

Commission of PocsO Offences by Juveniles

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ABSTRACT:

India is the largest country with different cultures and a large population. A large population includes men, women, and children. Children were considered as the backbone of our country. However, a large number of children were sexually exploited. To deal with such cases Indian Government made a special law namely, the POCSO (Protection of Children sexual assault and sexual harassment. This article mainly discusses the POCSO offences, acts, and the POCSO offences done by juveniles.

When it comes to the commission of POCSO (Protection of Children from Sexual Offences) offences by juveniles, it's a complex and sensitive issue. Juvenile offenders are typically handled differently than adult offenders in most legal systems. The approach often involves rehabilitation and reintegration rather than punitive measures. However, the severity of the offence and the age of the offender can influence how the case is handled. In some cases, juveniles may undergo counseling, therapy, or be placed in juvenile detention facilities. Each case is unique and requires careful consideration of various factors.

KEYWORDS: Juveniles, sexual offences, POCSO, Punishment, children.

INTRODUCTION:

There is no legislation to deal with sexual abuse against Children until the year of 2012. After the enactment of the POCSO act, it protects children against all types of sexual offences. This law was considered stringent law because the burden of proof is on the accused person to prove he has not done that offense. It also provides punishment for the commission of offences against children ranging from a minimum of 20 years of imprisonment to the death penalty. Indian Penal Code also provides laws for sexual offences but this special law protects both genders whereas, the IPC only protects the female gender. This article focuses on POCSO offences by juveniles and the incidents which are happened in recent times.

POCSO OFFENCES:

POCSO stands for Protection of Children from Sexual Offences. This legal framework for the protection of children from offences of sexual harassment, sexual assault, and pornography was brought on 2012. POCSO offences are offences that are done to children sexually. The punishment, and procedure for trial of these offences are dealt with under the Protection of Children from Sexual Offences Act (POCSO), 2012. This act safeguards the interest of the child at every stage.

SEXUAL ASSAULT: [SECTION 7]

Sexual assault means touching the private parts of the children with sexual intention. If any person induces other people to touch the private part of the children, then both men will be punished for sexual assault. This sexual assault can be a penetrative sexual assault or an aggravated sexual assault.

PENETRATIVE SEXUAL ASSAULT: [SECTION 3]

Penetrative sexual assault is a more serious offences that involve men penetrating their penis to any extent of the vagina, mouth, or urethra of the child. Or penetrating any object or part of the body into the vagina, mouth, or urethra of the child Or applying the mouth into the vagina, mouth, or urethra of the child.

AGGRAVATED SEXUAL ASSAULT: [SECTION 9]

If the sexual assault is committed by a certain person or in certain circumstances then it is called aggravated sexual assault.

CERTAIN PERSONS CAN BE:

1. Police officer
2. Public servant
3. Member of army force
4. Member of the security force
5. Staff of jail, remand home when the person is an inmate of a person
6. Management or staff of the hospital
7. Management or staff of educational or religious institution
8. Assault by a relative
9. A person in a position of trust or authority

CIRCUMSTANCES:

1. Gang sexual assault by one or more persons
2. Offences committed to make the child physically or mentally disabled
3. Offences committed on children with a mental or physical disability
4. Offences committed on children below the age of 12 years
5. Offences committed on child known to be pregnant

SEXUAL HARASSMENT: [SECTION 11]

Any person utters any word or gesture any object or part of the body makes the child exhibit his or her body or shows anything to the child for pornographic process or entices the child for pornographic purposes, it is called sexual harassment.

CHILD FOR PORNOGRAPHY: [SECTION 13]

If the child is used for sexual gratification in any form of media then it is considered to be an offence of making a child for pornography.

SEXUAL GRATIFICATION INCLUDES:

1. Showing the sexual organs of the Children
2. Showing child in an obscene way

It can be used either for public or private purposes, but both are considered committed offences.

FEATURES OF POCSO ACT:

1. This act defines the jurisdiction of the court to deal with this matter.

2. This act covers all types of sexual offences against children and is explained in detail.
3. This act provides compensation to the victims.
4. This act set aside the "Innocent until proven guilty" principle.
5. This act is gender neutral and considers the child's welfare as paramount so they are protected in every stage of the judicial process.
6. This act also deals with the trafficking of children for sexual purposes.
7. This act provides stringent punishment to the offenders.

CHILD ABUSE CASES IN INDIA:

Child abuse is more common in India than other crimes. In 2017, the Women and Child Development Department reported that 53.2% of children have faced any form of sexual abuse. This department only provides the cases that are reported but, many cases are not reported because the children's parents do not know about the condition of the child. Mostly child abuse is done by the person whose relatives are in a position of trust or close to the child's family.

AGE OF CHILD IN POCSO ACT:

The term "child" is defined in section 2(1)(d) of the Protection of Children from Sexual Offences Act, 2012. According to that section, a child means any person below the age of 18 years. This age of eighteen was increased from sixteen years. The law commission submitted a report on the age of consent under the POCSO Act. It advises the government against lowering the age of consent under this act. It suggests that lowering the age makes adults to have sex with minors easily and increases child marriage and child trafficking. So, the change of age didn't happen in India. The current age of consent in India is 18 years.

PUNISHMENT UNDER POCSO ACT:

PENETRATIVE SEXUAL ASSAULT [SECTION 4 AND SECTION 6]

If any person causes penetrative sexual assault on a child shall be punished not less than ten years which may extend to imprisonment for life and a fine. If any person does this to children below the age of 16 years shall be punished with imprisonment not less than 20 years which may extend to imprisonment for life and also liable to a fine.

AGGRAVATED SEXUAL ASSAULT [SECTION 10]

If any person causes aggravated sexual assault on a child shall be punished with not less than 20 years of imprisonment which may extend to imprisonment for life and a fine.

SEXUAL ASSAULT [SECTION 8]

If a person causes assault which means sexual contact without penetration shall be punished not less than 3 years which may extend to five years of imprisonment and a fine.

SEXUAL HARASSMENT [SECTION 11]

If any person causes sexual harassment on child shall be punished with three years imprisonment and fine.

USE OF CHILD FOR PORNOGRAPHIC PURPOSES [SECTION 14 AND 15]

Any person who uses children for pornographic purposes shall be punished with imprisonment not less than five years and a fine. If it happens another time punished with imprisonment not less than seven years and a fine.

Any person who stores or possesses pornographic material in any form involving a child for transmitting or distributing shall be punished with imprisonment up to three years or with a fine or with both.

Any person who stores or possesses pornographic material in any form involving a child for commercial purposes shall be punished with imprisonment not less than three years which may extend to five years or with a fine or both. If this offence happens for another time then the person shall be punished with imprisonment not less than five years which may also extend to 7 years and also a fine.

ABETMENT OF OFFENCE [SECTION 17]

If any person abets offence under this act shall be punished with the punishment of that offence.

FAILURE TO REPORT OR RECORD A CASE [SECTION 21]

Any person who fails to report or record a commission of an offence shall be punished with imprisonment of either description which may extend to six months or with a fine or with both.

FALSE COMPLAINT OR FALSE INFORMATION [SECTION 22]

If any person provides a false complaint or information related to this offence to defame him or to humiliate him shall be punished with imprisonment which may extend to 6 months or fine or both. If a child makes such a false complaint or such false information have no punishment.

POCSO OFFENCES BY JUVENILE:

The POCSO act only applies to child survivors and adult offenders. If there is a case of sexual relations between two children then the POCSO act will not be applied, only the Juvenile Justice (Care and Protection of Children) Act, 2000 will apply.

The Protection of Children from Sexual Offences (POCSO) Act is designed to safeguard minors from sexual abuse and exploitation. When it comes to juveniles involved in such cases, there can be complex legal issues, as they are treated differently under the law due to their age. Juveniles may be subjected to rehabilitation measures rather than punitive actions, but each case is unique and requires careful consideration of the circumstances and the best interests of the child.

The POCSO Act may intersect with juvenile justice laws, which aim to rehabilitate rather than punish young offenders. Balancing the rights of victims with the rehabilitation needs of juvenile offenders is a significant legal challenge in such cases.

POCSO AND JUVENILE OFFENDER

In cases where juveniles are accused of committing offences under the POCSO Act, the legal process can vary depending on the laws and procedures in the specific jurisdiction. Generally, when a juvenile is accused of a POCSO offence, the focus tends to be on rehabilitation rather than punishment. Juvenile justice systems often prioritize the welfare and rehabilitation of the offender, aiming to address underlying issues that may have contributed to the offence.

Juvenile offenders may be subject to measures such as counseling, therapy, educational programs, or placement in juvenile detention facilities. The goal is to address the root causes of the behaviour and support the juvenile in reintegrating into society as a law-abiding citizen.

However, the severity of the offence and the age of the offender can influence how the case is handled. In some cases, particularly for serious offences or repeat offenders, juveniles may be tried as adults and face harsher penalties.

Overall, the approach to handling POCSO offences committed by juveniles involves balancing the need for accountability with the recognition of the offender's young age and potential for rehabilitation.

PREVENTIVE METHODS:

Reducing offenses related to POCSO (Protection of Children from Sexual Offences) and juvenile offenders involves a multifaceted approach:

Education and Awareness:

Comprehensive education programs about child rights, consent, and safe behaviors can empower children to recognize and report abuse.

Counseling and Support: Providing psychological support for both victims and offenders can address underlying issues and prevent re-offending.

Legal Reforms:

Strengthening laws and improving the justice system to ensure swift and fair trials, as well as appropriate rehabilitation for juvenile offenders, can deter future offenses.

Parental Involvement:

Encouraging parental supervision and communication can help prevent both victimization and offending behavior.

Community Engagement:

Building supportive communities where reporting abuse is encouraged and offenders are not shielded can create safer environments for children.

Technology Safeguards:

Implementing technology safeguards such as filters, monitoring tools, and reporting mechanisms can help prevent online exploitation of children.

Early Intervention:

Identifying at-risk children and providing early intervention programs can address behavioral issues before they escalate into criminal behavior.

Rehabilitation Programs:

Offering rehabilitation programs focused on education, vocational training, and life skills can help reintegrate juvenile offenders into society and prevent recidivism.

CONCLUSION

There was a great need for the current laws regarding sexual offences against minors. The individuals in charge of enforcing and applying a legislation have a significant impact on its efficacy. State governments will be responsible for making sure that all of the legal criteria are met.

Now that the legislation has been passed, it is up to the federal and state governments to amend it (by adding reformative measures) and put it into practice by setting up efficient systems to deter horrible crimes like horrific sexual abuse of minors and educating everyone in the community about it.