Protection of children from Sexual Offences Act 2012
Violence throughout life!!

Pre - Natal

- Female Foeticide
- Physical, sexual,
- Emotional abuse

Childhood

- Child marriage,
- * sexual, emotional Physical abuse by parents, relatives
- Child prostitution,
Violence throughout life!!

Adolescence

- Rapes,
- Sexually harassment,
- Murders,
- Trafficking & Prostitution.
Violence against children in India

- 1 out of every 10 women reported some kind of child sexual abuse during childhood, chiefly by known persons.
- 1 out of 4 girls is sexually abused before the age of 4.
- 19% are abused between the ages of 4 & 8.
- 28% are abused between the ages of 8 & 12.
- 35% are abused between the ages of 12 & 16.
Violence against children in India

- There are approximately 2 million child commercial sex workers between the age of 5 and 15 years and about 3.3 million between 15 and 18 years.
- They form 40% of the total population of commercial sex workers in India.
- 80% of these are found in the 5 metros.
- 71% of them are illiterate.
- 500,000 children are forced into this trade every year.
Provisions under Indian Penal Code (IPC)

- Rape - Sec. 376 IPC
- Kidnapping - Sec. 363-373 IPC
- Molestation - Sec. 354 IPC
- Sexual Harassment - Sec. 509 IPC
Protection of Children from Sexual Offences Act 2012 (POCSO Act 12)
Basic info....

- Brought into force from 14.11.2012 by way of a separate notification in terms of Section 1(3).
- Popularly referred as POCSO Act ( not POSCO Act)
SALIENT FEATURES

- New offences / Special Courts / Special Public Prosecutor
- Mandatory Reporting / Punishment for False Reporting
- Special Procedures: recording of complaint, statements & Evidence
- Monitoring of NCPCR/ SCPCR / Convergence with JJ Act
- Compensation
Offences under POCSO

- Penetrative Sexual Assault (Sec. 3)
- Aggravated Penetrative Sexual Assault (Sec. 5)
- Sexual Assault (Sec. 7)
- Aggravated Sexual Assault (Sec. 9)
- Sexual Harassment (Sec. 11)
11. A person is said to commit sexual harassment upon a child when such person with sexual intent,—

(i) utters any word or makes any sound, or makes any gesture or exhibits any object or part of body with the intention that such word or sound shall be heard, or such gesture or object or part of body shall be seen by the child; or

(ii) makes a child exhibit his body or any part of his body so as it is seen by such person or any other person; or

(iii) shows any object to a child in any form or media for pornographic purposes; or

(iv) repeatedly or constantly follows or watches or contacts a child either directly or through electronic, digital or any other means; or

(v) threatens to use, in any form of media, a real or fabricated depiction through electronic, film or digital or any other mode, of any part of the body of the child or the involvement of the child in a sexual act; or

(vi) entices a child for pornographic purposes or gives gratification therefor.

Explanation.—Any question which involves “sexual intent” shall be a question of fact.
7. Whoever, with sexual intent touches the vagina, penis, anus or breast of the child or makes the child touch the vagina, penis, anus or breast of such person or any other person, or does any other act with sexual intent which involves physical contact without penetration is said to commit sexual assault.
3. A person is said to commit "penetrative sexual assault" if—

(a) he penetrates his penis, to any extent, into the vagina, mouth, urethra or anus of a child or makes the child to do so with him or any other person; or

(b) he inserts, to any extent, any object or a part of the body, not being the penis, into the vagina, the urethra or anus of the child or makes the child to do so with him or any other person; or

(c) he manipulates any part of the body of the child so as to cause penetration into the vagina, urethra, anus or any part of body of the child or makes the child to do so with him or any other person; or

(d) he applies his mouth to the penis, vagina, anus, urethra of the child or makes the child to do so to such person or any other person.
Punishments for Offences

Sexual Harassment (Sec. 11)
- Imprisonment up to 3 years and also liable to fine

Sexual Assault (Sec. 7)
- Not less than 3 years but may extend to 5 years and also liable to fine

Penetrative Sexual Assault (Sec. 3)
- Not less than 7 years, may extend to imprisonment for life and also liable to fine

Aggravated Sexual Assault (Sec. 9)
- Not less than 5 years, may extend to 7 years and also liable to fine

Aggravated Penetrative Sexual Assault (Sec. 5)
- Rigorous Imprisonment for not less than 10 years, may extend to imprisonment for life, also liable to fine
Other Offences & Punishments

- Using a child for pornographic purposes [Section 14 (1)]: Up to 5 years and fine
- Using a child for pornographic purposes, after having been convicted previously for same offence [Section 14 (1)]: Up to 7 years and fine
- Storing, for commercial purpose, any pornographic material in any form involving a child (Section 15): Up to 3 years or fine or both
- Attempting to commit any offence under this Act (Section 18): One half of the longest term of imprisonment provided for that offence with fine and may extend to one half of the imprisonment for life
procedure for reporting the case

- Section 19: Mandatory reporting including even by the child concerned to the SJPU or Local police
- Report to CWC and Special Court/ Sessions court
- Section 21: Punishment for failure to Report
- Section 22: Punishment for False Complaint
- Section 23: Procedure for media
Section 23: Procedure for media

- Making any report or present comments on any child from any form of media or studio or photographic facilities, without having complete and authentic information, which may have the effect of lowering such child’s reputation or infringing on such child’s privacy [Section 23(1)]: not less than 6 months which may extend up to 1 year or fine or both

- Disclosure of identity of a child including his name, address, photograph, family details, school, neighbourhood or any other particulars which may lead to disclosure of identity of child in any media report, without permission of the Court [Section 23(2): not less than 6 months which may extend up to 1 year or fine or both
All cases to be reported to CWC.

Only in following cases a child to be produced before CWC:

- Offence has been committed or attempted or is likely to be committed by a person living in the same or shared household with the child or
- Child is living in a child care institution and
- is without parental support or Child is found to be without any home and parental support.

CWC will make a determination within 3 days as to whether the child needs to be taken out of the custody of his family or shared household and be placed in a children home or a shelter home.
Recording of Statement of Child

- Section 24: Recording of statement of a child
- Sections 25 & 26: Recording the statement of the child by magistrate and additional provisions
- Wherever possible recorded by audio- video electronic means
- Section 27: Medical Examination of a child
• Police should record statement of child victim at his/her residence or at a place where such child usually resides or at a place of child’s choice in the presence of child’s parents or guardians or any person in whom child has trust and confidence.

• Police should arrange for a translator or interpreter if child uses a different language.

• At the time of examination by police or in court, Child shall not be exposed to the accused in any manner.
Medical Examination and related issues

- Issue of consent
- Lady doctor
- Even without FIR medical examination
- Counseling before medical examination
- Medical examination shall be conducted in the presence of the parent or in whom child has confidence or trust.
Procedure and Powers of Special Courts

- Frequent breaks for the child during the trial.
- Child friendly atmosphere
- Child is not called frequently to testify in the court
- Compensation
- Sect 34: offence by child shall be dealt with under provisions of JJ Act
Child Friendly Procedures incorporated in the Act

• not be in uniform while recording the statement of the child

• The statement of Recording the statement of the child at the residence of the child or at the place of his choice, preferably by a women police officer not below the rank of the sub-inspector.

Evidence has to be recorded within 30 days

• No child to be detained in the police station in the night for any reason

• Police officer the child to be recorded as spoken by the child
• Assistance of an interpreter or translator or an expert as per the need of the child
• Assistance of special educator or any person familiar with the manner of communication of the child in case child is disabled
• Medical examination of the child to be conducted in the presence of the parent of the child or any other person in whom the child has trust or confidence
• In case the victim is a girl child, the medical examination shall be conducted by a woman doctor
• Frequent breaks for the child during trial
• Child not to be called repeatedly to testify
• No aggressive questioning or character assassination of the child
Confidentiality Vs Mandatory reporting.

Mandatory Reporting Vs False complaint

Age- Adolescent group

Are the systems in place

Compensation

Fast Tracking

Awareness and Curriculum
Thank You

“Injustice anywhere is a threat to justice everywhere.”

Martin Luther King Jr.