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POCSO Live

Protection of Children from Sexual Offences

A quarterly insight to the POCSO Law!

By V.P Shintre & Associates

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POCSO LIVE *brings you updates and information relating to matters of protection of children from sexual abuse irrespective of gender. This is an effort to create awareness amongst all stakeholders having access to children about their duties and obligations towards protecting children from sexual abuse and keeping them safe.*

Role of Media in Reporting POCSO Cases: Balancing Awareness and Confidentiality

Child sexual abuse is a grave issue that demands collective attention. In India, the Protection of Children from Sexual Offences (POCSO) Act, 2012 was enacted to safeguard children and ensure a child-friendly judicial process. While the law provides the framework for prevention and redressal, the media plays a vital role in shaping public awareness, building sensitivity, and creating accountability.

However, reporting on POCSO cases is a delicate responsibility. The media must inform and educate society while ensuring that the confidentiality, dignity, and best interests of the child are fully protected.

Section 23 of POCSO Act, 2012 – Procedure for Media

(1) No person shall make 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 his reputation or infringing upon his privacy

(2) No reports in any media shall disclose, the 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 the child:
Provided that for reasons to be recorded in writing, the Special Court, competent to try the case under the Act, may permit such disclosure, if in its opinion such disclosure is in the interest of the child.

(3) The publisher or owner of the media or studio or photographic facilities shall be jointly and severally liable for the acts and omissions of his employee.

(4) Any person who contravenes the provisions of sub-section *(1)* or sub-section *(2)* shall be liable to be punished with imprisonment of either description for a period which shall not be less than six months but which may extend to one year or with fine or with both.

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GOOD TO KNOW!

"Khoya-Paya" Portal/ "Track the Child" Portal

"Khoya-Paya" Portal or "Track the Child" Portal is dedicated to the cause of tracking missing children. It helps parents to register and report online the details of their missing child. Parents, whose child is missing, can register to report a missing kid, give details of missing kid, search missing child details, etc.

'Track the Child' software has two modules, a) the information of the children, who are already covered under the Juvenile Justice (Care and Protection of Child) Act 2000 and the Integrated Child Protection Scheme (ICPS) is to be entered in the software by the Integrated Child Protection Scheme (ICPS) functionaries including Child Welfare Committees (CWCs) & Juvenile Justice Boards (JJBs) members, and b) the information of the missing children being reported is to be entered and updated at the police stations.

'Track the Child' holds the live database of 'missing' & 'found' children and tracks the overall progress of the children. The portal also provides an integrated virtual space for all stakeholders & ICPS bodies which includes Central Project Support Unit (CPSU), State Child Protection Society/Units and District Child Protection Units (DCPU), Child Care Institutions (CCIs), Police Stations, Child Welfare Committees (CWCs), Juvenile Justice Boards (JJBs), etc. in the 35 State/UTs to facilitate tracking of a "Child in distress".

In a Landmark Judgement by Supreme Court of India in Nipun Saxena Vs. Union of India (WRIT PETITION (CIVIL) NO. 565 OF 2012), the Honourable Court stated –

"Subsection (2) of Section 23 clearly lays down that no report in any media shall disclose identity of a child including name, address, photograph, family details, school, neighbourhood or any other particulars which may lead to the disclosure of the identity of the child. **This clearly shows that the intention of the legislature was that the identity of the child should not be disclosed directly or indirectly. The phrase 'any other particulars' will have to be given the widest amplitude and cannot be read only ejusdem generis.** The intention of the legislature is that the privacy and reputation of the child is not harmed. **Therefore, any information which may lead to the disclosure of the identity of the child cannot be revealed by the media.** The media has to be not only circumspect but a duty has been cast upon the media to ensure that it does nothing and gives no information which could directly or indirectly lead to the identity of the child being disclosed."

Further, it states that – "No doubt, it is the duty of the media to report every crime which is committed. The media can do this without disclosing the name and identity of the victim in case of rape and sexual offences against children. The media not only has the right but an obligation to report all such cases. **However, media should be cautious not to sensationalise the same**. The media should refrain from talking to the victim because every time the victim repeats the tale of misery, the victim again undergoes the trauma which he/she has gone through. Reportage of such cases should be done sensitively keeping the best interest of the victims, both adult and children, in mind. Sensationalising such cases may garner Television Rating Points (TRPs) but does no credit to the credibility of the media."

The Supreme Court reiterated that the media is not only bound not to disclose the identity of the child but by law is mandated not to disclose any material which can lead to the disclosure of the identity of the child. Any violation of this will be an offence under Section 23(4).

The Apex Court had provided the following directions through this judgement –

1. No person can print or publish in print, electronic, social media, etc. the name of the victim or even in a remote manner disclose any facts which can lead to the victim being identified and which should make her identity known to the public at large.
2. In cases where the victim is dead or of unsound mind the name of the victim or her identity should not be disclosed even under the authorization of the next of the kin, unless circumstances justifying the disclosure of her identity exist, which shall be decided by the competent authority, which at present is the Sessions Judge.
3. FIRs relating to offences under Sections 376, 376A, 376AB, 376B, 376C, 376D, 376DA, 376DB or 376E of IPC and offences under POCSO shall not be put in the public domain.
4. In case a victim files an appeal under Section 372 CrPC, it is not necessary for the victim to disclose his/her identity and the appeal shall be dealt with in the manner laid down by law.
5. The police officials should keep all the documents in which the name of the victim is disclosed, as far as possible, in a sealed cover and replace these documents by identical documents in which the name of the victim is removed in all records which may be scrutinised in the public domain.
6. All the authorities to which the name of the victim is disclosed by the investigating agency or the court are also duty bound to keep the name and identity of the victim secret and not disclose it in any manner except in the report which should only be sent in a sealed cover to the investigating agency or the court.

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7. An application by the next of kin to authorise disclosure of identity of a dead victim or of a victim of unsound mind under Section 228A(2)(c) of IPC should be made only to the Sessions Judge concerned until the Government acts under Section 228A(2)(c) and lays down a criterion as per our directions for identifying such social welfare institutions or organisations.

8. In case of minor victims under POCSO, disclosure of their identity can only be permitted by the Special Court, if such disclosure is in the interest of the child.

9. All the States/Union Territories are requested to set up at least one 'one stop centre' in every district within one year from today.

Challenges in Media Reporting

1. Sensationalism vs. Sensitivity
In the competitive race for ratings, readership, and clicks, some media outlets resort to sensationalism.
Headlines are exaggerated, images are dramatized, and narratives are constructed to capture attention.
While this may boost visibility, it compromises the sensitivity required in cases involving children.

Sensationalized coverage may indirectly highlight the child's identity (e.g., "incident in XYZ school in South Delhi" can easily lead to speculation).

Such reporting can also trigger trauma for survivors, as their experience is broadcast as public spectacle.

Instead of focusing on systemic issues like prevention, awareness, or institutional accountability, the spotlight shifts to lurid details, undermining the child's dignity.

2. Breach of Confidentiality
Even without naming the child, disclosing details like location, school, or family circumstances can unintentionally reveal the identity.

- Mentioning location, school name, or family background can make the child easily identifiable in the community.
- Publishing photographs of parents, blurred faces of children, or even visuals of the house can inadvertently lead to identification.
- Once confidential information is in the public domain, irreversible harm is caused to the child's privacy and long-term rehabilitation prospects.

3. Public Perception
The way stories are framed has a significant impact on **public perception of survivors**.

- Overemphasis on **shocking or explicit details** tends to **stigmatize the survivor** rather than generate empathy.
- Survivors and their families may face **social ostracism** when details about the case circulate in their community.
- Coverage that portrays children as helpless or permanently damaged reinforces victimhood instead of focusing on resilience, rights, and justice.
- Media narratives can sometimes inadvertently **shift blame towards the child or parents**, further deepening trauma.

4. Digital Media Amplification

In the era of **24x7 news cycles and social media**, information spreads at lightning speed, often with **little or no editorial oversight**.

- Even a small breach—like a photograph, a location detail, or a leaked video—can be **amplified across platforms**.
- Social media users often **reshare sensitive content,** making it impossible to control dissemination once it is public.
- "Citizen journalism" and unverified reporting on platforms like YouTube, WhatsApp, and Instagram can create **parallel narratives**, some of which may be misleading or harmful.
- Digital footprints remain permanent, posing long-term risks for survivors when future peers, schools, or employers stumble upon case references.

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The challenge for media lies in **informing society about child sexual abuse while protecting the rights and dignity of the child survivor**. Responsible journalism requires sensitivity, legal awareness, and a commitment to ethical reporting.

Below are key points to be considered while reporting –

1. Focus on the Issue, Not the Individual

Media reports should emphasize the **larger problem and systemic lapses** rather than dwelling on the individual child's story.

- Highlight **gaps in safety measures**, failures in institutions, or lack of awareness in communities.
- Share information about **legal remedies**, helplines, and government initiatives (such as Childline 1098, POCSO e-Box, or police emergency numbers).
- Case studies can be discussed in **generalized or anonymized ways**, ensuring that the child's privacy is fully preserved.
  This approach keeps the spotlight on **prevention, accountability, and systemic reform** rather than on personal trauma.

2. Maintain Strict Confidentiality

Confidentiality is not just a **moral duty** but a **legal mandate under Section 23 of the POCSO Act**.

- Avoid using names, photographs, school/college details, neighbourhood references, or any other identifiable markers.
- Ensure **neutral and factual language** is used instead of sensational, emotional, or suggestive phrasing.
- Headlines should not be provocative; instead, they should stress the seriousness of the issue and the need for solutions.
  By exercising editorial restraint, the media upholds the **child's right to privacy and dignity**.

3. Adopt a Survivor-Centric Approach

Reports must be framed from the lens of **support, empowerment, and dignity**.

- Avoid victim-blaming language (e.g., questioning the child's presence in a place or the guardian's role).
- Reinforce that **the responsibility lies with the perpetrator and the system**, not the survivor.
- Use empowering narratives that focus on the survivor's rights to justice, rehabilitation, and support. This approach encourages empathy, reduces stigma, and promotes a **culture of support rather than judgment**.

4. Collaborate with Experts

Accurate reporting often requires input from those with **specialized knowledge**.

- Consult **child rights experts, psychologists, and legal professionals** to explain the psychological impact of abuse, the legal processes under POCSO, and the importance of child-sensitive reporting.
- Bring in insights from **NGOs, counsellors, and social workers** to balance coverage with educational and preventive messages.
- This not only strengthens credibility but also ensures that media narratives are **informed, responsible, and solution-driven**.

5. Educate Through Media

Beyond covering cases, the media has the power to **proactively prevent abuse** through education and awareness campaigns.

- Run programs and articles on **child safety, online safety, safe/unsafe touch, and the importance of timely reporting**.
- Highlight available **government schemes, helplines, and child protection services** to guide parents and children.

This preventive approach positions the media not just as a **reporter of events** but as a **partner in child protection**.

When handled responsibly, reporting under POCSO can build awareness, break taboos, and strengthen collective responsibility against child sexual abuse.

At the same time, the media must act with utmost sensitivity and legal compliance, ensuring that the child's confidentiality and dignity remain paramount. Balancing awareness with confidentiality is not just a statutory requirement — it is a moral obligation.

NEWS CORNER –
POCSO Act is gender neutral, Women can be made accused – Karnataka High Court

Declaring that the offence of penetrative sexual assault can be alleged even against a woman under the Protection of Children from Sexual Offences (POCSO) Act, 2012, as this law is gender-neutral, the High Court of Karnataka, in CRIMINAL PETITION No.12777 OF 2024; refused to quash a criminal case against a 52-year-old woman, who allegedly compelled a 13-year-old boy for sex with her at her residence during 2020.

Rejecting the argument on behalf of the accused that offence of aggravated sexual assaults or rape cannot be invoked against a woman, the court pointed out that Sections 4 and 6 of the POCSO Act makes it clear that anyone who "compels a minor child to do penetrative or other sexual acts with him or other persons", is an offender.

Though the pronoun "he" and its derivatives were not defined under the POCSO Act, which only states that a child is any person below the age of 18, Justice M. Nagaprasanna, relying on the definitions in the Indian Penal Code (IPC), held that the pronoun "he" and its derivatives in POCSO will also have to be used, "of any person, whether male or female."
"The language of the provision clearly indicates inclusivity," the court observed

Madras High Court orders Removal of 'Bad Girl' teaser from YouTube citing child pornographic depiction and State's duty under Article 39 (f)

The Madras High Court in the case Writ Petition (MD)No.5562 of 2025; after examining the materials available on record, noted that the teaser of the Tamil movie Bad Girl contained child pornography and the content disclosed exploitation of children (school students shown), depicted them in a sexual manner, constituting a violation of Indian laws protecting children from sexual offenses and against wellbeing of the children in particular and society at large. The Court observed that the pictures hosted on YouTube could be accessed by anybody and there was no restriction to the children to access and to see the said pictures and if the children see the said contents of the videos, certainly it would spoil the mind of the children.

The Court emphasised that it was the duty of the State to protect the children in all respects, and moreover, it was the social responsibility of every citizen to protect the children, and it was without such social responsibility, the said obscene pictures had been uploaded on social media. The Court therefore concluded that such content could not be allowed to continue, since it will be visible to children, the number of victims would be increased. Therefore, it has to be removed immediately.

The Court referred to Article 39(f) of the Constitution, which mandated the State to direct its policy towards securing that children were given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity, and that childhood and youth were protected against exploitation and against moral and material abandonment.

The Court emphasised that the State must ensure the protection against exploitation and to provide childhood care, and therefore the said words 'protection' and 'care' must be given widest meaning. The Court further pointed out the inaction of the authorities concerned despite complaints having been lodged, and observed that immediately after the filing of this petition and upon gaining knowledge of the facts, the respondents ought to have taken steps without waiting for orders from the Court, however, they failed to take any action.

The Court further ordered the National Commission for Protection of Child Right and National Commission for Women to look into the matter, monitor and take appropriate steps in accordance with law to prevent any type of child pornography.

ABOUT THE AUTHORS

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Advocate Vaishali Bhagwat, is amongst the first technology lawyers in the country with prior qualification and working experience in the field of Computer Science, Cyber Defense and Information Assurance.

Her work also focuses on women and children's rights and has worked extensively on cases relating to violence against women and children including sexual violence.

Vaishali has done extensive work in creating awareness amongst stakeholders in keeping children safe online and her work was recognized by the DSCI NASSCOM Award and also by Rotary International in Seoul

Vaishali is on the advisory board of several educational and academic institutions for POCSO related services of drafting and implementation of the Child Protection Policy and training of the members of the child protection committee.

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