



Protection of Children from Sexual Offences

For Prelims: Constitutional Provisions and related initiatives.

For Mains: Issues related to Child Sexual Abuse and steps need to be taken, Issues related to Children.

Why in News?

Recently, a 2-judge bench of the Supreme Court has delivered a split verdict on the issue whether **Section 155(2) of the Code of Criminal Procedure** will apply to the investigation of an offence under **Section 23 of the [Protection of Children from Sexual Offences Act, 2012 \(POCSO\)](#)**.

- As per **Section 155(2) CrPC**, a police officer cannot investigate a non-cognizable offence without the order of a Magistrate.
- **Section 23 of POCSO** relates to the **offence of disclosure of the identity of the victim of the sexual offence**.
- One of the judges opined that **disclosure of the identity of a child** who is a victim of sexual offences or who is in conflict with the law is in **fundamental breach of the right of the child to dignity, the right not to be embarrassed**.

What are the issues related to Child Sexual Abuse?

- **Multi-layered Problem:** Child sexual abuse is a **multi-layered problem which negatively impacts children's physical safety, mental health, well-being and behavioural aspects**.
- **Amplification Due to Digital Technologies:** Mobile and digital technologies has further amplified child abuse and exploitation. New forms of child abuse like online bullying, harassment and **Child Pornography** have also emerged.
- **Ineffective Legislaton:** Although Government of India has enacted the **[Protection of Children against Sexual Offences Act 2012 \(POCSO Act\)](#)**, it has **failed to protect child from sexual abuse**. The reasons for this can be following:
 - **Low Conviction Rate:** 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%.
 - **Judicial Delay:** 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.
 - **Unfriendly to Child:** Challenges related to **age-determination of the child**. Especially laws that focus on biological age and not mental age.

What are the Related Initiatives?

- **[Child Abuse Prevention and Investigation Unit](#)**
- **[Beti Bachao, Beti Padhao](#)**
- **[Juvenile Justice Act/Care and Protection Act, 2000](#)**
- **[Child Marriage Prohibition Act \(2006\)](#)**
- **[Child Labour Prohibition and Regulation Act, 2016](#)**

What are the Related Constitutional Provisions?

- The Constitution guarantees to every **child the right to live with dignity (Article 21), the right to personal liberty (Article 21), the right to privacy (Article 21), the right to equality (Article 14) and/or the right against discrimination (Article 15), the right against exploitation (Article 23 & 24).**
 - **Right to free and compulsory elementary education** for all children in the 6-14 year age group (Article 21 A)
- **The Directive Principles of State Policy**, and in particular **Article 39(f)**, cast an **obligation on the State to ensure that children are given opportunities and facilities** to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment.

Way Forward

- The need of the hour is to **prioritise prevention activities against abuse, creating safe online environments for children.**
- Developing a comprehensive outreach system to engage parents, schools, communities, **Non-governmental Organizations (NGOs)** partners and local governments as well as police and lawyers is needed to ensure better implementation of the legal framework, policies, national strategies and standards.

PYQ

With reference to the United Nations Convention on the Rights of the Child, consider the following: (2010)

1. The Right to Development
2. The Right to Expression
3. The Right to Recreation

Which of the above is/are the Rights of the child?

- (a) 1 only
- (b) 1 and 3 only
- (c) 2 and 3 only
- (d) 1, 2 and 3

Ans: (d)

Source: TH