



The Indian Journal for Research in Law and Management

Open Access Law Journal – Copyright © 2026

Editor-in-Chief – Dr. Muktai Deb Chavan; Publisher – Alden Vas; ISSN: 2583-9896

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BETWEEN PROTECTION AND AUTONOMY: REASSESSING THE POCSO ACT, 2012

~ *Sanskriti Mishra*

ABSTRACT

The Protection of Children from Sexual Offences Act, 2012 (POCSO Act) was enacted to address the growing concern of sexual violence against children and to establish a comprehensive legal framework for their protection. More than a decade after its enactment, the legislation is widely regarded as one of the most stringent child-protection statutes in India. However, the effectiveness of a legal framework cannot be measured solely through the severity of its provisions. The true test lies in its ability to deliver justice while remaining responsive to the social realities it seeks to regulate.

This paper argues that the contemporary challenge confronting the POCSO Act is not a lack of legal safeguards but the existence of a significant gap between legislative intent and practical implementation. While the Act has strengthened reporting mechanisms and expanded the recognition of sexual offences against children, several concerns continue to undermine its effectiveness. These include the criminalization of consensual adolescent relationships, the rigid operation of mandatory reporting provisions, procedural delays, low conviction rates, and the persistence of secondary victimization during criminal proceedings.

The study adopts a doctrinal and analytical approach to examine statutory provisions, judicial developments, and emerging debates surrounding the Act. It contends that the increasing invocation of POCSO in cases involving consensual adolescent relationships has exposed a

tension between child protection and adolescent autonomy. Simultaneously, the paper highlights how procedural shortcomings often transform the justice process into a source of further trauma for victims. The paper concludes that meaningful reform requires a shift from a purely punitive model towards a child-centered and rights-based framework. Such an approach would preserve the protective objectives of the Act while ensuring that justice remains sensitive to the complexities of contemporary social realities.

KEYWORDS: POCSO Act, Child Protection, Sexual Offences, Adolescent Autonomy, Mandatory Reporting, Criminal Justice, Child Rights, Legal Reform.

INTRODUCTION

The enactment of the Protection of Children from Sexual Offences Act¹ marked a significant development in India's child protection regime. Prior to the legislation, offences involving sexual abuse of children were primarily addressed through provisions of the Indian Penal Code, which neither adequately recognized the unique vulnerability of children nor provided specialized procedures for their protection.² The POCSO Act sought to remedy these deficiencies by introducing a comprehensive statutory framework that criminalized a broad spectrum of sexual offences against children and established child-friendly mechanisms for investigation and trial.³

The legislation emerged against the backdrop of increasing public concern regarding child sexual abuse and a growing recognition of India's obligations under international child rights instruments.⁴ By defining a child as any person below the age of eighteen years and creating specialized offences such as penetrative sexual assault, aggravated penetrative sexual assault, sexual assault, and sexual harassment, the Act attempted to address both the substantive and procedural dimensions of child protection.⁵

¹ Protection of Children from Sexual Offences Act, No. 32 of 2012, INDIA CODE (2012).

² Indian Penal Code, No. 45 of 1860, §§ 354, 375, 377, INDIA CODE (1860).

³ Protection of Children from Sexual Offences Act, No. 32 of 2012, pmbl., INDIA CODE (2012).

⁴ Convention on the Rights of the Child, Nov. 20, 1989, 1577 U.N.T.S. 3; INDIA CONST. art. 39(f).

⁵ Protection of Children from Sexual Offences Act, No. 32 of 2012, §§ 2(d), 3, 5, 7, 11, INDIA CODE (2012).

Despite these achievements, the implementation of the Act has generated several complex legal and social questions.⁶ More than a decade after its enactment, courts across the country continue to grapple with issues that were not fully anticipated at the time of drafting.⁷ One of the most significant developments has been the increasing use of POCSO provisions in cases involving consensual romantic relationships between adolescents. In many instances, criminal proceedings are initiated not because of exploitation or abuse but due to parental disapproval of a relationship. Consequently, a statute designed to protect children from sexual violence is often deployed in circumstances where neither party perceives themselves as a victim.

This phenomenon reveals a deeper paradox within the legislation. On one hand, the Act seeks to provide maximum protection to children by treating all persons below eighteen years as incapable of legally consenting to sexual activity.⁸ On the other hand, such an approach often fails to account for the social and psychological realities of adolescence.⁹ The result is a legal framework that sometimes struggles to distinguish between exploitation and consensual adolescent conduct.

Another challenge lies in the gap between legislative promises and institutional realities. Although the Act emphasizes child-friendly procedures and speedy trials, many victims continue to face delays, repeated questioning, hostile courtroom environments, and inadequate psychological support.¹⁰ The persistence of low conviction rates despite stringent punishments further raises questions regarding the effectiveness of the criminal justice process under POCSO.¹¹

This paper argues that the future of child protection in India depends not merely on harsher punishments but on a more nuanced understanding of childhood, adolescence, autonomy, and

⁶ National Crime Records Bureau, Crime in India Report (latest edition).

⁷ *Independent Thought v. Union of India*, (2017) 10 SCC 800.

⁸ Protection of Children from Sexual Offences Act, No. 32 of 2012, §§ 2(d), 3, INDIA CODE (2012).

⁹ Committee on the Rights of the Child, General Comment No. 12, The Right of the Child to Be Heard, U.N. Doc. CRC/C/GC/12 (2009).

¹⁰ Protection of Children from Sexual Offences Act, No. 32 of 2012, §§ 24, 26, 33, 35, INDIA CODE (2012).

¹¹ National Crime Records Bureau, Crime in India Report (latest edition).

justice.¹² It seeks to critically examine the strengths and shortcomings of the POCSO framework and explore whether the law, in its present form, fully achieves its protective objectives.

RESEARCH METHODOLOGY

This study adopts a doctrinal and analytical research methodology.¹³ The research primarily relies on statutory interpretation, judicial decisions, government reports, and scholarly literature relating to child protection and criminal justice.

Primary sources include the Protection of Children from Sexual Offences Act, 2012, relevant provisions of criminal law, and significant judicial pronouncements delivered by the Supreme Court and various High Courts. Secondary sources include academic articles, reports, policy papers, and statistical data published by governmental and institutional bodies.

The paper does not merely describe the provisions of the Act. Instead, it critically evaluates their operation in practice by examining recurring legal controversies, implementation challenges, and emerging judicial trends. Particular emphasis is placed on the tension between child protection and adolescent autonomy, as well as the broader implications of adopting a predominantly punitive approach to child welfare. The objective of the study is to identify structural and procedural limitations within the existing framework and to propose reforms capable of strengthening both the effectiveness and legitimacy of the POCSO regime.

THE PROTECTION–PUNISHMENT PARADOX UNDER THE POCSO ACT

The POCSO Act was enacted with a singular objective: to provide robust legal protection to children against sexual offences.¹⁴ The legislative philosophy underlying the Act is straightforward. Children are inherently vulnerable and therefore require a legal framework that prioritizes their protection over considerations that may otherwise be applicable in cases involving adults. This protective approach explains the broad definitions contained in the Act, the stringent

¹² Convention on the Rights of the Child, Nov. 20, 1989, 1577 U.N.T.S. 3; Committee on the Rights of the Child, General Comment No. 12, The Right of the Child to Be Heard, U.N. Doc. CRC/C/GC/12 (2009).

¹³ C.R. Kothari, *Research Methodology: Methods and Techniques* (2d ed. 2004).

¹⁴ Protection of Children from Sexual Offences Act, No. 32 of 2012, pmb., INDIA CODE (2012).

punishments prescribed for offenders, and the special procedural safeguards created for child victims.

However, more than a decade after its enactment, the implementation of the Act reveals a paradox that continues to challenge courts, policymakers, and child rights advocates.¹⁵ The legislation seeks to protect children from exploitation, yet in certain situations it appears to criminalize conduct that may not involve exploitation at all. Simultaneously, while the Act imposes severe punishments on accused persons, it often fails to shield victims from the emotional and procedural burdens of the criminal justice process.

This paradox can be understood through two interconnected realities. First, the law is exceptionally strong on paper. Secondly, its practical operation frequently exposes gaps that undermine its intended objectives. Consequently, the effectiveness of the POCSO framework cannot be evaluated solely through the severity of punishments or the number of cases registered. Rather, it must be assessed by examining whether the Act successfully differentiates between genuine exploitation and complex social realities that do not fit neatly within statutory categories.

The issue becomes particularly visible in cases involving adolescents. The Act proceeds on the assumption that all individuals below eighteen years are legally incapable of consenting to sexual activity.¹⁶ While this approach is understandable from a child-protection perspective, its practical consequences have generated substantial debate. Courts increasingly encounter situations where criminal proceedings arise from consensual relationships between teenagers rather than coercive or exploitative conduct. In such cases, the strict application of statutory provisions often creates outcomes that appear inconsistent with the broader objectives of justice.

Thus, the central challenge facing the POCSO Act today is not whether child protection should be strengthened. Rather, the challenge is determining how protection can be achieved without disregarding the realities of adolescence, personal autonomy, and social context.

¹⁵ National Crime Records Bureau, Crime in India Report (latest edition).

¹⁶ Protection of Children from Sexual Offences Act, No. 32 of 2012, §§ 2(d), 3, INDIA CODE (2012).

CONSENSUAL ADOLESCENT RELATIONSHIPS AND THE AGE OF CONSENT DEBATE

Perhaps no issue has generated greater controversy under the POCSO Act than the treatment of consensual adolescent relationships. The legislation adopts a strict legal position by treating every individual below the age of eighteen as incapable of providing valid consent to sexual activity.¹⁷ Consequently, even where a relationship is voluntary, criminal liability may arise if one or both individuals are below the statutory age threshold.

From a legislative standpoint, this approach reflects a precautionary principle. The law assumes that children require maximum protection against exploitation and that introducing distinctions based on maturity or willingness could weaken safeguards. While this reasoning possesses considerable force, practical experience demonstrates that the issue is far more complex.

A significant number of POCSO prosecutions involve romantic relationships between adolescents. In many cases, parents who oppose the relationship because of differences in caste, religion, economic status, or social background file complaints. The criminal justice system therefore becomes a mechanism through which familial objections are translated into criminal allegations. As a result, the protective purpose of the Act becomes intertwined with broader social conflicts that were never intended to fall within its ambit.

Several High Courts have acknowledged this concern.¹⁸ Judicial observations in recent years have repeatedly highlighted the growing number of prosecutions arising from consensual adolescent relationships. Courts have noted that the rigid application of the law occasionally transforms young individuals into offenders despite the absence of coercion, violence, or exploitation. While judges remain bound by the statutory language, many have expressed concern regarding the unintended consequences of such prosecutions.

The problem is not merely theoretical. Consider a situation where a seventeen-year-old girl and an eighteen-year-old boy are involved in a consensual relationship. Under the existing framework,

¹⁷ *Id.* at 16

¹⁸ *Court on Its Own Motion v. State (NCT of Delhi)*, 2025 SCC OnLine Del

the law may treat the conduct as a criminal offence irrespective of the wishes of the parties involved. Such cases raise difficult questions regarding the relationship between legal protection and personal autonomy. If the purpose of criminal law is to prevent harm, should it operate in the same manner where exploitation is absent?

Supporters of the current framework argue that any relaxation of the law may create opportunities for abuse. They contend that the age threshold of eighteen provides clarity and prevents offenders from disguising exploitation as consent. This concern cannot be dismissed lightly. Child protection remains a compelling state interest, and weakening safeguards may expose vulnerable children to greater risks.

Nevertheless, the increasing number of cases involving consensual adolescent relationships suggests that the present framework may require greater nuance. Many jurisdictions across the world have adopted limited close-in-age exemptions, commonly known as "Romeo and Juliet" clauses. These provisions do not legalize sexual activity involving children. Rather, they recognize that criminal law should distinguish between exploitative conduct and consensual relationships involving adolescents who are close in age.

India has thus far refrained from adopting such an approach. However, the growing judicial discomfort visible in recent decisions indicates that the debate is unlikely to disappear. The challenge for lawmakers is to develop a framework that protects children from abuse while avoiding the unnecessary criminalization of adolescent behavior that lacks exploitative elements.

The debate ultimately reflects a broader question: should child protection laws be evaluated solely through the lens of vulnerability, or should they also account for the evolving capacities and realities of adolescence¹⁹? The answer to this question will significantly shape the future trajectory of the POCSO regime.

STATUTORY RIGIDITY AND JUDICIAL CONSTRAINTS

¹⁹ Committee on the Rights of the Child, General Comment No. 12, The Right of the Child to Be Heard, U.N. Doc. CRC/C/GC/12 (2009).

The difficulties associated with consensual adolescent relationships are closely linked to the structure of the Act itself. The statutory framework leaves little room for judicial discretion. Once the age requirement is satisfied, the question of consent generally becomes legally irrelevant.²⁰

This rigidity was introduced to eliminate ambiguity and strengthen child protection. Historically, sexual offences involving minors often suffered from evidentiary complications relating to consent. By removing consent from consideration, the legislature sought to simplify prosecution and prevent perpetrators from exploiting legal loopholes.

Yet the same rigidity that strengthens protection in genuine abuse cases can create difficulties in situations involving adolescent relationships. Judges frequently find themselves constrained by statutory language even when the factual circumstances suggest the absence of exploitation.²¹ As a result, courts are often compelled to balance sympathy for the individuals involved against their obligation to apply the law as enacted. The emerging judicial discourse therefore reveals an important reality. The challenge is not one of judicial interpretation alone. It is fundamentally a legislative question. Unless Parliament revisits the issue, courts possess limited capacity to address the tensions that have emerged in practice.

This illustrates one of the most significant lessons arising from the implementation of the POCSO Act: legal certainty and substantive justice do not always operate in harmony. A rule designed to protect vulnerable children may simultaneously produce outcomes that appear disproportionate in specific contexts. Recognizing this tension is essential for any meaningful evaluation of the Act.

MANDATORY REPORTING AND THE LOSS OF CHILD AGENCY

One of the most distinctive features of the POCSO Act is the mandatory reporting obligation contained in Section 19.²² The provision requires any person who has knowledge or apprehension of an offence under the Act to report the matter to the appropriate authorities. Failure to report may itself attract legal consequences under Section 21. At first glance, this framework appears entirely

²⁰ Protection of Children from Sexual Offences Act, No. 32 of 2012, §§ 2(d), 3, INDIA CODE (2012).

²¹ *Raj Sonkar v. State of U.P. & 3 Others*, 2025 LiveLaw (AB) 165 (All. H.C.).

²² Protection of Children from Sexual Offences Act, No. 32 of 2012, §§ 19, 21, INDIA CODE (2012).

consistent with the protective objectives of the legislation. Child sexual abuse frequently remains hidden due to fear, stigma, family pressure, and social silence. Mandatory reporting therefore seeks to ensure that offences do not remain undisclosed.

Despite its noble objective, the operation of mandatory reporting has generated significant criticism. The central concern is that the provision often prioritizes institutional intervention over the wishes and psychological readiness of the child.²³ In practice, a child who discloses abuse to a teacher, counsellor, doctor, or social worker may unintentionally trigger a criminal process irrespective of whether the child wishes to pursue legal action.

This creates a difficult dilemma. For many victims, disclosure is a gradual process requiring trust, emotional support, and a sense of safety. When every disclosure automatically results in criminal proceedings, some children may become reluctant to seek assistance. In such situations, a provision intended to facilitate protection may inadvertently discourage communication.

The problem becomes even more complex in cases involving adolescents. Educational institutions, counsellors, and healthcare professionals frequently encounter situations involving consensual relationships between teenagers. Because the statutory framework does not distinguish between exploitation and consensual conduct below the age of eighteen, mandatory reporting obligations often transform personal relationships into criminal investigations. Consequently, the legal system may intervene even where neither party perceives themselves as a victim.

A child-centered justice system must undoubtedly ensure reporting of serious abuse. However, child protection should not be confused with the complete removal of child agency. The challenge lies in balancing protection with participation. International child rights jurisprudence increasingly recognizes that children should not merely be viewed as passive recipients of protection but as individuals capable of expressing views concerning matters that affect them.²⁴ The rigid structure of mandatory reporting under the POCSO Act often leaves little room for such participation. Therefore, while mandatory reporting remains an essential safeguard against hidden abuse, its

²³ UNICEF India, *Child Protection and Access to Justice for Children* (latest available report).

²⁴ Committee on the Rights of the Child, General Comment No. 12, The Right of the Child to Be Heard, U.N. Doc. CRC/C/GC/12 (July 20, 2009).

present operation raises legitimate concerns regarding autonomy, confidentiality, and the role of children within the justice process.

The Courtroom as a Second Site of Trauma

The POCSO Act is frequently praised for introducing child-friendly procedures intended to minimize the trauma experienced by victims. Several provisions reflect this objective. Statements are to be recorded in a sensitive manner, children should not be exposed to the accused unnecessarily, and Special Courts are expected to conduct proceedings in a manner that protects the dignity and psychological well-being of the child.²⁵

However, the existence of statutory safeguards does not automatically guarantee a child-friendly experience. One of the most persistent criticisms of the criminal justice system is that victims often suffer secondary victimization during investigation and trial.²⁶ In many cases, the trauma associated with legal proceedings becomes almost as damaging as the original offence.

A child who reports abuse may be required to narrate the incident multiple times before police officers, medical professionals, prosecutors, and courts. Each repetition can force the child to relive distressing experiences. Although such procedures are often justified as necessary for evidentiary purposes, their cumulative psychological impact cannot be ignored.

Delays further aggravate the problem. The POCSO Act envisages speedy disposal of cases.²⁷ Nevertheless, practical realities frequently result in prolonged proceedings. Children may spend years awaiting the conclusion of trials, during which memories fade, emotional wounds remain open, and social pressures intensify. By the time a judgment is delivered, the victim may have already endured a substantial psychological burden.

The issue is particularly severe in cases involving family members or individuals known to the child. Unlike stranger-perpetrated offences, these cases often involve complicated emotional dynamics. The victim may face pressure from relatives, concerns regarding family reputation, or

²⁵ Protection of Children from Sexual Offences Act, No. 32 of 2012, §§ 24, 26, 33, 35, INDIA CODE (2012).

²⁶ UNICEF India, *Child Protection and Access to Justice for Children* (latest available ed.).

²⁷ Protection of Children from Sexual Offences Act, No. 32 of 2012, § 35, INDIA CODE (2012).

anxiety about the consequences of prosecution. Under such circumstances, the courtroom ceases to be merely a venue for justice and becomes a space where competing emotional, social, and legal pressures converge.

This reality exposes a fundamental weakness within the implementation of the Act. Legislative attention has traditionally focused on punishment of offenders, whereas comparatively less emphasis has been placed on long-term psychological support for victims.²⁸ Justice cannot be measured solely through convictions and sentences. A child-protection framework must also consider whether victims emerge from the process with their dignity, confidence, and well-being intact.

LOW CONVICTION RATES AND THE LIMITS OF PUNITIVE LEGISLATION

One of the most striking features of the POCSO regime is the contrast between stringent statutory provisions and comparatively modest conviction rates. The Act prescribes severe punishments, including lengthy imprisonment and enhanced penalties for aggravated offences. The legislative assumption appears to be that stronger punishment will deter offenders and improve accountability.

Yet experience demonstrates that harsh punishments alone cannot guarantee justice. Criminal convictions depend upon investigation, evidence collection, witness testimony, prosecutorial effectiveness, and judicial efficiency. Weaknesses at any stage can undermine the entire process.

A recurring challenge in POCSO cases is the hostility of witnesses. Victims or their families may withdraw support for prosecution due to social pressure, economic dependence, fear of stigma, or reconciliation efforts. In cases involving known offenders, particularly family members, emotional complexities often influence the willingness of witnesses to testify. Consequently, prosecutions that initially appear strong may collapse during trial.

²⁸ Ministry of Women and Child Development, Government of India, *Model Guidelines under the Protection of Children from Sexual Offences Act, 2012*.

Investigative deficiencies represent another concern. Delayed medical examinations, inadequate forensic evidence, improper documentation, and procedural lapses frequently weaken the prosecution's case. Such shortcomings are not unique to POCSO matters; however, their impact is especially significant because these cases often rely heavily upon the credibility of child witnesses.

The resulting situation reveals an important lesson. Legislative severity cannot compensate for institutional weakness. A criminal justice system may prescribe the harshest punishments imaginable, yet fail to secure convictions if investigations remain inadequate or proceedings become excessively delayed.

This raises a broader question regarding contemporary criminal law policy. Should legal reform focus primarily on increasing punishments, or should greater attention be devoted to strengthening investigative capacity, victim support services, and judicial infrastructure? The experience of the POCSO Act suggests that effective child protection requires the latter as much as the former.

IMPLEMENTATION CHALLENGES AND THE REALITY BEHIND STATISTICS

The enactment of specialized legislation often creates an impression that a social problem has been effectively addressed. However, legal reform and practical implementation are not synonymous. The true success of the POCSO Act depends upon the ability of institutions to translate statutory promises into meaningful outcomes.

The increasing number of registered POCSO cases is sometimes cited as evidence of the Act's effectiveness.²⁹ To a certain extent, this interpretation is justified. Higher reporting rates may indicate growing awareness and improved willingness to disclose abuse. Nevertheless, registration figures alone reveal little about the quality of justice delivered.

Several structural obstacles continue to undermine implementation. Many Special Courts face heavy caseloads that hinder speedy disposal.³⁰ Shortages of trained personnel affect investigation quality. Access to counselling and rehabilitation services remains inconsistent across different

²⁹ National Crime Records Bureau, *Crime in India 2024* (Ministry of Home Affairs, Gov't of India 2025).

³⁰ Protection of Children from Sexual Offences Act, No. 32 of 2012, §§ 28, 35, INDIA CODE (2012).

regions. Rural areas often experience additional challenges due to limited institutional resources and social stigma surrounding sexual offences.

Furthermore, statistical analysis must be approached with caution. An increase in reported cases may simultaneously reflect greater awareness, greater confidence in legal institutions, and greater incidence of offences. Without careful examination, raw numbers can produce misleading conclusions regarding the effectiveness of legal interventions.

The implementation experience of the POCSO Act therefore illustrates a broader reality about criminal justice reform. Legislation alone cannot resolve deeply rooted social problems. Sustainable protection requires coordination between legal institutions, educational systems, healthcare providers, social workers, and community organizations.³¹ Without such integration, even the most progressive statutory framework risks falling short of its intended objectives.

Judicial Trends and Emerging Developments

The evolution of POCSO jurisprudence demonstrates that courts are increasingly confronted with questions that extend beyond the original objectives of the legislation. While the Act was designed primarily as a protective statute, judicial decisions over the years reveal an ongoing struggle to reconcile legislative intent with changing social realities.³²

A recurring theme in recent judicial discourse has been the treatment of consensual adolescent relationships. Various High Courts have observed that a substantial number of POCSO prosecutions arise not from sexual exploitation but from relationships opposed by parents or guardians.³³ Although courts have consistently acknowledged that consent of a minor is legally irrelevant under the existing statutory framework, several judgments have expressed concern regarding the unintended consequences of applying the law uniformly to all situations involving persons below eighteen years of age.³⁴

³¹ Convention on the Rights of the Child art. 19, Nov. 20, 1989, 1577 U.N.T.S. 3.

³² *Independent Thought v. Union of India*, (2017) 10 SCC 800.

³³ *Raj Sonkar v. State of U.P. & 3 Others*, 2025 LiveLaw (AB) 165 (All. H.C.).

³⁴ *X v. State (NCT of Delhi)*, 2025 SCC OnLine Del (Del. H.C.)

This judicial discomfort reflects a broader tension within the legal system. On one hand, judges remain bound by legislative mandates that prioritize child protection.³⁵ On the other hand, courts increasingly encounter factual circumstances where the application of strict statutory provisions appears disconnected from the realities of adolescent relationships. Consequently, contemporary jurisprudence reveals an emerging conversation regarding the need for legislative reconsideration rather than judicial reinterpretation.

Another significant judicial trend involves the emphasis on child-sensitive procedures. Courts have repeatedly stressed that the rights of victims do not end with registration of a complaint. The investigative and adjudicatory process must itself remain consistent with the protective objectives of the Act. Judicial interventions concerning privacy, confidentiality, victim dignity, and speedy disposal demonstrate a growing recognition that procedural justice is an integral component of child protection.

At the same time, courts have also highlighted systemic shortcomings, including delays in investigation, inadequate institutional support, and insufficient psychological assistance for victims. These observations indicate that the future effectiveness of the POCSO regime will depend not only upon legal provisions but also upon the capacity of institutions responsible for implementing them.

The emerging judicial narrative therefore suggests that the next phase of POCSO reform must move beyond the question of punishment and focus more directly upon the quality of protection delivered by the criminal justice system.

RECOMMENDATIONS AND REFORM PROPOSALS

The objective of legal reform should not be to weaken the protective framework established by the POCSO Act. Rather, reform should aim to ensure that the law remains capable of addressing contemporary realities while preserving its commitment to child welfare. The following recommendations seek to strike that balance.

³⁵ Protection of Children from Sexual Offences Act, No. 32 of 2012, §§ 23, 24, 33, 35, INDIA CODE (2012)

1. Introduction of a Limited Close-in-Age Exemption

One of the most debated issues under the Act concerns consensual relationships involving adolescents who are close in age. A narrowly drafted close-in-age exemption, commonly referred to as a "Romeo and Juliet" clause, deserves serious consideration.³⁶

Such a provision should not legalize sexual activity involving children. Instead, it should permit courts to distinguish between exploitative conduct and consensual relationships involving adolescents whose age difference falls within a limited statutory range. The objective would be to prevent the criminalization of ordinary adolescent behavior while maintaining stringent penalties for genuine abuse.

2. Reconsideration of Mandatory Reporting Mechanisms

Mandatory reporting serves an important protective function.³⁷ However, the present framework may benefit from greater flexibility in situations involving counselling, mental health support, and consensual adolescent relationships.

A carefully structured review mechanism could allow trained professionals to assess the best interests of the child before automatic criminal proceedings are initiated. Such an approach would preserve protection while reducing the risk of discouraging disclosure.

3. Strengthening Psychological Support Services

The criminal justice process should not focus exclusively on prosecution. Every child victim should have access to sustained psychological counselling before, during, and after trial.³⁸

³⁶ See generally Committee on the Rights of the Child, General Comment No. 20 on the Implementation of the Rights of the Child During Adolescence, U.N. Doc. CRC/C/GC/20 (Dec. 6, 2016).

³⁷ Protection of Children from Sexual Offences Act, No. 32 of 2012, §§ 19, 21, INDIA CODE (2012).

³⁸ Ministry of Women and Child Development, Government of India, *Model Guidelines under the Protection of Children from Sexual Offences Act, 2012*.

At present, support services remain uneven across jurisdictions. Establishing dedicated child support units attached to Special Courts would significantly improve the ability of victims to navigate legal proceedings without experiencing further trauma.

4. Enhancing Investigative Capacity

Many weaknesses associated with POCSO prosecutions stem from deficiencies in investigation rather than shortcomings in substantive law. Specialized training programs for police officers, forensic personnel, and prosecutors should therefore become a priority.

Child sexual abuse cases require a level of sensitivity and technical competence that cannot be assumed merely because specialized legislation exists. Effective investigation remains the foundation of successful prosecution.

5. Institutional Monitoring of Special Courts

The objective of speedy justice cannot be achieved solely through statutory deadlines. Regular monitoring mechanisms should be introduced to assess case pendency, disposal rates, victim support services, and compliance with child-friendly procedures.³⁹ Performance indicators should measure not only speed but also the quality of justice delivered.

6. Greater Emphasis on Rehabilitation

The long-term impact of child sexual abuse extends beyond criminal proceedings. Educational disruption, psychological distress, social isolation, and emotional difficulties frequently persist long after trial concludes.

A comprehensive child protection framework must therefore incorporate rehabilitation as a central objective rather than treating it as an ancillary concern. Legal justice and psychological recovery should be viewed as complementary goals rather than separate processes.

CONCLUSION

³⁹ Protection of Children from Sexual Offences Act, No. 32 of 2012, §§ 28, 35, INDIA CODE (2012).

The Protection of Children from Sexual Offences Act, 2012 represents one of the most significant legislative interventions in the field of child protection in India. By recognizing a broad range of sexual offences, establishing specialized procedures, and adopting a victim-centric framework, the Act has undoubtedly strengthened the legal response to child sexual abuse. Its enactment filled important gaps within the criminal justice system and signaled a national commitment to safeguarding children from sexual exploitation.

Nevertheless, more than a decade of implementation has revealed that the effectiveness of a legal framework cannot be measured solely through the severity of punishments or the number of registered cases. The experience of the POCSO Act demonstrates that child protection is a complex objective requiring continuous engagement with evolving social realities.

The central argument advanced in this paper is that the contemporary challenge facing the Act is not the absence of legal safeguards but the existence of a tension between statutory rigidity and practical realities. Issues relating to consensual adolescent relationships, mandatory reporting, procedural trauma, low conviction rates, and implementation deficiencies expose limitations that cannot be resolved through punitive measures alone.

The increasing judicial concern regarding the application of POCSO provisions to consensual adolescent relationships highlights the need for a more nuanced approach to child protection. Simultaneously, persistent institutional shortcomings indicate that legislative reform must be accompanied by improvements in investigation, victim support, rehabilitation, and judicial infrastructure.

The future success of the POCSO regime will depend upon its ability to evolve without compromising its protective purpose. A child-centered justice system must protect children from abuse while also recognizing their dignity, developmental realities, and participation in decisions affecting their lives. Ultimately, the true measure of the Act lies not in the harshness of punishment imposed upon offenders but in its capacity to deliver meaningful, sensitive, and effective justice to children.