
A LAW MEANT TO PROTECT: THE POCSO AND ITS IMPLEMENTATION CHALLENGES

Manya Singh, Symbiosis Law School, NOIDA

ABSTRACT

The Protection of Children from Sexual Offences (POCSO) Act, 2012 was enacted as a response to the rising number of sexual offences against children in India. The Act intends to establish a strong legal framework to guarantee the protection, dignity, and justice for child survivors of sexual offence. The Act is in accordance with India's commitments under the United Nations Convention on the Rights of the Child (UNCRC).

This paper critically evaluates the POCSO Act's provisions and the real world difficulties associated with putting them into practice. Despite the Act's provision for special courts, severe penalties, and supportive measures like support staff and interim compensation, its application on the ground remains fraught with systematic gaps. Access to justice for child survivors is still hampered by various problems.

The study also looks at effective implementation initiatives, like child-friendly special courts, and the vital role non-governmental organisations play in bridging the gap between the needs of the community and the law. The goal is to guarantee that the POCSO Act becomes a living, working tool of justice and protection for the children, rather than merely a textual law.

Keywords: POCSO Act, Child protection law, Implementation challenges, Legal Framework, UNCRC compliance, NGOs and legal aid, juvenile justice system.

Introduction: A law meant to protect

India is a signatory to the United Nations Convention on the Rights of the Child (UNCRC)- international human rights treaty which outlines the fundamental rights of the children. Article 19 and 34 of the convention provides that the government must do all that they can to protect the children all kinds of violence, sexual abuse and exploitation.¹ In line with its international obligations, India enacted The Protection of Children from Sexual Offences in the year 2012, a legislation made to protect the children from all kinds of sexual violence and exploitation.

The act seeks to protect children from offences of sexual assault, sexual harassment and pornography and provides for the establishment of special courts for trial of such offences. It provides punishment and mention of offences like- “sexual harassment”, “sexual assault”, “penetrative sexual assault”, and “aggravated penetrative sexual assault”. It also provides protection when a person has used the child for pornographic purposes or sexual gratification through representation of sexual organs of the child. The penalty for this is rigorous imprisonment for upto 5 years and fine.²

The act seeks to take strict measures to prevent the rising trend of child abuse in the country, the amendments to the said act make provisions for the enhanced punishments for certain offences so as to deter the perpetrators. It also gives power to the central government to make rules regarding the manner of deleting or destroying or reporting of pornographic material involving a child.

On Ground Reality

The government notified POCSO Rules, 2020 for the effective implementation, this includes:-

- Rule 9 of the said rules provides for the interim compensation at any stage of the FIR, which will be adjusted against the final compensation.³
- The Children Welfare Committees can provide special relief by recommending the payment of essential items like food, transport, clothing etc which is to be disbursed within a week by

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

² *The Protection of Children from Sexual Offences (Amendment) Act*, No. 25 of 2019, §§ 3–15, 28, India Code (2012).

³ *The Protection of Children from Sexual Offences Rules*, G.S.R. 774(E), Gazette of India, Extraordinary, pt. II, sec. 3(i), r. 9 (Nov. 9, 2020) (India).

DLSA, DCPU, JJ Act funds⁴.

- Children Welfare Committees can, with the consent of the child and the guardian, appoint a support person who will assist through investigation and trial ensuring well being of the child⁵.

However, the on ground reality speaks a different story. The act in itself is a gender biased one however female children constitute the majority of victims, this emphasises on the need for gender sensitive prevention strategies. There are certain pre-trial challenges which the victim have to face, these challenges include:-

-inadequacy of the support person

-lack of resources for the training of such support personnel

-FSL has experienced a delay in reporting, citing a shortage of support staff.

There is an absence of proper protocol for rehabilitation of children post incident along with that shortage in educational facilities made for each and every child and also for vocational training and economic empowerment.

The Gap in Access

There are still gaps in the child survivors of sexual offences access to justice, even with the POCSO Act's progressive framework. The under-representation of women in the police force is also one of the problems. Despite the Act's requirement that a woman police officer, of not below the rank of sub inspector, should record a child's statement, it is not practically possible as in India only around 10% of police officers are female and many police stations lack female officers at all. This disparity has a direct impact on the children's comfort and willingness to talk about their experiences, especially girls, which lowers the standard and tact of the inquiry process.⁶

⁴ *The Protection of Children from Sexual Offences Rules*, G.S.R. 774(E), Gazette of India, Extraordinary, pt. II, sec. 3(i), r. 4(8) (Nov. 9, 2020) (India)

⁵ *The Protection of Children from Sexual Offences Rules*, G.S.R. 774(E), Gazette of India, Extraordinary, pt. II, sec. 3(i), r. 4(7) (Nov. 9, 2020) (India).

⁶ *POCSO Act*, Drishti IAS (July 11, 2023), <https://www.drishtiiias.com/daily-updates/daily-news-analysis/pocso-act-3>.

Additionally, even though the POCSO Act states that investigation must be finished within a month of the commission of the offence, the deadline however is hardly fulfilled. Inadequate infrastructure, a shortage of trained staff, and delays in forensic evidence collection all contribute to drawn-out investigations, which further traumatise the child and dilute the evidence⁷

The public's ignorance of the POCSO Act and its protection and redressal mechanism is another significant obstacle. Particularly in rural or marginalised communities, a large number of victims and their families are not aware of their, the procedures involved, or how to obtain legal or psychological support. As a result, complaints are frequently underreported, misreported or withdrawn.

Additionally, there is a severe lack of specialised resources for child survivors, including support groups, legal aid providers, and qualified counsellors. Children are left to handle a complicated and frightening system alone without emotional or legal support, which can cause them to become re-traumatised or give up on the legal system entirely. These disparities show that although the law is in place in theory, access to justice is still unequal and frequently discriminatory, particularly for the most marginalised groups in society.

Way Forward

To bridge the gap between the law and its implementation a multifaceted strategy that prioritises the child's emotional, social, and psychological welfare in addition to fortifying the legal framework is necessary.

One successful implementation effort of the POCSO Act in India is the establishment of special courts dedicated to hearing cases related to child sexual offenses. Because these courts are solely focused on POCSO cases, there is less pendency and justice is delivered more quickly. They are made to be less frightening and enable strategies such as screen partitions, video conferencing, and the presence of a guardian or support person to help the child feel comfortable testifying. The goal of the special public prosecutors assigned to these cases is to minimise the child's trauma while upholding the strictness of the law. However, adequate

⁷ Id.

facilities, skilled staff, and frequent oversight to guarantee that kid-friendly protocols are consistently observed are critical to these courts' efficacy⁸.

In order to close the gap between the law and its efficient application, cooperation between NGOs and law enforcement organisations can be extremely important. NGOs frequently collaborate closely with marginalised communities and have firsthand knowledge of the difficulties faced by child survivors and their families. NGOs can help make the reporting process less intimidating and more accessible, especially for children, by collaborating with the police. In order to protect the child's emotional and psychological health throughout the investigation and trial, they can also offer trained support staff, counsellors, and legal aid workers. In order to help police officers adopt a child-friendly approach as required by the POCSO Act, NGOs can also assist in holding workshops aimed at raising awareness and enhancing their capacity.⁹

Mandatory, structured training on trauma-sensitive procedures and child protection for police officers, prosecutors, and judges is a key solution. Even though the POCSO Act outlines procedures that are kid-friendly, inadequate training frequently results in insensitive handling, delays, and additional trauma for the child. Understanding child psychology, conducting sympathetic interviews, handling evidence with tact, and establishing a welcoming courtroom atmosphere should be the main goals of these programs. To ensure that individuals involved in POCSO cases are prepared to respond with both legal precision and emotional sensitivity, such training should not be a one-time formality but rather should be institutionalised as regular, evaluated modules.

Conclusion

The Protection of children from Sexual Offences Act, 2012, demonstrates India's dedication to defending children's rights and dignity. But a law's actual test is found in how it is applied, not in how it is written. Even though the Act establishes a thorough framework for dealing with sexual offences against minors, many survivors still face obstacles to accessing justice because of enduring gaps that range from a lack of infrastructure and awareness to insufficient support networks. Systemic change that is survivor-centric, well-resourced, and based on empathy is

⁸ *Pocso Act Implementation in India: Challenges and Solutions*, 13 Int'l J. Creative Res. Thoughts (IJCRT) (May 2025), <https://ijcrt.org/papers/IJCRT2505436.pdf>.

⁹ Id.

necessary for the future, in addition to legal reform. Important steps in this direction include establishing trauma-informed training for law enforcement and the judiciary, strengthening special courts, and encouraging cooperation with NGOs. The spirit of the POCSO Act—ensuring that every child is not only protected by the law but also empowered by it—can only be fully realised when the legal system is genuinely open, considerate, and equitable.