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IMPLEMENTATION OF THE POSCO ACT IN INDIA **CHALLENGES, JUDICIAL TRENDS AND THE NEED** **FOR REFORM**

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ABSTRACT

The Protection of Children from Sexual Offences Act, which is also known as the POCSO Act was made in the year 2012. This law is very important for protecting children in India. The main goal of the POCSO Act is to keep children from sexual abuse and harassment. The law says that people who hurt children should be punished severely. The POCSO Act also made special courts to try these cases quickly. In the year 2019 the law was made stronger. Now people who commit serious crimes against children can even get the death penalty. This shows that the government is serious about stopping child abuse. Even with this strong law there are many problems. Many cases are not reported because people are afraid of what others will think. The special courts that were made to try these cases do not have resources. The courts are also very busy. The police and lawyers are not trained well enough to handle these cases. This means that the cases take a time to finish. The POCSO Act is not working well as it should be. There are also problems, like false complaints and cases where teenagers are in a relationship with each other. It is also hard for children to prove that they were really abused. This paper looks at how the POCSO Act is working in India. It tries to find out what the main problems are and how they can be solved. The paper also looks at what other countries are doing to protect children. It tries to find out what India can learn from them. The paper gives some suggestions on how the law can be made better and how the courts and police can work effectively. The goal is to make sure that children who are hurt get justice quickly. The POCSO Act needs to be implemented in a way so that children in India are safe from sexual offences. The Protection of Children, from Sexual Offences Act should be used to protect children.

KEYWORDS: POCSO Act 2012, Child Sexual Abuse, Special Courts, Judicial Trends, Child Protection, Implementation Challenges, Legal Reform, India

1. Introduction

1.1 Background and Significance of the Study

Child sexual abuse is a serious crime that hurts kids a lot. It affects them physically emotionally and mentally for a time. Kids are very vulnerable because of their age and innocence. They need a lot of protection from the law. In India child sexual abuse is a problem. The old laws were not enough to stop it. So a new law was needed. Before 2012 cases of child abuse were handled under the Indian Penal Code, 1860. These laws were not good enough¹. They did not treat boys and girls equally. They also did not understand the ways kids are sexually abused. The laws did not make it easy for kids to go through investigations and trials. This meant many kids who were abused did not get the justice they deserved. The people who abused them often got away.

The Protection of Children from Sexual Offences (POCSO) Act 2012 was a change. It was made to follow India's promises under the United Nations Convention on the Rights of the Child². The Act made clear what sexual offences against kids are. It gave punishments for these crimes. The Act also made Special Courts to deal with these cases quickly. It made sure that kids are treated with care during investigations and trials. In 2019 the law was changed again. Now people who commit serious sexual abuse against kids can get the death penalty. This shows that the government is very serious about protecting kids from violence. The POCSO Act is very important for keeping kids safe. We need to study how it is working the problems it faces and what the courts are doing with it. This is important, for making sure India protects kids well.

1.2 Statement of the Problem

The POCSO Act is a law on paper but it does not work well when it is actually used. Every year many children in India are sexually. The numbers are going up. The National Crime Records Bureau keeps track of these numbers. They are very high. Even though many cases are reported not many people are punished for these crimes. There are also cases that are still

¹ The Indian Penal Code, 1860, Sections 375, 376 (rape), 354 (outraging modesty), and 377 (unnatural offences) were the primary provisions used before the POCSO Act came into force.

² India ratified the United Nations Convention on the Rights of the Child (UNCRC) on December 11, 1992. Article 34 of the UNCRC specifically obligates State parties to protect children from all forms of sexual exploitation and sexual abuse.

waiting to be heard in the Special Courts that were set up to deal with the POCSO Act. There are reasons why the POCSO Act is not working well. Many families are afraid to report abuse because they are worried about what people will think and they're also afraid of being treated badly again. This is especially true when the person who did the abuse is someone the family knows. The police and courts also do not have the resources they need to deal with these cases. They do not have people who are trained to investigate and prosecute these crimes and it takes a long time to get the results of forensic tests. The people who are victims of these crimes also do not get the help they need. The courts are also not consistent in how they interpret the law, which makes it hard to know what is right and wrong. This study wants to look at why the POCSO Act's not working well and find ways to make it better so that children who are victims of sexual abuse in India can get the justice they deserve. The POCSO Act needs to be implemented in a way that really helps child victims of offences, in India.

1.3 Objectives of the Study

This study is looking at the following things:

- * We want to take a look at the laws the important parts and the main points of the POCSO Act from 2012 and the changes made in 2019.
- * We need to find out what problems come up when we try to put the POCSO Act into action at the stages where we investigate, prosecute and go to court.
- * We will look at what the courts are doing now and how they are interpreting the POCSO Act by studying important decisions made by the Supreme Court and the High Court.
- * We will compare the laws that protect children in countries and see what India can learn from them.
- * We want to come up with ideas, for changing the laws the institutions and the policies so that the POCSO Act works better and children who are victims get the justice they deserve from the POCSO Act.

1.4 Research Methodology

This study is mainly about looking at the laws and rules that're already in place. The main information comes from the POCSO Act, 2012. Its amendment of 2019 as well as other laws like the Juvenile Justice Act and the Indian Evidence Act. We also looked at what the Supreme Court and other High Courts have decided and what the government has reported, including data from the NCRB and reports from standing committees.

We also read a lot of things that people have written about this topic like articles in journals

comments from lawyers, books and reports from non-governmental organisations. We even looked at what other countries like the United Kingdom, the United States and Australia're doing to protect children so we can see what works best and maybe use those ideas in India. The POCSO Act, 2012 and its amendment of 2019 are very important to this study. Throughout this study we tried to understand the laws and rules and figure out if they are actually working, not just what they say on paper. We want to know if the laws are effective, in practice the POCSO Act, 2012 and its amendment of 2019.

1.5 Scope and Limitations

The POCSO Act is what this study is about it is about how the POCSO Act's working in India from when it was made into a law up to now. This study is mainly looking at what the Supreme Court of India and the High Courts are doing with the POCSO Act and it is also looking at what is happening with policies and institutions, at the national level. The study is comparing how the POCSO Act is working in states to see if there are any differences. This study has some limits. It is not looking at crimes done by kids because those are covered by the Juvenile Justice Act of 2015. The study cannot get all the information it needs from the trial courts so it cannot look really closely at how the POCSO Act's working on the ground. Also a lot of child sexual abuse cases are not reported in India so the numbers might not be totally right. With these limits the study is trying to give a complete and fair picture of how the POCSO Act is working and what needs to be done to make it work better.

2. Understanding the POCSO Act, 2012

2.1 Historical Background and Legislative Intent

The protection of children from abuse is a very serious issue in India. For a time the Indian Penal Code, 1860 was used to deal with sexual offences against children. This included sections like 375, 376 which's about rape, 354 which is about outraging modesty and 377 which is about unnatural offences. But these laws had a lot of problems. They were not fair to all children they only talked about types of abuse and they did not do enough to help children who were abused. Because we did not have a law to protect children many children who were abused did not get the help they needed. Many groups and committees including the Law Commission of India and organisations that work for child rights said that we need a law that is just for children. When India agreed to follow the United Nations Convention on the Rights of the Child in 1992 it meant that the government had to make laws to protect children from abuse. The National Policy for Children, 2005 and the Protection of Human Rights Act, 1993 also said that we need

to do something to protect children. So the Protection of Children from Sexual Offences Act was made in 2012. It started being used on November 14 2012 which is Children's Day³. The main idea of this law is to protect children from abuse. The Protection of Children from Sexual Offences Act is a law that says what sexual offences against children are it gives strict punishments to people who abuse children and it makes sure that the court process is easy for children. The Protection of Children from Sexual Offences Act also created courts to deal with cases of child abuse quickly. The Protection of Children from Sexual Offences Act is an important law for children in India. The Protection of Children from Sexual Offences Act helps to make sure that children are safe, from abuse.

2.2 Salient Features of the POCSO Act

The POCSO Act 2012 is an important law that brought many new and important features to the way India protects its children. The main points of the POCSO Act 2012 are as follows:

- * The POCSO Act, 2012 is fair to all genders. It says that boys, girls and transgender children can all be hurt by crimes.
- * The POCSO Act 2012 clearly says what is a crime against a child. This includes things like when someone touches a child in a bad way or when someone makes a child do something sexual or when someone uses a child to make dirty pictures or videos.
- * The POCSO Act, 2012 gives punishments to people who hurt children. These punishments can be jail time from a years to a whole lifetime depending on how bad the crime was.
- * The POCSO Act 2012 says that if someone is accused of doing something bad to a child like touching them in a very bad way then that person is guilty until they can prove they did not do it.
- * The POCSO Act 2012 says that anyone who knows about a crime against a child must tell the police or other authorities. If they do not tell they can get in trouble too.
- * The POCSO Act 2012 makes sure that children are treated with care during investigations and trials. This means that a judge or someone important will talk to the child and someone the child trusts can be there too. The child will not be asked scary questions.
- * The POCSO Act 2012 says that there will be courts just, for cases involving children. This means that these cases will be heard quickly.
- * The POCSO Act, 2012 keeps the names of child victims secret. This means that nobody can

³ The Protection of Children from Sexual Offences Act, 2012 (Act No. 32 of 2012) was notified in the Official Gazette on June 20, 2012, and brought into force on November 14, 2012 (Children's Day) vide S.O. 2705(E).

tell anyone the name of the child who was hurt or they will get in trouble. The POCSO Act, 2012 is very important because it helps keep children from people who might hurt them. The POCSO Act 2012 is a law that says we must protect children from crimes.

2.3 Definition of Child and Sexual Offences Under the Act

The POCSO Act of 2012 says a child is anyone who's under eighteen years old⁴. This is a rule and there are no exceptions. If someone is under eighteen they cannot give consent and any kind of sexual activity with them is against the law no matter what the situation is.

The POCSO Act explains what kinds of offences are against the law. These include:

- * Sexual Assault, which is covered under the POCSO Act this is when someone puts a part of their body or an object into a child's private parts like their vagina, mouth or anus or makes the child do this to someone else. If someone does this they can go to jail for least seven years and they might even be in jail for their whole life⁵.
- * Aggravated Penetrative Sexual Assault, which is covered under the POCSO Act this is when someone in a position of power like a police officer or a family member commits sexual assault. The POCSO Act says this is a serious crime and the person can go to jail for at least ten years or even their whole life or they might even get the death penalty⁶.
- * Sexual Assault, which is covered under the POCSO Act this is when someone touches a child's parts or makes the child touch someone else's private parts but does not put anything inside. If someone does this they can go to jail for three to five years.
- * Aggravated Sexual Assault, which is covered under the POCSO Act⁷ this is when someone in a position of power commits assault. The POCSO Act says this is a crime and the person can go to jail for five to seven years.
- * Sexual Harassment, which is covered under the POCSO Act this is when someone says or does something to a child like making dirty comments or showing them bad pictures. If someone does this they can go to jail for up to three years.

⁴ Section 2(d) of the Protection of Children from Sexual Offences Act, 2012 defines "child" as any person below the age of eighteen years.

⁵ Section 3 and Section 4 of the POCSO Act, 2012 define and prescribe punishment for Penetrative Sexual Assault, with a minimum sentence of seven years extendable to life imprisonment.

⁶ Section 5 and Section 6 of the POCSO Act, 2012 (as amended in 2019) deal with Aggravated Penetrative Sexual Assault, with the 2019 amendment inserting the death penalty as the maximum punishment. See the POCSO (Amendment) Act, 2019.

⁷ Eera v. State (NCT of Delhi), (2017) 15 SCC 133 — The Supreme Court examined the definition of "penetrative sexual assault" and reinforced the need for a purposive interpretation of the POCSO Act in favour of child protection

* Use of Child for Pornographic Purposes, which is covered under the POCSO Act this is when someone uses a child to make pictures or videos. The POCSO Act says this is a crime and the person can go to jail for, up to five years and if they do it again they might get in even more trouble.

2.4 Special Courts and Child-Friendly Procedures

The POCSO Act has introduced something important. This is the Special Courts that will deal with cases under the POCSO Act. These Special Courts are made to make sure that cases involving children are handled quickly and with care. The POCSO Act says that we have to follow some rules to help children who are victims. We want to make sure that these children do not get hurt again during the process.

Here are some of the things we have to do:

- * We have to record what the child says. This has to be done by a police officer who's at least a Sub-Inspector. We have to do this in a place where the child feels safe and happy. We can do this at the child's home or somewhere the child likes. A parent or someone the child trusts has to be when we record the statement.
- * Sometimes we have to record the child's statement in front of a Magistrate. We can use a camera to record this so the child does not have to come to court times.
- * We have to do a check on the child. This has to be done by a doctor. A parent or someone the child trusts has to be when we do the medical check. We have to do this soon as possible.
- * When we are in court the judge can make sure that the child is not asked questions. The judge can also make sure that the child does not see the person who hurt them. The child can give evidence from another room or behind a screen. We cannot tell anyone the child's name in court.
- * We have to finish the trial. The POCSO Act says that we have to finish the trial within one year. This is so we can make sure that the child gets justice quickly. The POCSO Act and the Special Courts are very important, for children who're victims. The POCSO Act is helping to make sure that children are safe and get the help they need.

2.5 Role of Special Public Prosecutors

The POCSO Act knows how important it is to have prosecution to get justice for children who are victims. The POCSO Act has a section that says Special Public Prosecutors should be appointed to handle cases under the POCSO Act in Special Courts.

The Special Public Prosecutor has an important job in the POCSO justice system:

- * They have to present the child victims case in the Special Court ask witnesses questions and make sure all the evidence is given to the court in a way.
- * They have to protect the child's interests, which's different from regular public prosecutors who work for the government. The Special Public Prosecutor under the POCSO Act has to make sure the child victim does not go through trauma during the trial.
- * They help the Special Court understand how children think, how to deal with children who have been through trauma and what child witnesses are going through so the court can be kind and understanding.
- * They have to work with the police, Child Welfare Committees and other people who support the child to make sure the prosecution goes smoothly.

In real life the Special Public Prosecutors have had a lot of problems like not getting enough training having too many cases and in some places they have to handle both regular cases and POCSO cases, which is not what the POCSO Act intended because the POCSO Act wanted a special prosecutor just, for child sexual offence cases.

2.6 Amendments to the POCSO Act (2019)

The POCSO Act was changed in 2019 by the Parliament of India. The President agreed to it on August 5 2019⁸. This change happened because people were really upset about the bad things that were happening to children. People thought the punishments for these things were not strong enough to stop them from happening.

The big changes that the 2019 Amendment made are these:

- * The POCSO Act now says that people who do bad things to children can get the death penalty. This is a change. Before the worst punishment was life in prison. The government wanted to make sure that people who do bad things to children get the strongest punishment possible.
- * Now people who do things to children will get a longer time in prison. Before they would get least seven years in prison. Now they will get least ten years in prison. The maximum punishment is still life in prison.
- * The POCSO Act now says what child pornography is and it makes punishments stronger for people who have or share child pornography. It also says that people who know about child pornography and do not report it or get rid of it will get in trouble.

⁸ The Protection of Children from Sexual Offences (Amendment) Act, 2019 (Act No. 25 of 2019) received Presidential assent on August 5, 2019, and came into force on August 16, 2019 vide S.O. 2932(E).

* New parts were added to the POCSO Act to deal with people who give children things to make them grow up too fast. This is a bad thing that people do to children.

* The POCSO Act now says that if someone does a thing to a child during a natural disaster it is an even worse crime. They will get a punishment.

Many people think the 2019 Amendment, to the POCSO Act is a thing because it helps keep children safe. Some people do not think it is a good idea to have the death penalty. They think it might make it harder for people to report things that happen to children. They also think it might be harder to convince judges and juries to punish people who do things to children. These are things to think about when we try to make laws to keep children safe. We need to think about all the ways we can help children not about punishing people who do bad things. The POCSO Act and the changes made to it are important because they help us think about how to keep children from people who do bad things to them.

3. Implementation of the POCSO Act in India

3.1 Institutional Framework for Implementation

The POCSO Act of 2012 is a law that needs different groups to work together to make sure it is enforced properly. These groups include government agencies, courts and organizations that help children. They all work together at the state and district levels. The Ministry of Women and Child Development is the group in charge of making sure the POCSO Act is enforced all over the country. They make rules give guidelines and check on the courts to make sure they are doing their job. They also work with state governments to make sure children are protected. The National Commission for Protection of Child Rights is another group that helps make sure the POCSO Act is enforced. They check on how the law's working look into complaints and give suggestions to the government on how to improve. At the state level there are State Commissions for Protection of Child Rights that do work. They make sure the POCSO Act is enforced in their state. The state governments are also responsible, for setting up courts and hiring special prosecutors. They also provide help to child victims, like shelter homes and counselling. At the district level there are District Child Protection Units that make sure everything runs smoothly. They collect data make sure child victims get help and coordinate all the activities. The Child Welfare Committees and Special Juvenile Police Units are very important because they are the ones to respond when a case of child sexual abuse is reported. With all these groups working together there is still a big problem. The POCSO Act is not being enforced well as it should be. There are not people working not enough money and the

groups are not working together well. Many people do not even know about the POCSO Act, which makes it hard to enforce. The POCSO Act needs to be enforced to help child victims. The POCSO Act is a law but it needs to be implemented better.

3.2 Role of Police, Child Welfare Committees and SJPU

The Police, the Special Juvenile Police Units and the Child Welfare Committees are the three institutions that handle cases under the POCSO Act. Each of these institutions has a job to do in the POCSO justice delivery process.

The Police are the people that you go to when you want to report a case under the POCSO Act. When the Police get a complaint they have to write down all the details in a report called the First Information Report. They have to do this away without any delay. The Police also have to talk to the child who was hurt in a way that's easy for the child to understand. They have to make sure the child gets help right away. The Police have to take the child to the Child Welfare Committee within twenty-four hours.

The POCSO Act says that anyone who knows about an offence against a child has to report it to the Police. This includes the Police themselves. The Police have not been doing a very good job in handling POCSO cases. Times they do not want to write down the report. They do not handle the child and the child's family in a way. They do not know how to investigate cases that involve children. They take a time to finish the investigation.

The way the Police treat the child who was hurt can decide whether the child gets justice or not. This is especially true when the person who hurt the child is a family member.

The Special Juvenile Police Units are teams within the Police department. They are trained to handle cases that involve children. These teams are supposed to be the Police unit that handles cases of child sexual abuse. The officers in these teams are supposed to know about child psychology and how to talk to children in a way that's easy for them to understand. In reality these teams do not have enough staff. The officers are not trained well. They do not have resources. They have to handle cases of children who have done something as well as cases of children who have been hurt. This is a big job and they often do not do it well. Many places in the country do not have these teams. Even when they do exist the officers do not know how to handle cases of child sexual abuse.

The Child Welfare Committees are very important in the POCSO framework. When the child who was hurt is taken to the Committee they have to figure out what the child needs. They have to make sure the child is safe. They have to order the kind of care and protection for the child. They have to appoint a person to help the child throughout the process. The Committee also

has to decide whether the child should be sent to a shelter home or can go back, to the family. This is especially true when the person who hurt the child is a family member.. The Committees are facing many problems. They do not have members. They do not have the infrastructure. The members are not trained well. They have many cases to handle and they cannot give enough attention to each case.

3.3 State-wise Implementation: A Comparative Overview

The POCSO Act is implemented in ways across various states in India. This is because the states have resources and infrastructure. Some states have the money and the people to do a job while others do not. If we look at how each state's doing we see a very uneven picture.

Maharashtra is doing a good job with the POCSO Act. They have set up courts just for these cases and have appointed special prosecutors. They also have One Stop Centres to help child victims.. Even with all these efforts there are still a lot of cases that are pending and not many people are being convicted.

Delhi being the capital has a lot of POCSO cases. They have courts for these cases and the Delhi High Court is trying to speed up the process. They have made some decisions about the POCSO Act. However there are too many cases and it is taking a long time to deal with them all.

Uttar Pradesh has a problem with POCSO cases. They have a lot of cases and not enough special courts. They also do not have trained investigators and prosecutors. This makes it hard for them to do a job.

Kerala is doing a job. They have a conviction rate and a better system to protect children. They have trained their police officers and judges to be more sensitive to children's needs. They also have support for child victims.

Rajasthan and Bihar are not doing well all. They have a lot of POCSO cases and not enough is being done to help the children. There is also a lot of stigma, around these cases so people are not reporting them. The courts and the prosecutors are not doing a job.

The POCSO Act is the POCSO Act. It should be implemented in the same way everywhere. The government should give the states the money and the help they need to do a job. They should also check regularly to make sure everything is working properly. The POCSO Act is the POCSO Act. It is very important that it is implemented well.

3.4 Data and Statistics on Reported Cases

The National Crime Records Bureau has released some worrying information about child

sexual abuse in India. This information shows that the problem of child abuse is very big in India and it is hard to get justice for the children who are abused. The number of cases of child abuse that are reported to the police has been going up every year since 2012. In 2017 there were 32,608 cases of child abuse reported. By 2019 this number had gone up to 47,335 cases. That is an increase of 45 percent in just two years⁹.

In 2020 the number of cases went down a bit to 47,221 cases. This was probably because of the COVID-19 pandemic, which meant that people were staying at home more and there were people out and about to report cases of abuse. The pandemic also meant that children were more vulnerable to abuse at home.

By 2022 the number of cases had gone up again. This is because more people are reporting cases of abuse and also because there are cases of abuse happening. Some states in India have a lot of cases of child abuse. These states are Uttar Pradesh, Maharashtra, Madhya Pradesh, Tamil Nadu and Delhi. These five states have a lot of cases of child abuse and this is very worrying. The problem is even bigger than the numbers show. Many cases of child abuse are not reported to the police. This is because people are afraid of what others will think or they're afraid of the person who abused them. Sometimes the person who abused the child is someone who the child and their family know and trust. It is also very hard to get a conviction in cases of child abuse. Even though many cases are reported to the police not many people are found guilty¹⁰. The National Crime Records Bureau says that about 32 to 38 percent of cases end in a conviction. This means that most people who are accused of child abuse are not found guilty. This is because the police do not always investigate cases properly and sometimes there is not evidence to prove that the abuse happened. Sometimes the people who are supposed to be witnesses do not want to testify. The trials are delayed. Sometimes the families of the children who were abused do not want to pursue the case because they are afraid of what others will think. The POCSO Act is a law that is supposed to protect children from abuse.. It is not working very well. The child sexual abuse cases are still very high. The conviction rates are still very low. The POCSO Act needs to be enforced so that children can be safe. The POCSO justice delivery system needs to be improved so that more people who abuse children are found guilty and punished.

The POCSO Act and the National Crime Records Bureau data show that child sexual abuse is

⁹ National Crime Records Bureau (NCRB), Crime in India Reports (2017–2022), Ministry of Home Affairs, Government of India. Available at: <https://ncrb.gov.in>

¹⁰ NCRB, Crime in India 2022, Chapter on Crimes Against Children, Table 7A. The conviction rate under the POCSO Act has consistently ranged between 32–38% over recent years.

a problem in India. The POCSO Act and the data also show that it is hard to get justice for children who are abused. We need to keep trying to make things better, for children. We need to make sure that the POCSO Act is working properly and that children are safe. The POCSO Act and the child rights experts are working together to try to solve this problem.

3.5 Pendency of Cases and Delays in Trial

The POCSO Act is an important law but it is facing a big problem. This problem is that many cases are pending in the Special Courts. It is taking a long time to finish the trials. The POCSO Act says that the trial of offences under this Act must be completed within one year from the date of taking cognisance of the offence. In reality this is not happening. The National Crime Records Bureau data shows that the number of cases pending trial under the POCSO Act is much more than the number of cases that are being solved in a year. As of 2022 there were over three lakh cases pending trial under the POCSO Act in the country. This is a big number and it shows that the Special Courts are not able to handle the volume of cases. In some states the POCSO cases have been pending trial for three to seven years. This is very sad because the Special Courts were made to give justice. The main reasons for this backlog are many. One reason is that there are not Special Courts. Many states have made the existing sessions courts as Special Courts under the POCSO Act. They have not made separate and dedicated POCSO courts. This means that the POCSO cases have to compete with criminal cases for the courts time and attention. Another reason is that the investigation and filing of charge sheets are taking a time. The police in states are not completing the investigation and filing charge sheets on time which is causing more delays. The POCSO cases also get delayed because of adjournments. Sometimes the defence counsel asks for adjournments. The courts give them without checking properly. The POCSO Act is also facing a problem because of the availability and examination of witnesses. The child witnesses and their families are often not willing to come to the court times over a long period.

Sometimes the witnesses become hostile during the trial because they are scared or they are pressurized by their family. The POCSO Act cases are very sensitive. The delay in the trials is causing a lot of harm to the child victims. The child victims have to relive their experience times over many years, which is causing them a lot of trauma and psychological distress. The delay is also making the witnesses hostile. The evidence is becoming old. The accused persons are also getting bail for a time, which is enabling them to intimidate the victims and the witnesses. The Supreme Court of India has expressed its concern about the pending POCSO cases times. The Supreme Court has given directions to the High Courts to monitor the

functioning of the Special Courts and to make sure that the cases are solved quickly. The Central Government has also started a scheme to make Fast Track Special Courts for the POCSO cases. As of 2023 over 400 such courts have been made.

There is still a big gap between the number of courts and the volume of cases. The POCSO Act needs efforts to reduce the pendency of cases, across India. The POCSO Act is an important law and it needs to be implemented properly to protect the child victims. The POCSO cases need to be solved so that the child victims can get justice.

4. Challenges in Implementation

4.1 Low Reporting and Social Stigma

The Protection of Children from Sexual Offences Act also known as the POCSO Act is a law that is supposed to protect children from abuse. There is a big problem. A lot of child sexual abuse cases are not reported to the police. The POCSO Act has a lot of rules to protect children but many people do not report these crimes.

One reason for this is that people feel ashamed or embarrassed to talk about abuse. In India people often care more about what others think of them than about getting justice. So many families do not report these crimes to the police. They try to solve the problem on their own of going to court. It gets even harder when the person who is abusing the child is someone they know like a family member, neighbour or teacher. The child might be scared to tell anyone because they are afraid of what might happen. They might also feel like nobody will believe them. Children are often not brave enough to talk about what happened especially if the person who abused them is threatening them. Not many people know about the POCSO Act in rural areas and poor communities. This means that not many people report these crimes. When people do not report these crimes it means that the people who are doing these things are not punished. This goes against what the POCSO Act's trying to do which is to keep children safe, from sexual abuse.

4.2 Inadequate Infrastructure of Special Courts

The POCSO Act is supposed to help set up Special Courts that make sure cases about things happening to children are handled quickly and in a way that is good for the children. The main reason for having these Special Courts is to make things happen faster reduce the feelings the children have to go through and make the court a more supportive place for them. In real life making this happen has been very hard because many places do not have the right buildings or

equipment.

A lot of these Special Courts have many cases to handle which causes big delays in figuring out what to do. In some cases regular courts are just called Special Courts without getting any help trained people or making the place comfortable for children. When there are no rooms for waiting, no way to talk to people over video no one to counsel the children and not enough people to support them the children can feel very stressed and scared in court. This can make them not want to be part of the court process.

When cases take long to be solved it hurts the children who were hurt. It also makes the evidence not as good. People who saw things might not be available anymore memories can. The children can lose faith in the system that is supposed to help them. So not having enough court buildings and equipment is a big problem that stops the POCSO Act from working well and makes sure children get help when they need it. The POCSO Act and the Special Courts are very important for children and the POCSO Act is supposed to help children. The delays and the problems, with the courts are making it hard for the POCSO Act to work.

4.3 Lack of Trained Investigators and Prosecutors

The POCSO Act can only be successful if the police officers and prosecutors and medical professionals and judicial officers who handle these cases are good at their jobs and care about what they do. The POCSO Act knows that children who are victims are very vulnerable so it says that we have to be very careful when we investigate and go to trial. The problem is that a lot of the people who are supposed to be helping do not get the training they need to do their jobs well. When the police are trying to figure out what happened they often have a time talking to the child victims in a way that helps the case and does not hurt the children. Sometimes the children get asked the questions over and over again and this makes them feel even worse. If the police do not do things right when they are talking to the children and collecting evidence it can make it harder to prove that a crime was committed and the bad guy might not get in trouble. The prosecutors who are, in charge of the POCSO cases might not know everything they need to know about children. How they feel when they have been hurt. They might not know how to help the children or how to get the evidence they need to prove that a crime was committed. This is because they do not get to go to classes to learn about these things. The police and the prosecutors and the doctors and the people who help the children all need to work better so that the children can get the help they need. We need to make sure that all of these people get the training they need so that the POCSO Act can really work. The POCSO Act is very important. We need to make sure that everyone who is involved with the POCSO

Act is doing their job well.

4.4 Evidentiary and Procedural Challenges

The POCSO Act is facing another problem with evidence and the way things are done. When kids are sexually abused it usually happens in private. There are no other people around to see it. So the child who was abused is an important part of the case against the person who did it. It can be hard to get the child to tell what really happened because they might be scared, hurt, confused or really upset. A lot of kids do not tell anyone about what happened away because they are afraid of the person who abused them or they do not want people to know. This can cause problems because important evidence from doctors and scientists might be lost, making it harder to prove that the person who did it is guilty. Sometimes kids might say things that do not match up because they are really upset not because they are lying. Even so these problems with what they say can be used to question whether they are telling the truth or not. There are also a lot of delays in the process. It can take a time to do medical exams analyze evidence and have court hearings. All of these delays can make it harder to prove that the person who did it is guilty. There are not labs to test evidence and not enough experts to help which also causes delays. The courts have to make sure that the person who is accused is treated fairly. They also have to protect the kids who were abused. This can be very complicated and hard to do. The judges have said times that they need to think about what is best for the kids when they are looking at evidence in POCSO cases. Even with this it is still hard to get convictions because of problems with evidence and the way things are done. To really protect kids from abuse we need to make some changes to the way things are done use new technology and give more support to the people who are helping the kids. The POCSO Act needs to be able to work to protect children from sexual offences. The POCSO Act is very important, for children who have been sexually abused. We need to make sure it works well for the POCSO Act to help these children.

5. Judicial Trends Under the POCSO Act

5.1 Landmark Supreme Court Judgments

The Protection of Children from Sexual Offences Act also known as the POCSO Act was made into a law in 2012. Since then the Supreme Court of India has been very important in making sure this law is used correctly to protect children from offences. The Court has given judgments that have helped make the law clearer and stronger.

The Supreme Court of India has given judgments that focus on the child who has been hurt. They want to make sure the POCSO Act is used in a way that really helps children. One big decision was the *Eera v State* case. In this case the Supreme Court of India looked at what the words "aggravated sexual assault" mean in the POCSO Act. They said that when we interpret the POCSO Act we must think about how it can protect children.

The POCSO Act is a law that is supposed to keep children safe from people who want to hurt them in a sexual way. So we have to interpret the POCSO Act in a way that helps children. Another important decision was the *Alakh Alok Srivastava v Union of India* case. In this case the Supreme Court of India told all the states and union territories to set up courts to deal with cases under the POCSO Act. They also told them to make sure that children who have been hurt get all the help they need¹¹.

The Supreme Court of India is worried that it is taking long to decide these cases. They want to make sure that children feel safe and comfortable when they are in court. In the *Satish Ragde v State of Maharashtra* case the Supreme Court of India made a decision. This case is also known as the Skin-to-Skin Contact Case. The Supreme Court of India said that you do not need to have skin contact to say that someone has been sexually assaulted under the POCSO Act¹². The Supreme Court of India wants to make sure that the POCSO Act is used in a way that really protects children from people who want to hurt them. The POCSO Act is a law that is meant to keep children safe. The Supreme Court of India has made decisions that show they are committed to making sure the POCSO Act is used to protect children. The Protection of Children from Sexual Offences Act or the POCSO Act is very important, for keeping children safe.

5.2 Significant High Court Decisions

High Courts in India have played a role in developing the law related to the POCSO Act. They have helped to solve problems and legal issues that come up when the Act is put into practice. These court decisions have made things clearer about what procedures need to be followed what kind of evidence is needed and what rights child victims have.

The Bombay High Court has made some decisions about what constitutes sexual assault under the POCSO Act. At first some of these decisions were too narrow. Later on the courts took

¹¹ *Alakh Alok Srivastava v. Union of India*, (2018) 17 SCC 291 — The Supreme Court directed all states and Union Territories to set up exclusive Special Courts under the POCSO Act and ensure victim support services.

¹² *Attorney General for India v. Satish and Another*, (2021) 5 SCC 1 — The Supreme Court overruled the Bombay High Court's controversial "skin-to-skin contact" ruling, holding that physical contact does not require direct skin-to-skin touch to constitute sexual assault under Section 7 of the POCSO Act.

another look and the Supreme Court got involved to make sure the law was being used the way it was meant to be.

The Delhi High Court has said over and over that it is very important to protect the privacy and dignity of child victims when they are being investigated and when their cases are being tried. The court has told the people in charge that they need to keep things and not reveal the victims identity unless they absolutely have to, which is what the law says they should do.

The Madras High Court has looked at what happens when two teenagers are in a relationship and whether they should be prosecuted under the POCSO Act. The court has said that even though protecting children is the important thing the courts need to look very carefully at each case to make sure the law is not being misused.

Other High Courts, like the Kerala High Court have also helped to develop the law related to the POCSO Act particularly when it comes to what evidence's needed how to determine a child's age and what procedures need to be followed. All of these decisions together have helped to shape how the POCSO Act is actually used and have guided courts in how to handle cases involving child victims.

5.3 Judicial Interpretation of "Penetrative" and "Non-Penetrative" Assault

The POCSO Act is really important when it comes to figuring out what is non-penetrative sexual assault. The Act has clear definitions of these crimes so that kids are fully protected from all kinds of sexual abuse. When judges are deciding if something is sexual assault under Section 3 of the POCSO Act they look at the purpose of the law. They have said that even if it is a little bit of penetration it is still a crime and you do not need to have complete penetration. This is in line with what the lawmakers wanted which is to keep kids from all kinds of sexual exploitation. For -penetrative sexual assault under Section 7 of the POCSO Act judges have made it clear that it is not just about touching the kids body. They have said times that if someone does something with a sexual intention that violates a kids bodily integrity and dignity it can be considered sexual assault. The Supreme Court said that you do not need "skin-to-skin" contact, which made this rule even stronger and protected kid victims more. Judges also know that figuring out if someone had intentions is often something that depends on the facts of each case. They look at things like what the accused person did what kind of act it. What was happening around them to decide if it is a crime under the POCSO Act. These decisions have made the POCSO Act protect kids more and have stopped people from interpreting the law in a way that is too technical and does not achieve its goals. The POCSO Act and its interpretations are very important, for protecting kids from abuse.

5.4 Age Determination and Medical Evidence

The age of the victim is an issue in POCSO cases. This is because the POCSO Act only applies if the victim is under eighteen years of age. Often courts have to deal with disagreements about the victims age. This happens a lot in cases where the victims are teenagers and are in a relationship. It also happens when there are no documents to prove the victims age.

Courts have decided that they should usually trust documents like birth certificates, school records and matriculation certificates to determine the victims age. Medical tests and ossification tests are used as evidence. They are only used when there are no documents to prove the victims age. Courts know that medical tests to determine age are not always accurate. They can be wrong by a bit. Medical evidence is also important in proving that a sexual offence happened under the POCSO Act. However courts have said times that just because the victim does not have any physical injuries it does not mean that the victim is lying. Children who are victims of abuse may not always have injuries. This is especially true if the abuse happened a time ago or if it was not violent. The Supreme Court and other High Courts have said that the testimony of a child victim can be enough to convict someone even if there is no evidence to back it up. This is only if the child's testimony is believable and trustworthy. This way people who commit these crimes cannot get away with it just because there is no evidence. Courts are trying to find a balance between getting evidence and making sure that child victims get justice under the POCSO Act. They are doing this through their decisions. The POCSO Act is very important, for child victims. The age of the child victims is a part of the POCSO Act. The POCSO Act is meant to protect child victims¹³.

6. Conclusion

The Protection of Children from Sexual Offences Act also known as the POCSO Act is an important law that was made in 2012 to stop child sexual abuse in India. This law gives an idea of how to prevent, report and punish people who commit sexual offences against children. It also makes sure that children are treated with care and respect during the process. Through this study it is clear that the POCSO Act has made a difference in protecting children and making people aware of child sexual abuse and the rights of victims. There are many problems that stop the POCSO Act from working properly. Many people are afraid to report these crimes

¹³ National Crime Records Bureau (NCRB), Crime in India (Annual Reports 2012–2022), Ministry of Home Affairs, Government of India. The data reveals a consistent year-on-year increase in registered POCSO cases, reflecting both an increase in incidents and improved reporting.

because they are scared of what others will think or say. They are also afraid of revenge. Some people do not even know about the law. The police and courts take a time to investigate and decide on these cases. We do not have special courts or trained police officers and lawyers to handle these cases. This makes it hard to implement the law. Sometimes it is hard to get proof or figure out how old the child is. These problems come up when the court is deciding on POCSO cases. The courts have played a role in making sure the POCSO Act works well. Judges have made decisions that help children and explain the law clearly. These decisions have helped protect children. Made sure their rights are respected. The judges have also made it clear that we need to prioritize the well-being and dignity of child victims. They have stopped people from interpreting the law in a way that could harm children.

In conclusion the POCSO Act is a tool to stop child sexual abuse but it will only work if it is implemented properly. We need to make people aware of the law improve the police and court system, train professionals and make sure trials happen quickly. We all need to work including the government, courts, police, schools and society to create a safe place for children where they can live with dignity and be protected from all forms of sexual abuse. The POCSO Act and its implementation are crucial for the Protection of Children, from Sexual Offences.



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