

The POCSO (Amendment) Act, 2019 [UPSC Notes for GS II]

This article will describe in detail the proposed amendments to the POCSO Act.

These UPSC Notes on the POCSO amendments and their significance are aligned with the [UPSC Syllabus](#) and aspirants should prepare this topic for General Studies Paper II.

The amendments have a number of provisions to safeguard and protect children from sexual predators. The issue of child rights and child abuse are frequently seen in the news; hence the topic is important for the IAS Mains.

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The POCSO (Amendment) Act, 2019

Details:

The amendment act has a number of provisions to safeguard children from offences of sexual assault and sexual harassment.

- The act aims at making offences against children gender-neutral.
- The definition of 'Sexual Assault' has been extended to incorporate administration of hormones or chemical substances to children to attain early sexual maturity for the purpose of penetrative sexual assault.
- The Act is critical because it clearly defines child pornography and makes it punishable.
 - The Act defines child pornography as any visual depiction of sexually explicit conduct involving a child including photograph, video, digital or computer generated image indistinguishable from an actual child.
 - The amendments also penalize the transmitting of pornographic material to children and propose to synchronise it with the Information Technology Act.
- The Act seeks to enhance punishment for sexual offences against children, with a provision of death penalty.
 - According to the amendment act, those committing penetrative sexual assaults on a child below 16 years of age would be punished with imprisonment up to 20 years, which might extend to life imprisonment as well as fine.
 - In case of aggravated penetrative sexual assault, the act increases the minimum punishment from ten years to 20 years, and the maximum punishment to death penalty.
- To curb child pornography, the Act provides that those who use a child for pornographic purposes should be punished with imprisonment up to five years and fine.
- However, in the event of a second or subsequent conviction, the punishment would be up to seven years and fine.

The government has also sanctioned over one thousand fast track courts for speedy disposal of pending cases under POCSO.

In a bid to crack down heavily on child pornography, the Ministry of Women and Child Development has laid down a clear definition of what constitutes the offence and has included sexually explicit digital content

involving children under its purview as per an amendment to the existing Protection of Children from Sexual Offences (POCSO) Act which is soon to be tabled before the Lok Sabha.

Details:

- The new act defines child pornography as: “any visual depiction of sexually explicit conduct involving a child which includes a photograph, video, digital or computer-generated image (that is) indistinguishable from an actual child.”
- Additionally, “an image created, adapted, modified” to depict a child would also be treated as child pornography. This would also include cartoons, animated pictures, etc.
- The Cabinet has also enhanced the fine for possessing child porn but not deleting or reporting it to 5,000 from the earlier proposal of Rs. 1,000. If a person stores such content for distributing it further, except for when presenting it in court as evidence, he could face a punishment of upto three years.
- Henceforth, there will be zero tolerance for child pornography.
- Some of these provisions were also contained in the Protection of Children from Sexual Offences (POCSO) Amendment Act, 2019, but lapsed.

Significance:

- So far, there had been no definition of child pornography in Indian law.
- It was a big lacuna which could be used to evade the law.
- Neither Section 67 of the IT Act nor Section 293 of the Indian Penal Code define child pornography.
- Its definition derived from what constitutes pornography, which is defined as “any material which is lascivious or appeals to the prurient interests or if its effect is such as to tend to deprave or corrupt the minds of those who are likely to see, read and hear the same.”
- “Child porn” has now been redefined to ensure that the punishment can be implemented properly.
- The amended law will also apply to pornographic content where adults or young adults pretending to be children.