



Mains Practice Question

Q. The rhetoric over severe punishments should not deflect our attention from the problems related to implementation of POCSO Act so far. Discuss in the context of POCSO (Amendment) Bill 2019. (150 words)

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Approach

- Introduce by highlighting the provisions under POCSO Act, 2012 and POCSO (Amendment) Bill 2019.
- Discuss issues associated with the implementation of POCSO Act.
- Provide conclusion.

Introduction

- The Protection of Children from Sexual Offences (POCSO) Act, 2012 is a comprehensive law to provide for the protection of children from the offences of sexual assault, sexual harassment and pornography, while safeguarding the interests of the child at every stage of the judicial process.
- It provides for incorporating child-friendly mechanisms for reporting, recording of evidence, investigation and speedy trial of offences through appointment of Special Public Prosecutors and designated Special Courts. The Act provides for stringent punishments which have been graded as per the gravity of offence.
- The recently introduced POCSO (Amendment) Bill, 2019 entailing to amend POCSO Act, 2012 also has provisions for providing stringent punishments for crimes against minors including death penalty for aggravated sexual assault on children. The Bill also provides for fines and imprisonment to curb child pornography. The amendment is expected to discourage the child sexual abuse by acting as a deterrent due to strong penal provisions incorporated in the Act.
- But the stringent provisions are not stopping sexual offences against children. This is due to various problems in the implementation of POCSO cases:
 - The poor conviction rate and epidemic rise in crimes under POCSO itself leaves an unpleasant picture of the manner in which Criminal Justice System is being administered and managed in India. According to a report, out of over one lakh such offences, trial was completed in around 10,000 cases with conviction in 30% cases.
 - There is no time-bound investigation in the POCSO cases and the trials generally continue for many months. This provides the accused more than enough time to coerce and intimidate the victims and their families to backtrack on their complaints.
 - There are huge pending cases in various High Courts due to lack of adequate special courts. It is reported that around 1.66 lakh cases relating to sexual assaults are pending across the country at several stages.
 - Often the children who report abuse are further victimized and traumatized due to lack of sensitization for investigators and prosecutors in dealing with child victims.
 - The provisions of capital punishment might provoke the accused to murder the victims and increase the risk of sex offenders doing away with their victims to destroy evidence and to ensure that there is no principal testimony.
 - Our child protection mechanism is still at a very nascent stage and is currently struggling to handle the volume of cases, follow the protocols, adopt child-friendly procedures, adhere to time-frames, etc stipulated by POCSO Act.

- Allocation of infrastructure, manpower, structured training and sensitization, setting up a robust monitoring and accountability mechanism etc. is far from the actual need and little has been done to implement the Act in spirit.

Conclusion

- Certainty of punishment acts as a better deterrent than its severity. Thus the focus should be more on taking measures to ensure faster and efficient investigation, prosecution and disposal of POCSO cases.

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