

# National Symposium

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PRESENTATION: DR. DOMINIC F DIXON



# CHILD RIGHTS *and* MISUSE OF POCSO ACT, 2012

\*Protection of Children from Sexual Offences (POCSO)

**Presentation by**

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# Addressing Misuse of POCSO Act in Marital/ Domestic Disputes

Welcome to the National Symposium on the Protection of Children from Sexual Offences (POCSO) Act, 2012. As Executive Director of UNADAP and specialist in International Law & Justice, I'll be addressing a critical concern: the potential misuse of this important legislation, particularly in cases involving estranged spouses.

While the POCSO Act was enacted with the noble intention of safeguarding children from sexual offences, there are growing concerns about its misapplication as a weapon in marital and domestic disputes, creating victims of both falsely accused individuals and the **children** caught in the middle.





# POCSO Act: Current Statistics

## 63,414

**Total Cases**

POCSO cases registered across India in 2022 according to NCRB data

## 8,151

**Uttar Pradesh**

Highest number of cases reported in any state

## 7,572

**Maharashtra**

Second highest number of cases reported

## 5,996

**Madhya Pradesh**

Third highest number of cases reported

While the National Crime Records Bureau does not provide specific gender-wise breakdown of individuals charged under the POCSO Act, it is generally observed that the majority of accused are **MALE**. This gender disparity raises important questions about the application of the law and potential for misuse in certain contexts.



# Misuse in Marital Disputes



## Custody Battles

False allegations filed under POCSO to gain advantage in custody disputes



## Legal Leverage

Complaints filed not for child welfare but to gain upper hand in legal proceedings



## Presumption of Guilt

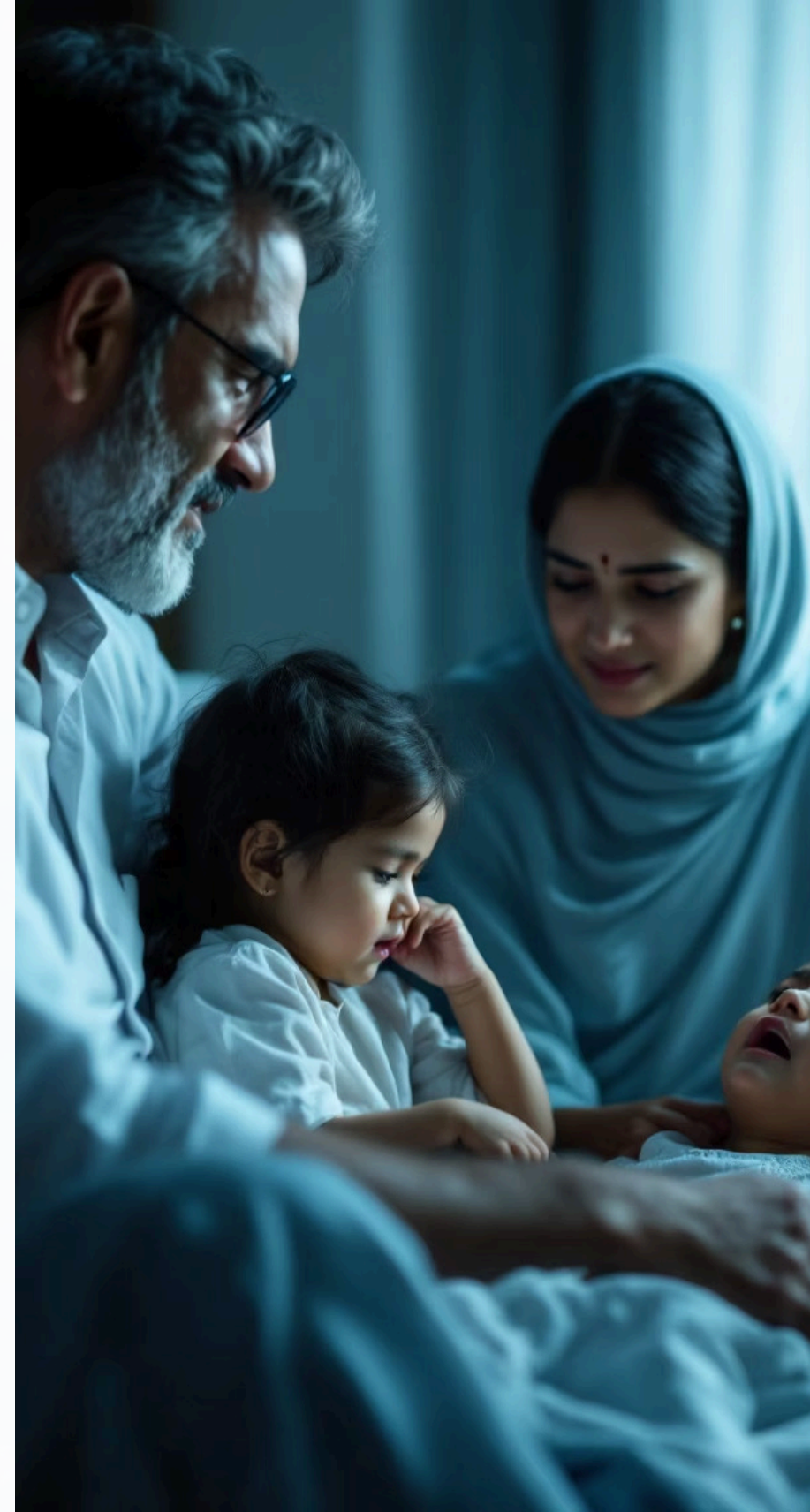
Accused presumed guilty until proven innocent, causing irreversible damage



## Child Trauma

Children used as weapons in disputes, suffering intense psychological harm

The pattern of misuse echoes earlier concerns with the Anti-Dowry Law (Section 498A IPC), where thousands of men were arrested without preliminary inquiry, leading to public defamation, job loss, emotional trauma, and in extreme cases, suicides.







# Parallels with Anti-Dowry Law Misuse

1

## Section 498A Misuse

Thousands of men arrested without preliminary inquiry under anti-dowry law

2

## Supreme Court Guidelines

SC issued guidelines against arbitrary arrests due to growing misuse

3

## POCSO Similar Pattern

Similar pattern emerging with POCSO Act being misused in marital disputes

4

## Current Concerns

False POCSO charges diluting seriousness of real cases and endangering children

When a false allegation is made under POCSO, the accused man is presumed guilty until proven innocent—causing irreversible damage to his reputation, family life, and mental health. Meanwhile, the child at the center of this manipulation is subjected to intense trauma, being used as a weapon in a conflict they never chose to be part of.

# Judicial Observations and Case Studies

## Kerala High Court Case

Court quashed a POCSO case filed by wife against husband, emphasizing law should not be misused for personal vendettas.

FIR filed in **2020** for alleged abuse from **2015**, with couple legally married in **2017**, undermining allegations.

## Delhi Court Ruling

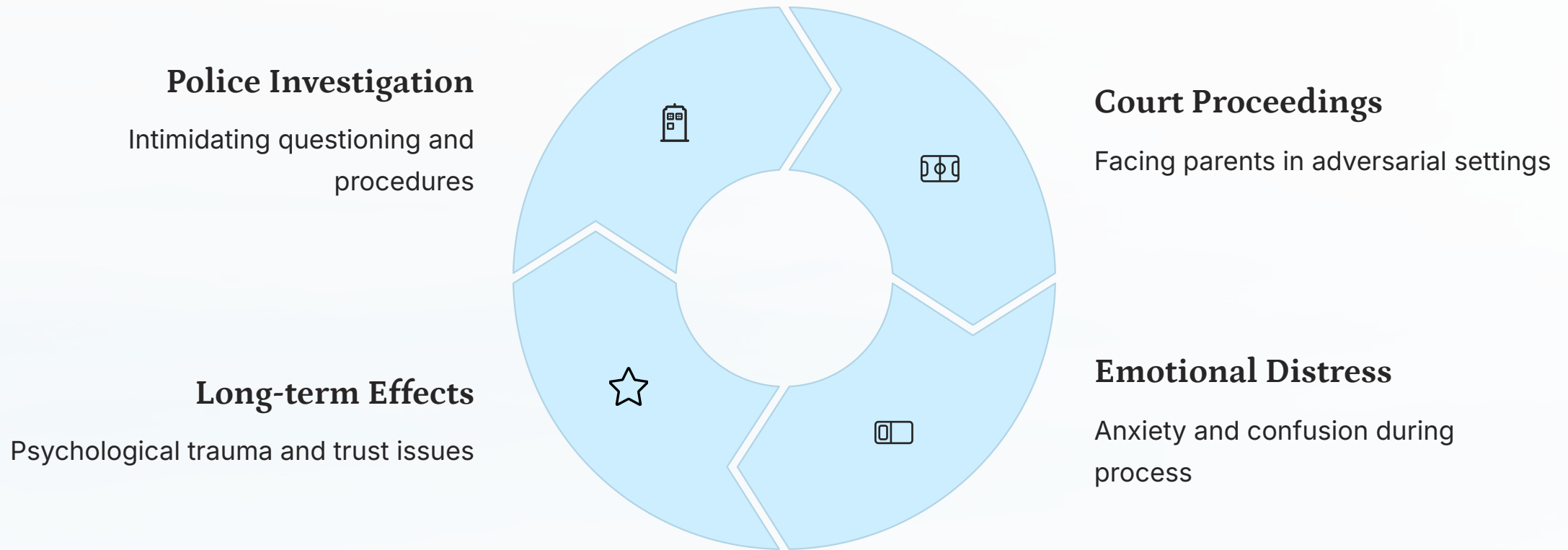
Court imposed **₹1 lakh fine** on woman for filing false POCSO case against husband to settle property dispute. Court termed it "blatant abuse of law" and highlighted misuse for personal gains.

## Legal Provision

Section 22 of POCSO Act provides punishment for false complaints or false information, ensuring individuals who misuse the Act can be penalized, safeguarding integrity of legal process.

These cases highlight the judiciary's growing recognition of the potential for misuse of the POCSO Act in matrimonial disputes and the need for careful scrutiny of allegations before proceeding with formal charges.

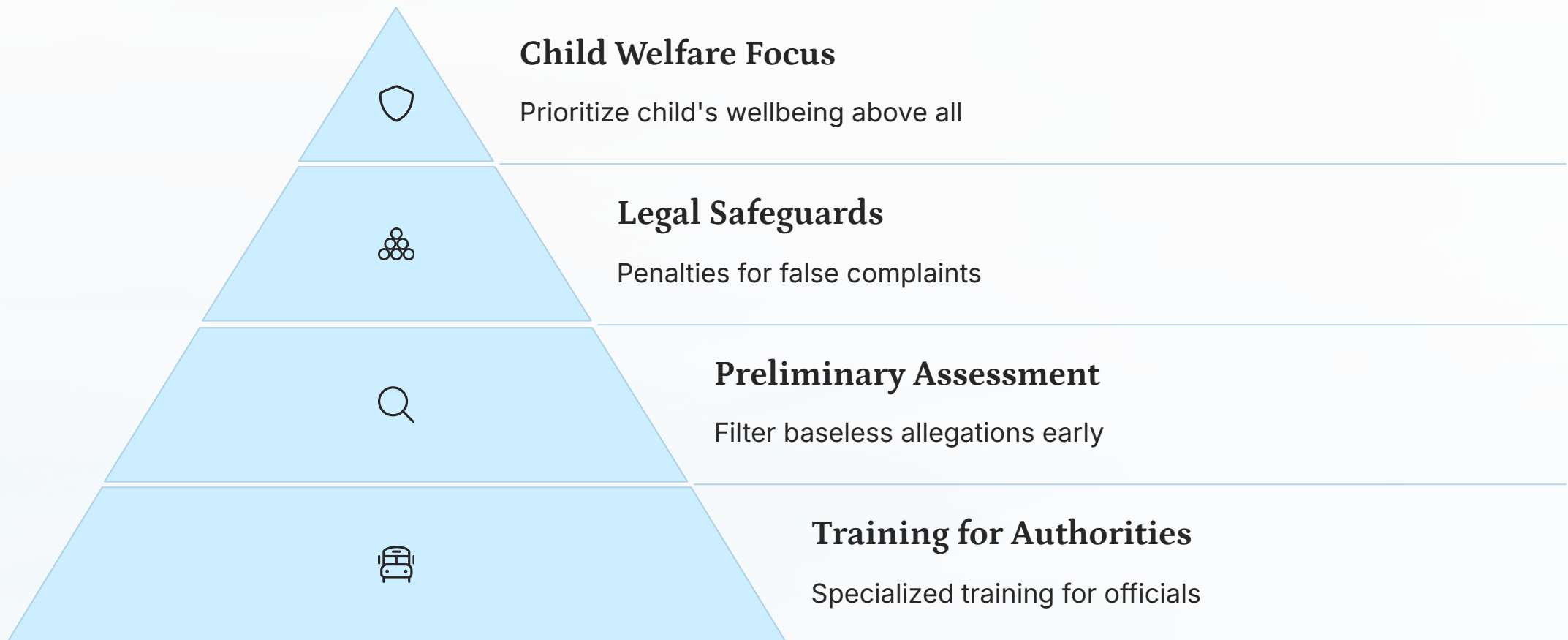
# Impact on Children



Children involved in such cases often undergo significant trauma. The legal process can be confusing and frightening for a child who may not understand the complexities of the situation. Being subjected to repeated questioning and potentially witnessing conflict between parents can lead to lasting psychological effects.



# Suggested Reforms



To address these concerns, we need comprehensive reforms that balance protecting children from genuine abuse while preventing misuse of the law. Implementing a mechanism for preliminary assessment of complaints would help filter out baseless allegations before formal charges are filed.

Ensuring the child's welfare remains paramount in all proceedings, with provisions for counseling and support throughout the process, is essential. Specialized training for law enforcement and judicial officers would help them handle POCSO cases sensitively and discern genuine cases from potential misuse.



## Conclusion: Preserving POCSO's Integrity



### Acknowledge the Problem

Recognize that POCSO Act misuse in marital disputes is a growing concern that requires attention from legal authorities and policymakers.



### Implement Safeguards

Introduce procedural safeguards to prevent misuse while ensuring genuine cases are not discouraged or impeded.



### Balance Protection

Maintain the Act's integrity by balancing protection of children with prevention of false accusations against innocent individuals.

While the POCSO Act is a crucial legal instrument for protecting children, awareness and vigilance are necessary to prevent its misuse. By implementing thoughtful reforms, we can ensure the Act serves its intended purpose of protecting children while preventing its exploitation in personal disputes.

Thank you for your attention to this important issue. I welcome your questions and insights as we work together to strengthen child protection while ensuring justice for all.