Dealing with Child Abuse Cases

What is the issue?

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- India recently introduced death penalty for child rapists.
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- The child abuse law as it stands has multiple problems, mostly stemming from its focus on the abuser.
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What is the recent development?

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- Amendments were proposed in the Criminal Law and the Protection of Children from Sexual Offences Act (POCSO), 2012.
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- It came in the aftermath of the Unnao and the Kathua child abuse cases.
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- Click here to know more
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What are the key provisions?

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- Rape of a minor girl (below 12 years) invites rigorous imprisonment of at least 20 years.
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- This shall be extendable to life imprisonment or death.
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- For rape of a girl below 16 years, the punishment is rigorous imprisonment of at least 20 years.
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- This is extendable to life imprisonment.
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- Both these are an increase in the punishment terms than the previous laws.
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- Additionally, the new reforms include time-bound investigations, and appeals.
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- It also includes a prior sanction from the courts for prosecution of government servants.
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- The main change is the introduction of death penalty for rape of a minor below the age of 12.
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What are the implementation shortfalls?

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- A major provision in the POCSO is that of setting up a Special Juvenile Police unit.
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- This will be in-charge of investigating cases of child abuse.
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- This was conceived of as a protection against the police intimidating children, either intentionally or unintentionally.
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- Yet, no mention of a special juvenile police unit can be found in many cases.
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- This also applies to various other provisions for the security and the care of the victim.
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- Under POCSO, the statement of a child should be taken at the residence of a child or a place where he/she is comfortable.
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- Also, it should be by a lady police officer.
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- However, there are many shortfalls in the enforcement of these provisions.
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- E.g. in the Kathua case, the name of the victim was highlighted and advertised on all the media channels.
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- This is strictly prohibited both under the POCSO Act as well as the IPC under

section 228 A.
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What are the concerns with death penalty?

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- In more than 96% of child sex abuse cases, the perpetrator is a close relative or a member of the family.
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- This is why children often find it difficult to confess.
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- Parents often try to resolve matters of abuse themselves.
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- This is due to the stigma that is associated with such crimes.
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- Thus, harsher punishments for the perpetrator can quickly become harsher threats for the victim.
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- This is because the accused may go to any extent to protect themselves.
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- Worried for their own safety, children may choose not to provide testimony.
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What is the way forward?

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- The POCSO Act should go beyond relying on the death penalty as a deterrent.
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- It should focus on stricter enforcement of protections for the abused children.
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- It should punish half-hearted investigations, and do away with intimidating procedures.
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- It should also improve the overall slow pace of the legal system.
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- Justice is more than a punitive, knee-jerk reaction to the perpetrator of injustice.
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- It’s important to look at the systemic failures that allow child abuse to happen.
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Source: Indian Express

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