

Stakeholders Under Pocso Act While Dealing With Child Victims

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Abstract

The Protection of Children from Sexual Offences Act was devised by the Indian Law makers in 2012 to the criminal justice system of India. Being gender neutral legislation it is primarily concerned with the protection of minors from sexual offences and punishing the offenders. Victims often report of mental and emotional breakdown which in certain cases do not need languages to be expressed by. Such crime leaves behind a smudge of grimy and stern feeling on the victim for the entire life. Such crimes are beyond borders and are one of the most egregious crimes against children and infringes upon their rights in its heinous perpetrator. This is a pertinent and ubiquitous problem in India as well as other parts around the globe. The in-bred misogyny of the Indian society leads to the double victimisation of female child since they are more vulnerable to child sexual abuse and go through poignant angst as patriarchal social constructs preach them to be silent and stoically endure pain and suffering and not to express anything that would go against the tough character of men as poised in the Indian society. The state should make policy for the welfare of the victims and entrust various stakeholders to take necessary measures for protection of child from sexual offences. The POCSO rules ensures multiple stakeholders which includes family, law enforcement agencies, medical professionals, judiciary, social welfare bodies, legal representatives to work in co-ordination to deliver justice. The need to bring all relevant stakeholders on one platform to map the problems and emerging issues, as well as identify workable solutions was one of the ways of triggering change on the ground.

Keywords:

Pocso, Child Sexual Abuse, Stakeholders, Sexual Offences, Victims, Criminal Justice System.

1. Introduction

Stakeholders are considered to be an integral part in any legal system and it is the need of the hour to investigate and verify as to whether the stakeholder are contributing towards the criminal justice system under the act. Parents are the first responder in CSA cases and it is natural for every parent to be in shock, denial or confusion when the child tells them about sexual abuse meted upon him or her. Being a parent it is the bounden responsibility to take into account the child's recovery. In India, most of such crimes are not reported due to family prestige and honour. Every parent must focus to teach their child about boundaries and take ownership of their entire body. It is the duty of the parents to educate the child the concept of good touch and bad touch.

The local police/Special Police Juvenile Unit (SPJU) as per rule 4 (2) of POCSO rules 2020 are not permitted to delay the registration of the FIR. They must make immediate arrangement for protection of victim and if the safety of the child is at risk, then he /she must be produced before the child welfare committee within 24 hours. The child cannot be detained at the police station overnight and the recording of the statement of the child is to be done at

his/her residence or place of safety and preferably by a female officer. The SPJU must ensure that the identity of the child remains confidential and the forensic and medical evidence are collected immediately.

The Child Welfare Committee established under the JJ (Care and Protection of Children) Act 2015 plays a pivotal role in providing care and protection to children. The CWC under the POCSO is to provide assistance to children who are alleged to be victims of sexual assault and where applicable, their families in obtaining care and protection. This role is given to the CWC in recognition of the fact that in cases of sexual assault it is important to look beyond the investigation and trial of the alleged perpetrator to provide assistance to children who are in need of care and protection. If the safety of the child is compromised, the CWC can place the child in a child care institute as per Rule 4 (5) POCSO rules. The CWC can appoint support persons to assist the child and family during the investigation and trial as per Rule 4 (7) POCSO on the request of the child's family. The CWC acts as a bridge between the child victims, law enforcement agencies and legal institutes and ensures the best interest of the child throughout the legal battle by monitoring the progress of the case and ensure that the child's interest are safeguarded at every stage of judicial process.

The District Child Protection Unit (DCPU) plays a significant role in effective implementation of the POCSO Act acting as one of the key stakeholders in child protection at the district level. The DCPU as one of the stakeholders shall ensure that the training of all the stakeholders under the act are conducted on timely basis and ensure that a register is maintained containing names of interpreters, psychiatrist, special educator, legal expert, translator, counsellor, mental health expert to arrange service as and when required. The DCPU is responsible for organising and co-ordinating child welfare services, counselling sessions, periodic mapping of child related issues. Thus, the DCPU acts as a point of contact for reporting of cases of child sexual abuse and maintaining records of such incidents. The DCPU in collaboration with other stakeholders such as police unit, NGO's, CWC and local authorities ensure the effective implementation of the act in its true spirit.

A Judicial Magistrate is the first point of contact of the child victim with the judicial system. The Magistrate being an important stakeholder is responsible for recording the statement of a child under section 164 CrPC/183 BNSS which is a vital piece of evidence throughout the trial of a case. Such statement must be recorded in the exact language of the child and in presence of parents, guardian, or any person in whom the child trusts or has confidence. In special cases, assistance of a qualified translator or interpreter can be taken if required at the time of recording statement. The magistrate must ensure that wherever possible the statement of the child must be recorded by audio video electronic means. The Apex Court advised the judicial magistrates to bear in mind the impact of sexual offences upon victims when produced for recording statements and accordingly provide time for reflection if needed and also have asked to deal with such victims in a friendly manner. Periodic trainings are to be conducted to ensure that the best interest of the child is protected.

Special courts under section 33 (1) of the act are empowered to take cognizance of an offence based on a complaint or upon a police report without the accused being committed to it for trial. The special court is to create a child friendly atmosphere by allowing a family member, guardian and friend or relative in which the child inspires trust and confidence to remain present during trial of the case. The special court must seek that the identity of the child is

protected during the trial and must direct payment of compensation for mental and physical trauma caused or for immediate rehabilitation of the child as per procedure. The most important aspect to be considered by special court is that trial should be conducted in-camera so that the child inspires confidence to go through the entire legal proceeding bravely and without any interference from outside. In *Shankar Kisanrao Khade vs. State of Maharashtra*, the Supreme Court laid down various guidelines for stakeholders under the Act, and held that in cases where the perpetrator of the crime is a family member, utmost care must be taken bearing in mind the best interest of the child is of paramount consideration.

Medical Professionals as stakeholders in POCSO cases must ensure thorough examination of the victim and must follow a detailed documentation of findings as the report may be needed by the investigating officers during investigation and trial of cases. Such victims must be referred to counsellors for proper and immediate counselling and in cases of severe trauma to a psychiatrist.

There shall be no discrimination against any child based on religion, race, sex, or caste. For example, girl children cannot be discriminated against by blaming them for their dress / attire for the incident of sexual offence. At the same time, all stakeholders shall be sensitive to any special needs of a child. For instance, disabled children, medically unfit children or very young children will need to be accorded special treatment [Article 15 (1) of the Constitution of India, Article 2 of the CRC]

2. Review Of Literature

Sailesh Kumar (2022) in his research paper "*Child Sexual Abuse in India and Judicial Officers perception and experience of POCSO-related special training*" conducts a study that stakeholder training has been considered essential to tackle the problem of poor engagement with child sexual abuse ('CSA') victims in the pre-trial and trial stages of the criminal process. It is pivotal to investigate what kind of special training is imparted to stakeholders under the POCSO Act, as well as the challenges and limitations to such training.

Suja Sukumaran and Kushi Kushalappa, (14th February 2025) in their paper "*Role of Stakeholders under the POCSO Act 2012 and POCSO RULES 2020*", conducted a study and held that the role of multiple stakeholders becomes crucial. These stakeholders ensure the timely reporting of cases, protection of victims, and fair trial mechanisms, while prioritizing the best interests of the child.

Apoorva Aditya, Ranjan Sandeep Bhupatiraju, Shareen Joshi, Daniel L. Chen (2022) in their research paper "*A Decade of POCSO Developments, Challenges and Insights from Judicial Data*" looked at different forms of child abuse: Physical Abuse, Sexual Abuse and Emotional Abuse and Girl Child Neglect in five different evidence groups, namely, children in a family environment, children in school, children at work, children on the street and children in institutions and analysed landmark judgment passed by the higher judiciary, looking at policy interventions by the government and various government agencies, and interviewing stakeholders working on the ground, some of these questions could only be answered with data obtained from the courts. The literature review and interviews with stakeholders in the child protection system helped the researchers arrive at a list of important issues that have a bearing on the creation of a child-friendly justice delivery system.

Veenashree Anchan N, Vaneetham Janardhana and John Vijay Sagar Kommu(2000) in their research paper *“POCSO Act, 2012: Consensual Sex as a Matter of Tug of War between Developmental Need and Legal Obligation for the Adolescents in India”* conduct a study that with the enactment of POCSO Act, a well-established team of multispectral stakeholders from different CPMs was designated to work collaboratively, within the stipulated timeframe, to facilitate the child-friendly legal process for the survivors of CSA and their family.

Samyuktha Ganesan, (2024) in her research paper *study on effectiveness of POCSO Act on child rape with special reference to Chennai* examines the role of various stakeholders, including law enforcement agencies, judiciary, government bodies, NGOs, and civil society, in the effective implementation of the POCSO Act. It identifies best practices and areas for improvement to enhance the protection of children from sexual offences, particularly child rape, in alignment with international standards and human rights principles. This study contributes to the on-going discourse on child protection and offers recommendations for policy reforms, institutional strengthening, community engagement, and public awareness campaigns to create a safer environment for children and combat the scourge of child rape effectively.

Kumar Shailesh (2023), in his research paper *“Access to justice and sexual violence against children in India: an empirical study of the reforms under the POCSO (Protection of Children from Sexual Offences) Act 2012”* examines the experiences and perceptions of key stakeholders of the reforms under the POCSO Act 2012 in India. It is special legislation dealing with the cases of sexual offences against children, i.e., people under 18 years of age. The goals of the law are speedy trial of the POCSO cases and providing child friendly procedures and spaces to child victims during the criminal process.

3. Objective Of The Study

- (i) To study the implementation of the POCSO Act on the ground and identify the gaps and challenges.
- (ii) To understand the level of awareness of the various stakeholders, regarding POCSO Act.
- (iii) To understand effectiveness of current training programs, if any.

4. Research Methodology

The reliability and dependability of any study mainly depends upon the methodology adopted. In this research both primary and secondary data were used to conduct the study. Structured questionnaire were used to gather primary data. Questionnaires were designed for a one-on-one interaction, to obtain data from the stakeholders. Stakeholders were asked about the challenges they face in an open ended format and subsequently a checklist was also given on common challenges. Interactions with all stakeholders beyond the questionnaire were also recorded by field study and analysis. Along with the list of predefined challenges, the stakeholders shared their own challenges on the ground, which added value to this study.

Important Issues addressed during Study

- (i) Sensitive interactions with children
- (ii) Convergence among stakeholders
- (iii) Medical management of caserelated to CSA.
- (iv) Sensitive judicial systems pending trials and conviction rates

- (v) Relationship with accused
- (vi) Age and gender of the children
- (vii) Lack of coordination amongst stakeholders.
- (viii) Need for linkage between Special Court/Magistrates and CWCs.
- (ix) Non-production of victims before the CWC in requisite cases as per Rule 4(3) POCSO Rules and failure to report all cases to the CWC by police.
- (x) Social stigma acts as a barrier for victims in accessing the criminal justice system.
- (xi) Delays in award and disbursal of compensation.
- (xii) Challenges presented by romantic relationship
- (xiii) Clear guidelines will have to be provided to clarify the role of each stakeholder.

5. Issues And Challenges Faced By Stakeholders

There are a great number of challenges that India must overcome to successfully execute the Protection of Children from Sexual Offenses (POCSO) Act. Insufficient understanding, lengthy legal procedures, the lack of expert courts, and societal humiliation are some of the difficulties that must be overcome at this time. An increase in awareness via educational efforts, the establishment of accelerated legal procedures, the provision of training to law enforcement agencies, and the strengthening of aid programs for victims are all potential solutions to these issues. The challenges brought forth by all the stakeholders in the study need to be addressed and systems to mitigate them, identified. Monitoring and review mechanisms can be adopted, to increase accountability by all stakeholders and a redressal portal for families in case of dereliction. A comprehensive and in-depth plan of action needs to be created by the government bodies, involving all the relevant stakeholders basing on study findings. Convergence of stakeholders to work towards the best interests of the child was the key issue that arose in this study. Lack of proper infrastructure and shortage of staff leading to inordinate delays in the delivery of justice is another challenge faced by the judicial system. Due to delays in process, repeat visits, statements, adjournments in courts and social pressure including threats from the accused the witness turns hostile. Families disclosed that systems were not child friendly. It was seen when cases are dragged on the child they give inconsistent statements due to fading memories which weaken the cases. The healing process gets ignored when families are caught in the Criminal Justice System. The child and family need counselling to cope with the trauma during the process. It is possible that the problems associated with effectively administering the POCSO Act might be made even more difficult by concerns over the rights of child survivors and the relevance of appropriately reporting abuse. To find a solution to this issue, education and training programs should be implemented to increase awareness and grasp of the obligations associated with the act. Making the world a safer place for children and ensuring that survivors of child sexual abuse get justice may be accomplished via the dissemination of knowledge and the provision of tools to the public

6. Conclusion

To successfully protect children from sexual assaults, it is necessary to take a multi-pronged strategy that includes awareness, infrastructure, and support services in order to solve the issues that are associated with the implementation of the POCSO Act in India. In crimes against children it is not only the initiating horror or trauma that is deeply scarring and aggravated by lack of support and holding in the days that follows. In such crimes true justice is achieved not merely by nabbing the culprit and bringing him to justice or the severity of

punishment meted out but the support, care and security to victim. However, challenges persist, such as delays in legal proceedings, underreporting of cases due to social stigma, lack of adequate infrastructure and resources, and the need for better coordination among stakeholders efforts are being made to improve the implementation of the POCSO Act through training programs for law enforcement officials, capacity building of the judiciary, sensitization of healthcare professionals and social workers, and awareness campaigns for the general public. Effective implementation of child protection laws requires collaboration between various stakeholders, including policymakers, law enforcement agencies, child advocacy groups, social workers, and civil society organizations. By working together, these stakeholders can address gaps, share resources, and ensure a coordinated response to protect children. Working collaboratively to solve resource shortages allows stakeholders to increase the overall efficacy of child protection activities while also ensuring that children's rights are protected in accordance with the terms of the POCSO Act. In order to conduct the exercise of Monitoring and Evaluation, NCPCR or SCPCR are mandated to systemize the process of data collection by compiling information from the implementing agencies functioning under the Act. Questionnaires, which correspond with the duties and statutory obligations of the agencies, can be used to collect data. Accordingly, the data collected can be contextualized and evaluated by any concerned person to gauge the effectiveness, efficiency and impact of measures taken to implement the Act. These Monitoring Guidelines contain questions for monitoring the fulfilment of roles of the stakeholders under the Act. The purpose of providing monitoring questions for stakeholders is to increase efficiency in service delivery and prevent instances of child sexual abuse. The list of monitoring questions provided at the end of each chapter can be used for quarterly collection of data by the NCPCR, which can be compiled to form the Annual Report under section 44 (3) of the POCSO Act. There must be participation in periodic staff conferences, seminars and workshops with the various other stakeholders or functionaries of the Juvenile Justice System and the State Government at various levels. The multi-sectorial approach to the problem will be conducive to the justice delivery process and enhance the recovery of the child and prevent further trauma.

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