

# INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS



Open Access, Refereed Journal Multi Disciplinary  
Peer Reviewed

[www.ijlra.com](http://www.ijlra.com)

## DISCLAIMER

No part of this publication may be reproduced, stored, transmitted, or distributed in any form or by any means, whether electronic, mechanical, photocopying, recording, or otherwise, without prior written permission of the Managing Editor of the *International Journal for Legal Research & Analysis (IJLRA)*.

The views, opinions, interpretations, and conclusions expressed in the articles published in this journal are solely those of the respective authors. They do not necessarily reflect the views of the Editorial Board, Editors, Reviewers, Advisors, or the Publisher of IJLRA.

Although every reasonable effort has been made to ensure the accuracy, authenticity, and proper citation of the content published in this journal, neither the Editorial Board nor IJLRA shall be held liable or responsible, in any manner whatsoever, for any loss, damage, or consequence arising from the use, reliance upon, or interpretation of the information contained in this publication.

The content published herein is intended solely for academic and informational purposes and shall not be construed as legal advice or professional opinion.

**Copyright © International Journal for Legal Research & Analysis.  
All rights reserved.**

## ABOUT US

The *International Journal for Legal Research & Analysis (IJLRA)* (ISSN: 2582-6433) is a peer-reviewed, academic, online journal published on a monthly basis. The journal aims to provide a comprehensive and interactive platform for the publication of original and high-quality legal research.

IJLRA publishes Short Articles, Long Articles, Research Papers, Case Comments, Book Reviews, Essays, and interdisciplinary studies in the field of law and allied disciplines. The journal seeks to promote critical analysis and informed discourse on contemporary legal, social, and policy issues.

The primary objective of IJLRA is to enhance academic engagement and scholarly dialogue among law students, researchers, academicians, legal professionals, and members of the Bar and Bench. The journal endeavours to establish itself as a credible and widely cited academic publication through the publication of original, well-researched, and analytically sound contributions.

IJLRA welcomes submissions from all branches of law, provided the work is original, unpublished, and submitted in accordance with the prescribed submission guidelines. All manuscripts are subject to a rigorous peer-review process to ensure academic quality, originality, and relevance.

Through its publications, the *International Journal for Legal Research & Analysis* aspires to contribute meaningfully to legal scholarship and the development of law as an instrument of justice and social progress.

## ***PUBLICATION ETHICS, COPYRIGHT & AUTHOR RESPONSIBILITY STATEMENT***

The *International Journal for Legal Research and Analysis (IJLRA)* is committed to upholding the highest standards of publication ethics and academic integrity. All manuscripts submitted to the journal must be original, unpublished, and free from plagiarism, data fabrication, falsification, or any form of unethical research or publication practice. Authors are solely responsible for the accuracy, originality, legality, and ethical compliance of their work and must ensure that all sources are properly cited and that necessary permissions for any third-party copyrighted material have been duly obtained prior to submission. Copyright in all published articles vests with IJLRA, unless otherwise expressly stated, and authors grant the journal the irrevocable right to publish, reproduce, distribute, and archive their work in print and electronic formats. The views and opinions expressed in the articles are those of the authors alone and do not reflect the views of the Editors, Editorial Board, Reviewers, or Publisher. IJLRA shall not be liable for any loss, damage, claim, or legal consequence arising from the use, reliance upon, or interpretation of the content published. By submitting a manuscript, the author(s) agree to fully indemnify and hold harmless the journal, its Editor-in-Chief, Editors, Editorial Board, Reviewers, Advisors, Publisher, and Management against any claims, liabilities, or legal proceedings arising out of plagiarism, copyright infringement, defamation, breach of confidentiality, or violation of third-party rights. The journal reserves the absolute right to reject, withdraw, retract, or remove any manuscript or published article in case of ethical or legal violations, without incurring any liability.

# **THE PROTECTION OF CHILDREN FROM SEXUAL OFFENCES (POCSO) ACT IN TAMIL NADU: A DOCTRINAL STUDY OF THE ISSUES IN IMPLEMENTATION AND ENFORCEMENT**

AUTHORED BY - VIBITHA.M

LL.M Final Year Student (Criminal Law) Crescent Law School,  
B. S. Abdur Rahman Crescent Institute of Science & Technology, TN

## **ABSTRACT:**

In, the Protection of Children from Sexual Offences Act 2012 was passed in India. This Act was passed to protect and preserve children and minors from sexual exploitation. The POCSO act despite its safeguarding intention faces challenges and critical hurdles like massive court case backlogs, social stigma resulting in underreporting, people manipulation of victim and victim's family, threats by socially higher class, money power influence and shortage of specialized support and medical infrastructure, interagency lags. While progressive in its design, implementation and enforcement, continue to pose major issues across the states of India including Tamil Nadu, nearly fifteen years after its adoption. The present doctrinal study critically analyses these problems in Tamil Nadu by adopting a black-letter law approach, through the analysis of statutory provisions, judicial precedents and procedural frameworks that control the prosecutions under POCSO. This paper contends that the enforcement problems in Tamil Nadu are a result of an intricate mix of institutional, procedural and doctrinal failings, as demonstrated by an exhaustive review of the statutory provision, judicial pronouncements and procedural norms. The study concludes with certain specific recommendations such as setting up special courts, strengthening the infrastructure for investigation and legislative clarity on evidentiary standards and adolescent consent, to address the gap between the protective mandate of the POCSO Act and its implementation on the ground in Tamil Nadu.

## **INTRODUCTION:**

The Protection of Children from Sexual Offences (POCSO) Act, 2012, is a landmark in the legislative response to child sexual abuse in India. The Act was enacted to offer a comprehensive, child friendly legal framework which provides for fast investigations, establishment of special courts and procedural safeguards to protect child survivors from

secondary victimisation<sup>1</sup>. However, there remains a considerable gap between the protective intention of the Act and its execution on ground, particularly in the State of Tamil Nadu, almost one and a half decades after its passage. Children are one of the most vulnerable groups in society and need specific legal protection for their safety, dignity and all-round development<sup>2</sup>. This doctrinal study aims to critically examine the issues in implementation and enforcement faced by the POCSO Act in Tamil Nadu. The doctrinal study aims in reviewing the legislative provisions, case laws of the Madras High Court and Supreme Court and procedural laws to understand the systemic and interpretative challenges that hinder the efficient implementation of the act.<sup>3</sup>

The Parliament approved the Protection of Children from Sexual Offences Act, 2012, recognising the necessity for a specific legal framework.<sup>4</sup> The Act offers extensive definitions of sexual offences against children, specifies strict punishment and promotes child-friendly procedures during investigation and trial. It applies equally to all children below the age of eighteen years irrespective of gender.

The obstacles in POCSO enforcement in Tamil Nadu are multi-dimensional and not just institutional shortcomings, but also procedural lapses and doctrinal uncertainties. The weak prosecutorial power at the institutional level is further worsened by the absence of special courts. The state government has lately taken steps to hire additional special public prosecutors to speed up the trials and eliminate the delays in filing of charge sheets. The Procedural impediments range from delays in submission of forensic reports, lack of integration of court and police digital platforms to procedural difficulties in taking charge sheets on file. Lack of child witness deposition chambers in most districts, poor enforcement of support person systems and inability to disburse quick special relief to survivors further erode the protective purposes of the Act. Most troubling is the near-total absence of child-friendly infrastructure at Juvenile Justice Boards across Tamil Nadu that handle around 1,500 POCSO cases involving juveniles as the accused, a scenario that threatens to re-traumatise child survivors and breach their privacy.

---

<sup>1</sup> The Protection of Children from Sexual Offences Act, No. 32 of 2012, Gazette of India, Extraordinary, Part II, sec. 1 (June 20, 2012).

<sup>2</sup> United Nations Convention on the Rights of the Child, Nov. 20, 1989, 1577 U.N.T.S. 3 (ratified by India on Dec. 11, 1992)

<sup>3</sup> Ministry of Women and Child Development, Government of India, *Model Guidelines under the Protection of Children from Sexual Offences Act, 2012* (2020).

<sup>4</sup> The Protection of Children from Sexual Offences Act, No. 32 of 2012, Gazette of India, Extraordinary, Part II, sec. 1 (June 20, 2012).

## DEFINITION OF CHILD SEXUAL ABUSE:

Sexual abuse can be physical, verbal or emotional assault. It may involve non-contact and contact activities and can involve a range of behaviours including but not limited to: Sexual acts, penetrative or non-penetrative, with a child or young person under the age of consent, forcing a child to strip or masturbate, inappropriate touching of a child, whether clothed or unclothed, engaging in any kind of sexual activity in front of a child, including watching pornography, downloading, viewing or distributing sexual images of children.

Sexual abuse of children and teenagers is a harsh reality in the entire world.<sup>5</sup> Child sexual abuse (CSA) is often thought of as an uncommon incident, perpetrated against girls by male strangers in poor, inner city communities. In contrast, CSA is an all too prevalent event that harms millions of children, both boys and girls, in large and small communities, and across cultures and socio-economic backgrounds. CSA comprises a range of sexually abusive activities against children, such as sexual assault, rape, incest, and the commercial sexual exploitation of minors.<sup>6</sup>

## LEGAL AND CONCEPTUAL BACKGROUND OF POCSO ACT, 2012:

The trajectory of child protection law in India may be understood as a slow transition from a fragmented criminal law regime to a targeted legislative framework for the protection of children from sexual offences. The Protection of Children from Sexual Offences Act, 2012 is a significant legislative development in this regard, providing a broad substantive and procedural protections, introducing a strict liability model under which the consent of any person below eighteen years of age is of no legal consequence. The present study concerns the legal architecture of the POCSO Act and its relationship with the law of consent in Indian criminal law.<sup>7</sup> The research demonstrates that while the POCSO Act has significantly increased protection for children, its rigid age-based framework has also led to the criminalization of consensual adolescent relationships, often called the “Romeo and Juliet” dilemma. The lack of a close-in-age exemption does not differentiate between exploitative conduct and consensual adolescent relationships and may lead to disproportionate punitive repercussions. The report advocates the implementation of a legislative proximity-of-age exception, together with judicial guidelines, counselling mechanisms and awareness initiatives to guarantee that the law

---

<sup>5</sup> World Health Organization, *Responding to Children and Adolescents Who Have Been Sexually Abused: WHO Clinical Guidelines* (2017).

<sup>6</sup> UNICEF India, *Ending Violence Against Children: Child Protection Programme in India* (2021).

<sup>7</sup> Eera through Dr. Manjula Krippendorf v. State (NCT of Delhi), (2017) 15 SCC 133.

continues to protect children while recognizing adolescent autonomy and the realities of teenage relationships. Offences relating to child sexual abuse were mostly covered under the Indian Penal Code, 1860 (now mostly replaced by the Bharatiya Nyaya Sanhita, 2023) until the Act came into force. The previous criminal legislation, however, did not have particular provisions dealing with different forms of child sexual abuse nor did it allow for child friendly procedures for investigations and trial. Considering the limitations, Parliament adopted the POCSO Act for protection of rights and dignity of every child.<sup>8</sup>

The Act is based on the premise that every child has the right to be protected from violence, abuse, exploitation and discrimination. It uses a child-centric and rights-based approach, recognizing that children are particularly susceptible to sexual offences and need specific legal protection.

The POCSO Act gives effect to various constitutional guarantees such as:

Article 14 - Equality before law and equal protection of laws.

Article 15(3) - It enables the State to make particular measures for women and children.

Article 21 - It ensures the right to life, dignity, privacy and personal liberty.

Article 21A - It provides free and compulsory education and creates a safe environment for children.

Article 23 — Prohibits trafficking and exploitation.

Article 24 — Prohibits employment of children in dangerous work.<sup>9</sup>

The Directive Principles of State Policy, especially Articles 39(e) and 39(f) instruct the State to safeguard children from abuse, exploitation and moral and material abandonment.

**1. Mandatory Reporting:** The Act requires any individual who has knowledge of a sexual crime against a child to report the case to the police. The Act provides for punishment for failure to report.

**2. Child friendly procedures:** The Act provides for particular procedures for

- Recording of the statement of the youngster.
- Medical examination.
- Investigation
- Trial by Special Courts

---

<sup>8</sup> United Nations Convention on the Rights of the Child, Nov. 20, 1989, 1577 U.N.T.S. 3 (ratified by India on Dec. 11, 1992).

<sup>9</sup> INDIA CONST. arts. 14, 15(3), 21, 21A, 23 & 24.

- Protection of the identity and privacy of the child.

### 3. Special Courts.

Special Courts are formed to conduct rapid trial of POCSO cases. The Act is designed to promote the recording of evidence as soon as possible and to prevent the unnecessary delay in completing trials.

### 4. International Legal Framework:

The POCSO Act is in line with India's commitments under international human rights instruments like:

- United Nations Convention on the Rights of the Child (UNCRC), 1989: Recognises the right of all children to be protected from all types of abuse and exploitation.
- Optional Protocol on the sale of minors, child Prostitution and child Pornography states must criminalise sexual exploitation of minors.<sup>10</sup>
- ILO Convention No. 182 on the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour.
- Sustainable Development Goal (SDG) 16.2 to stop abuse, exploitation, trafficking of persons and all forms of violence against and torture of children.

## PRACTICAL APPLICATION OF POCSO ACT IN TAMILNADU:

To combat the high pendency of cases in Tamil Nadu, the POCSO Act is implemented through dedicated fast track courts, unique police processes and recent judicial orders.<sup>11</sup> Key infrastructure and initiatives include 20 exclusive POCSO courts, mandatory child-sensitive training and rigorous timetables for completion of trials. The statute has child-friendly reporting, speedy trial in special tribunals and stringent institutional obligations. The law, which was enforced on 14th November, 2012 and was revised by way of the 2019 Amendments and POCSO provisions, 2020, lays forth strict provisions for the protection of minors below the age of 18. The implementation of the Act in Tamil Nadu needs co-ordinated efforts by the Police Department, Social Defence Department, Judiciary, Child Welfare Committees, medical experts, educational institutions and other child protection authorities. The State has adopted certain institutional and administrative measures for successful realisation of the goals of the Act.

<sup>10</sup> Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, May 25, 2000, 2171 U.N.T.S. 227.

<sup>11</sup> Ministry of Women and Child Development, Government of India, *Model Guidelines under the Protection of Children from Sexual Offences Act, 2012* (2020).

### **Establishment of Institutional Mechanisms**

Tamil Nadu has built a solid institutional mechanism for the implementation of the POCSO Act. The Department of Social Defence is the nodal department for child protection and co-ordinates with law enforcement agencies, Child Welfare Committees (CWCs), District Child Protection Units (DCPUs) and Special Juvenile Police Units (SJPU). These institutions work together to prevent, report, investigate, rehabilitate and prosecute incidents of child sexual abuse. The State has also developed implementation instructions and mainstreamed child protection services through Mission Vatsalya.

### **Physician's Role:**

Medical practitioners play a critical role in the implementation of the Act by conducting medical examinations, documenting injuries, collecting forensic evidence and providing emergency medical treatment. They also have a duty to provide psychological support and to refer child victims for therapy and rehabilitation services wherever necessary.

### **Victim Compensation and Rehabilitation:**

Victim rehabilitation is an integral part of the process. Child victims are then given access to counselling, shelter houses, legal support, education, medical treatment and compensation wherever necessary. Special Courts may also give interim compensation to address the immediate requirements of the kid and for his/her rehabilitation.

## **ENFORCEMENT CHALLENGES OF THE ACT:**

One of the challenges that need to be addressed for the proper implementation of the Protection of Children from Sexual Offences (POCSO) Act in India is the absence of sufficient resources and infrastructure to deal with occurrences of child sexual abuse.<sup>12</sup> It is difficult to enforce the legislation without the necessary resources, including funds, qualified personnel, child-friendly buildings and support services. Lack of resources may prolong investigations, judicial processes and victim assistance programs, undermining the provision of justice and protection to sexually assaulted children. It can also lead to low conviction rates by hindering appropriate pursuit of cases due to insufficient resources.

Despite the POCSO Act being progressive in its design, there are still loopholes in the access

---

<sup>12</sup> National Commission for Protection of Child Rights (NCPCR), *Implementation of the Protection of Children from Sexual Offences Act, 2012* (2021).

to justice for the child survivors of sexual offences. Another difficulty is the under-representation of women in the police force. Though the Act provides that the statement of the kid shall be recorded by a woman police officer not below the rank of sub inspector, it is not practically achievable as in India only about 10% of police personnel are female and many police stations do not have female officers at all.<sup>13</sup> This difference has obvious implications for the comfort of the children and their readiness to communicate about their experiences, especially girls, which diminishes the standard and tact of the inquiry process. Major challenge is the misunderstanding of the public about the POCSO Act and its protection and redressal procedure. Many victims and their families, especially in rural or marginalised communities, do not know their rights, the procedures or how to access legal or psychological support. This results in complaints being under-reported, mis-reported or withdrawn.

Another important difficulty and challenge given by the POCSO Act, 2012 is the lack of information amongst the general people. Most people are uninformed of the terms of the legislation and hence cannot report cases of sexual offenses against children. This is further worsened by lack of sufficient sensitisation of the police who are sometimes unwilling to submit complaint under the act.

The key concern is delay in investigation and trial of cases under POCSO Act, 2012. The fact is that Act provides for rapid trial of cases but procedure is often delayed in practice due to many reasons, including shortage of judges and prosecutors and lack of proper training and sensitization of judicial system.

Another key concern is victim protection under the POCSO Act, 2012. The act provides for payment of compensation to victims of sexual assaults but in practice the compensation amount is often insufficient.

Gender bias is another important obstacle of the POCSO Act 2012. But the reality is that female victims of sexual assaults are often not provided the same protection as male victims and are often exposed to gender-based prejudice despite the act being gender neutral.

---

<sup>13</sup> National Crime Records Bureau, *Crime in India 2023* (Ministry of Home Affairs, Govt. of India, 2024).

## JUDICIAL TRENDS & ANALYSIS:

Indian courts have played an essential part in influencing the interpretation and execution of the Protection of Children from Sexual Offences (POCSO) Act, 2012 since its enactment. Judicial developments under the Act reflect a slow but steady change to a child-centric, rights-based and victim-sensitive approach, as well as the resolution of practical challenges emerging in enforcement. The Act has been construed by the Supreme Court and different High Courts like the Madras High Court to provide for fair trials, to enhance the protection of children and to preserve a balance between the rights of the child victims and the accused. One of the most relevant judicial trends is the adoption of the best interests of the child premise.<sup>14</sup> The courts have consistently concluded that the POCSO Act is a welfare act to be liberally construed to sub-serve its goal of protection of minors from sexual abuse. Judges have insisted that the inquiry, the medical examination, the taking of statements and the trial should be as less traumatic for the child as possible. The courts have also insisted on secrecy of victim's name and a child-friendly atmosphere for the hearings.

But in recent years, courts have increasingly begun to recognize the complexities of consensual teenage relationships. Some High Courts and the Supreme Court have remarked that prosecution of real teenage relationships under the Act may not always be consistent with the Act's original intent, and have recommended that Parliament explore suitable legislative changes, including the possibility of a "Romeo and Juliet" exception.

The judiciary has adopted a purposive interpretation of the Act rather than a narrow or technical interpretation. In *Attorney General for India v. Satish* (2021), the Supreme Court disagreed with the Bombay High Court's interpretation of the phrase "skin-to-skin contact" and concluded that the determining factor in assessing whether an act amounts to sexual assault under the POCSO Act is sexual intent, not whether there was direct skin-to-skin contact. This judgement has reiterated that the Act has to be construed in a manner that promotes its protective aim.

## CRITICAL ANALYSIS:

The judicial trends under the POCSO Act show a progressive and child-sensitive approach which reinforces the protection of children through purposeful interpretation and stringent

---

<sup>14</sup> *State of Punjab v. Gurmit Singh*, (1996) 2 SCC 384.

application of procedural protections. At the same time, recent rulings reflect an increasing awareness of practical difficulties, notably in connection to teenage interactions, the quality of inquiry and procedural fairness. These developments show the judiciary trying to combine the rights of child victims with the constitutional requirement of a fair trial for the guilty.

### **RECOMMENDATIONS AND SUGGESTIONS:**

The legal framework to protect children from sexual abuse has been substantially strengthened in India by the Protection of Children from Sexual Offences (POCSO) Act, 2012. But the success of the Act greatly hinges on implementation and enforcement. In Tamil Nadu, there are a number of practical issues that continue to obstruct the delivery of prompt and child-friendly justice, even with the establishment of Special POCSO Courts, Child Welfare Committees, Special Juvenile Police Units and other institutional procedures. The following proposals and recommendations are put up to overcome these difficulties and strengthen the efficiency of the POCSO Act in Tamil Nadu.

#### **Improvement of Investigative Procedures:**

Quality of investigation impacts the result of POCSO cases directly. The Government should ensure the presence of suitably trained Child Welfare Police Officers (CWPOs) and Special Juvenile Police Units (SJPU) in every district.<sup>15</sup> Regular specialised training should be provided in relation to child psychology, forensic evidence collecting, digital evidence, interviewing child victims and trauma-informed investigation approaches. All police stations should apply Standard Operating Procedures (SOPs) uniformly to maintain uniformity and compliance with the POCSO Act.

#### **Stakeholders Capacity Building:**

Police officers, judicial officers, prosecutors, medical professionals, teachers, counsellors, members of the Child Welfare Committee and social workers need to be provided with ongoing capacity-building activities. Training should be imparted on child rights, child-friendly procedures, gender sensitivity, digital evidence, forensic methods and recent judicial developments under the POCSO Act.

---

<sup>15</sup> Ministry of Women and Child Development, Government of India, *Handbook on the Protection of Children from Sexual Offences Act, 2012* (2019).

### **Enhancing the Forensic Infrastructure:**

The State should build properly equipped forensic laboratories with appropriate staff to reduce delays in forensic analysis. Regular training of medical officers in medico-legal evaluation of child victims and preservation of forensic evidence should be done. Better forensic infrastructure will improve the quality of investigations and raise conviction rates.<sup>16</sup>

### **Improved Research and Data Collection:**

Evidence-based policymaking requires accurate and complete data. The Government should preserve data on district wise basis about registration of cases, investigations, conviction rate, acquittals, rehabilitation measures and disposal time of cases. Periodic studies should be conducted by universities, research institutes and government organizations to analyse the effectiveness of the POCSO Act and to detect developing difficulties.

## **CONCLUSION:**

The Protection of Children from Sexual Offences (POCSO) Act, 2012 is a landmark legislation that provides legal framework for the protection of children from sexual abuse and exploitation. The study has analysed the implementation and enforcement of the Act in Tamil Nadu by way of doctrinal examination of constitutional provisions, statutory laws, judicial decisions and institutional procedures.

The study found that although Tamil Nadu has built strong legislative and administrative mechanisms, there are significant difficulties that hamper effective enforcement of the Act. Major worries remain on delays in investigation and trial, shortage of skilled people, inadequate victim rehabilitation, under-reporting of offences and increasing cyber-related crimes. The judicial interpretation has further enhanced the child-centric approach of the Act by preserving the rights and dignity of child victims, while ensuring procedural fairness.

The success of POCSO Act is not only in having strong legal requirements but their effective execution in totality. Strengthening of institutional capacity, coordination of stakeholders, awareness raising and prompt justice are critical for realization of the objectives of the Act. Tackling such difficulties would help build a more effective child protection system and ensuring every kid is accorded safety, dignity and access to justice.

---

<sup>16</sup> World Health Organization, *Responding to Children and Adolescents Who Have Been Sexually Abused: WHO Clinical Guidelines* (2017).