THE PROTECTION OF CHILDREN FROM SEXUAL OFFENCES ACT, 2012

An insight to the Legal provisions

AN OVERVIEW

It came into effect on November 14, 2012.

Deals with offences relating to child Sexual abuse, child pornography

Main aim of this act is to expand the criminal liability under the offences of child abuse which were earlier not covered under Indian Penal Code (IPC)

Sets out a **child friendly procedure** in the matters of investigation, recording of evidences, trial of offences, establishment of **special courts and ensuring speedy Trial**.

Main objective is to provide protection to the child at every stage of Judicial process.

FEATURES OF POCSO ACT, 2012

Gender Neutral

Act sets a burden of proof – <u>Guilty until proven</u> <u>innocent</u>

To prevent misuse of law, punishments for false complaint and false information with malicious intent have been incorporated

FIR is to be mandatorily lodged by police in all cases of sexual abuse.

Statements can be recorded at **child's residence place of their choice**, preferably done by a **female police officer not below the rank of Sub- inspector**.

Caters all possible offences such as – sexual assault, sexual harassment, use of minors for pornographic purposes.

Prescribes punishments for attempted crimes as well as aiding and abetting

> Failure to report even on account of apprehensions (suspicion) may result up to 6 months imprisonment and/or fine

Specialized courts to be established to handle such cases of child abuse.

Minor should **not be exposed** in any way to the accused and his/her **identity is also not disclosed** during the whole process of investigation and trial

> Interpreter, Translator or a special educator or any other expert may be present in court for the minor's assistance.

Sec 19 – REPORTING OFFENCES

Person having apprehension that an offence is likely to have been committed or has knowledge that such offence has been committed shall provide such information to **Special Juvenile Police Unit (SJPU) or Local Police**

Police or SJPU should make necessary arrangements to give the child care and protection

Without any delay, Police/SJPU shall report the matter to Child Welfare Committee or Special Court or Sessions Court with 24 hrs.

Sec 21 - FAILURE TO REPORT

Failure to report the offence shall make a person liable for **imprisonment up to 6 months or with fine or both**

Person being in charge of a company or an institution, or by whatever name called fails to report in respect of a subordinate under his control would be punished with **imprisonment for 1 year and with fine**

False complaint of a child is not punishable

ROLE OF SPECIAL COURTS

Create a child friendly atmosphere by allowing a family member, a guardian, a friend or a relative in whom the child has trust to be present in the court

Child should not be called repeatedly to testify in the court

Aggressive questioning and character assassination of the child not permitted - Dignity to be maintained

Apart from punishment to the wrongdoer, compensation is also granted to the child for physical/mental trauma

Section 37 – Trials to be conducted in camera, in the presence of parents or any other person in whom the child has trust or confidence.

DEFINITIONS

Section 3- Penetrative Sexual Assault

When a male person penetrates his penis or any other object or any part of his body or does something to either penetrate into the private parts of the child or applies his mouth to private parts of the child or makes the child to do so either to him or to any other person Section 5 – Aggravated Penetrative Sexual Assault

An offence is treated as Aggravated Penetrative Sexual Assault when the penetration is committed by a person in a position of trust or authority of the child such as a police officer, a member of security forces, public servant, management or staff of jail, remand home, educational institution, hospital, religious institution.

Section 7 – Sexual Assault

Whoever with the bad intention, touches the private parts of a child, be it a male or female, or makes the child to do so, or does any act with a sexual intent which involves physical contact **without penetration** is said to have committed a sexual assault.

Section 9 – Aggravated Sexual Assault

A sexual assault committed by a police officer, member of the armed or security forces, a public servant, management or staff of jail, remand or observation home, hospital, educational institution or religious institution is said to have committed Aggravated Sexual Assault

- Section 11- Sexual Harassment
- If a person utters any word or makes any sound/gesture or exhibits any part of the body with an intention that it shall be heard or seen by the child
- Or makes a child to exhibit his body or any part of his body so as it is seen by such person or any other person
- Repeatedly follows or watches or contacts a child through electronic digital or any other means
- Threatens to use, in any form of media a real or fabricated depiction of any part of the body of child or the involvement of child in a sexual act.

- Section 13 Use of Child for pornographic purposes
- Whoever uses a child in any form of media, for the purpose of sexual gratification, which includes-
- a) Representation of sexual organs
- b) Usage of child engaged in real or simulated sexual acts
- c) Indecent or obscene representation of a child shall be guilty of the offence



Section 3 - Penetrative Sexual Assault Section 4 : Punishment – Not less than 7 years which may extend to imprisonment for life and fine

Section 5 – Aggravated Penetrative Sexual Assault
Section 6 : Punishment – Not less than 10 years which may extend to imprisonment for life and fine

Section 7 - Sexual Assault
Section 8 : Punishment – Not less than 3 years which may extend to 5 years and fine

Section 9 – Aggravated Secural Assault
Section 10 : Punishment – Not less than 5 years which may extend to 7 years and fine

Section 11 - Sexual Harassment of a child Section 12 : Punishment – imprisonment up to 3 years and fine

Section 13 – Use of child for pornographic purposes
Section 14 : Punishment – Imprisonment for up to 5 years and fine.
In the event of second or subsequent offence, imprisonment for 7 years and fine.

POCSO AMENDMENT ACT, 2019

- Increases the minimum punishment from 7 years to 10 years
- If a person commits penetrative sexual assault on a child below the age of 16 years, he shall be punishable with imprisonment between 20 to life imprisonment with fine.
- Two more sections are added to Aggravated penetrative sexual Assault-
 - 1. Assault resulting in death of child
 - 2. Assault committed during a natural calamity or in similar situations of violence.
- It increases the minimum punishment from 10 to 20 years and maximum to Death Penalty.

- Two more sections are added to the definition of Aggravated Sexual Assault
- 1. Assault committed during a natural calamity
- 2. Administrating or helping in administering any hormone or any chemical substance to a child for the purpose of attaining early sexual maturity
- Under the offence of child pornography also, two other offences for storage of pornographic material involving children are added
- 1. Failing to destroy, delete or report pornographic material involving a child
- 2. Transmitting, displaying, distributing such material except for the purpose of reporting it to the concerned authority.

REPORTS AND STATISTICS

Child Maltreatment

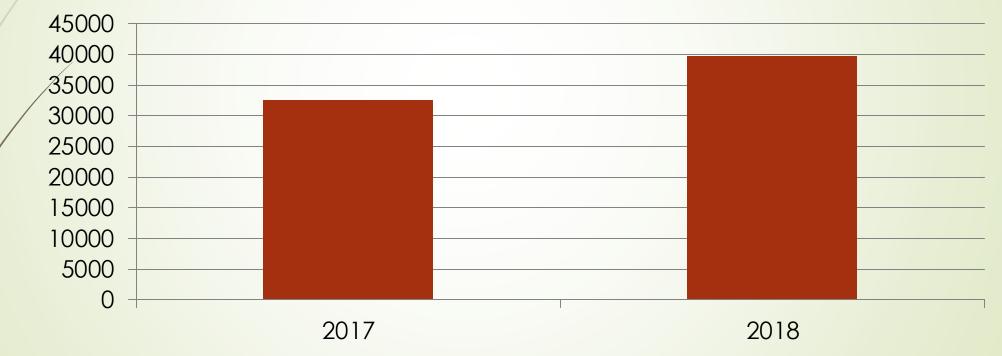
CHILD VICTIMS OFTEN KNOW THE PERPETRATOR

Among cases of child sexual abuse reported to law enforcement:



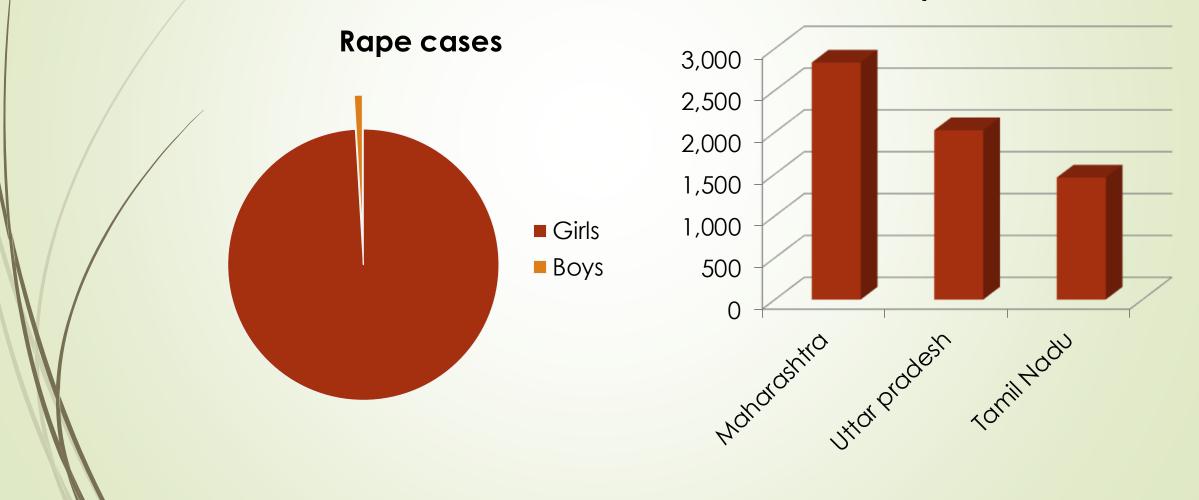
Child sexual abuse cases reported under POCSO Act in 2017-2018

Child Abuse cases - 32,608 in 2017 and 39,827 in 2018

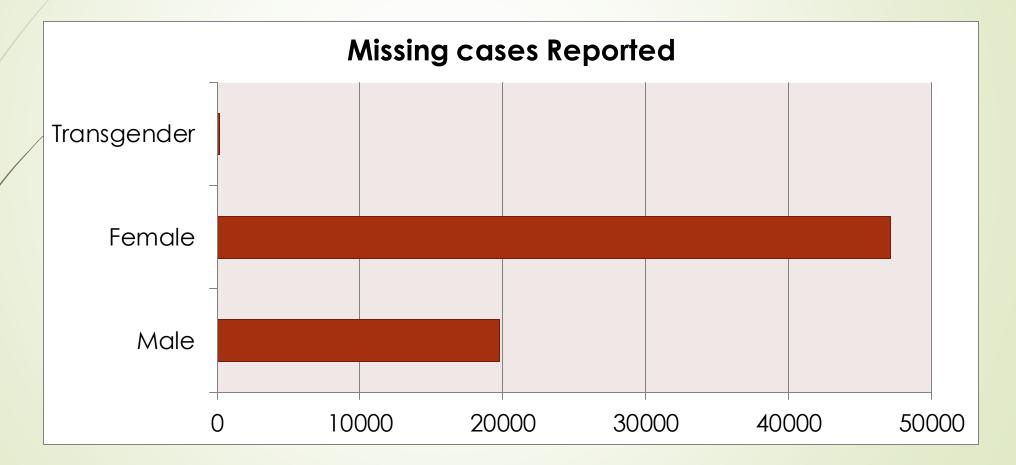


21,605 child rapes were recorded in 2018, out of which 21,401 rape victims are girls and 204 boys

Child rape cases

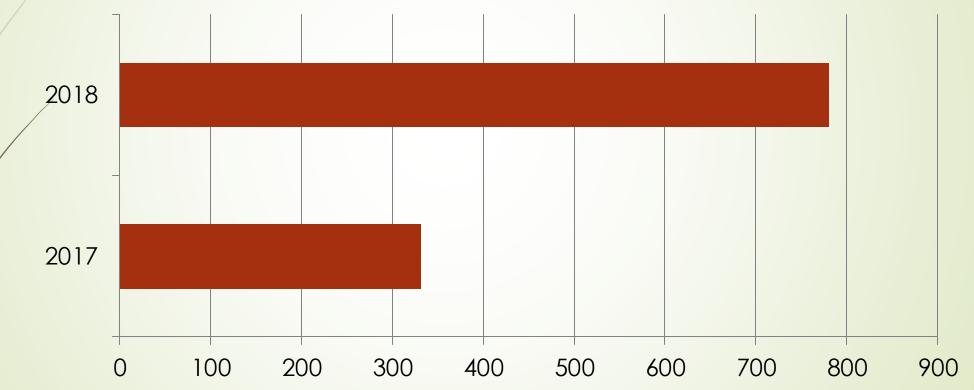


Total of 67,134 children (19,784 male,47,191 female and 159 transgender) were reported missing in 2018.



Increase in the cases of Child pornography from 331 in 2017 to 781 in 2018

Use of children for child pornography



73% OF	ABUSER	S KNOWN	PERS	ONS: DA	ATA	
Child sexual al	buse complain	nts: Top 10 states 1,742	À	Com	Chile	d labour
Tamil Nadu		985	1 2	Com	Karnataka	4,549
Maharashtra West Bengal	443	6 th	0	\square	Telangana Rajasthan MP	3,661 3,622 3,420
Karnataka MP	428	Maharashtra's	A	N	TN Maha	3,412 2,897
AP UP Delhi	399 381 318	ranking in child labour complaints	the	X	AP	2,334 2,299
Chhattisgarh	277		Guest	200	Delhi Odisha	1,555
Category of abusers (All-India figures) Figures rounded off Step-parents2% Institution staff 2% Teachers7%			Gender d Boys G 44 (% ui san 65 56	distribution for interventions made Girls Protection from abuse Child in conflict with law Medical 44		
Relatives 8%	TOTAL 7684	Employers 0.7	73	Rest	toration nsorship	35 27
Strangers 25%. Caretaker 0.6% Hospital staff 0.1 Police 0.14%			% 52 19% 71	Missing 48 29 Emotional support and guidance 38 Other interventions		
Source: Childline '109	8', Data for 2018-19	Defence personnel	0.09% 57	otherm	terrentoris	43

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CHILD ABUSE CASTS A SHADOW THE LENGTH OF A LIFETIME

THANK YOU