



THE PROTECTION OF CHILDREN FROM SEXUAL OFFENCES (POCSO) ACT, 2012: A COMPREHENSIVE REVIEW OF LEGAL PROVISIONS AND PROTECTIVE MECHANISMS

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Abstract

The Protection of Children from Sexual Offences (POCSO) Act, 2012 represents a landmark legislative effort in India to comprehensively address and combat the pervasive issue of child sexual abuse. This article provides an extensive academic review of the Act, situating it within the historical and international legal landscape, and critically analyzing its core provisions, protective mechanisms, and judicial interpretations. By examining empirical data on case registration, conviction rates, and procedural effectiveness, the study highlights both the strengths and persistent challenges in the implementation of POCSO. Key judicial pronouncements have refined the Act's application, emphasizing a child-centric approach while balancing principles of justice and due process. Despite significant progress in creating a robust legal framework, issues such as low conviction rates, over-criminalization concerns, procedural delays, and gaps in victim rehabilitation remain. The article concludes with comparative insights and evidence-based recommendations aimed at strengthening India's child protection regime. This comprehensive review contributes to ongoing discourse among legal practitioners, policymakers, and civil society on fostering a safer and more effective environment for child rights and justice.

Keywords: Protection of Children from Sexual Offences Act, 2012; Child Sexual Abuse; Child Protection Law; Legal Provisions.

I. Introduction

The protection of children from abuse, exploitation, and neglect is fundamental to any society's pursuit of justice and welfare. In India, children constitute nearly 39% of the population, representing not only the country's demographic strength but also its most vulnerable segment. Historically, Indian society has witnessed numerous instances of crimes against children, ranging from physical and emotional abuse to sexual exploitation. These incidents, which often go unreported due to societal stigma, lack of awareness, and systemic challenges, underline the dire need for robust child protection laws.

Child sexual abuse, in particular, has emerged as a grave social issue, with studies revealing alarming rates of victimization across socio-economic backgrounds. According to the Study on Child Abuse conducted by the Ministry of Women and Child Development (2007), over 53% of surveyed children reported experiencing one or more forms of sexual abuse, highlighting the widespread and pervasive nature of the problem. The absence of dedicated, child-centric legal frameworks and procedures before 2012 further exacerbated the vulnerability of children, necessitating targeted legislative intervention.

1.1 The Evolution Leading Up to the POCSO Act, 2012

Prior to 2012, the Indian Penal Code, 1860 (IPC), along with a patchwork of state-specific statutes, provided the primary legal recourse for prosecuting sexual offences against children. However, these provisions were widely criticized for their limited scope, ambiguous definitions, lack of child-friendly procedures, and a focus heavily skewed towards adult victims. The IPC, for instance, did not explicitly define child sexual abuse or recognize non-penetrative and aggravated forms of abuse, resulting in significant gaps in the justice process.

In response to mounting public concern, judicial pronouncements, and international obligations—most notably the United Nations Convention on the Rights of the Child (UNCRC), which India ratified in 1992—the government embarked on the formulation of a specialized law. The Protection of Children from Sexual Offences (POCSO) Act, 2012, was thus enacted



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to address these gaps by providing a comprehensive legal framework tailored to the unique needs and vulnerabilities of child victims. The Act's passage marked a watershed moment in Indian legislative history, introducing specialized definitions, procedures, and protective mechanisms aligned with international best practices.

2. Objectives and Scope of the Article

This article seeks to provide a comprehensive review of the Protection of Children from Sexual Offences (POCSO) Act, 2012, with an academic and analytical approach. It aims to:

- Examine the historical and legislative context that led to the enactment of the POCSO Act.
- Analyze the principal legal provisions, definitions, and protective mechanisms embedded in the statute.
- Critically assess the roles and responsibilities of stakeholders involved in the Act's implementation.
- Review key judicial interpretations and landmark judgments influencing the scope and application of POCSO.
- Identify persistent challenges and emerging trends in the landscape of child protection in India.
- Offer evidence-based recommendations to strengthen the legal and institutional response to child sexual offences.

3. Methodology

This article adopts a doctrinal research methodology grounded in the systematic review and critical analysis of primary and secondary legal sources. The purpose is to critically examine the Protection of Children from Sexual Offences (POCSO) Act, 2012, its legal context, implementation, and impact on child protection in India. Below, the methodological approach is described in detail:

3.1 Legal Document Analysis: Statutory Review: The POCSO Act, 2012, and its subsequent amendments have been meticulously analyzed. Special attention is given to statutory provisions, definitions, procedural safeguards, and the specific wording of sections central to the Act's philosophy and practice. Comparative Legal Analysis: Selected sections of related statutes (such as the Indian Penal Code, 1860) and international conventions (e.g., United Nations Convention on the Rights of the Child) are compared to highlight legislative evolution and alignment with international best practices.

3.2 Case Law Review:

- **Landmark Judgments:** Leading Supreme Court and High Court judgments interpreting or shaping the implementation of the POCSO Act have been identified through legal databases. These cases are analyzed for jurisprudential trends, judicial innovation, and the clarification of ambiguous statutory provisions.
- **Case Studies:** Notable judicial proceedings and documented case studies are used to illustrate both successes and challenges in the application of the Act.

3.3 Statistical and Empirical Data Interpretation

- **Data Collection:** Quantitative data are sourced from the National Crime Records Bureau (NCRB), governmental reports, and research organizations focused on legal and child rights advocacy.
- **Trend Analysis:** Data on case registration, conviction and acquittal rates, state-wise distribution, and other relevant indicators have been tabulated and interpreted to identify patterns, strengths, gaps, and persistent challenges.

3.4 Secondary Literature Review

- **Academic Sources:** Peer-reviewed journal articles, legal commentaries, and doctrinal writings are surveyed to provide academic context, theoretical perspectives, and critical insights on the POCSO framework.
- **Policy Documents and Reports:** Reports from government committees (including Rajya Sabha/Parliamentary responses), child rights organizations, and law commissions are examined for policy critiques, recommendations, and evolving challenges.

3.5 Critical and Thematic Analysis



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- **Thematic Organization:** The article is structured around major themes as outlined in the initial article framework (e.g., legislative context, implementation mechanisms, stakeholder roles, challenges).
- **Critical Appraisal:** Each theme is analyzed for both strengths and limitations, with a balanced presentation of legal safeguards, practical barriers, and the lived experiences of stakeholders.

3.6 Citation and Referencing: All sources—primary and secondary—are cited using APA style. Real-time official data, reports, and judgments are cross-verified for accuracy and authenticity.

4. Overview of Pre-POCSO Child Protection Legislation in India

Prior to **2012**, India lacked a unified, comprehensive child protection statute specifically targeting sexual offences against minors. Though the **Goa Children’s Act, 2003**, was the only state-specific law addressing child abuse in detail, most cases nationwide relied on selected sections of the **Indian Penal Code (IPC), 1860**—notably:

- **Section 375:** Rape (limited to peno-vaginal intercourse and did not cover boys or broader forms of sexual assault)
- **Section 354:** Outraging the modesty of a woman (with an undefined notion of “modesty” and weak penalties; did not apply to boys)
- **Section 377:** Unnatural offences (ambiguous and not tailored to child sexual abuse)

This patchwork approach had several limitations:

- Failure to recognize many sexual offences (such as non-penetrative abuse and harassment)
- Inadequate definitions and ambiguous terms
- Limited child-friendly procedures, with no special courts or investigation guidelines for child victims

Other legislations, such as the **Children Act, 1960**, and various state-level Children Acts (e.g., the Madras Children Act, 1920; Bengal Children Act, 1922; Bombay Children Act, 1924) focused more on the welfare, care, and rehabilitation of neglected or delinquent children rather than specific sexual offences [1234](#).

4.1 International Conventions Influencing POCSO (e.g., UNCRC)

India’s legal reforms were significantly influenced by global child rights developments. The United Nations Convention on the Rights of the Child (UNCRC), adopted in 1989 and ratified by India in 1992, was pivotal. Key obligations under the UNCRC include:

- Ensuring legislative, administrative, and social measures to protect children from all forms of sexual exploitation and abuse (Articles 19, 34)
- Mandating special safeguards, child-friendly procedures, and the best interests of the child as the primary guiding principle.

Additionally, the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules, 1985) stressed that child protection systems must prioritize the well-being and development of young individuals within a supportive legal framework.

Legislative Rationale and Objectives Behind the Enactment of POCSO

The legislative rationale for the Protection of Children from Sexual Offences (POCSO) Act, 2012 was driven by an urgent need to fill major legal and procedural gaps, address increasing instances of child sexual abuse, and fulfill India’s international obligations. Core objectives included:

- Providing a comprehensive legal framework covering a wide range of sexual offences against all children (gender-neutral, for those below 18 years)
- Establishing child-friendly reporting, investigation, and trial procedures to reduce trauma, ensure privacy, and safeguard children’s rights
- Establishing Special Courts for speedy and sensitive trial of offences
- Mandating mandatory reporting, strong penalties, and rehabilitation for victims

The Act thus marked a paradigm shift towards a robust, child-centric approach in line with international best practices, fundamentally altering the landscape of child protection in India.

4.2 Core Legal Provisions of the POCSO Act, 2012



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- **Section 19** of the POCSO Act establishes a stringent mandatory reporting regime: Any person with knowledge or reasonable apprehension that a sexual offence against a child has been or is likely to be committed must report this to the police or designated authorities without delay. Failure to report such offences is itself a punishable offence, with penalties extending up to six months' imprisonment, a fine, or both.
- The law extends this duty to all individuals, including professionals such as healthcare providers and teachers. Immunity from civil or criminal liability is granted for reports made in good faith¹.
- Recent judicial interpretations (e.g., Supreme Court guidance in *X vs Government of NCT, Delhi*, 2022) have nuanced this obligation, balancing it against other confidentiality protections, especially in healthcare contexts.

4.3 Procedures for Recording Evidence, Statement of the Child, and Special Court Proceedings

- The child victim's statement is to be recorded by a Magistrate, as far as possible, in the language spoken by the child. The presence of a parent or a trustful adult is encouraged, and assistance from interpreters or translators is ensured as needed. Audio-visual means may be used to minimize trauma.
- Special provisions for children with disabilities require the involvement of special educators or field experts in communication and understanding.
- The evidence of the child must be recorded within 30 days of the Special Court taking cognizance of the offence. If delays occur, the court must record the reasons.
- Special procedures ensure the child is not confronted by the accused during testimony; arrangements such as video conferencing, single-visibility mirrors, or curtains are allowed. Courtrooms must be child-friendly, with access to breaks and the presence of a trusted adult.
- The trial is to be held in camera, and the child's identity is to be protected throughout the proceedings.

Bail, Investigation, and Trial Processes

- Bail under the POCSO Act is available but subject to strict judicial scrutiny, considering the seriousness and sensitive nature of the offences. Factors weighed include the gravity of the offence, risk to the victim, and strength of prima facie evidence.
- The application process for bail requires engagement of a criminal lawyer, submission of a legal application to the competent court (Sessions, High Court), and a hearing where both sides argue on the merits. Anticipatory bail (pre-arrest) is also possible in specific cases.
- Special Courts are mandated to conduct speedy trials and must record evidence and dispose of the case expeditiously. All procedures and safeguards of the Code of Criminal Procedure apply unless modified by the POCSO Act.

Provisions for Punishment and Sentencing

- The Act prescribes stringent minimum sentences for various categories of offences:
 - Penetrative sexual assault: Minimum ten years, extendable to life imprisonment and fine; if the victim is under 16, a minimum of 20 years, extendable to life.
 - Aggravated penetrative sexual assault: Minimum twenty years to life imprisonment or death penalty, plus fine to cover victim rehabilitation.
 - Sexual assault (without penetration): Three to five years' imprisonment and fine.
 - Sexual harassment: Up to three years' imprisonment and fine.
 - The Act does not permit the imposition of a lesser sentence than the minimum prescribed, except where specific statutory provision allows.

Role and Powers of Special Courts and Judges

- Section 28 mandates the establishment of Special Courts in every district, designated in consultation with the High Court, to exclusively try POCSO offences. These can be converted from existing Sessions Courts or notified Children's Courts.
- Special Courts are empowered to take direct cognizance of offences without the need for committal. They possess the same authority as Sessions Courts and are assisted by Special Public Prosecutors with demonstrated expertise and a minimum of seven years' experience.



- All questions to child victims during trial must be routed through the presiding Judge to safeguard the child from hostile or aggressive interrogation; courtrooms are designed to be psychologically secure and confidential.
- The Special Court may order victim compensation for rehabilitation and has broad discretion to ensure proceedings remain child-centric, expeditious, and just.

Together, these provisions reflect the POCSO Act's core philosophy: a stringent, child-friendly, and victim-centered legal regime ensuring accountability, minimizing trauma, and prioritizing justice and recovery for young victims of sexual offences.

Table 1: Reported Cases Under the POCSO Act and Conviction Rates in India (Recent Years)

Year	Cases Registered under POCSO	Cases Disposed (by Fast Track/Special Courts)	Conviction Rate (%)	Acquittal Rate (%)	Notes/Sources
2019	47,335	Data not available	~32–35	43.44	National Crime Records Bureau, JALDI analysis
2020	47,221	Data not available	~32–35	43.44	NCRB
2021	53,874	Data not available	~14	~43.44	NCRB, JALDI, Indian Express
2022	38,911 (child rape & penetrative assault)	Data not available	Not specified	Not specified	Fair Planet, NCRB
2019–2024	299,759 (since Oct. 2019)	162,497	Not specified	Not specified	Govt. of India Rajya Sabha Answer, 2024

Each year, tens of thousands of cases are registered under the POCSO Act (e.g., 47,335 in 2019; 53,874 in 2021), indicating both the enormity of the issue and perhaps increasing societal awareness and willingness to report child sexual offences. The conviction rates, consistently hovering around 14–35%, are alarmingly low when weighed against the total number of cases registered. This suggests significant gaps in investigation, prosecution, and adjudication processes, as well as possible reluctance or inability of witnesses to testify and procedural lapses in handling sensitive cases. The acquittal rates (around 43% in available years) further underscore these systemic issues, pointing to weaknesses in evidence collection, case preparation, and overall effectiveness of protective mechanisms. The figures for cases disposed versus total cases (e.g., 162,497 disposed out of 299,759 registered since Oct. 2019) reflect substantial backlogs, which lead to delayed justice for victims and prolonged trauma. There is a notable drop in reported cases in 2022 (38,911 for some categories), but this may reflect changes in categorization, temporary underreporting during the pandemic, or shifting focus in data collection, rather than a genuine decline in offences. Overall, the data points toward a pressing need for further strengthening of reporting, evidence handling, child-friendly procedures, and capacity-building of the judiciary and police to improve both conviction rates and outcomes for survivors.



Table 2: State-wise Statistics – POCSO Cases and Notable Trends (2019–2021)

State	Cases Registered (2021)	Conviction Rate Range (2018–2021)	Notable Trends / Observations	Source
Uttar Pradesh	7,129	~30–46	Highest absolute cases	NCRB, Satyarthi
Maharashtra	6,200	30–64	High pending cases	NCRB, Satyarthi
Kerala	6,070	~16.5 (close to acquittal rate 20.5)	High reporting	Indian Express, NCRB
Sikkim	Not listed	48.6 (sexual offences rate%)	Highest offence rate	NCRB
Rajasthan	6,337 (2021)	Not specified	Victims under 6: 18 girls	NCRB
Madhya Pradesh	5,348 (2019)	Not listed	High total child crimes	PMC, NCRB

The data shows that the Uttar Pradesh, Maharashtra, Kerala, Rajasthan, and Madhya Pradesh consistently report the highest number of POCSO cases, reflecting either higher incidence, better reporting mechanisms, population size, or a combination of these factors. Conviction rates vary widely—some states (like Sikkim) report high rates (48.6%), while populous states hover at much lower levels (Kerala ~16.5%, Maharashtra 30–64%). Kerala’s high reporting but low conviction rate suggests robust awareness but possibly stronger legal defenses, delays, or issues with evidence. The data highlights that a vast majority (96%) of perpetrators are known to the victim, emphasizing the need for awareness, early intervention, and support within families and communities. The overall 30.8% increase in cases from 2017 to 2021 reflects a dual trend: rising awareness and reporting due to positive societal change, but also potential growth in underlying offences or improved law enforcement sensitivity. Specific data points—such as Rajasthan’s 18 girl victims under age 6 in 2021—draw attention to the vulnerability of very young children and the urgent need for targeted preventive and support frameworks at the grassroots level. These state-level figures and trends underscore the necessity of adapting strategies to local contexts. States with high caseloads or low conviction rates may benefit from additional judicial resources, more specialized investigators, and enhanced survivor support systems.

5. Judicial Interpretation and Landmark Judgments

- **Supreme Court’s Balancing Act (2025):** In a rare judgment, the Supreme Court declined to sentence a POCSO convict to imprisonment, prioritizing the victim’s rehabilitation and family stability over punitive measures. The court exercised its powers under Article 142 to “do complete justice,” recognizing failures within both society and State mechanisms which contributed to the victim’s trauma. This kind of discretion underlines the judiciary’s evolving approach to child protection, where rigid sentencing may sometimes worsen victim outcomes.
- **Criminalization of Child Pornography Possession:** The Supreme Court clarified that mere possession, unless immediately deleted, destroyed, or reported, constitutes an offense under Section 15 of POCSO. Critically, establishing foundational facts (such as possession and failure to report) puts the burden on the accused to prove innocence, as the Act presumes a culpable mental state (Section 30). Courts are thus advised to exercise restraint in quashing POCSO proceedings, reflecting the Act’s intent to prioritize child safety.



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- **Definition and Overlap with IPC Provisions:** High Courts have reiterated that ‘rape’ under Section 375 of the IPC can amount to ‘penetrative sexual assault’ under the POCSO Act. However, constitutional safeguards protect against double punishment for the same set of actions. Where IPC and POCSO overlap, only the graver sentence should apply, as clarified by judgments such as *Balaji Sarjerao Kamble v. State of Maharashtra*.
- **Gender Neutrality Upheld:** Landmark judgments by the Delhi High Court have confirmed that POCSO is gender-neutral, allowing for prosecution of female offenders and rejecting arguments that the Act applies only to males as perpetrators. This reflects the evolving understanding of gender roles in law and reinforces the victim-centric nature of POCSO.
- **Victim Confidentiality and Media Regulation:** In *Nipun Saxena v. Union of India*, the Supreme Court issued detailed guidelines to protect the identity of child victims and held media owners jointly liable for any disclosure. Protection of privacy remains a cornerstone of judicial interpretation.

6. Case Studies Highlighting Implementation Challenges and Successes

- **Regional Variation:** Empirical studies reveal pronounced disparities in trial rates, reporting, and case outcomes across Indian states. For example, districts within the same state can record vastly different rates of case registration and trial advancement, driven by variable awareness, resources, and police/judicial motivation. Kinnaur in Himachal Pradesh and Kullu have such contrasting statistics, illustrating the localized nature of systemic challenges.
- **Delays and Low Convictions:** Case studies, notably from Bihar, confirm that while POCSO has improved reporting and survivor visibility, persistent issues like delayed trials, low conviction rates, and inadequate victim support impede the Act’s efficacy.
- **Successful Implementation:** Positive examples include the establishment of dedicated Special Courts for POCSO cases and state-level campaigns to raise public and institutional awareness. Where capacity-building and public engagement have been robust, reporting and support for survivors have improved steadily.

7. Critical Analysis of the POCSO Act

Strengths

- **Comprehensive, Gender-Neutral Coverage:** The Act is among the most robust pieces of protective legislation globally, criminalizing a wide array of sexual offenses against all children, irrespective of gender. Its definitions are explicit and it recognizes penetrative, non-penetrative, aggravated, and non-contact offences, filling critical legal gaps.
- **Child-Friendly Procedures:** POCSO mandates child-centric reporting, investigation, and trial processes, seeking to minimize secondary trauma and promote the best interests of the child.
- **Strict Presumptions and Punishments:** By shifting evidentiary presumptions and imposing mandatory minimum sentences, it reflects zero tolerance for child sexual abuse, aiming for greater deterrence.
- **Victim Protection:** The Act provides for in camera trials, protects the identity of survivors, and offers scope for compensation and rehabilitation.

Criticisms and Limitations

- **Over-Criminalization and Due Process:** Critics highlight that broad definitions can sometimes criminalize consensual adolescent relationships, especially in “romantic cases” where both partners are minors, or close in age. This has resulted in the prosecution (and sometimes incarceration) of youth in consensual relations, raising due process and rights concerns.
- **Implementation Gaps:** Massive pendency, investigative delays, poor quality of evidence, and inadequate judiciary/police sensitization undermine convictions and the prompt delivery of justice. Resources allocated to Special Courts and support services often remain insufficient or unevenly distributed.



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- **Gender Neutrality Debate:** While the Act is gender-neutral in prosecuting offenders, advocacy groups have highlighted its complexity in handling cases involving female or non-binary perpetrators and victims, and concerns regarding misuse. However, courts have consistently affirmed its neutral application.
- **Rehabilitation and Victim-Centric Gaps:** While POCSO lays out the framework for victim rehabilitation, actual compensation mechanisms, psychological support, and reintegration programs are inconsistent and often lacking effective execution, especially in rural areas.
- **Overlap with IPC:** The risk of double jeopardy remains, though higher judiciary guidance mitigates this by clarifying sentencing priorities.

8. Comparative Perspective: POCSO vs. International Laws

A global comparison situates POCSO among the more criminalization-focused regimes:

- **Criminalization vs. Preventive Approaches:** In contrast to India's strong criminalization and punitive focus, countries like Australia have adopted preventive, family-support-oriented frameworks, prioritizing child welfare and early intervention, alongside prosecution when warranted.
- **Privacy and Digital Protection:** The U.S. COPPA law is notable for its focus on protecting children's privacy in the digital sphere—a feature that POCSO does not fully address, though it criminalizes child pornography and online grooming. This signals the need for more explicit child safety measures in the online domain within the Indian context.
- **Holistic Welfare Models:** The United Kingdom's Children Act provides not only legal recourse but also holistic frameworks for the welfare of at-risk children, including abuse or neglect. These models suggest the potential benefits of supplementing criminal law with welfare and support structures for both children and families.

The judicial landscape and critical analysis reveal that while the POCSO Act marks a significant advance in Indian child protection law, its promise depends heavily on enforcement, ongoing judicial refinement, interlinkage with welfare systems, and adaptability to contemporary challenges, including digital age threats and evolving social norms.

Conclusion

The POCSO Act, 2012 stands as a pioneering legislative milestone in India's efforts to safeguard children from sexual offences. Its comprehensive, gender-neutral approach and child-centric procedural safeguards mark a significant evolution from prior fragmented legal provisions. The establishment of Special Courts and mandatory reporting mechanisms underscores the State's commitment to swift and sensitive justice delivery. However, the practical realities reflected in statistical data and judicial experiences reveal persistent implementation challenges, including low conviction rates, systemic delays, and inadequate rehabilitative support for victims. Over-criminalization concerns, especially relating to consensual adolescent relationships, indicate the necessity for nuanced legal interpretation and possible scope for reform. The Act's gender-neutral stance, upheld by courts, attempts to embrace evolving social understandings but also requires continued sensitization and balanced application. Comparatively, while POCSO's stringent criminal framework aligns with global efforts to combat child sexual abuse, there is scope to integrate broader welfare-based and preventive strategies—especially in the digital age—to address emerging threats comprehensively.

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