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Justice for the Voiceless: Evaluating the Efficacy of Criminal Justice Mechanisms in Combating Child Sexual Abuse

Article History:**Name of Author:**

Dr. Arun Kumar Singh¹, Dr. M. Madhuri Irene²,
Praneeta Jha³, Mr. Bishnanand Dubey⁴

Affiliation:

¹Professor, ICFAI Law School, ICFAI University, Dehradun.

²Associate Professor, ICFAI Law School, ICFAI University, Dehradun

³Independent Reseracher, L.L.M. (Corporate Law) ICFAI Law School, ICFAI University, Dehradun.

⁴Assistant Professor, TMCLLS, Teerthanker Mahaveer University, Moradabad.

Corresponding Author:

Dr. M. Madhuri Irene

madhuriirene@ifheindia.org

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Abstract: This essay provides a critical assessment of whether criminal justice mechanisms in India especially the Protection of Children from Sexual offences Act are effective in dealing with child sexual abuse. It also does a comparative review of other legal systems of the world to determine gaps and provide suggestions on the areas of improvement on victim support, procedural protection, and punishment against offenders. Moreover, it summarizes evidence in the social sciences, Indian legislation, and case law in child sexual abuse, and theoretical discussions of principles based on the United Nations Convention on Child Rights 1989. It investigates medico legal use and psychodynamic surrounding such actions by perpetrators with regard to approach to the complex issues in multi-specialty. The paper consists explicitly on a comparison of the Indian legal frameworks on fighting child sexual abuse against other jurisdictions in support of better policies to counter such crimes. One of the critical points of attention will be the conceptualization of the constraints and uncertainties of the existing POCSO system (especially with rigid age standards and criminalization of consensual teenage relations). This will entail subjecting judicial interpretations to a critical consideration and their practical implication in order to derive aspects within which the legal framework can be better tailored to enhance the principle of the best interest of the child.

Keywords: POCSO Act 2012, child sexual abuse, legal framework, India, criminal justice

INTRODUCTION

Child sexual abuse implies one of the most serious violations of the fundamental rights of a child, and it includes a range of offenses related to smuggling the victims, up to sexual exploitation (Shinde, 2024). Such a problem is made worse by a number of socio-cultural factors in India, and as such, children represent one of the most vulnerable layers of society (Saini et al., 2022). This problem is compounded by the pervasive character of online platforms since technological progress allows abusers to abuse new websites and in many cases makes this a harder task to detect and prosecute (Manoj et al., 2024). In fact, more than a third of internet users around the world are less than 18 years old, which also reflects the

extensive digital presence that increases their susceptibility to internet-mediated child sexual abuse and exploitation (Manoj et al., 2024). Such online iniquitousness requires a firm legal and technological solution to protect minor victims on more and more advanced levels (Mallick, 2024). The convergence of conventional forces of vulnerability to society and emerging challenges in the digital world has introduced intricate challenges to the Indian criminal justice (Mathew, 2017). The effectiveness of these processes therefore greatly relies on their ability to adjust to the established social problems as well as the evolving technological environments and therefore requires ongoing legislative and enforcement development. Understanding that a

severe legal framework is urgent, the Indian government passed the Protection of Children against Sexual Offences Act in 2012, a historic act aimed at specifically dealing with child sexual abuse and exploitation (Mallick, 2024)(Shetty, 2025). Nevertheless, POCSO implementation has shown a few uncertainties and issues especially in regard to the inflexible age requirement, criminalization of consensual relationships between adolescents and the flaws in procedures (Sultana, 2025). In this regard, the analysis of the cases by POCSO has raised questions that relate to whether it applies to the case of adolescent sexual consent, in particular, at least given a sizable share of victims of the given age (16-18 years old) group gave their consent to sex (Shukla et al., 2024). Such is a dilemma of complexity in which the law is the very one that should safeguard children yet instead criminalizes consensual sex between adolescents, which casts doubt on its practicability and morality (Shukla et al., 2024). This dilemma highlights the conflict between developmental requirements and legal requirements which typically results in informal penalties on adolescents (Belur and Singh, 2015) (Anchan et al., 2020). The fact that the Law Commission of India does not consider a re-review of the age barrier of sexual consent requirements by the POCSO Act, only underlines the urgency of having a child-centered approach that would balance legal requirements and the developmental aspects of adolescent relationships (Shukla et al., 2024).

Conceptual Framework: Understanding Child Sexual Abuse and Justice

Child sexual abuse in India was officially criminalized as a result of the adoption of the Protection of Children from Sexual Offences Act in 2012, which considered child sexual activity any sexual act conducted involving a child that has no full understanding or consent to it, or that was contrary to societal expectations (Saini et al., 2022). This law broadened the notion of sexual offenses and proposed major reformation to be more gender sensitive in the trials, which can be considered the progressive move towards child protection (Pitre & Lingam, 2021). Regardless of these legislative achievements, the prevalence of child sexual abuse is very high, and in 2021 alone, a total of 53,874 cases were registered under the POCSO Act, which points to a large-scale problem that still has not been fully managed by the justice system (Maity and Chakraborty, 2023). Such statistics highlight that there is a pressing need to have a critical assessment of the current criminal justice systems to identify their effectiveness on preventing, prosecuting, and rehabilitating victims of child sexual abuse in the Indian context (Majumdar & Sarkar, 2025). To find ways to improve child protection, this paper critically analyzes issues surrounding the implementation of

POCSO such as the problem of definitions and the ethical challenges involved in research in order to find solutions to the problem. In addition, it explores the gaps in the existing legal system, especially the controversial age of consent and how it affects consensual sex among teenagers without exploitation that the 22nd Law Commission of India recently discussed in its 283rd report (Pitre & Bandewar, 2024). The issues that this report particularly wrestled with were the nature and age of consent, where consensual sex is a minor offence, and thus students were denied justice and autonomy that should have been provided, which in turn resulted in wrong convictions under the umbrella of sexual assault crimes (Pitre & Bandewar, 2024)(Pitre & Lingam, 2021). In addition, the report stipulates the urgent necessity to differentiate between actual instances of abuse and consensual relations which may be subject to the extreme of age-of-consent statutes, which would require the careful juridical and legal interpretation of the concept to avoid further push of young and vulnerable persons into the periphery even further. This subtlety is especially important in the face of possible mandatory reporting legislation, which, despite its goal of guaranteeing child protection, has the unintended consequence of revealing the abuse histories where the enforcement and the community support systems have been inadequate (Dayal et al., 2018). Therefore, the junction of legal descriptions, social standards and enforcement practices provides a tricky setting that must be treated with care to avoid the possibility that protective actions will unintentionally produce harm upon the population that they are meant to benefit.

Criminal Justice Mechanisms in India: A Comprehensive Overview

The Protection of Children from Sexual Offences (POCSO) Act, 2012

The POCSO Act, being a gender-neutral law, includes a wide range of sexual crimes against children under the age of 18 years, such as sexual assault, sexual harassment, and pornography, and the creation of a child-friendly legal process to consider the best interest of the child first in priority or primary consideration (Handa & Goswami, 2024). One of the more significant provisions of the Act is the compulsory reporting of sexual offenses against children and this requirement now applies to healthcare professionals (Batra, 2024). The purpose of this reporting requirement is to make sure that cases of child sexual abuse are reported to the authorities as soon as possible in order to intervene with and support child sexual abuse victims. Nevertheless, this is a mandatory reporting requirement combined with the higher age of consent from 16 to 18 years of age, and this has posed major difficulties especially in terms of adolescents exploring their sexuality, which often results in the

criminalization of consensual sexual practices among minors and the accessibility of sexual and reproductive health services (Pitre et al., 2021)(Barua et al., 2020). This statutory law and its enforcement in the strictest sense of action has ironically overstretched the criminal justice system, making it hard to differentiate between abusive exploitation and age-democratic sexual discovery, only underscoring the complexity of the task of protecting youth, and simultaneously their own freedom and autonomy (International Journal for Crime, Justice and Social Democracy, 2015).

Functioning of Special Courts under POCSO

In an attempt to resolve the high prevalence of child sexual abuse cases, India has introduced Special Courts, which although with challenges have seen some improvements in dealing with the more than 2,43,000 pending cases of the POCSO Act as at 2023 (Ferrao, 2024). These courts are intended to streamline trials and are child friendly, but the overall performance of the courts is usually undermined by systematic delays as well as lack of specialized staff. Also, lack of education of the stakeholders, such as the judicial officers, prosecutors, and police, on the specifics of child psychology and trauma-informed procedures also leads to the poor interaction with the victims during the pre-trial and trial processes, which enhances procedural inefficiencies (Kumar, 2022). This judicial workload and these systemic inefficiencies highlight how much more effective judicial administrations and specific training should be to make the desired positive outcomes of these courts tangible to the full extent (Ferrao, 2024). The creation of such specialized courts was a vital reaction to a lack of effective legislation in child sexual exploitation and abuse before POCSO, which created a similarity to the rest of the legal domain where important enforcement is often unclear about the judicial guidance (Mohanty et al., 2021)(Addati et al., n.d.). Even with the legislative scope, these special courts are met with significant challenges such as inadequate resources, inadequacy of judicial facilities and a shortage of personnel who are likely to understand child-sensitive legal practices (V, 2023).

Role of Law Enforcement Agencies (Police)

Law enforcement departments such as the police are also vital in investigating child sexual abuse cases whose point of contact can be the first of the first resort by the victim or by the reporter who is obliged to share the information. Registering First Information Reports, preliminary investigations and maintenance of safety and well-being of the child all form part of their duties, but in the pursuit of a victim-centric approach, there remain significant obstacles given ingrained biases and procedural shortcomings. In addition, the effectiveness of law enforcement to successfully deal with these cases is often

compromised by the absence of specialized training on child psychology, trauma-informed interviewing approaches, and the complicated legal provisions of the POCSO Act, which cannot help gather any admissible evidence, and predisposes to secondary victimization. Such a lack of specialized knowledge and resources is often the cause of deficiencies in the investigation process, which makes it challenging to bring the guilty to justice effectively and increases the overall rate of attrition cases in the criminal justice system (Kumar & Singh, 2024).

Role of the Judiciary and Prosecution

The prosecution and judiciary have a central role to play in serving justice to the victims of child sexual abuse but often face barriers, including the congested system, delays in the process, as well as insufficient expertise in sensitive cases (Kumar & Singh, 2024). Additionally, the widespread problem among child pornography, aided by the digital platform, further makes the process of prosecution more difficult, as it requires specialized judicial knowledge on cybercrime and digital forensics (Shetty, 2025). The abundance of the online content on sexual abuse combined with the fast changes of the technology and unwillingness of the tech companies provide significant barriers to the law enforcement and prosecution because it allows obtaining the content and punish the offenders (Joleby et al., 2020). Moreover, its secrecy, online location, and limited resources and a lack of specialty in law enforcement hamper efficient investigations and prosecution, which are seen in international practice (Manipud, 2024). The complexity of cross-border data access and jurisdiction also add to the issue of prosecuting these crime types (Joleby et al., 2020).

Victim Support Services and Rehabilitation

There is the necessity to refer to long-term recovery of survivors of child sexual abuse and their reintegration into the society, which is essential because it is the victim support services and rehabilitation programs. Nonetheless, the delivery of these services in India is frequently decentralized, underfunded, and not connected with the overall coordination between different stakeholders, which prevents the provision of a valuable and comprehensive approach to survivors (Wangamati et al., 2019). Such a broken support system clearly causes the fact that survivors frequently lack the adequate care, making the further enhancements in the accessibility and quality of these services a pressing issue (Ifayomi et al., 2024). One of the most significant obstacles during the judicial procedure is the advancement of reported cases to a trial, with a very small percentage of cases progressing to trial, which means high attrition rates after the reporting stage (Kletecka-Pulker et al., 2023). The problem is complicated by the fact that the risk of continuing

child sexual violence is difficult to measure and offer the required support, and numerous studies do not report whether ongoing child sexual violence was reported to the authorities or practice safeguards were provided to staff or not (Dayal et al., 2018). Moreover, the absence of strong follow-up systems on such reported cases, coupled with the existing stigmatization and victim blaming fact in the society contribute further to the hindrance of justice and recovery among child survivors.

Sociocultural and Systemic Barriers to Justice

This is strongly enshrined in the complicated Indian societal setup that affects the reporting as well as the resolution of the child sexual abuse victimizations. The attitudes that prevail in society which may include victim-blaming and lack of openness in discussing sexual issues ensure that there is culture of silence which influences people against reporting and leads to perpetuation of impunity of offenders. This cultural environment coupled with ignorance of the law and support systems tends to expose child victims and marginalize them. In addition, these difficulties are compounded by institutional failures, such as lack of infrastructure and endemic corruption, which further undermine the trust in the justice system (Burns et al., 2021). These structural and social obstacles are in total defense of the successful enforcement of protective legislation, which prevents the basic human rights of child victims to access justice and recovery (Garg, 2020)(Dayal et al., 2018). The multi-layered solution to these complex obstacles will require both a change in the legislation and a radical community involvement and public education (Carson et al., 2014). This intervention approach is necessary to break the cultural taboos associated with the conversation of sex and sexual violence, as they tend to cause more emotional trauma to the victims within a research or a court of law (Dayal et al., 2018). Moreover, law interpretations and judicial activism in India are often subject to religious convictions and societal traditions that may change how such a delicate issue as child sexual abuse should be dealt with (Parhi and Biradar, 2023). The response to child sexual abuse is usually weakened by cultural practices and ways of living such as the passivity of the community, or other underlying prejudices, making it harder to report and take legal action (Shafe and Hutchinson, 2014). Such unwillingness to take at face value and to openly discuss the problem tends to create a chain of abuse, as the victims of such violence will find it hard to find and obtain the justice they rightfully deserve (Murthi et al., 2019). The systemic problem of discrimination and its presence, especially of women, makes the process of seeking justice more challenging, which often overlaps with and increases the factors of vulnerability of child

sexual abuse victims (2021). Child victims also find disclosure to be extremely challenging in the majority of traditional households due to the dominating culture of collectivity, and in most cases, it may result in the victim remaining silent under the fear of being shunned or even abused (Shafe and Hutchinson, 2014). Such cultural pressure tends to make the conflict insider, and the victims may have suicidal thoughts instead of anger or hostility expressed externally (Sathiadas et al., 2018).

CONCLUSION

Such an in-depth overview has shed light on the complex issues in the criminal justice processes in the context of child sexual abuse in India including ad-hoc issues to entrenched sociocultural aspects. The problem can only be addressed through rigorous legal frameworks as well as radical shift in the societal perception and immense providing of support systems to survivors. This involves emphasizing on the adoption of trauma-informed care in judicial procedures and that legal requirements of the support of victims are uniformly and exhaustively enforced in all jurisdictions (2021). Interventions and support mechanisms that are culturally sensitive to adult survivors of child sexual abuse should also be developed in the future since the psychosocial environment of South Australia poses a unique challenge (Talwar et al., 2024). Moreover, investigating the effectiveness of restorative justice systems, like effective programs in Canada, the UK, and the US, may offer different ways to treat and rehabilitate offenders, which would eventually lead to the decrease of child sexual abuse (Pal, 2022). This might have the potential to decrease the recidivism rate of offenders and offer an empowering alternative to the victims on its way to healing. It should also focus on the transformation of police administration and improving the communication between the police and the community to ensure that such cases never happen again (Kaur and Singh, 2022). In addition, it is of vital importance to critically evaluate how political pursuits and activist activities affect the process of law enforcement as their effect on the delivery of justice has been previously observed in other settings (Kaur & Singh, 2022). Furthermore, there is a need to strengthen judicial accountability and transparency, especially in relation to the vigilante groups that may threaten due process and the safety of the victims (Pratap, 2020). Lastly, it is important to consider the issue of mob justice that pervades other attitudes to support the rule of law and to ensure that any legal process is conducted in compliance with the accepted judicial standards (Kaur and Singh, 2022)(Dhavan, 1987).

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