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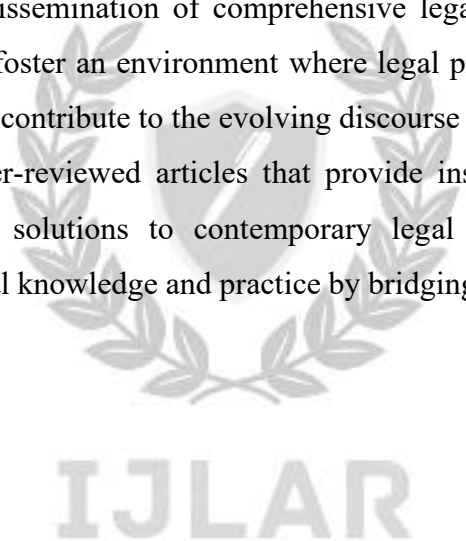
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Introduction

Welcome to the Indian Journal of Legal Affairs and Research (IJLAR), a distinguished platform dedicated to the dissemination of comprehensive legal scholarship and academic research. Our mission is to foster an environment where legal professionals, academics, and students can collaborate and contribute to the evolving discourse in the field of law. We strive to publish high-quality, peer-reviewed articles that provide insightful analysis, innovative perspectives, and practical solutions to contemporary legal challenges. The IJAR is committed to advancing legal knowledge and practice by bridging the gap between theory and practice.



Preface

The Indian Journal of Legal Affairs and Research is a testament to our unwavering commitment to excellence in legal scholarship. This volume presents a curated selection of articles that reflect the diverse and dynamic nature of legal studies today. Our contributors, ranging from esteemed legal scholars to emerging academics, bring forward a rich tapestry of insights that address critical legal issues and offer novel contributions to the field. We are grateful to our editorial board, reviewers, and authors for their dedication and hard work, which have made this publication possible. It is our hope that this journal will serve as a valuable resource for researchers, practitioners, and policymakers, and will inspire further inquiry and debate within the legal community.

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Description

The Indian Journal of Legal Affairs and Research is an academic journal that publishes peer-reviewed articles on a wide range of legal topics. Each issue is designed to provide a platform for legal scholars, practitioners, and students to share their research findings, theoretical explorations, and practical insights. Our journal covers various branches of law, including but not limited to constitutional law, international law, criminal law, commercial law, human rights, and environmental law. We are dedicated to ensuring that the articles published in our journal adhere to the highest standards of academic rigor and contribute meaningfully to the understanding and development of legal theories and practices.

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GENDER-NEUTRAL IN LETTER, GENDERED IN PRACTICE: A CRITICAL STUDY OF THE POCSO ACT

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ABSTRACT

Children are the most important resource that parents will ever have and the future of our society. For this reason, the Protection of Children from Sexual Offences (POCSO) Act was enacted to help protect children from sexual exploitation and abuse. In recent years, some concerns about the way in which this Act is being used have arisen. Some provisions of the Act, such as the criminalization of consensual relationships between adolescents, as well as a presumption of guilt against those accused and no defined limit on when a child may file a complaint, have raised many issues in both legal and social arenas. Complaints can be lodged for years after the incident, including cases where both persons were previously children who, for whatever reason, have now reached adulthood. As a result, it is believed that the provisions of the Criminal Code that were enacted to protect children have, in some cases, made it easier for people to bring false or malicious complaints that lead to extended litigation on, reputational damage, emotional trauma, and an unnecessary burden on the court. This places a heavy burden on the accused and his/ her family, and creates a large strain on the court system as well. Given the changing realities of society, it is necessary to review and make amendments to the Act to provide for a more balanced approach that maintains the priority of child protection while providing for appropriate mechanisms to minimize the abuse of the provisions in the Act. A case-sensitive and contextual application One of the laws may help to minimize wrongful prosecution and to assure both the effectiveness and equity of justice.

Background and Rationale

The most defenceless members of society consist of children who need protection from sexual abuse because society holds this responsibility as a moral duty and the constitution requires it. Before 2012 India did not have a single law which directly dealt with child sexual offense cases. The Indian Penal Code from 1860 (IPC) established two main sections which focused on rape and modesty violation but these laws failed to protect children from all types of sexual offenses. The Protection of Children from Sexual Offences Act, 2012 (POCSO) was

Parliament's answer to this legislative vacuum. The Protection of Children from Sexual Offences Act (POCSO) came into force when India faced rising child sexual abuse cases and needed to fulfill its international commitments through the United Nations Convention on the Rights of the Child (UNCRC), 1989. The law brought a revolutionary change because it treated all children equally while it created different sexual offense categories and it protected children during legal processes and it required dedicated courts to handle cases quickly.

The main goals of the Act continue to encounter barriers which have existed since the beginning of its operation over ten years ago. The state of implementation remains very different when comparing various states. The available facilities for Special Courts fall short of what they need to operate properly. The mandatory reporting rules block people from reaching out to their family members at least in three documented situations. The Act failed to create specific rules which would defend teenage boys from being prosecuted because they engaged in sexual activities with their willing partners according to judicial records and academic studies. The research paper studies POCSO through academic methods and policy analysis to evaluate its existing strengths while identifying its current operational barriers.

Rationale of the Study and Statement of the Problem

Rationale of the Study

The Protection of Children from Sexual Offences Act of 2012 serves as an essential law which protects children from sexual offenses while providing equal protection to both genders. The academic community needs to perform an immediate evaluation of this system because people doubt its effectiveness because they think it mainly benefits female students. The study investigates how gender-neutral laws face challenges when authorities show favoritism which creates different treatment for various genders because of their personal beliefs and social attitudes and their official responsibilities.

The research pursues its objective through opposing the present belief which states the Act benefits only one gender while it demonstrates the necessity to develop an equitable system which supports all genders. The research studies judicial patterns and legal system weaknesses and public debates to develop a complete understanding of law which will support the development of new laws that promote fairness and gender equality. The study aims to change public views about the Act which people now think favors one gender by proving it defends the rights of every child according to its original purpose.

Statement of the Problem

The Protection of Children from Sexual Offences Act, 2012 serves as a gender-neutral law which protects every child from sexual offenses regardless of their gender identity. The Act faces implementation challenges because people now believe it focuses mostly on protecting girls, while using boys exclusively as sexual offenders instead of recognizing them as possible abuse victims. The way people view this issue stems from both public opinions and official prejudices, which determine how complaints get filed, and how investigations proceed, and how courts reach their decisions. The law which aims to achieve neutrality seems to lose its original meaning when people start using it in their everyday activities.

People widely think the Act benefits girls more than anyone else, which leads to wrong interpretations about its actual goals and results in different treatment between genders. The law creates problems because it targets boys through its enforcement of consensual adolescent relationships, which leads people to suspect that the system discriminates against boys and uses the law to its advantage. The law which aims to treat everyone equally shows different results when officials use it to protect boys instead of girls. So we need to change how society and legal systems work to achieve equal protection for all children.

Research Methodology

The research study follows a doctrinal approach which analyzes the Protection of Children from Sexual Offences Act, 2012 through secondary sources that include statutes and case laws and legal commentaries and journals and the Indian Evidence Act, 1872. The research study receives support from the researcher's internship experience because they observed court decisions which demonstrated how the law operated in actual situations thus helping them understand the law enforcement difficulties.

Research Objectives

Examines the structure and key features of the Protection of Children from Sexual Offences (POCSO) Act, 2012, with a focus on legal equity for both sexes.

Investigates the perception that the Act mainly supports female victims and evaluates whether this aligns with its intent and real-world implementation.

Highlights that males are also victims of sexual abuse and require equal legal protection under the Act.

Aims to raise awareness about gender-based discrimination through education programs for

law enforcement, communities, and stakeholders.

The research will analyze how people view society and its stereotypes which result in biased legal decisions and make the law seem more focused on women than men.

The research proposes specific actions and system changes which will help people understand and apply the Act as a law that treats all children with equal rights.

Research Questions

- What is the scope and objective of the Protection of Children from Sexual Offences Act, 2012 as a gender-neutral legislation?
- What makes people think the law protects only women when it actually treats all genders equally?
- Are male children and other genders adequately recognized and protected as victims under the Act?
- What are the major loopholes in the Act, and how can they be effectively rectified?
- What issues are faced by victims under the Act in terms of reporting, social stigma, and access to justice?
- What challenges do people face when they become targets of false accusations which damage their social standing and create financial problems and legal penalties?
- How do economic status and social position determine how people use and misuse the law and what effects it produces?
- What are the societal beliefs and official systems which produce the impression that the Act functions differently for men and women?
- What specific modifications need to happen to create a legal system which treats all participants with equal justice and produces beneficial results for every involved entity?

Objectives of the Study

The present study is guided by the following objectives:

1. The study needs to establish the basic framework which supports POCSO Act 2012 along with its essential provisions and the original purpose of the law.
2. The research will investigate all present POCSO system problems which include its operational failures and its structural weaknesses and its ongoing public disputes.
3. The research will examine how Indian child protection laws have developed through time by studying both POCSO pre-POCSO laws and subsequent legal developments

following the Act's implementation.

4. The research needs to study important court rulings which judges use to understand POCSO law provisions.
5. The evaluation process will determine how the Act affects people who face discrimination together with young people and those who experience wrong accusations.
6. The research aims to discover child protection systems from different locations through comparison between their respective methods.
7. The study proposes particular legal and administrative and policy changes which should support the Act's main goals while stopping people from using it incorrectly.

Research Questions

The research establishes its main focus through these research questions which the researcher established during their initial investigation phase.

1. The legislation POCSO 2012 operates as a gender-neutral law but what specific objectives does it serve and how do officials use it during their work?
2. The Act contains multiple structural weaknesses which lead to unfair results in its enforcement
3. The Act provides proper victim protection to male children and gender minorities who qualify as victims.
4. The system creates various difficulties for people who face false accusations while it maintains different protection mechanisms to fight against system abuse.
5. The economic status of individuals together with their social position determines how the Act will affect them through its legal enforcement and resulting judgments.
6. The POCSO system needs particular reforms which will establish both fairness and operational efficiency within its structure.

Scope and Limitations

The POCSO Act, 2012 along with its 2019 Amendment and the POCSO Rules from 2020 serve as the main focus of this research study. The research uses judicial rulings from the Supreme Court of India and multiple High Courts together with data from NCRB and official policy papers and scholarly works. The research follows a doctrinal approach which receives additional support through the researcher's personal observations during their internship at

court proceedings. The study does not include any first-hand data collection through surveys or interviews for its research methodology. The research results face two main restrictions because the study depends on published court decisions and judges base their decisions on personal opinions.

Understanding the POCSO Act

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

The Protection of Children from Sexual Offences Act, 2012 (Act No. 32 of 2012) received Presidential assent on 19 June 2012 and came into force on 14 November 2012 — fittingly, Children's Day. The law exists under Entry 5 of the Concurrent List which deals with marriage and divorce and protects infants and minors and under Entry 1 of List III which authorizes Parliament to create laws that protect fundamental rights according to Articles 15(3) and 21 of the Constitution.

The Act established a complete legal system to fight child sexual crimes which eliminated the existing IPC provisions that failed to protect children adequately. The law presents three main innovations which establish 18 years as the official age of childhood and create protection laws that apply to people of all genders and establish six different categories for sexual offenses which include penetrative sexual assault and its aggravated form and sexual assault and its aggravated form and sexual harassment and child pornography exploitation. The law requires courts to prove guilt when penetration evidence exists and it lists specific prison terms which judges must follow. The 2019 Amendment to POCSO became a major legislative breakthrough which brought new changes into the legal framework. The law established capital punishment as a potential penalty for people who commit severe cases of sexual penetration crimes and it expanded the legal meaning of child pornography material and it raised the lowest possible prison terms for various criminal offenses. The POCSO Rules, 2020 introduced operational procedures which protected child victims through established guidelines for their support and their care needs and courts need to create child-friendly spaces.

Key Definitions and Provisions

Section 2(d) of POCSO identifies any individual who has not reached their eighteenth birthday as a child according to the law. The law creates its main problem because it does not separate the case of a teenage consensual relationship from the situation where an adult predator abuses children. The law treats these two situations with the same level of legal punishment which

creates major administrative problems. The Act defines 'penetrative sexual assault' (Section 3) broadly to include not just penile penetration but also insertion of objects or body parts into a child's bodily orifices. The law defines 'sexual assault' through Section 7 which includes all intentional sexual touching that does not lead to penetration. The law defines 'sexual harassment' through Section 11 which includes various non-physical actions that consist of spoken words and body movements and auditory signals and digital messages. Section 29 of the Act establishes a legal rule which switches the proof burden to the defence because it lets prosecutors prove guilt by showing specific basic evidence. Section 30 further presumes the culpable mental state of the accused. The current legal framework requires defendants to prove their innocence but opposing groups believe this requirement breaks fundamental rules which govern criminal justice systems.

Sections 19-22 establish a legal requirement which forces all people including children to report any criminal knowledge they possess to the Special Juvenile Police Unit and local police authorities. The law in Section 21 establishes penalties which include up to six months of jail time and monetary fines for people who do not report incidents. The law which aims to protect people has drawn criticism because it creates unexpected negative consequences which make people hesitant to use its protections.

Objectives and Legislative Inter

The POCSO Bill of 2012 included a Statement of Objects and Reasons which established the following objectives: protecting children from sexual abuse and creating a judicial system which supports children and establishing Special Courts for fast trial processing and creating severe punishment standards which match the seriousness of crimes and establishing victim support systems for child victims. Parliament created the Act with a clear goal to make it gender-neutral because the law needs to defend all children who identify as boys or girls or any other gender. The legislative record shows that lawmakers understood their international duties through UNCRC and they worked to implement changing child rights standards. The research paper shows that the distance between what lawmakers intended and how their laws actually functioned in reality became an alarming concern.

Evolution of the Legal Framework

Pre-POCSO Legal Scenario in India

The legislative system prior to the establishment of the POCSO Act of 2012 made it difficult

to protect children against sexual abuse, as its main source of reference for child protection practices were antiquated laws like the Indian Penal Code of 1860, the Code of Criminal Procedure of 1973, the Indian Evidence Act of 1872 and the Immoral Traffic (Prevention) Act of 1956. None of the laws were specifically aimed at protecting children against sexual abuse; in fact, many clauses of the laws made it difficult to protect children and allowed the failure to protect children against sexual abuse; for example, the IPC was discriminatory, with its definition of rape, as defined in Section 375 of the IPC, only covered female victims, which resulted in male victims of sexual abuse being left out. Similarly, the definition of "outraging modesty," as defined in Section 354 of the IPC, required an act of physical contact, and again did not cover boys, who were absent from the IPC entirely. Finally, Section 377 of the IPC included "**unnatural acts**" as a form of sexual abuse against males; however, included same-sex relationships as part of the same stigma. The IPC was very narrow in its scope; therefore, the IPC failed to adequately protect all children from sexual abuse. In terms of procedures, there was no distinct set of rules specifically tailored for children within the legal system. As a result, all children would navigate through the traditional criminal courts and face challenges such as undergoing cross-examination by defence lawyers. This process would have caused significant anxiety due to the confrontational nature of the adversarial court system. Furthermore, the formal medical examination process could have led to increased trauma for the children. There were usually no supportive people available to provide assistance during this difficult time. Lastly, the backlog of cases in the courts added additional frustration for children as delays in the legal process would often result in several years before a case is brought to trial.

A notable example is the 1979 Mathura Rape case, *Tukaram v. State of Maharashtra*, where police officers were not found guilty of rape because the Supreme Court ruled that the victim's silence meant consent; the ruling was very controversial and spurred significant public outcry, civil society groups, and feminists to advocate for legal reforms.

In 1997, the Supreme Court established the Vishakha Guidelines, which provided legal recourse to women who experience sexual harassment in the workplace; however, that legislation did not extend to other locations where sexual harassment could occur. The Law Commission's report - 172nd report on sexual offenses in 2000 - made additional recommendations for the reformation of sexual offenses in general. The Criminal Law (Amendment) Act 2012 was passed as a direct result of the recommendations made by this report but was not limited to the complete reformation and establishment of laws concerning

children's safety from sexual abuse.

Some people would argue that it took far too long for the laws protecting children from sexual offenses to be established in India, while others would point out the lack of applicable laws prior to the establishment of the Protection of Children from Sexual Offences Act (POCSO). Overall, this section is relatively complicated from a historical perspective.

Implementation of POCSO Act: Need and Context

There have been many triggering factors behind the implementation of the POCSO act. Firstly, there is an increase in the number of child sexual abuse complaints in the country during the past decade, followed by some major cases of organized sexual exploitation of minors. The delay in India's compliance with UNCRC directives has also been one of the key reasons for the legislation.

According to data gathered by the Study on Child Abuse carried out by the Ministry of Women and Child Development in 2007, 53.22% of the surveyed children had been exposed to at least one form of sexual abuse. This was shocking for all citizens of India and made it necessary to take legislative measures. It is pertinent to note here that most of the male children remained unreported, which is significant for this study.

Major Amendments and Developments

The POCSO Amendment Act, 2019 (Act 25 of 2019) introduced several significant changes:

- (i) Insertion of the death penalty as an optional punishment for aggravated penetrative sexual assault where the victim is below 16 years;
- (ii) Enhancement of minimum sentences for penetrative sexual assault on a child below 16 years from 7 to 10 years;
- (iii) Expansion of the definition of 'sexual assault' to include administering hormones or any chemical substance to a child for sexual purposes; and
- (iv) Broadening of child pornography offences to include storage and failure to report.

The POCSO Rules, 2020 replaced the 2012 Rules and strengthened procedural protections: mandatory provision of a support person for every child victim; a designated 'child welfare officer' in each police station; detailed protocols for recording statements including the use of audio-visual means; and enhanced provisions for rehabilitation and compensation through the District Legal Services Authority (DLSA).

Judicial developments through the period further shaped the Act's contours, with the Supreme

Court and High Courts issuing guidelines on, inter alia, the recording of evidence by video-conferencing, timelines for disposal of POCSO cases, and the interpretation of 'skin-to-skin contact' — the last of which produced the controversial Bombay High Court judgment in *Satish v. State of Maharashtra* (2021) that sparked a national debate.

Important Features of POCSO Law

Provisions to protect children

Child-friendly provisions to safeguard victims of sexual abuse under POCSO are another key contribution of POCSO. As per Section 26, a statement recorded in the language of the child should take place in a place chosen by the child, preferably a place near or in the vicinity of the child. As per Section 33(2), it is the duty of the Special Court to ensure that the child remains away from the accused during the course of the examination.

A child cannot be forced to give testimony more than once. Once the child undergoes the examination and cross-examination procedures, it is not expected to appear before the court again. For those situations which may cause undue mental trauma to the child, video conferencing provisions are provided. The support person accompanies the child throughout the legal process as per provisions of POCSO strengthened in the 2020 Rules.

Special Courts and Expedited Trials

Special Courts have been set up to try POCSO offenses under Sections 28-38. The Special Court will be headed by a designated Judge by the High Court and it is mandatory to have an appointed Special Public Prosecutor in every special court (Section 32). Under Section 35, it is mandatory to conclude the trial process within a year of filing of statement in front of the magistrate, in an effort to facilitate speedy dispensation of justice.

However, despite this aspirational goal laid down in Section 35 of POCSO, there are numerous POCSO cases pending trial beyond one year, and sometimes beyond five years. Lack of sufficient number of designated Special Courts is the primary reason for such delay as described extensively in Chapter 10.

Police and Medical Authorities' Responsibility

The law under Section 19 makes it mandatory for everyone, including the Child Welfare Committee (CWC), to report offenses. The police are obliged under Section 19 to ensure that the child is in the safe custody of the CWC within 24 hours (Section 19(5)). According to

Section 27, any medical examination of the child victim should be done in the presence of the child's parent or guardian. When the victim is female, the examination should be carried out by a woman doctor.

However, there are great variations in terms of performance by the police force and medical personnel in executing their responsibilities. In particular, it has been shown that police officers do not undergo sensitivity training; sometimes the manner in which medical examination of the victim takes place causes further trauma; and in most cases, children are not promptly referred to CWC despite Section 19 (5).

Mandatory Reporting Requirements

Section 19 of POCSO places an absolute obligation on anyone who suspects or realises that a crime has been or is about to take place against a child to immediately inform the Special Juvenile Police Unit (SJPU) or the local police force. Under Section 21, non-reporting attracts punishment ranging from imprisonment of six months to a fine. It is important to note that both Section 19(7) and Rule 4 of 2020 Rule make exceptions to non-reporting of offenses by children.

There are many criticisms levelled against the mandatory reporting regime. First, it subjects some individuals, such as parents, guardians, teachers, and counselors, who have reasons that can make them act otherwise than just reporting, to criminal prosecution. Secondly, mandatory reporting could discourage children from informing their trusted persons for fear of the consequence of mandatory reporting. Lastly, it poses serious challenges to health care practitioners owing to their professional obligations.

Reforms in the POCSO framework

Increasing the punitive measures

The POCSO Amendment Act, 2019 represented a deterrence-based approach to legislation through stricter punishments. The imposition of the death penalty for aggravated penetrative sexual assault on children below 16 years was one such controversial amendment in the Act, with the argument being that since there were not enough deterrence from previous punishments in such cases of heinous abuse of minors, hence the need arose for an increased punishment; whereas critics from criminology and children rights activists pointed out that there was no sufficient scientific evidence to show that death penalty served as a deterrence and, moreover, it could result in decreased rates of reporting due to fear of stringent punishment

on both the offender as well as his/her family.

The Indian Law Commission in its 262nd Report had suggested that any increase in the scope of death penalty would be inappropriate as it did not serve as an effective deterrence for cases of crimes of passion as well as crimes involving persons from the same family – precisely what happens in the case of many POCSO offences. Moreover, there is a possibility of catastrophic misuse of the law if it is extended to adolescent cases which involve consent.

Technological and procedural reforms

In 2020, new rules have provided significant technological safety for the minor. As per directions of the Supreme Court in *Nipun Saxena v. Union of India*, there has been an extension in the scope of video conferencing facilities to record statements of the child victims. The Supreme Court ordered that one stop centres be made in each district to offer all kinds of services, namely, legal, medical and psychological, to the child victim at a time.

Further, the NCPDR has drafted SOPs regarding the role of police officers, doctors and special educators in POCSO cases. Special training modules have been designed for the special public prosecutors and designated judges handling POCSO cases. Further, with the advent of the e-court system, some improvement has been made possible.

Administrative Measures and Policy Changes by the Government

Various administrative measures taken by the Government of India are aimed at better enforcing the POCSO Act. Guidelines for the operations of the Child Welfare Committee (CWC) in POCSO related matters have been prescribed by the Union Ministry of Women and Child Development. Sakhi One Stop Centres have been established under the Nirbhaya Fund to offer integrated services. NALSA has prescribed a scheme to offer legal services to POCSO victims. The 'e-witness protection' e-governance scheme has been tested in some states to improve the safety of child witnesses. Despite all these measures, insufficient resource allocation is one of the major criticisms. The Parliamentary Standing Committee on Home Affairs has observed considerable gaps in the infrastructure of the Special Courts, shortage of trained prosecutors, and rehabilitation centres in most of the districts.

Judicial Interpretations and Guidelines

The Supreme Court and High Courts in different parts of the country have played a significant role in shaping the implementation of POCSO by virtue of their guidelines. Important judicial

decisions include:

- (i) Suo motu intervention by the Supreme Court in WP (C) No. 1/2020 to ensure expeditious disposal of pending cases under POCSO Act;
- (ii) Guidelines regarding keeping the child victim anonymous (Nipun Saxena, 2019);
- (iii) Guidelines to avoid publishing and broadcasting the name of POCSO victims; and
- (iv) Interpretation of 'aggravating circumstances' in relation to enhanced punishment by High Courts. Several High Courts have made significant decisions to deal with legislative gaps with regard to consensual relationships between adolescents. These important decisions made by High Courts of Gujarat, Delhi, Bombay, and Kerala, which will be discussed in Chapter 8, seek to strike a balance between child protection and adolescent autonomy.

Controversies and Criticisms

Criminalisation of Consensual Adolescent Relationship

Undoubtedly, one of the gravest criticisms of the POCSO Act concerns the criminalisation of any sexual activity involving persons below 18 years of age irrespective of the element of consent and ages of both parties. This is made worse by the provision of Section 2(d) of the Act defining 'child' as anyone below 18, together with the strict liability framework of the Act as envisaged under Sections 29-30. Thus, a case involving a consensual sexual activity committed between a 17-year-old boy and his girlfriend of a similar age constitutes a cognisable, non-bailable offence punishable with a minimum mandatory punishment of seven years.

In this light, the statutory regime, based on an intention to prevent any form of adult exploitation, ends up having adverse results in the realm of adolescents. A pattern observed repeatedly by several High Courts is that POCSO complaints involve cases of adolescent couples wherein the girl's parents file a complaint to end their relationship, retrieve their daughter who has eloped or settle their personal vendetta against the boy. In such cases, the victim usually sides with the accused and pleads for her acquittal.

"The Act is being increasingly misused as a weapon to criminalize teenage love. It is high time that Parliament gives serious consideration about reducing the age of consent from 18 to something lower for cases of consensual intercourse amongst peers." – Justice S. Muralidhar, Chief Justice of the Gujarat High Court in *State of Gujarat v. Ramesh Chandra Ramabhai Panchal* (2018)

Similar comments have been made by the Delhi High Court, Madras High Court and Kerala High Court.

"The statute ought to differentiate between the predator, who exploits the vulnerability of the child, and the adolescent, who falls prey to the nascent romantic sentiment. To equate the two can hardly be considered just or even constitutionally sustainable." – Madras High Court in *Vijayalakshmi v. State* (2021)

Research studies conducted by the Centre for Child and the Law (Bangalore) indicate that in some states, over 40% POCSO cases pertain to adolescent consensual relationships. According to the National Crime Records Bureau (NCRB) data released in 2022, approximately 32,000 POCSO complaints were reported last year, out of which many were classified into the category of 'known person', which largely includes adolescent relationship cases.

Abuse and Baseless Complaints

The provisions in POCSO of arrest and immediate incarceration, non-bailable nature of the crime, mandatory minimum sentence, and presumption of guilt make the legislation a particularly strong law, and hence susceptible to being misused. Patterns of misuse include using POCSO to pressurize the other party in matrimonial disputes or property disputes; use of the POCSO law to harass someone whose marriage inter-caste or inter-religious union was opposed by the victim's family; retaliation through baseless complaints filed against witnesses and informants; and use of the threat of POCSO proceedings as a weapon in civil suits.

The case of *Rajesh Sharma v. State of U.P.* (2017) saw the Supreme Court framing guidelines to check misuse of Section 498A IPC (wife cruelty) during arrests. These were further modified in the *Social Action Forum for Manav Adhikar v. Union of India* (2018). Scholars have suggested formulation of similar guidelines to address misuse of POCSO, since the repercussions are more serious in POCSO cases.

The punishment provided under Section 22 POCSO for making false complaints is a six-month imprisonment and/or fine. The law has seldom been used because courts are loath to prosecute complainants (usually the parent(s) of the victim), who in turn is often difficult to distinguish from an unproven complaint. The non-enforcement of Section 22 is thus an indication of its weak deterrence against misuse.

To make matters worse, a false allegation, though leading to acquittal in court, is not sufficient cause to charge the complainant with a crime. As the accused would have already gone through the trauma of being incarcerated and socially ostracized, and also losing out on job and

reputation, there is little he can do. There is a major gap in the law in the lack of a mechanism for compensation to those who were wrongly accused.

Challenges to Implementation

The implementation of POCSO suffers from both structural and institutional limitations that impair its effectiveness in protecting child victims. One of these is the lack of sufficient Special Courts. As of 2023, India had created around 400 fast-track Special Courts for POCSO whereas there were over 250,000 pending cases. This means each court has to deal with many cases, which makes it virtually impossible for courts to conduct cases within one year as stipulated in Section 35.

Secondly, the quality of investigations conducted is often inadequate. NCRB statistics show low conviction rates in POCSO cases, about 30–35%, despite a presumption of guilt under Section 29. This suggests that many cases are marred by investigative flaws including poor documentation of forensic evidence, improper chain of custody, and inadequate corroboration evidence collection. Ironically, whereas the law puts an onus on the prosecution to prove guilt, even if the accused is guilty by presumption, inadequate investigation results in acquittals that demoralize child victims.

Thirdly, reporting children face numerous hurdles due to the lack of adequate psychosocial services. Whereas the Rules of 2020 require appointment of support persons, there are no support personnel in most districts. Moreover, rehabilitation and compensation schemes under the Victim Compensation Scheme are not implemented effectively.

The Issue of Over-Criminalization

Mandatory minimum sentences, which do not leave room for judicial discretion regardless of mitigating factors, have been faulted as forms of excessive punishment in POCSO cases. In the case of *Alister Anthony Pareira v. State of Maharashtra* (2012), the Supreme Court endorsed mandatory minimum sentencing but pointed out that they must be well-tuned lest such provisions are challenged under Articles 14 and 21 of the Constitution.

Whereas judges may not impose a lower sentence, even in cases of first-time offenders, consensual relationships involving adolescents, or prosecutions wherein the prosecutrix takes up the cause of the accused, the failure to exercise judicial discretion results in unfair sentencing. Some High Courts have sought to dodge mandatory minima in cases where conviction amounts to excessive sentencing by acquitting the accused, hence failing to punish

the guilty party altogether.

The Supreme Court in *Dhruv Rathee v. State of Haryana* (2022) observed that sometimes, courts are forced into choosing between excessive sentencing and complete acquittal. Therefore, the Supreme Court requested Parliament to introduce a graduated sentencing regime that provides for judicial discretion.

Impact on Children and Society

Protection vs. Autonomy Debate

The POCSO Act is a law governing the sexual exploitation of minors in India. It is a reflection of the priorities of the state with regard to the protection of children and the rights of adolescents. The Act has an absolute prohibition on all persons under the age of 18 being able to consent to sexual activity, and this reflects the emphasis placed by the Act on the protection of children, rather than on the respect of the right of adolescents to have the autonomy to make their own decisions regarding their bodies. Developmental psychologists, advocates for the rights of adolescents, and numerous judges argue against this position and assert that adolescents are in a period of development where their growing autonomy should be respected and not simply subordinated to parental authority and the paternalism of the state. Punishing adolescents for engaging in consensual sexual activity does not serve to protect them and punishes them instead, most especially adolescent males who have been prosecuted for engaging in consensual sexual activity with one another, and hurts the families of adolescents who could have otherwise benefited from counselling and welfare resources. The 2022 report of the Parliamentary Standing Committee on Home Affairs referenced these issues within its report and recommended that the government consider allowing for the introduction of a close-in-age or "Romeo and Juliet" exception to the POCSO Act that would allow for consensual sexual activity to take place between adolescents who are within a defined age range (typically within 2 to 3 years of each other) without bringing about an application of the POCSO Act. At the time of this writing, there has been no amendment made to the POCSO Act to include a close-in-age exception.

Psychological and Social Implications

The psychological effects of POCSO trial procedures on child victims are documented within the literature; based on available studies to date, during their participation in the justice process many child victims face additional trauma, particularly when being cross-examined. There are

also social consequences of being a victim of POCSO, such as dropping out of school or being socially isolated, changing family dynamics, and long-term psychological effects (e.g., PTSD, depression/anxiety). To add to this, the accused and their families face similar impacts. For instance, research through the TISS-Mumbai on the families of accused people of POCSO has documented instances of financial hardship, ostracism from the community, as well as significant mental health impacts from being involved in the prosecution process regardless of being ultimately acquitted. This effect tends to be more pronounced for allegations against persons whom it may be suspected was either not the actual perpetrator of the alleged crime (false allegations) or for allegations that involve consensual sexual relationships between adolescents.

Impact on Marginalized Groups

The POCSO Act's burdens fall disproportionately on marginalised communities. Boys from Dalit, Adivasi, and economically disadvantaged backgrounds are disproportionately prosecuted in adolescent relationship cases, because they lack access to quality legal representation and because complaints are more frequently filed against them by families seeking to break up inter-caste or economically unequal relationships. This class and caste dimension of POCSO enforcement has been documented by researchers at the HAQ Centre for Child Rights and the Centre for Child and the Law.

Children from marginalised communities are also less likely to access the protective benefits of the Act. They are less likely to report abuse, more likely to withdraw complaints under family or community pressure, less likely to access support services, and more likely to experience delays and lapses in the justice system. The Act's formal equality conceals a substantive inequality in its application across social hierarchies.

Children with disabilities — a group at heightened risk of sexual abuse — face particular challenges under POCSO. The procedures outlined in the Act were chiefly created for non-disabled children, leaving out categories of children that use augmentative and alternative communication (AAC) devices to communicate, require changes to the ways questions will be asked, or require some additional level of support such as those with an intellectual disability. Disability representative organisations and the Supreme Court have spoken about this void, however, no legislative changes have been made.

Role of Judiciary and Landmark Judgments

Significant Case Laws

Satish Ragde v. State of Maharashtra

Criminal Appeal No. 161 of 2021, Nagpur Bench, Bombay High Court (2021)

Facts: The accused was convicted under POCSO for touching the breasts of a 12-year-old girl over her clothes. The Special Court convicted him under Section 8 (sexual assault). The Bombay High Court, in a judgment by Justice Pushpa Ganediwala, controversially held that 'skin-to-skin contact' was necessary to constitute 'sexual assault' under Section 7, acquitting the accused of the POCSO charge (though convicting him under IPC Section 354).

Held: The Supreme Court swiftly stayed the judgment and later, in Attorney General for India v. Satish and Another (2021), overturned it, holding that 'sexual assault' under Section 7 does not require skin-to-skin contact. The court emphasised that any act of intentional sexual touching, whether through clothing or otherwise, falls within the provision if done with a sexual intent. The case highlighted how judicial interpretation of POCSO's provisions can have dramatic implications for its protective scope.

Nipun Saxena v. Union of India

(2019) 2 SCC 703, Supreme Court of India

Facts: A public interest litigation challenging the publication of identities of victims of POCSO offences, and seeking comprehensive guidelines for the implementation of the Act.

Held: The Supreme Court issued extensive guidelines including: (i) absolute prohibition on media publication of victim identity; (ii) direction to establish one-stop centres in every district; (iii) mandatory use of video-conferencing for recording victim evidence; (iv) time-bound disposal directions for Special Courts; and (v) state governments to ensure dedicated support persons for each POCSO victim. This remains the most comprehensive judicial framework for POCSO implementation.

Vijayalakshmi v. State, represented by Inspector of Police

Crl.R.C. (MD) No. 840 of 2021, Madras High Court (2021)

Facts: The petitioner, a 17-year-old girl, sought quashing an FIR registered against her 19-year-old boyfriend under POCSO. She deposed that the relationship was consensual, that she had not been coerced, and that she wished to marry the accused.

Held: The Madras High Court quashed the FIR, holding that the criminalisation of adolescent

love relationships under POCSO was unconstitutional when applied to genuine consensual peer relationships. The court directed the government to consider a legislative amendment to introduce a close-in-age exception. This judgment generated significant academic and public debate, with supporters arguing it correctly recognised adolescent autonomy, and critics arguing it weakened child protection.

Alakh Alok Srivastava v. Union of India

WP (C) No. 51/2019, Supreme Court of India

In an effort to improve the processing and resolution of POCSO lawsuits, a POCSO lawyer filed a PIL with the Supreme Court requesting that all POCSO litigation be fast-tracked through FTSCs. The SC held that the Central Government shall establish FTSCs in all districts with over 100 pending cases, with a goal of having at least one FTSC in each district across the nation. The SC created a monitoring compliance committee to track the establishment of FTSCs by the Central Government and also ordered the Central Government to provide sufficient funds for the establishment of an FTSC by providing a matching grant. As of 2023, there are over 400 FTSCs in India; however, the number of pending cases is still significant.

State of Karnataka v. Shivanna @ Tarkari Shivanna

(2014) 8 SCC 913, Supreme Court of India

The defendant was found not guilty at trial for a POCSO offence because there were serious deficiencies in the investigation and prosecution of the case, in particular the lack of DNA analysis, poor chain of evidence and delay in lodging an FIR.

The Supreme Court sent the case back to the trial court with direction for the following: all investigations under POCSO must include DNA profiling; the investigating officer must have specialized training in evidencing forensic; and the Computer Generated Evidence (CGE) must sit as part of the investigation.

These rulings established a baseline of how investigations should be conducted under the POCSO legislation and will, if implemented globally, dramatically increase the success rate of convictions for true POCSO offences.

Judicial Trends and Interpretations

Analysis of judicial trends in the POCSO jurisprudence indicates notable trends. One significant trend is that the High Courts continue to quash POCSO FIR's exercising of powers

under Section 482 CrPC for adolescent consensual relationships. The situation is particularly prevalent in cases where the prosecutrix is in support of quashing the FIR and where there is no valid public good in continuing with the prosecution. This has been framed as an exercise of inherent powers (rather than an interpretation of the POCSO Act), and has been seen as a manner to work around (rather than confront) the gap in the legislation. Another notable trend is that courts have sought to use probation and reformatory remedies if possible where the POCSO has required a minimum amount of imprisonment, indicating discomfort with minimum mandatories. In a small number of cases where the accused has been a young first offender in the context of an adolescent relationship, the courts have controversially questioned Section 360 CrPC (release on probation), although this has been controversial because it is inconsistent with the POCSO of mandatory minimums. Finally, the courts have placed increased emphasis upon the importance of the child's testimony and the requirement of corroboration of the child's testimony under Section 29's presumption of innocence. Unfortunately for the practical reality, most prosecutions fail due to the inaccuracy of the child's evidence, absence of medical evidence, or lack of support from the child's family(evidence of pattern).

Balancing Rights and Protection

The judiciary has grappled with the tension between the state's duty to protect children and the constitutional rights of accused persons, including the right to fair trial (Article 21), the right against self-incrimination (Article 20(3)), and the presumption of innocence (a facet of Article 21 as developed in judicial decisions). The Supreme Court has consistently upheld the constitutionality of POCSO's reversed burden of proof while requiring that the basic prosecution facts be established before the presumption of guilt is triggered.

The court has also addressed the rights of accused persons in pre-trial detention. In *Sanjay Chandra v. CBI* (2012) — a pre-POCSO decision — the Supreme Court affirmed that bail is the rule and jail the exception, even in serious cases. However, POCSO's provisions for non-bailable offences have been interpreted to impose a higher threshold for bail, raising concerns about prolonged pre-trial incarceration for accused persons who are ultimately acquitted.

Comparative Analysis

Child Protection Laws in Other Countries

An international comparison of laws about children being protected shows that the way India

treats children through the Protection of Children from Sexual Offences Act (POCSO) is too strict compared to other countries that protect children. Here are two examples. The Sexual Offences Act (2003) in the United Kingdom has a set age for when children can consent to sexual activity — 16 years old. The Act has a close-in-age exception whereby if two people under 16 have sex with each other; they will face an alternative, lower, (5 year maximum) sentence, less than the maximum of 14 years. This allows for two under-age sexually active adolescents to be legally protected (through criminalisation) while also being able to explore their sexual/behavioural development. In the United States, the age limits for consensual sexual activity are established by each of the 50 states (generally between 16-18 years old). In most states, the Romeo and Juliet law provides a defence to sexual activity between two adolescents who have some sort of a sexual relationship within 2-4 years of each other; this recognises that adolescents have a natural sexually driven curiosity while also protecting them from exploitation by adults with whom they may have sexual relationships.

South Africa: The Sexual Offences and Related Matters Amendment Act of 2007 makes it a crime for adults to have sex with minors under the age of 16; however, this law includes a defense for consensually engaging in sexual activity with another adolescent who is aged between 12 and 16 and is no more than two years older than them. The system used in South Africa is often cited as being one of the best examples of how to balance the rights of an adolescent with the need to protect children.

Bangladesh: The Women and Children Repression Prevention Act of 2000, as amended in 2020, instituted capital punishment for rape, making Bangladesh one of the few nations along with India that has the death penalty for any sexual crime against a child. Due to the lack of clarity regarding these amendments, there is a fear by criminologists and human rights advocates that the number of children who report sexual crimes may decrease and that courts may take a more lenient approach to offenders.

Canada: The Criminal Code sets the minimum age of consent at 16, with a close in age exception for individuals aged 14 or 15. The close in age exception does not apply if there is a relationship of trust or authority between the victim and their perpetrator; thus this exception serves as an additional protection to prevent exploitative sexual activity in asymmetrical relationships.

Lessons for India

The Comparative examination has given rise to many lessons for India on policy. Firstly, a

close-in-age exception for consensual adolescent relationships, already endorsed by various High Courts and by the Parliamentary Standing Committee, is legally viable and practically needed because its absence creates injustice on a grand scale.

Secondly, there is an empirical international consensus that there is no deterrent effect from the death penalty for sexual offences, that it may lead to greater leniency by courts when dealing with allegations of sexual offences and that it may decrease the number of offences reported. The 2019 Amendment to the law in India creates an inconsistency with the fundamental international human rights principles found within the comparative experience as well as within the United Nations Convention on the Rights of the Child, which prohibits the death penalty for children under 18 years of age.

Thirdly, comprehensive and effective compensation and rehabilitation programs for victims, as would be expected under the UK and Canadian systems, should be implemented at greater scale with clarification in India. The existing Victim Compensation Scheme, which is administered through DLSA, has insufficient funding and inconsistent application.

Fourth, mandatory reporting systems in comparable jurisdictions typically include safe harbour provisions for persons who report in good faith and immunity provisions for healthcare professionals. India's Section 21, which penalises all non-reporting without exception (other than for child victims themselves), is comparatively harsh and should be amended.

Challenges in Implementation

Infrastructure and Resource Constraints

The establishment of POCSO requires an operational system which includes Special Courts and judges and prosecutors who receive proper training and forensic laboratories and child welfare committees and one-stop centres and shelter homes and legal aid services and police officers who receive specialized training. Most Indian states maintain an extremely weak and non-functional system which exists in reality. The Ministry of Law and Justice has established more than 400 Fast Track Special Courts according to their 2023 data yet these courts struggle with insufficient staff members and poor physical facilities and they lack their own court buildings which separate them from standard courts. The forensic system faces its most critical challenge through its limited infrastructure. The POCSO prosecution process depends on DNA and forensic evidence but state laboratories require six months to two years for forensic report completion which surpasses the Act's one-year trial requirement. The Central Forensic Science Laboratory (CFSL) together with state FSLs face continuous problems because they do not

have enough staff members and their equipment remains insufficient.

The legal system faces a major structural problem because it does not deliver sufficient quality legal aid services. The legal system assigns free defense attorneys to POCSO defendants who lack financial resources because their defense lawyers maintain heavy workloads while receiving low compensation and they lack proper POCSO case knowledge. The Commonwealth Human Rights Initiative (CHRI) research shows that legal aid attorneys missed court sessions while neglecting their duty to present written evidence and they failed to educate defendants about their right to bail which led to wrongful convictions.

Awareness and Training Gaps

The success of POCSO depends on first responders who receive proper training and develop understanding about their duties which include police officers and medical staff and teachers and members of CWC. Research consistently shows that all these groups demonstrate major gaps in their understanding about this subject. Police officers throughout different districts lack understanding about the child-friendly procedures which the Act requires and they do not understand the duties of support persons or the necessary evidence standards for POCSO cases. Teachers who serve as primary reporters under Section 19 lack proper understanding about their legal duties and the correct method for submitting reports. Schools which operate in areas that serve disadvantaged populations tend to have the least amount of POCSO knowledge. The NCPCR assessment surveys demonstrate that schools throughout various states have failed to implement mandatory reporting training as a standard practice.

The POCSO Special Courts face a critical problem because their magistrates and judges lack essential training which creates a major gap in their professional development. The High Courts have different methods which they use to select judges and provide them with their required training. The judges who handle POCSO cases do not possess specialized knowledge about child psychology and they lack training in trauma-based interview methods and the complete background of the POCSO Act. The judicial system faces challenges because judges use inconsistent methods for evidence evaluation and sentencing decisions.

Delay in Justice Delivery

The system faces its most severe violation because Section 35 POCSO requires trials to finish within one year but this rule goes unheeded. The NCRB database from 2022 reveals that Special Courts maintain more than 250000 active cases which have stayed open for longer than

three years. The court faces a backlog of several thousand cases which have remained undecided for more than five years. The court process faces delays because Special Courts operate with insufficient numbers and witnesses choose to skip court sessions and forensic reports take extended periods to return and the child identification process requires complex medical tests because birth documents do not exist. burden.

The Supreme Court in Alakh Alok Srivastava (2019) specifically noted that delay in POCSO cases is itself a form of injustice.

Recommendations and Reforms Needed

Legal Reforms

The present legislative evaluation leads to these proposed changes for the POCSO Act. The law needs a close-in-age exception which Parliament should establish through Section 2(d) amendment or by creating an additional provision. The law should protect teenagers under 18 who engage in sexual activities with each other when their ages differ by three years or less. The law should protect these teenagers only when they maintain equal power dynamics because no one holds authority or trust-based control over the other. The mandatory reporting system requires changes through Section 19 and 21 modifications which should establish a 'safe harbour' provision to protect healthcare professionals and counsellors and teachers who failed to report immediately because they followed proper professional judgment. The reporting requirement should protect healthcare professionals and counsellors and teachers who fulfil their duties correctly by allowing them to report within an acceptable timeframe after they determine child protection needs. The reporting requirement should protect healthcare professionals and counsellors and teachers who fulfil their duties correctly by allowing them to report within an acceptable timeframe after they determine child protection needs. Parliament needs to review the 2019 law which established capital punishment for cases of aggravated penetrative sexual assault. The Law Commission's 262nd Report together with international human rights standards and global practices demonstrate that capital punishment fails to prevent crime. The death penalty provision should be replaced with enhanced life imprisonment.

Fourth, introduction of graduated sentencing discretion: The current mandatory minimum sentences under POCSO need to remain as basic standards but courts should obtain the power to choose reduced sentences when special situations emerge which Parliament will determine.

Fifth, establishment of a compensation regime for wrongfully prosecuted accused: The

parliament needs to modify Section 33 which allows courts to give compensation to defendants who prove their POCSO charges were fabricated or driven by personal motives after they achieve acquittal through the Victim Compensation Scheme and a particular funding source.

Administrative Improvements

The initial step requires Fast Track Special Courts to establish their operations at an accelerated pace. The Supreme Court needs to set quarterly High Court compliance reporting requirements which will establish the target availability of one FTSC for every district. The FTSCs need their own dedicated facilities which must include staff members and video conference systems and forensic examination support. The NCPCR needs to work with state authorities to create compulsory educational programs which will train police officers and magistrates and prosecutors and medical staff and teachers and members of the Child Welfare Committee. The POCSO procedure certification process needs to become a mandatory step which leads to appointment in positions that handle POCSO-related work. The process of building forensic facilities needs to reach its peak because State and central forensic laboratories must obtain full staffing and proper equipment to produce POCSO forensic reports within 60 days which High Courts should enforce through their orders. The State and central forensic laboratories require full staffing and proper equipment to produce POCSO forensic reports within a 60-day period which High Courts need to enforce through their orders. The process requires every district to establish operational one-stop centres. The Sakhi Scheme requires all districts to establish their own one-stop centres which need to employ trained counsellors together with legal aid attorneys and medical personnel and child protection staff.

Awareness and Education

School curricula need to evolve through safety education programs which teach children about their bodies and show them how to identify dangerous situations and access help services. The educational program will start at Class 3 level through materials which specialize in child-friendly content that NCPCR has approved after child psychologist input. The panchayats together with NGOs and community radio stations need to expand their community-based awareness campaigns which target rural and tribal regions because these areas hide most of their child sexual abuse incidents. The campaigns need to focus on four main obstacles which prevent people from reporting incidents: the social shame that comes with it and the possibility of breaking up families and the lack of understanding about legal protections and the absence

of faith in official systems. Bar councils and law schools need to include POCSO training as part of their professional development programs and law school education to enhance legal representation quality for POCSO cases through better defence and prosecution services.

Policy-Level Suggestions

The Ministry of Women and Child Development needs to create a special POCSO Monitoring Cell which should track various implementation metrics including operational Special Courts and case resolution times and different types of acquittal statistics and victim compensation distribution and availability of support persons. The Parliament needs to receive annual reports for their review. A National Child Protection Policy needs to be established which should place POCSO under a universal child rights system that unites the Act with the Juvenile Justice (Care and Protection of Children) Act, 2015, the Right to Education Act, 2009, and child welfare programs which serve children who face challenging circumstances. India should seriously consider ratifying the Optional Protocol to the UNCRC on the Sale of Children, Child Prostitution and Child Pornography — an instrument India has signed but not ratified — which would impose additional international obligations that could strengthen the domestic legal framework.

Conclusion

Summary of Findings

The research paper conducts an in-depth assessment of the POCSO Act which serves as India's core legal framework to defend children against sexual offenses. The research shows that the law operates at a high level of importance and purpose yet it contains major structural defects which lead to problems during implementation and create multiple disputes that end up harming numerous innocent people. The research identified several core discoveries which include the following: First, the law makes all sexual contact with individuals under 18 years old illegal through its complete criminalization system which lacks both age-based exceptions and power to stop court cases. The law leads to continuous prosecution of teenage relationships which produces severe damage to defenceless young people and their family members and damages the trust people have in the justice system. The law has become a weapon which people use to fight personal battles through family disputes and marriage conflicts and religious and caste-based relationship opposition. The law functions as an ineffective instrument to address false accusations because Section 22 remains weakly enforced. The POCSO

framework operates with minimal funding which creates its most critical operational issue. The system faces multiple problems because it has too few Special Courts and its forensic facilities remain insufficient and it lacks enough trained personnel and its victim assistance programs have not reached their full potential.

The Act contains language which does not show gender preference but the enforcement system discriminates against particular genders which creates a problem. The public fails to recognize boys as victims while male children who belong to disadvantaged social groups face higher rates of prosecution. The Act provides protection to children but its defence system fails to safeguard disabled children and children who belong to disadvantaged social groups. Research shows that Indian laws about sexual offenses conflict with international standards because the country refuses to provide age-appropriate defence and executes convicted offenders against worldwide human rights norms. The death penalty functions as a central Indian legal punishment which contradicts international human rights standards and most worldwide legal systems because the country fails to provide proper legal safeguards for offenders. The death penalty serves as a primary legal punishment in India but this practice violates international human rights standards because the country does not deliver adequate legal protections for convicted offenders.

Final Observations

POCSO functions as an essential promise which the Indian government made to defend its children against sexual abuse. The promise requires fulfilment through the establishment of a fact-based evaluation system which will transform the current Act. The children who need protection under POCSO will benefit most from a law which successfully identifies actual offenders. It protects real victims and understands teenage development and has enough funding for its operation and prevents any form of exploitation. The paper suggests five main reforms which include a close-in-age exception, updated mandatory reporting rules, flexible sentencing options, improved forensic facilities, and extended victim assistance programs. The Act requires these modifications to achieve its intended purpose because they establish protection systems for defenceless individuals while preventing its provisions from being used by people who want to harm others.

Judicial decisions through individual case assessments have successfully reduced the severe effects which the Act produces. The judicial system needs to stay away from making decisions which should be handled by legislative authorities. Parliament needs to take action based on

scientific evidence which shows POCSO implementation has lasted more than ten years to create a law that matches the confidence children in India have for their protective legal system. The level of social justice in a community depends on how well its legal system applies laws instead of the severity of its established rules. The purpose of POCSO stands strong but it needs to develop better structural design according to the author's analysis.

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