



Child Sex Abuse

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The Central government and the Supreme Court, both have taken firm steps to tackle the rising number of sexual offences against children. The Union cabinet has recently approved amendments to strengthen the Protection of Children from Sexual Offences Act, 2012 (POCSO Act) by including death penalty for aggravated sexual assault on children. Sections 14 and 15 of the **POCSO Act**, 2012 will also be amended to address the menace of child pornography. The Government has also informed the Parliament that 1023 fast track courts will be set up in the country for speedy trial of cases of sexual assault on women and children.

The Supreme Court has registered a PIL suo moto to shape a concerted and clear national response displaying zero tolerance towards sexual assault of children.

As per the data collected through all high courts, 24,212 FIRs have been registered from January 1- June 30 in 2019, across the country, on incidents of child rape. The trial has commenced in only 6449 cases out of which only 4% have been decided by trial courts.

Salient Features of the POCSO Amendment Bill

- It is for the first time in the history of anti-sexual crimes against children law that the **death penalty** has been introduced.
- The Bill provides for **not less than 20 years of rigorous imprisonment** extending up to the rest of natural life of the convict or death and fine in the cases of aggravated sex assault.
 - **Aggravated sex assault** has been defined as **sexual crimes by people who are in positions of trust and authority**. It could be the manager of a child shelter home, school principal, doctor or the hospital staff and even a family member.
 - The original version of the POCSO Act only made this category of crime liable with not less than 10 years of rigorous imprisonment.
- Another feature of the Bill is the section that deals with penetrative sexual assault on children. The Bill provides that if there has been a penetrative sexual assault with any child less than 16 years of age, that will be punishable with not less than 20 years of rigorous imprisonment extendable to the remainder of natural life.
- The other significant feature is the introduction of the **definition of child pornography** for the first time (Section 14 and 15). The reason behind this is that perpetrators use the loopholes in the Information Technology (IT) Act and other acts to get away. **The IT Act does not cover sexually explicit photographs of children, it only covers the digital content.**

Challenges

- It is frightening to see a society which is getting more and more literate and educated, is not aware of the concerned laws and legislations, otherwise, the original POCSO Act was good enough to create fear in the minds of people. This is evident from the rising number of cases of sexual assault on child.
- The resolution of such cases is not quick. It takes time to punish the criminals.
- Regarding the death penalty, there is a controversy. In some cases, it creates a deterrence but there is also a view that if one knows that one is going to get a death penalty for committing one such crime, one would probably commit more such crimes as anyway one is going to get the death penalty.
- The damage that is done to a child psychology by a person of trust cannot be compensated with anything.
- People are not even aware of the fact that the **POCSO law is a gender neutral law**.

- **Implementation of the law remains a problem.** The Kathua Rape case took 16 months for the main accused to be convicted whereas the POCSO Act clearly mentions that the entire trial and conviction process has to be done in one year.
- The POCSO Act gives the judges in the designated POCSO courts a lot of power to announce interim medical compensations for relief to victims. The judges in many cases do not provide for the same. Also, there have been cases when the compensation has reached to the victims after their death.
- **The rate of conviction under the POCSO act is only about 32% if one takes the average of the past 5 years and the percentage of cases pending is 90%.**
- As per the POCSO Act, FIR must be registered under the 30 days but this hardly happens.
- Politicization of rapes on communal angles is another challenge. The Unnao rape case and Kathua rape case are some of the examples.

Way Forward

- **Setting up of fast track courts** would help in quick resolution of such cases.
- The government needs to make people aware of the fact that POCSO that though it is a fundamental right of every Indian citizen that s/he is innocent until proven guilty, it is the other way round in the POCSO cases that is one is guilty until proven innocent.
- **Awareness generation** can be done through workshops and street plays, to make people know that a child has a dignity which is to be maintained. Besides making people aware of the law, they **should be made aware of the gravity of such offences as well.** This can be taken up as a public moment on the lines of Swachh Bharat Mission.
- There has to be empathy on the ground level. The recent Supreme Court's effort to have the PIL heard shows that the judiciary is absolutely empathetic and sympathetic. However, there always remains a scope for improvement on dealing with such cases i.e. **judges could be made more sensitive to the fact that they need to pay special attention to such cases.**
- The victim and his/her family should not be kept waiting and **instant relief and remedy** should be provided to them.
- On the lines of women cell, there needs to be a **children cell at police stations** considering the number of such offences. The police need to be trained specifically for handling such cases. There is a need to ensure that the police register the complaint timely and investigation should be quick before evidence is lost.

- **Children need to be made aware of their own rights.** The children have to be aware of the good touch and bad touch. Very often, the children are so innocent that they do not even realise that they have been assaulted because they think that it is something which is probably just done.

A child also needs to be made aware about the dignity of his/her own body.

There needs to be enough confidence in the child to speak out about the crime even if the offender is his/her parent or other persons of trust like school teachers, doctors, the member of the armed forces.

- There needs to be target dates and everybody must know that there is a time period for registering a complaint, for doing an investigation and for completing a hearing.

The laws are in place and they have been made more serious and severe as well, but awareness about, both the gravity of the situation and the severity of the law, needs to be increased, may be through a public movement. Accountability of the implementing agencies needs to be ensured as well.