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**AN ANALYTICAL STUDY OF PROTECTION OF CHILDREN  
AGAINST SEXUAL OFFENCES (POCSO) ACT, 2012:  
LEGISLATIVE FRAMEWORK, JUDICIAL  
INTERPRETATION AND EMERGING CHALLENGES**

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**ABSTRACT**

The Protection of Children from Sexual Offences Act, 2012 (POCSO Act) is a watershed statute in Indian criminal jurisprudence, providing for the first time a dedicated, gender-neutral, and child-sensitive legal framework to address the full spectrum of sexual offences against persons below eighteen years of age. Enacted in fulfilment of India's obligations under the United Nations Convention on the Rights of the Child and the constitutional mandate under Articles 15(3) and 39, the Act introduced a reversed burden of proof, mandatory reporting obligations, special courts, and procedural safeguards designed to minimise the trauma of participation in legal proceedings. Despite these legislative innovations, significant lacunae persist in practice — alarmingly low conviction rates, trial delays, secondary victimisation, inadequate rehabilitation, and the complex challenge posed by adolescent consensual relationships criminalized under the Act's absolute age bar.

This paper undertakes a critical doctrinal analysis of the POCSO Act's architecture, examines landmark judicial decisions by the Supreme Court and High Courts, and identifies systemic gaps in enforcement. Drawing upon comparative frameworks from the United Kingdom, the United States, and South Africa, it proposes targeted legislative and institutional reforms to transform the Act's protective promise into effective child justice. The paper argues that penal severity alone is insufficient; only a holistic ecosystem of enforcement, rehabilitation, and judicial sensitivity can deliver genuine protection to child survivors.

**Keywords:** POCSO Act, Child Sexual Abuse, Special Courts, Reversed Burden of Proof, Mandatory Reporting, Conviction Rate, Adolescent Relationships, Secondary Victimisation, Criminal Law Reform.

## I. INTRODUCTION

Sexual violence against children is among the gravest violations of human dignity recognised by law. In India, an exponential increase in registered cases of child sexual abuse — attributable to growing social awareness and diminishing stigma — starkly exposed the inadequacy of pre-existing legal provisions. The Protection of Children from Sexual Offences Act, 2012<sup>1</sup> (hereinafter "the POCSO Act" or "the Act") was enacted to fill this legislative void, establishing a comprehensive statutory regime that criminalises penetrative assault, non-penetrative assault, sexual harassment, and child pornography with greater precision and severity than was available under the Indian Penal Code, 1860.

The global magnitude of the problem cannot be overstated. The United Nations estimates that one in five children becomes a victim of sexual violence before reaching adulthood,<sup>2</sup> designating child sexual abuse as both a public health emergency and a fundamental human rights crisis. In India, data compiled by the National Crime Records Bureau (NCRB) reveals a consistent upward trajectory in registered POCSO offences year after year,<sup>3</sup> a trend that, however distressing, reflects only a fraction of the actual prevalence given the pervasive underreporting attributable to familial pressure, shame, and institutional distrust.

The Act draws its constitutional legitimacy from Articles 15(3) and 39 of the Constitution of India, which impose affirmative duties upon the State to protect children from exploitation and abuse,<sup>4</sup> and from India's ratification of the United Nations Convention on the Rights of the Child (UNCRC), which obligates signatory states to protect children from all forms of sexual exploitation and sexual abuse.<sup>5</sup> The Supreme Court's directions in *Bachpan Bachao Andolan v. Union of India*<sup>6</sup> and the earlier *Sakshi* case<sup>7</sup> had already underscored the institutional failures of the pre-existing framework, providing the judicial impetus for legislative intervention.

This paper proceeds as follows: Part II surveys the pre-POCSO legal landscape and its

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<sup>1</sup>Protection of Children from Sexual Offences Act, 2012 (Act 32 of 2012) (India).

<sup>2</sup>UNICEF, "Child Sexual Abuse: A Hidden Crisis" (2020) <<https://www.unicef.org>> accessed 5 May 2026.

<sup>3</sup>National Crime Records Bureau, Crime in India Report 2022 (Ministry of Home Affairs, Government of India, 2023) ch 5.

<sup>4</sup>Constitution of India, art 15(3) ("Nothing in this article shall prevent the State from making any special provision for women and children."); art 39(e)–(f).

<sup>5</sup>UN Convention on the Rights of the Child (adopted 20 November 1989, entered into force 2 September 1990) 1577 UNTS 3 (UNCRC), art 34.

<sup>6</sup>*Bachpan Bachao Andolan v Union of India* (2011) 5 SCC 1.

<sup>7</sup>*Sakshi v Union of India* (2004) 5 SCC 518.

inadequacies. Part III analyses the legislative architecture of the Act. Part IV examines significant judicial interpretations. Part V identifies challenges in implementation. Part VI offers a comparative analysis of select foreign jurisdictions. Part VII presents recommendations for reform, followed by conclusions in Part VIII.

## **II. PRE-POCSO LEGAL LANDSCAPE: LEGISLATIVE INADEQUACIES**

Prior to the POCSO Act's commencement, the primary instruments governing sexual offences were Section 375 of the Indian Penal Code, 1860 (defining rape in narrow, gender-specific terms applicable only to male perpetrators and female victims), Section 354 (outraging the modesty of a woman), and Section 377 (unnatural offences).<sup>8</sup> None of these provisions was designed to address the breadth of sexual misconduct directed at children. The definition of rape was confined to penile-vaginal penetration, leaving non-penetrative abuse, male victimisation, and non-contact offences entirely unaddressed. Section 377, though linguistically gender-neutral, carried the stigma of its colonial origins and was predominantly invoked against consensual same-sex conduct rather than child protection.

The evidentiary framework under the Indian Evidence Act, 1872 offered no special protection to child witnesses. Children were subjected to the same adversarial cross-examination as adult complainants, a process that legal scholarship and clinical research have consistently identified as a cause of severe secondary victimisation. The absence of in-camera proceedings, child-friendly court infrastructure, and trained support professionals rendered the criminal process itself a source of additional trauma for survivors. The Sakshi case had directed procedural accommodations for child witnesses, but these remained judicially crafted stop-gaps rather than a comprehensive statutory framework.

Furthermore, the penalty structure under the IPC was wholly disproportionate to the gravity of offences against children. Section 354, attracting a maximum sentence of two years, offered manifestly inadequate punishment for the severe psychological and physical harm inflicted upon child victims. The fragmented, ad hoc application of general criminal law provisions to complex cases of child sexual abuse produced inconsistent judicial outcomes and an extremely low conviction rate — a pattern that itself became a powerful argument for dedicated legislation.

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<sup>8</sup>Indian Penal Code 1860, s 375 (pre-2013 version); see also Criminal Law (Amendment) Act 2013.

### **III. LEGISLATIVE ARCHITECTURE OF THE POCSO ACT, 2012**

#### **III.A. Definition of "Child" and Gender Neutrality**

The Act defines a "child" as any person below the age of eighteen years,<sup>9</sup> adopting a gender-neutral framework that extends protection to children of all genders — a foundational departure from the gendered architecture of the IPC. Gender neutrality extends across the definitions of all offences: any person, irrespective of sex, may be a perpetrator or a victim under the Act. This is a critical acknowledgement of the reality that male and transgender children are equally susceptible to sexual victimisation, irrespective of the gender of the perpetrator.

#### **III.B. Classification of Offences**

The Act establishes a graduated hierarchy of sexual offences, calibrated to the nature and severity of the conduct. Penetrative sexual assault (Section 3) encompasses any form of sexual penetration, while aggravated penetrative sexual assault (Section 5) imposes heightened liability where the perpetrator occupies a position of trust, authority, or responsibility — including police officers, public servants, school staff, and relatives of the child.<sup>10</sup> Non-penetrative sexual assault (Sections 7–10) criminalises unwanted sexual touching of specified body parts.<sup>11</sup> Sexual harassment (Sections 11–12) captures non-contact conduct including exhibitionism, stalking, and sexually suggestive communication. Sections 13–15 address child pornography, including its production, storage, and transmission.<sup>12</sup>

The 2019 Amendment strengthened penalties for the most egregious offences, inserting provisions for capital punishment in cases of aggravated penetrative sexual assault of children below twelve years — a legislative response to public outrage following high-profile cases of child rape and murder.<sup>13</sup> While the death penalty is constitutionally permissible only in the "rarest of rare" cases, the amendment signals the legislature's unequivocal condemnation of predatory violence against the youngest and most vulnerable members of society.

#### **III.C. Reversed Burden of Proof**

Perhaps the most jurisprudentially significant innovation of the POCSO Act is Section 29, which establishes a statutory presumption of guilt against the accused once prosecution is

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<sup>9</sup>POCSO Act 2012, s 2(d): "child means any person below the age of eighteen years."

<sup>10</sup>POCSO Act 2012, ss 3–6 (penetrative and aggravated penetrative sexual assault).

<sup>11</sup>POCSO Act 2012, ss 7–10 (sexual assault and aggravated sexual assault).

<sup>12</sup>POCSO Act 2012, ss 11–12 (sexual harassment); ss 13–15 (child pornography).

<sup>13</sup>Protection of Children from Sexual Offences (Amendment) Act 2019 (Act 25 of 2019), inserting enhanced penalties including capital punishment for aggravated penetrative sexual assault of children below twelve years.

initiated for offences under Sections 3, 5, 7, and 9.<sup>14</sup> This provision inverts the foundational common law presumption of innocence, placing upon the accused the burden of disproving guilt. The legislative rationale rests upon the inherent power asymmetry between adult perpetrators and child victims, and the practical difficulty of obtaining corroborative evidence in cases that typically occur in private, without witnesses. The Supreme Court upheld the constitutional validity of this presumption in *Nipun Saxena v. Union of India*,<sup>15</sup> holding that the legislature is competent to reverse the burden of proof in appropriate categories of cases, provided that the accused retains the opportunity to rebut the presumption.

### **III.D. Child-Sensitive Procedural Safeguards**

The Act mandates a suite of child-sensitive procedural protections designed to minimise the trauma inherent in participation in criminal proceedings. Statements of child victims must be recorded at the child's residence or a preferred location, in the presence of a trusted adult or social worker. A woman police officer not below the rank of sub-inspector is required to record the statement of a girl victim. Sections 24–26 prohibit repetitive questioning, aggressive interrogation, and the use of the child's statement against herself.<sup>16</sup> Trial must be conducted in camera, the child must be shielded from the accused during testimony, and the court may allow questions to be put to the child through an interpreter or special educator.

Section 19 imposes a mandatory reporting obligation upon any person — including medical professionals, teachers, and caregivers — who has knowledge or reasonable suspicion of a POCSO offence.<sup>17</sup> Failure to report constitutes a criminal offence punishable with imprisonment, creating a positive legal duty to safeguard children beyond the immediate parties to the criminal process. Section 35 directs Special Courts to complete the recording of evidence within thirty days of taking cognisance,<sup>18</sup> and Section 23 prohibits media disclosure of the child's identity.<sup>19</sup>

## **IV. JUDICIAL INTERPRETATION OF THE POCSO ACT**

### **IV.A. Nipun Saxena v. Union of India (2019)**

In *Nipun Saxena v. Union of India*,<sup>20</sup> the Supreme Court issued comprehensive directions

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<sup>14</sup>POCSO Act 2012, s 29.

<sup>15</sup>*Nipun Saxena v Union of India* (2019) 2 SCC 703.

<sup>16</sup>POCSO Act 2012, ss 24–26 (recording of child's statement); s 33(6) (no aggressive questioning of child).

<sup>17</sup>POCSO Act 2012, s 19 (mandatory reporting obligation); s 21 (penalty for failure to report).

<sup>18</sup>POCSO Act 2012, s 35 (evidence to be recorded within thirty days of cognisance).

<sup>19</sup>POCSO Act 2012, s 23 (prohibition on disclosure of child's identity by media).

governing the conduct of trials under the POCSO Act. The Court mandated the strict non-disclosure of victims' identities in all legal documents, media, and official records, and directed that FIRs be registered in all cases regardless of the apparent consent of the minor or the stance of the child's guardians. Crucially, the Court reaffirmed that the absence of physical injury does not negate the commission of an offence — a ruling that counters judicial tendencies to accord disproportionate weight to medico-legal evidence. The decision also provided directions for the establishment and operationalisation of Special Courts in every district, recognising the institutional deficit in dedicated judicial infrastructure.

#### **IV.B. The "Skin-to-Skin" Controversy: Attorney General v. Satish (2021)**

The most controversial judicial development in the Act's history arose from the Bombay High Court's holding in *Satish v. State of Maharashtra*, where a Single Judge concluded that groping a child's breast over her clothing, without direct skin-to-skin contact, did not satisfy the definition of "sexual assault" under Section 7 of the POCSO Act. The judgment provoked immediate and widespread condemnation from child rights advocates, the legal fraternity, and the Government of India. The Supreme Court promptly stayed the judgment and subsequently overturned it in *Attorney General for India v. Satish*,<sup>21</sup> holding emphatically that any act of sexual intent involving the touching of the body parts specified in Section 7 — irrespective of whether clothing intervenes — constitutes sexual assault under the Act. The Supreme Court's intervention was vital in preventing a reductive, hyper-technical interpretation from hollowing out the Act's protective scope, and affirmed the principle that statutory interpretation in child protection legislation must be guided by the legislative purpose of safeguarding children from all forms of sexual harm.

#### **IV.C. Adolescent Consensual Relationships and the Age of Consent**

A persistent jurisprudential tension concerns the prosecution of consensual sexual relationships between adolescents, where one or both parties are below eighteen. A significant proportion of POCSO cases registered across India involve adolescent couples whose relationships are criminalised not because of exploitation but because of familial or community disapproval — frequently in the context of inter-caste or inter-religious relationships. Courts have grappled with the apparent incongruity between the Act's absolute prohibition on consent below eighteen

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<sup>21</sup>*Attorney General for India v Satish and Another* (2021) 5 SCC 250, reversing *Satish v State of Maharashtra* 2021 SCC OnLine Bom 72.

and the social reality of adolescent romantic relationships.<sup>22</sup>

While the statutory position is unequivocal, several High Courts have exercised sentencing discretion to mitigate disproportionate punishment of young accused persons whose conduct does not reflect the predatory dynamics the Act was designed to address. The Law Commission of India has recommended the introduction of a "close-in-age" or "Romeo and Juliet" exception — exempting consensual sexual activity between adolescents within a defined age proximity — a reform that the legislature has yet to adopt. The absence of such a provision continues to burden Special Courts with cases that are ill-suited to criminal prosecution and results in the criminalisation of adolescent behaviour at the expense of cases involving genuine exploitation.

## V. CHALLENGES IN IMPLEMENTATION

### **V.A. Low Conviction Rates and Judicial Pendency**

Despite the Act's progressive design, empirical data reveals a deeply troubling implementation deficit. The NCRB consistently reports POCSO conviction rates below forty percent at the national level,<sup>23</sup> while an estimated 2.4 lakh cases remain pending before Special Courts far beyond the one-year statutory timeline. The insufficient number of designated Special Courts, chronic vacancies in the judiciary, inadequate forensic laboratory infrastructure, delays in medical examination reports, and the frequent unavailability of trained public prosecutors collectively undermine the Act's efficacy. The Supreme Court's observations in *Gaurav Kumar Bansal v. Union of India*<sup>24</sup> — a PIL seeking expeditious disposal of POCSO cases — underscored the systemic character of these delays and the consequent injustice to child survivors compelled to await justice for years.

### **V.B. Secondary Victimization and Rehabilitation Deficit**

Child survivors of sexual abuse frequently experience secondary victimisation through repeated interrogations by multiple agencies, hostile cross-examination in spite of procedural protections, community stigmatisation, and inadequate access to psycho-social rehabilitation. The Act mandates the engagement of support persons and mental health professionals under Section 39 and the Model Guidelines issued thereunder; however, the practical implementation of these provisions is profoundly uneven across states, with rural and semi-urban jurisdictions

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<sup>22</sup>State of Maharashtra v Bhikha Bhura Dhatarwal 2023 SCC OnLine Bom 1245; see also Law Commission of India, "Review of Rape Laws" Report No 172 (2000).

<sup>23</sup>NCRB, Crime in India 2022 (n 3): POCSO conviction rate recorded at approximately 38% nationally; over 2.4 lakh cases pending trial.

<sup>24</sup>Gaurav Kumar Bansal v Union of India WP(C) No 1379/2013 (Supreme Court of India).

particularly underserved. The absence of a centralised victim compensation fund, the inadequacy of One Stop Centres in remote areas, and the chronic shortage of trained child psychologists represent structural deficits that perpetuate the suffering of survivors long after criminal proceedings conclude.

### **V.C. Misuse of the Act and False Complaints**

The Act's stringent provisions and reversed burden of proof create a documented risk of misuse, particularly in the context of civil disputes, matrimonial conflicts, and familiarly opposed inter-community relationships. Instances of false POCSO complaints filed to coerce adversaries, to secure custody advantages, or to prevent lawful marriages have been judicially noted across multiple High Courts. The Act does not provide express penal consequences for false complaints — a deliberate legislative choice to avoid deterring genuine survivors from reporting — but this gap creates space for instrumentalisation of the legal process. Courts have resorted to general IPC provisions and inherent powers to address egregious misuse, but a more calibrated legislative response is needed.

## **VI. COMPARATIVE ANALYSIS: INTERNATIONAL APPROACHES**

### **VI.A. United Kingdom: Sexual Offences Act, 2003**

The United Kingdom's Sexual Offences Act 2003 establishes absolute liability offences against children below thirteen years, where consent is wholly irrelevant as a matter of law.<sup>25</sup> For children between thirteen and fifteen, offences are graded by the nature of the sexual activity and the parties' relationship. A distinctive feature of the UK framework is its explicit criminalisation of "grooming" — preparatory conduct by which an adult cultivates trust with a child for the purpose of future sexual exploitation — an offence not addressed with comparable specificity in the POCSO Act. The UK's Multi-Agency Public Protection Arrangements (MAPPA) also provide a structured inter-agency mechanism for monitoring convicted sex offenders, offering a model that India's fragmented institutional architecture currently lacks.

### **VI.B. United States: Federal and State Frameworks**

The United States operates a complex federal-state mosaic for child sexual offence law, anchored by the Jacob Wetterling Act, Megan's Law, and the Adam Walsh Child Protection

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<sup>25</sup>Sexual Offences Act 2003 (UK), s 5 (rape of a child under 13 — absolute liability); s 9 (sexual activity with a child).

and Safety Act,<sup>26</sup> which together establish mandatory sex offender registration, community notification, and GPS monitoring of high-risk offenders. The US framework's particular strength lies in its dedicated cyber crime units targeting online child exploitation, a rapidly expanding dimension of child sexual abuse that India's POCSO Act does not address with sufficient legislative specificity. The mandatory minimum sentencing regime, while criticised for rigidity, has generated strong deterrent signals that are absent from India's current penalty structure for non-aggravated offences.

### **VI.C. South Africa: Criminal Law (Sexual Offences) Amendment Act, 2007**

South Africa's Criminal Law (Sexual Offences and Related Matters) Amendment Act 2007 establishes a National Register for Sex Offenders, which precludes registered offenders from employment in any capacity involving access to children or persons with disabilities.<sup>27</sup> The Act further provides for Thuthuzela Care Centres — one-stop facilities providing integrated medical, forensic, counselling, and legal services to survivors — a model that India's One Stop Centres approximate but have yet to fully realise at scale. The South African framework's emphasis on institutional coordination and survivor rehabilitation represents a holistic approach to child protection that extends well beyond penal sanction.

## **VII. RECOMMENDATIONS FOR REFORM**

Based upon the foregoing analysis, the following targeted reforms are proposed to strengthen the POCSO framework:

- 1. Exclusive Special Courts in Every District:** Parliament and state legislatures must mandate the establishment of at least one fully functional, fully staffed POCSO Special Court per district, with dedicated judges, trained public prosecutors, child-friendly court infrastructure, and video-link testimony facilities. Central Government funding should be ring-fenced for this purpose.
- 2. Introduction of a Close-in-Age Exception:** The Act should be amended to introduce a carefully calibrated close-in-age exception, exempting consensual sexual activity between adolescents within a defined age proximity (not exceeding three years) where there is no evidence of coercion, grooming, or exploitation. This would align the Act's

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<sup>26</sup>Adam Walsh Child Protection and Safety Act 2006 (USA), Pub L 109-248; Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act 1994.

<sup>27</sup>Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007 (South Africa), s 50 (National Register for Sex Offenders).

application with its protective purpose and relieve Special Courts of cases that are ill-suited to criminal prosecution.

- 3. National Sex Offender Registry:** India should establish a centralised, law-enforcement-accessible National Sex Offender Registry for convicted POCSO offenders, coordinated by the NCRB, to prevent recidivism and protect children in schools, childcare institutions, and workplaces.
- 4. Dedicated Victim Compensation Fund:** A statutory National Child Victim Compensation Fund should be created, providing prompt financial relief to POCSO survivors independent of the outcome of criminal proceedings, modelled on the principles recommended by the Justice Verma Committee.
- 5. Specific Provisions for Online Child Sexual Abuse:** The Act should be strengthened with specific provisions addressing online grooming, digital solicitation, live-streaming of child abuse, and the use of artificial intelligence to generate child sexual abuse material — incorporating mandatory obligations upon digital intermediaries to detect, report, and remove such content.
- 6. Mandatory Training and Sensitisation:** Standardised training curricula on child-sensitive investigation, trauma-informed interviewing, and child-friendly adjudication should be made mandatory for all police officers, prosecutors, and judges handling POCSO cases, with periodic refresher programmes and independent monitoring of compliance.

## VIII. CONCLUSION

The POCSO Act, 2012 represents a transformative moment in India's legislative commitment to child rights, establishing for the first time a comprehensive, gender-neutral, and child-sensitive framework to address the full spectrum of sexual offences against minors. Its innovations — the reversed burden of proof, mandatory reporting, special courts, in-camera trials, and graduated offence categories — collectively embodied the constitutional and international human rights imperatives that India is bound to uphold. The 2019 Amendment further reinforced the legislature's determination to treat violence against the youngest and most vulnerable as among the gravest criminal conduct.

However, as this paper's analysis demonstrates, the Act's transformative potential has been substantially constrained by institutional failures — inadequate judicial infrastructure, alarmingly low conviction rates, secondary victimisation of survivors, and the unresolved tension between the Act's absolute age bar and the reality of adolescent consensual

relationships. The Supreme Court's landmark interventions — particularly the Nipun Saxena guidelines and the authoritative overruling of the Satish judgment — have been indispensable in preserving the Act's intended protective scope. Yet, judicial vigilance cannot substitute for systemic legislative and institutional reform.

The comparative experiences of the United Kingdom, the United States, and South Africa illuminate pathways for reform — particularly in sex offender registration, inter-agency coordination, online child protection, and survivor rehabilitation — that India would do well to adapt to its own social and institutional context. Effective child protection is not merely a matter of legislative severity; it demands a holistic ecosystem in which robust law enforcement, a sensitised judiciary, comprehensive rehabilitation services, and community awareness operate in concert. The constitutional guarantee of the right to life and dignity — interpreted to encompass freedom from sexual exploitation<sup>28</sup> — demands nothing less than systemic excellence in the legal framework designed to protect India's children.

## SELECT BIBLIOGRAPHY

### Statutes

- Protection of Children from Sexual Offences Act, 2012 (Act 32 of 2012) (India)
- Protection of Children from Sexual Offences (Amendment) Act, 2019 (Act 25 of 2019) (India)
- Indian Penal Code, 1860
- Sexual Offences Act 2003 (United Kingdom)
- Adam Walsh Child Protection and Safety Act 2006 (United States)
- Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007 (South Africa)

### Cases

- Attorney General for India v Satish and Another (2021) 5 SCC 250
- Bachpan Bachao Andolan v Union of India (2011) 5 SCC 1
- Gaurav Kumar Bansal v Union of India WP(C) No 1379/2013
- Nipun Saxena v Union of India (2019) 2 SCC 703
- Sakshi v Union of India (2004) 5 SCC 518
- State of Maharashtra v Bhikha Bhura Dhatarwal 2023 SCC OnLine Bom 1245

**Reports and Secondary Sources**

- Justice J S Verma Committee, "Report of the Committee on Amendments to Criminal Law" (January 2013)
- National Crime Records Bureau, Crime in India Report 2022 (Ministry of Home Affairs, 2023)
- Ministry of Women and Child Development, Model Guidelines under s 39 POCSO Act (Government of India, 2013)
- UNICEF, "Child Sexual Abuse: A Hidden Crisis" (2020)
- Law Commission of India, "Review of Rape Laws" Report No 172 (2000)

