



Laws Governing The Protection Of Children In India:- A Critical Analysis

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Abstract - The present study conducted by the researcher investigates the laws governing the protection of children in India. Day by day, the children in our country are becoming vulnerable to sexual abuse. Be it a sexual assault, a penetrative sexual assault or an aggravated penetrative sexual assault, the laws provide for stringent penalties to the accused on one hand and child welfare programmers for the prevention of further victimization of the child on the other hand.

It is pertinent to note that as far as child exploitation is concerned, it is mostly the member of the family or a relative of the child that exposes him or her to the grave social evils such as slavery, trafficking, sexual abuse, substance abuse, child labor, child prostitution, child pornography etc.

Mention must be made of the fact that apart from the extreme penalties provided against the accused, the presiding officers, the judges, the prosecutors, the private advocates as well as the panel of child welfare group are also required to go through a compulsory induction training and sensitisation programmes in order to procure awareness about the causes, extent and measures to curb such heinous offences and promote the preservation of childhood in India.

Keywords:- child, abuse, exploitation, protection of children, POCSO, sexual abuse, sexual assault, slavery, trafficking

INTRODUCTION

Child sexual abuse is a deeply disturbing issue in India, with devastating impacts on victims, their families, and society as a whole. The frequency and severity of child rape cases necessitate strict legal frameworks to ensure justice for victims and to deter offenders. India's Protection of Children from Sexual Offences (POCSO) Act, enacted in 2012, was created specifically to address these crimes. It aims to protect children from sexual abuse, sexual harassment, and pornography, while providing a victim-sensitive process in cases of sexual

offenses against children.

The POCSO Act represented a landmark change in India's legal approach to child protection. The Act expanded the definitions of sexual abuse, provided clearer classifications for offenses, and established stringent punishments to ensure accountability. A crucial feature of the POCSO Act is that it mandates reporting of child sexual abuse, holds individuals responsible for failing to report, and prescribes a systematic framework for the medical examination and counseling of victims. Additionally, the Act calls for the establishment of Special Courts to expedite trials and secure justice for young victims swiftly and effectively.

However, despite its groundbreaking nature, the POCSO Act has faced criticism on several grounds. Critics point out procedural challenges in its implementation, delays in case processing, and the impact of stringent laws on consensual relationships among adolescents. Moreover, cases of wrongful allegations, evidentiary limitations, and the psychological toll on child victims undergoing legal processes raise significant concerns about the effectiveness of the Act in its present form.

This critical study of the POCSO Act aims to delve into the law's strengths, limitations, and impact on society, highlighting areas where further refinement is needed to achieve its intended goals fully. Through an analysis of case studies, judicial interpretations, and statistical trends, this research endeavors to assess whether the POCSO Act is fulfilling its purpose and explore how it could be improved to better protect children in India from sexual offenses.

Rape Victim Under PocsO

Under the Protection of Children from Sexual Offences (POCSO) Act, 2012, a rape victim is any child under 18 years who has been subjected to penetrative or aggravated penetrative sexual assault. The Act was enacted to provide comprehensive protection to children from sexual abuse, ensuring strict punishment for offenders and a victim-centric legal process. It criminalizes all forms of sexual exploitation of minors and removes the factor of consent, making any sexual activity with a child an offense. The Act mandates the immediate reporting of cases and provides for medical care, psychological counseling, and rehabilitation for victims. It ensures child-friendly procedures during investigation and trial, such as in-camera proceedings, no direct interaction with the accused, and the presence of a trusted person during testimony. The law also mandates a speedy trial, with cases required to be resolved within one year to ensure timely justice. Additionally, the statement of the child is given legal weight, and courts presume it to be true unless proven otherwise, shifting the burden of proof to the accused. Through these provisions, the POCSO Act aims to safeguard child victims, protect their dignity, and ensure that justice is delivered with sensitivity and care.

Abused

Under the Protection of Children from Sexual Offences (POCSO) Act, 2012, child abuse includes any form of sexual assault, harassment, or exploitation of a minor (below 18 years). The Act categorizes abuse into penetrative and non-penetrative offenses, ensuring strict punishment for offenders. It criminalizes acts such as inappropriate touching, showing pornography, and sexual advances, regardless of the child's consent. The law mandates child-friendly investigation and trial procedures, including in-camera hearings and protection from re-traumatization. It also requires mandatory reporting of abuse and provides medical, psychological, and rehabilitation support for victims. By prioritizing the child's safety and well-being, POCSO ensures a strong legal framework to combat sexual abuse and exploitation.

Exploitation.

Under the Protection of Children from Sexual Offences (POCSO) Act, 2012, sexual exploitation of a child includes any act of using a minor (below 18 years) for sexual purposes, including pornography, prostitution, or other forms of abuse for personal or commercial gain. The Act criminalizes activities such as filming, distributing, or possessing child sexual abuse material, trafficking children for sexual purposes, and coercing or inducing a child into sexual acts. It provides stringent punishments to offenders and ensures child-friendly legal proceedings to protect the victim's rights. The law also mandates the rehabilitation and psychological support of victims, reinforcing a strong legal framework to safeguard children from all forms of sexual exploitation.

Protection of Children

Under the Protection of Children from Sexual Offences (POCSO) Act, 2012, sexual exploitation refers to the abuse of a child (below 18 years) for sexual purposes, including involvement in pornography, trafficking, or any form of commercial sexual abuse. The Act criminalizes activities such as using children for creating or distributing obscene content, forcing them into sexual acts for monetary or

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Sexual Assault

Under the Protection of Children from Sexual Offences (POCSO) Act, 2012, sexual assault refers to any non-penetrative sexual act committed against a child (below 18 years) with sexual intent. As per Section 7, it includes physical contact without penetration, such as inappropriate touching or fondling. The Act also recognizes aggravated sexual assault under Section 9, which applies when the offender is in a position of authority, the child is mentally or physically disabled, or the assault causes serious harm. The law mandates strict punishment, with imprisonment ranging from three to five years for sexual assault and stricter penalties for aggravated offenses. It also ensures child-friendly legal proceedings, prioritizing the victim's safety, rehabilitation, and psychological well-being.

Slavery

The Protection of Children from Sexual Offences (POCSO) Act, 2012 does not explicitly mention slavery, but it criminalizes the sexual exploitation and trafficking of children, which are often linked to modern forms of slavery. Using a child (below 18 years) for sexual purposes, including forced prostitution, pornography, or trafficking for sexual exploitation, is a serious offense under the Act. Such cases may also be covered under the Immoral Traffic (Prevention) Act, 1956 and Section 370 of the Indian Penal Code (IPC), which criminalize trafficking and forced labor. POCSO ensures strict punishment for offenders, provides child-friendly legal procedures, and mandates rehabilitation and psychological support for victims to protect them from further harm and ensure justice.

Objective of the Study

This study basically attempts to bring out a clear picture of the pocso act victims in India through a review mechanism. The core objective of the study can be categorised as following:

1. To identify the various cases of pocso act in India from 2011 – 2021.
2. To study various causes of pocso act.
3. To identify the rights of pocso act victims in India.

Methodology Used:

The present study is descriptive in nature as it is only based on explaining the facts already existing. The data is usually secondary in nature which is collected from various reports, journals, blogs, articles etc. to bring out the various reviews and efforts in the said field.

The Protection of Children from Sexual Offences (POCSO) Act, 2012 was enacted to address the increasing cases of child sexual abuse in India. The main causes behind the need for this law include:

Right of victim under Pocso act

1. Rising Cases of Child Sexual Abuse – There was a growing number of sexual crimes against children, but no dedicated law to address them.
2. Lack of Child-Centric Laws – Existing laws like IPC were not enough to specifically protect minors from sexual offenses.
3. Low Reporting Due to Social Stigma – Many cases went unreported due to fear, shame, or lack of awareness.
4. Gaps in the Legal System – No clear definitions of offenses like sexual harassment, assault, or pornography involving children.
5. Need for Child-Friendly Procedures – Victims often faced insensitive questioning and legal processes, making justice difficult.
6. Rise in Online Exploitation – With the internet, cases of child pornography and online abuse increased, requiring stricter laws.
7. International Obligations – India needed a strong law to comply with international treaties like the UN Convention on the Rights of the Child.

POCSO was introduced to ensure strict punishment for offenders, special protection for children, and a faster trial process to prevent and tackle child sexual abuse effectively.

A victim under the Protection of Children from Sexual Offences (POCSO) Act, 2012 has several rights to ensure their safety, dignity, and justice. These include:

1. Right to Protection & Privacy

The victim's identity cannot be disclosed (Section 23).

Statements should be recorded in a child-friendly manner, preferably by a female police officer.

2. Right to Free Legal Aid & Support

The victim has the right to free legal aid through the Legal Services Authority.

A support person (NGO/social worker) can assist the child during proceedings.

3. Right to Speedy & Child-Friendly Trial

Special courts must complete trials within one year (Section 35).

The child should not be called repeatedly to testify

4. Right to Medical Assistance

Immediate free medical care must be provided (Section 27).

The medical examination should be conducted in the presence of a parent or trusted person.

5. Right to Compensation

Victims are entitled to compensation for medical expenses, rehabilitation, and loss of education.

6. Right to Rehabilitation

The child has the right to counseling and psychological support.

State authorities must ensure proper rehabilitation.

The POCSO Act ensures that child victims are treated with sensitivity and dignity, focusing on their healing and justice.

Conclusion:-

The Protection of Children from Sexual Offences (POCSO) Act, 2012 is a landmark legislation aimed at addressing and preventing sexual crimes against children in India. It provides a comprehensive legal framework with clear definitions of offenses, stringent punishments, and a child-friendly judicial process. The Act ensures the protection of the victim's identity, access to free legal aid, medical assistance, and rehabilitation, reinforcing the importance of child welfare. Despite these provisions, challenges such as delayed trials, low reporting due to social stigma, and gaps in law enforcement continue to hinder its effectiveness. Strengthening awareness, enhancing law enforcement training, and ensuring a more efficient judicial process are essential to achieving the Act's objective of a safe and just environment for children. The success of POCSO depends not just on legal provisions but also on social responsibility, education, and community participation in preventing child sexual abuse.

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