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Silence, Law, and the Child: A Look at POCSO in India

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Abstract: ***This research examines the effectiveness of the Protection of Children from Sexual Offences Act (POCSO) in curbing child sexual abuse across India's various states. National Crime Records Bureau (NCRB) data reveals a stark difference in the Act's implementation nationwide. States like West Bengal, Uttar Pradesh, and Maharashtra report the highest case volumes but face ongoing challenges with prolonged trials and poor conviction rates. In contrast, states such as Tamil Nadu and Kerala demonstrate superior case handling, resulting in faster resolutions and higher conviction outcomes. Child sexual abuse represents a critical challenge in India, prompting the creation of a dedicated law called the Protection of Children from Sexual Offences (POCSO) Act to uphold children's rights. This analysis explores the offenses outlined in the Act, its penalties, and its overall impact within the country. The study delivers an in-depth and analytical examination of the societal, cultural, and institutional factors influencing the reporting and prosecution of child sexual abuse cases throughout India.***

This research takes a far-reaching and critical look at the social, cultural, and institutional realities that shape how child sexual abuse cases are reported and prosecuted in India. It explores the deeply rooted barriers that often silence victims — including stigma, fear of social rejection, lack of awareness, and systemic hurdles — while also examining the challenges families and communities face in seeking justice, support, and rehabilitation. By highlighting these complex realities, the study aims to uncover not only legal gaps but also the societal pressures that continue to obstruct effective protection of children.[1]

Keywords: Child, Sexual abuse, POCSO Act, Offences, discipline, Indian States.

I. INTRODUCTION

Child protection is a serious concern worldwide, and India faces significant challenges due to the high number of cases involving crimes against children. In response, the Indian government introduced the Protection of Children from Sexual Offences (POCSO) Act in 2012 to combat sexual abuse and exploitation. The Act authorises special measures to ensure timely trials for offences similar to sexual assault, aggravated sexual assault, and child pornography.

The study intended to develop a comprehensive understanding of the consequences of child abuse, with a view to guiding the expression of applicable methodologies and programmes meant to effectively govern and control the problem of child abuse in India. The National study on child abuse is one of the largest empirical studies in the country of its kind in the world.

Child sexual abuse in India is a pervasive and alarming issue, frequently concealed and underreported despite its widespread prevalence. A Kerala study among adolescents found that around 36% of boys and 35% of girls had endured sexual abuse. Likewise, a national Government of India survey of 17,220 children indicated that roughly half of all children experience some type of sexual abuse.

Assam had the highest reported rate of sexual abuse, which is 52.27%, whereas Delhi had 41%, Andhra Pradesh had 22.87%, and Bihar had 33.27%. According to UNICEF, 1 in 10 girls under the age of 20 has been forced to perform sexual acts.

These figures underline the urgent need for stronger awareness, prevention measures, and reporting systems to address what is increasingly being recognised as a silent but devastating social crisis. [2]

A. Reviews 0f Literature

The experimenter has examined several laws related to felonious law, particularly the judicial opinions concerning cases of child sexual abuse. The study includes a review of the Indian Penal Code, the POCSO Act, reports on child sexual abuse published by UNICEF, and other laws and legal accoutrements applicable to the subject.

[1] Global Network Defending Street Children's Rights - CSC, Consortium for Street Children http://www.streetchildren.org.
[2] Cloudflare https://www.unicef.org/protection/sexual-violence-against-children.

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B. Objectives Of The Research

1) To assess the effectiveness of the POCSO Act in cracking the cases of child sexual abuse.

2) To analyse the capacity and liabilities of the state in administering the Protection of Children from Offences (POCSO) Act 2012.

II. PROTECTION OF CHILDREN AGAINST SEXUAL OFFENCES (POCSO) ACT, 2012

India's child protection framework advanced markedly with the enactment of the Protection of Children from Sexual Offences (POCSO) Act in 2012. This pivotal legislation was crafted specifically to provide a robust legal safeguard, shielding children from every conceivable type of sexual abuse, exploitation, and harassment, thereby marking a crucial milestone in the nation's efforts to combat such crimes.

It reflects a growing recognition that children require special legal safeguards because of their vulnerability and limited capacity to defend themselves against abuse. The Act also mandates the establishment of special courts dedicated exclusively to handling such sensitive cases so that trials can be conducted more efficiently, with greater sensitivity and minimal trauma to the child.

A notable feature of the Act is its emphasis on child-friendly procedures at every stage — from reporting the offence and recording statements to investigation and trial. These procedures aim to reduce fear, embarrassment, and psychological distress for child victims while ensuring that justice is delivered without causing further harm. Under the provisions of the Act, a child is legally defined as any individual below the age of eighteen years, ensuring broad protection for minors. The Act identifies several serious offences to provide comprehensive protection. Offences under the Act encompass penetrative sexual assault, child sexual exploitation or trafficking, and aggravated penetrative assaults amid authority misuse or severe conditions, non-penetrative sexual assault, and employing children in pornography or exploitative activities. By clearly defining these offences and prescribing strict punishments, the legislation seeks not only to punish offenders but also to deter future crimes and strengthen the overall framework of child safety.

Section 28 of the Act makes it compulsory to establish Special Courts specifically to handle offences falling under the POCSO framework so that cases involving children are not delayed in the regular judicial process. The intention is to ensure swift justice and to prevent prolonged trials that could increase the emotional strain on child victims.

Further, Section 33 emphasises that these courts must follow child-sensitive procedures throughout the legal process. This includes recording the child's testimony in a manner that avoids fear, pressure, or trauma, ensuring a supportive environment during hearings, and minimising repeated questioning. The provision also stresses timely justice by directing that the trial should ideally be completed within one year from the date the court officially takes notice of the case.

Some of the key provisions designed to protect children under this law in India focus strongly on safety, dignity, and speedy justice for victims of sexual abuse. The legislation emphasises a child-centric approach so that legal procedures do not add further trauma to an already sensitive situation.

Firstly, whenever a complaint or information regarding child sexual abuse is received, the concerned police officer is required to promptly inform the Child Welfare Committee within twenty-four hours. This ensures that the child immediately comes under protective supervision and can receive necessary care and support.

Another important safeguard is that police personnel recording the child's statement should not wear uniforms. This measure is intended to reduce fear or intimidation and help the child feel more comfortable while sharing their experience. The statement should also be recorded in the presence of a trusted person chosen by the child, creating an emotionally secure environment.

Medical examination procedures are equally sensitive. The examination should preferably be conducted by a female doctor and always in the presence of someone the child trusts, ensuring both physical and emotional comfort during forensic evidence collection.

To avoid delays in justice, special courts have been established specifically for such cases. These courts are responsible for protecting the identity of the child, preventing unnecessary exposure to the accused, and maintaining strict confidentiality throughout the proceedings. The law also seeks to prevent repeated trauma by discouraging multiple rounds of testimony. Children are allowed to give their statements through video or other supportive methods if needed, reducing the stress of repeated court appearances. Additionally, there is a strong emphasis on concluding cases without unnecessary delay, ideally within one year from the time the offence is reported, so that the child and family can move toward recovery without prolonged legal uncertainty.[3]

[3] Swathi Satish, POCSO Act (Protection of Children from Sexual Harassment Act, 2012), ClearIAS (Jan. 24, 2022), https://www.clearias.com/pocso-act/.

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III. ROLE OF SPECIAL COURTS AND CHILD-FRIENDLY PROCEDURES

The Protection of Children from Sexual Offences (POCSO) Act, 2012, mandates the creation of Special Courts to manage child sexual abuse cases sensitively, swiftly, and equitably. The primary objective of these Special Courts is to create a safe and supportive judicial environment where child victims can participate in legal proceedings without fear, intimidation, or emotional distress. Unlike regular courts, Special Courts are designed to prioritise the best interests of the child by adopting procedures that minimise repeated questioning, delays, and exposure to the accused.

Child-friendly procedures play a crucial role in achieving justice while protecting the psychological well-being of the victim. The Act allows children to record their statements in a comfortable setting, often at their residence or a place of their choice, in the presence of trusted individuals such as parents or guardians. During trial proceedings, measures such as in-camera hearings, prohibition of aggressive cross-examination, and the use of screens or video conferencing help prevent direct confrontation between the child and the accused. Judges and legal professionals are also expected to communicate in simple and non-intimidating language so that the child can understand and respond confidently.

Furthermore, Special Courts are required to conduct trials on a priority basis to avoid unnecessary delays that may prolong trauma. The law emphasises speedy disposal of cases, ensuring that justice is delivered within a reasonable timeframe. Assistance from support persons, counsellors, and medical professionals is also encouraged to provide emotional and psychological care to the child throughout the legal process. By combining specialised judicial mechanisms with child-friendly practices, the POCSO framework aims not only to punish offenders but also to safeguard the dignity, privacy, and rehabilitation of child victims, thereby strengthening trust in the justice delivery system.[4]

IV. PUNISHMENTS UNDER THE ACT

1) In the principal act, section 4 provides for punishment not less than 7 years and whoever commits penetrative sexual assault on child below sixteen years of age shall be punished with imprisonment for a term whish shall not less than twenty years, but which may extend to imprisonment for life, which shall mean imprisonment for the remainder of natural life of that person, and shall also be liable to fine.
2) Section 10: Punishment for aggravated sexual assault - Whoever commits aggravated sexual assault shall be punished with imprisonment of either description for a term which shall not be less than five years but which may extend to seven years, and shall also be liable to fine.
3) In the case of using a minor for pornographic purposes, Section 14 (1) provides for the punishment of 5 years and a fine, and in case of a second conviction, the punishment would be 7 years and a fine.

A. *Challenges and Controversies*

Child sexual abuse is a complex issue that affects children in multiple ways — physically, emotionally, socially, economically, and legally. Although the POCSO framework in India was designed to be child-sensitive and protective, certain gaps, practical difficulties, and social realities continue to create challenges and debates regarding its implementation. Some important concerns are discussed below:

1) Child Marriage Complications: Even though secular law prohibits child marriage, some personal laws still provide social or cultural acceptance of such practices. This creates legal confusion because sexual relations within a child marriage may conflict with provisions meant to protect minors from sexual exploitation. As a result, enforcement of child protection laws sometimes becomes complicated.
2) Cost of Medical Treatment: The law requires medical institutions to provide free treatment to child victims of sexual abuse. However, in situations where advanced or expensive medical procedures are necessary, many hospitals may lack adequate facilities. Without proper reimbursement systems from the state, children may not always receive complete or timely treatment, which undermines the intent of the law.
3) Under-Reporting of Cases: A major challenge remains the reluctance to report abuse. Social stigma, fear of shame, family pressure, and concern about public exposure often discourage victims and their families from approaching authorities. This hesitation leads to significant under-reporting, preventing many children from receiving justice and support.

[4] Special Court and Procedure under POCSO Act 2012, (Apr. 17, 2018), https://advocatetanmoy.com/civil/special-court-and.

4) Issues in Medical Examination: The law prefers that female child victims be examined by female doctors to ensure comfort and sensitivity. However, practical difficulties arise when such doctors are unavailable, especially in remote or resource-limited areas. This sometimes causes delays in examination and evidence collection, creating procedural challenges despite the legal intention to prioritise the child's well-being.

Overall, these concerns highlight that while the legal framework is progressive in intent, practical implementation, social attitudes, and infrastructural limitations still require continuous improvement to ensure effective protection for children.

V. STATE/UT WISE NCRB DATA ON POCSO (2017-2019)

Trends in Offences under POCSO

Crime statistics in India reveal notable patterns in cases filed under the POCSO Act from 2017 to 2019, underscoring the magnitude of the problem alongside evolving reporting behaviours.

A. Sexual Assault and Rape Cases

1) A large majority of offences recorded under POCSO relate to sexual assault and rape, accounting for nearly 90% of total registered cases. Reports filed under the more serious provisions dealing with penetrative assault showed a noticeable rise during this period, with a substantial increase observed up to 2020.

2) These offences formed a major proportion of total cases, and data indicate that almost all victims in rape-related incidents were girls.

B. Cases of Unnatural Offences

1) Data relating to offences prosecuted under POCSO in conjunction with provisions addressing unnatural sexual acts also reveal important trends.

2) Over a few years, more than 2000 such cases were documented, and a striking feature was that the majority of victims in these cases were boys.

These trends underline the diverse nature of child sexual abuse cases and highlight the continuing need for awareness, effective reporting mechanisms, and stronger protective measures.

C. Ncrb Data

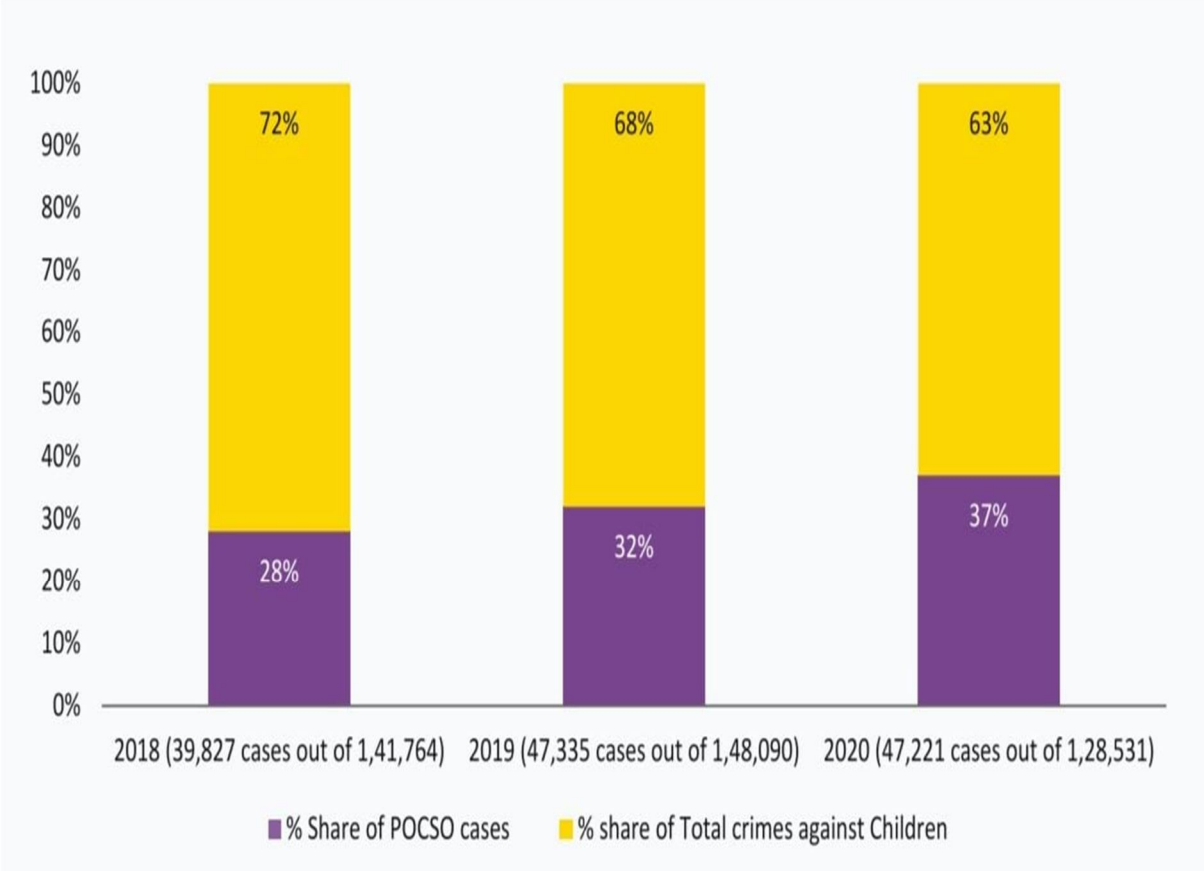
• State Wise-

State/UT	Cases Registered (CR)	Cases Chargesheet (CCS)	Cases Convicted (CON)	Conviction Rate (CVR)
Andhra Pradesh	502	313	16	16.2%
Assam	1779	1396	83	26.8%
Bihar	1540	1184	113	67.7%
Chhattisgarh	2027	2073	349	30.7%
Gujarat	2253	2072	74	17.9%
Haryana	2074	1686	333	30.7%
Jharkhand	654	459	100	56.2%
Karnataka	2160	2021	190	18.9%
Kerala	1283	1009	40	19.4%
Madhya Pradesh	6123	5867	874	30.1%
Maharashtra	6558	6295	706	28.9%
Rajasthan	596	423	178	60.3%
Uttar Pradesh	7594	6478	1002	62.5%
West Bengal	2267	2403	90	29.9%

- Union Territory Wise-

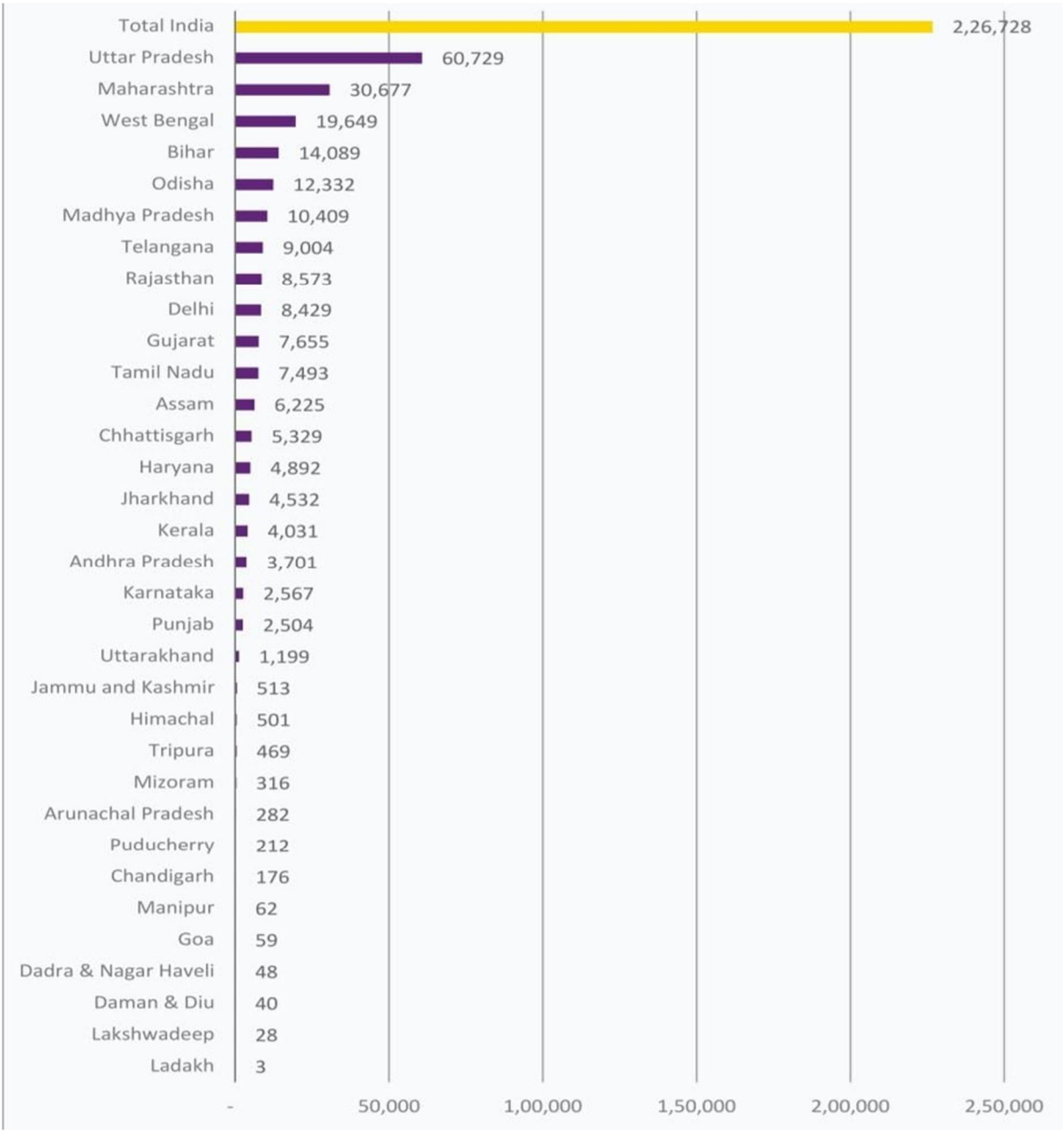
Union Territory	Cases Registered (CR)	Cases Chargesheet (CCS)	Cases Convicted (CON)	Conviction Rate (CVR)
Delhi	1719	1589	718	68.4%
Puducherry	48	45	4	100%
Chandigarh	5	6	0	0%
Lakshadweep	25	11	0	0%

VI. CASES OF POCSO TO TOTAL CASES OF CRIME AGAINST CHILDREN, 2018-2020



The graph shown in the above figure titled "CASES OF POCSO TO TOTAL CASES OF CRIME AGAINST CHILDREN (2018-2020)" shows the proportion of cases registered under the POCSO Act in comparison with the total number of crimes committed against children in India. In 2018, a total number of 1,41,764 crimes against children were recorded, out of which 39,827 cases were registered under the POCSO Act. In 2019, the total crimes against children increased to 1,48,090 and 47,335 cases were registered under the POCSO Act. The share of POCSO cases rose to 32%, while 68% represented other crimes against children. In 202, the total crimes against children decreased to 1,28,531, but 47,221 cases were still registered under the POCSO Act. As a result, the proportion of POCSO cases further increased to 37%, while 63% represented other types of offences.

VII. TOTAL NUMBER OF POCSO CASES PENDING TRIAL IN STATES AND UT's AS ON 31.01.2022



The graph shown in the above figure titled "Total Number of POCSO Cases Pending Trial in States and UTs as on 31.01.2022" shows the number of cases registered under the Protection of Children from Sexual Offences (POCSO) Act that were still awaiting trial in different states and union territories of India. It highlights the large backlog of cases that are pending in courts.

According to the graph, the total number of pending POCSO cases in India is 2,26,728 as of 31 January 2022. Among all the states, Uttar Pradesh has the highest number of pending cases with 60,729, which indicates a heavy burden on the judicial system in that state. Maharashtra is the second highest with 30,697 pending cases, followed by West Bengal with 19,649 cases.

Other states also show a significant number of pending trials. Bihar has 14,089 cases, while Odisha reports 12,332 pending cases. Madhya Pradesh has around 10,409 cases, and Telangana has 9,004 cases waiting for trial. Rajasthan and Delhi also have thousands of cases pending, which reflects delays in the judicial process.

States such as Gujarat, Tamil Nadu, Assam, and Chhattisgarh also contribute to the backlog with several thousand pending cases each. Smaller states and union territories have comparatively fewer cases, but the issue of delayed trials still exists.

Overall, the graph clearly shows that a large number of POCSO cases remain pending across India, especially in highly populated states. This situation indicates the need for more special courts, faster investigation, and efficient judicial procedures so that justice can be delivered quickly to child victims of sexual offences.[5]

VIII. SIGNIFICANT CASE STUDY

A. *Attorney General for India v. Satish & Another (2021)*

The girl (victim), aged 12 years, had gone out to bring gauva. The man residing in the same area proposed to give him gauva, took her to his home, and then he pressed her breast and tried to remove her salwar. The victim shouted & pressed her mouth. The victim's mother noticed that it had been a long time since she had returned home, and the informant's mother went in search of her daughter. A lady named Sau Divya told the mother that the accused had taken her daughter along with him into his home. The mother went to his home and the accused came down from the first floor of his house and denied that her daughter was not in his house, however the mother braged into the house and went to the first floor and saw her daughter crying, the mother asked her and victim says that the accused proposed her to give her gauva and then pressed her breast and tried to remove salwar. The FIR was filed against the accused. The high court made an error in the judgment.

The High of Bombay, the Nagpur bench had interpreted the Protection of Children from sexual offences act POSCO ACT 2012 saying that skin-to-skin contact was necessary for sexual assault under Section 8, and Satish was acquitted by the High Court. Two appeals were filed against the High Court Nagpur bench and the Special Court corrected the judgment. The accused is directed to surrender himself within four weeks from today.

B. *Bijoy v. State of West Bengal (2017)*

The case of Bijoy v. State of West Bengal (2017) is an important judicial decision dealing with offences under the Protection of Children from Sexual Offences (POCSO) Act, 2012. This case highlights the seriousness with which courts treat crimes committed against children and the need to protect minors from sexual exploitation.

In this case, the accused, Bijoy, was charged with sexually assaulting a minor girl. The victim was below eighteen years of age and therefore, was legally considered a child under the POCSO Act. The incident came to light when the child reported the act to her family members, after which a complaint was lodged with the police. The police registered a case under relevant provisions of the POCSO Act and began an investigation.

During the investigation, statements of the victim were recorded, and medical evidence was collected. The prosecution presented evidence before the trial court to prove that the accused had committed sexual assault on the minor. The testimony of the victim played a crucial role in establishing the facts of the case. Under the POCSO Act, the statement of a child victim is considered important evidence, and courts are required to ensure that the child is treated with dignity and sensitivity during the legal process.

The trial court examined the evidence and found the accused guilty of committing the offence under the POCSO Act. The court held that crimes against children must be dealt with strictly because such acts cause severe psychological and emotional harm to the victims. As a result, the accused was convicted and punished according to the provisions of the law.

When the case reached the higher court, the court carefully reviewed the evidence and upheld the importance of protecting child victims. The judgment emphasised that the POCSO Act was enacted to provide a strong legal framework for safeguarding children from sexual offences and to ensure speedy justice. The court also stressed that minor victims often face fear and trauma, and therefore their testimony should not be disregarded merely because of minor inconsistencies.

The case of Bijoy v. State of West Bengal (2017) demonstrates the commitment of the Indian judiciary to protect children from sexual crimes. It also reinforces the objective of the POCSO Act to provide strict punishment to offenders and ensure justice for child victims through a sensitive and child-friendly legal process.

IX. RECOMMENDATIONS AND FURTHER IMPROVEMENT OF THE POCSO ACT

Enhancing the Protection of Children from Sexual Offences (POCSO) Act's impact requires targeted actions to refine its execution and bolster child safety. A key strategy involves ramping up community education on child sexual abuse and the Act's core

[5] Esha Roy, NCRB data | Crime against kids: a third still under POCSO, (Aug. 30, 2022), https://indianexpress.com/article/india/crime-against-kids-a-third-still-under-pocso-8119689/.

provisions. Awareness campaigns at the community level, especially in schools and rural areas, can help children, parents, and teachers understand the importance of reporting such crimes and supporting victims.

Another important recommendation is the strengthening of special courts established under the POCSO Act. Many cases remain pending for long periods, which delays justice for child victims. Therefore, the government should establish more special courts and appoint trained judges to ensure quicker trials and reduce the backlog of cases.

There is also a strong need to provide proper training to police officers, prosecutors, medical professionals, and other stakeholders involved in handling POCSO cases. Training programs can help them deal with child victims in a sensitive and supportive manner, which can reduce the trauma faced by children during investigations and court proceedings.

Improving coordination among different agencies such as the police, child welfare committees, social workers, and legal authorities is another key recommendation. Effective communication and cooperation among these institutions can lead to faster investigations and better support for victims.

In addition, the government should ensure the availability of psychological counselling and rehabilitation services for child victims. Sexual abuse can have long-term emotional and mental effects, so professional support is necessary to help victims recover and rebuild their lives.

Further improvements can also include introducing child-friendly reporting mechanisms, such as helplines and online complaint systems, so that children or their guardians can report offences easily. Schools should also include child safety education programs to teach children about personal safety and how to seek help if they face abuse.

Finally, authorities should regularly monitor and evaluate the implementation of the POCSO Act to identify gaps and make necessary policy changes. With these measures, the impact of the POCSO Act can be strengthened, ensuring better protection, justice, and support for children across the country.

X. CONCLUSION

The Protection of Children from Sexual Offences (POCSO) Act, 2012, has been instrumental in tackling child sexual abuse across India. It offers a thorough legal structure to address various types of sexual crimes against children, guaranteeing their recognition and appropriate punishment. Additionally, the legislation has boosted public consciousness on child safety and promoted reporting of incidents that were once frequently concealed or overlooked.

However, despite the strong legal provisions, several challenges still remain in the effective implementation of the Act. Many cases of child sexual abuse continue to be underreported due to fear, social stigma, lack of awareness, and pressure from families or communities. Children who experience such abuse require proper psychological support, counselling, and a safe environment so that they can recover from the trauma. Therefore, society, legal authorities, healthcare professionals, and educational institutions need to work together to address this issue.

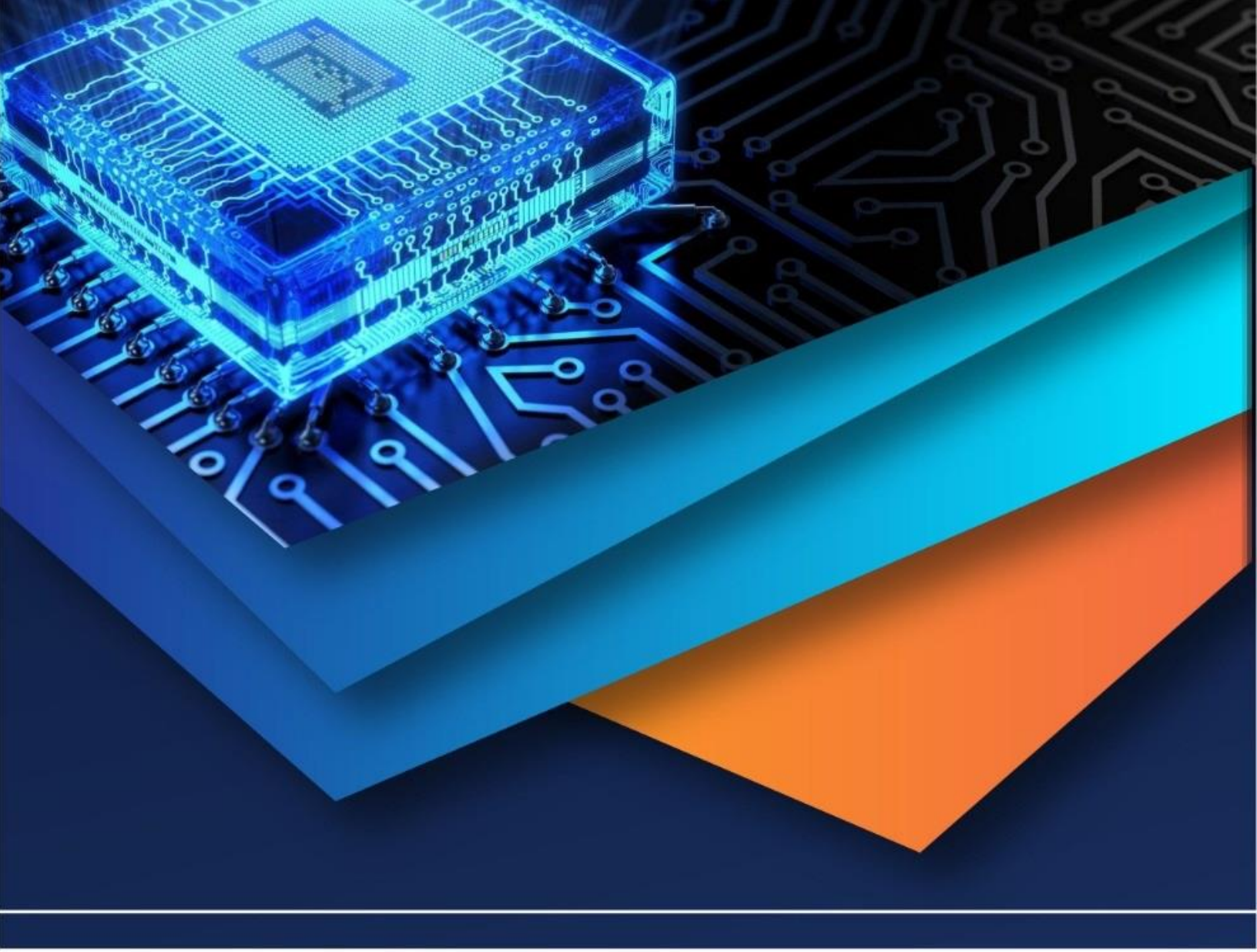
A child-friendly approach should always be followed during investigation, medical examination, and court proceedings. Professionals dealing with such cases must treat child victims with care, sensitivity, and respect to avoid causing additional emotional distress. Early identification of abuse and proper assessment of the child's condition are also essential to ensure justice and protection.

In addition, awareness and education programs should be strengthened to teach children about personal safety, including the concept of good touch and bad touch. Parents, teachers, and community members should also be educated so that they can recognise signs of abuse and take appropriate action. Increasing research and monitoring in this area will also help policymakers understand the problem better and develop effective solutions.

Furthermore, the government should focus on strengthening support systems, such as counselling services, rehabilitation programs, and shelter facilities for victims. Establishing more special courts and trained professionals can help ensure faster trials and better implementation of the Act.

The POCSO Act is a significant step toward protecting children from sexual offences in India. While it has improved the legal response to such crimes, continuous efforts in awareness, education, effective implementation, and victim support are necessary to create a safer environment for children and ensure that their rights and dignity are fully protected.

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