

POCSO ACT WITH RESPECT TO TRIBAL MARRIAGE'

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ABSTRACT

Child marriage is a common practice in Indian tribal communities. The act of engaging in sexual activities with children is considered a serious offence under the Protection of Children from Sexual Offences (POCSO) Act, 2012, and has been a major cause for concern in India for several years. Even though India is characterized by a highly stratified social structure based on caste and tribe, few studies have explored these factors in relation to multidimensional poverty in India. In 2012, the Indian government passed the Protection of Children from Sexual Offences (POCSO) Act, which aims to combat the problem of sexual abuse and exploitation of children by providing a legal framework for their protection. The act provides for the protection of children from sexual offences, defines various types of sexual abuse and harassment, and prescribes punishments for offenders. This study examines the POCSO act, explains it and reveals the level of problems that tribals face because of this law. The study also explores the socio-cultural context of tribal communities, where child marriage may be a commonly practised practice. The findings show that child marriage is illegal in India under the POCSO Act, and it is essential to understand the underlying causes of such practices in tribal communities and address these underlying factors. The changes needed in the POCSO Act to ensure that the interests of tribal people are not harmed in cases of child marriage require a nuanced and balanced approach that addresses the causes of the practice, involves greater consultation with the tribal community, and ensures that the act is implemented in a manner that respects their rights and traditions.

Keywords: POCSO ACT, Child Marriage, Tribal.

INTRODUCTION

The Age of Consent has been a controversial issue for many years, with child rights activists and courts alike calling for reforms. The current age of consent is 18, but the Chief Justice of India, DY Chandrachud, has publicly called for a change in the age of consent. The POCSO Act of 2012 criminalizes all sexual acts among minors, regardless of consent, leading to

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difficult questions for judges and causing immense distress for tribal communities where mutually consenting relationships are deemed illegal.

In southern India, particularly in tribal hamlets, the provisions of the POCSO Act have caused widespread protests, resulting in arrests and incarcerations. Adivasi communities, such as the Paniyas and Kattunaikas, have their unique customs and traditions, with girls and boys marrying and living together after reaching puberty. Marriage in these communities marks the transition from adolescence to adulthood, and men are considered ready for marriage based on their physical fitness. Unfortunately, many grooms over the age of 21 have been arrested for marrying brides under the age of 18.¹

As Chief Justice Chandrachud stated, "You are aware that the POCSO Act criminalizes all sexual acts among those under 18 regardless of whether consent is present factually among the minor. In my time as a judge, I have observed that this category of cases poses difficult questions for judges across the spectrum. There is a growing concern." This growing concern highlights the need for a change in the age of consent laws. With the COVID-19 pandemic causing a surge in POCSO cases in the courts, it's more important than ever to address this issue.² The age of consent laws needs to be re-evaluated to safeguard the rights and cultural practices of tribal communities, while also ensuring that legal cases related to these matters are dealt with fairly and impartially. Adivasi communities must be allowed to observe their customs and traditions, which include the freedom to wed and cohabit with a partner of their choosing once they have reached puberty. By changing the age of consent laws, we can ensure that the legal system can handle these cases in a more fair and just manner, while also protecting the rights of tribal communities.

POCSO ACT, 2012

The problem of child sexual abuse has been a cause for serious concern in India for many years. Although the government has made numerous efforts to safeguard children and has ratified international instruments like the Convention on the Rights of the Child, the country has lacked a dedicated law to address this issue. This was mainly due to the inadequacies of the provisions

¹ Balan, S.S. (2022) "How POCSO Act continues to unfairly impact tribal communities in Kerala," <https://www.thenewsminute.com/>, 19 December. Available at: <https://www.thenewsminute.com/article/how-pocso-act-continues-unfairly-impact-tribal-communities-kerala-171086> (Accessed: February 17, 2023). nm

² News Network, L.L. (2022) "CJI DY Chandrachud Urges Parliament To Consider Concerns About Age Of Consent Under POCSO Act," Live Law, 10 December. Available at: <https://www.livelaw.in/top-stories/cji-dy-chandrachud-urges-parliament-to-consider-concerns-about-age-of-consent-under-pocso-act-216336> (Accessed: February 17, 2023).

of the Indian Penal Code, which was the only legal recourse available to deal with cases of child sexual abuse.

However, the situation began to change in the 1990s when a child sexual abuse racket was exposed in Goa. This served as a wake-up call for the government, and the Goan government subsequently passed a law to promote child rights in 2003. Following this, the Indian parliament established a special expert committee under Justice VR Krishna Iyer to formulate a comprehensive code for child rights in India. This effort culminated in the drafting of the Children's Code Bill in 2000.

The findings of a comprehensive study conducted by the Ministry of Women and Child Development in 2007, called the Study of Child Abuse, further shed light on the gravity of the situation. The report, which covered 13 states with a sample size of 12,447 children, 2,324 young adults, and 2,449 stakeholders, revealed that a staggering 50.76% of children surveyed reported having faced one or more forms of sexual abuse. This report also busts the myth that girls were the only ones affected by sexual abuse and showed that the number of boys reporting such abuse was much higher than that of girls.³

Given the concerning revelations of the report and the ongoing problem of child sexual abuse, the government eventually passed the Protection of Children from Sexual Offences (POCSO) Act in 2012. This legislation was designed to safeguard children from various forms of sexual abuse and provided specific legal provisions to address this issue. The act identified and criminalized different forms of sexual abuse, such as penetration and non-penetrative assault, harassment, and the production and distribution of pornography, and established strict penalties for those found guilty of such crimes.

SCOPE OF POCSO

In India, the Protection of Children from Sexual Offences (POCSO) Act of 2012 is a wide-ranging legal framework aimed at shielding children (individuals under the age of 18) from sexual abuse and exploitation. The scope of the POCSO Act is wide, covering a range of sexual offences such as sexual assault, sexual harassment, and pornography involving children. The age of consent under the POCSO Act is 18 years, which means that any sexual act with a person

³ Subramaniyan, V.K.S. et al. (2017) "Silence of male child sexual abuse in India: Qualitative analysis of barriers for seeking psychiatric help in a multidisciplinary unit in a General Hospital," *Indian Journal of Psychiatry*, 59(2), p. 202. Available at: <https://doi.org/10.4103/psychiatry.indianjpsychiatry.195.17> .

below the age of 18 is considered a sexual offence under the act, regardless of the consent of the child.

POCSO ACT, 2012 IS DIVIDED INTO 9 CHAPTERS.

Chapter 1- Preliminary (which defines terms used in upcoming chapters) All these terms become very important and they define terms that make the entire law

Chapter 2- This entire chapter deals with sexual offences against children and the Punishment that one would receive for the crime they have committed

This categorizes sexual offences under various subcategories

Subcategory A- Penetrative Sexual Assault

Subcategory B- Aggravative Sexual Assault

Subcategory C- Sexual Assault

Subcategory D- Aggravated Sexual Assault

Subcategory E- Sexual Harassment

Chapter 3- This chapter deals with instances which involve child pornography and punishment thereafter

Chapter 4- Abetment and attempt to commit an offence. This chapter specifically deals with those instances where a person abets another or instigates him to commit the crime

Chapter 5- Lays down the procedure for reporting cases which relate to child abuse

Chapter 6- Lays down the procedure for recording the statement of the victim's

Chapter 7- Lays down the procedure for setting up special courts upon receiving of complaint for speedy trial

Chapter 8- Give special power essential to solve child abuse and prevent the destruction of evidence to the court

Chapter 9- Miscellaneous (The POCSO Act lays out guidelines for the establishment of helpline centres and requires the Central and State Governments to take all necessary measures to ensure that the provisions of the Act are widely publicized through various forms of media, such as television, radio, and print media, regularly.)

In conclusion, the POCSO Act is a vital tool in the fight against child sexual abuse in India. Its comprehensive scope and strict penalties make it a powerful tool for protecting children and ensuring that those who engage in such heinous acts are held accountable for their crimes.

In India, the Protection of Children from Sexual Offences (POCSO) Act of 2012 is not the only legal framework that deals with cases of child sexual abuse. While the POCSO Act is essential legislation, it alone does not provide a comprehensive solution. Other laws, including the Code of Criminal Procedure (1973), the Indian Penal Code (1860), the Juvenile Justice Act, and the Information Technology Act (2000), also include provisions that overlap with and complement the POCSO Act by establishing procedures and defining the offences related to child sexual abuse.

THE TRIBAL PROBLEM

The Protection of Children from Sexual Offences (POCSO) Act of 2012 is a comprehensive legal framework in India aimed at safeguarding children under the age of 18 from sexual abuse and exploitation. However, for some tribal communities, this law has caused more harm than good.

Case 1: Binu, a 22-year-old Paniya from Wayanad's Vithukadu Colony, was arrested just two days after getting married. Despite being in love with his partner for two years, Binu found himself behind bars for three months, while his wife was sent to a Child Welfare Committee hostel. Binu's only crime was not being aware of the law, as marriages in his community often happen at a young age. He is now out on bail but not allowed to even see his wife until she turns 18.

Case 2: Shivadasan, a 21-year-old Paniya labourer, faced a similar fate. He was arrested just 15 days after getting married, suspecting that tribal promoters informed the police of his wife's underage status. Shivadasan spent three and a half months in jail before being released on bail.⁴

Case 3: Kannan, a 19-year-old from an Adivasi community in Gudalur, Nilgiris, has been charged by the All-Women Police for allegedly sexually assaulting his girlfriend Sumathi. The 17-year-old Sumathi also belongs to the same community and has been in a relationship with Kannan for the past 18 months. Kannan claims that he was not aware of the laws that protect minors from being unlawfully married off before the age of 18. Although both Kannan and

⁴ Balan, S.S. (2022) "How POCSO Act continues to unfairly impact tribal communities in Kerala," <https://www.thenewsminute.com/>, 19 December. Available at: <https://www.thenewsminute.com/article/how-pocso-act-continues-unfairly-impact-tribal-communities-kerala-171086> (Accessed: February 17, 2023).

Sumathi have since attained the legal age of marriage, Kannan's charges under the stringent protection of Children from Sexual Offences (POCSO) Act carry a potentially long prison sentence.⁵

All these cases are just the tip of the Iceberg, they don't represent a fraction of the cases registered against these people.

HOW THE LAW PLACES THEM AT A DISADVANTAGE

The legal principle, "ignorantia juris non-excusat," asserts that the court assumes everyone is familiar with the law. This adage is prevalent in courts throughout India and globally. It should be noted that a defence based on a lack of knowledge about the facts is permissible, but using ignorance of the law as a justification is not acceptable. This suggests that the law has a pervasive influence and impacts various aspects of our lives, and being unaware of its provisions cannot be used to excuse one's conduct.

Year	Literacy Rate	Annual Change
2018	74.37%	5.07%
2011	69.30%	6.55%
2006	62.75%	1.74%
2001	61.01%	12.79%
1991	48.22%	7.46%
1981	40.76%	7.46%

Table 1: These are the average Literacy rates of India throughout history⁶

⁵ PREMKUMAR, R.O.H.A.N. (2022) "POCSO Act forces Adivasis in the Nilgiris into conflict with the law, say, activists," The Hindu, 7 November.

⁶ India Literacy Rate 1981-2023 (no date) Macrotrends - The Premier Research Platform for Long-Term Investors. Available at: <https://www.macrotrends.net/countries/IND/india/literacy-rate> (Accessed: February 17, 2023).

While India boasts a literacy rate close to 75%, pockets of despair persist in states like Assam, Bihar, Arunachal Pradesh, and Jammu and Kashmir, where alarming rates linger. These areas also harbour some of the country's largest concentrations of tribal communities, highlighting a pressing need for education equity.

S. No	State	Total Population (in lakhs)	ST Population (in lakhs)	Literacy Rates
1	Andhra Pradesh	493.87	26.31	67.02
2	Arunachal Pradesh	13.84	9.52	65.38
3	Assam	312.06	38.84	72.19
4	Bihar	1040.99	13.37	61.80
5	Jharkhand	329.88	86.45	66.14
6	West Bengal	912.76	52.97	76.26

Table 2: These are the average literacy rates of states in 2011⁷ and State/UT wise overall population, ST population, and the percentage of STs in India/state to total population of India/state and percentage of STs in the state to total ST population ⁸

⁷ Literacy rate in India (2011) Indiaonlinepages.com. Available at: <https://www.indiaonlinepages.com/population/literacy-rate-in-india.html> (Accessed: February 17, 2023).

⁸ India, G.of (2011) Literacy in India, Literacy Rate of India - Population Census 2011. Available at: <https://www.census2011.co.in/literacy.php> (Accessed: February 17, 2023).

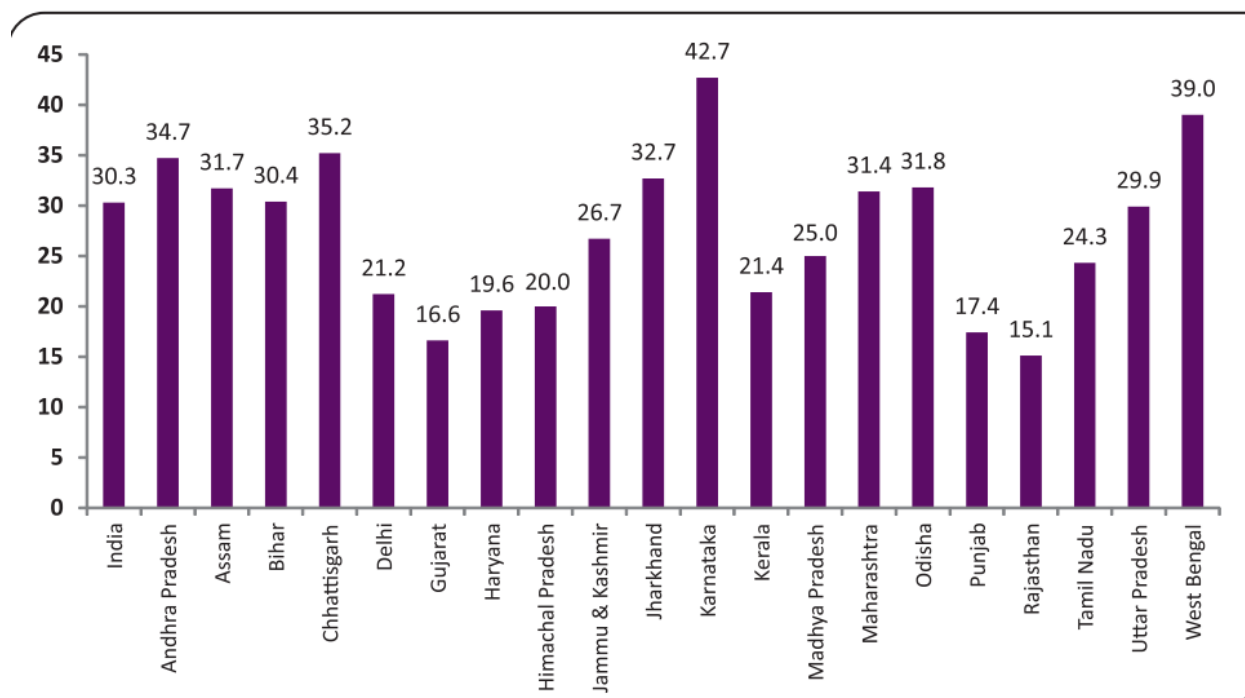


Table 3: This figure depicts the proportion of currently married women who are aged 18 years or younger and have given birth at least once, in India and selected major states.⁹

All this shows that literacy plays a major role in child marriage as illustrated by all the data presented above.

Year /Class	Primary		Upper-Primary		Elementary		Secondary		Grade XI to XII	
	Boys	Girls	Boys	Girls	Boys	Girls	Boys	Girls	Boys	Girls
2014-15	7.97	7.98	8.03	8.85	7.99	8.25	27.42	26.96	3.09	2.77
2015-16	7.02	6.84	8.48	8.71	7.48	7.44	24.94	24.40	-	-
2016-17	8.57	8.51	9.46	9.70	8.86	8.90	27.41	26.51	8.94	7.87

Note: Negative dropout rate have not been reported

⁹ SRINIVASAN, P.A.D.M.A.V.A.T.H.I. et al. (2015) "District level study of child marriage in India," DISTRICT-LEVEL STUDY ON CHILD MARRIAGE IN INDIA [Preprint]. Available <https://www.icrw.org/wp-content/uploads/2016/10/District-level-study-on-Child-Marriage-in-India.pdf> .

Table 4 - This figure shows the average dropout rates for the tribal community¹⁰

Although there has been a decline in recent years, the issue of students dropping out of school is still a significant problem in India. A study by UNICEF in South Asia has shown that there is a clear correlation between educational attainment, particularly completion of secondary school, and child marriage in India, as well as in Nepal and Bangladesh. The study reveals that while over one-third of women between the ages of 20 and 29 who married after the age of 18 completed secondary school, only 1 in 10 did so if they were married before the age of 18.¹¹

Activists assert that a major factor that contributes to underage marriage is a lack of awareness and education about the laws pertaining to this issue. Moreover, the authorities have not taken adequate measures to inform communities about the adverse effects of early marriage.

Even though marriages involving underage girls may go unnoticed outside of the community, men can be charged under the POCSO Act when the girls become pregnant or require medical care related to pregnancy or childbirth. "They don't know how to lie, so when asked to provide their age, they are honest, resulting in the filing of cases under the Act," says Amurtha Sisna, who has studied the effects of POCSO cases on tribal communities. Cases can also be registered when these marriages or pregnancies are reported by Anganwadi teachers and tribal promoters. This may make the tribal communities reluctant in future in accessing healthcare services and may even endanger their life.¹²

Hence, The law can place tribal communities at a disadvantage if they lack literacy about the legal system and their rights within it. There are several ways in which this can happen:

Lack of access to legal resources: Tribal communities may not have access to legal resources such as law libraries, legal aid services, or attorneys who are familiar with tribal law. This can make it difficult for them to navigate the legal system and understand their rights.

¹⁰ "Annual Report 20202-21" <<https://tribal.nic.in/downloads/Statistics/AnnualReport/AREnglish2021.pdf>> accessed February 18, 2023

¹¹ Author(s) Population Council for UNICEF ROSA UNICEF and ROSA PCfor UNICEF, "Child Marriage, Adolescent Pregnancy and School Dropout in South Asia" (UNICEF South Asia March 1, 2019) <<https://www.unicef.org/rosa/reports/child-marriage-adolescent-pregnancy-and-school-dropout-south-asia>> accessed February 18, 2023

¹² Balan, S.S. (2022) "How POCSO Act continues to unfairly impact tribal communities in Kerala," <https://www.thenewsminute.com/>, 19 December. Available at: <https://www.thenewsminute.com/article/how-pocso-act-continues-unfairly-impact-tribal-communities-kerala-171086> (Accessed: February 17, 2023).

Limited education: Tribal communities may have limited access to education, which can make it difficult for them to understand complex legal concepts and navigate the legal system.

Language barriers: Tribal communities may speak languages that are not commonly used in the legal system, which can make it difficult for them to understand legal documents or communicate with attorneys and judges.

Reciprocal of Knowledge of Law: The government has a responsibility to educate all citizens about the law and ensure that they have equal access to justice. However, suppose the government fails to provide sufficient education and resources to tribal communities. In that case, it can create a situation where tribal members are disadvantaged when navigating the legal system.

All of these factors can contribute to a disadvantage for tribal communities when it comes to navigating the legal system and protecting their rights.

DEFENCE OF VOLUNTARY RELATIONSHIP

The Protection of Children from Sexual Offences (POCSO) Act of 2012 aims to protect minors from abuse and exploitation. It does so by defining a child as someone under 18 years of age and setting the age of consent at 18. This means that consensual sexual relationships are not a valid defence under POCSO. The Act acknowledges that minors are vulnerable and lack the maturity and comprehension necessary to give informed consent, hence incapable of consenting to sexual acts.

This is the most disgruntling aspect of this act. In India, the age of consent was previously governed by the Indian Penal Code (IPC) of 1860. According to the IPC, the age of consent for unmarried girls was 16, while it was 15 for married girls. However, the Protection of Children from Sexual Offences (POCSO) Act revised this by setting the age of consent for all girls at 18, irrespective of marital status. The conflict between the IPC and POCSO was resolved through section 42A of POCSO, which establishes the supremacy of the POCSO Act over other laws.

Thus, it is evident that section 42A of the POCSO Act stipulates that the age of consent for married females should be 18, as established by the Supreme Court in the Independent Thought v. Union of India case. In order to safeguard the rights of children, the Court raised the age of consent for sexual intercourse within marriage to 18 and deemed the distinction between married and unmarried girls as unjustifiable.

While the Supreme Court's ruling is praiseworthy, it is essential to recognize that there exists a complete prohibition on children's autonomy in engaging in sexual activities. Denying children the right to sexual autonomy merely because they may be vulnerable to abuse is not the solution. With adolescent romantic relationships becoming more prevalent, criminalizing consensual sexual activity between minors appears unreasonable and unjust. This approach only exacerbates the damage done to children who have been sexually coerced by applying the same penalties to those who engaged in consensual behaviour.

Furthermore, Section 6 of the Prohibition of Child Marriage Act, 2006 ("CMA") states that a child born out of child marriage will be deemed legitimate for all intents and purposes. As a result, the Act does not criminalize engaging in sexual activity within a child marriage, which directly contradicts POCSO.

Also, obtaining bail for tribal youngsters who are in jail for being in romantic relationships is not an easy task. Hence, The POCSO act was made to protect children below age 18 from sexual exploitation but because it conflates exploitative sexual practice and general sexual expression by an adolescent, and criminalizes both, it has essentially become a criminal law become an instrument to silence or regulate a non-exploitative consensual sexual relationship involving a minor girl, which is voluntary.

THE BAIL FOR TRIBAL

Poverty is complex and encompasses many different aspects. According to global poverty statistics, 41% of individuals who suffer from multidimensional poverty are located in South Asian nations. Even though India is characterized by a highly stratified social structure based on caste and tribe, few studies have explored these factors in relation to multidimensional poverty in India. This data is from a study that seeks to fill this gap by examining the level of multidimensional poverty among various social groups in India. The study draws on data from the National Family Health Survey (NFHS-4) conducted in 2015-2016, which provides a wealth of information on the well-being of 579,698 households.¹³

¹³ "Annual Report 2020-21" <<https://tribal.nic.in/downloads/Statistics/AnnualReport/AREnglish2021.pdf>> accessed February 18, 2023

S.No.	State	Rural		Urban	
		2009 - 10	2011 - 12	2009 - 10	2011 - 12
1	Andhra Pradesh	40.2	24.1	21.2	12.1
2	Assam	32.0	33.4	29.2	15.6
3	Bihar	64.4	59.3	16.5	10.3
4	Chhattisgarh	66.8	52.6	28.6	35.2
5	Gujarat	48.6	36.5	32.2	30.1
6	Himachal Pradesh	22.0	9.5	19.6	4.0
7	Jammu & Kashmir	3.1	16.3	15.0	3.0
8	Jharkhand	51.5	51.6	49.5	28.7

S.No.	State	Rural		Urban	
		2009 - 10	2011 - 12	2009 - 10	2011 - 12
9	Karnataka	21.3	30.8	35.6	33.7
10	Kerala	24.4	41.0	5.0	13.6
11	Madhya Pradesh	61.9	55.3	41.6	32.3
12	Maharashtra	51.7	61.6	32.4	23.3
13	Odisha	66.0	63.5	34.1	39.7
14	Rajasthan	35.9	41.4	28.9	21.7
15	Tamil Nadu	11.5	36.8	17.6	2.8
16	Uttar Pradesh	49.8	27.0	20.2	16.3
17	Uttarakhand	20.0	11.9	0	25.7
18	West Bengal	32.9	50.1	20.6	44.5
	All India	47.4	45.3	30.4	24.1

Table 5: The above chart shows the percentage of SC/ST living below the poverty line¹⁴

A report titled "Global Multidimensional Poverty Index (GMPI), 2021," jointly published by the United Nations Development Programme and the Oxford Poverty and Human Development Initiative, reveals that a significant proportion of India's population living in multidimensional poverty belongs to lower castes and tribes. The report states that out of the 129 million people living in multidimensional poverty in India, 65 million belong to the Scheduled Tribe group, which comprises 9.4% of the total population. The Scheduled Castes group, with 94 million out of 283 million people, has 33.3% of its population living in multidimensional poverty.¹⁵

¹⁴ "Annual Report 2020-21" <<https://tribal.nic.in/downloads/Statistics/AnnualReport/AREnglish2021.pdf>> accessed February 18, 2023

¹⁵ "The Global Multidimensional Poverty Index (MPI) 2021" (Ophi2021) <<https://ophi.org.uk/multidimensional-poverty-index/global-comparisons/>> accessed February 18, 2023

The GMPI 2021 report highlights that five out of six people living in multidimensional poverty in India belong to disadvantaged tribes and castes. Poverty levels were highest among STs, with 50.6% living in poverty, followed by SCs at 33.3% and OBCs at 27.2%.

In comparison, the poverty level was lowest at 15.6 per cent among communities that were not SCs, STs, or OBCs. This implies that the poverty level for STs was three times higher than that of other advantaged communities. In contrast, the poverty level for SCs and OBCs was almost twice as high as the level for other communities.

Bail - Bail is a legal process by which an accused person can secure their release from jail on certain conditions set by the court. While the term "bail" is not specifically defined in the Criminal Procedure Code, it generally involves providing some form of security to the court to guarantee the accused's appearance at future court proceedings related to the charges against them. This security can take the form of a personal bond or a bail bond. The primary objective of bail is to ensure that the accused is available for trial and appears for all court proceedings related to the charges against them. The procedures and provisions governing bail are set out in sections 436 to 439 of the Criminal Procedure Code.

When a person is arrested without a warrant, the police officer who makes the arrest is required to inform the accused person whether the offence they are accused of committing is bailable or non-bailable. If the offence is bailable, the accused person has a right to be released on bail. Although there is no clear-cut distinction between bailable and non-bailable offences, the courts have established principles to determine whether an offence is bailable or non-bailable. Typically, non-cognizable offences are considered bailable.

Bail Bond- A bond is a legal agreement that requires the accused or their representative to pay a certain amount of money as a guarantee that they will appear in court as scheduled. The court or a law enforcement officer determines the amount of the bond. If the bond is paid, the amount may be refunded later, but administrative fees may be deducted. The purpose of a bond is to ensure that the accused person attends all future court hearings related to the charges against them.

Section 441 of the Criminal Procedure Code stipulates that an offender who is released on bail or bond must sign a legal agreement that ensures their attendance in court. The bond must be for an amount that is considered adequate to guarantee their appearance in court. A guarantor is responsible for ensuring that the offender appears in court as required. If an offender is unable to provide their bond, the guarantor must pay on their behalf. In cases where a minor is required

to sign a bond, the police officer or court may accept a guarantor in place of a bond. The guarantor assumes the responsibility of ensuring the minor's attendance in court. Administrative fees may apply when a bond is paid, and the amount of the bond is determined by a court or a law enforcement officer.

When an accused person is released on bail, specific conditions may be included in the bond. These conditions must be clearly stated in the bond when it is executed. The court has the power to return the person released on bail to jail under two circumstances. The first is if the guarantor or guarantors are found to be inadequate or become inadequate later. The second is if the guarantor or guarantors apply to the court for the discharge of the entire bond or a portion related to them. Before sending the person back to jail, the court may require them to find suitable guarantors to grant them bail again.

As stated earlier that 33.3% SC/ST population is living in multidimensional poverty. For them getting bail isn't easy. Members of tribal communities often do not possess land titles, which makes it challenging for them to find individuals from their community who can provide sureties for bail or present tax receipts demonstrating land ownership. Additionally, securing sureties from people outside of their community is not always feasible.

Hence, In terms of poverty, the report "Global Multidimensional Poverty Index (GMPI), 2021" jointly published by the United Nations Development Programme and the Oxford Poverty and Human Development Initiative indicates that a significant proportion of India's population living in multidimensional poverty belongs to lower castes and tribes. The report highlights that five out of six people living in multidimensional poverty in India belong to disadvantaged tribes and castes, with poverty levels highest among STs, followed by SCs and OBCs. In contrast, the poverty level for communities that were not SCs, STs, or OBCs was relatively low.

Regarding bail, the research explains that bail is the release of an accused person from jail on the condition that they provide some form of security to the court to ensure their attendance at future court proceedings related to the charges against them. However, getting bail for people belonging to disadvantaged tribes and castes can be challenging, as they may not have the necessary resources or support to provide security for their release. Furthermore, they may not be aware of their legal rights and may face difficulty attending court hearings due to a lack of financial resources. Human rights activists have played a crucial role in providing support and sureties to help individuals from disadvantaged communities obtain bail.

CONCLUSION

The Protection of Children from Sexual Offences (POCSO) Act is an important law that aims to safeguard children from sexual abuse and exploitation. However, its impact on tribal communities has raised concerns, especially in the context of child marriage. It is necessary to make certain amendments to the POCSO Act to protect the interests of tribal communities in such cases.

Firstly, it is important to recognize the socio-cultural context of tribal communities, where child marriage may be a common practice. While child marriage is illegal under the POCSO Act, it is essential to understand the reasons behind such practices in tribal communities and address these underlying factors. The focus should be on education and awareness-raising, to change attitudes and promote alternative means of empowerment for young girls.

Secondly, there is a need for greater consultation and involvement of tribal communities in the implementation of the POCSO Act. This could involve engaging with local leaders, tribal councils and NGOs working with tribal communities to ensure that their perspectives are taken into account while implementing the act. This would not only help to address any concerns and potential harms to the interests of tribal people, but also promote greater community ownership of the law.

Finally, it is essential to ensure that the POCSO Act is not used in a heavy-handed manner that undermines the rights of tribal communities. There needs to be a balance between the need to protect children from sexual abuse and exploitation, and the need to respect the rights and traditions of tribal communities. This can be achieved through greater sensitivity and awareness among law enforcement officials, as well as by providing greater legal aid and support for tribal communities.

In conclusion, the changes needed in the POCSO Act to ensure that the interests of tribal people are not harmed in cases of child marriage require a nuanced and balanced approach that addresses the underlying causes of the practice, involves greater consultation with tribal communities, and ensures that the act is implemented in a manner that respects their rights and traditions.