

Juvenile Justice and Child Protection- A Critical Analysis of PocsO Act

T. Padmaja¹, Dr. Sunitha Kanipakam²

¹Ph.D. Research Scholar, Department of Law, Sri Padmavati Mahila Visvavidyalayam, Tirupati

²Assistant Professor, Department of Law, Sri Padmavati Mahila Visvavidyalayam, Tirupati

Abstract

Child protection in India has changed drastically due to the Protection of Children from Sexual Offences (POCSO) Act, 2012. A gap in Indian law was filled by the landmark Act, which for the first time explicitly named and protected minors against sexual assault—an issue that has endured for far too long. When it came to cases of sexual crimes against children, the Indian Penal Code (IPC) was inadequate because it lacked child-specific provisions, was biased against one gender, and failed to account for procedural sensitivity. Particularly when the accused are children, it allows for an in-depth examination of societal reactions to incidents involving children as victims or alleged offenders, as well as individual experiences, emotional trauma, and coping techniques. Investigating a phenomenon thoroughly in search of underlying principles, patterns, and insights is the fundamental purpose of an exploratory research. At the points where the POCSO Act and the Juvenile Justice (Care and Protection of Children) Act, 2015 intersect, the analysis shows where the two laws agree and where they diverge. There are still several hurdles to the execution of the POCSO Act, notwithstanding its comprehensive approach. Court processes that drag on, a lack of trained personnel, victims' shame that prevents them from coming forward, and inadequate mental health and rehabilitation services are all contributing factors. It concludes by proposing policy improvements, improved agency coordination, capability enhancement, and continuous community awareness-raising initiatives to guarantee the POCSO Act's implementation and the safety of children in India. Keywords: POCSO Act 2012, Child Sexual Abuse, Juvenile Justice Act 2015, Child Protection Laws, UNCRC, Child-Friendly Procedures, Special Courts, Victim Rehabilitation.

Introduction

The Legislative frameworks changed to accommodate the unique needs of juvenile offenders, which led to the development of a more effective juvenile justice system. For a long time, people have understood that punishing young offenders isn't the same as dealing with adult criminals. A new system of juvenile justice, focused on rehabilitation, education, and reintegration into society, was born out of this realization. Juvenile justice varies from adult criminal justice in that it prioritizes giving opportunities for growth and development above punishment and takes a more reformatory approach to dealing with offenders. A ground-breaking legislative intervention in India, the POCSO Act ensures the protection of children's rights and wellbeing.

Dealing with cases involving children becomes even more complicated due to the fact that POCSO and the Juvenile Justice (Care and Protection of Children) Act, 2015 interact and overlap. To ensure the preservation of child protection and restorative justice principles without compromising ethical or legal

standards, it is necessary to thoroughly analyse the link between these two pieces of law. A critical examination of the POCSO Act is necessary for a better understanding of the legislation, its scope and legal requirements, and the law's effectiveness in protecting children and fostering juvenile justice ideals in India. In light of the broader child protection systems in Indian law, this research aims to analyse the Act's structural and procedural strengths and shortcomings. Contributing to the ongoing discussion about safeguarding children's rights and ensuring that minor victims of sexual assault get the justice they rightfully deserve is its primary objective.

Meaning of Juvenile Justice:

A person who is under 18 years legally an adult referred to as a juvenile. Rules of law, social norms, and the goal of categorization all have a role in shaping the precise meaning. Juveniles are defined as those who have not yet attained the age of majority (18 years old) and are therefore not liable to the full range of criminal sanctions that adults face. This definition is particularly applicable within the realm of juvenile justice. According to the Juvenile Justice (Care and Protection of Children) Act, 2015, the Indian government considers an individual to be a juvenile if they have not reached the age of eighteen. Definitions A 'juvenile' or 'child' means a person who has not completed eighteen years of age." — Section 2(12), Juvenile Justice (Care and Protection of Children) Act, 2015. A juvenile is a young person or minor who is under a statutorily prescribed age and who is not considered an adult for purposes of criminal law." — Garner, B. A.

The definition of a "child" " defines under Section 2(d) of the POCSO act "Any person below the age of eighteen years" India joined the UN Convention on the Rights of the Child (UNCRC) in 1992, and the reasoning for fixing the age restriction at 18 is in line with international norms. Any individual whose legal majority is not yet 18 years old likewise considered a child under Article 1 of the UNCRC (UNICEF, 2005).

The term "juvenile justice" describes the system put in place to handle cases involving minors who are believed to have been involved in or determined to have committed crimes. Because of their unique developmental needs, children should be treated differently by the law, and this approach acknowledges that fact. As per the Juvenile Justice (Care and Protection of Children) Act, 2015 in India, two types of children are addressed by juvenile justice:

- Children in Conflict with Law (CCL) – those who are accused of committing an offense below the age of 18.
- Children in Need of Care and Protection (CNCP) – those who are vulnerable due to abuse, abandonment, or exploitation.

Significance of the Study

There is an immediate need for a thorough legislative framework to protect children in India due to the rising number of reported cases of child sexual abuse in the last 20 years. When it came to crimes perpetrated against minors, the Indian Penal Code's (IPC)/Bharatiya Nyaya Sanhitha (BNS) prohibitions for sexual offenses were sometimes insufficient. A landmark event in child protection law came with the passage of the Protection of Children from Sexual Offences (POCSO) Act, 2012, which provided a specific framework to address sexual offenses perpetrated against children. The delicate nature of issues related to children's rights and justice necessitates ongoing analysis of the Act's shortcomings, difficulties, and potential applications.

It is crucial to conduct this research in order to assess the POCSO Act's socio-legal effectiveness from several angles. The merging of the POCSO Act and the Juvenile Justice (Care and Protection of Children) Act, 2015 is another crucial rationale for doing this research. When both the accused and the victim are under the age of 18, the interaction between these two statutes becomes very important. Judgment results have been all over the map because of the difficulties this area of law has presented in terms of interpretation. In order to guarantee that justice is served without infringing upon the rights of either side, this research endeavours to investigate the areas of agreement and disagreement among this legislation. Furthermore, the POCSO Act has received several reports of complex circumstances, some of which include concerns such as delayed reporting, inadequate forensic evidence, social stigma, and administrative mistakes.

Analysing judicial case studies, this research aims to understand how the Act is used and interpreted in real-life conditions. The research illuminates the ways in which gender, socioeconomic class, and psychological trauma effect the judicial process, further emphasizing the need for reforms in law and practice. Legal professionals, educators, campaigners for children's rights, legislators, and researchers may all benefit greatly from this study. The purpose of this study is to provide evidence-based policy recommendations for improving the POCSO Act and to help us better understand its function within India's juvenile justice system. The rising number of complaints of child sexual abuse has highlighted the importance of child-sensitive legal processes, particularly after 2012. Therefore, this study is crucial for both academics and policymakers seeking to address the issue.

Objectives of the Study

1. To examine the legal background of the Protection of Children from Sexual Offences (POCSO) Act, 2012.
2. To explore the intersection between the POCSO Act and the Juvenile Justice (Care and Protection of Children) Act, 2015.
3. To analyze the effectiveness of the POCSO Act in safeguarding children from sexual abuse and exploitation.
4. To analyze the case studies under the POCSO Act to understand judicial interpretation with the Act.
5. To provide policy suggestions for strengthening the POCSO Act.

Evolution of Juvenile

The latter part of the nineteenth century, the idea of separate care for juveniles was brought to India from England. The first statute enacted in England to address the needs of disadvantaged youth seeking vocational training was the Apprentices Act of 1850. The purpose of this law is to institute the practice of binding juvenile offenders as apprentices if they are less than fifteen years old and have committed minor infractions.

In 1843, however, Lord Cornwallis constructed the first facility for such youngsters, known as "Ragging School," as part of the colonial rule. Juvenile delinquency and child welfare were issues that the British government sought to resolve via the passage of legislation, and the flogging Act of 1864 was one such statute. Offenders were sentenced to whipping before being released. Among other things, Section 82 of the Indian Penal Code, 1860, distinguishes children and absolves them of criminal responsibility up until they become seven years old. In addition, the Reformatory Schools Act of 1897 stipulated that any sentence of fifteen years or more for a juvenile criminal must be served in a reformatory institution.

Only after independence was the Juvenile Justice Act of 1986 established, which addressed the care, protection, rehabilitation, and development of juvenile offenders.

The Juvenile Justice Act of 1986 was introduced with the aim of establishing uniformity in juvenile justice procedures throughout the country. Juveniles' minimum ages were preserved by the Act at sixteen for boys and eighteen for girls. Section 2 (a) of the act defines a "juvenile" as a "boy who has not attained the age of 16 years and a girl who has not attained the age of 18 years." India accepted the United Nations Convention on the Rights of the Child (UNCRC), 1989 in 1992, even though this law had been passed before. In 2000, a more comprehensive Juvenile Justice (Care and Protection of Children) Act, 2000, replaced the old legislation. It raised the age of consent to 18 years in order to adhere to worldwide recognized regulations. One of the reasons for the formation of juvenile justice legislation in India was to achieve the constitutional purpose for the care and welfare of children. As outlined in Articles 15(3), 24, 39(e) and (f), and 45 of the Indian Constitution, children are granted individual rights. As a result of demands from the Constitution, the Child Prohibition Act was passed in 1986.

The National Policy for Children (1974) and again in 2013 emphasized that the country's children are a precious asset. A juvenile offender may be placed in an "Observation Home" as per the Juvenile Justice (Care and Protection) Act, 2000. Until suitable legal proceedings are initiated, it is legitimate to put children in a "Children Home" if they are in danger. Assisting the youth in their rehabilitation and eventual full participation in society was the primary objective of this statute. Being so young and naive gives hope for redemption, which is the purpose for this action. Thus, the state must ensure the child's safety and help him or her change.

Supreme Court's Interpretation on Juvenile Trials: A Case Summary An important issue involving the general criminal law trial of a minor was decided by the Supreme Court of India, which cited its previous ruling in a separate case where the normal criminal laws did not prohibit the trial of a minor. Section 27 of the Criminal Procedure Code (CrPC) limits the jurisdiction of regular criminal courts over children under the age of sixteen at the time of the offense, explicitly providing for special treatment of juveniles. However, this provision was not considered in the previous case, which was a significant omission. Judicial Prudence and Referral to Larger Bench Two judges, including Justice Baharul Islam, decided to send the case to a bigger bench after seeing that there would be a contradiction between previous court rulings and the consequences of Section 27 CrPC. For reasons of judicial uniformity and to forestall competing understandings of the trial processes relevant to juveniles, this ruling was reached. A three-judge court then heard the appeal, which served to emphasize once again how crucial it is to read procedural rules and child protection regulations in harmony. Section 27 of CrPC and Haryana Children Act, 1974 The Supreme Court determined that youth should be tried in a special court established under child welfare legislation or a juvenile court after a thorough review of Section 27 of the CrPC. It is against the law for regular criminal courts to bring charges against juvenile offenders.

A comprehensive system is put in place under the Haryana Children Act, 1974, a special legislation, to care for, protect, and rehabilitate children who are involved in legal disputes. The Juvenile Justice System is responsible for dealing with juvenile offenders; the Supreme Court has ruled that this system should put an emphasis on reform and rehabilitation rather than punishment. Setting Aside the Conviction and Quashing the Trial by Supreme Court and approved the appeal and reversed Raghbir's conviction and penalty. Due to the absence of jurisdiction, the court declared the ordinary criminal procedural trial unconstitutional as the accused was a juvenile throughout the trial. It would have been

more appropriate to try the defendants under the provisions of the Haryana Children Act, 1974. Furthermore, the court ordered the appellant to be handled in accordance with the particular provisions of the Haryana Children Act and invalidated the trial proceedings.

Implications of the Judgment this ruling reaffirms the significance of constructive legislation in the field of juvenile justice. In cases involving minors, the Supreme Court has made it plain that particular legislation is to be adhered to and given more weight than general procedural regulations like the Criminal Procedure Code. The principle of the child's best interests, which is based on international conventions like the UNCRC—to which India is a signatory—is upheld in the verdict. Judges should be mindful of legislation, as this case demonstrates, especially when such statutes impact vulnerable groups like children.

Juvenile offenders should be seen as persons with the potential for reform and should be given the chance for rehabilitation via child-friendly processes; this case serves as a cornerstone in the evolution of juvenile law in India by establishing this principle. A strong reminder of the importance of statutory compliance and the emphasis of welfare over punishment in juvenile justice systems is provided by the Supreme Court's decision to cancel the trial and redirect proceedings under the Haryana Children Act.

Characteristics of Juvenile Justice

The criminal justice system for adults and juveniles are fundamentally different due to their respective guiding concepts and distinguishing features. Its primary goals are the reformation, rehabilitation, and protection of children who have run-ins with the law or are in danger, with the hope of restoring their dignity and rights. National laws and international human rights treaties serve as the framework for this system.

- **Child-Centric and Welfare-Oriented Approach:** Looking out for the child's best interests is a defining feature of juvenile justice. All decisions involving children in India must emphasize their holistic growth and rehabilitation, as highlighted by the Juvenile Justice (Care and Protection of Children) Act, 2015 (JJ Act). Article 3 of the UNCRC states that all decisions involving children must take their best interests into account (United Nations, 1989), which is in line with this approach.
- **Reformative and Rehabilitative over Punitive Measures:** Juvenile justice does not seek retribution but aims for the rehabilitation and reintegration of the child into society. Children are treated as individuals capable of change, and the system provides opportunities such as skill training, counselling, and education. According to Singh (2018), “juvenile justice systems must focus on social reintegration rather than incarceration, which often leads to stigmatization and recidivism”.
- **Special Legal Procedures and Institutions:** Juvenile Justice Boards (JJBs) handle cases involving youths who have run afoul of the law, while Child Welfare Committees (CWCs) look after those youths who are in need of protection and care. These institutions are less formal than regular courts and ensure child-friendly proceedings (Ministry of Women and Child Development, 2016).
- **Age of Criminal Responsibility:** Another defining feature is the legal determination of age. According to the JJ Act (2015), any person below the age of 18 years is considered a juvenile. The act also introduced a special provision allowing the trial of juveniles aged 16–18 as adults in heinous crimes, subject to preliminary assessment by the JJB (Government of India, 2015). This provision sparked debate but was framed in response to public concerns post the 2012 Delhi gang rape case.

- **Confidentiality and Privacy:** Maintaining the confidentiality of juveniles involved in legal processes is a critical feature. The JJ Act ensures that a child's identity is protected to prevent social stigma. Publishing the name or identity of a juvenile is prohibited under Section 74 of the Act, promoting a protective legal environment.
- **Community Participation and Aftercare:** The Act also promotes community-based interventions, including foster care, sponsorship, and aftercare services. These mechanisms help children reintegrate into mainstream society. According to Sharma (2020), "community participation and support are vital in rebuilding the lives of juveniles and preventing re-offending".
- **Adherence to International Norms and Standards:** The Indian juvenile justice system is in consonance with various international treaties and guidelines, such as the Beijing Rules (1985), the Riyadh Guidelines (1990), and the UNCRC (1989)¹⁵. These instruments emphasize non-institutional measures, diversion programs, and proportionality in the handling of juvenile cases (UNICEF, 2017).

Types of Juvenile Justice

Different nations' systems are dealing with troubled youth or those in need of protection and care make up what is known as the juvenile justice system. There are many branches of juvenile justice that differ in their guiding legal principles, the specific crimes they address, and the approaches they take to punishment and rehabilitative services. The national laws like India's Juvenile Justice (Care and Protection of Children) Act, 2015 and international agreements like the United Nations Convention on the Rights of the Child (UNCRC, 1989), these kinds strike a balance between responsibility and change. The welfare model emphasizes the care, protection, and rehabilitation of juveniles rather than punishment. The views of juvenile delinquency as a symptom of social or familial failure rather than individual moral failing. Under this model, courts function in a non-adversarial manner and are more inclined to order measures such as counselling, foster care, or institutional support. This approach is deeply rooted in the principle of *parens patriae*, where the state assumes the role of guardian for a child. The Juvenile Justice Board in India, under the JJ Act (2015), reflects aspects of this model by focusing on social reintegration. Justice Model of Juvenile Justice The justice model is grounded in due process and the rule of law. It emphasizes the juvenile's accountability for unlawful behaviour while still ensuring procedural safeguards

The justice model differs from the welfare model in that it assigns more legal responsibility to adolescents, similar to adults, while still adjusting sentence based on their developmental stage. This model has gained prominence in countries like the United States, where tougher laws emerged in response to rising juvenile crime. In India, this model finds expression in the post-2015 JJ Act provisions allowing children aged 16–18 to be tried as adults in heinous offenses, after a preliminary assessment by the Juvenile Justice Board (Government of India, 2015, Section 15). Corporatist or Participatory Model encourages community involvement in juvenile justice processes.

It emphasizes restorative justice, where the juvenile, the victim, and the community participate in resolving the conflict and repairing harm. Community service, victim-offender mediation, and restorative circles are common tools. This model aligns with the Riyadh Guidelines (1990), which advocate for community-based interventions (United Nations, 1990). India's JJ Act also incorporates these principles by promoting sponsorship, aftercare, and adoption through Child Welfare Committees. The Crime Control Model takes a punitive and deterrence based on approach to juvenile justice. It

focuses on maintaining social order and minimizing threats posed by juvenile offenders. This model prioritizes law enforcement and stricter penalties, assuming that harsh consequences deter future offenses. Critics argue that it undermines the rehabilitative focus of juvenile justice and leads to over-incarceration. Though India predominantly follows a welfare-oriented approach, media and public outrage over specific cases have influenced elements of the crime control model, as seen in the JJ amendment Act, 2015 following the Delhi gang rape case (2012).

Restorative Justice Model Restoring broken relationships and mending broken hearts are two primary goals of restorative justice. Offenders are pushed to confront victims head-on and accept responsibility for their acts. Because it encourages compassion and civic duty, this paradigm works better with juvenile offenders. The United Nations Convention on the Rights of the Child (UNCRC) standards and restorative techniques are both becoming more and more incorporated into juvenile justice systems across the world (UNICEF, 2017). The Indian juvenile justice framework, through its emphasis on rehabilitation and social reintegration, is gradually incorporating restorative approaches, especially in diversion and non-institutional care. Each type of juvenile justice model represents a different perspective on the causes of juvenile delinquency and appropriate responses. While the welfare model dominates in India, elements of the justice, restorative, and crime control models are also present, especially after significant legislative reforms. The evolution of these models reflects a growing understanding that juvenile justice should be child-sensitive, legally sound, and socially effective. The Indian JJ system aims to strike a careful balance between protection and accountability, in line with both constitutional mandates and international obligations.

Differentiation between Juvenile Justice and Adult Justice

Juvenile and adult judicial systems diverge greatly in their goals, methods, and underlying ideologies, reflecting the understanding that the law should not treat children and adults equally. Juveniles need a judicial system that prioritizes rehabilitation over punishment since their cognitive, impulse control, and decision-making abilities vary from those of adults. The goal of the juvenile justice system is rehabilitation and reintegration into society, as opposed to the punishment and deterrent that characterize the adult criminal justice system. Juvenile justice systems across the world strive to put children's needs first, in accordance with the tenets of the UN Convention on the Rights of the Child (UNCRC, 1989), which India ratified. The Juvenile Justice (Care and Protection of Children) Act, 2015 in India created the Juvenile Justice Board (JJB) and the Child Welfare Committees (CWCs) to handle the specific concerns of children who are engaged in judicial disputes. Juvenile justice, in terms of procedure, is more relaxed and accommodating to the needs of children. Section 74 of the JJ Act (2015) ensures that the identity of the juvenile is preserved throughout hearings, which are handled in a non-adversarial setting. The goal is to comprehend the child's circumstances rather than just prove guilt. On the other hand, the procedure is more formal, combative, and punishing when dealing with adults.

The criminal justice system handles the case with a heavy focus on formalities, and the accused faces public trial and punishment for their crimes. Terminologically, children under the juvenile system are referred to as “children in conflict with the law”, not as accused or criminals. Similarly, terms like conviction and sentence are replaced with finding of guilt and dispositional order. In contrast, the adult system labels individuals as accused, convicts, or offenders, which carries social stigma and long-term consequences. Punishment and outcomes also vary significantly. Juveniles are not subjected to life imprisonment or death penalty as per Section 21 of the JJ Act, 2015. The maximum period of

institutionalization is three years, and the goal is to rehabilitate through education, counselling, and vocational training. Adults, on the other hand, can receive severe punishments including long term imprisonment and, in rare cases, capital punishment under the Indian Penal Code (IPC) and the Code of Criminal Procedure (CrPC). Furthermore, recidivism is addressed differently in both systems.

In juvenile justice, repeat offenders are given additional rehabilitative support, recognizing that behaviour can change with the right interventions. In adult justice, repeat offenses often lead to enhanced punishments. In summary, while both systems aim to uphold the rule of law, juvenile justice is child-centric, rehabilitative, and designed to offer second chances, whereas adult justice is penal, retributive, and often lacks mechanisms for reformation.

Causes of Juvenile Delinquent Behaviour

Juvenile delinquency is a complex phenomenon influenced by a multitude of interrelated factors. Understanding the root causes is essential for the development of preventive and rehabilitative measures aimed at curbing delinquent behaviour among children and adolescents. These causes can be broadly categorized into individual, familial, peer-related, school-based, and socio-economic factors. Each of these categories plays a significant role in shaping the behavioural patterns of juveniles during their formative years.

Causes of Juvenile Justice Source:

- **Investigator individual and psychological factors:** Individual traits and psychological conditions are foundational in determining a juvenile's propensity for delinquency. Cognitive deficits, impulsivity, low self-control, aggressive behaviour, and poor emotional regulation are frequently observed among delinquents. Mental health issues such as conduct disorder, attention-deficit/hyperactivity disorder (ADHD), and oppositional defiant disorder are also common among juvenile offenders. Some juveniles may also lack the moral development necessary to distinguish right from wrong due to a delayed or disrupted value formation process.
- **Family Environment:** Family is the primary socializing agent, and a dysfunctional family environment is often a major contributor to juvenile delinquency. Factors such as broken homes, parental neglect, domestic violence, inconsistent discipline, and lack of supervision significantly increase the likelihood of a child engaging in deviant behaviour. Children from families marked by poverty, alcoholism, or criminal backgrounds may imitate negative behaviours they are exposed to at home. Furthermore, a lack of emotional support and communication within the family exacerbates feelings of isolation and rebellion.
- **Peer Influence and gang affiliation:** As children enter adolescence, peer groups become increasingly influential. Peer pressure can lead juveniles to engage in criminal acts to gain acceptance, avoid ridicule, or assert dominance within a group. Youths who are socially marginalized or feel alienated from mainstream society are more susceptible to the influence of delinquent peers and gangs. Gang involvement, in particular, provides not only a sense of identity and belonging but also exposes juveniles to organized criminal activities such as drug trafficking, theft, and violence.
- **School-related Factors:** Educational institutions play a vital role in shaping the attitudes and behaviours of young individuals. Poor academic performance, school dropouts, bullying, harsh disciplinary methods, and lack of teacher support can contribute to feelings of frustration and

inferiority, pushing students toward delinquent behaviour. A negative school climate can alienate students, especially those who are already vulnerable due to personal or familial issues. Truancy and lack of engagement in school activities are often precursors to more serious behavioural problems.

- **Socio-economic and Environmental Conditions:** Poverty, unemployment, inadequate housing, and exposure to violence in the neighbourhood are significant socio-economic factors contributing to juvenile delinquency. Children growing up in slums or marginalized communities often witness drug abuse, gang wars, and criminal activities as part of everyday life. The lack of recreational facilities, poor access to education, and limited employment opportunities further compound their vulnerability. These structural inequalities can lead to resentment and a perceived lack of legitimate avenues for success, making crime seem like a viable alternative.
- **Media and Technology:** The rise of digital technology and exposure to violent or inappropriate content through television, video games, and social media have also been cited as influencing juvenile behaviour. Repeated exposure to such content can desensitize children to violence and normalize antisocial behaviour. Moreover, the internet can serve as a platform for cyberbullying, identity theft, and the dissemination of criminal ideas, providing juveniles with new means to engage in delinquent acts.
- **Lack of Social and Legal Awareness:** Many juveniles are unaware of the legal consequences of their actions due to a lack of education and awareness. Inadequate civic education and minimal exposure to moral and ethical guidance can result in the adoption of deviant behaviours without understanding their seriousness. This is particularly true in underserved regions where the juvenile justice system is under-resourced or not effectively implemented.

Juvenile Justice System in India

Juvenile Justice Boards (JJBs) Establishing JJBs in accordance with Section 4 of the Juvenile Justice (Care and Protection of Children) Act, 2015 is the basis of India's juvenile justice system. Every district is required to have a Judicial Magistrate (First Class) and two social workers, one of whom must be a woman, make up a minimum of one JJB. When it comes to kids who are claimed to have committed a crime, the JJB is the one to call for both investigations and trials. Promoting reformation and rehabilitation rather than punitive measures, JJBs aim to make sure that court procedures are child-friendly. The Board has the authority of a magistrate's court but has received specialized training to deal with matters pertaining to children in a way that protects their privacy, dignity, and well-being. The JJB has the authority to direct minors to various resources such as counselling, vocational training, or rehabilitation institutes, as needed for each individual situation.

“The Juvenile Justice Board aims to reintegrate children into society by adopting child-centric legal procedures rather than retributive justice mechanisms”. Child Welfare Committees (CWCs) Established under Section 27 of the Juvenile Justice Act, 2015, Child Welfare Committees (CWCs) are quasi-judicial bodies designed to handle cases related to children in need of care and protection. This includes abandoned, orphaned, missing, trafficked, or abused children. Each CWC consists of a chairperson and four members, including at least one woman and a specialist in child psychology, child rights, or child welfare. CWCs are empowered to make decisions about the care, protection, treatment, development, and rehabilitation of such children. They also decide whether a child needs to be placed in a child care institution or under foster care or adoption. CWCs serve as a critical interface between vulnerable

children and the protective mechanisms of the state, and their role is instrumental in ensuring that the best interest of the child is upheld.

“CWCs act as the guardians of vulnerable children, focusing on long-term rehabilitation and social reintegration”. Special Juvenile Police Units (SJPUs) Each district is required by Section 107 of the Juvenile Justice Act, 2015 to create a Special Juvenile Police Unit (SJPU). Officers assigned to these units have received specialized training in the safe and sensitive treatment of children and adolescents. From the first interaction with the legal system, SJPUs strive to guarantee that children are treated with respect and compassion. A child-friendly officer should be designated at each police station to handle matters involving children. According to the National Commission for Protection of child Rights (NCPDR), 2021, their duties including presenting the child before the JJB or CWC, guaranteeing their safety throughout the investigation, and avoiding any kind of abuse or stigma. Crucially, SJPUs facilitate communication between police protocols and court systems that are accommodating to children. “SJPUs are critical for maintaining a sensitive and rehabilitative approach to juvenile justice administration”.

Observation Homes and Rehabilitation Centres:

Sections 47 and 49 of the Juvenile Justice Act, 2015 create Observation Homes and Rehabilitation Centres as institutional mechanisms to provide temporary housing, counselling, education, and vocational training to children in need or who are in dispute with the law. While children may stay in an observation home while a case is pending, those who have been found guilty or who need long-term care can be placed in a rehabilitation centre or a special home. The goal of these facilities is to help people recover emotionally, develop their character, and go back into society as integrated members.

Human Rights Watch (2013) noted that these institutions suffer from inadequate infrastructure, understaffing, and an absence of appropriate rehabilitation frameworks. “The true test of a juvenile justice system lies in how well it rehabilitates rather than confines”. The Indian Juvenile Justice System exemplifies the nation's dedication to the well-being and safeguarding of its youth, especially those who are at risk or involved in legal disputes. Care, protection, rehabilitation, and social reintegration are the pillars upon which the system rests, with its origins in constitutional requirements as well as international accords like the UNCRC.

India has created a unique system that distinguishes between juvenile and adult criminals, with a focus on rehabilitation rather than punishment, under the Juvenile Justice (Care and Protection of Children) Act, 2015. It is imperative that institutions like Observation and Rehabilitation Homes, Special Juvenile Police Units, Child Welfare Committees, and Juvenile Justice Boards work together to create an environment that is child-friendly. All of the systems come together to make sure that kids are treated with respect and kindness and that justice is served according to what's best for them. But the system is still not very successful because to problems including infrastructure shortages, a lack of skilled staff, and social stigma.

To improve the delivery of juvenile justice, there must be immediate action to increase capacity-building, raise legal understanding, and alter relevant policies. Protecting children and laying the groundwork for a more equitable, inclusive, and compassionate society are the dual goals of a strong and compassionate juvenile justice system.

Theories of Juvenile Justice

The juvenile justice system has been shaped by a variety of theoretical frameworks that seek to explain

the causes of juvenile delinquency and justify the approaches adopted in dealing with young offenders. These theories provide insights into both the behavioural patterns of juveniles and the rationale behind reformative legal practices.

- **Classical Theory:** The Classical Theory of Crime, developed in the 18th century by Jeremy Bentham and Cesare Beccaria, holds that people behave rationally after considering the repercussions of their choices. This view maintains that criminal behaviour stems from free will and calls for a proportional, rapid, and definite punishment in order to discourage antisocial behaviour. But this idea has problems when applied to adolescents as it presumes intelligence and maturity that they may not yet possess. Because of this shift toward more complex theories of juvenile delinquency, contemporary juvenile justice systems no longer adhere to rigid classical standards.
- **Positivist Theory:** The Positivist Theory, championed by Cesare Lombroso, suggests that criminal behaviour is determined by biological, psychological, and social factors beyond an individual's control. In juvenile justice, this theory has led to the development of diagnostic, therapeutic, and rehabilitative strategies. It recognizes that children may commit offenses due to factors such as mental illness, poor upbringing, peer pressure, or socioeconomic deprivation, and thus need individualized intervention rather than punishment.
- **Psychological Theories:** Psychodynamic theory, developed by Sigmund Freud, attributes juvenile delinquency to unresolved internal conflicts, often stemming from early childhood experiences. Similarly, behavioural theories, like those proposed by B.F. Skinner, argue that delinquency is learned behaviour reinforced by rewards or the absence of punishment. These theories support the idea that therapy and behaviour modification techniques should be integrated into juvenile justice practices to promote positive development.
- **Sociological Theories:** A number of sociological theories have greatly influenced the development of juvenile justice:
 1. **Strain Theory:** The youths are unable to achieve socially approved goals through legitimate means, they may resort to crime.
 2. **Social Disorganization Theory:** The links juvenile crime to a breakdown in community structures such as schools and families in impoverished neighborhoods.
 3. **Labeling Theory:** Howard Becker posits that once a youth is labeled a "delinquent," they are more likely to internalize this label and continue offending.
 4. **Differential Association Theory:** The criminal behaviour is learned through interaction with others, particularly in groups.
- **Critical and Conflict Theories:** Marxist or Conflict Theory argues that juvenile justice systems may reflect the interests of dominant groups and marginalize lower socioeconomic classes. According to this view, juveniles from underprivileged backgrounds are more likely to be criminalized, not necessarily because they commit more crimes, but because of systemic biases. These theories urge reform in legal structures to promote equity and social justice.
- **Developmental and Life-Course Theories:** These modern theories focus on how behaviours change over time and emphasize the significance of age-appropriate responses.
- **The Life-Course Theory:** This theory suggests that interventions at key points in a child's development can prevent criminal trajectories. The recognition that children's behaviour can change over time supports the juvenile justice system's emphasis on diversion, reform, and reintegration rather than punishment.

POCSO Act, 2012

To protect children under the age of 18 in India from sexual abuse, harassment, and pornography, the government passed the Protection of Children from Sexual Offences (POCSO) Act, 2012. The Ministry of Law and Justice (2012) states that the Act was enacted with the express purpose of addressing the growing number of reports of child sexual offenses in India and to provide a system of justice that is child-friendly and safeguards the child's best interests throughout the investigation and trial. The main goal of the POCSO Act is to strengthen the legal framework that protects children from various sexual offenses that were not effectively addressed by the Indian Penal Code (IPC).

There was a lack of legislation that specifically dealt with sexual offenses against children before POCSO was enacted, and the laws that were in place did not differentiate between victims who were adults and those who were children. This meant that many cases involving child victims either went unpunished or were prosecuted under outdated laws. Both boys and girls are considered possible victims of sexual offenses under the Act, which defines a child as anybody below the age of 18. Sexual assault, sexual harassment, sexually aggravating sexual assault, penetrative sexual assault, and aggravated penetrative sexual assault are all clearly classified.

Need and Rationale for Enacting the POCSO Act

As the pervasive and often unseen issue of child sexual abuse (CSA) became more widely acknowledged in India, the Protection of Children from Sexual Offences (POCSO) Act, 2012 was passed to address the matter. There was a major gap in the law protecting minors from sexual assaults of all kinds before this Act was put into effect. Section 377 (unnatural offences) and Section 354 (outraging modesty) of the Indian Penal Code (IPC) did not adequately define sexual offenses in a way that took into account the particular vulnerabilities and experiences of children, and they were neither child-specific nor comprehensive. The absence of gender neutrality and the omission of other abusive behaviours, such as sexual harassment and the exploitation of minors in pornography, were further problems with these rules. Over half of children (53%) reported having been victims of sexual abuse at the hands of an adult, and many of those abusers were someone the victim knew, according to 2007 research by the Ministry of Women and Child Development (MWCD, 2007). Social stigma, the fear of ridicule, and a lack of a compassionate and understanding justice system often prevented victims from speaking out despite the pervasiveness of the abuse. To tackle these difficulties, the need for a legislation that is comprehensive, focused on children, and devoted is growing.

The POCSO Act was passed with the intention of defining and criminalizing child sexual abuse and of instituting procedural protections to ensure the dignity and mental health of the victimized child while they navigate the legal system. For example, insensitive courtrooms or traumatic interrogations were commonplace for youngsters who had been victims of sexual offenses. Videotaped testimony, laws against harsh cross-examinations, and special courts to guarantee speedy justice are among measures put in place by the POCSO Act to make the legal system more child-friendly (UNICEF India, 2013). The need to align Indian legislation with its commitments under international treaties, particularly the United Nations Convention on the Rights of the Child (UNCRC), which India adopted in 1992, was another important factor in passing the Act. The United Nations Convention on the Rights of the Child requires all states that are party to the convention to take legal, administrative, and social actions to ensure that children are safe from sexual exploitation and abuse in all its manifestations (United Nations, 1989). Therefore, the POCSO Act is a tool for legislation that used to maintain these global standards.

The POCSO Act also represents a change in perspective from seeing children as helpless victims to seeing them as active participants in their own redress. As an example, the NCPCR (2014) states that the obligatory reporting provision establishes a communal legal and moral obligation for child protection by requiring everyone to report suspected abuse⁵⁴. This aspect highlights the social responsibility to safeguard children, regardless of the nature of the connection between the perpetrator and the victim. A number of elements came together to make the POCSO Act, 2012 necessary. These were the shortcomings of previous legislation, including national statistics on child abuse, international legal duties, and the need of acknowledging children as persons with rights. With the goal of providing victims of sexual offenses with justice in a safe, secure, and non-traumatizing court setting, it signifies a significant change in child protection law in India.

Salient Features of the Act

Recognizing that children need particular protections owing to their physical, psychological, and emotional immaturity, the POCSO Act places a child-centric approach at the forefront. The Ministry of Law and Justice (2012) states that the Act protects both boys and girls from sexual offenses as it defines a "child" as any anyone under the age of 18 and is gender-neutral. Penetrative sexual assault, aggravated penetrative sexual assault, sexual assault, aggravated sexual assault, and sexual harassment are the new forms of sexual offenses that the POCSO Act defines. This is a big step forward. The existence of these well-defined categories guarantees that different types of sexual misbehaviour are duly acknowledged and punished by law. Provisions concerning the exploitation of minors for pornographic purposes are also included in the Act, which were not specifically addressed in earlier statutes (UNICEF India, 2013). Every step of the legal system must adhere to the Act's child-friendly processes.

The statement of the minor should be recorded by a female police officer with a rank no lower than sub-inspector in a setting that is convenient for the minor, ideally at home. There can be no use of legalese or coercive tactics in the recording, and the youngster must not be imprisoned at a police station. Additionally, in order to minimize stress, the minor must not be present during the trial and may instead testify by video connection (NCPCR, 2014). The creation of Special Courts to expedite the hearing of cases involving the sexual abuse of children is another crucial aspect of the Act. Only those with a direct stake in the outcome of the case may be present during an in-camera procedure, which these courts are authorized to do.

The victimized child's privacy and dignity better protected in this way. One of the most notable parts of the POCSO Act is the one about obligatory reporting. Anyone with information on a crime perpetrated under the Act is obligated to notify the authorities or the Special Juvenile Police Unit. According to Section 21 of the Act, it is a serious offense to fail to notify such instances. Increasing the reporting of incidents of child sexual abuse and reinforcing community accountability are both helped by this provision (MWCD, 2014). For the purpose of preventing the abuse of the legislation, the POCSO Act also contains measures to penalize false information or complaints. Simultaneously, it safeguards the child's identity throughout and after legal processes, which is essential for avoiding victim shaming and societal stigma.

The POCSO Act also requires the involvement of support personnel or counsellors and offers interim compensation to the child for medical treatment and rehabilitation. In response to the seriousness of the crimes and the increasing public concern for children's protection, the POCSO Act was revised in 2019 to impose harsher punishments, including the death sentence for severe penetrative sexual assault

(Amendment Act, 2019). In addition to criminalizing different types of child sexual abuse, it guarantees the safety, care, and dignity of the child throughout the investigation and court procedure, making it a comprehensive and progressive legal framework. It harmonises with international norms such as the UN Convention on the Rights of the Child (UNCRC) and addresses important loopholes in Indian legislation.

Types of Offences Covered under POCSO

The Protection of Children from Sexual Offences (POCSO) Act, 2012 was enacted to effectively address and penalize sexual crimes committed against children. The Act introduces a comprehensive classification of sexual offences, clearly defining each category to ensure better understanding, reporting, and judicial action. These offences include both physical and non-physical sexual acts, recognizing the broad scope of abuse that children may experience.

Offences Covered under POCSO Act:

- **Penetrative Sexual Assault [Section 3]:** Penetrative sexual assault is a serious kind of sexual violence that the POCSO Act describes as occurring when an attacker physically penetrates a child's body. Strict imprisonment for a minimum of 10 years, extended up to life imprisonment, is the penalty for such offenses.
- **Aggravated Penetrative Sexual Assault [Section 5]:** As a more serious kind of sexual assault, aggravating penetrative sexual assault occurs when the offender is in a position of trust or power, or when the child is in a more dangerous environment. Death penalty may be imposed in cases where the kid dies or remains in a vegetative condition, according to the 2019 amendment (POCSO Amendment Act, 2019). This clause highlights the need of increasing responsibility and dissuasion in relation to such horrific actions (UNICEF, 2013).
- **Sexual Assault [Section 7]:** Assaults that do not involve penetration are considered sexual assault. Any act done with the goal to sexually exploit a kid, whether by touching or coercing the youngster to touch another person's private parts, is considered sexual abuse, even if no penetration occurs. A fine and/or imprisonment for three to five years is the minimum penalty under Section 8.
- **Aggravated Sexual Assault [Section 9]:** Any sexual act, whether penetrative or not, perpetrated in an aggravating manner is considered an aggravating sexual assault. Like the aggravated penetrative category, it takes into account things like the child's authority, trust, vulnerability, and any physical or mental disabilities they may have. The Section 10 states impose fine and/or five years imprisonment, with the maximum sentence being seven years.
- **Sexual Harassment [Section 11]:** Recognizing that physical abuse is not always necessary, the Act also provides a definition of sexual harassment of minors. Some examples of verbal and nonverbal behaviours that fall under this category include exhibiting pornography, making sexual comments or gestures, or pursuing or threatening a kid with sexual intent. Stalking and other types of psychologically harmful intimidation are made illegal under this law. A fine and/or three years imprisonment may be imposed as punishment under Section 12.
- **Pornographic [Section 13]:** All forms of child pornography, including the filming, photographing, or coercion of a minor to engage in sexually explicit activity, are expressly forbidden. Cybercrime and online exploitation have been on the increase across the world, making this provision all the more important.

Case Law:

According to Kumar and Mehta (2015), the Act imposes penalties on the production, dissemination, storage, and consumption of child pornography. A sentence of five to seven years imprisonment is possible, with the possibility of a life sentence in the event that invasive activities are committed while the recording is being made. A strong and child-sensitive framework for classifying and prosecuting different sexual offenses is provided under the POCSO Act, 2012. It acknowledges the multi-faceted nature of trauma, the significance of power relations, and the dangers posed by technology in relation to sexual abuse of children. The conduct provides clarity in the law, guarantees justice, and serves as a powerful deterrence by classifying offenses according to the gravity of the conduct, the victim's connection to the offender, and the kind of the act itself.

Impact of the POCSO Act on Child Protection in India

India took a new approach to protecting children when it passed the Protection of Children from Sexual Offences (POCSO) Act, 2012. Previously, the Indian Penal Code's general provisions were used to punish cases of child sexual abuse, which did not sufficiently address the issue. The POCSO Act radically altered the country's child protection environment by establishing a thorough legislative framework to shield children from sexual offenses and provide a court procedure that is child-friendly. Recognizing and expanding the definition of sexual abuse is one of the most significant implications of the POCSO Act.

The Ministry of Law and Justice (2012) provides a comprehensive definition of several offenses, such as penetrative and non-penetrative assault, sexual harassment, and the exploitation of minors for pornographic reasons. By classifying incidents clearly, child sexual abuse better reported, investigated, and prosecuted, which in turn raises public and law enforcement knowledge of the issue. Also, unlike previous legislative provisions, this one acknowledges that victims of sexual abuse may be either boys or girls. The Act requires a court system that is sympathetic to children and includes legal terminology. Some of these measures include creating special courts, safeguarding the child's identity, and ensuring that the accused is not subjected to excessive interrogation or confrontation throughout the procedures. A major problem with conventional legal procedures, secondary victimization has been much reduced as a result of these laws.

In addition, the expedited resolution of cases has been made possible by the one-year statute, even if the actual execution of this provision varies from state to state. The POCSO Act has made institutional accountability a more significant factor as well. There is now a legal requirement and penalty for reporting suspected incidences of child sexual abuse. Anyone having a stake in the issue, such as law enforcement, medical personnel, educators, etc., should be considered. Because of this, there are now measures in place to ensure the safety of children at all levels of society. It is possible that victims and their guardians are now better able to seek justice under the Act, as there has been an increase in reported occurrences in regions where education and outreach have been effective. However, difficulties in enforcing the Act have meant that its effects have been patchy, notwithstanding these improvements.

According to the Centre for Child and the Law (2018), many court officials and police officers do not have sufficient training to handle delicate matters under the Act, which results in procedural errors. The full potential of the Act has also been hindered by an inadequate infrastructure, including Special Courts and qualified counsellors. Reporting sexual assaults against children is a challenge for families in rural regions due to patriarchal traditions, shame, and fear of social exclusion. The Act also requires mental

health specialists and support individuals to be present, however this is not often the case, particularly in underserved areas and in more rural areas.

Child safety mechanisms, such as education initiatives, counselling, and collaboration amongst government agencies, need more funding because of this. The increasing criminalization of consensual adolescent relationships or fake cases has also been a source of criticism, highlighting the necessity for subtle modifications to reflect changing social circumstances. In order to better safeguard children in India, the POCSO Act, 2012 addressed important loopholes in the law, encouraged child-sensitive practices, and established a legal penalty for sexual assault. Its influence is seen in the heightened awareness and institutional reaction it has prompted, but its efficacy is still constrained by issues with implementation, insufficient infrastructure, and social obstacles.

Juvenile Justice System in POCSO Legal Framework

The Protection of Children from Sexual Offences (POCSO) Act, which overlaps with the Juvenile Justice System, was passed in 2012 and demonstrates India's commitment to creating a child centric legal and protective environment. The POCSO Act is concerned with the rehabilitation and welfare of children who are in conflict with the law or need care, as opposed to the Juvenile Justice (Care and Protection of Children) Act, 2015, which seeks to safeguard children against sexual abuse and exploitation. The Indian Constitution and international accords such as the UNCRC (UNICEF, 2020) guarantee the rights, dignity, and protection of children. The Juvenile Justice Act protects victims and offenders alike from sexual assault, while the POCSO Act criminalizes a wide range of sexual offenses committed against minors under the age of eighteen in a thorough and gender-neutral manner. In cases involving sexual abuse of children, POCSO ensures in-camera trials, child-friendly court procedures, and mental health aid, according to the Ministry of Women and Child Development (2012).

The Juvenile Justice Board (JJB) takes into account the seriousness of the sexual offense, the juvenile's mental capacity, and whether the case calls for a juvenile trial or, in severe cases involving adolescents (ages 16–18), an adult trial with specific safeguards. When a minor commits a sexual offense in violation of the POCSO Act, it becomes a complicated matter within the Indian judicial system. Under a new section of the JJ Act, 2015, minors (those between the ages of 16 and 18) may be prosecuted as adults for horrific crimes, such as POCSO classified penetrative and severe sexual assault. The Juvenile Justice Board must conduct an initial evaluation in accordance with Section 15 of the Juvenile Justice Act, taking into account the child's physical and mental abilities, comprehension of the gravity of the offense, and the specifics of the case. Particularly with regards to juvenile offenders, this clause sparked discussions on reparative vs. reformatory justice. Both statutes emphasize safe practices for children. Sections 24-27 of the POCSO Act stipulate that in order to expedite the trial of cases involving sexual abuse of children, special courts must be established and that, ideally, female police officers must record the child's statement in a safe setting, free from repetitive questioning.

In a similar vein, the JJ Act (Ministry of Law and Justice, 2015) encourages non-institutional care, privacy, and dignity for children involved with the law via special homes, observation houses, and counselling help. Coordination among several stakeholders is necessary for the effective execution of the POCSO Act within the juvenile justice system. These stakeholders include medical officers, psychologists, legal aid providers, NGOs, Special Juvenile Police Units (SJPU), Juvenile Justice Boards (JJB), and child welfare committees (CWCs). Essential to the oversight and facilitation of child protection services are the guidelines put out by the National Commission for Protection of Child Rights

(NCPCR) and the State Commissions (NCPCR, 2018). In addition, DCPUs play a crucial role in providing victims and accused youth with legal and rehabilitative assistance. Multiple obstacles to implementation remain, even though there are strong legal foundations in place. Problems such as these arise when there is a lack of understanding among law enforcement, when trials take too long, when qualified counsellors are unavailable, when victims and offenders are stigmatized, and when POCSO statutes are misused in relationships between consenting adolescents. Furthermore, there is a need for a more complex and developmental strategy instead of punitive measures to address the criminalization of teenagers, who may not have a sufficient comprehension of their acts.

The POCSO Act and the Juvenile Justice Act working in tandem represent an all-encompassing and forward-thinking legislative framework for child protection in India. The Juvenile Justice Act protects the rights and rehabilitation of children, even those who are in dispute with the law, while the POCSO Act guarantees strict protection against sexual abuse. Supported by ongoing training, awareness, and systemic change, a well-rounded, child-centred, and rights-based strategy is essential to preserve the constitutional goal of child welfare and justice.

Conclusion

The protection of children from sexual offences, as enshrined in the POCSO Act, requires a robust and multi-faceted policy approach that encompasses legal reform, institutional capacity building, and societal awareness. As highlighted throughout the discussion, there are critical areas where policy improvements are needed to enhance the overall effectiveness of the POCSO framework. Key policy needs include strengthening legal provisions to close loopholes, improving institutional coordination for timely investigations and trials, and addressing the gaps in victim support services. Furthermore, the importance of technology-driven solutions, improved reporting mechanisms, and targeted training for stakeholders such as law enforcement, medical professionals, and judiciary cannot be overstated. By addressing these policy needs through a concerted, systemic approach, India can create a more responsive and effective child protection framework. The vision for a child-centric legal ecosystem in India must prioritize the holistic well-being of children while ensuring justice for victims of sexual abuse.

This vision entails a shift from a traditional, punitive legal approach to one that recognizes and addresses the emotional, psychological, and social needs of children who experience trauma. A child-centric legal ecosystem should be grounded in principles of restorative justice, with a focus on rehabilitation, prevention, and active engagement of children in the legal processes that affect them. This ecosystem would include specialized courts for child-related offences, trauma-informed legal practices, and comprehensive support systems that ensure children are not re-victimized during the trial process. A truly child-centric legal system requires not only strong laws but also a cultural and institutional transformation where children's rights are at the heart of legal and policy decisions. India's commitment to upholding child rights is enshrined in both its Constitution and its obligations under international law, including the United Nations Convention on the Rights of the Child (CRC). However, the implementation of these rights remains a challenge in the face of deep-rooted societal norms, systemic inefficiencies, and a lack of adequate resources.

The POCSO Act represents a significant step in the direction of safeguarding children, but the full potential of the law can only be realized through consistent efforts at improving both legal and procedural aspects. The road to achieving this vision is not without challenges, but the resilience and

determination to safeguard children's dignity and rights must remain unwavering. It is only through sustained, collaborative efforts that a child-protective legal ecosystem can be realized, one that not only punishes offenders but also restores the lives of survivors and builds a culture of prevention and care. In conclusion, creating an effective child protection framework in India is an ongoing process that demands continuous reflection, reform, and renewal of policies and practices. The POCSO Act, while a crucial legal instrument, requires periodic review and fine-tuning to adapt to emerging trends and challenges in child protection. Moving forward, it is imperative that India's legal system remains committed to upholding the rights of children, ensuring that justice is not only done but is also seen to be done in a manner that is compassionate, efficient, and child-friendly.

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