

Reframing Child Protection: A Multidisciplinary Perspective on the POCSO Framework.

Meha Bhushan¹

¹ Ph.D. Scholar, Gujarat National Law University, Gujarat, India.

Email: meha.bhushan@gmail.com

ORCID: 0009-0008-3322-6117

Corresponding Author:

Meha Bhushan

Email: meha.bhushan@gmail.com

Abstract

This paper examines the Protection of Children from Sexual Offences Act, 2012 ('POCSO Act') through a multidisciplinary perspective, situating it within the normative framework of the Convention on the Rights of the Child. While child sexual abuse is increasingly recognised as a complex global challenge requiring integrated responses, domestic legal frameworks continue to operate primarily within conventional criminal law structures. This study explores how the POCSO framework engages with interdisciplinary dimensions of child protection, including psychological vulnerability, child-sensitive procedures, and institutional coordination within a rights-based paradigm.

Adopting a doctrinal methodology, the paper evaluates the substantive, evidentiary, and procedural design of the POCSO framework in light of CRC principles, including the best interests of the child, evolving capacities, and the right to recovery and reintegration. It further examines the extent to which the legal framework reflects or accommodates insights from allied disciplines, particularly regarding victim participation, testimonial reliability, and rehabilitative processes. The analysis maps areas of intersection and divergence between legal structures and multidisciplinary approaches to child protection, without advancing prescriptive claims, situating the POCSO framework within broader interdisciplinary discourse on child rights..

Keywords: Child Sexual Abuse Law, Multidisciplinary Child Protection, POCSO Act, Convention on the Rights of the Child

1.INTRODUCTION

Child sexual abuse (CSA) is now recognised as a major child rights issue which crosses criminal law and raises issues of dignity, development, protection and state responsibility. International discourse on child protection has been evolving from the child as a passive recipient of welfare to the child as an independent rights-holder who has a right to protection, participation and access to justice (Lundy et al., 2013; National Human Rights Commission [NHRC], 2019).

This change is linked to the Convention on the Rights of the Child (CRC) that was adopted in 1989, which provides an international framework for promoting and protecting children's rights (United Nations, 1989). The Convention calls on States Parties to take measures at the legislative, administrative, social and educational levels to ensure that children are protected from violence, abuse, neglect and exploitation and have the right to participate, develop and recover. In today's child protection discourse, child protection laws are not only judged on their ability to punish offenders, but also on their ability to protect the rights and best interests of children during the entire child protection process (Committee on the Rights of the Child, 2003; United Nations, 1989).

Criminal accountability cannot be dispensed with, but consequences of CSA go beyond the immediate violation of the law. The evidence suggests that sexual abuse can have short-term and long-term effects on children's psychological, emotional, social and mental health (Briere & Elliott, 2003; Srinivasan & Shruthi, 2024). The effects underscore the need to consider CSA as a social problem rather than a criminal justice issue.

The international child protection discourse is increasingly calling for a multi-disciplinary perspective, bringing together legal, psychological, educational, medical and welfare perspectives. Protection is known to be a coordinated response that includes courts, law enforcement agencies, child welfare agencies, healthcare professionals, educators, and community-based systems (Independent Inquiry into Child Sexual Abuse [IICSA], 2022). Prevention interventions also focus on awareness, child empowerment, disclosure processes and post-disclosure support as key elements of good protection (Arpan, 2014).

India's main law on CSA is the POCSO Act. The Act was designed to fill in some of the shortcomings in the existing criminal law and creates a dedicated regime for sexual offences against children, and substantive, evidentiary and procedural protections for child victims. It acknowledges multiple forms of sexual victimisation, establishes child-friendly procedures and establishes special adjudicatory mechanisms.

The introduction of POCSO should also be placed in the context of India's overall child rights agenda, after ratification of the CRC in 1992. The law is part of a broader child protection system, which includes constitutional provisions, juvenile justice facilities, social services, and international commitments towards the protection and development of children (NHRC, 2019). Thus, POCSO is not only a criminal law measure, but also a significant aspect of the developing child rights regime in India.

This paper explores the POCSO framework from a multidisciplinary lens of child protection. It uses a doctrinal approach which draws on primary resources such as the CRC, the POCSO Act and other legal documents, and secondary sources such as child rights scholarship, comparative perspectives, and interdisciplinary research. This study focuses on the normative and conceptual aspects of the POCSO framework and does not attempt to measure the outcomes of implementation or institutional performance.

2. Conceptualising Child Protection Through a Multidisciplinary Lens

The modern concept of child protection has developed from welfare-based child protection approaches that mostly focus on children as passive recipients of care. Traditionally, approaches to childhood vulnerability have been based on paternalistic beliefs that place adults and institutions in the driver's seat making decisions for children. Welfare frameworks saw children as a need to be protected, but did not always see children as a subject of rights who can participate in issues impacting on their lives.

Child rights discourse moved from needs to rights and children were identified as having the right to be protected, to participate, to grow, and to be treated with dignity. This shift was part of a wider norm shift from charity and welfare to rights and the states and institutions' obligations (Lundy et al., 2013; NHRC, 2019).

The CRC is the main normative document that underlies the current child protection approach. Article 3 sets the child's best interests as a key consideration in all action taken with regard to children. Article 12 respects the child's right to have opinions expressed freely on matters affecting the child. Article 19 requires States Parties to ensure that children are protected from all acts of violence, injury, abuse, neglect, maltreatment or exploitation of a physical or mental nature. The protection of sexual exploitation and sexual abuse is specifically required by Article 34. Physical and psychological rehabilitation and social reintegration of child victims are highlighted in Article 39 (United Nations, 1989). These provisions set out a comprehensive framework in which protection, participation, recovery, and development are the interrelated aspects of children's rights.

A multi-disciplinary approach to child protection includes legal, psychological, institutional and social aspects. The legal aspect relates to the creation of normative standards, processes and mechanisms of accountability. The psychological dimension recognizes that children's emotional, cognitive, mental health and interpersonal functioning can be impacted by abuse. CSA is often linked to trauma, fear, and stigma, as well as other outcomes that can manifest after the abuse itself (Briere & Elliott, 2003; Committee on the Rights of the Child, 2011). The institutional dimension acknowledges child protection as a multi-system approach that includes the police, courts, child welfare agencies, health and medical services, educational institutions and community support. The social domain recognizes the importance of families, communities, social norms, and protective environments in preventing abuse, supporting disclosure, and supporting recovery.

Child protection is a multi-dimensional issue that has led to an increasing international consensus that addressing CSA is not limited to the criminal justice system. Preventive, developmental, therapeutic, rehabilitative and legal interventions all work together to ensure that children's rights are protected, alongside prosecution and punishment (Committee on the Rights of the Child, 2011; IICSA, 2022). This is the larger context in which the POCSO Act can be understood.

3. Reframing the POCSO Act as a Child Protection Framework

The POCSO Act was a major milestone in India's legislation against CSA. Before the enactment, offences against children were dealt with in a fragmented manner in the Indian Penal Code, which were not specific to child sexual victimisation or the characteristics of childhood. The enactment of a special statute marked the increasing awareness of children's rights in the international and domestic legal discourse, especially after India's ratification of the CRC (United Nations, 1989; NHRC, 2019).

One of the hallmarks of POCSO is its child-centred approach. The framework of POCSO is different from the traditional criminal law, which is predominantly offence and offender based, as it aims to take into account the interests of the child at all stages of the process. This attitude is reflected in its substantive provisions as well as its procedural protections for child victims (POCSO Act, 2012). The Act introduces a comprehensive statutory framework that is applicable to offences against children, bringing child protection issues into the criminal justice system.

The substantive content of POCSO is a broad approach to sexual victimisation. It makes penetrative sexual assault and aggravated penetrative sexual assault (POCSO Act, 2012, s. 3-6). It recognises non-penetrative sexual assault as an independent offence (POCSO Act, 2012, ss. 7-10). This definition goes beyond the common definition of sexual violence, and recognizes the possibility of sexual violence taking multiple forms.

The Act also defines sexual harassment of children as a separate offence (POCSO Act, 2012, s.11-12). The legislation criminalises sexually intrusive behaviour that may not involve physical contact, reflecting an increased awareness of victimisation that aligns with child protection approaches that recognise threats to dignity and emotional well-being as important aspects of harm (United Nations, 1989, arts. 19, 34). The Act also covers the use of children for pornographic purposes and pornographic forms of exploitation (POCSO Act, 2012, ss.). The legislative awareness of digital and technological aspects of abuse are reflected in 13-15.

The procedural architecture is one of the most unique features of POCSO. The reporting framework has requirements to ensure reporting and timely intervention (POCSO Act, 2012, ss. 19-21). Provisions on the recording of statements aim to ensure that communications with investigative authorities are age and situation sensitive (POCSO Act, s. 24-26). A child's identity is to be kept confidential, which ensures privacy and dignity (POCSO Act, s. 23). The setting up of Special Courts further reinforces the child-centred nature of the statute and indicates that the CSA cases need specialised institutional responses (POCSO Act, s. 28-38).

The principle of child-centred approach of POCSO is in tune with the CRC. Child sensitive procedures and specialised safeguards are in keeping with the principle that the best interests of the child shall be a primary consideration (United Nations, 1989, art. 3). There are substantive provisions relating to abuse and exploitation in line with the obligations under Articles 19 and 34. The concern for privacy, dignity and participation is a rights-based approach to protection, a perspective where children are rights holders and their experiences in institutional processes are significant to the realization of their rights (NHRC, 2019).

The traditional goals of criminal law are related to deterrence, prosecution and punishment. While the aims of POCSO have not changed, the Act has certain provisions that go beyond the punitive approach. It shows that it is concerned with the child's experience of justice, rather than merely establishing criminal liability, through its provisions on confidentiality, child-friendly procedures, specialised courts, and protective safeguards. POCSO is considered as a nexus between criminal justice and child protection from a multi-disciplinary perspective.

4. Psychological Dimensions of Child Protection within the POCSO Framework

The modern child protection discourse acknowledges that CSA is not only a violation of the law, but a deep psychological injury. Multidisciplinary approaches highlight the consequences of abuse on children's emotional state, development, relationships and quality of life, whereas criminal law is concerned with what is permitted and who is liable.

Studies have found that sexual abuse can cause fear, anxiety, shame, low self-esteem, and problems with social functioning (Briere & Elliott, 2003; Srinivasan & Shruthi, 2024). These impacts are influenced by the child's age, relationship to the abuser, length of abuse, family support and institutional response following disclosure. Victimisation can have long-term impacts on children's feeling safe, learning and social involvement. Child protection discourse is therefore beginning to shift in its conceptualisation of CSA as a violation impacting psychological development and well-being as well as physical safety (Committee on the Rights of the Child, 2011; IICSA, 2022).

The CRC embodies a comprehensive understanding of protection, connecting freedom from abuse with development, dignity, participation and recovery. Article 39 of the CRC (United Nations, 1989) obligates States Parties to facilitate the physical and psychological rehabilitation and social reintegration of child victims. Legal interventions for abuse therefore need to be considered in conjunction with psychological protection and recovery.

Child sensitive legal procedures have been affected by recognition of psychological harm. Childhood may be subjected to distress or re-traumatisation in traditional criminal justice systems which focus on adults. POCSO, through the procedural safeguards that it provides in the recording of statements and interactions with authorities

(POCSO Act, s. 24-26). These protections acknowledge that the setting where a child shares traumatic experiences can impact well-being and communication.

Psychological protection is characterised by the avoidance of secondary victimisation. Secondary victimisation can happen when institutions respond in insensitive ways, repeatedly asking questions, being exposed to hostile environments, or when procedures are not designed to take children's vulnerabilities into account. The procedural framework of POCSO aims to avoid any further distress and maintain dignity for the victim and thus serve both the evidentiary and protective purpose (POCSO Act, ss. 23-38).

Another key aspect is child participation. Children have the right to express their views freely in matters affecting them and to have them given due consideration, taking into account their age and maturity (CRC, Article 12, United Nations, 1989). The principle is important in CSA proceedings as the giving of evidence by the child is a vital part of the evidence-giving process. Modern child rights approaches have abandoned the assumption that children cannot be relied upon and are more concerned about providing conditions that allow children to communicate effectively and safely (Committee on the Rights of the Child, 2009).

The challenge is participation vs protection. Too much protection can be stifling for children, and too much participation can lead to psychological stress. The procedural safeguards provided in POCSO reflect this balance by ensuring that children can be involved in the process, but without causing distress and intimidation.

Abuse cannot be addressed with prosecution or punishment. Recovering and reintegrating are two child protection goals recognized in Article 39 of the CRC (United Nations, 1989). Social, emotional, educational continuity, counselling, family support and safe environments may be required for recovery (IICSA, 2022). A wholly punitive system can be in place that sets someone straight without providing adequate trauma, developmental disruption, social consequences, and recovery support. Psychological factors are thus not an addition to child protection but are integral to any model aiming to effectively respond to CSA.

5. Institutional Coordination and the Multidisciplinary Character of Child Protection

Contemporary child protection frameworks recognise that safeguarding children from abuse cannot be achieved by a single institution. CSA poses legal, psychological, medical, educational and social challenges that are beyond the capacity of any single actor. Protection is therefore seen as an institutional responsibility, and one which needs a coordinated response within an integrated approach to protection (IICSA, 2022).

This is a change from a reactive approach to intervention to a systems approach. To address abuse not just as a criminal investigation, but as a multi-disciplinary approach, prevention, identification, protection, recovery and reintegration are seen as linked elements of safeguarding (Committee on the Rights of the Child, 2011). The effectiveness of child protection systems is also dependent on the collaboration of institutions in which children's rights, safety and well-being are prioritised.

Children may be the first to interact with the justice system when they are victims of a crime, and police officers are likely to be their first formal contact with the justice system. Their task is not just to investigate, but also to identify, protect and refer. POCSO has measures in place to ensure that investigative procedures are child sensitive (POCSO Act, ss. 19-27). Special Juvenile Police Units are also an integral part of the larger child protection system in India, acknowledging the need for specialised approaches when engaging with children with police officers.

Healthcare workers play a pivotal role in identification, examination, treatment and care. POCSO understands that the medical examination is significant and emphasises the procedures that respect the dignity of children (POCSO Act, s. 27). A medical examination from a multidisciplinary perspective is not just evidence collection but a protective response to health concerns, referrals and recovery.

Judicial institutions decide legal liability and ensure the fairness of the procedures. The creation of Special Courts is indicative of the recognition that CSA cases need special mechanisms, which can be sensitive to children's vulnerabilities (POCSO Act, s. 28-38). Courts play a role in child protection not only in determining the liability, but also in how the proceeding is conducted to safeguard dignity, privacy and participation.

Legal interventions are not enough either, as evidenced by Child Welfare Committees (CWC) and support services. Welfare institutions work within the overall juvenile justice system to provide care, protection, rehabilitation and support to vulnerable children. These measures are based upon Article 39 of the CRC which stresses recovery and reintegration (United Nations, 1989).

Child protection is therefore dependent on inter-agency co-ordination. The police, medical services, courts, welfare services, educational institutions and support services have different but complementary roles. Responses that are disjointed can have a negative impact on protection, while coordinated responses can help to provide more comprehensive support (IICSA, 2022). The POCSO Act fits into this broader institutional framework. Its importance is not just criminalisation, but also the way it relates to institutions that investigate, provide healthcare, adjudicate, rehabilitate and provide support.

6. Areas of Convergence and Tension Between POCSO and Multidisciplinary Child Protection

The above analysis shows that POCSO contains some elements of modern child protection systems. Concurrently, it is situated within the conceptual and institutional framework of criminal law. It is therefore a multidisciplinary child protection relationship that has features of convergence and tension.

One of its points of convergence is its orientation towards rights. The current child protection discourse acknowledges the rights of children to be protected and to be heard, to be treated with dignity and to develop (UN, 1989; NHRC, 2019). The orientation is reflected in the POCSO, which provides special protection of children and has safeguards in investigation and adjudication.

A second convergence is related to procedures that are child-friendly. The Act contains provisions relating to recording statements, confidentiality, Special Courts and protections to minimise distress (POCSO Act, ss. 23-38). These measures are based on child protection practices that focus on dignity, safety and minimising secondary victimisation (IICSA, 2022).

The third convergence is the acknowledgment of recovery and protection needs. While POCSO is a largely criminal statute, the protections it affords show recognition that children need protective interventions throughout the justice system. This is in keeping with Article 39 of the CRC which establishes recovery and reintegration as part of child protection (United Nations, 1989). Institutional involvement beyond courts is a fourth convergence. The POCSO framework is implemented through the police, medical practitioners, Special Courts, welfare institutions and support services, demonstrating the multidisciplinary approach to protection that is not dependent on judicial action.

Meanwhile, there are significant tensions that haven't been resolved. The first relates to the paradigm of criminal law versus a holistic approach to child protection. While criminal law is focused on liability, guilt and sanctions, multidisciplinary child protection is about prevention, participation, rehabilitation and long-term well-being. This is not a sign of failure of POCSO, but rather the difference between criminal adjudication and child protection systems.

The other tension is between protection and participation. Children have a right to express views on matters affecting them (United Nations, 1989, art. 12) and child protection systems aim to protect children from harm and distress. When maximising participation in CSA proceedings, children may be subjected to emotional stressors, while over-protecting children can have an impact on agency. Child sensitive justice thus calls for a delicate balance between protection and respect for autonomy.

The other area of conflict lies in the mandatory reporting system as per the POCSO Act. The child protection objective of early intervention and safeguarding is reflected in Section 19 which places a legal requirement to report offences against children. (POCSO Act, s. 19). However, there has been significant discussion from a multidisciplinary point of view. Child protection academics have suggested that the requirement to report could help to identify abuse and stop ongoing victimisation, but could also be a blockage to disclosure in some circumstances. Children and families might not want to seek help if disclosure means there is a mandatory referral to the police. This concern is especially important when the child needs psychological support, counseling or family-based interventions as well as legal action.

The debate is a reflection of the larger issue of balancing protection goals with the multiplicity of children's realities. While mandatory reporting is not necessarily a contradiction to multidisciplinary approaches, it is important to note that legal action should be used in conjunction with supportive mechanisms that focus on the emotional needs, autonomy and future well-being of the child. The discussion addresses the intricate link between criminal justice responses and wider child protection objectives, and shows how to balance criminal justice accountability with therapeutic and developmental outcomes.

A third tension exists between the procedural justice and the therapeutic needs. Evidentiary standards and due process govern criminal proceedings, and therapeutic responses focus on emotional support and recovery. The

goals are not mutually exclusive but are different institutional logics. POCSO's safeguards might be seen as ways of trying to traverse this intersection.

Last but not least, there are two timelines for legal adjudication and long-term recovery. While criminal proceedings can end in conviction, acquittal, or other judicial outcomes, recovery can take place via a continuum of psychosocial support, education, family assistance, and safe environments (IICSA, 2022). Criminal justice is still important but it is not the only aspect of child protection.

These intersections and conflicts are not meant to be interpreted as a criticism of POCSO or a prescription for change. Instead, they place the statute in the context of the broader evolution in child protection theory and practice. POCSO is not a welfare programme nor a wholly punitive criminal law. It sits between two extremes, where criminal law mechanisms are increasingly adopting child protection principles.

7. Conclusion

This paper explored the POCSO Act from a multi-disciplinary child protection lens with a focus on the CRC. The study went beyond the traditional approach which was mainly criminalisation and prosecution and examined the issues related to rights, psychological well-being, institutional coordination and child-sensitive justice in the context of the POCSO framework.

The analysis shows that POCSO embraces multiple principles that are linked to the modern child rights discourse. Its substantive provisions that safeguard children from various forms of sexual victimisation and its procedural structure demonstrates an understanding of the developmental and emotional sensitivities of children. Child friendly procedures, confidentiality protection, Special Courts and institutional mechanisms all show a focus on the child.

The study also shows that the framework embodies concerns that go beyond criminal accountability. It addresses psychological and institutional aspects through the recognition of dignity, participation, protection and support in legal processes. It is operated across various institutions including the police, health, courts, welfare services, and support services, reflecting the multidisciplinary nature of modern child protection systems.

The analysis also highlights some tensions that emerge from the relationship between the aims of criminal law and child protection. The tensions are not a threat to the framework, but rather a reminder of the challenge of incorporating rights-based and multi-disciplinary perspectives in the criminal justice arena.

In conclusion, the POCSO Act must not be viewed as a criminal law act. It plays a significant role in the nexus of criminal justice, child rights, psychological protection, and institutional safeguarding. In this light, the law is a significant case of the shift from traditional criminal justice responses to a more multi-disciplinary perspective on child protection.

References

1. Arpan. (2014). Evaluation of Personal Safety Education Programme conducted by Arpan.
2. Briere, J., & Elliott, D. M. (2003). Immediate and long-term impacts of child sexual abuse. *The Future of Children*, 13(1), 54-69.
3. Committee on the Rights of the Child. (2003). General Comment No. 5: General measures of implementation of the Convention on the Rights of the Child (CRC/GC/2003/5).
4. Committee on the Rights of the Child. (2009). General Comment No. 12: The right of the child to be heard (CRC/C/GC/12).
5. Committee on the Rights of the Child. (2011). General Comment No. 13: The right of the child to freedom from all forms of violence (CRC/C/GC/13).
6. Independent Inquiry into Child Sexual Abuse. (2022). The report of the Independent Inquiry into Child Sexual Abuse (HC 720).
7. Lundy, L., Kilkelly, U., & Byrne, B. (2013). The incorporation of the United Nations Convention on the Rights of the Child into national law: A comparative review. *The International Journal of Children's Rights*, 21 (3), 442-463.
8. National Human Rights Commission. (2019). The United Nations Convention on the Rights of the Child (UNCRC) and Indian legislations, judgements & schemes: A comparative study. NHRC.

9. Srinivasan, S. P., & Shruthi, S. (2024). A comparative review of UNCRC and Indian legislation from the child mental health perspective. *Indian Journal of Psychological Medicine*.
<https://doi.org/10.1177/02537176241226714>
10. United Nations. (1989). Convention on the Rights of the Child. United Nations Treaty Series, 1577, 3. Protection of Children from Sexual Offences Act, 2012.