

# **Protection of women under POSCO Act**

## **(effectiveness and challenges)**

### **Protection of Women under the POSCO Act – Current Construct of Laws**

#### **Introduction**

The Protection of Children from Sexual Offences (POCSO) Act, 2012, was enacted to safeguard the rights of children against sexual abuse and exploitation. Though the act is gender-neutral in its textual form and applies to all children below 18 years of age, it has profound implications for the protection of girls, who constitute a significant proportion of victims of child sexual abuse in India. In a country grappling with deeply entrenched gender-based violence and patriarchy, the POCSO Act plays a critical role in ensuring justice for young female victims. This essay delves into the current construct of laws under POCSO with a special focus on how it protects girls, the challenges in its implementation, recent amendments, and judicial interpretations.

#### **Key Features of the POSCO Act**

The POCSO Act was introduced to address the growing concerns over sexual offences against children and to establish a child-friendly system for the legal process. The salient features of the Act are as follows:

1. **Gender Neutrality:** The Act is gender-neutral and protects all children below 18 years, whether male or female. However, in practice, the majority of cases registered under the Act involve female victims.
2. **Broad Definition of Sexual Offences:**
  - **Penetrative Sexual Assault**
  - **Sexual Assault**
  - **Sexual Harassment**
  - **Use of a child for pornography**

These definitions cover a wide range of abusive behaviors, acknowledging the many forms sexual violence can take.

3. **Mandatory Reporting:** Any individual who becomes aware of the sexual exploitation of a child must report the offence. Failure to do so is punishable under the Act.
4. **Special Courts:** The Act mandates the setting up of Special POCSO Courts for the speedy trial of cases. It also ensures in-camera trials and child-friendly procedures to minimize the trauma experienced by victims.

5. **Burden of Proof and Presumptions:** Unlike regular criminal laws, the burden of proof under POCSO shifts to the accused once the prosecution establishes basic facts. The court presumes that the accused committed the offence unless proven otherwise.

## **Protection of Girls under the POCSO Act**

Though the Act is gender-neutral, a large proportion of the beneficiaries of this legislation are girls. According to the National Crime Records Bureau (NCRB) data, over 90% of the victims under POCSO are female. The law protects young girls from a wide spectrum of sexual offences that were not clearly defined in the Indian Penal Code (IPC) before the enactment of POCSO.

The key ways in which girls benefit from the Act include:

### **1. Recognition of Various Forms of Abuse**

The POCSO Act covers penetrative as well as non-penetrative sexual assault, thereby offering comprehensive protection. It recognizes oral sex, digital penetration, and other non-consensual acts, which were not previously covered.

### **2. Child-Friendly Reporting and Trial Process**

Girls who are victims of abuse often fear social stigma and victim-blaming. The Act's provisions—such as in-camera trials, presence of family members, prohibition of aggressive questioning, and appointment of support persons—ensure that victims are not re-traumatized.

### **3. Protection from Pornographic Exploitation**

The law criminalizes the use of children in pornographic material, addressing an increasing concern in the digital era. It includes provisions that prohibit the storage and circulation of child pornography, especially involving girls.

### **4. Amendments to Enhance Punishments**

The POCSO (Amendment) Act, 2019 introduced stricter punishments for heinous crimes, including the death penalty for aggravated penetrative sexual assault. These changes were particularly significant in the wake of public outrage over high-profile cases of rape and murder of minor girls.

## **Judicial Interpretation and Implementation**

The Indian judiciary has played an instrumental role in interpreting the provisions of the POCSO Act, especially in cases involving young female victims. Courts have repeatedly emphasized that the Act must be interpreted in the best interest of the child.

### **Notable Judgments:**

- **Alakh Alok Srivastava v. Union of India (2018):** The Supreme Court issued directions to set up Special POCSO Courts in every district to expedite trials.
- **Satish Ragde v. State of Maharashtra (2021):** A controversial judgment by the Bombay High Court stated that “skin-to-skin contact” was necessary for it to be considered sexual

assault under POCSO. This was later overturned by the Supreme Court, reaffirming a broader and more protective interpretation of the law.

#### **4. False Allegations and Misuse**

There have been instances where the law has been misused in the context of consensual relationships between adolescents, where the female's age is under 18. The law, while protective, does not differentiate between exploitative abuse and consensual teenage relationships.

#### **Recent Developments and the Way Forward**

The central government and judiciary have taken several steps to strengthen the legal framework:

- **Integration with Online Platforms:** Given the rise of cyber exploitation, there have been calls to integrate POCSO laws with IT laws to better tackle online abuse, particularly grooming and circulation of explicit content involving girls.
- **Training of Law Enforcement:** Increasing emphasis is being placed on training police officers, judges, and medical practitioners on child-sensitive practices.
- **Introduction of Comprehensive Sex Education:** To prevent child sexual abuse, awareness and education must begin at schools. A gender-sensitive curriculum can empower girls to recognize abuse and speak up.

The POCSO Act has emerged as a strong legal shield for protecting children, particularly girls, from sexual offences. Its comprehensive and child-centric approach reflects a major shift in India's legal framework toward recognizing the gravity of child sexual abuse. However, legal provisions alone cannot ensure safety and justice. There is a need for coordinated efforts from families, schools, law enforcement agencies, and civil society to build a protective environment for children. By closing the implementation gaps, raising awareness, and ensuring faster and more sensitive trials, the full potential of the POCSO Act can be realized in safeguarding the rights and dignity of young girls in India.

#### **Effectiveness of the POCSO Act in Protecting Girls: A Critical Evaluation**

The **Protection of Children from Sexual Offences (POCSO) Act, 2012** was hailed as a progressive and much-needed step in addressing the epidemic of child sexual abuse in India. Over the years, it has created an important framework to prosecute offenders, support victims, and encourage reporting. However, assessing the **true effectiveness** of this law requires an analysis of various dimensions including **reporting rates, conviction rates, judicial efficiency, enforcement, and societal attitudes**.

##### **1. Increased Reporting – A Sign of Growing Awareness?**

Since the enactment of POCSO, there has been a noticeable **increase in the number of reported cases** of child sexual abuse. This could indicate a rising confidence in the legal system and greater awareness about rights and legal remedies.

- **NCRB data** shows that crimes under POCSO have **steadily increased**, suggesting either an actual rise in crimes or better reporting.
- Initiatives by NGOs, schools, and government bodies have contributed to **improved awareness among children and parents**, particularly for girls who face a higher vulnerability to abuse.

## 2. Conviction Rates – A Mixed Picture

While reporting has increased, **conviction rates under POCSO remain relatively low**, often due to:

- **Delays in investigation**
- **Lack of proper evidence or witness protection**
- **Victim hostility or withdrawal during trial**
- **Poor understanding of the law among investigators**

According to **NCRB 2022 data**, the conviction rate in POCSO cases hovers around **30-35%**, which is **lower than the national average** for other IPC crimes.

This reflects systemic issues in evidence collection, sensitivity in handling child victims (especially girls), and poor coordination between the police and judiciary.

## 3. Speedy Justice – Still a Distant Dream

The POCSO Act mandates that trials should be completed within **one year**, but in reality, **cases often take 2–3 years or longer**, especially in rural and under-resourced districts.

Factors affecting timely justice:

- **Shortage of Special Courts** and trained judges.
- **Overburdened court system.**
- **Lack of support personnel** such as child psychologists, counselors, and interpreters.

Even though some progress has been made after the **Supreme Court’s 2019 directive** to set up special courts in each district, many still remain underfunded or vacant.

**Effectiveness Score:** *(Legal provisions exist, but real-world infrastructure and execution fall short.)*

## 4. Victim-Centric Approach – Strong in Principle, Weak in Practice

The law mandates a **child-friendly process**—from the time of reporting to the completion of trial. This includes:

- No aggressive questioning
- Recording statements in a safe environment
- Prohibition of media exposure
- Use of female officers and presence of support persons

However, in practice:

- **Many children, especially girls, report feeling intimidated** during police interaction and medical examination.
- There's a **lack of trained child welfare officers**, and many police still lack the sensitivity required for such cases.

Girls, in particular, face **double victimization**—first from the abuse, and later from the system that is supposed to protect them.

## 5. Protection vs. Criminalization of Adolescents

A **controversial aspect** of the POCSO Act has been its **application to consensual sexual activity between teenagers**, where both parties may be below 18. In many cases, the girl's family registers a case against the boy—despite mutual consent—due to caste, community, or familial pressure.

This raises concerns:

- Teenage girls who enter consensual relationships are **treated as victims** even when they don't identify as such.
- **Boys are criminalized** despite lack of coercion or abuse.

Several High Courts have recommended **differentiating between exploitative abuse and consensual adolescent sex**, but legal reform is still pending.

## 6. Tackling Digital and Online Exploitation

With growing internet access, girls face **online grooming, sextortion, and exposure to pornography**. While POCSO criminalizes these acts, **implementation is weak**:

- Lack of cyber forensic training among local police.
- Low awareness among parents and children.
- Delay in cooperation from tech companies.

The **POCSO e-Box initiative** and integration with **IT laws** are steps in the right direction, but **digital literacy remains low**, especially among girls in rural areas.

## Recommendations to Improve Effectiveness

1. **Strengthen Infrastructure**: More Special Courts, faster case management, and well-trained personnel.
2. **Mandatory Sensitization Training**: For police, judiciary, teachers, and medical staff.
3. **Distinguish Between Abuse and Adolescent Romance**: Amend the law to protect against misuse while ensuring real victims receive justice.

4. **Digital Safety Campaigns:** Targeted efforts to teach girls about online risks and safe behaviors.
5. **Stronger Witness/Victim Protection Programs:** To ensure girls are not silenced due to fear, threats, or social stigma.
- 6.

### **Conclusion: Is the Law Effective?**

The **POCSO Act is a strong and comprehensive piece of legislation** that has transformed the legal landscape for child protection in India. For girls in particular, it offers recognition, justice, and a framework to reclaim dignity. However, **laws are only as effective as their implementation**. The challenges of underreporting, delayed justice, and inadequate sensitivity continue to dilute the impact of the Act.

To truly protect girls and ensure justice, **there must be a societal shift alongside legal enforcement**—one that empowers girls to speak, supports them when they do, and punishes those who violate their trust swiftly and justly.

### **Challenges in the Implementation of the POCSO Act**

The **Protection of Children from Sexual Offences (POCSO) Act, 2012** is a landmark law intended to provide robust legal protection to children against sexual offences. However, despite its progressive structure and child-friendly intentions, the **implementation of the Act faces numerous practical and systemic challenges** that hinder its effectiveness.

#### **1. Underreporting of Crimes**

One of the biggest challenges is that a **large number of cases of child sexual abuse go unreported**, especially when the victim is a girl.

##### **Reasons for underreporting:**

- **Fear of social stigma** and family shame.
- Pressure from within families to avoid police or legal action, especially if the offender is known or related.
- Lack of **awareness** about rights or legal remedies.
- **Cultural taboos** surrounding sexuality and honor, especially in conservative and rural areas.

#### **2. Inadequate Training and Sensitization of Authorities**

Although POCSO mandates **child-friendly procedures**, the reality is that many stakeholders—police, medical officers, and even judges—lack the training and sensitivity to handle such cases.

##### **Common issues:**

- Police often record complaints insensitively or **discourage FIRs**.
- Medical professionals may conduct **traumatizing examinations** without following guidelines.
- Judges and prosecutors may **fail to maintain a child-friendly courtroom atmosphere**.

### 3. Delay in Investigation and Trial

The POCSO Act calls for **timely disposal** of cases (ideally within one year), but in practice, **justice is often delayed**.

#### Reasons for delay:

- **Shortage of Special POCSO Courts** in many districts.
- Overburdened judiciary and lack of case prioritization.
- Frequent adjournments and procedural delays.
- Delayed forensic reports and medical evidence.

### 4. Inadequate Victim Support Systems

Child victims, especially girls, need **psychological, social, and legal support** throughout the legal process. However, support structures under POCSO are **underdeveloped** or inaccessible in many parts of India.

#### Gaps in support:

- Lack of **trained counselors** or psychologists.
- Delay in appointing **support persons** (as per Section 19).
- **Lack of child shelters** or rehabilitation services, especially in rural areas.

### 5. Poor Awareness Among Stakeholders and Communities

Many people—including children, parents, teachers, and community leaders—are still **unaware of the provisions of the POCSO Act**.

#### Effects of poor awareness:

- People fail to recognize abuse or mistake it for discipline or affection.
- Teachers and caregivers may **fail to act or report** due to ignorance.
- Parents may **suppress cases** out of fear of “spoiling” the girl’s future or marriage prospects.

## 6. Criminalization of Consensual Adolescent Relationships

One of the **most debated challenges** of POCSO is its **application in cases of consensual relationships between teenagers**, where at least one partner is below 18.

### Concerns:

- Adolescent boys are often **prosecuted under POCSO** when in consensual relationships with girls, especially if parents disapprove.
- The law does not distinguish between **exploitative abuse** and **non-exploitative consensual acts**, leading to **misuse**.

## 7. Low Conviction Rates

Despite an increase in reported cases, **conviction rates under POCSO are low**, hovering between 30–35% nationally.

### Reasons:

- Lack of corroborative evidence or witness testimony.
- Withdrawal of complaint due to pressure or threats.
- Ineffective investigation or cross-examination practices.
- Victim or witness turning hostile due to fear, trauma, or reconciliation.

## 8. Inconsistent Application of Law Across States

While POCSO is a central law, **its implementation varies widely across Indian states and districts**.

### Examples of inconsistency:

- Some states have well-established Special Courts and child-friendly mechanisms, others do not.
- Disparity in training programs, legal aid availability, and police responsiveness.

## 9. Lack of Cyber-Safety Infrastructure

With the rise in **online sexual exploitation of minors**, the digital space presents new challenges.

### Issues:

- POCSO covers **pornographic content and online grooming**, but police often lack cybercrime training.
- Difficulty in tracing offenders, especially if content is shared across platforms.
- Delay in obtaining data from tech companies.

## 10. Victim Retraumatization and Secondary Abuse



The **lack of privacy, long trials, and harsh questioning** during the process often lead to **secondary trauma** for child victims.

**Examples:**

- Questions that imply victim-blaming.
- Exposure of identity through media, despite legal prohibitions.
- Pressure to settle cases through compromise or marriage, especially in rural areas.

The **POCSO Act is a progressive law** that offers one of the most comprehensive legal frameworks for protecting children, particularly girls, from sexual abuse. However, its **potential is curtailed by systemic and social challenges** in its implementation. To bridge the gap between law and justice, it is essential to:

- Invest in **capacity building and infrastructure**
- Promote **widespread awareness campaigns**
- Streamline the **judicial and investigative processes**
- Provide **robust support services** for victims
- Amend the law to reflect **nuanced understanding of adolescent relationships**

Only then can the true vision of POCSO—a **safe and just society for every child**—be realized.

Absolutely! Here's a detailed section on "**The Way Forward in the Implementation and Reform of POCSO Laws Considering Today's Society**" — focusing on how we can adapt and strengthen the law and its enforcement mechanisms in the context of contemporary social dynamics:

### **The Way Forward in the Implementation of POCSO Laws in Today's Society**

India's Protection of Children from Sexual Offences (POCSO) Act, 2012, is a landmark statute that recognizes the need for special protection of children from sexual abuse. However, **societal changes, digital exposure, evolving adolescent behavior, and new forms of exploitation** demand that the law also evolves in response.

To make the POCSO Act more effective and relevant in today's socio-legal context, **a multidimensional approach is essential**—one that strengthens implementation, updates legal provisions, promotes awareness, and creates a support-oriented ecosystem for children, especially girls.

#### **1. Introduce Legal Reform for Consensual Adolescent Relationships**

In today's world, teenagers are more socially connected and exposed to concepts of relationships and sexuality. The **blanket criminalization of consensual sex among minors** under the POCSO Act can result in the unjust prosecution of adolescents.

**Recommended reforms:**

- **Introduce a "close-in-age" exception** (e.g., a 2- or 3-year age gap rule) to prevent criminalization of consensual teenage relationships.
- **Differentiate between exploitative abuse and consensual behavior**, with guidelines for police and courts to recognize this distinction.

## 2. Strengthen Awareness and Preventive Education

Today's children and adolescents are more exposed to the internet, media, and peer influence than ever before. **Preventive awareness is crucial** in both urban and rural India.

### Actionable steps:

- **Comprehensive sex education** in schools to help children recognize and report abuse.
- Regular **POCSO awareness drives** for parents, teachers, community leaders, and children.
- Use of **media campaigns, comic books, mobile apps, and social media** for child-friendly awareness.

## 3. Invest in a Child-Centric Justice System

Even with strong laws, the justice system must ensure that children are **not re-traumatized during investigation and trial**.

### Suggested improvements:

- Expand and fund **Special POCSO Courts** in every district, ensuring child-friendly courtroom environments.
- Appoint **child psychologists and support persons** to assist victims at every legal stage.
- Train **female investigating officers and prosecutors** to handle sensitive cases.

## 4. Enhance Cybersecurity and Digital Monitoring Mechanisms

As children increasingly use smartphones and social media, **digital abuse**—such as online grooming, sextortion, and circulation of child pornography—is a growing concern.

### Measures needed:

- Strengthen cooperation between law enforcement and **tech platforms** to track and take down child sexual abuse content.
- Create dedicated **cybercrime cells** with specialized training to handle POCSO-related digital offences.
- Promote **digital literacy programs** that teach children how to stay safe online.

## 5. Standardize and Fast-Track Investigations and Trials

Delays in trials and investigations reduce the impact of the law. There is a pressing need to **speed up the justice process**.

### Key reforms:

- Implement **standard operating procedures (SOPs)** across states for handling POCSO cases.
- Mandate **time-bound forensic and medical reports**.
- Use **video-conferencing for vulnerable witnesses** to reduce delay and trauma.

## 6. Focus on Rehabilitation and Reintegration

Justice is not just about punishing the offender—it is about helping the survivor **heal and rebuild their life**.

### Rehabilitation steps:

- Set up **Child Protection and Support Centres** offering counseling, education, vocational training, and legal aid.
- Ensure **confidentiality and long-term mental health care** for survivors.
- Coordinate with **NGOs and community-based organizations** to support reintegration.

## 7. Encourage Community Participation and Reporting

To protect children at the grassroots, **local communities must be empowered** to identify, report, and support victims of abuse.

### Community-based initiatives:

- Appoint **village-level child protection officers** and create safe reporting channels.
- Run **community watchdog programs** in schools, hostels, and public spaces.
- Train **anganwadi workers, ASHA workers, and teachers** as first responders.

## 8. Create a National Database and Real-Time Monitoring System

India lacks a unified system to track and monitor the progress of POCSO cases across states.

### Technological solutions:

- Implement a **centralized case tracking system** for POCSO cases, accessible to authorized officials.
- Create a **national sex offender registry** (with proper privacy and oversight) to deter repeat offenders.

- Use **AI tools for identifying patterns and hotspots** of abuse to enable targeted interventions..

## 9. Reform Gender Biases and Social Attitudes

The legal system often mirrors societal prejudices, especially toward female survivors. To change this:

### Cultural shifts needed:

- Run campaigns to **destigmatize survivors** and **condemn victim-blaming**.
- Train law enforcement to recognize **intersectional challenges** (e.g., caste, class, disability).
- Engage **male allies, religious leaders, and influencers** to shift cultural narratives.

## Conclusion: A Law That Must Evolve with Society

The POCSO Act is a cornerstone of child protection in India, but **laws must evolve with time**. As societal structures change—with increased digital access, changing adolescent behavior, and growing awareness—the implementation and interpretation of the law must also **grow more nuanced, inclusive, and forward-thinking**.

The way forward involves:

- **Reforming archaic provisions,**
- **Filling infrastructural gaps,**
- **Empowering children through education, and**
- **Adopting a justice system rooted in sensitivity, speed, and support.**

With collective will—from lawmakers, enforcers, educators, families, and communities—India can truly build a society where every child, especially every girl, feels **safe, heard, and protected**.