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WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal providededicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

THE IMPACT OF GENDER BIAS ON THE PROSECUTION AND JUSTICE DELIVERY IN POCSO CASES: A CASE STUDY OF UTTAR PRADESH

AUTHORED BY - MANJUSHA TIWARI¹

Abstract

The Protection of Children from Sexual Offences (POCSO) Act, 2012, was enacted to safeguard children from sexual abuse and exploitation in India. However, despite the law's intent, gender bias continues to pervade the handling of POCSO cases, particularly in states like Uttar Pradesh (UP), where socio-cultural and patriarchal norms are deeply entrenched. This paper explores how gender bias manifests at various stages of the legal process—from reporting and investigation to trial and conviction—affecting the outcomes of POCSO cases in UP.

In UP, a state with a high number of reported child sexual abuse cases, gender bias plays a crucial role in shaping how these cases are treated. Female victims, in particular, face multiple layers of discrimination: they often encounter societal stigmas that discourage reporting, endure biased investigations that undermine their credibility, and experience victim-blaming during legal proceedings. On the other hand, male victims, though statistically less likely to come forward, are sometimes dismissed or ignored due to traditional gender roles that render male victimization less acknowledged or even invisible. The media, which frequently reports POCSO cases in sensationalized and gendered terms, further perpetuates these biases, influencing public perception and judicial outcomes.

This study highlights the need for systemic reforms that address gender bias in law enforcement, judicial proceedings, and media reporting. It advocates for gender-sensitive training for law enforcement officers, judges, and other stakeholders in the legal process. Furthermore, it calls for a more victim-centered approach that prioritizes the welfare of children over societal prejudices, with an emphasis on ensuring impartiality and justice for all victims,

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irrespective of gender.

The paper concludes by stressing the importance of addressing gender bias to enhance the effectiveness of the POCSO Act in Uttar Pradesh and other states, ensuring that the legal system provides equal protection and justice to all children, regardless of their gender. This will require concerted efforts across various levels of society, including legal reforms, public awareness campaigns, and a shift in cultural attitudes toward gender equality and child protection.

Keywords: Gender Sensitivity, Legal Reforms, Media Representation, Victim-Centered Approach, Patriarchal Norms

Introduction

Child sexual abuse (CSA) is a grave violation of human rights and a critical public health concern, necessitating a robust legal framework to protect minors from sexual offences. In India, the enactment of the Protection of Children from Sexual Offences (POCSO) Act, 2012 marked a significant step in recognizing and addressing the unique vulnerabilities of children in such crimes. The Act provides for stringent punishment, child-friendly procedures, and speedy trials through special courts. However, despite its progressive framework, the implementation of the POCSO Act faces several challenges, particularly concerning gender bias in the criminal justice system.

This research aims to explore and analyze how gender bias influences the prosecution process and justice delivery in cases registered under the POCSO Act, with a specific focus on Uttar Pradesh, one of India's most populous and socio-culturally diverse states. The study investigates whether and how societal and institutional gender norms affect various stages of the justice system — from reporting and investigation to trial and adjudication — and examine disparities in treatment based on the gender of both victims and accused persons. Through qualitative and case-based analysis, the paper seeks to identify patterns of gendered assumptions, stereotypes, and prejudices that may compromise the ideals of fairness and justice enshrined in the law.

The relevance of this study lies in its effort to highlight the often-overlooked dimension of gender bias in child sexual abuse cases. While the POCSO Act is intended to be gender-neutral in its application, prevailing social attitudes and legal interpretations may skew its enforcement.

Female victims are often believed more readily, while male and non-binary victims are sidelined or disbelieved; conversely, women accused in such cases may be treated with leniency or suspicion based on stereotypes, and men may face harsher assumptions of guilt. These discrepancies can lead to secondary victimization, wrongful prosecution, or denial of justice, particularly in conservative and patriarchal contexts like parts of Uttar Pradesh.²

As discussions around gender justice in India increasingly expand to include intersectional dimensions—gender, age, class, caste—this study contributes to the growing body of critical legal scholarship by interrogating the gendered application of child protection laws. The findings aim to inform policy reforms, judicial training, and grassroots awareness initiatives to ensure that the POCSO Act fulfills its mandate of protecting all children, irrespective of gender.³

Overview of the POCSO Act

The Protection of Children from Sexual Offences (POCSO) Act, 2012 was enacted by the Indian Parliament to provide a comprehensive legal framework for addressing sexual abuse and exploitation of children. Prior to POCSO, child sexual abuse cases were primarily prosecuted under general provisions of the Indian Penal Code (IPC), which lacked age-specific protections and failed to account for the psychological and emotional vulnerabilities of children.

The POCSO Act was thus introduced to:

- Recognize all forms of sexual offences against children as distinct and punishable crimes.
- Establish child-sensitive procedures that minimize trauma during investigation and trial.
- Provide gender-neutral definitions for victims and perpetrators, ensuring protection for both boys and girls under the age of 18.
- Ensure speedy trial through the establishment of Special Courts and time-bound proceedings.

² Krishnakumar P, Satheesan K, Geeta MG, Sureshkumar K. Prevalence, and spectrum of sexual abuse among adolescents in Kerala, South India. *Indian J Pediatr*. 81:770–4. 2014

³ Sydney Moirangthem, Naveen C. Kumar, and Suresh Bada Math, Child Sexual Abuse: Issues and Concerns, v142(1), *Indian Journal of Medical Research (IJMR)*, 1 (1-3), 2015

In essence, the Act aims to create a safe legal environment for children, uphold their dignity, and hold perpetrators accountable with strict penalties.

In India, child sexual abuse is a crime that is underreported yet has epidemic proportions. According to a recent study on the incidence of sexual abuse among teenagers in Kerala, 36% of males and 35% of girls had been sexually abused at some point in their lives . In a similar study, the Government of India estimated the prevalence of sexual abuse in 17,220 children and adolescents. The startling findings showed that every second child in the nation experienced sexual abuse: 52.94% of the victims were male and 47.06% were girls. Assam 52.27% had the highest reported rate of sexual abuse, followed by Delhi 41%, Andhra Pradesh 22.87%, and Bihar 33.27%. According to UNICEF 1 in 10 girls under the age of 20 have been forced to engage in sex or perform other sexual acts. 90% of cases involve the victim knowing the offender.⁴

Salient Features

The POCSO Act is a special law that supplements the IPC and lays down specific provisions for the protection of children from sexual offences. Key features include:

1. Gender-Neutrality

- The Act defines a "child" as any person below the age of 18, irrespective of gender, thereby extending protection to all children.

2. Broad Definition of Sexual Offences

- Categorizes offences into penetrative sexual assault, sexual assault, sexual harassment, and use of a child for pornographic purposes.
- Recognizes aggravated forms of these offences when committed by persons in positions of trust (e.g., police, teachers, doctors, family members).

3. Special Courts

- Mandates the establishment of Special POCSO Courts for speedy and exclusive trials of offences under the Act.
- Trials must be completed within a one-year time frame from the date of cognizance.

4. Child-Friendly Procedures

⁴ UNICEF (2022) Retrieve from: <https://www.unicef.org/protection/sexual-violence-against-children>. Accessed on 29.08.2024.

- Prohibits repeated questioning of the child and ensures that statements are recorded in a safe, non-intimidating environment.
- Allows for in-camera trials, use of video conferencing, and presence of a support person.
- Ensures the identity of the child is kept confidential throughout the process.

5. Presumption of Guilt

- In specific aggravated offences, the Act allows for a presumption of culpability of the accused, shifting the burden of proof under certain conditions

6. Mandatory Reporting

- Section 19 makes it mandatory for any person aware of a sexual offence against a child to report it, failing which they may face penal consequences.

Constitutional Provisions

The Indian Constitution provides a robust framework for promoting gender justice through various provisions:

- Article 14 guarantees equality before the law and equal protection of the laws to all individuals, serving as a foundational principle for gender justice.⁵
- Article 15 prohibits discrimination on grounds of sex and allows for affirmative action in favor of women under Article 15(3).
- Article 16 ensures equality of opportunity in matters of public employment.
- Article 39 directs the state to secure equal pay for equal work and adequate means of livelihood for men and women alike.
- Article 42 mandates the state to provide just and humane conditions of work and maternity relief.

The Preamble emphasizes the commitment to social justice, which includes gender justice as a core objective of the Indian state.³ These provisions collectively create a legal mandate for promoting gender equality and addressing discrimination against women and other marginalized genders. The judiciary has played a pivotal role in advancing gender justice through progressive interpretations of constitutional provisions.⁶

Recent Amendments and Judicial Interpretations

⁵ Durga Das Basu, Introduction to the Constitution of India (LexisNexis 2018) 45.

⁶ Durga Das Basu, Introduction to the Constitution of India (LexisNexis 2018) 45.

1. Vishaka v. State of Rajasthan (1997)⁷ established guidelines to prevent sexual harassment at workplaces, leading to the enactment of the Sexual Harassment of Women at Workplace Act. The court recognized that gender equality includes protection from harassment and the right to work with dignity.⁸
2. Shayara Bano v. Union of India (2017)⁹ declared the practice of triple talaq unconstitutional, thereby protecting Muslim women's rights within marriage.
3. Navtej Singh Johar v. Union of India (2018)¹⁰ decriminalized consensual homosexual acts between adults, affirming LGBTQ+ rights as integral to gender justice.
4. Joseph Shine v. Union of India (2018) struck down the adultery law as unconstitutional, highlighting its discriminatory nature against women.
5. Satish Ragde v. State of Maharashtra (2021)¹¹: The court controversially ruled that skin-to-skin contact was essential to constitute sexual assault under POCSO. The decision faced national backlash and was later stayed by the Supreme Court.
6. Attorney General for India v. Satish & Anr. (2021)¹²: It reversed the Bombay HC decision, emphasizing that intent and context are crucial and that literal interpretation of “skin-to-skin” would defeat the purpose of the Act.
7. Alakh Alok Srivastava v. Union of India (2020)¹³: It dealt with online sexual exploitation, prompting the court to recommend better enforcement of laws concerning child pornography.

Conceptual Framework: Gender Bias in the Legal System

In the Indian context and particularly in Uttar Pradesh (UP)—a state deeply rooted in patriarchal social structures—gender bias is both a cultural and institutional reality. Gender bias refers to the unequal treatment of individuals based on traditional beliefs about gender roles and attributes. In UP, societal norms often associate masculinity with authority, dominance, and control, while femininity is linked to obedience, modesty, and emotional vulnerability. These stereotypical gender roles are not only prevalent in private and community life but also seep into public institutions, including the police, judiciary, and administrative bodies. As a result, gender bias manifests in everyday interactions, legal interpretations, and

⁷ (1997) 6 SCC 241.

⁸ Mohan, Ranjana, Gender Justice in India: A Critical Analysis of Legal Reforms (SAGE Publications 2019).

⁹ (2017) 9 SCC 1 or AIR 2017 SC 4609

¹⁰ AIR 2018 SC(CRI) 1169

¹¹ CRIMINAL APPEAL NO. 161 OF 2020.

¹² [2021] 10 S.C.R. 955

¹³ AIR 2018 SUPREME COURT 2440, 2018 CRI LJ

the enforcement of laws, often placing victims—particularly those who challenge traditional gender roles—at a disadvantage. Such stereotypes not only distort objective legal analysis but also lead to systemic inequities in access to justice.¹⁴

Gender Bias in Criminal Justice: Historical and Contemporary Examples

In the criminal justice system of UP, gender bias has historically shaped how cases are reported, investigated, and adjudicated. Female victims of sexual violence are often subjected to moral scrutiny, with questions raised about their conduct, clothing, or presence in certain spaces. These attitudes are frequently observed among investigating officers and even in courtroom discourse. In contrast, male victims of sexual abuse—particularly children—are often dismissed or not taken seriously, owing to the misconception that boys are resilient or less vulnerable to such harm. This perception results in underreporting of male child sexual abuse, a phenomenon confirmed by child protection NGOs working in rural and semi-urban areas of UP.

Contemporary examples also show how police apathy and societal pressure discourage reporting when the accused holds a position of social or political power, especially in small towns and rural districts. Cases involving female perpetrators or LGBTQ+ victims are either mischaracterized or ignored, due to the criminal justice system's lack of sensitization toward non-normative gender identities and behaviors. Even the legal machinery, which is intended to be impartial, is influenced by deep-seated gender norms that shape judgments, discretionary powers, and procedural rigor.

Impact in Child Sexual Abuse Cases

The impact of gender bias is particularly stark in POCSO cases in Uttar Pradesh. The law is intended to be gender-neutral, but its implementation is frequently skewed by gendered assumptions. Male child victims often face stigma and disbelief, with families preferring silence over shame. In rural UP, where concepts of masculinity are rigid, the idea that a boy could be sexually abused is often seen as emasculating, leading to non-reporting or suppression of cases. Additionally, female child victims are sometimes pressured to withdraw complaints or marry the accused, especially in cases involving lower socio-economic or marginalized caste groups, as a means of "protecting family honor."

¹⁴ Durga Das Basu, 'Introduction to the Constitution of India' (LexisNexis 2018) 45

Furthermore, cases involving female accused are rarely pursued with the same intensity. There's an underlying bias that women cannot be aggressors in sexual offences, resulting in inadequate investigations or lenient judicial interpretation. This not only creates inequality in the treatment of accused persons based on gender but also denies justice to victims whose experiences fall outside the “expected” narrative.¹⁵

Children from non-binary or transgender communities are further marginalized. In most districts of UP, law enforcement officers are neither trained to recognize their specific vulnerabilities nor equipped to provide appropriate support. As a result, their cases are either improperly classified or completely ignored, rendering them invisible within the legal system. The lack of awareness, coupled with the absence of gender-inclusive protocols, creates systemic barriers for children who do not conform to binary gender norms. This conceptual framework is crucial for analyzing how such gender biases influence various stages of the justice system—from FIR registration and evidence collection to courtroom testimony and final judgment—in POCSO cases in Uttar Pradesh.¹⁶ Understanding these biases helps reveal the structural inequalities embedded in a system that is meant to be impartial, but often fall short due to ingrained social prejudices.¹⁷

Socio-Legal Context of Uttar Pradesh

Uttar Pradesh (UP), India's most populous state, exhibits deeply entrenched patriarchal norms that significantly influence societal attitudes towards gender and sexuality. Traditional gender roles often dictate that women and girls adhere to notions of modesty and obedience, while men are associated with authority and dominance. Such cultural constructs contribute to a pervasive victim-blaming culture, where survivors of sexual abuse, particularly females, may face skepticism, social ostracization, or pressure to remain silent to preserve family honor.

In rural and semi-urban areas, these norms are more pronounced, leading to underreporting of sexual offences, especially when the perpetrator holds a position of power or is a family

¹⁵ Ministry of Women & Child Development (2010), The Integrated Child Protection Scheme, Government of India: New Delhi.http://wcd.nic.in/icpsmon/st_abouticps.aspx Accessed on 29.09.2024.

¹⁶ POCSO, 2012, S- 28(1), No 32, Acts of Parliament, 2012 (India)

¹⁷ Mohan, Ranjana, Gender Justice in India: A Critical Analysis of Legal Reforms (SAGE Publications 2019).

member. Male and non-binary victims often encounter disbelief or stigma, as societal perceptions may not acknowledge them as potential victims of sexual abuse. This cultural backdrop poses significant challenges to the effective implementation of child protection laws like the POCSO Act.

Law Enforcement & Judicial Infrastructure: Availability and Training

Recognizing the gravity of crimes against children, the UP government has taken steps to strengthen its judicial infrastructure. In 2019, plans were announced to establish 218 fast-track courts, with 74 dedicated exclusively to POCSO cases, aiming to expedite the trial process for sexual offences against children.¹⁸

However, challenges persist. Law enforcement agencies often lack specialized training to handle sensitive cases involving child sexual abuse. Investigations may be hampered by inadequate forensic facilities, insufficient coordination with child welfare committees, and a lack of child-friendly procedures during evidence collection and testimony. These systemic shortcomings can lead to delays in justice delivery and may deter victims from coming forward.

Statistical Overview: NCRB Data on POCSO Cases in UP

Uttar Pradesh consistently reports the highest number of POCSO cases in India. According to the National Crime Records Bureau (NCRB) data:

- 2020: UP registered 6,898 cases under the POCSO Act, the highest in the country.
- 2021: The state recorded 7,129 POCSO cases. Notably, UP had the highest pendency rate, with over 77.7% of cases remaining unresolved between November 2012 and February 2021. Four of the five districts with the highest pendency percentages—Lucknow, Hardoi, Budaun, and Allahabad—are in UP.
- 2022: UP reported 8,151 POCSO cases, maintaining its position at the top nationwide.

Despite the high number of cases, UP has made strides in improving conviction rates. In 2022, the state achieved a conviction rate of 70.8% in crimes against women, significantly higher than the national average of 25.3%. This improvement is attributed to the establishment of fast-track courts, efficient functioning of special courts, and enhanced investigation protocols.

¹⁸ A Decade of POCSO: Developments, Challenges and Insights from Judicial Data, Vidhi Centre for Legal Policy,

However, the backlog remains substantial. As of March 2023, UP had 48,630 pending POCSO cases, the highest in the country. While the state disposed of 20,329 cases during the same period, the pendency rate underscores the need for further systemic reforms to ensure timely justice.

Case Study Analysis: Gender Bias in POCSO Cases in Uttar Pradesh

For this study, a purposive sampling method was employed to select cases that illustrate the manifestation of gender bias in the prosecution and adjudication of POCSO cases in Uttar Pradesh. The selection criteria included:

- Cases involving both male and female victims to assess differential treatment.
- Instances where societal pressures influenced the legal process.
- Cases highlighting underreporting due to stigma.
- Cases with notable media coverage to evaluate its impact on justice delivery.

Case Summaries

1. **Afzal vs. State of U.P. and Another (2022):** In this case, a 16-year-old girl initially accused the male appellant of rape. However, during the trial, she retracted her statement, asserting that her earlier allegations were made under family pressure. The medical examination revealed no evidence of sexual assault. The court observed that the charges might have been falsely framed to defame the accused.
2. **Hathras Case (2020):** A 19-year-old Dalit woman was allegedly gang-raped by four upper-caste men in Hathras district. Despite naming her attackers, there were significant delays in police action. The victim succumbed to her injuries, and her body was cremated without her family's consent, leading to national outrage. This case highlighted the intersection of caste and gender biases in the justice delivery system.
3. **Male Victim Underreporting:** Studies indicate that male child sexual abuse is significantly underreported in India, including Uttar Pradesh, due to societal stigma surrounding male victimization. This underreporting hampers the accurate assessment and effective implementation of the POCSO Act.
4. **Intersectionality of Gender, Caste, and Class:** Research emphasizes that individuals from lower caste backgrounds in Uttar Pradesh may experience compounded discrimination in POCSO cases. Women from these communities face particular

difficulties due to the intersection of caste and gender discrimination, affecting their access to justice.

Patterns of Gender Bias: Female victims, especially from marginalized communities, often face skepticism and delayed justice, as seen in the Hathras case.¹⁹ Conversely, male victims encounter disbelief and societal stigma, leading to underreporting and lack of support.

Stereotyping of Male Child Victims and Female Accused

Male child victims are frequently perceived as less vulnerable, resulting in inadequate attention to their cases. Female accused individuals may be viewed through a lens of presumed innocence, potentially affecting the objectivity of investigations and trials.

Influence of Societal Pressures and Media

Societal norms and media portrayal can significantly influence POCSO cases. In the Hathras case, media coverage brought national attention, prompting legal action. However, media trials can also lead to prejudgment and affect the fairness of proceedings.

Victim Blaming or Disbelief Based on Gender

Victims may face blame or disbelief rooted in gender biases. Female victims might be questioned about their behavior or attire, while male victims may be dismissed due to notions of masculinity, hindering their access to justice.

Underreporting Due to Stigma

Cultural stigma surrounding sexual abuse leads to significant underreporting, particularly among male victims. Fear of social ostracization and lack of awareness about legal protections contribute to this issue.

Impact on Prosecution and Justice Delivery

At the investigation stage, gender bias in POCSO cases in Uttar Pradesh often results in systemic lapses that significantly undermine justice. Police officers, particularly in rural and semi-urban districts, may be influenced by patriarchal attitudes or community pressures,

¹⁹ <https://www.thehindu.com/news/national/pocso-act-is-gender-neutral-legislation-delhi-high-court/article67176408.ece>

leading to non-registration of FIRs or delayed lodging of complaints. In several reported cases, victims or their families were discouraged from filing cases, especially if the accused held a position of social or political power. This is especially evident in cases where the victim is from a marginalized caste or economically weaker section.

Police bias is also observed in the way evidence is collected and presented. There are numerous instances where medical examinations were delayed or improperly conducted, leading to loss of crucial forensic evidence. Gendered assumptions further affect how officers perceive the credibility of complaints—for instance, they may treat male victims with suspicion or disbelief, assuming boys cannot be sexually assaulted, or dismiss cases where the accused is female. Such biases can result in mishandling of evidence and weaken the case before it even reaches the court.

Trial Process

Gender bias continues to influence the trial process, which is intended to be neutral and child-sensitive under the POCSO Act. Cross-examination of child victims can often be harsh and intimidating, despite legal provisions requiring sensitivity. In many cases, defense lawyers exploit gender stereotypes to discredit the victim—for example, questioning the character or behavior of a female child, or implying that a male child could not have been violated. This leads to secondary trauma and reluctance among victims to testify truthfully.²⁰

The quality of prosecution also varies significantly across districts in UP. In areas where public prosecutors lack specialized training in child protection laws or gender-sensitive practices, cases are often poorly argued, leading to high acquittal rates. Witness protection mechanisms are weak, and in many cases, the victim's family is pressured or coerced into withdrawing the complaint, particularly when the accused is influential.

Judicial Attitudes

Judicial attitudes, though more progressive in urban districts, still reflect gender stereotypes in several cases across Uttar Pradesh. The language used in judgments sometimes mirrors societal biases—questioning the behavior of the victim or casting doubt based on lack of physical

²⁰ <https://www.ijlra.com/paper-details.php?isuurl=gender-neutrality-in-child-protection-laws-delving-into-the-pocso-act-is-there-a-requirement-for-restructuring-by-khushi-pawar->

injuries. Some judges may assume that boys are less emotionally affected by abuse, or that female perpetrators are less dangerous, affecting sentencing decisions.

In certain instances, judges have issued lenient sentences or acquittals based on personal notions of morality or gender norms, rather than strict interpretation of law. These attitudes highlight the urgent need for gender-sensitization training within the judiciary, especially in lower courts, which handle the bulk of POCSO trials.

Outcome Analysis

Statistical data from Uttar Pradesh paints a complex picture. While the conviction rate for POCSO cases in UP was reported to be 70.8% in 2022, which is relatively high, the pendency rate remains alarming—with over 48,000 POCSO cases pending as of 2023. Acquittals often occur due to procedural lapses, hostile witnesses, or poor prosecution—factors that are exacerbated by gender-biased investigations and trials.

Sentencing trends also reflect inconsistencies. In some cases, courts have awarded minimum sentences even in aggravated sexual assault cases, citing mitigating circumstances such as the accused being a “young boy” or the survivor’s lack of resistance. Such reasoning overlooks the trauma endured by child victims and weakens the deterrent effect of the law.

Secondary Victimization

One of the most damaging consequences of gender bias is secondary victimization—the trauma victims experience from the justice system itself. When child survivors are not believed, are cross-examined aggressively, or see their cases dragged on for years, it often leads to mental health issues, loss of trust in institutions, and reluctance to seek legal help in the future. Families may also face social ostracism, especially in tightly knit rural communities, where such cases are seen as bringing “shame” to the household.

For male victims or those identifying as LGBTQ+, the experience can be even more alienating, as the system often lacks the vocabulary, training, or sensitivity to acknowledge their trauma. This systemic neglect not only delays justice but also violates the core objectives of the POCSO

Act: to ensure a child-friendly, gender-neutral, and protective legal framework.²¹

Challenges and Gaps

One of the most persistent challenges in the effective implementation of the POCSO Act in Uttar Pradesh is the lack of structural preparedness. Despite the increasing number of POCSO cases filed each year, the judicial infrastructure remains under severe strain. Many of the designated Special POCSO Courts in UP are overburdened, handling a backlog of thousands of cases. This not only delays justice but also undermines the child-centric and time-bound spirit of the legislation.

Moreover, law enforcement agencies and prosecutors often lack adequate training in dealing with child sexual abuse cases. In many districts, especially in rural and semi-urban areas, police officers are unaware of child-friendly procedures or the trauma-informed approaches mandated under the Act. Forensic and medical personnel, too, are not always sensitized to handle such cases with the required care and discretion. These gaps result in mishandling of evidence, insensitive treatment of victims, and sometimes, further trauma to the child.

Access to free and quality legal aid is another major issue. Victims from lower-income or marginalized communities often do not receive timely or competent legal assistance, which critically impacts the trial outcome. Though provisions exist for support under the District Legal Services Authority (DLSA), implementation remains inconsistent across UP.

Legal Gaps

Although the POCSO Act is a progressive piece of legislation, it still reflects heteronormative assumptions and lacks explicit recognition of gender diversity. The Act primarily refers to the victim as a "child" but presumes most victims to be female and the accused to be male. This binary perspective leaves male and LGBTQ+ child victims poorly acknowledged in practice, despite the law being technically gender-neutral.

There is also lack of clarity around gender-neutral language, especially in procedural frameworks and judicial interpretations. The absence of express provisions or standard

²¹ <https://www.ijlra.com/paper-details.php?isuurl=gender-neutrality-in-child-protection-laws-delving-into-the-pocso-act-is-there-a-requirement-for-restructuring-by-khushi-pawar->

protocols for handling cases involving non-binary or transgender children further contributes to their invisibility in the system. As a result, such victims may face compounded discrimination—on the basis of both age and gender identity—and may not be provided appropriate psychosocial or legal support.

Societal Stigma

Stigma remains one of the most powerful deterrents for reporting and pursuing justice in cases of child sexual abuse in Uttar Pradesh. Cultural taboos, honor-based notions, and victim-blaming attitudes make it particularly difficult for families to come forward, especially when the victim is male or identifies as LGBTQ+.

Male survivors often remain silent due to fear of being mocked, disbelieved, or labeled as weak. Social norms that associate masculinity with strength and invulnerability lead to the erasure of male vulnerability in both legal and societal responses. Similarly, LGBTQ+ children face discrimination not only from society but sometimes from within their own families. This often results in complete denial of their abuse experiences and a lack of access to any justice or rehabilitation.²²

Even when cases are reported, victims are often re-traumatized during the judicial process, as they encounter skeptical law enforcement, insensitivity from medical professionals, or intrusive questioning in court. The fear of social isolation, especially in conservative or rural communities, discourages families from pursuing legal recourse.

Together, these structural, legal, and societal gaps reinforce gender bias in the implementation of the POCSO Act in Uttar Pradesh. Bridging them would require a multipronged strategy involving law reform, institutional strengthening, public education, and targeted training for all stakeholders in the criminal justice system.

Recommendations

Policy-Level Changes

To ensure that the objectives of the POCSO Act are met in both letter and spirit, comprehensive

²² See UN Women. Frequently asked questions: Types of violence against women and girls. <https://www.unwomen.org/en/what-we-do/ending-violence-against-women/faqs/types-of-violence>

gender-sensitization training must be institutionalized across all levels of the justice system. Police officers, medical professionals, judicial officers, and child welfare committee members must be regularly trained to recognize and counter their own biases, especially those rooted in gender stereotypes and heteronormativity.

Moreover, victim support services need substantial strengthening. Uttar Pradesh should invest in expanding its network of Child Welfare Committees, Special Juvenile Police Units, and One Stop Centres to provide holistic, trauma-informed care to survivors. Every district should have a functional child protection ecosystem, including psychological counseling, legal aid, and rehabilitation support that is accessible and inclusive of all gender identities.²³

Legal Reforms

While the POCSO Act is commendably child-centric and technically gender-neutral, its practical application remains gender-biased. There is an urgent need to amend the Act and its associated rules to include explicit references to LGBTQ+ children and address the specific challenges they face in the justice system. Use of inclusive language in procedural documents, investigation manuals, and courtroom practices will affirm the legitimacy of all survivors' experiences.

Additionally, the Supreme Court or Ministry of Law and Justice should issue guidelines or a model code of practice that explicitly prohibits gender-based stereotyping in judicial reasoning. Courts must be reminded to focus on facts and legal standards, not personal or cultural beliefs about gender roles.

Capacity Building

Targeted and continuous training programs for police officers, prosecutors, forensic doctors, and judges are essential. These trainings should not be one-off workshops, but sustained modules embedded into their professional development curriculum. Content should include child psychology, handling of LGBTQ+ victims, sensitivity in cross-examination, and working with trauma survivors.

²³ Leigh Goodmark. (2018). Decriminalizing Domestic Violence: A Balanced Policy Approach to Intimate Partner Violence. University of California Press. Note 2.

Special attention should be given to building capacities in rural and semi-urban districts, where access to training and resources is often limited. District-level legal services authorities (DLSAs) can be tasked with monitoring and coordinating these programs.

Public Awareness

Addressing societal attitudes is key to reducing stigma and underreporting. The government, in collaboration with NGOs and educational institutions, should run community education campaigns that challenge harmful gender stereotypes and normalize conversations around child sexual abuse—irrespective of the victim's gender.

These campaigns should use vernacular languages and be disseminated through schools, Panchayats, Anganwadi centers, and local media. Teachers, parents, and caregivers should be trained to recognize early signs of abuse, listen without judgment, and support children in accessing legal and psychological help.

Social media and youth-driven platforms can also play a powerful role in promoting positive narratives about consent, respect, and gender inclusivity, helping to create a more empathetic and aware generation.²⁴

Conclusion

This research has revealed that gender bias significantly affects the investigation, prosecution, and judicial outcomes of cases registered under the POCSO Act in Uttar Pradesh. Despite the Act's gender-neutral legal framework, its implementation often reflects deep-rooted societal stereotypes that assume victims are primarily female and perpetrators male. Male and LGBTQ+ child victims remain largely invisible and unsupported, while female victims—especially from marginalized communities—face delayed justice, victim-blaming, and secondary trauma.

Case study analysis of real and representative judgments illustrates how gender perceptions influence every stage of the legal process—from police reluctance to register FIRs, to insensitive cross-examination, and stereotype-laden judicial reasoning. Additionally, structural

²⁴ RESURJ. (2020, February 10th). Beyond Criminalization – A Feminist Questioning of Criminal Justice Interventions to Address Sexual and Reproductive Rights Violations. p. 11. <https://resurj.org/wp-content/uploads/2020/12/ENGLISH-Beyond-Criminalization-A-Feminist-Questioning-of-Criminal-Justice-Interventions-to-Address-Sexual-and-Reproductive-Rights-Violations.pdf>.

challenges, such as inadequate training, overburdened courts, and weak legal aid mechanisms, further limit access to timely and fair justice for all survivors.

Implications for Policy and Practice

These findings point to the need for urgent policy reforms and capacity building. Gender sensitivity must be embedded into the functioning of every stakeholder in the child protection and criminal justice systems. This includes equipping police, prosecutors, judges, and medical staff with the tools to understand and dismantle their own biases.

Further, a gender-inclusive interpretation of the POCSO Act is essential to reflect the realities of all children, including boys and gender-diverse individuals, who are vulnerable to sexual abuse but often excluded from discourse and data.

On a practical level, the state of Uttar Pradesh must invest in strengthening institutional infrastructure, expanding victim support services, and launching public awareness campaigns to challenge harmful gender stereotypes that perpetuate silence and impunity.

Call for a Gender-Inclusive Justice System under POCSO

For the POCSO Act to fulfill its intended purpose—protecting all children from sexual offences—the justice system must become truly inclusive and gender-aware. Legal protections must translate into lived realities where every child, regardless of gender identity, feels safe to report abuse and is treated with dignity, care, and fairness throughout the legal process.

Creating a gender-inclusive justice system is not only a legal imperative but a moral one. It requires an intersectional approach that addresses patriarchy, caste, class, and heteronormativity—factors that influence how justice is delivered in Uttar Pradesh and beyond. Only then can we ensure that every child's right to protection and justice is fully realized.