Reforming the Protection of children act

Why in news?

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A Report reveals that enactment of the Protection of Children from Sexual Offences (POSCO) Act is not effective in India.

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What is POSCO?

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- Child sexual abuse laws in India have been enacted as part of the nation's child protection policies.
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- The Parliament of India passed the 'Protection of Children against Sexual Offences Bill, 2011' regarding child sexual abuse, and enacted in 2012.
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- The Act provides for a variety of offenses under which an accused can be punished.
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- It defines a child as a person under age of 18 years.
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- It encompasses the biological age of the child and silent on the mental age considerations.
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- With respect to pornography, the Act criminalizes even watching or collection of pornographic content involving children.
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What is the Status of child abuse in India?

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- Fifty three percent of children in India face some form of child sexual abuse.

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- NCRB data shows that almost three-fourths of rape cases go unpunished every year.
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- An analysis reveals that nothing has changed even after the enactment of the Protection of Children from Sexual Offences (POSCO) Act in 2012.
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What are the shortcomings of the act?

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· Section 29 of this law says that “the special court shall presume that the person prosecuted under sections of penetrative sexual assault has committed or attempted to commit the offence unless the contrary is proved”.

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· However, experience reveals that the prosecution is still asked to prove the case “beyond reasonable doubt”.

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- The law permits the medical examination of minor victims only with guardians’ consent.
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- If such consent is not granted, more emphasis needs to be laid on oral evidence.
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How the issues can be addressed?

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- The scrutiny of evidence in child abuse cases is generally the same as in the cases where the victim is fully aware of the criminal act. Such standards need to be considered afresh.
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- In cases involving minors, judges may need to be slightly pro-active.
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- Adversarial system of dispensing justice had not worked satisfactorily in

India and some beneficial features of the cross-examining system should be incorporated.
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- In an inquisitorial (cross-examining) system as applicable in China, Russia, Japan, Scotland etc. judicial magistrates investigate criminal offences and search for the truth.
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- Investigative powers can be given to the judicial magistrates in cases of rape of children under 12 years of age.
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Source: Indian Express

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