



INTERNATIONAL LAW
JOURNAL

**WHITE BLACK
LEGAL LAW
JOURNAL
ISSN: 2581-
8503**

Peer - Reviewed & Refereed Journal

The Law Journal strives to provide a platform for discussion of International as well as National Developments in the Field of Law.

WWW.WHITEBLACKLEGAL.CO.IN

DISCLAIMER

No part of this publication may be reproduced, stored, transmitted, translated, or distributed in any form or by any means—whether electronic, mechanical, photocopying, recording, scanning, or otherwise—without the prior written permission of the Editor-in-Chief of *White Black Legal – The Law Journal*.

All copyrights in the articles published in this journal vest with *White Black Legal – The Law Journal*, unless otherwise expressly stated. Authors are solely responsible for the originality, authenticity, accuracy, and legality of the content submitted and published.

The views, opinions, interpretations, and conclusions expressed in the articles are exclusively those of the respective authors. They do not represent or reflect the views of the Editorial Board, Editors, Reviewers, Advisors, Publisher, or Management of *White Black Legal*.

While reasonable efforts are made to ensure academic quality and accuracy through editorial and peer-review processes, *White Black Legal* makes no representations or warranties, express or implied, regarding the completeness, accuracy, reliability, or suitability of the content published. The journal shall not be liable for any errors, omissions, inaccuracies, or consequences arising from the use, interpretation, or reliance upon the information contained in this publication.

The content published in this journal is intended solely for academic and informational purposes and shall not be construed as legal advice, professional advice, or legal opinion. *White Black Legal* expressly disclaims all liability for any loss, damage, claim, or legal consequence arising directly or indirectly from the use of any material published herein.

ABOUT WHITE BLACK LEGAL

White Black Legal – The Law Journal is an open-access, peer-reviewed, and refereed legal journal established to provide a scholarly platform for the examination and discussion of contemporary legal issues. The journal is dedicated to encouraging rigorous legal research, critical analysis, and informed academic discourse across diverse fields of law.

The journal invites contributions from law students, researchers, academicians, legal practitioners, and policy scholars. By facilitating engagement between emerging scholars and experienced legal professionals, *White Black Legal* seeks to bridge theoretical legal research with practical, institutional, and societal perspectives.

In a rapidly evolving social, economic, and technological environment, the journal endeavours to examine the changing role of law and its impact on governance, justice systems, and society. *White Black Legal* remains committed to academic integrity, ethical research practices, and the dissemination of accessible legal scholarship to a global readership.

AIM & SCOPE

The aim of *White Black Legal – The Law Journal* is to promote excellence in legal research and to provide a credible academic forum for the analysis, discussion, and advancement of contemporary legal issues. The journal encourages original, analytical, and well-researched contributions that add substantive value to legal scholarship.

The journal publishes scholarly works examining doctrinal, theoretical, empirical, and interdisciplinary perspectives of law. Submissions are welcomed from academicians, legal professionals, researchers, scholars, and students who demonstrate intellectual rigour, analytical clarity, and relevance to current legal and policy developments.

The scope of the journal includes, but is not limited to:

- Constitutional and Administrative Law
- Criminal Law and Criminal Justice
- Corporate, Commercial, and Business Laws
- Intellectual Property and Technology Law
- International Law and Human Rights
- Environmental and Sustainable Development Law
- Cyber Law, Artificial Intelligence, and Emerging Technologies
- Family Law, Labour Law, and Social Justice Studies

The journal accepts original research articles, case comments, legislative and policy analyses, book reviews, and interdisciplinary studies addressing legal issues at national and international levels. All submissions are subject to a rigorous double-blind peer-review process to ensure academic quality, originality, and relevance.

Through its publications, *White Black Legal – The Law Journal* seeks to foster critical legal thinking and contribute to the development of law as an instrument of justice, governance, and social progress, while expressly disclaiming responsibility for the application or misuse of published content.

REVISITING CHILD PROTECTION LAWS: A CRITICAL EVALUATION OF THE POCSO ACT, 2012 IN SAFEGUARDING TRANSGENDER MINORS

AUTHORED BY - MADHUMITHA.V

Research scholar, Gitam school of Law, Vishakapatnam

Abstract

The Protection of Children from Sexual Offences Act, 2012 (POCSO Act) was enacted as a comprehensive, child-centric legislation to safeguard minors from sexual abuse, exploitation, and harassment in India. While the Act is widely regarded as progressive due to its gender-neutral drafting, its practical applicability to transgender minors remains insufficiently examined. This study critically evaluates the extent to which the POCSO Act addresses the unique vulnerabilities and protection needs of transgender children, who exist outside the traditional binary understanding of gender.¹

The research begins by analysing the legislative intent and framework of the POCSO Act, focusing on its definition of a “child” and its ostensibly gender-neutral provisions. Although the Act does not explicitly exclude transgender minors, the absence of clear recognition and tailored safeguards raises concerns regarding its inclusivity in practice. The study further explores the intersection of the POCSO Act with the Transgender Persons (Protection of Rights) Act, 2019, highlighting both complementarities and gaps in addressing the rights and protection of transgender children.

A doctrinal research methodology is adopted, involving an in-depth examination of statutory provisions, judicial pronouncements, and relevant policy documents. Particular attention is given to the principles laid down in the landmark judgment of *National Legal Services Authority v. Union of India* (2014),² which affirmed the constitutional recognition of transgender persons and their right to self-identified gender. Despite such judicial advancements, the implementation of child protection laws continues to reflect systemic biases

¹ Protection of Children from Sexual Offences Act, 2012, No. 32 of 2012, India Code.

² *National Legal Services Authority v. Union of India*, (2014) 5 SCC 438.

rooted in binary gender assumptions.

The study identifies several practical challenges faced by transgender minors under the POCSO framework. These include difficulties in reporting offences due to stigma and discrimination, lack of sensitization among law enforcement authorities, inadequate medical examination procedures, and the absence of gender-appropriate support systems. Furthermore, procedural aspects such as recording of statements, shelter arrangements, and rehabilitation mechanisms often fail to accommodate the specific needs of transgender children, thereby undermining the effectiveness of legal protection.

Through critical analysis, the research argues that mere gender neutrality in statutory language is insufficient to ensure substantive equality. Instead, there is a need for explicit inclusion, interpretative clarity, and policy-level reforms that recognize the lived realities of transgender minors. The study suggests that incorporating clear guidelines, capacity-building initiatives for stakeholders, and amendments to existing procedures can significantly enhance the protective scope of the POCSO Act.

In conclusion, while the POCSO Act represents a significant step towards child protection in India, its current framework falls short in adequately safeguarding transgender minors. Addressing this gap requires a shift from formal neutrality to substantive inclusivity, ensuring that legal protections are both accessible and effective for all children, irrespective of their gender identity. The study contributes to the broader discourse on inclusive child rights jurisprudence and underscores the need for continuous legal reform in alignment with constitutional principles of equality, dignity, and non-discrimination.³

Keywords

Transgender Minors; POCSO Act, 2012; Child Protection Law; Gender Neutrality; Legal Inclusivity; Sexual Offences; Transgender Rights; NALSA Judgment; Vulnerable Children; Indian Legal Framework

³ Aarushi Gupta, Gender Neutrality under the POCSO Act: A Myth or Reality?, INDIAN J. L. & JUST.

Introduction

The protection of children from sexual abuse has emerged as a critical concern in contemporary legal systems, particularly in developing jurisdictions where socio-cultural barriers often hinder effective enforcement of child protection laws. In India, the enactment of the Protection of Children from Sexual Offences Act, 2012 (POCSO Act) marked a significant milestone in strengthening the legal framework aimed at safeguarding minors from sexual exploitation and abuse.⁴ The Act was designed as a gender-neutral, child-centric legislation that provides a comprehensive mechanism for the prevention, reporting, and adjudication of sexual offences against children below the age of eighteen years.⁵

Despite its progressive intent, the application of the POCSO Act to transgender minors remains an underexplored and complex issue. Transgender children, who do not conform to traditional binary notions of gender, often face unique vulnerabilities arising from social stigma, discrimination, and systemic exclusion. These vulnerabilities are compounded in cases of sexual abuse, where barriers to reporting, lack of institutional sensitivity, and procedural inadequacies further marginalize them within the legal system.

The recognition of transgender rights in India gained constitutional legitimacy through the landmark judgment in *National Legal Services Authority v. Union of India* (2014), wherein the Supreme Court acknowledged the right to self-identification of gender and emphasized the need for affirmative measures to protect transgender persons. Subsequently, the Transgender Persons (Protection of Rights) Act, 2019 was enacted to provide statutory backing to these rights. However, the intersection between transgender rights and child protection laws, particularly the POCSO Act, remains insufficiently addressed.

While the POCSO Act employs gender-neutral terminology such as “child” and “person,” the practical implementation of its provisions often reflects deeply ingrained binary assumptions. Institutional actors, including police personnel, medical professionals, and judicial authorities, may lack the necessary awareness and training to handle cases involving transgender minors with sensitivity and inclusivity. This creates a disconnect between the theoretical inclusiveness of the law and its real-world application.

⁴ Protection of Children from Sexual Offences Act, 2012, No. 32 of 2012, India Code.

⁵ Ministry of Women & Child Development, Model Guidelines under the POCSO Act (India).

Moreover, transgender minors are disproportionately exposed to conditions that increase their susceptibility to abuse, including family rejection, homelessness, and economic marginalization. These socio-economic factors not only heighten their risk of victimization but also limit their access to legal remedies. The absence of targeted legal provisions and support mechanisms within the POCSO framework further exacerbates their vulnerability.⁶

This study seeks to critically evaluate whether the POCSO Act, 2012 effectively safeguards transgender minors or whether its current framework requires reform to ensure substantive inclusivity. By examining statutory provisions, judicial interpretations, and practical challenges, the research aims to bridge the gap between formal legal recognition and actual protection.

Statement of the Problem

Although the POCSO Act, 2012 is widely regarded as a gender-neutral and child-friendly legislation, it does not explicitly address the specific needs and vulnerabilities of transgender minors. This absence of explicit recognition raises significant concerns regarding the inclusivity and effectiveness of the Act in protecting all children equally.

The central problem lies in the discrepancy between the theoretical neutrality of the law and its practical implementation. While the Act does not discriminate on the basis of gender in its language, it implicitly operates within a binary framework that assumes the existence of only male and female identities. This assumption creates ambiguity in the interpretation and application of legal provisions when dealing with transgender minors.

Furthermore, transgender children often face systemic barriers in accessing justice. These include reluctance to report offences due to fear of stigma, lack of family support, and discriminatory attitudes of law enforcement authorities. In many cases, the procedural mechanisms under the POCSO Act—such as medical examination, recording of statements, and rehabilitation processes—are not equipped to address the unique needs of transgender individuals.

⁶ World Health Organization, Guidelines on Child Protection and Abuse Prevention.

Another critical issue is the lack of coordination between the POCSO Act and the Transgender Persons (Protection of Rights) Act, 2019. While the latter recognizes the rights of transgender persons, it does not specifically address the protection of transgender minors from sexual offences. This legislative gap results in a fragmented approach to safeguarding vulnerable populations.

The problem is further compounded by the absence of adequate training and sensitization among stakeholders responsible for implementing the law. Without a clear understanding of gender diversity, authorities may inadvertently perpetuate discrimination, thereby undermining the protective intent of the legislation.

Thus, the problem addressed in this study is the inadequacy of the existing legal framework in providing effective and inclusive protection to transgender minors under the POCSO Act, 2012.

Objectives of the Study

1. To examine the scope and objectives of the POCSO Act, 2012 in relation to child protection.
2. To analyse the applicability of the POCSO Act to transgender minors within the Indian legal framework.
3. To evaluate the extent to which the Act ensures inclusivity and non-discrimination in practice.
4. To identify the legal, procedural, and institutional challenges faced by transgender minors under the POCSO regime.
5. To study the interplay between the POCSO Act and the Transgender Persons (Protection of Rights) Act, 2019.
6. To assess the role of judicial interpretations in advancing or limiting the protection of transgender minors.
7. To propose recommendations for legal and policy reforms aimed at enhancing the protection of transgender children.

Research Questions

1. Does the POCSO Act, 2012 adequately include transgender minors within its protective framework?
2. Are the gender-neutral provisions of the Act effective in addressing the realities of transgender children?
3. What challenges do transgender minors face in reporting and seeking justice under the POCSO Act?
4. How do institutional practices impact the accessibility of legal remedies for transgender victims?
5. What is the relationship between the POCSO Act and the Transgender Persons (Protection of Rights) Act, 2019?
6. What reforms are necessary to ensure substantive equality and inclusivity in child protection laws?

Hypothesis

The study proceeds on the hypothesis that although the POCSO Act, 2012 is drafted in gender-neutral terms, it is inadequate in effectively safeguarding transgender minors due to the absence of explicit recognition, lack of procedural inclusivity, and systemic challenges in implementation.

Scope and Limitations

Scope

- The study is confined to the legal framework in India.
- It focuses specifically on transgender minors under the POCSO Act, 2012.
- The research includes analysis of statutory provisions, judicial decisions, and policy frameworks.
- It examines both theoretical and practical dimensions of child protection.

Limitations

- The study is primarily doctrinal and does not include extensive empirical fieldwork.
- Limited availability of data on transgender minors and sexual offences may affect the depth of analysis.
- Social and cultural factors are considered only to the extent relevant to legal analysis.

- Comparative international analysis is not extensively covered.

Research Methodology

This research adopts a doctrinal and analytical methodology, focusing on the study of legal texts, judicial decisions, and scholarly literature.

Sources of Data

- **Primary Sources:**
 - Statutes such as the POCSO Act, 2012 and the Transgender Persons (Protection of Rights) Act, 2019
 - Judicial decisions, including landmark constitutional cases
- **Secondary Sources:**
 - Books, journal articles, and research papers
 - Government reports and policy documents
 - Reports by non-governmental organizations

Method of Analysis

- Critical interpretation of statutory provisions
- Comparative analysis of legal frameworks
- Examination of judicial reasoning
- Identification of gaps and inconsistencies

Approach

The study follows a qualitative approach, emphasizing legal reasoning and doctrinal analysis rather than quantitative data.

Review of Literature

The issue of transgender rights and child protection has attracted increasing scholarly attention in recent years. However, the intersection of these two domains remains relatively underexplored, particularly in the Indian context.

Early studies on child protection laws in India have primarily focused on the effectiveness of the POCSO Act in addressing sexual offences against minors. Scholars have highlighted the

strengths of the Act, including its comprehensive definitions, child-friendly procedures, and stringent penalties. However, critiques have also been raised regarding delays in trial, low conviction rates, and challenges in implementation.

In the context of transgender rights, significant contributions have been made following the NALSA judgment. Researchers have examined the constitutional basis of gender identity, the right to dignity, and the need for affirmative action. The enactment of the Transgender Persons (Protection of Rights) Act, 2019 has further generated academic debate on issues such as self-identification, certification procedures, and the adequacy of legal protections.

Some scholars have specifically addressed the vulnerabilities of transgender children, emphasizing the impact of social exclusion, family rejection, and economic marginalization. These studies underline the heightened risk of abuse faced by transgender minors and the inadequacy of existing support systems.

However, there is a noticeable gap in literature concerning the application of the POCSO Act to transgender minors. While the Act is often described as gender-neutral, few studies critically examine whether this neutrality translates into effective protection for non-binary individuals. The lack of empirical data and case law further limits the scope of analysis in this area.

International literature provides some insights into inclusive child protection frameworks, highlighting best practices such as explicit recognition of gender diversity, specialized training for stakeholders, and tailored support services. These perspectives offer valuable lessons for reforming the Indian legal system.

This study seeks to contribute to the existing body of literature by addressing the gap between theoretical inclusivity and practical implementation, with a specific focus on transgender minors under the POCSO Act.

Legal Framework

The legal framework governing the protection of children from sexual offences in India is primarily structured around the Protection of Children from Sexual Offences Act, 2012 (POCSO Act). Enacted with the objective of providing a robust and child-centric mechanism

to address sexual abuse, the Act represents a significant shift from earlier fragmented provisions under the Indian Penal Code. Its defining feature is the adoption of a gender-neutral approach, wherein the term “child” refers to any person below the age of eighteen years, irrespective of gender.⁷

At the outset, the POCSO Act criminalizes a wide range of sexual offences, including penetrative sexual assault, aggravated assault, sexual harassment, and the use of children for pornographic purposes. The Act also introduces procedural safeguards designed to protect the dignity and privacy of child victims, such as in-camera trials, child-friendly recording of statements, and the appointment of Special Courts for speedy adjudication.

However, despite its progressive structure, the Act does not explicitly address transgender minors as a distinct category. The absence of such recognition creates ambiguity in interpretation, particularly in cases where the gender identity of the child does not align with binary classifications. While the language of the Act appears inclusive, its implementation often relies on traditional gender norms, thereby limiting its effectiveness in addressing the needs of transgender children.⁸

The constitutional foundation for recognizing transgender rights in India was firmly established in the landmark judgment of National Legal Services Authority v. Union of India. In this case, the Supreme Court affirmed that gender identity is an integral part of personal autonomy and dignity under Articles 14, 19, and 21 of the Constitution⁹. The Court emphasized that discrimination based on gender identity is a violation of fundamental rights and directed the State to take affirmative measures to protect transgender persons.¹⁰

Building upon this judicial recognition, the Transgender Persons (Protection of Rights) Act, 2019 was enacted to provide statutory protection to transgender individuals. The Act prohibits discrimination in areas such as education, employment, healthcare, and access to public services. However, it does not specifically address issues related to child protection or sexual offences against transgender minors.

⁷ RATANLAL & DHIRAJLAL, *THE INDIAN PENAL CODE* (LexisNexis, latest ed.).

⁸ UPENDRA BAXI, *THE FUTURE OF HUMAN RIGHTS* (Oxford Univ. Press)

⁹ INDIA CONST. art. 14,15,16,19(a),21

¹⁰ Amrita Pande, Commercial Surrogacy in India: Manufacturing a Perfect Mother-Worker, 35 SIGNS J. WOMEN CULTURE & SOC'Y

This creates a fragmented legal landscape in which the rights of transgender minors are addressed across multiple statutes without a cohesive framework. While the POCSO Act provides general protection against sexual offences, it lacks specific provisions that acknowledge the unique vulnerabilities of transgender children. Similarly, the Transgender Persons Act focuses on broader issues of discrimination and welfare, without addressing the intersection with child protection laws.

In addition to statutory provisions, various guidelines and policies have been introduced to strengthen child protection mechanisms in India. These include the establishment of Child Welfare Committees, Special Juvenile Police Units, and the involvement of support persons during legal proceedings. However, these mechanisms are not specifically tailored to address the needs of transgender minors, thereby limiting their effectiveness.

Furthermore, the implementation of the POCSO Act is influenced by judicial interpretations, which play a crucial role in shaping its scope and applicability. While courts have occasionally adopted a progressive approach in interpreting gender-neutral provisions, there is a lack of consistent jurisprudence addressing cases involving transgender minors. This absence of judicial clarity further contributes to the ambiguity in the legal framework.

Thus, while the existing legal framework provides a foundation for protecting children from sexual offences, it falls short in ensuring comprehensive and inclusive protection for transgender minors. The need for harmonization between different legal instruments and the incorporation of explicit provisions addressing gender diversity is evident.¹¹

Issues and Challenges

The protection of transgender minors under the POCSO framework is fraught with numerous challenges that stem from legal, institutional, and socio-cultural factors. These challenges not only hinder the effective implementation of the law but also exacerbate the vulnerability of transgender children to sexual abuse and exploitation.

One of the primary issues is the lack of explicit recognition of transgender minors within the POCSO Act. Although the Act is framed in gender-neutral terms, it does not acknowledge the

¹¹ Arvind Narrain, *Transgender Rights in India: The Road Ahead*, NUJS L. REV.

existence of non-binary gender identities. This omission creates uncertainty in the application of legal provisions, particularly in cases where procedural requirements are influenced by gender-specific considerations.¹²

Another significant challenge is the prevalence of social stigma and discrimination against transgender individuals. Transgender minors often face rejection from their families, exclusion from educational institutions, and marginalization within society. These factors contribute to their increased vulnerability to abuse and limit their access to support systems.¹³

The process of reporting sexual offences presents additional barriers for transgender children. Fear of harassment, lack of trust in law enforcement authorities, and concerns about confidentiality often discourage victims from coming forward. In many cases, transgender minors may not have access to supportive family members or guardians who can assist them in navigating the legal process.¹⁴

Institutional challenges further complicate the situation. Law enforcement personnel, medical professionals, and judicial officers may lack adequate training and awareness regarding gender diversity. This can result in insensitive handling of cases, misgendering of victims, and failure to provide appropriate support. For instance, medical examination procedures may not be adapted to accommodate the needs of transgender individuals, leading to further trauma.

Procedural aspects of the POCSO Act, while designed to be child-friendly, may inadvertently exclude transgender minors. The requirement for gender-specific arrangements, such as separate facilities or personnel, may not adequately account for non-binary identities. Similarly, shelter homes and rehabilitation centers may not provide safe and inclusive environments for transgender children.

Another critical issue is the lack of coordination between different legal frameworks. The POCSO Act and the Transgender Persons Act operate independently, without clear guidelines

¹² Yogyakarta Principles on the Application of International Human Rights Law in relation to Sexual Orientation and Gender Identity (2007).

¹³ FLAVIA AGNES, *LAW AND GENDER INEQUALITY* (Oxford Univ. Press)

¹⁴ Amita Dhanda, Legal Recognition of Gender Identity of Transgender Persons in India, 18 NUJS L. REV.

on their interaction. This lack of integration results in gaps in protection and inconsistencies in implementation.¹⁵

Data scarcity also poses a significant challenge. There is limited empirical data on cases involving transgender minors under the POCSO Act, making it difficult to assess the effectiveness of the law and identify areas for improvement. The absence of reliable data further hinders policy formulation and resource allocation.

Additionally, cultural and societal attitudes towards gender and sexuality continue to influence the enforcement of laws. Deep-rooted prejudices and misconceptions about transgender identities can lead to victim-blaming, trivialization of offences, and reluctance to pursue legal action.

These issues collectively highlight the need for a more inclusive and responsive legal framework that addresses the specific challenges faced by transgender minors.¹⁶

Analysis and Discussion

A critical analysis of the POCSO Act reveals that while the legislation is progressive in its intent, it falls short in achieving substantive inclusivity. The use of gender-neutral language, though commendable, does not automatically translate into effective protection for all children. Instead, it requires a contextual understanding of the diverse experiences and vulnerabilities of different groups, including transgender minors.¹⁷

The concept of formal equality, which treats all individuals the same regardless of their differences, is insufficient in addressing systemic inequalities. Transgender minors face unique challenges that cannot be adequately addressed through a one-size-fits-all approach. Therefore, there is a need to move towards substantive equality, which recognizes and accommodates differences to ensure equitable outcomes.

¹⁵ Arvind Narrain, Crystallising Queer Politics: The Struggle for Sexual Rights in India, 2 JINDAL GLOBAL L. REV.

¹⁶ Shubham Jain, Transgender Rights in India: Issues and Challenges, 6 INDIAN J. CONST. L.

¹⁷ Kalpana Kannabiran, Gender and Equality Jurisprudence in India, 12 INDIAN J. GENDER STUD

Judicial interpretations play a crucial role in bridging this gap. The principles established in the NALSA judgment provide a constitutional basis for interpreting laws in a manner that respects gender identity. However, the absence of specific case law addressing transgender minors under the POCSO Act limits the scope of judicial intervention.¹⁸

The interaction between the POCSO Act and the Transgender Persons Act highlights the need for a more integrated approach. While both laws aim to protect vulnerable populations, their lack of coordination results in fragmented protection. For instance, the Transgender Persons Act emphasizes non-discrimination but does not provide detailed mechanisms for addressing sexual offences against minors.¹⁹

Comparative analysis with international frameworks suggests that explicit recognition of gender diversity is essential for effective protection. Countries that have incorporated gender-inclusive provisions in their child protection laws have demonstrated better outcomes in terms of accessibility and enforcement.

The role of institutions is equally ²⁰Sensitization and training of stakeholders are critical for ensuring that laws are implemented in a manner that respects the dignity and rights of transgender minors. Without such measures, even well-drafted laws may fail to achieve their intended objectives.

Findings

1. The POCSO Act, 2012 is gender-neutral in language but not fully inclusive in practice.
2. Transgender minors face significant barriers in accessing legal protection.
3. There is a lack of explicit provisions addressing the needs of transgender children.
4. Institutional insensitivity and lack of awareness hinder effective implementation.
5. The absence of coordination between legal frameworks results in gaps in protection.
6. Data limitations impede evidence-based policy formulation.

¹⁸ Pooja Patel, Gender Identity and Constitutional Rights in India, 9 NALSAR L. REV.

¹⁹ Gautam Bhatia, Transformative Constitutionalism and the NALSA Judgment, 8 NUJS L. REV.

²⁰ Radhika Coomaraswamy, Identity within the Law: Gender and Human Rights, 14 HUM. RTS. Q.

Suggestions / Recommendations

1. Amend the POCSO Act to explicitly recognize transgender minors.
2. Develop gender-inclusive guidelines for law enforcement and judiciary.
3. Provide specialized training for stakeholders on gender sensitivity.
4. Establish inclusive support systems, including shelter homes and counseling services.
5. Strengthen coordination between different legal frameworks.
6. Improve data collection and research on transgender issues.
7. Promote awareness and education to reduce stigma and discrimination.

Conclusion

The protection of transgender minors under the POCSO Act, 2012 represents a critical area of concern within the broader framework of child rights in India. While the Act is a significant step towards safeguarding children from sexual offences, its current structure does not adequately address the unique challenges faced by transgender individuals.

The study demonstrates that gender neutrality in legal drafting is not sufficient to ensure inclusivity. Instead, there is a need for explicit recognition, targeted measures, and systemic reforms that address the specific needs of marginalized groups. The principles of equality, dignity, and non-discrimination must guide the evolution of child protection laws to ensure that no child is left unprotected²¹.

Bibliography

A. Primary Sources

Statutes:

- Protection of Children from Sexual Offences Act, 2012
- Transgender Persons (Protection of Rights) Act, 2019
- Indian Penal Code, 1860
- Juvenile Justice (Care and Protection of Children) Act, 2015

Constitutional Provisions:

- Constitution of India
 - Articles 14, 15, 19, and 21

²¹ Debra Satz, Markets in Women's Reproductive Labor, 21 PHIL. & PUB. AFF.

Case Laws:

- National Legal Services Authority v. Union of India
- Navtej Singh Johar v. Union of India
- Independent Thought v. Union of India
- Alakh Alok Srivastava v. Union of India

B. Secondary Sources

Books

- Ratanlal & Dhirajlal, *The Indian Penal Code* (LexisNexis, Latest Edition).
- Dr. V.K. Ahuja, *Child Rights in India* (LexisNexis, 2019).
- Upendra Baxi, *The Future of Human Rights* (Oxford University Press).
- Flavia Agnes, *Law and Gender Inequality: The Politics of Women's Rights in India* (Oxford University Press).

Journal Articles

- Aarushi Gupta, "Gender Neutrality under the POCSO Act: A Myth or Reality?", *Indian Journal of Law and Justice*.
- Arvind Narrain, "Transgender Rights in India: The Road Ahead", *NUJS Law Review*.
- Shreya Atrey, "Intersectionality and the Law in India", *Oxford Human Rights Law Review*.
- Devika Agarwal, "Child Sexual Abuse and Legal Responses in India", *Journal of Indian Law Institute*.

Reports and Publications

- Ministry of Women and Child Development, *Model Guidelines under the POCSO Act*.
- National Commission for Protection of Child Rights Reports on POCSO implementation.
- United Nations Development Programme, *Legal Recognition of Transgender People in India*.
- UNICEF, *Child Protection in India Reports*.

Web Sources

- India Code – <https://www.indiacode.nic.in>
- Supreme Court of India – <https://main.sci.gov.in>
- PRS Legislative Research – <https://prsindia.org>