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# **IMPLICATIONS AND CHALLENGES TO POCSO ACT: AN EMPIRICAL STUDY**

AUTHORED BY - RAMNEEK KAUR

## **ABSTRACT**

Abuse against children include all forms of violence towards people under 18 years of age which includes physical abuse, sexual abuse, emotional abuse as well as neglect at the hands of parents, authority figures or strangers.

Child abuse is a multidimensional issue involving legal, social medical and psychological implications. In order to protect rights of children, Government of India introduced Protection of Children from Sexual Offenses Act, 2012. The Act has been instrumental in providing a robust justice mechanism for the victims of sexual abuse and has highlighted the significance of child rights and safety. The Act covers punishment for both non-penetrative sexual assault and aggravated penetrative sexual assault.

An act for the welfare of society indeed, but even an act such as POCSO 2012 comes with its recriminations. But what recriminations and criticisms are we talking about? This paper follows an empirical study into the society while shedding light on every individuals own point of view and suggestions regarding the act and its working.

Despite the ever-increasing amount of such incidents, it still remains one of the most underreported crimes. Why? We'll try to acknowledge the stigma that is still ongoing in our society regarding sexual abuse of children and the hesitation behind reporting it. Let's dive into the study to get a closer look at POCSO and the challenges that come along with it.

Abuse against children encompasses various forms of violence directed towards individuals below the age of 18, including physical abuse, sexual abuse, emotional abuse, and neglect perpetrated by parents, authority figures, or strangers. Child abuse is a complex issue that has legal, social, medical, and psychological implications. To safeguard the rights of children, the Government of India passed the Protection of Children from Sexual Offenses Act (POCSO) in 2012. This legislation has played a crucial role in establishing a robust justice system for

victims of sexual abuse, while also emphasizing the importance of child rights and safety. The Act encompasses penalties for both non-penetrative and aggravated penetrative sexual assault.

Undoubtedly, an act like POCSO 2012 serves the welfare of society, but it is not without its criticisms and repercussions. This research paper delves into an empirical study of society, shedding light on diverse perspectives and suggestions regarding the act and its implementation.

**Keywords:** POCSO Act, child protection, sexual offences, challenges, empirical study

## CHAPTER 1

### INTRODUCTION

“Safety and security don't just happen, they are the result of collective consensus and public investment. We owe our children, the most vulnerable citizens in our society, a life free of violence and fear” as said by Nelson Mandela.

Children are among the most vulnerable members of society, requiring special protection and care to ensure their safety and well-being. However, despite concerted efforts to safeguard their rights, incidents of child sexual abuse continue to pose a significant threat to their physical, emotional, and psychological integrity. In recognition of this grave concern, the Protection of Children from Sexual Offences (POCSO) Act was enacted, marking a crucial milestone in India's legal framework for child protection.

As per the study shown by the Ministry of Women & Child Development, Government of India, in 2007, more than 69% of children aged 5 to 18 years old are victims of exploitation, highlighting a serious need for intervention and protection measures.<sup>1</sup>

Before the Protection of Children from Sexual Offenses (POCSO) Act came into effect, child abuse was addressed under various laws in India. These included sections like Section 377 (dealing with unnatural offenses), Section 375 (rape), and Section 354 (outraging modesty of a woman) of the Indian Penal Code. Additionally, the Constitution of India, under Article 21,

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<sup>1</sup> Ministry of Women & Child Development, Handbook on Prohibition of Child Marriage Act, 2006, Ministry of Women and Child Development, Government of India and UNICEF

mandated the state to ensure the protection of children.<sup>2</sup>

Child sexual abuse involves harming a child physically or emotionally by someone they trust. This can include using a child for sexual purposes or gratification by someone in a position of power or trust.

In 2009, the Ministry of Women & Child Development, Government of India introduced the "Integrated Child Protection Scheme (ICPS)"<sup>3</sup> to establish a system that efficiently protects children while reducing service gaps. It was based on the fundamental principles of upholding children's rights and prioritizing their best interests. The goal was to extend support to all children, especially those facing challenging circumstances, by merging various child protection schemes of the Ministry of women and child Development into a single centrally funded program. The ICPS primarily focused on assisting children in need of care and protection, as well as those involved in conflicts or legal matters. The movement, directed by the Ministry of Women and Child Development, has led to the passing of the Protection of Children from Sexual Offences (POCSO) 2012.<sup>4</sup>

Until 2012, the law in India didn't specifically recognize sexual offenses against children. Instead, such crimes fell under broader sections of the Indian Penal Code (IPC) that weren't child-specific. Only offenses like rape (non-consensual sexual intercourse), outraging the modesty of a woman (various acts), and unnatural acts (such as anal sex, homosexuality) were legally acknowledged.<sup>5</sup> This meant that other forms of non-penetrative sexual assaults, harassment, and exploitation weren't explicitly considered crimes and therefore weren't officially recorded, even if reported.

It's crucial to prioritize the safety and well-being of children in our county if we want to see progress and growth. The law called "The Protection of Children from Sexual Offences Act, 2012" explains different ways sexual abuse can happen to children, like physical assault or harassment, and sets up special courts to handle these cases quickly and effectively. Doctors,

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<sup>2</sup> 'Critical Analysis of Judicial Responses to POCSO Act', Saagarika .M, IJSR, 5, May 2023

<sup>3</sup> Ministry of Women & Child Development (2010), The Integrated Child Protection Scheme, Government of India: New Delhi. [http://wcd.nic.in/icpsmon/st\\_abouticps.aspx](http://wcd.nic.in/icpsmon/st_abouticps.aspx).

<sup>4</sup> India: The Integrated Child Protection Scheme (ICPS): A centrally Sponsored Scheme of Government-Civil Society Partnership | Better Care Network

<sup>5</sup> Indian Penal Code, 1860

nurses, and other healthcare workers play a big role in preventing and responding to sexual violence against kids. They help prevent it, intervene if it happens, and treat the child afterward. By involving people from different sectors, like healthcare and justice, we can better protect children, help them recover, and prevent more harm.

## **CHAPTER 2**

### **METHODOLOGY**

The survey aimed to measure the awareness, attitudes, and experiences of individuals about child sexual abuse and the implementation of the Protection of Children from Sexual Offences (POCSO) Act. Structured questions were designed to gather insights into participants' knowledge of the POCSO Act, perceptions of child sexual abuse, reporting behaviours, and experiences with support services. The questionnaire consisted of sections covering age groups, awareness of the POCSO Act, perceptions of child sexual abuse, reporting behaviours, experiences with support services, and suggestions for improvement.

Closed-ended questions, including multiple-choice were used to quantify responses, while open-ended questions allowed participants to provide qualitative insights and personal experiences which assessed participants' familiarity with the POCSO Act, perceptions of the prevalence and seriousness of child sexual abuse, likelihood of reporting instances of abuse, perceived barriers to reporting, and awareness of support services.

Informed consent was obtained from all participants before they began the survey, and measures were in place to protect participants' privacy and confidentiality throughout the survey process.

The target audience for the survey included common people from diverse backgrounds, including individuals from different age groups, genders, educational levels, occupations, and geographical locations. Recruitment was primarily conducted through online channels, using social media platforms and community forums like reddit and Instagram.

Ethical considerations were taken care of throughout the research process. Confidentiality and anonymity of participants were maintained, with no personally identifiable information collected. All data handling and analysis procedures adhered to ethical guidelines to guarantee

the protection of participants' privacy and rights.

Throughout the research process, transparency was maintained in all aspects, including recruitment procedures, data collection methods, and data analysis procedures. Any conflicts of interest or ethical concerns were addressed transparently and appropriately.

By adhering to these ethical considerations, the research upheld the rights, dignity, and well-being of participants while ensuring the integrity and validity of the research findings.

### **LIMITATIONS**

The survey faces several limitations that must be carefully considered in interpreting its findings. Firstly, sampling bias may arise if the sample is not representative of the broader population. Conducting the survey online, for instance, may disproportionately attract respondents with internet access, potentially excluding marginalized or disadvantaged communities. Additionally, self-report bias poses a significant concern, particularly in responses to sensitive questions about sexual offenses or reporting behaviours. Social desirability bias may lead participants to underreport or overreport certain behaviours, compromising the precision and reliability of the data. Furthermore, findings from the survey may lack generalizability because of the non-probability sampling method employed and potential biases in participant recruitment.

Additionally, if only a few people respond to the survey, it could cause a problem called non-response bias. This means that the differences between those who answer and those who don't could affect how well the sample represents the whole group, making the findings less reliable. Another issue to consider is recall bias, where people might have trouble remembering past experiences with sexual offenses or interactions with the legal system accurately. This could lead to answers that aren't completely accurate.

The depth of qualitative data obtained through open-ended questions may be limited compared to more in-depth qualitative research methods, such as interviews or focus groups, thus constraining the richness of qualitative analysis and interpretation.

Moreover, the survey's scope might not cover all relevant scopes of the topic, potentially

overlooking influences that could impact public awareness, attitudes, or experiences associated with the POCSO Act and sexual offenses. It may fail to capture the nuances of social context and cultural differences that influence perceptions of child sexual abuse and attitudes towards the POCSO Act, potentially leading to incomplete or biased responses.

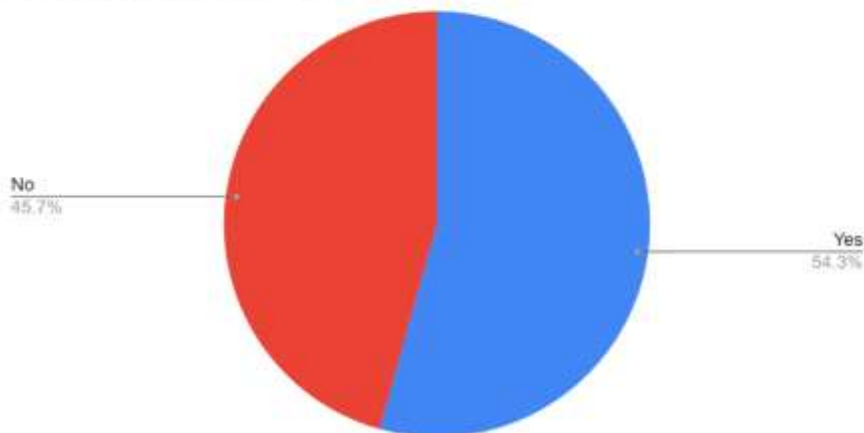
Furthermore, findings may be subject to temporal changes, as public awareness, attitudes, and experiences related to child sexual abuse and the POCSO Act may progress over time, making them less representative of attitudes or experiences at different points in time. These limitations highlight the importance of interpreting the survey findings cautiously and considering prospects for future research to address these challenges.

## **CHAPTER 3**

### **CHALLENGES OF THE POCSO ACT AS PER THE SURVEY**

After the survey was conducted and responses were gathered from participants, the analysis commenced by examining participants answers to understand how different groups perceived and experienced child sexual abuse and the legal framework provided by the POCSO Act. Subsequently, responses to closed-ended questions were quantitatively analysed to determine the level of awareness of the Act, perceptions of child sexual abuse prevalence and seriousness, likelihood of reporting instances of abuse, and awareness of support services. Mcq type questions provided insights into participants' agreement with statements regarding societal attitudes towards child sexual abuse. Open-ended responses were analysed to uncover personal experiences with reporting or accessing support services and to identify suggestions for improving the response to child sexual abuse and the implementation of the POCSO Act. Through this analysis, common challenges and areas for improvement in addressing child sexual abuse and enforcing the POCSO Act were identified, laying the groundwork for informing policy interventions and enhancing child protection measures.

Count of Have you ever received any formal or informal education about the POCSO Act?

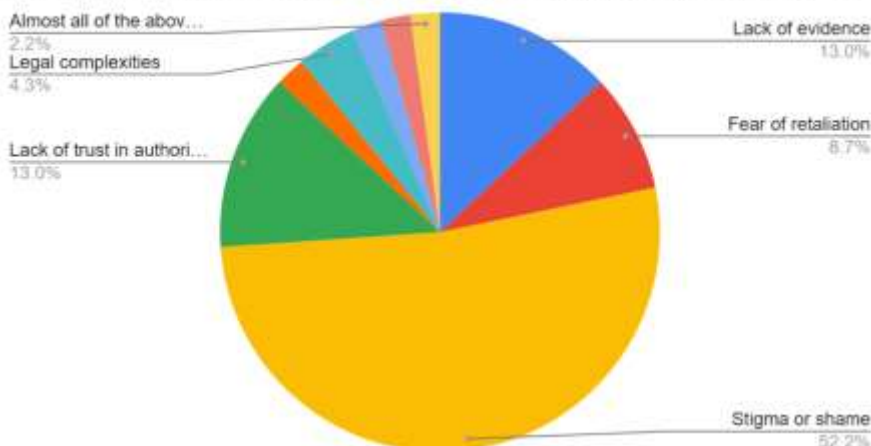


We need to look at why many cases of child sexual abuse might not be reported in our country. One big reason is that not everyone knows about the laws like the Protection of Children from Sexual Offences (POCSO) Act.

There is a level of awareness regarding child sexual abuse and related legal provisions, such as the POCSO Act. However, this awareness often falls short in comprehending the specifics of the law and its operational mechanisms.

A considerable portion of the population in India has not been formally educated about the nuances of the Protection of Children from Sexual Offences (POCSO) Act. This lack of formal education extends to understanding the specific provisions outlined in the legislation, as well as the broader implications of the Act in addressing and preventing instances of child sexual abuse. Consequently, many individuals may not be fully aware of their rights and responsibilities under the POCSO Act, leading to gaps in knowledge and potentially hindering effective implementation and enforcement of the law. This educational deficit underscores the importance of enhancing awareness and education initiatives surrounding child protection laws, including the POCSO Act, to empower individuals with the necessary knowledge to safeguard children from sexual offenses and ensure proper reporting and response mechanisms

Count of What do you think are the biggest challenges faced by survivors of child sexual abuse when seeking justice or supp...

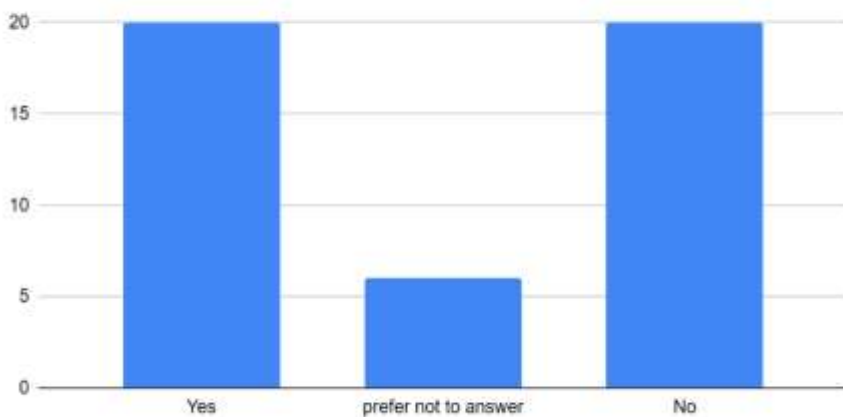


are in place.

The survey findings reveal a commonly held belief among respondents that a significant obstacle hindering individuals from reporting incidents of sexual abuse is the cultural and societal stigma attached to such experiences. This stigma includes societal attitudes and norms that often lead to victim-blaming, disbelief, and fear of social repercussions among survivors. Consequently, individuals may be prevented from coming forward and disclosing their experiences due to concerns about being judged, ostracized, or not being taken seriously.

This societal stigma surrounding sexual abuse creates a hostile environment for survivors, worsening feelings of shame, guilt, and isolation, which further hinder their willingness to seek support or report the abuse. Addressing this stigma is paramount to fostering a more supportive and empathetic societal response to sexual abuse, which is essential for encouraging survivors to come forward, access necessary resources, and pursue avenues for justice and healing.

Count of Have you or someone you know ever experienced or witnessed an incident of child sexual abuse?



Count of Have you or someone you know ever experienced or witnessed an incident of child sexual abuse?

Initiatives aimed at challenging and dismantling these entrenched societal attitudes are crucial for creating safer and more inclusive spaces where survivors feel empowered to speak out without fear of

stigma or reprisal.

This prevailing belief significantly contributes to the underreporting of sexual abuse cases, a concerning phenomenon highlighted by the survey results, where nearly half of the respondents disclosed personal experiences with sexual abuse or knowledge of someone who has endured such trauma. Many survivors remain silent, hesitant to disclose their experiences due to concerns about being disbelieved, judged, or disliked.

One of the non-governmental organizations (NGO) I surveyed, primarily focused on ensuring the safety of children through various activities. Their main initiatives include conducting awareness sessions on the Protection of Children from Sexual Offences (POCSO) Act and providing rehabilitation services to children who have survived POCSO-related offenses.

These awareness sessions are designed to educate children and communities about preventing sexual offenses, intervening in such situations, and techniques for healing. Importantly, the NGO ensures that the language used in these sessions is appropriate for the age group being addressed.

When asked about how frequently they encounter cases involving the POCSO Act or sexual offenses against children, the NGO revealed that such cases are encountered daily. However, they face several challenges in effectively implementing the POCSO Act and handling cases related to sexual offenses against children. One of the primary challenges cited is the lack of financial resources. The respondents expressed concern over the misallocation of tax revenues, highlighting the need for better utilization of funds to support citizens, especially women and children.

Although the NGO acknowledges some effectiveness in providing justice to sexual abuse victims, they note that there are still not enough support services available for child abuse victims. Despite efforts to collaborate with different agencies, including law enforcement, legal entities, social services, and other NGOs, the level of collaboration is rated poorly. They mentioned that while they try to communicate with each department personally, the existing automatic systems often fail to work in a timely manner, hindering the overall response to cases of child sexual abuse.

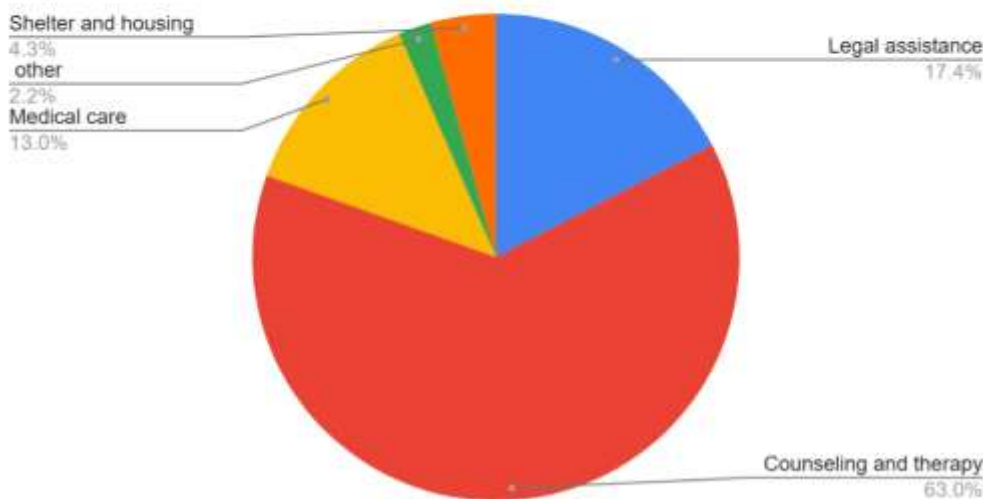
A major challenge faced by the organization in supporting child victims of sexual offenses and advocating for their rights under the POCSO Act is the lack of laws providing financial support to survivors. This deficiency often leads to family breakdowns during the legal process, worsening the situation for victims and their families.

Addressing these challenges is crucial to ensure comprehensive support for survivors and their families throughout their recovery and pursuit of justice. The NGO continues its efforts to raise awareness, provide rehabilitation services, and advocate for policy changes to better protect children from sexual offenses.

## CHAPTER 4 SUGGESTIONS AND WAY FORWARD

Advocates, including NGOs and concerned citizens, emphasize the critical need for counselling and therapy for children who have suffered the trauma of sexual abuse. They stress that these young victims require professional support to heal from the distressing experiences they've endured.

Count of What types of support services do you think are most important for children who have experienced sexual abuse?

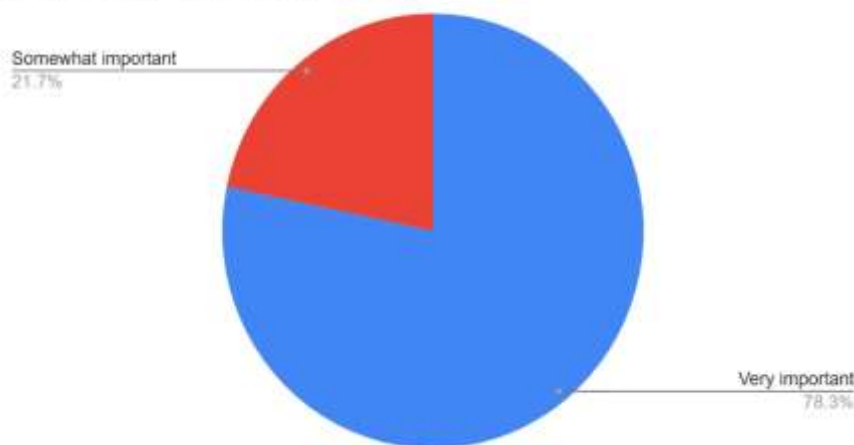


It's crucial not to overlook the necessity of legal aid and medical attention as well for victims of sexual abuse. Legal assistance ensures justice and accountability, while medical care addresses physical and mental health needs. These services complement counselling and

support in helping victims recover and seek justice.<sup>6</sup>

A respondent bravely shared her childhood trauma of sexual abuse, highlighting her experience with law enforcement. She expressed how the authorities' questioning felt confusing and insensitive. She believed a more thoughtful approach, especially when speaking to a child, would have been beneficial. This sentiment emphasizes the importance of sensitivity and empathy in handling such delicate situations. Children who have endured abuse need to feel safe and understood when interacting with authorities. Clear, age-appropriate questioning and a compassionate demeanour can make a significant difference in how victims perceive the process and can lead to more effective support and justice outcomes. This insight emphasizes the necessity for law enforcement to receive training on how to approach and communicate with child victims of abuse, ensuring they feel supported and empowered throughout the investigative process.

Count of What role do you think parents and caregivers play in preventing child sexual abuse?



Additionally, there's a widespread belief that parents play an essential role in safeguarding their children from such harm. Parents are seen as key figures in creating a safe environment for their children, where they

feel comfortable discussing sensitive topics and seeking help if needed. By being vigilant and supportive, parents can actively contribute to the well-being and protection of their children. Overall, the collective call for counselling services and parental involvement underscores the importance of addressing and preventing the devastating effects of sexual abuse on children.

The age group most at risk was 14-17 years old, making up 60% of the victims. Among the

<sup>6</sup> Sathyanarayana Rao TS, Nagpal M, Andrade C. Sexual coercion: time to rise to the challenge. Indian J 5 Psychiatry. 2013

victims, 85% were students. The most frequent location for the assault was at the homes of relatives of the accused, accounting for 32.5% of cases. In 96.2% of instances, the perpetrator was someone known to the victim according to the study held at JNIMS, Imphal.<sup>7</sup>

When asked to share about their thoughts, experiences, or concerns regarding child sexual abuse and the POCSO Act, the responses shared shed light on important aspects of child sexual abuse and the effectiveness of the POCSO Act. There is a strong call for stricter laws and faster legal procedures to address the trauma experienced by survivors. This highlights the need for legal reforms to ensure timely justice and prevent further harm.

Privacy protection is a major concern, as survivors often face stigma and judgment when their cases are made public. It is crucial to maintain confidentiality during legal proceedings to protect survivors and prevent additional distress. Public awareness campaigns are necessary to combat victim-blaming and provide support for survivors.

Parental support is crucial in creating a safe environment for children to report abuse. Educating parents about the signs of abuse and the importance of supporting their children is essential in breaking the cycle of silence. Mental health care for survivors is also important, as well as educating children about personal boundaries.

Efforts to address child sexual abuse should focus on implementing and enforcing the law effectively, providing resources for survivors, and raising awareness in the community. Empowering children to recognize and report abuse is vital, as is advocating for policies that prioritize their protection and well-being.

The importance of sensitivity and privacy in handling cases involving recording statements and conducting medical examinations is emphasized in the specific provisions. Safeguarding the rights and well-being of the child is of utmost importance. It is also crucial to take practical measures to prevent abuse, such as researching offenders and ensuring equal punishments for perpetrators. These actions are essential in creating a safer environment for children.

Moreover, there is a pressing need to raise awareness in rural and backward areas, where

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<sup>7</sup> Gangmei Agatha, Moirangthem BK. Profile of victims examined under POCSO Act 2012, in JNIMS, Imphal. Int J Health Res Medico Leg Prae 2019 January

societal stigma and cultural barriers often contribute to silence around abuse. Educating children about their rights and the significance of speaking out against abuse is vital in empowering them to defend themselves and seek assistance when necessary.

In summary, there is a clear call for wide-ranging efforts to effectively address child sexual abuse. Strengthening laws, increasing awareness, supporting survivors, and promoting a culture of prevention are all necessary steps towards establishing a secure environment for children, where their voices are valued, and their rights are upheld.

## CHAPTER 5

### LITERATURE REVIEW

1. 'Profile of victims examined under POCSO Act 2012, in JNIMS, Imphal', Gangmei Agatha, Moirangthem BK, Int J Health Res Medico Leg Prae, 2019 January

The study conducted at JNIMS, Imphal, highlights the alarming prevalence of sexual assault cases among young girls aged 14-17, with 85% of victims being students. The findings underscore the importance of raising awareness among parents and children regarding sexual crimes and the significance of early reporting and medical examination. Delay in reporting results in the loss of crucial evidence, emphasizing the urgent need for preventive measures and education to fight this heinous crime.

2. 'Critical Analysis of Judicial Responses to POCSO Act', Saagarika .M, IJSR, 5, May 2023

This paper highlights the alarming occurrence of sexual abuse against children in India, with statistics indicating widespread forms of abuse. Various forms of abuse, including physical, non-physical, and commercial exploitation, are identified as significant issues affecting vulnerable children. Prior to the enactment of the POCSO Act in 2012, existing legal provisions were found inadequate to address the complexities of child sexual abuse cases. Challenges such as societal taboos, gender-based violence, and lack of trust in children's testimony hindered effective response and justice delivery. The introduction of the POCSO Act marked a pivotal moment in addressing these challenges, providing specialized legal provisions, court procedures, and support mechanisms for child victims. However, despite legislative developments, systemic deficiencies persist, including underreporting of cases, societal stigma, and inadequacies in legal responses. Efforts to address these gaps involve not only legal

reforms but also societal shifts in attitudes towards child protection and victim support.

3. 'Implications of the POCSO Act and determinants of child sexual abuse in India: insights at the state level', Maity, S., Chakraborty, P.R, Humanit Soc Sci Commun 10, 6 2023

This study highlights the global prevalence of child sexual abuse with shocking statistics revealing the nature of this issue across various regions. Despite legislative efforts such as the Protection of Children from Sexual Offences (POCSO) Act in India, challenges persist, including underreporting, societal stigma, and vulnerabilities among economically disadvantaged populations. Research emphasizes the need for strong interventions and support mechanisms to address child sexual abuse and protect children's well-being effectively.

## CHAPTER 6

### CONCLUSION

In conclusion, my empirical study emphasizes the significance of the Protection of Children from Sexual Offences (POCSO) Act as a crucial legal framework for addressing child sexual abuse in India. The Act has played a pivotal role in establishing specialized legal provisions, court procedures, and support mechanisms for child victims, marking a significant milestone in child protection efforts. Despite its enactment, however, the study reveals persistent challenges such as underreporting, societal stigma, and systemic deficiencies that hinder the Act's effectiveness in delivering justice and safeguarding children's rights.

Responses from participants highlight both the recognition of the Act's importance in combating child sexual abuse and the acknowledgment of its limitations and areas for improvement. While many appreciate the Act's intent and provisions, concerns remain regarding its implementation, accessibility of support services, and societal attitudes towards survivors. Additionally, calls for stricter enforcement, faster legal procedures, and enhanced support mechanisms underscore the need for continuous efforts to strengthen the Act and address existing gaps.

While the POCSO Act represents a significant step forward in protecting children from sexual offenses, it is clear that more concerted action is needed to overcome existing challenges and ensure comprehensive support for survivors. By addressing these concerns and prioritizing the

well-being of children, we can work towards creating a safer and more supportive environment where every child can thrive free from the threat of sexual abuse.

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