

# **INTERNATIONAL JOURNAL OF LEGAL STUDIES AND SOCIAL SCIENCES [IJLSSS]**

ISSN: 2584-1513 (Online)

Volume 4 | Issue 1 [2026] | Page 394 – 405

© 2026 International Journal of Legal Studies and Social Sciences

Follow this and additional works at: <https://www.ijlsss.com/>

In case of any queries or suggestions, kindly contact [editor@ijlsss.com](mailto:editor@ijlsss.com)

# **NEED FOR TRANSFORMING CHILD PROTECTION JURISPRUDENCE IN INDIA: A COMPARATIVE ANALYSIS OF SPECIAL COURTS UNDER POCSO ACT, 2012 WITH EUROPEAN BARNAHUS MODEL AND UNITED STATES' CHILD ADVOCACY CENTRES**

- Parvathy MP<sup>1</sup>

## **ABSTRACT**

Child Sexual Abuse (CSA) requires a justice system that not only protects children through its stringent laws but also safeguards them from mental trauma. India is considered one of the nations with the strongest laws for child protection. The Protection of Children from Sexual Offences Act, 2012 (POCSO) is one of the most progressive child protection laws in the world. It provides several provisions and procedures for the punishment of offenders who commit crimes against children. However, its impact is limited by flaws in its enforcement due to various reasons, such as delay in reporting the crime, defects in the FIR, other procedural irregularities, and, most importantly, the emotional burden placed on child victims and their non-offending families. Throughout the proceedings, the child has to go through multiple testimonies, repeated exposure to court process that may further deepen their trauma. Even though India has one of the most progressive laws for the protection of children, it still needs to adopt a child-centred justice system, such as Europe's Barnahus model and the United States' Child Advocacy Centres (CACs).

In this paper, I intend to discuss and demonstrate the effectiveness of Europe's Barnahus model and the United States' Child Advocacy Centres (CACs), those being multidisciplinary institutions in addressing and transforming child trauma, without compromising the punishment of offenders. These multidisciplinary institutions, which include all agencies from victim interview to psychological support that are provided under the same roof so that a child who is already a victim is not subjected

---

<sup>1</sup> Research Scholar (2025), Government Law College, Trivandrum, Kerala, Affiliated to University of Kerala & Legal Advisor at Ayesha Al Dhaheri Advocates and Legal Consultants, Dubai, United Arab Emirates

to further trauma during court proceedings. However, it is highly important to say that whether the protection offered to children under this Act is truly as effective as the support offered through the Barnahus model or Child Advocacy Centres (CACs). The comparative analysis of these institutions with our child protection system, helps to identify the gaps and flaws that exist in our laws and highlights the need to reform and strengthen our system so that it can function to its full potential.

## **KEYWORDS**

Child Sexual Abuse, POCSO, Special Courts, Barnahus house, Child Advocacy Centres

## **INTRODUCTION**

The child rights and the protection of children from different kind of abuse, violence and exploitation has become a part of modern human rights as well as the around the world. Several countries have established specialized courts and other judicial mechanisms that have been specifically intended to ensure child-friendly and speedy trial of cases involving children. These models differ widely across jurisdictions, from India's POCSO Courts to America's Child Advocacy Centres and Europe's Barnahus Model.

Although much efforts had been taken by the international and regional platforms through different conventions and treaties, many countries have not yet taken any progressive step to prevent and prohibit the violence against the children. For instance, many countries still do not have any special legislation regarding the protection of children from any kind of violence, apart from the common provisions within its criminal justice system has. It is highly relevant that most of the member states in the United Nations Organisations has ratified to the United Nations Convention on the Rights of the Child (UNCRC) in 1989, except few states such as United States of America not ratified it.

The UNCRC specifically mandates that the state parties shall take all appropriate steps to prevent any kind of violence or abuse against the child<sup>2</sup> and all judicial and administrative proceedings regarding the offences against children shall be conducted in a child friendly manner.<sup>3</sup> Being adhered to the

---

<sup>2</sup> Convention on the Rights of the Child, art. 19(1), Nov. 20, 1989, 1577 U.N.T.S. 3. which says that "the States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child."

<sup>3</sup> Ibid. art. 40(3). which says that "the States Parties shall seek to promote the establishment of laws, procedures, authorities and institutions specifically applicable to children alleged as, accused of, or recognized as having infringed the penal law, and, in particular:

Convention, all ratified states have the obligation to adopt the provisions of the treaties to their municipal law as part of their law of the land., *jus tertii*.

Accordingly, every ratified member state to the United Nations Convention on Rights of Child (UNCRC) is under obligation to enact new law or alter the existing law for the special protection of the children from any kind of violence or abuse and for the conduct of the judicial and administrative proceedings in a child friendly manner. But if we see the reality, only a very few states have enacted new legislations or have modified and amended the existing law for the protection of children.

## **ENFORCEMENT OF THE POCSO ACT IN INDIA**

The Protection of Children from Sexual Offences (POCSO) Act, 2012 is widely regarded as one of the most progressive child-protection laws in the country.<sup>4</sup> It was enacted to safeguard the children from sexual abuse, exploitation, and harassment. Further, the law ensures that the child victims are treated with dignity, care, and fairness throughout the process of adjudication. On paper, the law is progressive, sensitive, and detailed. While the law itself is strong, its real impact lies on how it is effectively implemented.

## **LEGISLATIVE STRENGTHS OF THE POCSO ACT**

One of the greatest strengths of the Act is its extensive scope. Unlike older laws that were limited in definition, the POCSO Act incorporates definition for all kinds of sexual abuse against the children, including non-physical offences. It also criminalizes those forms of sexual offences against children, ranging from harassment and assault to more severe forms of abuse.

The Act also mandates to establish Special Courts in every district to exclusively handle cases coming under the purview of this Act. This aims to ensure that child sexual offences receive special attention other than being delayed among general criminal cases. Additionally, the Act mandates that the Special court must ensure to carry out child-friendly procedures at every stage of the trial from reporting to

---

(a) The establishment of a minimum age below which children shall be presumed not to have the capacity to infringe the penal law;

(b) Whenever appropriate and desirable, measures for dealing with such children without resorting to judicial proceedings, providing those human rights and legal safeguards are fully respected. 4. A variety of dispositions, such as care, guidance and supervision orders; counselling; probation; foster care; education and vocational training programmes and other alternatives to institutional care shall be available to ensure that children are dealt with in a manner appropriate to their well-being and proportionate both to their circumstances and the offence.”

<sup>4</sup> Protection of Children from Sexual Offences Act, No. 32 of 2012, Acts of India (2012).

investigation to trial, so that children are not intimidated or further traumatized by the process of adjudication.

Another significant feature is the presumption of the reverse burden in certain situation, which helps to balance the difficulties that faces by the children in proving the case. Generally, in criminal cases, the diction of presumption of innocence is applied. The concept of presumption of innocence, which means the accused shall be presumed to be innocent unless and until he has been proved guilty beyond any reasonable doubt.

But with regard to the offences under POCSO Act, the principle of reverse burden is applied to certain offences defined under the Act such as sections 3, 5, 7 and 9 of this Act.<sup>5</sup> The law also makes it compulsory for individuals to report the offences under this Act, thereby placing responsibility on society as a whole. Moreover, the Act is gender-neutral and applies equally to all children under the age of 18, irrespective of their gender identity.

## **ESTABLISHMENT OF SPECIAL POCSO COURTS**

The establishment of Special Courts is a vital feature of the Act.<sup>6</sup> These courts are intended to have exclusive jurisdiction over child sexual offence cases, ensuring speedy disposal and reducing the repeated trauma on victims. Judicial officers presiding over such courts are expected to have training in child psychology, so they can interact with victims accordingly. The proceedings are held in camera and the structure of the court is designed to ensure that the child does not have to face the accused directly.

Despite these well-designed and organised provisions of the Act, the implementation of the Act varies widely across regions. Some places have dedicated courts that are functioning effectively, while others lack infrastructure. In several places, judges assigned to handle POCSO cases also manage regular criminal cases, which can usually slow down proceedings. These disparities specifically portraits that even though the law sets uniform standards for the functioning of the Special Court, the availability of resources and infrastructure often regulates how those standards are met or how it is implemented.

---

<sup>5</sup> Protection of Children from Sexual Offences Act, ss 29& 30, No. 32 of 2012, Acts of India (2012).

<sup>6</sup> Protection of Children from Sexual Offences Act, s 28, No. 32 of 2012, Acts of India (2012).

## **CHILD-SENSITIVE JUDICIAL PROCEDURES**

One of the significant features of the POCSO Act is that its emphasis on reducing trauma for the child during the legal proceedings.<sup>7</sup> It mandates that a child's statement shall be recorded within 30 days of the complaint and that the trial be completed within one year. It also allows children to testify through video conferencing so they do not even have to physically appear in courtroom environments. The Act further encourages the presence of support persons including trained individuals who guide the child emotionally and practically throughout the process. It prohibits aggressive or intimidating cross-examination and promotes the use of child-friendly spaces, such as separate waiting rooms within in courts, so that children are not exposed to stressful surroundings.

## **INVESTIGATIVE AND INSTITUTIONAL LIMITATIONS OF SPECIAL COURTS**

The effectiveness of any criminal law depends not only on legislation but also on the quality of investigation as well as the institutional coordination. In many districts, the judicial officers lack specialized training in interviewing children, which can affect the reliability of statements and the child's comfort level. The absence of trained child psychologists further complicates matters, particularly when victims need professional and emotional support.

Lack of coordination among police, prosecutors, medical professionals, and child welfare authorities can also leads to slow progress. In certain cases, limited access to forensic facilities or medical services further delays evidence collection. A major concern is what experts call as "secondary victimization." This occurs when children undergo traumatic experiences repeatedly to different authorities because agencies fail to share information efficiently. Such repetition can intensify psychological and emotional distress and weaken the very protective purpose of the law.

This is when Europe's Barnahus model and the United States' Children's Advocacy Centres (CACs) sets an example for an integrated, multidisciplinary institutions that have become global standards for child friendly agencies. This article examines India's POCSO enforcement and judicial processes, compares them with Barnahus and CAC models, and identifies structural gaps and opportunities for reform.

---

<sup>7</sup> Protection of Children from Sexual Offences Act, ss 33–38, No. 32 of 2012, Acts of India (2012).

## ICELANDIC BERNAHUS MODEL

The term “Bernahus” is a Scandinavian term for the children’s house. The concept of Bernahus house was initially formed in Iceland in 1998. It was later expanded to other Nordic countries, including Sweden (2005), Norway (2007), Greenland (2011), and Denmark (2013), under the title Barnahus or Children’s House.<sup>8</sup>

The Barnahus house is a model promoted by European Commission and the Council of Europe, in order to address the sexual abuse against the children, by coordinating parallel criminal and social welfare investigations in a safe and child friendly environment. It is a child-oriented, interdisciplinary facility that brings together various agencies to provide care and support to the child victims and witnesses within one roof.

Here the child victims can be interviewed and medically examined for forensic purposes, undergo detailed assessments, and can access to different therapeutic and other support services provided by qualified professionals, all in one safe and friendly environment. At present there is around 50 Barnahus houses in Europe.<sup>9</sup>

## AIM OF BARNAHUS MODEL

- To avoid re-victimisation
- Speed up the pre-trial process
- To provide concrete support to the victims

## MULTIDISCIPLINARY APPROACH OF THE BARNAHUS HOUSE

Barnahus house brings together various professionals under the same roof, in order to provide care and support to the victims of violence and abuse or suspected to be the victims of such violence.

These professionals include: -

- a. *Law enforcement team*- The law enforcement team includes the Judges, prosecutors, defence lawyers, police officers etc., conducts forensic interviews of the affected children or the victims of the violence. One of the unique features of these interviews conducted by the qualified professionals are that there is no need of further interviews or testimonies to be

---

<sup>8</sup> Susanna Johansson & Kari Stefansen, Policy-Making for the Diffusion of Social Innovations: The Case of the Barnahus Model in the Nordic Region and the Broader European Context, 33 *Innovation: The European Journal of Social Science Research* 4 (2020), <https://doi.org/10.1080/13511610.2019.1598255>

<sup>9</sup> Government Agency for Child Protection, *The Children’s House in Iceland – “Barnahus”*, [www.bvsv.is](http://www.bvsv.is)

- taken from the child for the court procedures. These interviews and testimonies are properly recorded and can be used in judicial proceedings. This type of arrangement can save the child from taking multiple interviews and testimonies for further procedures.
- b. *Medical professionals*- The medical professionals include forensic doctors, clinical psychologists etc., conducts a child friendly medical examination of the child victims and records it. Once the medical examination includes the forensic examination are taken within this house, then there is no need of further medical investigations to be taken throughout the entire procedures of the proceedings. This indeed avoid re-victimisation of the victims.
  - c. *Therapeutic professionals*- Therapeutic professionals includes highly competent clinical child psychologists as well as family councillors who provide crisis management and mental support to the child as well as the family who are not offended, in order to tackle the trauma, they are entangled with. Such services are also provided to the children who are victims of the sexual abuse, individually as far as the investigations and the legal proceedings are ongoing.<sup>10</sup>

## **PERSONS PROTECTED UNDER THE BARNAHUS MODEL**

- a. Children who are subjected to sexual abuse or harassment or children who are suspected to violence crimes including sexual abuse or other crimes, unlawful deprivation of personal rights, illegal trafficking, unlawful duress, threats and harassment, deprivation of other personal rights etc.
- b. Children whom there is a suspicion to be subjected to sexual violence.
- c. Children who have witnessed violence against other persons including relatives.
- d. Women who are subjected to genital mutilation.
- e. Adults with developmental disabilities.<sup>11</sup>

---

<sup>10</sup> Available at., <http://www.barnahus.eu/>

<sup>11</sup> The categories of persons who are the beneficiaries of Barnahus model, differs from states for example., the children who are suspicious to be subjected to sexual violence and those children who are subjected to sexual and other crimes including the deprivation to their personal rights are the beneficiaries of Icelandic Barnahus model. In other hand, the children who have witnesses the violence against other persons including their relatives, women who are subjected to female genital mutilation are the beneficiaries of Swedish Barnahus Model. Whereas, adult with developmental disabilities are the beneficiaries of Norwegian Barnahus model.

## FUNCTIONING OF BERNAHUS MODEL

The Barnahus model is commonly framed as comprising four functional “rooms,” each having specific function namely criminal investigation, inter-agency collaboration and child protection, physical health care, and mental health services. It serves as a multidisciplinary agency where social services, law enforcement authorities, public prosecutors, forensic medicine specialists, paediatricians, and Child and Adolescent Psychiatry (CAP) professionals work in close coordination, especially during the early stages of the criminal and social investigations of each case. The functioning of the Barnahus house can be classified and explained under these four heads;

a. *Child Interview*

At the initial stage, in Barnahus house, the child is interviewed in a specially designed child friendly room by a trained forensic investigative interviewer, in compliance with evidence-based protocols which is adapted to the child’s developmental level and needs.

b. *Observation of the Interview (Listening-in)*

The interview is observed by the key stakeholders from a separate listening-in room, in order to prevent the repeated questioning of the victim/child and minimise any additional trauma for the child. The entire interview is video-recorded and it may be admitted in the court as evidence during trial proceedings, thereby eliminating the need for the child to appear in court in person for further proceedings. This indeed helps the child from being examined in the court repeatedly.

c. *Medical Examination of the Victim/child*

Following the interview, the child may undergo a medical examination in a designated medical room within the Barnahus. Healthcare professionals assess the child’s physical condition, identify and record any bodily injuries, and address immediate physical health needs. The findings are formally recorded, and a forensic medical report and certificate is issued based on this examination.

d. *Crisis Support and Therapeutic Services*

Barnahus also offers crisis intervention and therapeutic support to child victims, their parents, and other family members during and after the investigative and legal processes. In addition, therapeutic services are also available to children who have experienced sexual abuse, and to their family with individual care treatment plans given either within the Barnahus house or, nearer to the child’s place of residence where ever appropriate.

The Barnahus model has now been adopted and implemented more than 30 European countries, including Sweden, Norway, Lithuania, Iceland, and Spain, with the consistent support from the European Union, Council of Europe and UNICEF. The Barnahus approach has become a European standard for child-oriented justice, an amalgamation of legal process with protection and wellbeing of the child.

## **CHILD ADVOCACY CENTRES IN USA**

Child Advocacy Centres (CACs) are the community based, multidisciplinary organizations established for the child victims of sexual offences and their family members to recover from the trauma that they experience during its investigation and other procedures. These centres were established to expand the responsiveness towards the child abuse and to take action against the ill-treatment towards child.

## **ESTABLISHMENT OF CHILD ADVOCACY CENTRES IN USA**

The Child Advocacy Centres are established in different regions of the United States of America through the Victims of the Child Abuse Act, 1990. The primary object of the Act is to strengthen the investigation, prosecution and treatment of child abuse cases in the United States.<sup>12</sup>

Children's Advocacy Centres are intended to bring together a coordinated, multidisciplinary response system against child abuse, by connecting agencies such as law enforcement, social services, medical professionals, and mental health providers. This coordinative and collaborative approach ensures that child victims of abuse, along with their non-offending family members, receive complete support services while minimizing the risk and mental trauma that may cause during the investigative processes.

*Key features of the Child Advocacy Centres are as follows;*

- a. Child friendly environment
- b. Multidisciplinary team (MDT)
- c. Forensic Interviews
- d. Medical and mental Health Services
- e. Support for prosecution
- f. Training and technical assistance

---

<sup>12</sup> Congressional Research Service, *Child Welfare: Programs Authorized by the Victims of Child Abuse Act of 1990*, CRS Rep. No. RL32976, at 4 (Apr. 26, 2006), available at <https://crsreports.congress.gov>

## RESEARCHES AND SURVEYS CONDUCTED ON THE FUNCTIONING OF CAC IN USA

Many researches and studies conducted by several agencies marked the establishment of Child Advocacy Centres as a boon to the society, especially dealing with the child abuse cases. These studies and researches' findings are mostly related to finding out whether the Child Advocacy Centres are functioning in accordance with its objective and whether it is efficacious in fulfilling its goals.

A study conducted by "The School of Criminology and Criminal Justice", University of Nebraska at Omaha, published in *Criminology and Criminal Justice Faculty Publication* in 2022, observed that the Child Advocacy Centres in America is far more way in protecting the children who are the victims of sexual abuse or witness to the sexual abuse.

The study focussed specifically in the areas of child advocacy, forensic interviewing, medical evaluations, coordination of multidisciplinary teams etc.<sup>13</sup> The main objective of the study is to examine the success and limitations within the Child Advocacy Centres working in the five core regions of United States of America, which coordinates the staffs and other stake holders associated with the CAC.<sup>14</sup>

The core areas of this study include, but not limited to child advocacy, forensic interviewing, medical evaluations, coordination of multidisciplinary teams. In the evaluation of child advocacy, the study derived a positive outcome regarding the teams associated with the child advocacy. The reason for this positive outcome lies in the professional dedication of the child advocacy teams in accomplishing their work.

These studies reveal that the service provided by each CAC is not similar. Some CAC centres offer additional services apart from the standardised service criteria of CAC, while certain centres do not offer even the basic services which should be rendered through these centres. This variation may be due to the lack of adequate staffs, resources or funding or may be in certain cases, due to the less support from the authorities or local support.<sup>15</sup>

---

<sup>13</sup> Amber E. Krushas, Teresa C. Kulig, Emily M. Wright, Ryan E. Spohn & Lynn M. Castrianno, Identifying Successes and Barriers in a Child Advocacy Center: An Examination of Five Service Areas, 44 *Child & Youth Servs.* 275 (2022), available at <https://doi.org/10.1080/0145935X.2022.2107505>

<sup>14</sup> Ibid p. 7

<sup>15</sup> Ibid p. 9,10

## COMPARATIVE ANALYSIS OF INDIA'S POCSO COURT, EUROPEAN BERNAHUS HOUSE AND UNITED STATES' CACs.

<i>Feature</i>	<i>POCSO Special Courts (India)</i>	<i>Barnabus (Iceland)</i>	<i>CACs (USA)</i>
Child-centred location	Child moves between agencies	All services in one place	All services coordinated under one centre
Multidisciplinary coordination	Limited; agencies often work separately	Strong; police, prosecutors, psychologists, medical staff collaborate	Strong; regular case review meetings, shared information, coordinated investigations
Forensic interview	Repeated multiple times	Single, recorded interview shared with all agencies	Single, recorded interview shared with all agencies
Medical & psychological support	Available, but not always coordinated	Integrated and immediate	Integrated and immediate
Trauma minimization	Partially; depends on local implementation	Prime focus	Prime focus
Trial & evidence procedures	Court-centric; may face delays	Coordinated to support prosecution and child welfare	Coordinated to support prosecution and child welfare

### CONCLUSION

Both Child Advocacy Centres and the European Bernahus houses are designed for a common objective, that is to create a child friendly environment for the child victims, reduce trauma and to strengthen the quality of the investigation and other proceedings. Even though both agencies share a common objective, the European Bernahus house provides more protection for the children than that

of the Child Advocacy Centres, as the CAC depends more on the intra agency cooperation rather than constituting itself as a Multidisciplinary Team like Barnahus.

While India's POCSO Act and Special Courts provide a strong legal framework with child-friendly procedures and adjudicative mechanism, the system often requires children to move between police stations, hospitals, and courts, and it is evident that the coordination between agencies is inconsistent. In contrast, the Barnahus model in Iceland and the Children's Advocacy Centres (CACs) in United States operate on a "child-centred" principle where all services ranging from law enforcement, prosecution, medical, psychological, and social support, are well coordinated under one roof.

This multidisciplinary setup ensures the child to give testimony only once, receives continuous emotional and medical support, and experiences minimal trauma. In this multi-disciplinary institution, the child who is already experiencing trauma, are not re-traumatised. While POCSO's legal safeguards are strong, the integrated service such as in Barnahus or CACs can significantly enhance the effectiveness and sensitivity of child protection.