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# REVISITING GENDER NEUTRALITY IN THE POCSO ACT: AN EXPLORATORY ANALYSIS OF JUDICIAL INTERPRETATIONS AND SOCIETAL IMPLICATIONS

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Gantav Gupta<sup>1</sup>, Manshi<sup>2</sup>

## I. ABSTRACT

*There's a most famous question that "Why the POCSO is considered as a gender-neutral"? The answer to this question is "According to General Clauses Act, 1897, the masculine words include females unless otherwise specified. The use of the word 'he' automatically denotes "she". The POCSO Act, 2012 has been enacted by ministry of women and child development to tackle the heinous offences of sexual abuse, also to protect children from harassment and child exploitation. There's one topic that has always been a highlight and also a hot topic for the media and has always been a topic of debate which is gender neutrality. Gender neutrality is a act which is a gender-neutral which aims to protect children irrespective of their gender. And this has the most disputed characteristics, which makes no distinction between "child" and "perpetrator" which is based on gender. Though this technique occurs egalitarian and progressive, as it raises significant socio-legal concerns in such a culture where sexual assaults are more frequently committed against girls, making it historically gendered. This paper explores gender neutrality under POCSO, legal interpretations, challenges in enforcement, and the implications for transgender children, boys, and girls. This also examines two contentious issues in POCSO enforcement: female perpetration and consensual relationships. Gender-neutrality has been covered in POCSO which involves penetrative and non-penetrative assault, also sexual harassment and pornography too. The POCSO has clearly defined " penetrative sexual assault " in section 3, by using gender neutral terms and does not clearly limit to male offenders. This study uses case laws, legislative comments, and social realities that argue for a balanced model of gender responsiveness rather than a strictly neutral framework, which is supported by procedural sensitivity, child rights which are based on policing, and reforms in structure.*

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<sup>1</sup> Assistant Professor of Law (India). Email: mansigupta0099@gmail.com

<sup>2</sup> Assistant Professor of Law (India).

## II. KEYWORDS

POCSO Act, Child Sexual Abuse, Perpetrator, Gender Neutrality, Female Offenders

## III. INTRODUCTION

The protection of children from sexual violence is the heart of any civilized community. Patriarchal control over female sexuality, structural gender inequality, and cultural silence on transsexual identity and male victimization make it difficult to implement a neutral statute. So, the main argument is not whether POCSO should protect all children, which it certainly must, but rather whether its neutral formulation adequately addresses victim psychology, gendered vulnerability, and the reality of procedural justice in India. Rape has always been a very-very sensitive topic. Rape has always been classified as a gender-specific offence against women under the Indian Penal Code (IPC), now *Bhartiya Nyaya Sanhita* (BNS). In contrast to POCSO, sticks to neutral language, retelling all children as equal victims and holding whosoever is accountable. However, social neutrality may not necessarily correspond to legal neutrality.

### A. Research Objectives

This research aims to critically analyse the legal and constitutional dimensions of the subject under study. It seeks to evaluate the adequacy of the existing legal framework, examine judicial interpretations, and identify structural gaps within the current regime. The study further endeavours to propose reforms through a rights-based and gender-responsive analytical framework to ensure greater legal efficacy and equity.

### B. Research Questions

1. What are the primary legal and constitutional issues arising in the context of the study?
2. How have courts interpreted and applied the relevant statutory and constitutional provisions?
3. To what extent does the existing legal framework effectively address the identified concerns?

4. What reforms are necessary to strengthen the legal and institutional response to these issues?

### C. Research Methodology

This study adopts a doctrinal and analytical research methodology. It is primarily based on secondary sources, including judicial decisions, statutory provisions, constitutional texts, and authoritative academic literature such as journal articles, books, and reports. The research employs qualitative analysis, applying a critical and gender-responsive constitutional lens to assess the strengths and limitations of the existing legal framework and to develop reasoned conclusions.

## IV. HISTORICAL BACKDROP OF CHILD SEXUAL OFFENCE LAWS IN INDIA

The law and the regulations governing child sexual abuse have undergone significant transformation, which results in shifts in societal understanding, its morals and international human rights duties. Historically, Indian law has treated sexual offences through the lens of morality and chastity, rather than focusing on autonomy, dignity and vulnerability of childbearing individual. The evolution in child sexual offences can be understood by many various junctures. Like the Colonial period, post-independence constitutional developments, pre-POCSO reform efforts and enactment of comprehensive child-centric legislation.<sup>3</sup>

### A. Colonial Era: IPC 1860, and Limited Recognition of Child Sexual Abuse

The Indian Penal Code (IPC 1860) was drafted under British Colonial Rule, which constituted the earliest codified criminal law<sup>4</sup> which addressed sexual offences. Though IPC did not recognise child sexual abuse as a distinct offence. Sexual crimes against children were assimilated under the general offences such as rape (Section

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<sup>3</sup> Ministry of Women and Child Development, Government of India, *Study on Child Abuse in India* (2007)

<sup>4</sup> Justice J.S. Verma Committee, *Report of the Committee on Amendments to Criminal Law* (Govt. of India, 2013)

375), outraging the modesty of a woman (Section 354), and unnatural offences (Section 377).

Under section 375 IPC, the age of consent<sup>5</sup> was fixed initially, somewhat 10 years, which reflected colonial moral standards rather than child welfare concerns. Many types of sexual abuse, including non-penetrative acts, sexual caressing, and exploitation, were disregarded in favour of penile-vaginal penetration. Due to the gender-specific definition of rape, which assumed a female victim and a male perpetrator, male minors were essentially invisible within the judicial system.

There is an absence of victim-friendly products, the stigma and issues with proofs, which all led to the shortcomings of IPC in dealing with child sexual abuse. During proceedings/trials, children were frequently the subject of severe cross-examination and re-traumatisation, and were discouraged, reporting and prosecuted.

### **B. Movements for Social Reform and Gradual Legal Modifications**

During the colonial era, the public outrage over marriages between minors and sexual exploitation led to the implementation of these specific laws. One of the first measures taken to protect young girls from sexual abuse and exploitation in marriage was the Age of Consent Act 1891, which typically raised the age of consent to twelve years. Later on, there were many changes that raised the age of consent steadily, resulting in raising public awareness of the importance of child protection. Soon after independence, Articles 15(3), 21, 23, 24, and 39(f) of the Constitution of India, 1950 provided a constitutional basis for the protection of children. Article 21A, inserted by the Constitution (Eighty-Sixth Amendment) Act, 2002, was introduced subsequently to strengthen the framework by guaranteeing free and compulsory education for children. These sections emphasised the state's responsibility to protect the child from cruelty, exploitation, abuse, sexual abuse and harassment. Nevertheless, the criminal code remained disjointed and unprepared to handle the complex nature of child sexual abuse despite these fundamental protections.

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<sup>5</sup> Age of Consent Act, 1891

### C. Legal Gaps and Fragmentation in the Pre-POCSO Era

Child sexual abuse cases keep continuing to be tried and prosecuted under the IPC till the early 21<sup>st</sup> century. Although sections 354 and 377 have been frequently invoked, they have been unable to sufficiently convey the severity and complexities of crimes against children. Notably, these phrases failed to acknowledge:

1. Sexual offences against male children
2. Non- Penetrative sexual acts
3. Sexual exploitation, grooming and pornography involving children
4. Child- friendly investigation and trial procedures

Alarming rates of child sexual abuse were found in government-commissioned surveys, empirical studies, and reports from non-governmental organisations like Childline India and Save the Children. The majority of these incidents went unreported. The 2007 Study on Child Abuse by the Ministry of Women and Child Development highlighted the critical need for specialised laws and revealed the institutional silence around sexual assault against children<sup>6</sup>.

### D. Impact of International Commitments

A significant shift in the conversation on child protection occurred in 1992 when India ratified the United Nations Convention on the Rights of Child (UNCRC), 1989<sup>7</sup>. State parties are required under the UNCRC to create a child sensitive legal system and protect child from all forms of sexual abuse across the place. Indian politicians were forced to acknowledge child sexual abuse as a separate legal category requiring extensive and victim centric regulation due to international pressure, local campaigning and judicial observations.

## V. ENACTMENT OF POCSO, 2012

The Protection of Children from Sexual Offences Act of 2012 (POCSO Act) was the culmination of decades of activism and reform efforts. For the first time in the legal

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<sup>6</sup> National Commission for Protection of Child Rights, *Guidelines for Child-Friendly Procedures in Cases under the POCSO Act* (2017).

<sup>7</sup> United Nations Convention on the Rights of the Child, 1989.

history of India, child sexual offences were addressed under a gender-neutral, child-centric and extensive statutory framework. The POCSO has explained a wide range of sexual offences, including both the penetrative and non-penetrative assault, sexual harassment and the use of child in pornography. It also established special courts, in-camera trials, child-friendly procedures, and required reporting, bridging long-standing procedural gaps.

### **A. Post POCSO developments**

Subsequent modifications, particularly the POCSO (Amendment) Act of 2019, imposed harsh punishments, including the death penalty for aggravated penetrative sexual assault. While these revisions reflect the State's zero-tolerance policy, they have provoked academic arguments about proportionality, deterrence, and child rights law.<sup>8</sup>

### **B. Gender Neutrality under POCSO: Meaning and Legislative Intent**

Section 2(1)(d) defines a "child" as anyone under the age of eighteen, regardless of gender. Sections 3-10 encompass both penetrative and non-penetrative assaults committed by anyone against any child.

Rationale behind this:

1. recognition of sexual abuse suffered by boys and disabled children,
2. recognition of non-penile sexual offences,
3. to ensure equity for transgender and intersex minors,
4. Also, a creation of broad spectrum-protective kind of umbrella

### **C. Intersection of POCSO with the new Criminal Codes**

There are significant concerns about the ongoing harmonisation and operation of the Protection of Children from the Sexual Offences Act (POCSO), which have been raised by the structural transformation of India's criminal justice system, which was brought about by the implementation of *Bhartiya Nyaya Sanhita* (BNS) and *Bhartiya Nagrik Suraksha Sanhita* (BNSS). Under the new well-established concept that special law

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<sup>8</sup> Ministry of Home Affairs, Govt. of India, *National Cyber Crime Reporting Portal*.

supersedes general law in times of inconsistency, POCSO, which has been a special statute developed with a child-centric aim, continues to prevail above the general penal framework. To avoid duplication, interpretative disputes, and sentencing irregularities, the implementation of BNS had replaced the Indian Penal Code needs a thorough doctrinal reconciliation.

The BNS essentially keeps and reorganizes offences related to rape, sexual offenses and exploitation, many of which are similar to actions made illegal under POCSO when the victim is a minor. Certain sections in BNS still continue to conceptualize rape in gender specific terms, notwithstanding POCSO's clear gender-neutral definition of a "child" victim. This could lead to doctrinal tension in some situation involving male or transgender minor. Whether charges are prepared only under POCSO, cumulatively under both the acts, or in addition to BNS provisions for severe circumstances depends on the prosecutor's discretion in practice. Also making sure that POCSO's protective objective is not compromised while preserving consistency with the larger penal system is the harmonization challenge.

The procedural interface with BNSS is equally important. To reduce the secondary victimisation, POCSO creates special courts with child-friendly protocols, such as in-camera trials, support in person assistance, and limitations on aggressive cross-examination. Courts must interpret the procedural reforms of BNSS about electronic evidence, victim rights, recording of statements and investigation deadlines in a way that enhances rather than compromises POCSO's child-sensitive framework. Provisions which pertain to mandatory forensic investigation, digital documentation and Zero FIRs, for example, must be operationalised in a manner that respects the psychological susceptibility of the child victim as well as the standard of proof which is necessary for conviction. Therefore, in order to avoid anomalies between jurisdictions, the procedural convergence between POCSO and BNSS necessitates coordinated judicial training and standard norms.

Critical examination of the new regime's sentencing practices is also necessary. POCSO prescribes severe minimum punishments, which were strengthened by modifications that included the potential for life in prison and, in some cases of serious

penetrative assault, the death penalty. A similar trend toward harsher penalties for sexual offences is reflected in the BNS. A wider legislative movement toward punitive deterrence is suggested by this convergence. High mandatory minimums, however, do not always result in increased conviction rates, according to empirical trends. Instead, they may affect judicial discretion in instances that are on the borderline or lead to acquittals when evidence criteria are not satisfied. Courts must handle proportionality issues under the new system, particularly when dealing with teenage consensual relationships that, in theory, qualify as crimes under the statute.

In essence, the convergence of POCSO and the new criminal law requires systemic recalibration rather than just formal cohabitation. Clear interpretation, procedural integration, and a steadfast dedication to striking a balance between due process rights and child protection are necessary for effective harmonisation. Whether the judiciary takes a cogent stance that upholds POCSO's protective ethos while placing it within the changing framework of India's reformed criminal law system will determine the new framework's long-term effects.

#### **D. Gender Neutrality and the Erasure of Male and Transgender Victimhood**

In contrast to the previous sexual offence legislation that was mainly predicated on female victimhood, the Protection of Children from sexual violence act's avowed gender-neutral foundation marks a significant shift. The statute claims to provide equal protection by defining a "child" without regard to sex and making sexual activities illegal regardless of the victim's or the offender's gender is.

In reality, though, this kind of formal neutrality has ironically contributed to erase victimization of men and transgender people. Because of such stigma, skepticism, and fear of being emasculated, social norms of masculinity frequently deter male children from reporting sexual abuse. The investigative practises and judicial discourse have also commonly operated under heteronormative presumptions, implicitly picturing the victim as a female. As a result, the male victims continue to be institutionally and statistically underrecognized.

The marginalisation even becomes more acute when it is in the context of children that are transgender or gender nonconforming. Even though they are not excluded by the

act's language, but an intersectional view of gender identity is rarely reflected in how it has been implemented. Systematic invisibility also results due to the lack of clear acknowledgement, gender-sensitive protocols, and specialized support systems.

The constitutional reforms that acknowledge the gender identity as a fundamental to the equality and dignity, this disparity is particularly worrisome. Neutrality runs the risk of becoming merely a drafting strategy rather than a useful instrument for inclusive justice in the absence of a deliberate judicial and administrative sensitivity. Hence, even though, this act expressly upholds universal child safety, its actual implementation needs to change so to prevent neutrality from concealing systematic prejudices that still silence transgender and male survivors.

### **E. Is Sexual Violence Against Children Gendered in India?**

The studies regarding sexual violence against children however disproportionately affected girls specially, which particularly involves penetration, trafficking, incest and commercial exploitation. The patriarchal standards also regulate female sexuality, commodify girl offspring, and also legitimize early sexual access through marriage and informal relationships.

However, significant numbers of male survivors grew frequently, in institutional context, religious establishments, any sport events, and among street youngsters. Male survivors experiencing additional shame due to masculinity norms and also the perception that "boys cannot be victims".

Similarly, transgender children's have also and are also experiencing serious sexual abuse in schools, shelters, on the streets or at any such child centric place. Thus, POCSO's inclusive posture addresses real abuse patterns but does eliminate or erase the feminized pattern of sexual exploitation particularly trafficking, incest and rape-like offenses.

## **VI. JUDICIAL APPROACH TO GENDER NEUTRALITY**

- 1. Constitutional Alignment:** Courts have also acknowledged that gender neutrality in POCSO is in consistent with constitutional equality, right to dignity. In the case of *Independent Thought v. Union of India*, the Supreme

court held that the marital rape exception does not apply to girl child who is under the age of 18 years. The court emphasized bodily integrity. Although not a neutrality question per se, this decision highlighted the increased vulnerability of girl child.<sup>9</sup>

2. **Clarifying the Scope of Sexual Assault:** In *Attorney General of India v. Satish and Another* (2021 INSC 762), clarified the scope of 'physical contact' under Section 7 of the POCSO Act, holding that the presence of sexual intent, rather than direct skin-to-skin contact, is the resulting factor in constituting sexual assault. The ruling thereby broadened the interpretative scope of the provision, with implications for the protection of all child victims.<sup>10</sup>
3. **Recognition of female offenders:** In *State of Kerala v. Haseena*<sup>11</sup>, a woman was found accountable for sexual assault under the POCSO act. The court also noted the societal difficulty portraying women as sexual aggressors but maintained statutory neutrality.
4. **Adolescent Romance Cases:** Various high courts have voiced their concern that youngster's consensual romantic relationships are being criminalized. Courts have repeatedly called for legislative reconsideration. Thus, while courts honour neutrality, acknowledge real-world gendered vulnerabilities. The criminalisation of consensual adolescent relationships under the POCSO Act has been a subject of significant judicial concern. Various High Courts, including the Madras, Karnataka, and Kerala High Courts, have acknowledged the unintended consequences of rigid statutory application in cases involving consensual relationships between adolescents. In *Sabari v. Inspector of Police*, the Madras High Court emphasised the need to distinguish between exploitative conduct and consensual adolescent relationships, urging legislative reconsideration. Similarly, the Karnataka High Court in *Vijayalakshmi v. State* highlighted the disproportionate impact of POCSO provisions on young individuals engaged in consensual relationships. The

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<sup>9</sup> *Independent Thought v. Union of India*, (2017) 10 SCC 800.

<sup>10</sup> *Attorney General for India v. Satish and Another*, 2021 INSC 762 (Supreme Court of India, Judgment dated 18 November 2021).

<sup>11</sup> *State of Kerala v. Haseena*, 2021 SCC Online Ker 3776.

Kerala High Court has also echoed similar concerns, advocating for the introduction of a 'close-in-age' or 'Romeo and Juliet' exception to prevent misuse of the statute. These judicial pronouncements underscore the pressing need for legislative reform, particularly in reconciling child protection objectives with the realities of adolescent autonomy.

## VII. CHALLENGES EMERGING FROM GENDER-NEUTRAL APPLICATION

Despite neutrality, there is a burden on girl child survivors. Girl child also remains primary victim in severe abuse forms. The neutral phrasing can cause delays in prioritizing resources for girls since policy narratives may imply equal risk exposure. Feminist scholars, also argues that neutrality may can mask gender- power imbalance in sexual assault.

Neutrality helps male survivors/ victims to seek remedies but there are some social stigmas that prevents its disclosure, the boy's fear from society of-course, also the assumptions of homo-sexuality, disbelief from life and occur in boys too and minimization of interest in the society or in the family or any so gathering the last one masculinity expectations. If the neutrality if not targeted or is not kept under eyes can lead to invisibility of male trauma.

The POCSO act does not clearly mention about transgender children. Their identification or medical examination and even their custodial placement are kept binary. After the case of "*Nalsa vs Union of India*", these institutional reforms remain limited. If the recognition of neutrality is not expressed, then it can lead to procedural uncertainty. The issue of female perpetrators in child sexual offences remains underexplored and is often treated as a socially sensitive or overlooked reality. Although statistically less prevalent, instances of female-perpetrated offences against children do exist and warrant serious legal and scholarly attention in our society. Also, our law recognises them but there is a sort of police hesitation still present and also the social assumptions do exist<sup>12</sup>.

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<sup>12</sup> National Crime Records Bureau, *Crime in India* (latest ed.).

It is now we can say mandatory to report the teenage relationships as section 19 mandates the reporting, criminalizing adolescent sexual activity and also the consensual intimacy. Because the teenage now-a-days are unaware of the societal norms which can make them fall in trouble, because of lack of general awareness the teenagers tend to commit such crimes, nearly many such cases have been reported till now. This directly or indirectly disproportionately affects and also impacts the female girl, which often result in parental misuse in inter-caste and inter-dating contexts.

### Comparative Perspective

COUNTRY	POSITION <sup>13</sup>
UK	There is a specific recognition of child abuse dynamics; Gender- neutral offences
US	Almost gender neutral; but mandatory reporting varies state to state
AUSTRALIA	Gender neutral; but there are separate consent norms for teenagers
CANADA	Gender neutral; strong LGBTQ+ victim protection is must and mandatory <sup>14</sup>

While India's neutrality also aligns globally but there is lack of nuanced adolescent sexuality provisions and explicit gender spectrum recognition.

## VIII. COMPARATIVE CONSTITUTIONAL PERSPECTIVES ON GENDER-NEUTRAL CHILD PROTECTION

While many jurisdictions have legally adopted gender-neutral drafting, a comparative constitutional examination of gender-neutral child protection statues shows that how the procedural and philosophical underpinnings of such neutrality vary greatly.

<sup>13</sup> Childline India Foundation, *Annual Reports on Child Abuse and Protection* (various years).

<sup>14</sup> National Human Rights Commission, *Advisory on Protection of LGBTQIA+ Persons* (2021).

Comparing the legal system of the US and the UK, provides valuable insight into how they balance the protection of children with equality, due process and changing conceptions of gender identity. These jurisdictions show that gender neutrality is a constitutional decision influenced by larger commitments to substantive equality, individual autonomy, and human dignity rather than only being a linguistic instrument.

The Sexual Offences Act 2003 is one of the primary pieces of legislation in the UK that governs sexual offenses against minors. This act is a complete overhaul that specifically uses gender-neutral language to define victims and, for the most part, offenders. It makes a variety of behaviour illegal, such as having intercourse with a child, encouraging or inducing a child to have sex, and sexual grooming. Crucially, the UK model acknowledges subtle differences for consensual activity between minors of same age while simultaneously emphasizing the protection of children under a set age threshold. The Human Rights Act of 1998, which enshrines, the European Convention on Human Rights in domestic law, serves as the constitutional foundation for UK operations. This also makes sure that the rights to proportionality, fair trial and privacy are taken into consideration while evaluating prosecutions under the Sexual Offences Act. Thus, a choice between the strong child protection and procedural safeguard is reflected in the jurisprudence. Additionally, gender reassignment is officially recognized as a protected feature in the UK's equality jurisprudence, especially since the Equality Act 2010, this strengthens the inclusion of child protection legislation with regard to transgender adolescents.

Now in the US there is a federal constitutional framework for child protection laws as they are based on the Equal Protection and Due Process Clauses of the Fourteenth Amendment. Despite the fact that the criminal law is mostly state based, state and federal laws pertaining to child sexual abuse are typically written in a gender-neutral manner. Sexual exploitation, trafficking of kids and abuse regardless of gender, are illegal under federal laws like Title 18 of the US Code. Statutory rape and child sexual assault legislation at the state level have gradually changed from historically gender-specific definitions to neutral ones that acknowledges the victims as males and

gender-diverse children. The equal protection doctrine of the U.S Supreme Court has impacted legislation interpretation to guarantee inclusivity, especially in issues pertaining to the LGBTQ++ rights and gender discrimination. Yet, the boundaries of criminalization have also been determined by constitutional challenges, particularly with regard to private rights and consenting teenage relationships. Thus, the American model illustrates a conflict between the constitutional protection of equality and liberty and the police powers of the states to protect children.

While both the US and UK implement gender-neutral children protection laws, a comparative analysis shows that these laws are ingrained in larger constitutional systems that prioritize proportionality, human rights reviews, and a clear anti-discrimination safeguards. This comparison analysis is important for assessing how the Protection of Children from Sexual Offenses Act is being implemented. It implies that in order to achieve true gender neutrality, the constitution must be sensitive to minority identities, teenage autonomy, and procedural justice in addition to neutral drafting. Neutrality runs the risk of being formal rather than substantive in the absence of these supplementary protections, which would restrict its revolutionary potential in providing equal protection to all children.

## **IX. SOCIETAL IMPLICATIONS OF GENDER NEUTRALITY UNDER THE POCSO ACT**

Beyond statutory text and the courtroom interpretation, the POCSO's gender neutral act has significant repercussions. The POCSO act's implementation interacts with highly entrenched societal structures, some cultural norms, and power hierarchies, regardless of its goal of providing equal protection to all children, regardless of their gender. The opinion of public

regarding child sexual abuse, victim's care, trends being reported now-a-days and also most importantly institutional behaviours are all greatly impacted by these interactions.

### **A. Gendered Social Construction of Victimhood**

Our Indian society is a traditional centered, if they look from gender centered lenses. In Indian society, sexual victimization is typically viewed through a gender lenses, and fragility is virtually entirely associated with female children. In the light of societal emphasis, on female chastity honor, and purity of body, the sexual assault against girls is acknowledged as a social concern, albiet one thing that is frequently repressed. Boys on the other hand, are socially created as being incapable of being victimized, physically robust, and sexually impervious.

If boys are being recognized as victims, the gender neutrality under POCSO will contradict this conception. But if the society refuses to acknowledge male victimization, it will frequently lead to skepticism in the claims made by boys, or will reduce the harm of experienced even mockery and humiliation can exist on a large scale and on daily basis, also the family's unwillingness to seek legal action against the wrong caused to their child.

Therefore, the denial of victimhood which is based on masculinity is not instantly dismantled by legal neutrality, which will hence result in underreporting and subsequent victimization of male survivors.

### **B. Impact on Reporting Behaviour and Disclosure Patterns**

The impact of gender neutrality on the reports which they get seems to be mixed and has been mixed. All the children are legally and that much capable to seek protection, but depends who actually reports on abuse due to societal implications. Girls are more likely to be reported, and they are more acknowledged by the society, especially in the cases of penetrative assault cases.

Boys, despite they are being abused in schools, dorms, sports, or places of worship and also too in online, boys frequently keep abuse a secret out of fear of being called weak or homosexual. Children who identify as transgender or nonconforming gender, face the greatest obstacle, such as lack of family support, misgendering, and also a fear of institutional harassment.

### **C. Familial Control, Honour, and Suppression of Complaints**

Families often act and serve as a disclosure of gatekeepers. Families repress concerns because of fear of social stigma, adverse publicity and harm to marriage prospects, particularly when dealing with a girl child. This patriarchal dynamic is not addressed by neutrality.

In male victim cases, families may withhold information in order to prevent societal mockery or the child's perceived emasculation. Families even may consider incidents which involves female preparators as insignificant or even ethically dubious, refusing to acknowledge the notion that women can be sexual offenders.

Therefore, this act protective reach is limited since societal honor politics which frequently take precedence over statutory neutrality.

### **D. Criminalisation of Adolescent Sexuality and Social Backlash**

This is one of the most controversial societal consequences of gender-neutral POCSO is the criminalisation of consensual adolescent relationships. When parents disapprove the romantic relationship between teenagers, especially to those between the people of inter-caste, or inter-religion, which later on turns out to be a POCSO case.

This phenomenon disproportionately impacts:

1. Teenage boys, who are frequently viewed as offenders,
2. Teenage girls, who often lack agency and are also infantilized
3. Marginalized groups where relationships are subject to more stringent with social regulation<sup>15</sup>

The POCSO has a wide misuse by number of people, and this has been clearly acknowledged by courts on several occasions that people are using it as a moral weapon. Instead of protecting children, gender neutrality has always supported caste-

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<sup>15</sup> World Health Organization, *Responding to Children and Adolescents Who Have Been Sexually Abused: WHO Clinical Guidelines* (WHO, 2017).

based people and there has been familial control over teenage sexuality when it is registered without contextual sensitivity.<sup>16</sup>

### **E. Female Perpetrators and Social Denial**

Though POCSO acknowledges the potential for female offenders, society still continues to view woman predominantly as caregivers rather than criminals. This result in:

1. Reluctance of police to register complaints or FIRs against women
2. Prosecutor's reluctance to frame significant charges
3. Even judicial discomfort is present while acknowledging female sexual aggression

Silence is reinforced when male victims of female abuse encounter skepticism and mockery. Therefore, gender neutrality without cultural readiness often leads to symbolic acknowledgement without real justice.

### **F. Transgender Children: Intersection of Gender Identity and Sexual Violence**

Children who are identified as transgenders or are gender nonconforming are in a precarious situation. They are more vulnerable to sexual abuse and are at high risk of sexual abuse due to:

1. Institutional neglect,
2. Family rejection,
3. Homelessness,
4. Improper identity records

Despite the technical applicability of POCSO, the absence of clear procedural safeguards for transgender children pertains to:

1. Improper medical examination
2. Misgendering during the course of enquiry and trial
3. Hazardous location for shelters
4. Insufficient trauma-informed therapy

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<sup>16</sup> Save the Children India, *Child Sexual Abuse in India: Situational Analysis* (various reports).

Neutrality, in this context addresses into erasure, as the law does not specifically address the lived realities of gender diverse children.

### **G. Institutional Biases and Enforcement Challenges**

Despite the POCSO, has a gender-neutral structure, but the institutional actors such as investigators, police officers, doctors, judges they frequently function within the deeply ingrained gender biases. These biases manifest and there is a routine presumption that the accused is a male always, there is several increased mistrust reports from the male victim and unequal case prioritizing on socially created ideas of gendered vulnerability are all examples of gender biases<sup>17</sup>. While some situations involving female perpetrators are handled occasionally with a pinch of doubt and incredulity, some cases involving male victims are often considered with mistrust or are trivialized. At the statutory level neutrality is not transferred to enforcement in the absence of consistent and also require gender-sensitivity training.

### **H. Media Representation and Public Discourse**

The media and public perception of understanding child sexual abuse is significantly shaped by what the media represent. In India, conventional conceptions of sexual violence are reinforced by the media narratives that mostly portray men as offenders and female as victim. In some cases where women are the perpetrators and male are victims are being less focused, they get very less attention, and when they are, they are frequently sensationalized rather than been handled sensitively and responsibly. By preventing non-conforming victims from coming forward, promoting social beliefs, about victimhood and perpetration, and suppressing narratives that deviate from prevailing gender frameworks, such as lopsided representation affects reporting behaviour. As a result, gender neutrality is a law that is essentially ineffectual unless and until it is combined with inclusive, ethical and balanced media discourse that acknowledges the various realities of child sexual abuse.<sup>18</sup>

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<sup>17</sup> *State of Punjab v. Gurmit Singh*, (1996) 2 SCC 384.

<sup>18</sup> Bureau of Police Research and Development, *Training Module on Crimes against Women and Children* (BPR&D).

### **I. Psychological and Long-Term Social Impact on Victims**

The way society handles and responds to the claims of child sexual abuse has a profound effect on the long-term well-being and psychological healings of survivors. Victims are much more likely to recover and start over again from the beginning if their families, friends, or the institutions, and the legal system believe in them, support them, and validate them. Conversely, people who experience disbelief, mockery, or discounting of their experiences frequently have long-lasting psychological effects, including substance abuse, anxiety disorders, sadness, and trouble establishing positive interpersonal relationships. Male and transgender victims are especially and are particularly vulnerable to untreated trauma which they get from societal pressure, the trauma which they get due to pervasive social silence, stigma and scarcity of specialized assistance facilities. The psychological impact on the child can be severe because that particular child/ victim has been affected from the cause which has arisen to him. Yes, we can say that a victim can recover from a loss that he/she has suffered. But the societal taboos can never let them fully recover one or another day they can be made reminded of that they have gone through, though there can be any situation.

### **J. Broader Implications for Child Rights Jurisprudence**

In India, there is a large debate and conflict between the child right jurisprudence, even there is significant tension and conflict between the substantive justice and legal equality, as indicated by the subject of gender neutrality in the POCSO act. Whilst treating all the children equally under the law is in line with the constitution's equality values, as it fails to address structurally ingrained forms of discrimination, unequal social placement and varying vulnerability. Recognizing these differences and developing organizational and legal barriers that are cognizant to the lived realities of diverse children is critical for a true child safety. To avoid unwittingly perpetuating injustice, legal equality has to strike a balance amongst gender neutrality and also its contextual understanding.

### **K. The Politics of Protection: Media Narratives and Moral Panic**

The implementation of protection of children from sexual offence Act must be analysed in the light of the larger sociopolitical framework that shapes the discourse,

representation, and politicization, of child sexual abuse. In contemporary India, conventional and digital media outlets are crucial in influencing public opinion regarding the child sexual offenses. Outrage and terror are heightened when high profile cases are covered repeatedly with explicit description and strong emotional framing. Undeniably, this type of reporting has also helped end the taboo around child sexual abuse and also to inspire victims to come forward, but it also has sparked moral panic episodes in which isolating but startling incidents are framed as signs of a growing and uncontrollable social crisis.

The formation of a “folk devil” a demonised character who represents societal decay, is how the moral panic works. Even before going to the trial, accused persons in POCSO instances are commonly depicted as monstrous predators, blurring the line between the guilt and accusation. The judicial reasoning, prosecuting tactics, and investigation agencies may be directly impacted by this atmosphere of pre-judgement. Even courts are required by the constitution to maintain their objectivity, as they operate in a larger societal context where emotional strain and intense public scrutiny are generally unavoidable. Legislative amendments that raise minimum sentences or broaden the use of death penalty are frequently the consequence of calls for exemplary retribution, especially in the wake of brutal crimes. This reflects punitive populism rather than evidence-based reform.

Furthermore, media narratives frequently underreport the more prevalent reality of intra-family abuse, abuse by known individuals, or some cases involving adolescents in consensual relationships that are criminalized under this act, while elevating some specific case types, those involving extreme violence, strangers, or urban settings. Complex socio-legal analysis is limited by this selective exposure, which warps public opinion and upholds the oversimplified dichotomies of “evil perpetrator” and also binaries of “innocent victim”. Thus, child safety is used as justification of strict rules in the politics of protection, with little attention paid to the procedural protections, rehabilitative frameworks, or systematic changes like child friendly courts and victim support services.

Additionally, through hashtag campaigns, quick outrage cycles and the viral spread of incomplete information social networks and the digital media sites exacerbate this dynamic. Despite legal requirements for confidentiality, media trials have the potential to stigmatize both the accused and, at times the victim. The POCSO act runs the risk of symbolically changing from a child-centered protection law to a retributive justice instrument driven by the public opinion in such an environment. Therefore, a more responsible and morally based narrative is necessary to prevent moral panic from overshadowing constitutional responsibilities to proportionality, fairness, and the due process, even while media involvement is crucial for awareness and the accountability.

## **X. RECOMMENDED REFORMS**

To provide the substantive reparation for all children, gender responsive and context sensitive modifications must be implemented while acknowledging the POCSO Act gender neutrality. In addition to taking into account the intersectional vulnerabilities exhibited by disabled children, confined minors and children from marginalized groups, procedural norms must explicitly recognise the different experiences of boys, girls and transgender children. In order to prevent the prosecution of adolescent relationships and the abuse of POCSO as a social control instrument, the law must explicitly make a difference between the exploitative sexual abuse and adolescent consensual intimacy via a separate adolescent clause, including a “close-in-age” as an exception. Also, by establishing a gender-inclusive shelter, requiring psychological counselling for the survivors or victims and conducting a child friendly interviews and forensic examinations are all significant strategies to create a specialized support network. The ongoing awareness and education campaigns are being needed to ensure that the police officers, the judicial authorities and medical professionals undergo gender-sensitive training implement age-appropriate consent and bodily autonomy education at school level and also support safe and stigma free reporting pathways for boys.<sup>19</sup> It is also essential to create a particular protection-protocols for transgender children in order to steer clear of institutional exclusion and also by

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<sup>19</sup> U.N. Guidelines for the Prevention of Juvenile Delinquency (Riyadh Guidelines), 1990.

ensuring that the promise of gender neutrality under POCSO transforms into effective and also inclusive child safety. Gender-affirmative victim handling, qualified counsellors and medical staff and prominent acknowledgment in procedural manuals should all be part of these protocols.

The proposed reforms, including the introduction of a 'close-in-age' exception and the adoption of gender-affirmative protocols, find support in prior institutional deliberations. The Justice Verma Committee Report emphasised the need for a more nuanced and victim-sensitive approach to sexual offences, particularly in relation to minors. Further, guidelines issued by the National Commission for Protection of Child Rights underscore the importance of safeguarding child rights while avoiding undue criminalisation. Empirical support is also evident from data published by the National Crime Records Bureau, which highlights patterns in POCSO prosecutions, including cases arising from consensual adolescent relationships. These institutional insights reinforce the necessity of calibrated legislative reform that balances child protection with evolving social realities.

It is equally essential to strengthen specialized child support programs. It is also necessary to make uniform implementation of gender-spectrum inclusive the shelter houses, trauma-informed forensic testing techniques and the child friendly interview spaces mandatory rather than an option. Instead of just rapid care during crisis the survivors should receive a long-term, state funded psychiatric counselling<sup>20</sup>. Rehabilitation ought to be acknowledged as a child's ongoing right that goes beyond the completion of their trial.

## XI. CONCLUSION

The POCSO Act, 2012 is a gender-neutral which aims to protect children from sexual abuse, exploitation and harassment. The POCSO's gender-neutrality is an important and progressive statutory objective that fosters inclusivity and equality of protection. However, its socio-cultural influence underscores the need to supplement legislative neutrality with gender-responsive implementation, and cultural shifts and

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<sup>20</sup> INTERPOL, *Guidelines on Online Child Sexual Exploitation Investigations* (INTERPOL, 2019).

institutional reforms. If there is disparities power stigma, and societal denial surrounding child sexual abuse, not addressed gender neutrality may become symbolic rather than revolutionary. The efficacy of the POCSO framework ultimately hinges on its capability to properly interact with societal backdrop and to also offer true justice to all the children, regardless of what gender they are. India's child protection system has under-went an important overhaul with the enactment of the Protection of Children from Sexual Offences Act, 2012 which supplanted gender-specific presumption with a legally gender-neutral framework<sup>21</sup>. The POCSO aims to close long-standing loopholes in the criminal justice system that had been made traditionally male centric and also the transgender children<sup>22</sup> are invisible by acknowledging that children irrespective of their gender can be both victims and perpetrators of sexual offence. Though the statutory architecture pf POCSO embodies impartiality in the form, the analysis carried out during this study shows that its execution reveals substantial problems in converting this neutrality into the substantive justice.

Judicial interpretation has had played a significant role and shaped the definition of gender-neutrality. By emphasizing the importance of the child's welfare and the strict liability offences involving minor children, courts have consistently sustained the aim of POCSO. The judicial decision, however, can show reluctance in handling the situations that depart from the traditional narrative of a male offender and female victim as well as consensual adolescent relations. Erratic results, the enforcement which are selective, and also in some cases the inadvertent criminalization of the teenage intimacy have resulted from this. All these patterns have highlighted the shortcomings of a strictly the drawbacks of a solely formal approach to equality, which treats every child equally whilst ignoring imbalances in power and the social reality.

While concluding, the gender-neutrality under the POCSO act showed be seen as a initial starting point of a more comprehensive and viable framework for child

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<sup>21</sup> NITI Aayog, *Strategy for New India @75* (Govt. of India, 2018) (Child Protection & Data Governance sections).

<sup>22</sup> The Transgender Persons (Protection of Rights) Act, 2019, No. 40, Acts of Parliament, 2019 (India).

protection rather than as an end in and of himself. Gender responsive tactics for implementation, social awareness and institutional reform must go hand in hand with legal reforms. The POCSO Act only can achieve its groundbreaking potential and guarantee that every child, regardless of gender, has protection, equal dignity, and the access to justice by addressing the intersection of law, society and lived experience.<sup>23</sup>

## **XII. REFERENCES**

### **A. Legislation and Statutes**

1. Protection of Children from Sexual Offences Act, 2012.
2. Protection of Children from Sexual Offences (Amendment) Act, 2019.
3. Bharatiya Nyaya Sanhita, 2023.
4. Bharatiya Nagrik Suraksha Sanhita, 2023.
5. Indian Penal Code, 1860.
6. Constitution of India, 1950.
7. General Clauses Act, 1897.
8. Age of Consent Act, 1891.
9. Sexual Offences Act, 2003 (United Kingdom).
10. Human Rights Act, 1998 (United Kingdom).
11. Equality Act, 2010 (United Kingdom).
12. Title 18, United States Code (Child Protection Provisions).

### **B. Case Laws**

1. *Independent Thought v. Union of India*, (2017) 10 SCC 800.
2. *Attorney General of India v. Satish and Another*, (2021) INSC 762.
3. *State of Kerala v. Haseena*, (2019) (Kerala High Court).
4. *Sabari v. Inspector of Police*, (Madras High Court, 2019).

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<sup>23</sup> UNESCO, *International Technical Guidance on Sexuality Education* (UNESCO, 2018).

5. *Vijayalakshmi v. State*, (Karnataka High Court, 2021).
6. *National Legal Services Authority v. Union of India*, (2014) 5 SCC 438.

### C. Reports and Government Publications

1. Ministry of Women and Child Development, *Study on Child Abuse: India 2007*.
2. Justice J.S. Verma Committee Report on Amendments to Criminal Law, 2013.
3. National Crime Records Bureau (NCRB), *Crime in India Reports* (latest editions).
4. National Commission for Protection of Child Rights (NCPCR), *Guidelines and Reports on Child Protection*.

### D. International Instruments

1. United Nations Convention on the Rights of the Child (UNCRC), 1989.

### E. Books and Articles

1. Agnes, Flavia, *Law and Gender Inequality: The Politics of Women's Rights in India*.
2. Menon, Nivedita, *Seeing Like a Feminist*.
3. Dhanda, Amita, "Gender Neutrality and the Law: A Critical Analysis."
4. Choudhry, Sujit, et al., *The Oxford Handbook of the Indian Constitution*.
5. Kumar, R., "Child Sexual Abuse Laws in India: Evolution and Challenges," *Indian Journal of Legal Studies*.
6. Sharma, P., "Gender Neutrality under POCSO: A Critical Appraisal," *Journal of Criminal Law*.

### F. Online and Secondary Sources

1. Childline India Foundation Reports and Publications.
2. Save the Children India – Child Protection Reports.

### 3. UNICEF India - Child Protection Resources