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WHEN SILENCE IS MANUFACTURED: A CASE FOR CRIMINALISING COERCIVE SUPPRESSION OF DISCLOSURE UNDER THE POCSO ACT, 2012

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ABSTRACT

The Protection of Children from Sexual Offences (POCSO) Act, 2012 criminalises a wide range of sexual offences against minors and places a mandatory duty to report such offences under Sections 19 and 21. Yet the Act stays silent on a specific problem: what happens when disclosure itself is suppressed by someone close to the child. In most cases, the accused is already inside the child's circle, a relative, a family friend, someone the household trusts, and disclosure is not held back by ordinary reluctance but actively discouraged through emotional, social, and economic pressure. Drawing on statutory provisions, NCRB data, a small original survey, and judicial recognition of this problem in cases such as State of Punjab v. Gurmit Singh and Rupi Babbar v. State (NCT of Delhi), this essay argues that POCSO's reporting architecture assumes a freedom to disclose that does not exist in most Indian households where the abuser and the victim share a roof. It proposes a new offence of coercive suppression of disclosure, modelled partly on the United Kingdom's controlling-or-coercive-behaviour offence, and works through the objections this proposal is likely to face. It concludes that treating suppression of disclosure as an independent wrong, rather than folding it into a third party's failure to report, is what would close the gap between what POCSO promises and what familial abuse looks like in practice.

Keywords: POCSO Act; intra-familial sexual abuse; coercive silence; suppression of disclosure; mandatory reporting; child sexual abuse; family pressure; legal reform; victim disclosure.

1. Introduction

"'intra-familial child sexual abuse' is a sensitive topic that is often shrouded in taboo and silence."

- Justice Hima Kohli, 2023.

Child sexual abuse is usually understood as a crime that stays hidden because children are too young, too scared, or too overwhelmed to speak about it. But where the abuser is a family member, silence is rarely just a byproduct of fear. It is built out of relationships of authority and dependence that make disclosure almost impossible, until silence stops following abuse and becomes part of how the abuse continues.

National crime data confirms this. Child sexual abuse in India happens overwhelmingly within relationships of familiarity, and these are also the cases most likely to go unreported for years, or not at all, because the person committing the abuse is often the same person controlling the child's access to food, shelter, schooling, or love.[1] Disclosure, in other words, is shaped less by a child's own courage than by who holds power over that child.

POCSO was a genuine step forward. It names abuse by relatives and known persons as an aggravated offence and places a mandatory duty on adults to report suspected abuse under Sections 19 and 21.[2] But the Act's design has a blind spot: it responds once disclosure has already happened, or punishes someone who knew and stayed quiet. It says almost nothing about the person who made sure disclosure never happened at all.

This paper argues that coercive non-disclosure, the active suppression of a child's or guardian's ability to report abuse, is its own distinct harm, separate from the abuse it conceals. The law currently treats it as, at best, an afterthought folded into the general offence of failing to report. When silence is manufactured through trust and authority rather than simply feared, a law that only punishes the abusive act is missing half the problem.

[1] Nat'l Crime Records Bureau, Ministry of Home Affairs, Gov't of India, *Crime in India 2024*, tbl.4A.10 (Offenders' Relation to Child Victims of the POCSO Act (Sections 4 & 6)) (2026) [hereinafter NCRB, *Crime in India 2024*].

[2] The Protection of Children from Sexual Offences Act, No. 32 of 2012, §§ 19, 21, India Code (2012).

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2. Legal framework

2.1 Offence Structure and Overview

POCSO protects anyone under eighteen from sexual offences, mostly through definition. Sections 3 through 10 lay out what counts as penetrative and non-penetrative assault, and where the line shifts when the offender holds power over the child.[3] Section 5(l) singles out offences committed by a relative through blood, adoption, marriage, guardianship, or foster care, or by someone in a domestic relationship with the child's parent, on the understanding that abuse by someone the child trusts is worse than abuse by a stranger.[4] Section 6 backs this with punishment of twenty years to life, or death in the most severe cases; Section 9 extends the same aggravated category to non-penetrative offences.[5] The Act, then, clearly understands that abuse within families is worse. What it has not worked out is what happens after the abuse, inside that same family, once someone else finds out.

2.2 The Mandatory Reporting Regime: Sections 19 and 21

Section 19 requires anyone with knowledge or reasonable suspicion of an offence to report it to the police or the Special Juvenile Police Unit. Section 21 backs this duty with punishment for failing to report.[6] The logic is straightforward: a child cannot usually walk into a police station alone, so someone else must carry that responsibility.

But the scholarship points to a problem the statute did not anticipate. Pratiksha Baxi has argued that Indian law assumes disclosure will eventually happen on its own, when in practice familial pressure often works the other way, keeping things quiet to protect a family's name.[7] The Supreme Court made a similar point in Gurmit Singh, recognising that social stigma is a real obstacle to reporting sexual offences, not just background noise.[8]

Put together, the gap becomes visible. Section 19 asks people to report; Section 21 punishes them if they do not. Neither asks what happens when the person under that duty is the same person being pressured or threatened into silence by the household the duty is meant to protect.

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[3] The Protection of Children from Sexual Offences Act, No. 32 of 2012, §§ 3–10, India Code (2012).
[4] *Id.* § 5(l).
[5] *Id.* §§ 6, 9.
[6] Supra note 2
[7] Pratiksha Baxi, *Public Secrets of Law: Rape Trials in India* (2014).
[8] State of Punjab v. Gurmit Singh, (1996) 2 S.C.C. 384, 394 ¶ 8 (India).

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3. The empirical reality of under-reporting

The National Crime Records Bureau recorded 44,126 cases under Sections 4 and 6 of the POCSO Act in 2024. Of these, 42,634, or 96.6 per cent, involved an offender already known to the victim: a relative, a family friend, someone inside the child's existing circle rather than a stranger.[9] Within that number, 3,658 cases involved abuse by a family member specifically, about 8.5 per cent of all cases involving a known offender.[10] The pattern is hard to miss. Most of this abuse happens inside homes, where the child depends on the very person committing the offence.

But registered cases only tell part of the story. Plenty of people working in this space have long suspected that intra-familial abuse goes underreported in ways the official numbers cannot capture. To get some sense of how ordinary people see this, a small perception survey was conducted in March 2026 among university-age respondents across India.[11] The results were fairly stark. More than 90 per cent believed intra-familial abuse was unlikely to be reported at all, and not one respondent thought a child would feel safe disclosing such abuse within their own family. This was a limited, informal survey, not a rigorous empirical study, and it should be read that way. Still, it captures something real: a shared, almost unanimous sense that the family is not always a safe place to speak from.

What matters here is not the precision of the numbers so much as what they point to. When nearly everyone surveyed assumes a child cannot safely disclose abuse to their own family, that assumption is not coming from nowhere. It reflects a working knowledge, however informal, of how power operates inside households, and of how that power can make silence the only available option. This raises a question the POCSO Act has not really answered: should silence in these cases be treated as simply an absence of disclosure, something the law hopes will eventually be filled by mandatory reporting, or should it be recognised as something closer to coercion, a condition that the law needs to name and address in its own right.

4. The substantive gap: coercive silence as an unaddressed harm

Look at what POCSO actually does. It treats abuse by a relative as worse than abuse by a stranger, and it backs that judgment with heavier punishment. It then asks the adults around a

[9] NCRB, *Crime in India 2024*, *supra* note 1, tbl.4A.10.
[10] Id.
[11] Original Survey Conducted by Author (Mar. 2026) (unpublished raw data on file with author).

child to report what they know. Both moves make sense on their own. But neither one answers a question that intra-familial abuse forces on the law almost immediately: what happens when the same closeness that makes the abuse so damaging is also what keeps it from ever surfacing? The Act has an answer for abuse once it comes to light. It has nothing for abuse that is being actively kept in the dark.

The reason intra-familial abuse behaves so differently from stranger abuse comes down to dependency. A child does not just live near the person who might disclose their abuse, or fail to. In most of these cases, the child depends on that person, or on the abuser directly, for food, money, affection, a sense of home. That dependency is exactly what gives an abuser leverage over disclosure. Sometimes this looks like an outright threat. More often it is quieter than that: a warning about what the family will lose, a reminder of loyalty, the simple unspoken fear of being the reason a household falls apart. None of this requires a raised voice. A child, or a parent, can be talked out of disclosure without ever being explicitly told not to speak. Which means silence here is doing something different from what the law assumes it is doing. It is not always fear working on its own, and it is not always trauma keeping someone quiet. Sometimes it is simply what a coercive family structure produces, on purpose.

Once you see it this way, the actual hole in POCSO becomes obvious, and it is bigger than a drafting oversight. Mandatory reporting only works if the person carrying that duty has room to act on it. POCSO seems to assume this room always exists, that any adult who learns of abuse is, in principle, free to walk into a police station. But a family that is actively suppressing disclosure has already taken that freedom away before the duty could ever be exercised. At that point Section 21 has nothing to reach. It was built to catch someone who knew and stayed silent by choice, not someone who was never given a real choice at all.

This is not a small thing to leave out. Treat silence purely as a fact to be noted after abuse comes to light, rather than as something a person can deliberately manufacture, and an entire category of harm slips past the statute. Where someone works to keep a child from ever reaching help, the injury is no longer just the abuse itself. It becomes the denial of the child's access to protection, to support, to any path toward justice, layered directly on top of the original harm. POCSO, as written, sees the abuse. It does not see the machinery built around it to keep that abuse hidden, and that blind spot does not stay theoretical. It plays out in how children actually live with abuse long after it has occurred, which is where this paper turns

next.

5. Impact on children and society

The harm caused by coercive suppression does not end where the abuse ends. A child whose disclosure is actively blocked keeps enduring the abuse in isolation, believing that speaking up is impossible or pointless, so that silence becomes a second, separate form of victimisation that can outlast the abuse itself.

Disclosure research bears this out. Closeness to the perpetrator is one of the strongest predictors of how long a child delays disclosure.[12] A ten-year clinical study following child sexual abuse survivors found an average delay of over two years, tied closely to family and sociodemographic conditions rather than the severity of the abuse alone.[13] The longer that gap runs, the heavier the psychological cost: prolonged concealment compounds trauma, anxiety, and a child's basic ability to trust adults.

In many Indian households, this is sharpened by ideas about family honour. Research on disclosure barriers has found that community beliefs equating family reputation with silence, and the idea that a girl's abuse could damage her marriage prospects, function as real, documented obstacles to disclosure.[14] A study from NIMHANS, Bangalore similarly found that closed family systems built on rigid, patriarchal roles are directly linked to delayed disclosure.[15] Children raised inside these structures are often persuaded that staying quiet protects the family, and that speaking up is closer to betrayal than self-protection.

The societal cost sits beneath this. Abuse that stays concealed is abuse a perpetrator never has to answer for, and every case of successful coercive silence never reaches the data the state relies on to gauge the problem. Left unaddressed, this normalises the idea that family reputation matters more than a child's safety, discouraging the next disclosure before it has a chance to happen.

[12] Thea Goodman-Brown et al., *Why Children Tell: A Model of Children's Disclosure of Sexual Abuse*, 27 Child Abuse & Neglect 525 (2003).
[13] Hesna Doğru et al., *Clinical and Sociodemographic Characteristics that May Affect Delays in Child Sexual Abuse Disclosures: Ten Years in Practice*, Eurasian J. Med. (2024).
[14] Lisa Aronson Fontes & Carol Plummer, *Cultural Issues in Disclosures of Child Sexual Abuse*, 19 J. Child Sexual Abuse 491 (2010).
[15] Manik Devgun, B.N. Roopesh & Shekhar Seshadri, *Breaking the Silence: Development of a Qualitative Measure for Inquiry of Child Sexual Abuse (CSA) Awareness and Perceived Barriers to CSA Disclosure*, 57 Asian J. Psychiatry 102558 (2021).

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6. Judicial recognition of barriers to disclosure

Courts did not wait for Parliament to notice this problem, though they could not fully fix it either. What emerges across three decades of case law is uneven judicial recognition that silence is often produced by the same relationships of trust that make abuse possible, paired with a real limit: judges can excuse a victim's silence but have no statutory tool to reach the person who created it.

That limit was flagged before it reached a courtroom. The 240th Report of the Parliamentary Standing Committee reviewing the POCSO Bill in 2011 recorded stakeholders warning that mandatory reporting could backfire because of social stigma and a child's total dependency on the abuser; some suggested dropping the clause altogether.[16] Parliament kept it anyway, leaving judges to work out what to do with a coerced parent, case by case, years later.

The foundational case is State of Punjab v. Gurmit Singh,[17] decided in 1996, well before POCSO existed but still the reference point for assessing delay in sexual offence cases. The Supreme Court held that reluctance to report often comes from a specific place: the reputation of the victim and the honour of her family. At page 394, paragraph 8:

> "The courts cannot overlook the fact that in sexual offences delay in the lodging of the FIR can be due to variety of reasons particularly the reluctance of the prosecutrix or her family members to go to the police and complain about the incident which concerns the reputation of the prosecutrix and the honour of her family."[18]

This established that courts would look past delay and ask why it happened. But Gurmit Singh concerned a stranger, not a household member, and said nothing about pressure originating from inside the home.

That gap reached a court squarely only in 2024, in Rupi Babbar v. State (NCT of Delhi), where the person facing punishment under Section 21 was a mother living inside the abusive household.[19] The Delhi High Court quashed the charge, holding that her delay could not be

[16] Dep't-Related Parliamentary Standing Comm. on Human Res. Dev., *240th Report on the Protection of Children from Sexual Offences Bill, 2011*, ¶¶ 10.2–10.3 (Rajya Sabha Secretariat, Dec. 2011) (India).
[17] State of Punjab v. Gurmit Singh, (1996) 2 S.C.C. 384, (India).
[18] *Gurmit Singh*, *supra* note 8.
[19] Rupi Babbar v. State (NCT of Delhi), 2024 SCC OnLine Del 6485 (Del. H.C. Sept. 11, 2024) (India).

separated from the trauma she and her daughter were living through. At paragraph 25:

> "The narrative provided, by both the mother and the child, in the complaint, and the Section 164 CrPC statements recorded before the learned ASJ, point out to sordid and depraved state of affairs in that house, where consistent abuse was perpetrated by the husband. In this context, it is not impossible to take into account, the possibility that the delay in reporting was only because both the mother and the child were living under a protracted, severe, and immense trauma, under the shroud of threat of further physical and sexual abuse, that they could not muster the courage, space, or the spirit to go and report to the police."[20]

At paragraph 33, the Court drew a textual line between "failure to report" and "delay in reporting," holding that Section 21 punishes only the former, a distinction the judges had to construct themselves.[21]

Seven months later, a different bench built directly on Rupi Babbar in Mother X of Victim A v. State (NCT of Delhi), extending its reasoning to an illiterate mother, herself beaten by her in-laws, whose daughter had been abused by her father and cousins.[22] At paragraph 26:

> "The distinction between non-reporting and delayed reporting is of critical importance here... This is not a case where the petitioner had actively concealed the offence or attempted to shield the perpetrators... Such conduct, emerging from a background of cumulative trauma, cannot and should not be equated with criminal culpability."[23]

Read together, these cases show a doctrine being actively built, one bench extending another within a year. But both courts could only go so far. They excused the mother; neither touched the husband's conduct in isolating and threatening her into silence, since he was prosecuted only for the underlying offence, never for the coercion that kept it hidden. Judges have found a way to stop punishing the victims of coercive silence. They have no tool to punish the people creating it. That is a job only legislation can do.

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[20] *Id.* ¶ 25.
[21] *Id.* ¶ 33.
[22] Mother X of Victim A v. State (NCT of Delhi), 2025 SCC OnLine Del 2536: (2025) 319 D.L.T. 103 (Del. H.C. Apr. 21, 2025) (India).
[23] *Id.* ¶ 26.

7. The need for legal reform

A fair question is why any of this needs a new offence at all, given that courts have already shown they can recognise coercive silence and respond to it. The answer is that interpretation and legislation are not doing the same job.

Article 20(1) requires that criminal liability rest on a law already in force, and penal provisions cannot be stretched by judicial reasoning to criminalise conduct Parliament never named.[24] What Rupi Babbar and Mother X did was excuse a person already charged under an existing offence by reading "failure" narrowly, a defensive move available only to someone already in the dock.[25] No court can use the same reasoning to create liability for the person who did the coercing, since no such offence exists to charge them with. That gap can only be closed by Parliament.

Reliance on case law is also structurally uneven. Nothing obliges the next bench, faced with less sympathetic facts, to reach the same conclusion as Rupi Babbar or Mother X; a trial court without a coordinate bench's reasoning to draw on might simply apply Section 21 as written. Judicial recognition is persuasive at best, and persuasive authority protects only those lucky enough to have their case land before a judge inclined to use it.

Finally, interpretation only ever operates after the fact. A High Court excusing a mother years into a prosecution does nothing for a child still living in that household while coercion is ongoing. A standalone offence would give police and prosecutors a charge to bring against the person applying the pressure while it is still being applied, something courts cannot build case by case.

8. Proposed reform: a new offence of coercive suppression of disclosure

Closing this gap requires an offence that names coercive conduct directly, as a wrong independent of the underlying sexual offence it conceals. Such an offence would rest on four elements: a relationship of trust or domestic dependency between the accused and the child or guardian, tracking the categories POCSO already treats as aggravating under Sections 5 and 9; conduct capable of suppressing disclosure, including threats, financial control, isolation, or sustained psychological pressure; intent or knowledge that the conduct would prevent

[24] India Const. art. 20, cl. 1.
[25] *Rupi Babbar*, *supra* note 19; *Mother X*, *supra* note 22.

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disclosure; and, most significant for the offence's utility, no requirement that the underlying sexual offence be independently proven or that the suppression ultimately succeed.[26] The wrong is the coercion itself, not its outcome.

This last element matters because every consequence under the present framework depends on abuse first becoming visible to the legal system, through a report, an examination, a chargesheet. Coercive suppression is conduct engineered to prevent exactly that visibility. An offence conditioned on proving the underlying abuse would simply reproduce the weakness this paper has already identified: it would reach only cases where suppression had already failed.

A Comparative Reference Point: Coercive Control in English Law

This structure draws on a useful precedent. Section 76 of England's Serious Crime Act 2015 addresses an analogous problem in domestic abuse: sustained psychological and financial control that meets no single existing offence's threshold. Parliament criminalised the pattern itself, requiring proof that the accused repeatedly engaged in controlling or coercive behaviour toward a person they were personally connected to, that this had a serious effect on the victim, and that the accused knew or ought to have known this would be the effect. It carries a maximum sentence of five years.[27]

What merits adoption is not the specific language, since English law addresses ongoing intimate-relationship control rather than disclosure suppression, but the underlying technique: treating a pattern of coercive conduct as a freestanding offence, provable on its own terms, rather than folding it into another charge as an aggravating factor. A provision built on this logic would let prosecutors proceed against coercive conduct on its own facts, regardless of whether the underlying abuse is separately established at trial.

The disanalogies deserve acknowledgment. English coercive control law is not child-specific and does not confront the difficulty, evident in Rupi Babbar and Mother X, of a guardian who is simultaneously a victim of the coercion in question.[28] A provision adapted for India would require independent calibration on this point, addressed in the section that follows.

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[26] The Protection of Children from Sexual Offences Act, No. 32 of 2012, §§ 5(l), 9, India Code (2012); *see also supra* notes 4–5.
[27] Serious Crime Act 2015, c. 9, § 76 (UK).
[28] *Rupi Babbar*, *supra* note 19; *Mother X*, *supra* note 22.

9. Critical evaluation of the proposed reform

Several objections to this proposal merit engagement rather than dismissal.
The most significant is the risk of criminalising the very persons Rupi Babbar and Mother X protected. An imprecisely drafted offence could efface the distinction between a coercer and a guardian who is herself coerced, since the same domestic conditions that produce suppression by one parent often coexist with the victimisation of another. Any formulation must therefore include an express exclusion, or at minimum an affirmative defence, for a guardian shown to have acted under duress. Without this safeguard, the reform would simply relocate the injustice presently associated with Section 21 rather than remedy it.

A second objection concerns proof. Coercive conduct is frequently indirect, an intimation about family reputation rather than an explicit threat, and establishing intent will often rely on circumstantial inference. This difficulty is real, but it is not unique to this offence; Indian law already infers sustained patterns of conduct from indirect evidence in offences such as cruelty under Section 498-A of the Penal Code.[29]

A third objection concerns institutional capacity, since POCSO courts already function under considerable caseload pressure. This is a legitimate practical concern, though addressed through procedural design, such as trying a coercive suppression charge jointly with the underlying offence, rather than through abandoning the proposal.

A fourth, more conceptual objection is that this offence risks capturing ordinary, non-culpable family conduct, embarrassment or denial rather than deliberate suppression. The answer lies in definitional precision: the offence requires conduct of a specific character, threats, financial control, isolation, sustained pressure, and does not extend to mere passivity or a good-faith failure to believe an allegation. The line between negligent inaction and deliberate suppression will not always be easy to draw, but that difficulty does not justify leaving the underlying conduct entirely unaddressed.

Taken together, these objections counsel careful drafting rather than abandonment: an exclusion for coerced guardians, procedural consolidation with existing proceedings, and precise definitional boundaries, not a reason for the legislative gap to persist.

[29] Indian Penal Code, No. 45 of 1860, § 498-A (India).

Conclusion

This paper has argued that POCSO, notwithstanding its advances in defining offences against children, rests on an unexamined assumption about the conditions under which disclosure occurs. Sections 19 and 21 presuppose that disclosure will follow abuse as a matter of course, but where the offender occupies a position of trust or domestic dependency, disclosure is frequently not merely delayed but actively prevented, through conduct that forecloses the very possibility the reporting duty assumes.

The judicial decisions examined in Section 6 show both the reach and the limits of interpretation. Gurmit Singh recognised that family reputation may explain delay; Rupi Babbar and Mother X extended this recognition to guardians prosecuted under Section 21 itself. But these decisions represent the outer limit of judicial remedy. They permit courts to excuse a guardian coerced into silence; they cannot establish liability for the person responsible for that coercion, since no such offence exists.

This paper has accordingly proposed a standalone offence of coercive suppression of disclosure, provable independent of the underlying sexual offence, drawing on the legislative technique behind Section 76 of England's Serious Crime Act 2015. The objections considered in Section 9, most significantly the need for an exclusion protecting coerced guardians, bear on how this offence should be drafted; they do not diminish the case for its enactment. A statutory framework that responds only to abuse which has already come to light addresses, by definition, a fraction of the harm it was enacted to prevent. Recognising coercive suppression of disclosure as an independent offence is necessary to align POCSO with the realities of the abuse it was designed to address.