



Strengthening POCSO Act 2012

For Prelims: [Supreme Court](#), [Protection of Children from Sexual Offences \(POCSO\) Act, 2012](#), [National Commission for Protection of Child Rights \(NCPCR\)](#), [UN Convention on the Rights of the Child](#), [Fast Track Special Court's Scheme](#), [National Crime Records Bureau \(NCRB\)](#).

For Mains: Steps taken to address child sexual abuse in India and associated challenges.

Source: [HT](#)

Why in News?

Recently, the [Supreme Court](#) ruled that **watching or possessing** sexually explicit material involving **minors** is **illegal** under the [Protection of Children from Sexual Offences \(POCSO\) Act, 2012](#).

- It constitutes a punishable offence under the **POCSO Act, 2012** regardless of whether the material is **further shared or transmitted**.
- It **overturned** a prior ruling by the **Madras High Court**, which had determined that **private viewing** of child pornography **did not amount to an offence** without further distribution.

What are Key Highlights of the Supreme Court Ruling?

- **Redefinition of Terminology:** The Supreme Court (SC) has urged the Union government to **replace** the term "**child pornography**" with "**child sexual exploitative and abuse material**" (**CSEAM**).
 - This change is significant because the term "**pornography**" often implies **consensual adult conduct**, failing to accurately represent **abuse and exploitation**.
- **Expansion of Section 15 of the POCSO Act, 2012:** The SC provided a **stricter interpretation** of the term "**storage of child pornography**" under **Section 15** of the POCSO Act, 2012. Previously, this provision primarily addressed **storage for commercial purposes**. The court's interpretation of Section 15 introduces **three key offences**.
 - **Possession Without Reporting:** A person who **stores or possesses** child pornography **must delete, destroy, or report it** to the designated authority. Failure to do so can be punishable under **Section 15(1)**.
 - **Intent to Transmit or Distribute:** Individuals who possess child pornography **intending to transmit or display** it in any manner, except for the purpose of reporting, can face charges under **Section 15(2)**.
 - **Commercial Possession:** Storing child pornography for **commercial purposes** falls under **Section 15(3)**, which outlines the most severe penalties.
- **Concept of Inchoate Offences:** The ruling classifies the offences under **Section 15** as "**inchoate**" offences, meaning they are **preparatory actions** taken toward committing further crimes.
- **Redefinition of Possession:** The court expanded the definition of "**possession**" in child pornography cases. It now includes "**constructive possession**," which refers to situations where

an individual may **not physically hold** the material but has the **ability to control it** and knowledge of that control.

- **E.g., Watching** child pornography **online** without downloading it can still be considered in **possession**.
- If an individual receives a **link** to child pornography but closes it without reporting, they may be **held accountable** if they do not inform authorities, even if they **do not retain physical possession** after closing the link.
- **Educational Reforms:** The court urged the government to promote **comprehensive sex education** in schools and society, countering misconceptions that often **stigmatised** discussions about **sexual health**.
 - This education should include topics such as **consent, healthy relationships, gender equality, and respect for diversity**.
- **Awareness About Pocso Act, 2012: Sections 43 and 44 of the POCSO Act, 2012** require **central and state governments**, along with the **National Commission for Protection of Child Rights (NCPCR)**, to promote widespread awareness of the Act.
- **Formation of an Expert Committee:** An expert committee should be tasked with **devising comprehensive programs** for health and sex education and increasing awareness of the **POCSO Act, 2012** among children.
- **Victim Support and Awareness:** The judgement underscored the need for **robust support systems for victims of CSEAM**, including **psychological counselling, therapeutic interventions, and educational support**.
 - Programmes like **cognitive behavioural therapy (CBT)** may help address the **cognitive distortions** that fuel such behaviour among **offenders**.

What is the Status of Crimes Against Children?

- **Booming Market:** According to the **US-based National Centre for Missing and Exploited Children (NCMEC)**, India now accounts for the maximum number of **online child sexual abuse imagery** in the world, followed by Thailand.
 - NCMEC estimates that Indian users have **uploaded 25,000 images or videos** between April and August 2024.
- **Geographical Distribution:** **Delhi** tops the list for the maximum uploads of child porn, followed by **Maharashtra, Gujarat, Uttar Pradesh and West Bengal**.
- **Increased Circulation:** According to the **National Crime Records Bureau (NCRB) report 2023**, **781 cases** of creating or storing child porn were recorded in **2018**. In **2017**, there were **331 cases**.
 - The dissemination of inappropriate content featuring children accounted for **1,171 cases in 2022**.

What is the POCSO Act?

- **About:** The law aims to address **offences of sexual exploitation and sexual abuse** of children. The Act defines a child as any person **below the age of 18 years**.
 - It was enacted in consequence to India's ratification of the **UN Convention on the Rights of the Child in 1992**.
- **Features:**
 - **Gender-Neutral Nature:** The Act recognises that **both girls and boys** can be victims of **sexual abuse** and that such abuse is a crime regardless of the gender of the victim.
 - **Confidentiality of Victim's Identity: Section 23** of the POCSO Act, 2012 mandates that the identity of child victims **must be kept confidential**. Media reports cannot disclose any details that could reveal the victim's identity, including their name, address, and family information.
 - **Mandatory Reporting of Child Abuse Cases: Sections 19 to 22** compel individuals who have knowledge or reasonable suspicion of such offenses to **report them** to concerned authorities..
- **Gaps in Implementation of the POCSO Act, 2012:**

- **Lack of Support Persons:** A critical gap identified in the implementation of the POCSO Act, 2012 is the **absence of “support persons” for victims**. The Supreme Court found that in **96% of POCSO cases**, victims were not provided with the necessary support throughout the legal process.
 - A support person may be a **person or organisation** working in the field of **child rights or child protection**.
- **Insufficient Designation of POCSO Courts:** Not all districts have designated **POCSO courts**. As of 2022, only **408 POCSO courts** were established across 28 states as part of the [Fast Track Special Court’s Scheme](#).
- **Shortage of Special Public Prosecutors:** There is a lack of **Special Public Prosecutors** specifically trained to handle POCSO cases.

Conclusion

A **coordinated effort** among stakeholders, including **educators, healthcare providers, and law enforcement**, is vital for early intervention in child sexual exploitation. **Societal responsibility** and a shift in attitudes are essential to **prevent victimisation and support recovery**, ensuring that victims can heal and regain their dignity and hope.

Drishti Mains Question:

Q.Critically analyse the effectiveness of the Protection of Children from Sexual Offences (POCSO) Act, 2012 in addressing child sexual abuse in India.

UPSC Civil Services Examination Previous Year Question (PYQ)

Prelims

Q. Which of the following are envisaged by the Right against Exploitation in the Constitution of India?(2017)

1. Prohibition of traffic in human beings and forced labour
2. Abolition of untouchability
3. Protection of the interests of minorities
4. Prohibition of employment of children in factories and mines

Select the correct answer using the code given below:

- (a) 1, 2 and 4 only
- (b) 2, 3 and 4 only
- (c) 1 and 4 only
- (d) 1, 2, 3 and 4

Ans: (c)

Mains

Q. Examine the main provisions of the National Child Policy and throw light on the status of its implementation. (2016)

