

The Impact of Sexual Offenses Against Minors In India: A Legal Perspective

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ABSTRACT

The most valuable resource in society is a child, who is also essential to the growth of the country. They represent the nation's future. Any nation's future is contingent upon the way its children are raised and prepared. Sexual abuse of children is one of India's biggest issues. To address this issue and safeguard children's rights, a special law known as the Protection of Children from Sexual Offenses Act (POCSO) was passed.

The passage of this Act has unquestionably been a significant step in protecting children's rights. This essay discusses the research on child sexual abuse and how this Act affects this significant issue. The difficulties and disputes surrounding this Act and its impact on India are also covered in the paper.

Keywords: POCSO Act, child, child sexual abuse, offenses, and punishment.

INTRODUCTION

Child sexual abuse is a worldwide issue that affects people all over the world. A child is weak, undeveloped, and reliant on other people. They encounter problems like sexual exploitation, pressure to perform well in school, disciplinary action, and health. Children's development determines a country's future. They are the groups in society that are most at risk. The Indian government is focussing on issues like child care, welfare, and development, and most importantly, how education is needed for India's future.

As of January 02, 2016, there were 1.29 billion people living in India. 39% of the population is made up of children. In order to protect the rights of every Indian citizen, the Constitution of India established a number of rights. The protection of children's rights was another goal of the constitutional provisions. Article 15 mentions and guarantees that youngsters receive special attention. It enshrined the provision of particular laws and policies that are required to protect their rights and interests.

In public discourse, the issue of child sexual abuse is mostly disregarded and concealed. Only the situation of rape against children was recognized as an infraction in the absence of the appropriate Act. Sexual assault, harassment, offensive behavior, and pornography against children were not legally sanctioned as forms of punishment.

SOME FACTS ABOUT CHILD ABUSE IN INDIA

1. One of India's major issues is the high prevalence of sexual assault and trafficking.
2. According to a survey conducted on teenagers in Kerala, 36% of boys and 35% of girls have been sexually abused.
3. The Government of India carried out a study on 17220 kids and teenagers. According to the study, sexual abuse affected one out of every two children in the nation.
4. The states with the highest rates of sexual abuse were Assam (57.27%), Delhi (41%), Andhra Pradesh (33.87%), and Bihar (33.27%).
5. The state with the most reported incidences of sexual abuse is Uttar Pradesh.
6. Half of the perpetrators were somebody the child knew. The incidences happened in a setting of accountability and trust.
7. The level of maltreatment was higher among children aged 5 to 12. The majority of cases go mostly unreported.

AREA OF RESEARCH

Since the study focuses on the Protection of Children against Sexual Offense (POCSO) Act, 2012, the research area is limited to India. In particular, the POCSO Act has been thoroughly examined by the researcher.

SIGNIFICANCE OF THE RESEARCH

There is a startling rise in the number of child sexual assault cases. One of the top five nations with the most child abuse cases is India. Prior to the POCSO Act's passage, India's criminal code was insufficient in light of the delicate and serious nature of this matter. In its 172nd legislation Commission Report, the Law Commission examined all aspects of the legislation pertaining to sexual offense. The Law Commission requested a number of revisions pertaining to the topic. The legislation was insufficient to address child sexual offense.

The POCSO Act was passed in 2012 with the intention of shielding children from sexual exploitation. Because the separate act was required. In this context, the POCSO and the associated difficulties and disputes will be thoroughly discussed in the current study.

RESEARCH QUESTION

The first step in discussing and resolving any issue is identifying it. The primary inquiry in this study concerns whether India's Criminal Law is sufficient to handle child sexual abuse cases following the passage of this Act.

OBJECTIVES OF THE RESEARCH

1. To research the effects of the POCSO Act following its passage and implementation.
2. To evaluate the POCSO Act's role in resolving child sexual abuse cases.

REVIEW OF LITERATURE

The researcher has examined several criminal law rules and cases, including those involving child sexual abuse, in both national and international law. In her study, the researcher examined the POCSO Act, the Indian Penal Code, UNICEF reports on child sexual abuse, and other relevant national and international laws.

PROTECTION OF CHILDREN AGAINST SEXUAL OFFENSES (POCSO) ACT, 2012

2012 saw the passage of the Protection of Children against Sexual Offense (POCSO) Act. The purpose of the Act was to shield children from exploitation and sexual abuse. Additionally, it calls for the creation of special courts to hear cases involving child sexual assault. Additionally, it establishes a child-friendly process for gathering evidence, looking into the crime, and trying those involved. A person who has not reached the age of eighteen is considered a "child" under the POCSO Act of 2012.

According to the POCSO Act, sexual offense against minors include:

1. Penetrative sexual assault;
2. Child trafficking for sexual abuse
3. Employing a minor for pornographic purposes;
4. Sexual assault; and
5. Aggravated penetrative sexual assault

When a youngster who has been sexually assaulted is mentally sick or when someone betrays the child out of trust, the word "aggravated" is used. Gender-neutral legislation is what this Act is. According to the Act, a "child" is any person under the age of 18. Every child is shielded from sexual abuse by it. The Act provides for a kid-friendly environment at every level of the legal system. The "best interest of the child" idea is given top priority under the Act. The Act's provisions offer a system for reporting, documenting evidence, looking into the case, and expediting the trial of criminal charges.

The following are some of the POCSO Act's key provisions:

1. In all cases, the police officer is required to notify the Child Welfare Committee of any child abuse or related case within 24 hours of receiving a report.
2. To avoid reprimanding the youngster, the police officers handling the case must dress civilly when recording the child's statement.
3. The child's statement regarding the offence needs to be documented in front of the person they trust.
4. The child's medical checkup should only be performed by the female doctor in front of a person the youngster trusts in order to gather forensic evidence.
5. Special courts have been established under this Act to hold quick trials.
6. These courts have an obligation to protect the child's identity and to keep them away from the accused while they are recording the statement.
7. The young witness may also testify by video and will not be required to repeat their story repeatedly.

8. It is important to remember that the case should not be delayed and should be resolved within a year of the day it was reported.
9. An interpreter, translator, special educator, or other professional should be present in court if the kid need any assistance.
10. Compensation shall be given to the family's child for the child's medical care and rehabilitation.

PUNISHMENTS UNDER THE ACT

1. Section 4 of the Act stipulates that penetrative sexual assault carries a minimum sentence of seven years in prison, with the possibility of an additional five years in addition to a fine.
2. Section 6 of the legislation specifies a minimum penalty of 10 years for aggravated penetrative sexual assault, with the possibility of hard life imprisonment and a fine.
3. The penalty for aggravated non-penetrative sexual assault committed by an authority figure is outlined in Section 10. The penalty, which can last up to seven years and shouldn't be less than five, also includes a fine.
4. Section 10 stipulates that non-penetrative sexual assault with sexual purpose has a minimum sentence of three years, with the possibility of an additional five years, as well as a fine.
5. Section 12 stipulates that sexual harassment carries a three-year sentence and a fine.
6. Section 14 (1) stipulates that exploiting a minor for pornographic purposes carries a five-year sentence and a fine, and that a second conviction carries a seven-year sentence and a fine.

CHALLENGES

Because it affects children physically, mentally, socially, economically, psychologically, and legally, child sexual abuse is a multifaceted problem. Despite the fact that the POCSO Act of 2012 is kid-friendly, several of its requirements are silent, which leads to difficulties and disagreement. There are certain topics that can be talked about:

1. **MEDICAL EXAMINATION:** Section 27(2) of the POCSO Act stipulates that a female doctor must do the medical examination on a female child. However, the Indian Penal Code's Section 166A requires that the rape victim be examined by the government medical officer who is on duty at all times. When a female doctor is unavailable, this issue occurs.
2. **CONSENT RELATING TO MEDICAL EXAMINATION:** If the kid declines to have a medical examination but the investigating officer insists on one, the POCSO Act is silent and provides no guidance.
3. **CONSENTED SEXUAL INTIMACY:** According to the POCSO Act, it is unlawful for two teenagers or an adolescent and an adult to have sex. The Act does not offer any exceptions. However, it is suggested that any act of consenting sexual activity between

minors should not be illegal under this Act. However, the age of consent for sex has been set at 18 years old as per the most recent change to the Indian Penal Code.

4. **CHILD MARRIAGE:** Secular legislation in India forbids child marriage. However, it is sanctioned under personal law. Because child marriage and the consummation of a child marriage are banned under the POCSO Act of 2012, it presents a challenge.
5. **Treatment Cost:** Under the POCSO Act, medical establishments are required by law to offer children free medical care. The child may not receive the full range of care to which they are entitled if there are inadequate facilities or if an expensive procedure is necessary. The state is responsible for covering the expense.
6. **REPORTING ISSUE:** The majority of child abuse instances are not appropriately reported due to the fear of being insulted, humiliated, and ashamed in front of the entire community. Reporting child abuse is a very personal and challenging choice for family members. They typically avoid insults, taunts, and torture of fear, which leads to cases going unreported.

CONCLUSION

The POCSO Act has significantly improved the situation of child abuse cases in India. The POCSO Act of 2012 acknowledges nearly all types of sexual abuse. It is a really good type of legislation. However, there are still a few questions that need to be addressed. A child who has experienced sexual abuse should receive counseling and psychological help in the most approachable manner possible. Every member of society must embrace a comprehensive strategy for dealing with child abuse situations in India. They must keep an eye out for sexual assault.

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