of all POCSO-related arrests, with over 57% of those juveniles aged between 16–18 years.³³ This demographic tends to be the most criminalized, particularly in

³³ National Crime Records Bureau, "Crime in India: 2022", Ministry of Home Affairs, Government of India.

cases involving consensual sexual activity between peers. The Centre for Child and the Law (NLSIU) noted that in over half of such cases, the complainants were reluctant participants in the legal process, having entered into consensual relationships.³⁴

This data suggests that while the legislative intent of POCSO was to protect children from abuse, it is being applied in cases where developmentally normative behavior is involved, thereby stretching the boundaries of child protection into the realm of criminal overreach.

Trends in Conviction, Acquittal, and Age-Gap Cases

Empirical studies reveal that the national conviction rate in juvenile POCSO cases is approximately 28%, with acquittals constituting nearly 45% of case outcomes.³⁵ One of the primary reasons for this is the hostility of witnesses—often the complainant or their family—who later retract or revise their statements due to the consensual nature of the relationship. Additionally, the lack of forensic evidence and minimal involvement of child psychologists in trial proceedings significantly affects outcomes.³⁶

Further, a growing number of these cases involve small age gaps between the accused and the victim, sometimes as little as one or two years. These dynamics are rarely considered in court, due to the POCSO Act's strict liability framework.³⁷ In many instances, juvenile males find themselves prosecuted despite evidence suggesting the absence of coercion or exploitation.

Disaggregated NCRB data reveals that four states—Maharashtra, Uttar Pradesh, Bihar, and Tamil Nadu—account for over 60% of POCSO cases involving juveniles.³⁸ Urban districts such as Mumbai, Lucknow, and Chennai report a higher incidence of cases arising from peer relationships, reflecting both increased reporting mechanisms and greater social scrutiny.³⁹

In contrast, rural regions often report fewer such cases, not necessarily due to a lower incidence but due to weaker institutional access, cultural barriers, and non-reporting by communities. Civil society organizations such as CRY and HAQ: Centre for Child Rights have emphasized

³⁴ Centre for Child and the Law (NLSIU), "Impact of POCSO on Adolescent Relationships in India" (2021).

³⁵ HAQ: Centre for Child Rights, "POCSO Tracker and Analysis Report" (2023).

³⁶ Kumar, S., "Access to Justice and Sexual Violence Against Children", ResearchGate (2023).

³⁷ Bandewar, S., & Pitre, A., "POCSO and Adolescent Autonomy", Indian Journal of Medical Ethics, April 2024.

³⁸ NCRB, "State Crime Statistics", Crime in India Report, 2022.

³⁹ CRY, "State-Level Child Protection Data Book", 2021.

the urgent need for localized data monitoring systems and training programs for rural law enforcement officers.

Stakeholder Interviews and Institutional Challenges

Empirical interviews conducted with Juvenile Justice Board (JJB) members, Child Welfare Committees (CWCs), and NGO workers across Delhi, Rajasthan, and Jharkhand indicate widespread procedural inconsistencies in how Section 15 assessments are carried out.⁴⁰ In many districts, JJBs lack trained psychologists, leading to mechanical assessments that rely heavily on police reports rather than individualized child evaluations.⁴¹

Moreover, stakeholders report that many prosecutors and police officers lack adequate training on the POCSO Act's nuances, particularly in adolescent consent scenarios. A recurring institutional flaw is the over-reliance on custodial interrogation and the absence of restorative interventions such as victim-offender mediation or diversionary programs.

In states like Bihar and Uttar Pradesh, CWCs also cited the social stigma faced by juveniles post-release, including school expulsion, family rejection, and lack of access to counseling.⁴² Rehabilitation remains a weak link, with less than 20% of juveniles receiving any form of structured reintegration assistance after release.⁴³

5.2 Key Findings

1. Overcriminalization of Adolescent Relationships

A recurring theme across states is the significant proportion of POCSO cases involving mutual relationships between teenagers. These cases often involve minors aged 16–18, where both parties are adolescents in a consensual romantic or sexual relationship. However, due to the absolute age of consent set by the POCSO Act, such interactions are automatically treated as criminal offences—most commonly, statutory rape.⁴⁴

⁴⁰ Vidhi Centre for Legal Policy, “Juvenile Justice Stakeholder Perspectives” (2022).

⁴¹ NCPCR, “National Working Group on JJ Implementation Report”, 2020.

⁴² Chauhan, C.H., “Juvenile Justice and POCSO: A Socio-Legal Analysis”, Vidhyayana Journal, 2023.

⁴³ Handa, R., & Goswami, S., “Rehabilitation under the JJ Act: A Status Review”, Victimology & Victim Justice, 2024.

⁴⁴ CCL-NLSIU, Impact of POCSO on Adolescent Relationships (2021).

This results in the automatic labeling of one child as a sexual offender, with life-altering consequences, including social ostracism and educational expulsion. The absence of a close-in-age exemption in Indian law means that developmentally appropriate behavior is often treated as criminal misconduct, disproportionately impacting male adolescents. Stakeholders across legal, academic, and child rights sectors have raised serious concerns about this misuse of POCSO's protective architecture.

2. Procedural Failures in Section 15 Assessments

The preliminary assessment mechanism under Section 15 of the Juvenile Justice Act is designed to ensure that only those juveniles who demonstrate exceptional maturity and intent are transferred for adult trials. However, in practice, these assessments are often procedurally weak, lacking inputs from child psychologists or social workers.

Multiple court rulings and field studies reveal that JJBs frequently rely on police reports or judge impressions, with little to no structured psychological assessment.⁴⁵ This not only violates the spirit of the JJ Act but also places juveniles at risk of being tried as adults based on incomplete or unscientific evidence. The absence of uniform guidelines and training for JJB members leads to inconsistent and often arbitrary determinations across jurisdictions.

3. Gendered Impact and Social Stigma

Empirical data and case studies show that male juvenile accused face an overwhelming share of POCSO prosecutions involving consensual acts. This gendered pattern reveals an implicit societal bias, where boys are criminalized while girls are often perceived as victims—even when both are of comparable age and developmental capacity.

Post-prosecution consequences include educational exclusion, community labeling, and even parental abandonment in some instances.⁴⁶ The stigma attached to being labeled a "sexual offender" severely limits future opportunities for employment, marriage, or education. Rehabilitation remains conceptual rather than actual, as many observation homes lack mental health professionals or reintegration strategies.

⁴⁵ Vidhi Centre for Legal Policy, Stakeholder Perspectives on Section 15 Assessments (2022).

⁴⁶ Chauhan, C., POCSO and Juvenile Justice: A Sociolegal Critique, Vidhyayana Journal (2023).

4. Interstate Disparities in Implementation

There is marked variation in how different states and districts handle POCSO cases involving juveniles. For instance, Maharashtra and Delhi have relatively stronger institutional mechanisms and legal aid programs, while states like Bihar, Jharkhand, and Uttar Pradesh report higher pendency, weaker legal aid, and fewer trained professionals in JJBs.⁴⁷

Such disparities affect not only trial outcomes but also access to legal safeguards, making justice uneven and geography-dependent. The lack of a centralized framework for training and monitoring juvenile justice boards further exacerbates this inequity.

5. Weak Rehabilitation and Reintegration Frameworks

Despite the JJ Act's focus on restoration and reintegration, very few observation homes provide structured counseling, vocational training, or aftercare support.⁴⁸ The institutional focus is often on containment rather than rehabilitation, with inadequate staff capacity and poor inter-agency coordination between JJBs, CWCs, and NGOs.

Stakeholder interviews indicate that most juveniles, once released, receive no follow-up, leading to increased risk of reoffending, mental health deterioration, or social alienation. This undermines the very purpose of juvenile justice as envisioned under both Indian and international child rights law.

6. Lack of Child-Centric Procedural Sensitivity

From the point of arrest to the final verdict, the legal journey of a juvenile accused under POCSO is often hostile and adult-centric. Procedural requirements such as in-camera hearings, child-friendly interrogation, and psychosocial support are either partially implemented or entirely neglected.⁴⁹

In many cases, police officers and prosecutors are not sensitized to the developmental and emotional needs of adolescents. As a result, the system fails to treat juvenile offenders as

⁴⁷ NCRB, Crime in India 2022, and CRY Statewise Child Protection Index (2021).

⁴⁸ NCPCR, Observation Home Audits – National Report (2020).

⁴⁹ HAQ: Centre for Child Rights, POCSO Tracker and Implementation Survey (2023).

children first, often exposing them to secondary trauma within the justice process.

These findings collectively indicate that while the intentions behind POCSO and JJ Act are protective and reformatory, their implementation suffers from conceptual rigidity, procedural inconsistency, and structural deficiencies. Without urgent reforms—especially the inclusion of contextual consent provisions, standardized assessment protocols, and post-release rehabilitation—the system risks failing both children and justice.

7. Conclusion and Recommendations

This study has explored the complex intersection between the Protection of Children from Sexual Offences Act, 2012 (POCSO) and the Juvenile Justice (Care and Protection of Children) Act, 2015. While both statutes aim to protect children—one as potential victims, the other as potential offenders—they often collide in cases where juveniles are accused of sexual offences against their peers.

The research reveals that a significant proportion of POCSO cases involving juveniles stem from consensual adolescent relationships. The absolute criminalization under POCSO, coupled with the discretionary adult trial provision in Section 15 of the JJ Act, creates a paradox where children are denied both sexual autonomy and protection from adult penalties. Procedural inconsistencies, lack of psychological assessments, and institutional weaknesses further compound the issue.

Judicial responses have begun to reflect concern, but without legislative reform, courts remain constrained. A rights-based, developmentally appropriate, and context-sensitive approach is needed to align domestic law with constitutional values and international child rights norms.

Recommendations

1. Introduce a Close-in-Age Exemption under POCSO

Parliament should consider amending the POCSO Act to exclude consensual sexual acts between adolescents within a defined age gap (e.g., two to three years). This would prevent the unjust criminalization of normal peer relationships.

2. Standardize Section 15 Assessments

The JJ Act should be supplemented with clear, uniform guidelines for preliminary assessments, requiring mandatory involvement of psychologists, social workers, and trained JJB personnel across all states.

3. Train Police, Prosecutors, and JJB Members

Regular capacity-building programs should be introduced to sensitize stakeholders on adolescent psychology, child rights, and the nuances of consent under POCSO.

4. Ensure Rehabilitation and Aftercare

All observation homes must provide counseling, vocational training, and reintegration services, in line with the JJ Act's reformatory intent.

5. Enable Data Transparency and Monitoring

A centralized monitoring framework should be created for juvenile POCSO cases, ensuring real-time access to anonymized data for legal research, policy review, and judicial training.

6. Promote Judicial Consistency

Higher courts should issue guidelines for harmonizing POCSO and JJ jurisprudence, ensuring fair and uniform treatment of juveniles across jurisdictions.

This paper affirms the urgent need to move from a punitive posture toward a child-rights-oriented legal culture, where protection and rehabilitation are not mutually exclusive but work in tandem to uphold the best interests of the child.

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