

## **NEED FOR AMENDMENT IN THE PROTECTION OF CHILDREN FROM SEXUAL OFFENSES ACT (POCSO ACT)**

### **Reference:**

- In the recent days, the United Nations Children's Fund (UNICEF) and the Supreme Court Committee on Juvenile Justice have suggested amendments to the POCSO Act to curb the growing number of sexual crimes against children in the country.

### **Issue:**

- At present, more cases of consensual sex between teenagers between the age of sixteen to eighteen are coming before the courts of the country under the POCSO law.
- In order to save juveniles who become unintentional offenders from criminal cases, the court is demanding reconsideration of the amendment in the age of children on the issue related to the age of consent for having sex in the POCSO law.
- In the recent past, several instances have come to the fore which suggest that a change in the law on the issue of age of consent is timely and necessary.
- At present, the burning issue associated with this law is becoming more and more dominant regarding consensual sex.
- In today's open and liberal environment, there is an urgent need to redefine consensual sexual relations between adolescents below the age of eighteen as prescribed in the POCSO Act.
- A comparative study of data from the year 2012 to 2021 shows that 48.66 percent of the accused in cases of sexual abuse of children have been their close acquaintances.
- There is a need to speed up the disposal of POCSO cases. In the year 2016, 60 per cent cases were settled in one year, while in 2018 the average was 42 per cent.
- In 2020 only 19.7 percent and in 2021 only twenty percent cases were settled. While pending cases in Poxo courts are increasing at a rate of more than twenty percent every year. In more than ten percent cases, it is taking more than three years to get justice. That is, three times more people are being acquitted than the number of people who are being punished for sexual abuse of children.
- Today, Tamil Nadu has the lowest number of POCSO cases pending at 19.7 percent and Uttar Pradesh has the highest number of pending cases at 77.7 percent.

### **Cases of sexual offenses relating to children:**

- According to the report of the National Crime Records Bureau, 1 lakh 28 thousand 531 cases of crime against children have been registered in the country in the year 2020. Of these, 47,659 children have been victims of sexual abuse and molestation. The number of girls is more among the victims of sexual abuse. It is a matter of relief that there has been a decrease of 13.5 per cent in cases in 2020 as compared to 2019. In 2019, 1 lakh 48 thousand 90 cases were registered.
- **UP on second number in unsafe states**  
According to the report, the most unsafe states for children in the country include Madhya Pradesh, Uttar Pradesh, Maharashtra, Bihar and Delhi.

| State       | 2017   | 2018   | 2 019  | 2020   |
|-------------|--------|--------|--------|--------|
| M.P.        | 19,038 | 18,992 | 19,028 | 17,008 |
| U.P.        | 19,145 | 19,936 | 18,943 | 15,271 |
| Maharashtra | 16,918 | 18,892 | 19,592 | 14,371 |
| Bihar       | 5,386  | 7,340  | 9,320  | 6,591  |
| Delhi       | 7,852  | 8,246  | 7,783  | 5,362  |

### About POCSO Act:

- Article 15(3) of the Indian Constitution provides for making special provisions for children. Therefore, the POCSO Act was enacted in the year 2012 with the objective of protecting children from crimes related to sexual assault, sexual harassment, child trafficking and pornography and to establish special courts to try such crimes.
- It has total 46 sections.
- For crimes like sexual assault against children, the provision of punishment and fine from minimum seven years to life imprisonment has been made in this law.
- It became an act on June 19, 2012 after the signature of the President.
- This act was implemented in the entire country on 14th November, 2012.
- The implementation of this Act Title: The Protection of Children from Sexual Offenses Act, 2012 is done by the Ministry of Women and Child Development.

### Laws for the protection of children in the country

- POCSO Act, 2012
- Juvenile Justice Act 2015
- Immoral Prostitution (Prohibition) Act 1987
- Child Labor (Prohibition and Regulation) Act, 1986
- Bonded Labor Act 1976
- Child Marriage Prohibition Act, 2006
- Integrated Child Protection Scheme
- National Child Labor Project Scheme
- National Commission for Protection of Child Rights
- United Nations Children's Fund (UNICEF)
- Child Labor Prohibition Act
- Right to Education Act, 2009

### Requirement of POCSO Act:

- India has one of the largest population of children in the world. According to the 2011 census data, the population of children under the age of eighteen in India is 472 million. Protection of children by the state is guaranteed to Indian citizens by Article 21 of the Constitution of India.

- India's status as a signatory to the United Nations Convention on the Rights of the Child.

### **Salient Features of the POCSO Act:**

- According to the Act, "child" is a person below the age of 18 years. This act is gender-neutral.
- Various forms of sexual assault are defined in the Act, including but not limited to sexual harassment, pornography, penetrative and non-penetrative assault.
- Sexual assault is considered "serious" in some circumstances, such as when the child is mentally ill. Also when the abuse is done by a trusted person like doctor, teacher, policeman, family member.
- Adequate provisions have been made to avoid re-victimisation of the child at the hands of the judicial system. The Act assigns the role of child protector to a policeman during the investigation process.
- The Act states that steps should be taken that make the investigation process as child friendly as possible and that the case is disposed of within one year from the date of reporting the offence.
- The Act provides for setting up of Special Courts to try such offenses and matters connected therewith.
- Under section 45 of the Act, the power to make rules rests with the Central Government.
- To monitor the implementation of the Act, National Commission for Protection of Child Rights (NCPCR) and State Commission for Protection of Child Rights (SCPCR) have been made designated authorities. Both are statutory bodies.
- Section 42A of the Act provides that in case of inconsistency with the provisions of any other law, the POCSO Act shall override such provisions.
- The Act calls for mandatory reporting of sexual offences. False complaint made with intent to defame a person is punishable under the Act.
- Right to Compensation - The child victim can be compensated for his/her relief and rehabilitation
- An online complaint management system, POCSO e-Box, was launched in New Delhi by the Union Ministry of Women and Child Development to facilitate easy and direct reporting and timely disposal of cases of sexual offenses against children under the POCSO Act 2012.

### **Suggestion:**

- Legislature should reduce the age of consent under the POCSO Act so that sexual offenses can be prevented even if children below 18 years of age do not consent.
  - Families need to come forward in cases of child sexual abuse as child sexual abuse is a hidden problem within the families.
  - Government should start public awareness campaign on Good Touch (Accha Sparsh) and Bad Touch (Bura Sparsh) and other sensitive issues related to children.
  - There is a need for the executive and the judiciary to join hands on this issue to protect the best interests and rights of the children.
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