

Justice Under the Rainbow: Embracing Diversity in Posco Act, 2012

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Abstract:

The Protection of Children from Sexual Offences (POCSO) Act, 2012, is a significant statute in India aimed at protecting children from sexual abuse and exploitation. The Act's most notable characteristic is its gender-neutral approach, diverging from conventional legal standards that frequently categorize sexual offenses by gender. This study examines whether the POSCO act is gender neutral or it is more inclined towards one gender. This paper also examines whether third gender is covered under the act.

Keywords: POSCO act, gender-neutral, third gender.

Introduction

The Protection of Children from Sexual Offences (POCSO) Act, 2012 represents a gender-neutral mandate in India specifically drafted and destined to protect the children from sexual abuse and exploitation who are below eighteen years of age. This law is applicable to substantial number of offenses such as sexual harassment, pornography and sexual assault. The POCSO Act takes notice of the fact that every child regardless of their gender are prone to sexual abuse and further seeks to give all children equal protection. This is a great step in preserving the rights of children and moving forward towards gender neutrality. According Section 2(d) of the POCSO Act the term child has been defined as an individual under the age of eighteen years of age which clearly demonstrates that sexual offenses against minor children, regardless of gender are covered under this mandate.

The Protection of Children from Sexual Offences (POCSO) Act was set forth in India in 2012, with the intention to specifically target and lessen sexual assaults against children below the age of eighteen years, while providing a comprehensive, gender-neutral plan to protect kids from sexual exploitation and abuse is the primary objective of the POCSO Act, regardless of their gender. The terms and conditions of the POCSO Act are essentially gender-neutral. It seeks to ensure that they are protected from gender-based discrimination while acknowledging that sexual offenses can affect both boys and girls. POCSO Act is an advancement in recognizing that child sexual abuse does not only affect one gender.

In 2007, the Ministry of Women and Child Development conducted a statewide survey to determine the prevalence of child maltreatment in India. According to the survey, 53.22 percent of youngsters in the country had suffered sexual abuse in some form, with boys accounting for 52.94 percent of the total. The 2012 POCSO Act is the outcome of this inquiry. No more research has been conducted on a comparable scale.

The act recognizes a range of sexual offenses, including sexual assault, molestation, and child pornography, regardless of the gender of the victim or the offender and the list goes on. Further this also focuses on the importance of safeguarding the privacy of children and dignity during the legal process. And for this purpose, the act uses of child-sensitive procedures during investigations and court proceedings, special courts for speedy trials and prohibits to disclose the identity of the child, witness, or victim. The gender-neutral scheme as briefed under the POCSO Act is that children of all genders are susceptible to sexual exploitation and an equitable legal framework is necessary to protect them all. The Act presents wrongdoings against children as strictly criminal offences, which serves as a precedent and helps to guarantee that rights of every child are recognized and respected. In spite of the fact that POCSO Act is intended to be gender-neutral, it is essential to keep in mind that the application and efficacy of any laws depends upon number of factors such as views of the society, awareness and commitment of law enforcement agencies. In order to ensure that the legal system truly provides equal protection to all children irrespective of their gender, persistent public awareness campaigns and increased understanding on the topic of child sexual abuse is necessary. Further, a gender-neutral attitude is necessary to tackle the cases of sexual assault against male children that remains unreported. This act also covers Penetrative and non-penetrative sexual assault, sexual harassment, offences wherein children are used for sexual activities.

This act shows crucial distinction from other laws as it neither the act does not distinguish perpetrator or victim distinguishes on the basis of their gender as the paramount objective of the act, is to protect the children below the age of

eighteen from sexual offences, irrespective of gender. Thus, for many reasons, the gender-neutral intention of this Act is a progressive move.

Throughout history, legal systems at global level, including those in India, have given a high priority on protecting women victim of sexually abuses. But, at the same time this tactic carries the possibility of inadvertently secluding the male victims or those who don't conform or match to the traditional gender norms. One of the main reasons why male suffering goes unspoken is the social attitudes that integrate with strength and masculinity makes it very tough for the male victims to step forward to report about the sexual abuse incidence they suffered.

Since the Act acknowledges that sexual offenses can be committed against anybody, regardless of gender, it ensures an exhaustive range of protection to all minor children and it guarantees that experiences of the victim are acknowledged and criminals are held liable, thereby giving voice to all children and it noticeably boosts the fight against child sexual abuse.

1.2 Significance of Protection of Children from Sexual Offences Act and its Gender-Neutral Approach

The POCSO Act venerates to India's developing legal system by identifying the complexity and sensitive nature of sexual offenses. It was very important for the Act to be gender neutral in India as a gender-neutral statute has a great significance in the intense struggle against child sexual abuse.

This act provides Universal Protection for Children as Child sexual abuse is a horrifying crime that knows no gender boundaries. Any child can be victims of sexual assault. By gender-neutralizing the POCSO Act, lawmakers ensured that all children, irrespective of gender, receive equal legal protection. Further, the act Challenges the Cultural Stereotypes as Historically, stereotypes and cultural standards have often shown that men even young boys are immune to abuse. According to these stereotypes males should be strong and robust, and that deviating from ideal was a sign of weakness. By introducing a gender-neutral law, the POCSO Act addresses such stereotypes by providing a platform for young boys to come forward and report abuse without fear of ridicule or embarrassment.

Moreover, the act lays down accountability of every offender, as gender-neutral laws ensure that criminals, irrespective of their gender, may face consequences for their actions. It is a popular misperception that sexual offenses are exclusive to men. But in reality, women are also capable of committing crimes. The gender-neutral language of the POCSO Act ensures that female criminals are not above the law and will be held liable as per the provisions of law. Also, the act is gender-neutral, as it allows to recognize and reflect a larger spectrum of sexual offenses. Regardless of the gender relations involved, all cases of child sexual abuse are given due consideration and legal investigation.

Further, gives encouragement for progressive legal structures as a gender-neutral POCSO Act establishes a standard for other nations and regions. It acts as a model for how contemporary laws ought to be written with fairness, inclusivity, and a great awareness of the intricacies of social concerns. POCSO Act's gender-neutrality is more than just a legal requirement seeing that it is a calculated and strategic step to provide complete protection for all children, dispel long-standing preconceptions, and pave the way for a fairer legal environment.

Furthermore, the act identifies female criminals, as it has been seen that, social constructs from the past often associates that sexual offenses are committed by men. However, women are capable of sexual offenses, even though they are not as commonly recorded or acknowledged. The gender-neutral terminology of the POCSO Act ensures that female offenders face the same level of prosecution.

Whereas, the sexual abuse of children can occur in a wide range of contexts and is not exclusive to a particular gender role. By not limiting the group of potential offenders, the legislation recognizes the multifaceted nature of abuse, in which both male and female individuals may be aggressors. The POCSO Act's primary objectives are to deliver justice and shield kids from sexual assaults. The statute guarantees that the law is applied to all potential criminals, regardless of gender, upholding a sense of fairness and preventing justice from being tarnished by societal biases. Male victims of abuse, especially those who are abused by women, can face stigma from society. Widespread stereotypes that portray men as dominant and women as subservient may be the cause of this. By making the legislation gender-neutral, the measure gives all victims a way to come forward with the assurance that their abusers, regardless of gender, can be held accountable. The POCSO Act emphasizes the importance of gender-neutral legal systems in modern society by ensuring that women can be charged with offenses under the act. This sets a standard for other laws and jurisdictions. The POCSO Act is intended to make sure that all children are protected and that all offenders, regardless of gender, are brought to justice, even though it is possible that male abusers are engaged in the majority of documented cases. Also, the act eliminates preconceptions the social standards that often depict men as impervious to victimization and women as the usual victims. The act dispels these deeply held beliefs by acknowledging that victimization can also affect boys.

1.3 Peculiarities of Protect of Children from Sexual Offences Act

The Union Cabinet has adopted revisions to the Protection of Children from Sexual Offences (POCSO) Act, 2012, to increase the severity of punishment for sexual offenses committed against children. According to the Act, there are several situations in which a sexual assault is considered "aggravated." These situations include mental illness in the assaulted kid or abuse perpetrated by an authority figure such as a teacher, doctor, police officer, or family member. The Act additionally designates the police as guardians of minors while they conduct investigations. A case of child sexual abuse must be resolved within a year of the offense being reported, according to the Act. The 2016 introduction of the Protection

of Children from Sexual Offences (POCSO) e-Box, an online complaint box for reporting child sexual abuse, took place. This is an initiative by the National Commission for Protection of Child Rights (NCPCR) to assist children in reporting crimes of this nature to the Commission directly.

Under the POCSO Act of 2012, the online complaint management system facilitates simple reporting and prompt action against violators. E-Box is really easy to use and will contribute to keeping the complaint private.

The primary legislations addressing child sexual abuse are the Protection of Children from Sexual Offences (POCSO) Act 2012 and its Rules, together with the criminal law of India. Article 15 of the Indian Constitution, in conjunction with Article 39, pertains to India's ratification of the United Nations Convention on the Rights of the Child. The 'Child Rights of Children' and data from the National Crime Records Bureau, supported by the 'Study on Child Abuse: India 2007' by the Ministry of Women and Child Development, highlighted the necessity to effectively address sexual offenses against children, resulting in the enactment of the POCSO Act. The POCSO Act was enacted on 14th November 2012 to effectively combat child sexual abuse and exploitation, ensuring the protection of children's interests at all stages through the implementation of child-friendly procedures for reporting, medical examination and treatment, investigation, evidence recording, rehabilitation, and expedited trial of offenses. The Act's principal aim is to safeguard children from diverse sexual offences. To achieve this, it mandates the establishment of Special Courts for the adjudication of such offences, prioritizing the child's best interests throughout the judicial process.

The Act is gender neutral, hence, children of all genders whether male, female or transgender are afforded protection under the Act. Married children are also covered under the ambit of the Act. The Act is gender neutral with respect to the gender of the accused as well.

In 2018, the Union Cabinet has approved certain amendments in the POCSO Act, 2012. One of the main *amendments is that, now the death penalty will henceforth apply to both boys and girls who have been sexually assaulted under the age of 12, however, initially it was just for girls. Other key amendments have been discussed as follows:

- The amendment will include the death sentence for serious penetrative sexual assault against children under 18, regardless of gender.
- The concept of sexual assault in POCSO has been expanded to include providing hormones to youngsters to accelerate sexual maturation for commercial exploitation.
- The existing definition includes 20 categories of penetrative sexual crimes against minors, and the Cabinet has approved the addition of sexual assault of children who are victims of natural disasters, bringing the total to 21.
- The Ministry of Women and Child Development has added a new category for rapes during natural disasters, citing reports of rapes of young girls in the aftermath of the Kedarnath floods. Children make up 50-60% of disaster victims. The 21 categories of perpetrators for aggravated penetrative sexual assault include police officers, members of the armed forces, public servants, relatives, staff of jails, remand homes, protection homes, hospitals, educational institutions, and religious institutions.
- The modifications to the POCSO Act increase the minimum sentence for serious penetrative sexual assault from 10 to 20 years, with the option of life imprisonment or the death penalty (Section 6).
- Stricter punishments have been implemented for minors who utilize and store pornographic content.
- It also includes gangrape of a child or the use of dangerous weapons during penetrative sexual assault, as well as a sexual attack that renders the kid physically or mentally incapacitated, causes a girl child to become pregnant, infects the child with HIV, or causes the child to contract any life-threatening disease.
- The death penalty, which is the worst penalty available, will also be applied to sexual assault victims who are minors with physical or mental impairments, serial offenders, rape with intent to kill, and rape during acts of community violence. Further, it has been seen that, the alterations could safeguard the welfare of susceptible kids throughout difficult circumstances and guarantee their security and respectability. Because the operate has strong punitive measures, the modification is expected to operate as a deterrent and discourage the trend of child sexual abuse. Less than 3% of POCSO cases result in convictions, according to data, and experts caution against the death penalty's potential to discourage people from reporting crimes. To address child sexual abuse, systemic improvements in law enforcement and prosecution are necessary.

It has also been While there are enough laws and constitutional amendments to protect child rights, is it skewed more towards protecting the girl child only, however, minor boys are equally susceptible to abuse, and hence need equal protection of the law. Notably, of all crimes, rape provokes the strongest public feeling, inciting outrage that surpasses even that directed towards murder, which is often considered the most heinous offense. If the crime is committed against a child, nothing is more severe. In India, child rights are distinctive compared to other countries due to the unique treatment of children and societal perceptions. Consent is unequivocally irrelevant regarding the child's age; offenses frequently arise even in the absence of a complaint, merely based on the insistence of an irate parent or an overly zealous law enforcement officer.

Public perception significantly influences society, and the highly subjective media often sensationalizes offenses and their gruesome details, which are relentlessly replayed in public memory, exacerbating their severity by constant mention and

recollection. This fury undermines the impartiality essential for addressing the situation. The Kathua crime, accompanied by a prompt ordinance on child rape and corresponding legislation, serves as a pertinent example.

The realization of retribution, an essential consequence of legal punishment, is central to populist endorsement of the death penalty. The national demand for capital punishment for rapists was first sparked by the December 2012 gang rape in Delhi. This was succeeded by the establishment of the Justice Verma committee, which was formed to propose legal amendments aimed at mitigating sexual assault offenses. The committee's report stated that the implementation of the death penalty for rape "may not have a deterrent effect" and recommended a life sentence instead.

In instances of "gang rape," every party, irrespective of gender, shall face stringent imprisonment for a minimum of twenty years, potentially extending to life, and shall be required to provide reasonable compensation to the victim to cover medical expenses and rehabilitation. Irrespective of their gender The clause was amended to incorporate female perpetrators who are complicit in rape through their assistance, collusion, or abetment of the crime.

The government disregarded the committee's highly progressive recommendations, which included lowering the age of consent, addressing marital rape, and amending the Armed Forces (Special Powers) Act to eliminate the need for sanction in prosecuting armed personnel accused of crimes against women, while formulating the Criminal Law (Amendment) Ordinance, 2013. This was anticipated, as the executive action, although democratic in principle, frequently embodies a populist ethos. Transition to Kathua, five years later in 2018, when, subsequent to the abduction, rape, and murder of an eight-year-old girl near this town in Jammu and Kashmir in January, the opposition and the media instigated another national outcry for capital punishment—this time directed at the perpetrators of the crime against the girl—condemning the state and the legal system for their inability to safeguard the girl child.

The Union Ministry of Women and Child Development, shortly after the decree was enacted, prepared to present to the cabinet a proposal for identical penalties for individuals convicted of sexually abusing young males of the same age. Although POCSO was gender-neutral, the revised Section 376 specifies "woman," indicating that perpetrators of rape on boys under 12 years old would not face the death penalty. It has generated a discrepancy in which identical crimes perpetrated against a girl and a boy are addressed differently, contradicting the essence of a gender-neutral POCSO.

A proposal to alter Sections 4, 5, and 6 of the POCSO Act, rendering rape against any child under 12 punishable by death, was created and disseminated to all relevant ministries prior to approaching the cabinet. Currently, Sections 4, 5, and 6 address severe penetrative sexual assault on minors under 18 years, punished by a maximum of 10 years' imprisonment, extendable to life imprisonment, under the POCSO Act. The decree issued on April 22 received parliamentary approval and was enacted into law. Until an update to the POCSO Act is enacted to address the gender gap, this anomaly will regrettably continue to exist.

The sexual exploitation of juveniles at Apna Ghar, a children's residence in Rohtak, Haryana, exemplifies a situation in which numerous minor boys were victimized by the perpetrator managing the facility. The trauma experienced by minor males cannot be deemed inferior to that endured by girls under similar circumstances. Disparate treatment lacks legal justification. It is relevant to mention the story of a 13-year-old kid from Mumbai who ingested rat poison to end his life in 2017, having reported been 'raped' many times by four guys who had threatened to murder his entire family, before ultimately succumbing to multiple organ failure. His 10-year-old companion had died earlier, purportedly from 'dehydration,' and his parents declined an autopsy, opting instead for a rapid burial. The body was excavated; however, authorities believed that obtaining proof of any sexual assault would be challenging due to significant decomposition. The sexual assault of underage boys is a reality shrouded in secrecy due to the stigma associated with the crime. Victims' relatives are hesitant to commence investigations.

The disparate application of the law is prompted by a hastily composed ordinance containing an error that must be rectified promptly. The bias in perception has been exacerbated by segments of an indifferent media and an aggressive opposition intent on compelling the current government to acknowledge mistakes publicly. In the absence of dedicated support for the male child, akin to that provided for the female child in India, it is incumbent upon the government to rectify the legal framework. Alternatively, an individual petitions the Supreme Court to assess the validity of the amendment in dispute.

Recently, the Mumbai Police Booked a 40-year-old woman who sexually assaulting her husband's minor relative. The Mumbai police have charged a 40-year-old lady with sexually assaulting her husband's minor relative. This case is remarkable in that the accused woman previously claimed to be the victim. According to TOI, last month, the woman filed a criminal complaint against this youngster, alleging that he sexually attacked her in their home. At this moment, the woman indicated that the boy was twenty years old. The boy was soon caught and charged with rape. However, throughout the inquiry, it was discovered that the child was just 16 years old, therefore the case took a new turn. The juvenile was sent to the children's remand home. The boy's mother later flew to Mumbai from Uttar Pradesh and filed a criminal case against the woman, accusing her of sexually assaulting her little son. The Tardeo police have filed a case against the woman under several provisions of the POCSO Act.

Further, according to the Criminal Law (Amendment) Ordinance 2018, new fast-track courts will be set up to deal with such cases and special forensic kits for rape cases will be given to all police stations and hospitals in the long term. POCSO gender-neutrality must also cover transgender children. The Protection of Children from Sexual Offences Act (POCSO

Act) 2012 was established to safeguard children against sexual abuse, sexual harassment, and pornography, while ensuring a child-friendly judicial process for the prosecution of these crimes. The statute has been effective since June 19, 2012, although the conviction rates have significantly lagged behind the prevalence of crimes, both before and after the law's implementation. The law was enacted in 2012, with an amendment occurring in 2018. It is anticipated that the remaining minor modifications can be addressed collectively, ensuring that both the penalties and the execution of such rigorous rules receive the necessary focus from all legislators and law enforcement officials.

Working toward gender-neutral laws, the Union Government is said to have proposed a modification to the POCSO Act that will also guarantee justice for survivors of child sexual assault. Maneka Gandhi, the Women and Child Development Minister, recently sponsored a Change.org petition by filmmaker-activist Insia Dariwala, which underlined that male child sexual assault is (and continues to be) a neglected reality in India. The Centre is now planning to alter the POCSO Act to bring justice to male child sexual assault victims, following President Ram Nath Kovind's decree that provides the death sentence for rape of females under the age of 12.

Responding to the petition, the Minister of Women and Child Development stated that a first-of-its-kind study on male survivors of child sexual assault would be done soon. "Male survivors of child sexual assault are an underserved demographic. Child sexual abuse is gender-neutral. Boys who are sexually molested as children endure a lifetime of quiet due to the stigma and humiliation associated with male survivors speaking out. She further said that it is a serious problem that must be addressed.

Likewise, the gender-neutral approach of the act aims to create an environment in which victims regardless of gender feel validated and inspired to come forward and report abuses. When boys are recognized as victims as well, it may inspire increased reporting because the stigma associated with male suffering in society is removed. This minor revision of terms challenges long-standing gender preconceptions. By providing them with a voice, it addresses misconceptions about "stoic masculinity" that deter male victims from getting assistance. Similarly, by revealing female perpetrators, it refutes ideas of "inherent feminine innocence."

Condemnation Across the Board: Because the POCSO Act is gender-neutral, it makes it very evident that child sexual abuse is disgusting in all contexts, regardless of the gender dynamics involved. This contributes to changing attitudes and raising public awareness. Gender neutrality in the POCSO Act is essentially a powerful tool to combat societal stigmas. The POCSO Act recognizes that sexual assault is a gender-neutral crime that can affect. Historically, women have been the focus of most discussions on sexual abuse. By providing them with equal access to the legal system, the law's inclusivity dispels the myth that men cannot be victims. By ensuring equal protection for all children and holding perpetrators accountable, the act not only provides a strong legal background but also paves the way for a shift in public attitudes around child sexual abuse.

Accordingly, the definition of sexual offenses has been further widened by the POCSO Act to encompass behaviours such as non-penetrative and aggravated penetrative sexual assault. However, when it comes to report the sexual molestation of any child other than a female child, the vocabulary of everyone becomes somewhat restricted to a police station. Police team also find it difficult to accept the fact that males are victim of coercive sexual offenses. The difficulty is that people are hesitant to tag sexual offenses that include men as the victims of crime. In order to emphasize the male sexual abuse an initiation has been taken at international level by way of a campaign identified as "Blue Umbrella Day". This day is celebrated annually on April 16th. This campaign, orchestrated by Family For Every Child (FFEC), UK, a global coalition of 41 local civil society organizations from 37 nations, seeks to illuminate the pervasive issue of sexual abuse against boys, which remains largely unrecognized, unacknowledged, and inadequately addressed across diverse contexts and cultures. The sensitization campaign, titled Blue Umbrella Day, is organized to acknowledge it as an international day aimed at encouraging adults to assume a greater responsibility in safeguarding boys from such harm.

According to the reports of this campaign and breaking the Silence on Sexual Violence Against Boys, that was part of the Blue Umbrella Campaign, and was done over the course of six months in 2017 in India, Nepal, the Philippines, and Cambodia. It was observed that, across the four countries, 122 boys and youngsters between 12 and 25 who have experienced sexual abuse or have been actors (or perpetrators) in harmful sexual behaviour were interviewed, along with 87 parents or caregivers. A further 215 boys and girls and 35 parents and caregivers from the general population, selected through a simple random sampling, were involved in focus group discussions following ethical participating techniques and protocols like for example, the gender of the interviewer had to be male.

The qualitative findings of this cross-country study reinforced age-old stereotypes that patriarchy generates, including cultural representations of the dominant male, questions on what constitutes virility, repressed emotions, ambiguities around sex and sexuality, and entitlement to use aggression. Another interesting discovery was that in the sample study, that in India some boys were abused by women, but this was not found in other participating countries.

All such reports concludes that boys themselves do not realize that they can be sexually molested and could provide cases of sexual abuse, but the emphasis is always laid on the mistreatment of girls. The survey also stated that men learn "how to be male" mostly through friends, television, films, and social media, rather than direct training from family members, caretakers, and teachers.

1.4 POCSO Act and The New Criminal Law

The Hon'ble Delhi High Court in a case observed that this POCSO Act is a gender-neutral legislation concurrently rejecting the assertion that the law is being "misused" being a "gender biased" statute. Moreover, Justice Swarana Kanta Sharma, rightly said that, every law has the potency that it can be exploited with or without being gender-biased, but this fact of being exploited does not mean that the government or the judiciary should stop making or enforcing laws. Further, Justice Swarana Kanta Sharma also took exception to the submission made by an accused under the Protection of Children from Sexual Offences (POCSO) Act while seeking to cross-examine the victim again before the trial court, and termed it "insensitive", "inappropriate" and "misleading". Furthermore, the court also declared that, the POCSO Act is mildly, gender-neutral and does not discriminate against victim children. It was also observed that, it is incorrect and deceptive on the part of the skilled counsel representing the petitioner to claim both in papers and in oral arguments that the POCSO Act is being exploited being a gender-biased law. In this case, the victim, who was seven years old at the time of crime in 2016 and her mother was not allowed to undergo re-cross examination by the court in front of the trial court. The court stated that it was its job to continue being considerate of the condition of the girl and the court concluded that after six years from the end of their evidence the victim and her mother, could not be brought back to relive the entire agony.

The POCSO Act served as the model for the New Criminal Law, which has likewise developed numerous definitions and statutes that are gender neutral.

The act acts as a beacon of hope, illuminating the path forward for other nations in crafting laws that are comprehensive and cognizant of the complex nature of abuse.

Bharatiya Nyaya Sanhita creates gender-neutral sexual offenses and adds new provisions for crimes against women and children. On July 1, the Bharatiya Nyaya Sanhita, Bharatiya Sakshya Adhiniyam (BSA), and Bharatiya Nagarik Suraksha Sanhita (BNSS) went into force. The Evidence Act, the Code of Criminal Procedure (CrPC), and the IPC are all replaced by these. In official documents, it is stated that sexual offences are now "gender neutral" for both the victim and the offender, replacing the Indian Penal Code of the British era.

It stated that "importation of girl or boy from a foreign country" has replaced the wording "importation of girl from a foreign country" in Section 366B of the IPC, making the section gender neutral. Clause 141 of the BNS has been added to address the offense of bringing into India any lady under the age of twenty-one or any boy under the age of eighteen with the intention of forcing or luring them into engaging in unlawful sexual actions with another individual.

On July 1, the BNS, Bharatiya Sakshya Adhiniyam (BSA), and Bharatiya Nagarik Suraksha Sanhita (BNSS) went into force. The Evidence Act, the Code of Criminal Procedure (CrPC), and the Indian Penal Code are supplanted by them in that order. As to the documents, the BNS addresses sexual offences under a new chapter called 'Offences Against Women and Children'. 'Offences Affecting the Human Body' was a chapter that included similar offences under the IPC. Furthermore, the BNS modified the clauses pertaining to the rape of females younger than eighteen. According to the documents, it rennumbers current rape provisions and harmonizes how the Protection of Children from Sexual Offences Act (POCSO) handles gang rape of minor women. The explanation states that the penalties for rape of kids of various ages are essentially the same under the IPC, POCSO, and BNS. Further, while Clause 64(2) punishes serious kinds of rape with 10 years to life imprisonment for the remainder of a person's natural life, Clause 64(1) punishes rape accused with 10 years to life imprisonment. Furthermore, gang rape of a woman under the age of eighteen is now considered a "new offence" according to Clause 70(2) of the BNS. This section of the BNS eliminates the age-based qualifications for classifying gang rape of a minor lady as an aggravated offence and combines sections 376DA and 376DB of the IPC. This new offense suggests that all minor women who are raped by gangs face the possibility of execution or life in prison. According to section 376DB of the IPC, this punishment option is currently only available for gang rape of women under the age of twelve. Sexual relations between a man and his own wife, provided that the wife is not under the age of 15, is not considered rape, according to exception 2 to section 375 IPC.

This new offense suggests that all minor women who are raped by gangs face the possibility of execution or life in prison. According to section 376DB of the IPC, this punishment option is currently only available for gang rape of women under the age of twelve. "Sexual relations between a man and his own wife, provided that the wife is not under the age of 15, is not considered rape, according to exception 2 to section 375 IPC. Explanation to Clause 95 says that utilizing a kid for pornography or sexual exploitation is under its purview. Furthermore, section 361 of the IPC is proposed to be modified under Clause 137 of the BNS. This provision of the IPC made kidnapping girls under the age of eighteen and abduction boys under the age of sixteen illegal. According to the official explanation, clause 135 of BNS intends to make kidnapping of any child under the age of eighteen an offense.

1.5 Conclusion

The POCSO Act is a statute that does not discriminate based on gender. Its founding in India in 2012 marked a significant advancement in the protection of children's rights from sexual assault. Its gender-neutrality makes it a powerful emblem of modernity in the field of abuse-related legal structures. The POCSO Act is predicated on the knowledge that abuse vulnerability affects people of all genders. The historical overemphasis placed in many nations on protecting females from abuse has led to the misconception that males are immune from or less prone to such crimes.

By contending that both boys and girls can experience the repercussions of terrible acts and should be granted the same legal safeguards, POCSO's gender-neutrality directly confronts this false notion.

Furthermore, the act guarantees that those who commit sexual offenses against minors will be held accountable regardless of their gender by extending its gender-neutral approach to perpetrators as well. This is crucial in dispelling myths regarding the purportedly gendered character of abuse, such as the false belief that women are always the victims and men are always the abusers.

Moreover, the gender-neutrality of the POCSO Act conveys a powerful societal message. It acts as a catalyst for challenging deeply rooted cultural prejudices and presumptions around gender, masculinity, and victimization. By rejecting traditional gender binary thinking, the act promotes a more compassionate and inclusive understanding of abuse and suffering.

Last but not least, the POCSO Act's gender neutrality is more than simply a formality; it's a powerful statement about the universality of children's rights and the inclusivity of protection. It highlights how important it is for every child to have the right to safety, fairness, and dignity, regardless of gender.

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