



## 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)**

