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LawPublicus The Legal Portal

Evaluating the Efficacy and Shortcomings of the POCSO Act, 2012

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Evaluating the Efficacy and Short-comings of the POCSO Act, 2012

By: Ayush and Astha

ABSTRACT

Child Sexual Abuse is an alarming reality and is being increasingly reported in India as well as globally. India has a comprehensive framework of rights and guarantees that have been made in favour of children across a vast range of legal enactments, from the Constitution on the one hand to the Indian Penal Code, 1860 and other statutes like The Protection of Children from Sexual Offences, 2012 (POCSO) on the other. Before the enactment of POCSO Act, 2012, there was no specific statute for the protection of children from sexual offences in India. The offence of child abuse was prosecuted under the Indian Penal Code, 1860 but due its inadequacy to deal with child sexual abuse the protection of children from sexual offences, 2012 (POCSO) was enacted. The POCSO is a virtuous legislation however, there are certain shortcomings in the law that refute its objective and must be removed to effectuate the law in its true sense. The researchers, along with the analysis of the Protection of Children from Sexual Offences Act, 2012, and relevant provisions of the Indian Penal code, 1860 have identified various lacunas in POCSO, 2012 and have given certain suggestions that can contribute to overcome the shortcomings of the act.

INTRODUCTION

India is one of the youngest nations with around 40% of the population below the age of 18 years which is the second largest in the world, India has a comprehensive framework of rights and guarantees that have been made in favour of children across a vast range of legal enactments, from the Constitution on the one hand to the Indian Penal Code, 1860 and other statutes like the protection of children from sexual offences, 2012 (*POCSO*) on the other. Article 15 (3) of the Indian Constitution makes an exception to the overarching principle of equality by enabling the State to make special provisions in favour of children¹. The 86th amendment to the Constitution gave children, between the ages of six and fourteen, the fundamental right of free and compulsory education². Several provisions in the Fundamental Rights have also been devoted to preventing the trafficking of children³ and their employment in hazardous occupations⁴. Apart from the constitutional framework for the protection of the children, India is also a signatory to the United Nations Convention on the Rights of the Child, 1989⁵. This strong international and constitutional mandate for protecting the rights of children has surprisingly, however, not been borne out by other enactments of the Indian legislature.

Owing to the inadequacies of the Indian Penal Code to categorically recognise child sexual abuse as a separate criminal offence, prosecutors and courts have often been forced to depend on other provisions which are incapable to deal with several cases of abuse. Thus, the Protection of Children from Sexual Offences Act, 2012 was introduced to effectively address the heinous crimes of sexual abuse and sexual exploitation of children through less ambiguous and more stringent legal provisions. The act provides a child-friendly judicial process which was not available before. However, the fact cannot be ignored that even after the enactment of POCSO the cases of sexual abuse against children are continuously increasing. The data regarding the offence of child sexual abuse reported from March 2020 onwards on various platforms is as follows:

- i. National Crime Records Bureau (NCRB) data shows, a total number of 13244 cases of child pornography/rape and gang rape and same were reported to the National Cybercrime Reporting Portal (NCRP) from 01.03.2020 to 18.09.2020.

¹ Article 15(3) of The Indian Constitution

² Article 21A of the Indian Constitution

³ Article 23(1) of The Indian Constitution

⁴ Article 24 of The Indian Constitution

⁵ Article 2 of The United Nations Convention on the Rights of the Child, 1989

- ii. According to the National Commission for Protection of Child Rights (NCPCR), 420 cases of child sexual abuse has been received by NCPCR from 1st March, 2020 till 31st August, 2020.
- iii. As per the data of Childline India Foundation (CIF), the number of calls that have been received by CIF regarding child sexual cases from 1st March, 2020 to 15th September, 2020 is 3941⁶.

From the above data, it can be inferred that even after implementation of the Protection of Children from Sexual Offences Act, 2012 the offence of sexual abuse against children remains a problem that needs the special attention of the legislators. This paper along with the analysis of the Protection of Children from Sexual Offences Act, 2012, and relevant provisions of the Indian Penal code, 1860 seeks to identify various lacunas in POCSO, 2012.

NEED FOR ENACTMENT OF POCSO, 2012

Before the enactment of POCSO Act, 2012, there was no specific statute for the protection of children from sexual offences in India. The offence of child abuse was prosecuted under the Indian Penal Code, 1860 primarily under sections 375, 354, 377 of the act. It should be noted it was only in 2013 after the infamous Nirbhaya Case that The Criminal Law (Amendment) Act, 2013 was introduced which widened the ambit of certain offences and recognised various new offences but before this amendment IPC, 1860 was highly inadequate in curbing child sexual abuse, but even after the 2013 amendment there exists pitfalls in the act like:

- Section 375 does not bring minor male rape victims under its ambit. section 375 uses the words “A man is said to have committed rape” thus at the very outset it rules out all the possibilities that the offence of rape can be committed on the person of a male child while as matter of fact the reports of NCRB clearly show that the victims of rape are both females as well as male children.
- Section 354 of I.P.C, 1860 which talks about the offence of outraging the modesty of women by use of criminal force does not properly define the term ‘modesty. If we

⁶ Available at <https://pib.gov.in/PressReleaseIframePage.aspx?PRID=1657679#:~:text=As%20reported%20by%20National%20Crime,2020%20is%2013244.>

apply this section to case of sexual assault of an infant the serious problem which would arise that, how do we determine the modesty of a child of 2 years old. One more problem with this section is that it uses the words “Whoever assaults or uses criminal force to any woman” hence this provision too does not apply to male children.

- Section 377 of I.P.C, 1860 the term “unnatural offences” is not defined. Explanation provided to the section says that “Penetration is sufficient to constitute the carnal intercourse necessary to the offence described in this section” thus only applies to cases where the act of penetration was committed by the perpetrators, and is not designed to criminalize sexual abuse of children.

Therefore, the lacunas in the I.P.C, 1860 were the main driving force behind the enactment of POCSO, 2012. The only state which had a specific act to protect the children from child abuse before the POCSO came into force was Goa named as “Goa Children’s Act, 2003” and gradually the need for such legislation was felt for pan India.

DECODING THE POCSO ACT, 2012

Recognising the various kinds of sexual offences perpetrated upon a child⁷, the Act has broadened the scope of sexual abuse of children to include sexual acts that involves both physical contacts, as well as those which do not involve physical contact but are still a sexual abuse. The sexual offences committed by specified persons, in a specified manner or in specified situations is considered as an aggravated form of sexual Assault⁸. For the speedy disposal of such offences Special Courts have been established under the act⁹. The act enshrines the provisions for human resources to enable a child to communicate effectively and to support children in their legal proceeding against offenders.

⁷ The term “child” is defined under section 2(d) as any person below the age of 18 years.

⁸ Section 5 of the protection of children from sexual offences, 2012

⁹ Section 28 of the protection of children from sexual offences, 2012

SEXUAL OFFENCES UNDER POCSO ACT, 2012

1. Penetrative Sexual Assault and Punishment

The offence of penetrative sexual assault is defined under section 3 of the act. The term penetration includes insertion of any part of the body or a thing. According to S-3 (a) and (b), When a person penetrates any object or part of his body, to any degree, into vagina, mouth, urethra or anus of a child or causes the child to do so with him or any other individual. According to sub clauses (c) and (d) if a person manipulates any part of the body of the child so as to cause penetration into the vagina, urethra, anus or any part of body of the child or applies his mouth to the penovaginal, urethra, anus or any part of body of the child or makes the child do so with such person or any other person. The punishment for such offence is given under section 4 of the act according to which, whoever commits penetrative sexual assault shall be punished with imprisonment of either description for a term which shall not be less than ten years but which may extend to imprisonment for life, and shall also liable to fine.

2. Aggravated penetrative sexual offences

Section 5 provides that if the offence of penetrative sexual is committed by certain specified persons in specific situations it will be considered an aggravated or more heinous form of penetrative sexual offence which is punishable more severely. One can say that this act is more stringent when the protector becomes the perpetrator. ‘**Aggravated penetrative sexual offences**’ and would be punishable with rigorous imprisonment of not less than 20 years which may extend to imprisonment for life and shall also be liable to fine or with death¹⁰.

1. In case the offence of penetrative sexual offence is committed by *a police officer*.

- 1.1 Within the the police station or premises at which he is appointed or
- 1.1. Within the limits of any station house. It is immaterial whether situated in the police station, to which he is appointed; or
- 1.2. during the course of his duties or otherwise; or
- 1.3. where he is identified as, or known as, a police officer;

2. If in case the offence is committed by a **member of the armed forces or security forces**

¹⁰ Section 6 of the protection of children from sexual offences, 2012

- 2.1. If committed within the limits of the area to which the such a person is deployed;
or
 - 2.2. If committed in any areas under the command of the armed forces or forces; or
 - 2.3. During the course of his duties or otherwise; or
 - 2.4. where such a person is identified or known as a member of the security or armed
forces; or
3. If in case the offence of penetrative sexual assault is committed by a **public servant**;
4. any person who being on the **management or on the staff of the following**
 - 4.1. Jail, or
 - 4.2. Remand home, or
 - 4.3. Protection home, or
 - 4.4. Observation home, or
 - 4.5. Other any other place of custody or care and protection which is established by
or under any law for the time being in force;
5. If any person who being on the **staff or management of a hospital, whether
government, or private** commits penetrative sexual assault on a child in that hospital;
6. If in case the offence of penetrative sexual assault is committed by the **staff or
management of an educational institution or religious institution**, is considered as
its aggravated form;
7. Any person or persons commits **gang penetrative sexual assault** on a child. According
to the explanation provided, each of such persons shall be deemed to have committed
gang penetrative sexual assault and each of such person shall be liable for that offence
in the same way as if it were done by him alone;
8. If the offence of penetrative sexual assault is committed on a child by **using deadly,
weapons or fire or heated substance or any corrosive substance**;
9. If any person **causes grievous hurt or causing bodily harm and injury or injury to
the sexual organs of the child** while committing penetrative sexual assault;

10. If a person commits the offence of penetrative sexual assault on a child,
 - 10.1. Which disables the child physically or causes the child to become mentally ill
 - 10.2. In the case of female child, makes the child pregnant as a result of sexual assault, or
 - 10.3. Inflicts the child with HIV or any other disease or Infection which is life threatening and may either temporarily or permanently impair the child by rendering him physically incapacitated, or mentally ill to perform regular tasks;
11. If any person taking advantage of a child's mental or physical disability and commits penetrative sexual assault on the child;
12. If any person commits penetrative sexual assault on the child or repeatedly;
13. If a person commits penetrative sexual assault on a child below 12 years;
14. If a person being a relative of the child through blood or adoption or marriage or guardianship or in foster care or having a domestic relationship with a parent of the child or who lives in the same house with the child, commits penetrative sexual assault on such child;
15. If a person being an owner, or staff, or management, of any institution providing services to the child, commits penetrative sexual assault on the child; or
16. If a person is in a position of trust or authority of a child commits penetrative sexual assault on the child in an institution or home of the child or anywhere else; or
17. If a person commits penetrative sexual assault on a child and has the knowledge that the child is pregnant;
18. If a person commits penetrative sexual assault on a child and attempts to commit murder the child;
19. If a person commits penetrative sexual assault on a child in the course of -

- 19.1. Communal or sectarian violence or
- 19.2. During any natural calamity or in similar situations

- 20. If a person commits penetrative sexual assault on a child and has been previously convicted of having committed any offence under this Act or any sexual offence punishable under any other law for the time being in force;
- 21. If a child is made to strip or parade naked in public and commits penetrative sexual assault is said to commit aggravated penetrative sexual assault.

3. Sexual Assault

If any person, *touches* the vagina, penis, anus or breast of the child or makes the child touch the vagina, penis, anus or breast of such person or any other person, or does any other act with sexual intent which involves physical contact without penetration is said to commit sexual assault¹¹. The provision makes it very clear that mere touching the above mention body parts of a child or making a child touch such body part of the perpetrator himself or any other person would amount to sexual assault. But there should be no penetration to any extent.

In the *recent judgement the Bombay High Court* acquitted a man under POCSO and held that an act against the minor would amount to sexual assault only if there is a” **skin to skin**” contact¹². The Supreme Court has stayed this verdict. According to the attorney general K.K Venugopal this decision of Bombay High Court sets a very dangerous precedent. Section 8 of the act prescribes that any person who is guilty of committing sexual offence shall be punished with imprisonment of either description for a term which shall not be less than 3 years but which may extend to 5 years, along with fine.

4. Aggravated Sexual Assault

The offence of sexual Assault becomes aggravated if it is committed by certain specified person such as police officer, public servant, armed personnel, or member of security forces etc and in specified conditions as explained above in Section 5. But in 2019 another provision was added which said if any person persuades, induces, entices or coerces a child to get administered or administers or directs anyone to administer, or give the child any drug or

¹¹ Section 8 of the protection of children from sexual offences, 2012

¹² Satish V. State of Maharashtra CRIMINAL APPEAL NO. 161 OF 2020

hormone or any chemical substance, so that such child attains early sexual maturity. The act prescribes that any person guilty of such offence shall be punished with imprisonment of minimum 5 years and maximum up to 7 years and shall be liable to fine.

5. Sexual harassment

A person commits sexual harassment on a child when such person with sexual intent, if he does any of the following acts¹³

(I) Says any word or makes any gesture or any sound, with the intention that such word or sound shall be heard by the child, or shows any object or part of body having the intention, that such part of the body or gesture or object shall be seen by the child.

(II) Compels a child to exhibit his body or any part of his body so as it is seen by such person or any other person

(III) Shows any object in any form or media for pornographic purposes to a child.

(IV) If a person follows, watches or contacts a child either directly or through electronic, digital or using any other means, repeatedly or constantly.

(V) Intimidate the child to use, any form of media whether real one or fabricated depiction using electronic, digital or film or any other mode, of any part of the body of such child or the involvement of such child in a sexual act; or

(VI) Persuade a child for pornographic purposes or give gratification therefore.

For the purpose of this section the question of sexual intent shall be a question of fact i.e., such intention shall be inferred from the facts and circumstances of the case.

The act says that if any person who is found to be guilty of committing sexual harassment shall be punished with a minimum sentence of imprisonment for a term of 3 years along with fine¹⁴.

¹³ Section 11 of the protection of children from sexual offences, 2012

¹⁴ Section 12 of the protection of children from sexual offences, 2012

6. Use of a child for pornographic purposes.

A person is guilty of using a child for the purpose of pornography¹⁵

- A person uses any child for the purpose of sexual gratification through any media. Here the term “media” includes print, electronic, computer or any other technology that may be used for production, preparation, offering, transmitting, publishing, facilitation and distribution of the pornographic material.
- If a child is engaged in real or simulated sexual acts (with or without penetration)
- If the child is represented in an indecent or obscene manner.

Section 14 prescribes different levels of punishment for the different levels of actus reus.

- Generally, life imprisonment and in no case less than 5 years. In case of repeated offender, the minimum sentence is not less than 7 years and fine.
- If a person uses a child for pornographic purposes and commits an offence under sections 3, 5, 7, 9, by directly participating in the pornographic act, such person shall be punished as prescribed under sections 4, 6, 8, 10.

Punishment for storage of pornographic material involving children¹⁶.

1. Any form involving a child, and does not delete, destroy or report the same to the relevant authorities, with an intention to share such pornography, shall be fined with five thousand rupees and in case of repeated offender the fine shall not be less than ten thousand.
2. In any form involving a child for propagating or transmitting or displaying or for distribution at any time in any manner except for the purpose of reporting, as may be prescribed, or for use as evidence in court, shall be sentenced with imprisonment of either description which may extend up to 3 years, or with fine, or with both.
3. Any person, who is in possession or stores pornographic material in any which involves a child for commercial purposes.
 - a. In case the person is first time offender he/she shall be punished with imprisonment of either description which shall not be less than 3 years which may extend to 5 years, or with fine, or with both

¹⁵ Section 13 of the protection of children from sexual offences, 2012

¹⁶ Section 15 of the protection of children from sexual offences, 2012

- b. In case of repeated offender, he/she shall be punished with imprisonment of either description which shall not be less than 5 years which may extend to 7 years along with fine.

REPORTING OF CASES UNDER THE POCSO ACT

1. If any person who is an adult, fails to report the commission of an offence contained in the Act or if police fail to record such an offence¹⁷. The punishment is graver if such non-reportage is by a person who is in charge of a company or institution in a case alleging commission of offence by “a subordinate under his control”¹⁸
2. If Personnel of facilities like media, hotel, lodge, hospital, clubs, studios or photographic studios are obligated to report to the police about any object or material which sexually exploits the child. Such object or material may include any pornographic content or sexually related or any obscene representation of any child¹⁹. Non-compliance of this is an offence under the Act²⁰.
3. If any person makes any false complaints or provides false information relating to commission of an offence under Sections 3, 5, 7 and 9 with the intention to humiliate, defame, or extort or threaten, except when done by a child is an offence²¹.
4. If any person or studio or photographic facility or media reports or comments on any child in such a way which may affect such child’s reputation or infringes upon the child's privacy²².
5. If any reports in any media discloses the identity of the child like name, address, family details, school, photograph, or any other particulars.

¹⁷ Section 21 (2) of the protection of children from sexual offences, 2012

¹⁸ Section 21(2) of the protection of children from sexual offences, 2012

¹⁹ Section 20 of the protection of children from sexual offences, 2012

²⁰ Section 21 (1) of the protection of children from sexual offences, 2012

²¹ Section 20 the protection of children from sexual offences, 2012

²² Sections 23 (1), (3) and (4) he protection of children from sexual offences, 2012

For determining whether the offence is cognizable or not, one needs to refer Section 19 of the POCSO Act and Rule 4 (2) (a) of the POCSO Rules which implies that the sexual offences are cognizable as the police on receiving information of such offence is required to record and register a FIR²³. To determine whether a sexual offence is bailable or non-bailable:

- If the punishment is less than 3 years of imprisonment, the offence is bailable.
- If the term of imprisonment is equal to or more than 3 years, the offence is non-bailable.

SPECIAL PROCEDURES FOR RECORDING OF FIR OR THE STATEMENT OF THE CHILD VICTIM

1. The recording of the FIR and the statement of the child by the police under Section 161 of CrPC should be in the presence of the child's parents or a person in whom the child has trust or confidence and should be "as spoken by the child"²⁴.
2. The police are bound to read out the FIR to the child victim / informant as written down²⁵. If the child is unable to understand the language in which the FIR is recorded, it is the duty of the police to seek assistance of a translator or interpreter who qualifies under the POCSO Rules.
3. If the child is mentally or physically challenged then the police shall seek the assistance of a special educator or any person who is familiar with the manner of communication of the child or an expert in that field so the child can communicate with ease²⁶.
4. The police shall provide a copy of the FIR to every informant free of cost as soon as it is registered²⁷.

²³ Section 154 of CrPC

²⁴ Section 26 (1) of the POCSO Act

²⁵ Section 19 (2) (b) of the POCSO Act and Section 154 (1) of CrPC

²⁶ Section 26 (3) of the POCSO Act and Rule 3 of the POCSO Rules

²⁷ Rule 4 (2) (a) of the POCSO Rules and Section 154 (2) of CrPC

5. The police shall record the statement of the child at his or her residence or at the place where the child usually resides or at a place of his choice²⁸. The statement of the child shall be by a woman police officer not below the rank of sub inspector.
6. The act encourages that police record the statement of the child, by using “audio-video electronic means”, along with the recording of such statement in writing²⁹.
7. the police should ensure that while recording the statement of the child, the child at no point of time shall come in contact with the accused³⁰.

SPECIAL COURTS FOR TRYING OFFENCES UNDER THE POCSO

ACT

The purpose of a Special Court is to provide “a speedy trial”³¹.

It assures that a group of specialized and trained human resources handles the cases of sexual offences committed against children also it makes sure that appropriate infrastructure is necessary to satisfy the aims and objectives of the Act as reflected in its Preamble.

Meaning of Special Courts under the POCSO Act

A Court of Sessions shall be designated as a Special Court to try the following cases³²:

- Offences under the POCSO Act,
- Other offences of which the accused may be charged with in the same trial³³
- Offences under Section 67B of the Information Technology Act³⁴ and
- Age determination of the victim or accused in the event of such a question arising before the Special Court in the course of the proceedings³⁵.

²⁸ Section 24 (1) of the POCSO Act

²⁹ Section 26 (4) of the POCSO Act and 1st proviso to Section 161 (3) of CrPC

³⁰ Section 24 (3) of the POCSO Act, 2012

³¹ Section 28 (3) of the POCSO Act, 2012

³² Section 28(2) of the POCSO Act, 2012

³³ Section 28 (2) of the POCSO Act, 2012

³⁴ Section 28 (3) of the POCSO Act, 2012

³⁵ Section 34 (2) of the POCSO Act, 2012

Where Children's Courts have been notified under the Commissions for Protection of Child Rights Act, 2005, such courts shall be designated to function as Special Courts. Any other Special Court set up for similar purposes under any other law can also be designated as a Special Court to try offences under the POCSO Act

Special Public Prosecutors

Any case registered under the POCSO Act shall be prosecuted by a Special Public Prosecutor with minimum 7 years' experience as an advocate appointed by the State Government. The Special Public Prosecutor represents the State³⁶. The alleged offender is prosecuted by the state and the child is a prosecution witness. Hence, the cases are cited as, State vs. ABC (accused).

LACUNAS IN POCSO ACT, 2012

Upon prima facie reading of the POCSO Act, may qualify to be an ideal legislation to protect children from sexual offences. However, there are certain technical problems in it.

1. The Act does not leave any room for consent given by a child. This would mean that if a seventeen-year-old boy or girl engages in a sexual act with their consent with a major partner, the partner would be liable under the provisions of the POCSO Act.
2. The Act also does not provide any clarity on what happens when two minors with their consent engage in any kind of sexual activity. Technically, they are both Children in Need of Care and Protection and Children in Conflict with Law.
3. Another lacuna in POCSO is that the act is silent on what documents are required for determining the age of the victim child thus the victims face problems while proving their age. Even **Rule 12** of the Juvenile Justice Rules recognizes only the birth certificate, the school certificate of the child, or the matriculation certificate to determine the age of the child. However, those children who are not able to produce these documents face difficulties in proving their age. Even a legal document such as a passport has to be corroborated with a bone ossification test. This test merely gives a

³⁶ Section 32 of the POCSO Act

rough age of the child at best. So, there is a requirement for a more comprehensive provision in the POCSO Act that will lay down what documents are required for proving the age of the child, and whether the child will get the benefit of doubt if the ossification test cannot provide an exact assessment.

4. Medical examination: The POCSO Act, Section 27(2) requires that female child/adolescent victims should be examined by a female doctor. However, the law mandates that in case of emergency, the medical care should be provided and, the Criminal Law amendment Act, Section 166A of Indian Penal Code requires the Government medical officer on duty to examine the rape victim without fail thus conflicting legal positions arise if female doctor is not available.
5. Child marriage: Another issue that need to be addressed is the child marriage and consummation of child marriage are considered illegal under the POCSO Act, 2012. In India, child marriage is prohibited under secular law, however it enjoys sanction under certain Personal Law thus complicating matters.
6. Mandatory reporting has its pros and cons. One aspect of it is that it makes adults accountable for child welfare and ensures that the case gets reported with relevant authorities. But it is observed that due to fear of registration of FIR, the child or child's support structure may not seek help or even medical treatment or mental health support.
7. Giving justice to children whose mental age does not increase with the biological age due to diseases like Cerebral Palsy, Autism and Down's Syndrome is a big issue which is not recognised in the act.

SUGGESTION

1. There is an acute need to upskill the medical experts, teachers, judicial, advocates and law enforcing agencies in the POCSO Act, 2012. Training all the stakeholders is one of the important factors in providing complete care and justice.

2. Given the significantly high number of cases of children aged 16 to 18 years in romantic relationships coming into the criminal justice system, there is an urgent need for the Ministry of Women and Child Development to conduct discussions on the issue of age of sexual consent.
3. In a lot of cases, where the child knows the accused, have ended in acquittal due to the child turning hostile. It is essential that we come up with a more robust Victim Protection Programme. Providing such a child with a support person will also be a step towards achieving this end.
4. It is essential to establish coordination and linkage between the justice delivery mechanism under the POCSO Act and the JJ Act to enable the Special Court to assess the victim's requirements. It is not only in relation to the offence.
5. A list which contains the particulars of translators and interpreters for different languages and dialects; sign language interpreters; special educators; counsellors; social workers; support persons, including governmental agencies/ non-governmental organisations, should be prepared in consultation with the District Child Protection Units (DCPUs) and uploaded on the courts' websites.
6. Sexual offences against children can be curtailed by seeking a more stringent punishment; instead, a greater focus should be on increasing the rate of conviction. This requires major investment in enhancing the investigation skills of the police and their sensitization as also building the capacity of Special Courts and Special Public Prosecutors to innovate and to gradually drift away from conventional methods of functioning so as to achieve the objectives of the POCSO Act.
7. Counselling needs to be made available to the condemned offenders because their rehabilitation also needs to be focused upon. Our approach should be to provide restorative justice instead of focusing on punishment.

CONCLUSION

The POCSO is a virtuous legislation. However, there are certain shortcomings in the law that refute its objective and must be removed to effectuate the law in its true sense. A multi-dimensional, multi-agency team and multi-tier methodology including access to psychosocial

support is to be made available to deliver holistic comprehensive care under one roof for victims of child sexual abuse. There are several constraints which forbid effective implementation of the laws which includes, raising the age of consent to sexual activity, and the concept of mandatory reporting, to name a few. It is paramount that debates among stakeholders are facilitated to draw out more such issues to strengthen the legislation. Successful prosecution is not the only test to measure whether a child has attained justice or not but also extends to provide a child-friendly process through the special procedures, infrastructure and human resources. envisioned under the POCSO Act. There is a need to encourage micro and macro research institutions by all-India and state level institutions, such as the NCPCR and State Commissions as well as Universities/ Colleges, to get critical information on implementation of the POCSO Act, 2012. Furthermore, for the better evaluation of victims of child sexual abuse certain specific skills and techniques in taking history, forensic and medical examination is required. Hence, mental health and medical professionals need to upskill themselves. This Act has been successful in identifying and criminalizing a range of unacceptable sexual behaviours that pose a threat to children. But to defeat and eliminate this evil from the grassroots level, legal awareness of this issue is the key.

This case study is for information purpose only. Nothing contained herein shall be deemed or interpreted as providing legal or investment advice.