



A DESCRIPTIVE STUDY OF THE LEGAL FRAMEWORK ON CHILD SEXUAL ABUSE IN INDIA: CHALLENGES AND IMPLICATIONS

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Paper Received On: 20 SEPT 2024

Peer Reviewed On: 24 OCT 2024

Published On: 01 NOV 2024

Abstract

India has a more or less robust legal framework for dealing with CSA, particularly through the POCSO Act, 2012. POCSO stands for Protection of Children from Sexual Offences and is landmark legislation for children, realizing their vulnerability, which needs to be protected along with justice to them. The overall aim of the study is to assess the child sexual abuse law framework in India in terms of effectiveness, enforcement, and awareness regarding the existing provisions, especially the POCSO Act. The participants will be 100 in number, drawn through purposive sampling, including legal professionals, police officers, healthcare service providers, and child welfare professionals from different states in India. The data collection tool is a structured questionnaire, which assesses the knowledge of the participants about the legal framework, problems in implementing law, barriers in the judicial system, and the role of healthcare and child welfare institutions in support of the legal process.

Keywords: *POCSO Act, Sexual Abuse, Judicial System, Law Enforcement, Child Welfare*

1. INTRODUCTION

The topic of child sexual abuse (CSA) continues to be a highly troubling one in India, and it has significant repercussions for the victims' physical, emotional, and psychological well-being. India continues to face enormous hurdles in properly addressing the issue of child sexual abuse, despite the fact that there is a growing awareness of this horrible crime and initiatives directed towards combating it. With the passage of time, the legal framework for

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child support services (CSA) has undergone modifications, and it currently incorporates elements of important statutes such as the POCSO Act 2012 in an effort to provide children with robust protection. Having said that, despite the existence of such a legal framework, there are gaps in the processes of enforcement, societal stigmas continue to persist, support structures continue to be inadequate, and the judicial system itself is difficult to protect children from persons who sexually violate them.

1.1. Legal Framework on CSA in India

In the past several decades, there has been a significant evolution in the legal framework that pertains to Child Sexual Abuse (CSA) in India. This evolution is a reflection of a greater understanding of which protective measures are more effective in preventing children from being sexually abused. CSA is officially addressed by the Protection of Children from Sexual Offenses Act, 2012, which is the first law to directly tackle the topic. This was presented as a unified legislative framework with the intention of providing children with full protection from sexual abuse, sexual harassment, and pornography. POCSO has established severe punishments for a variety of sexual offenses, including sexual assault, both penetrative and non-penetrative, sexual harassment, and the use of minors in the production of pornographic material. A child is defined as any individual who is younger than 18 years old. In accordance with the Act, specialized courts will be established for the purpose of expediting the resolution of cases pertaining to child sexual abuse (CSA). This will ensure that the trials that are carried out are more kid-friendly, thereby reducing the stigma associated with the issue.

The POCSO Act is not the only legal statute in India that deals with CSA; there are additional legal provisions. Sections 375 and 354 of the Indian Penal Code (IPC) are examples of sexual offenses that are included in the code. These sections address rape and outraging modesty, respectively. Some of these can be put into practice in situations involving the sexual abuse of children. The measures, on the other hand, were seen as being insufficient in terms of providing children with special protection. Consequently, it was necessary to establish POCSO in order to ensure that instances involving children are handled in a different manner and with the utmost regard for their welfare. In addition, the Juvenile Justice (Care and Protection of Children) Act, 2015, protects children who have been subjected to abuse, which includes sexual exploitation, and offers care and rehabilitation for children who have been victims of abuse.

This is further supported by India's participation in international conventions, such as the United Nations Convention on the Rights of the Child, which stipulates that India is obligated to safeguard children from any and all forms of exploitation and abuse. The United Nations Convention on the Rights of the Child (UNCRC) was adopted by India in 1992, bringing its laws into conformity with international standards for the protection of children. The National Commission for the Protection of Child Rights (NCPCR) is an additional important entity that plays a crucial role in safeguarding and monitoring child sexual abuse (CSA) as well as guaranteeing the implementation of laws and policies that combat this threat.

Even if these legislative improvements have been made, the application of the legislation still presents a great deal of difficulty. The entire problem is characterized by delayed investigations and underreporting due to fear and social stigma, despite the fact that the POCSO Act is quite well constructed. Even conviction rates that are lower than the projected number of cases that have been reported are frequently low because of a judicial system that is oblivious of the situation and police personnel that perform poorly. Consequently, India has made a strong start in the process of developing a comprehensive legal response to CSA; nevertheless, there are still significant gaps in the practical execution of these laws, and the legal system needs to be reformed and strengthened.

1.2.Challenges in Enforcement

The process of enforcing the laws in India that are related to child sexual abuse (CSA) is a massive undertaking that is met with a number of significant obstacles that impede the provision of adequate protection to children. On the surface, India has constructed a powerful legislative framework in connection to the protection of CSAs, such as the POCSO Act 2012; nevertheless, the real implementation of legislation is frequently impeded by a wide variety of systemic and practical factors.

➤ Delays in Investigations and Trials

Because of the backlog in the courts and the slow pace of police investigations, the most significant obstacle that arises in CSA investigations and trials is the wait. Children are frequently subjected to repetitive questioning, which might cause them to experience retraumatization. As a result of the POCSO Act, special courts have been designated; however, there are not many of these courts, and they have a limited number of resources. This ultimately results in victims being denied speedy justice and experiencing delays.

➤ **Lack of Awareness and Training Among Officials**

Most law enforcement officers and legal professionals do not have any specialized training to deal with instances that involve CSA. In most cases, the handling of the situation is inadequate, particularly when the abuser is a member of the family or someone who is in a position of trust. The judicial officer does not take adequate care during trials in many instances since they do not have specific information connected to children. This has a negative impact on the entire process as well as the care that is provided to victims.

➤ **Social Stigma and Victim-Blaming Culture**

As a result of the societal stigma that is associated with CSA and the culture of victim-blaming, reporting is discouraged. In particular, victims are terrified of being shunned and judged by society, particularly if the abuse takes place inside the extended family. Underreporting of child sexual abuse is a result of this silence surrounding child sexual abuse, which precludes appropriate legal intervention and permits abuse to remain undetected.

➤ **Underreporting of Cases**

Because of a lack of trust in the judicial system and the fear of retaliation, it is typical for cases of child sexual abuse to go unreported. The fact that children frequently lack an understanding of their legal rights and the procedure for filing a report results in incidents going unreported and unresolved, which in turn makes victims more susceptible to being abused.

➤ **Resource Constraints**

The lack of resources available within law enforcement and the judicial system makes it difficult to effectively enforce the Computer Security Act (CSA). Because of a lack of adequate infrastructure, trained personnel, and facilities, police stations and courts are not well prepared to deal with cases of child sexual abuse (CSA). In addition, the lack of skilled social workers and counsellors makes it difficult for child victims to receive help while they are being investigated or while they are fighting their cases in court.

1.3.Societal Stigma and Barriers

The social stigma that is associated with sexual abuse is the most significant obstacle that must be overcome while discussing CSA in India. It is considered taboo to discuss sexual violence in many different communities. It is a circumstance that prohibits the acknowledgment of the broad prevalence of child sexual abuse (CSA) and leads to victims

being held guilty for the assault itself because of the silence that exists within the culture around this topic. The fact that it is quite usual in society to question the character or behavior of the child is one of the factors that discourages victims from disclosing the abuse that they have experienced. The cycle of silence and humiliation is further accelerated by this culture of blaming victims, which makes it much more challenging for children to find justice. Due to the fact that victims are typically pushed into remaining silent out of fear of dishonoring their family name or public humiliation, this typically results in the abuse being kept within the family or community.

The stigma, on the other hand, is likely to be the most severe in situations where the sexual offender is a member of the child's family or a close relative of the child. The victims of such crimes are frequently so embarrassed or even guilty of purportedly betraying their family members that they have a tendency to keep quiet and let the matter take its necessary course. The lack of support from family or community members, who may have a tendency to prioritize the reputation of the family over the well-being of the child, might further aggravate such anxieties. This has the potential to make the situation much more difficult. The perpetrator may, in certain instances, further encourage the victim to believe that the abuse is their fault or that they simply have to endure the situation in silence. This may be the case in specific scenarios. Because of this, the vast majority of children do not report the abuse that they have been subjected to, and even for those children who do tell it, it may be difficult to obtain treatment.

➤ **Barriers to Reporting and Legal Intervention**

Because of the stigma that surrounds child sexual abuse (CSA), there are considerable barriers that prevent people from reporting abuse and seeking legal action. Not only is there a fear of being blamed for the unwillingness to disclose abuse, but there is also a lack of trust in the judicial system when it comes to not reporting abuse. According to a significant number of survivors, they are concerned that their claims will not be taken seriously by the authorities and the court, and that the legal process will not be swift enough or less emotionally taxing. Victims may be concerned that they may be harassed or questioned during the investigation process or even in court. Consequently, it might make it more difficult for the victim and his or her family to seek justice, which contributes to the underreporting of cases of child sexual abuse.

Additionally, there is a lack of a solid awareness of the laws that protect children and the organizations that victims can turn to for assistance. The majority of the time, children and even their families are unaware of the legal rights they possess or the support they are able to receive during the process of reporting. In many communities, there is still a shortage of comprehensive and well-rounded sexuality education and child protection training. As a result, both children and adults within these communities are unaware of the signs that indicate abuse and the ways in which abuse can be prevented. The existence of these knowledge gaps results in the creation of barriers that inhibit recognition and reporting, and consequently, the early action that would otherwise be possible.

➤ **Impact on Victim Recovery and Justice**

As a result of the social stigma and hurdles that survivors of child sexual abuse may encounter upon reporting, there is a ripple effect that occurs throughout the entire process of healing and justice. In addition to the pressure that society puts on them to remain silent, children may acquire feelings of shame and guilt, which can impede the process of recovering from traumatic experiences. The psychological toll typically continues until the individual reaches adulthood and frequently has repercussions for mental health, self-esteem, and emotional connections with other people. The victims are further isolated as a result of the lack of support they receive from their families, peers, and members of the community, which makes it difficult for them to seek assistance or communicate about their experiences. In instances where charges of child sexual abuse do make it to court, the shame that exists in society has even had an impact on the legal process. Because of the victim's fear of being exposed to the public, they withdraw from the court process, either by retracting their statements or by refusing to testify. In certain situations, members of the family or leaders in the community exert pressure on the child to resolve the issue in a secret manner so that the family does not feel embarrassed by the situation. This cultural propensity to keep things quiet hampers the endeavor to bring justice to the culprit since it makes it impossible to hold them accountable for their actions. Therefore, societal stigma plays a fundamental part in the cycle of abuse that continues to be perpetuated, and it also acts as a barrier to the recovery of survivors of child sexual abuse and the course of judicial proceedings.

2. LITERATURE REVIEW

Deb and Ray (2022) provided an explanation of the primary risk factors and preventative actions that are associated with the problem in the country of India. Their analysis focused a

great deal on the numerous forms of abuse that children are subjected to, as well as the various aspects of society, families, and the environment that contribute to the occurrence of such occurrences. Additionally, they examined the rules and practices that are now in place, as well as the adjustments that they recommend, with the goal of preventing child abuse and neglect, as well as taking a more holistic approach to child care and protection.

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Giacci et al. (2022) study examined the prevalence of intimate relationship and sexual assault, reproductive coercion, and reproductive health among women of American Indian and Alaska Native descent respectively. In order to determine the ways in which these various types of violence connect with reproductive health concerns, they carried out a study that involved narrative interviews. This helped them to highlight the kind of influence that violence has on the reproductive choices that women consider. The findings of their study provided evidence for the application of specific therapies with the objective of improving the reproductive health outcomes and safety of women in this situation.

Rahamathulla (2021) examined the importance of cyber safety for children in the ASEAN region, paying particular attention to the legal environment and the implications of policy. In light of the developing pattern of child abuse and exploitation that occurs online, he conducted an in-depth analysis of the existing legal frameworks and investigated the efficiency of these frameworks. At the same time that it advocated for legislative reforms to improve digital safety for children in Southeast Asia, it brought attention to the critical need for more stringent laws and regional coordination in order to safeguard children from cybersecurity risks.

Tyagi and Karande (2021) The subject of child sexual abuse in India was addressed, which was a much-needed issue, and it woke up both the general public and policy makers to the problem. The investigation brought to light the disturbing statistics of abuse that are pervasive in the country as well as the absence of reactions from both the legal and social

systems. During the process of identifying, reporting, and prosecuting incidents of child sexual abuse, there were a number of significant problems that needed to be addressed. These challenges required increased awareness, extensive education, and stricter restrictions in order to safeguard the children.

3. RESEARCH METHODOLOGY

3.1.Study Design

The purpose of this study is to evaluate the legislative framework in India regarding the sexual abuse of children. It is a descriptive cross-sectional study. Within the context of understanding of the legal provisions on child sexual abuse in India, the current study investigates the difficulties and implications of the existing law as it is effectively enforced.

3.2.Participants and Data Collection

Legal professionals, law enforcement police, health care professionals, and child welfare experts from various regions of India will be among the individuals who will take part in the research project. The selection of these participants will be done through the use of purposive sampling in order to ensure that the respondents have prior knowledge and expertise in relation to the subject matter. The collection of data will be carried out through the use of a structured questionnaire that is created in English. Following the completion of a comprehensive literature analysis and collaboration with professionals in the fields of law and child protection, the questionnaire will also be produced.

As a sample size for the study, it is suggested that there be one hundred participants. Legal professionals, law enforcement officers, healthcare practitioners, and child welfare specialists from all parts of India would be included in the sample. The sample will incorporate a variety of kinds of professionals.

This would be a questionnaire that would inquire about the participant's awareness of the legislative framework on child sexual abuse, as well as the manner in which the POCSO Act was implemented and the problems that it faced during the process, which would have an impact on the victim. The most important topics that will be discussed are the effectiveness of preventing and prosecuting cases of child sexual abuse, the adequacy of the legal response from law enforcement agencies, the obstacles that exist within the judicial system, and the role that healthcare and child welfare institutions play in providing support for the legal process.

It will be determined whether the data will be collected by online surveys or interviews, based on the availability and convenience of the participants. The study will make certain that each and every response is documented in a manner that is both accurate and confidential.

3.3.Ethics

The study will be conducted in accordance with the highest ethical standards in its entirety. Both the respondents' privacy and confidentiality would be protected to the fullest extent possible. The research will be submitted for approval by the institutional ethical committee, and prior to the participants' participation in the study, informed consent will be obtained from each and every participant. The aims, processes, and any hazards that are involved will be communicated to the participants, and participation will be fully voluntary and free from any type of coercion during the process.

3.4.Statistical Analysis

In the software known as SPSS version 21, the data were entered and coded in preparation for statistical analysis. A statistical analysis that was descriptive was carried out. All of the data variables were presented with their respective frequency and percent distributions.

4. DATA ANALYSIS

The purpose of this study is to explore the legislative laws that control child sexual abuse in India, paying particular attention to the efficiency of the POCSO Act in terms of its enforcement and the obstacles that it faces. Legal professionals, law enforcement officers, healthcare workers, and welfare experts were the participants in the surveys that were carried out around the country. Examining... A few examples of these concerns are the need to increase public knowledge of the POCSO Act, the difficulties associated with putting the Act into effect, and the support system for victims and institutions that prosecute these crimes. Following is the most important finding from the data analysis:

Table 1: Awareness of POCSO Act Among Participants

Participant Group	Aware of POCSO Act	Not Aware of POCSO Act	Total
Legal Professionals	90%	10%	100%
Law Enforcement Officers	80%	20%	100%
Healthcare Providers	70%	30%	100%
Child Welfare Experts	85%	15%	100%
Overall Total	81.25%	18.75%	100%

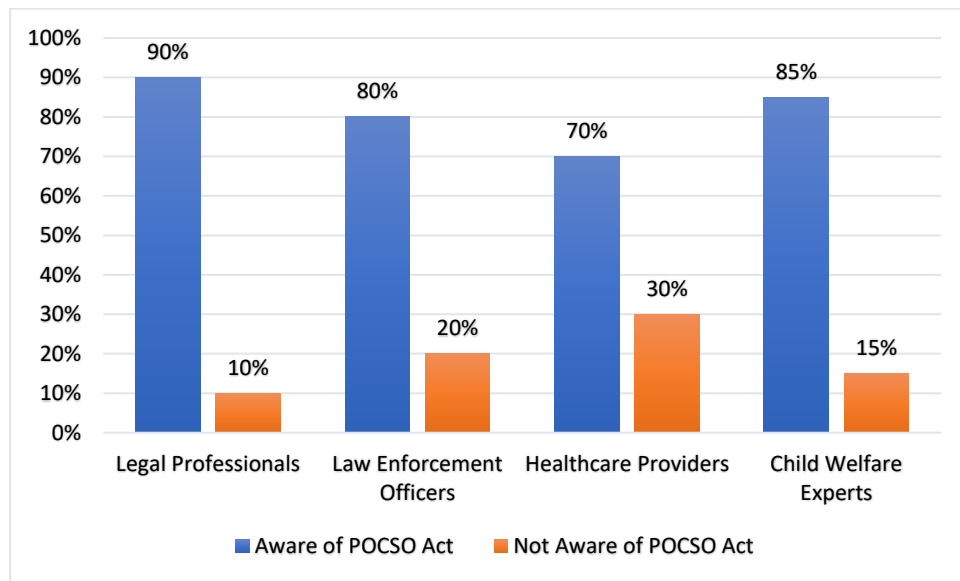


Figure 1: Awareness of POCSO Act Among Participants

The percentage of participants who expressed awareness of the POCSO Act is presented in Table 1, which includes participants from a variety of categories. Ninety percent of legal professionals are aware of the POCSO Act, whereas ten percent are unaware of it. personnel of the law: Eighty percent of law enforcement personnel are aware of the POCSO Act, whereas twenty percent are unaware of it. Seventy percent of healthcare providers are aware of the POCSO Act, whereas thirty percent are unaware of it. Experts in child welfare have an awareness rate of 85%, while just 15% of people are oblivious of the situation. The respondents had a typically high degree of awareness, as evidenced by the fact that 81.25% of the total participants are aware of the POCSO Act, whereas 18.75% are not aware of it.

Table 2: Challenges in Implementing POCSO Act

Challenges	Agree (%)	Disagree (%)	Neutral (%)
Lack of Awareness Among Public	85%	5%	10%
Inadequate Training for Law Enforcement Officers	70%	10%	20%
Delay in Judicial Process	75%	15%	10%
Inadequate Psychological Support for Victims	65%	20%	15%

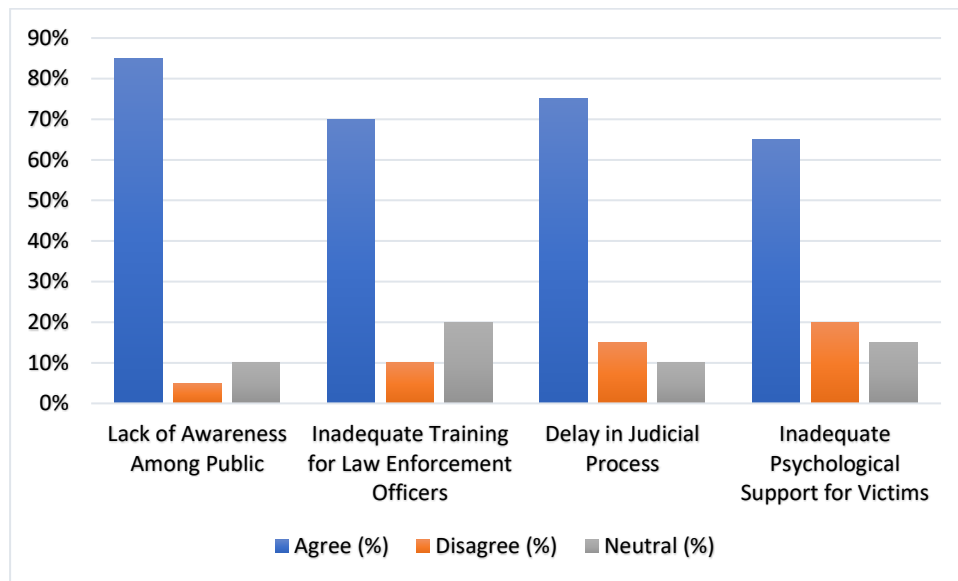


Figure 2: Challenges in Implementing POCSO Act

As can be seen in Table 2, the majority of respondents are in agreement with a number of the obstacles that must be overcome in order to successfully execute the POCSO Act. As an illustration, a sizeable 85 percent of respondents concur that a lack of public knowledge is a serious obstacle, and 75 percent of respondents consider delays in the legal process to be a big problem. Additionally, seventy percent of respondents consider the lack of adequate preparation of law enforcement to be a restraint, and sixty-five percent of respondents cite the absence of effective psychosocial counselling help for victims as a further obstacle. It is essential that the will toward greater public enlightenment, increased education, and proper victim empowerment aid reinforce support in order to better operationalize the Act. Although only five to twenty percent of a smaller number of people have disagreed with each of the aforementioned points, it is essential that this will be the case.

Table 3: Effectiveness of Legal Framework in Preventing Child Sexual Abuse

Effectiveness	Very Effective (%)	Effective (%)	Neutral (%)	Ineffective (%)	Very Ineffective (%)
POCSO Act in Preventing Child Sexual Abuse	15%	50%	20%	10%	5%

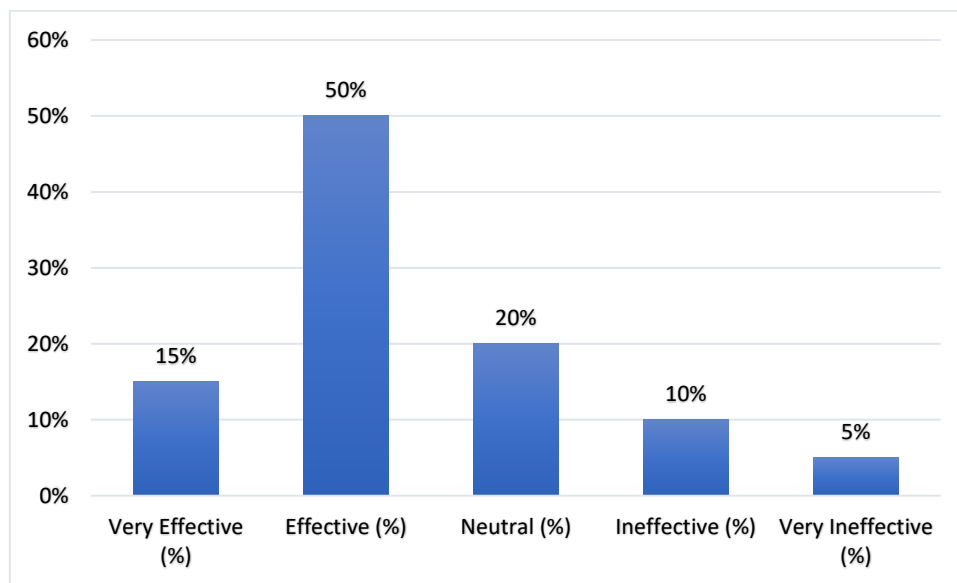


Figure 3: Effectiveness of Legal Framework in Preventing Child Sexual Abuse

The following is a table that illustrates how effective the POCSO Act is in preventing sexual abuse of children: All of the participants have different points of view on the matter. Among those who participated in the survey, just fifteen percent of respondents considered that the Act is extremely effective, while fifty percent said that the Act is effective. Generally speaking, this lends support to the role that the Act plays in addressing the problem. On the other hand, twenty percent of respondents are agnostic, and fifteen percent are of the opinion that the Act is either useless or highly unsuccessful in preventing abuse. Based on the results presented above, it appears that the POCSO Act contains a significant amount of content; yet, there is potential for improvement in terms of both its efficiency and its implementation requirements.

5. CONCLUSION

By conducting an analysis of the law of child sexual abuse in India, the goal is to critically expose the obstacles, consequences, and issues that are associated with an existing law, which is the Protection of Children from Sexual Offenses Act, which was only recently enacted. First and foremost, the article evaluates the awareness, effectiveness, and enforcement of legal requirements in order to demonstrate the obstacles that are present in the court and law enforcement systems. The role that healthcare and child welfare services play in providing support for the legal process is also brought into sharper focus by this matter. As a result of the findings, helpful ideas would be provided for the enhancement of the application of child protection laws, the improvement of the legal response to incidents of child sexual abuse, and the strengthening of awareness and capacity-building efforts among key stakeholders. All Copyright © 2024, Scholarly Research Journal for Interdisciplinary Studies

things considered; the purpose of this research is to make a contribution to the development of improved safeguards that will protect children from sexual assault across the entirety of India.

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