

Improving Access to Justice

Initiatives by HAQ: Centre for Child Rights against Child Sexual Abuse (CSA)



“There can be no keener revelation of a society’s soul than the way in which it treats its children”

– Nelson Mandela

The other side of (In)justice ...

Eleven year old Priya (name changed) lives with her widowed mother and two sisters in a colony in Delhi. Following her father’s death, the family moved in with her paternal uncle. With no source of income, the family survives on the father’s pension.

A 50 year old washerman, their neighbour, sexually assaulted the child. Instead of filing an FIR, her uncle beat up Priya and her older sister. Her mother filed an FIR against the accused and moved into her own house with her children. By then Priya was already traumatised into silence and her statement could not be recorded. She refused to go to school or engage in household chores and interacted very little.

What did Priya and her family need to move ahead?

- Mental health intervention to cope with their trauma,
- Legal and financial assistance, and
- Rehabilitation support

What did HAQ: Centre for Child Rights do?

When we were appointed as the support person by the Child Welfare Committee (CWC), it took numerous counselling sessions with the child to help her narrate the sequence of events. Five months of continuous rapport building, counselling and sustained support helped the family gain confidence and stand for themselves. Subsequently, Priya was granted an interim compensation of a lakh by the court and is currently undergoing psychiatric treatment.

Priya is one of the many children – girls and boys - who face sexual abuse at a tender age, which impacts them for a lifetime.

Being a taboo, families try not to pursue a legal case to avoid further shame and humiliation. Those belonging to the lower socio-economic strata of society also find it difficult to access the justice system – right from approaching the police, filing an FIR, getting legal support, pursuing the case for years, helping children deal with the trauma and rehabilitating them.

The Protection of Children from Sexual Offences Act 2012 (POCSO) was enacted to protect children from offences of both penetrative and non-penetrative sexual assault, sexual harassment and pornography; provide for mandatory reporting of sexual offences; establishment of Special Courts for trial of such offences, and more importantly several victim protection measures ranging from providing services of a support person to right to be represented by a lawyer of one’s choice and victim compensation.

Stop Child Sexual Abuse

Yes! It is a reality...one of the darkest and deepest secrets in the lives of many children

- According to Government of India's National Study on Child, 2007, 53.22 per cent children reported having faced one or more forms of sexual abuse; 50 per cent of sexual abuse is by persons known to the child or in a position of trust and responsibility.
- CSA cuts across social strata - rich or poor, ethnicity and religion. It is as prevalent in middle and upper class families as in the lower or lower middle class families; and children often do not report the matter to anyone.
- Both girls and boys are victims of sexual abuse. Activists from a support group (RAHI, New Delhi) have found that at least 25 per cent of the adult population has been molested before the age of 16. At least 27 million females are adult survivors of CSA, incest being the most common form of child abuse.
- Children who are isolated with little contact with others -friends or family, street children, those in institutions, disabled children and those belonging to marginalised sections of society are even more vulnerable.
- In most cases, the perpetrator is someone the child knows and trusts. However, in recent years, there is an increase in stranger rapes too. The abuser usually violates a relationship of trust and/or takes advantage of his/her power and position.
- It is seen that the intergenerational effect of abuse is cyclic. Adults who had been abused when they were children become perpetrators of sexual abuse against children when they grow up.

SO LITTLE TO PROTECT CHILDREN!

HAQ's budget for children initiative shows that the lowest share in the Government of India's Budget is for child protection. In 2017-18 it was still mere 5 paise in 100 rupees in the Union Budget. The same trend is repeated in the states

Laws such as the POCSO Act require special support system and infrastructure.

- But where is the money?
- How will the states create a panel of support persons, translators, interpreters, psychologists and counsellors for victim support?
- And what about meeting the statutory requirement of victim compensation?

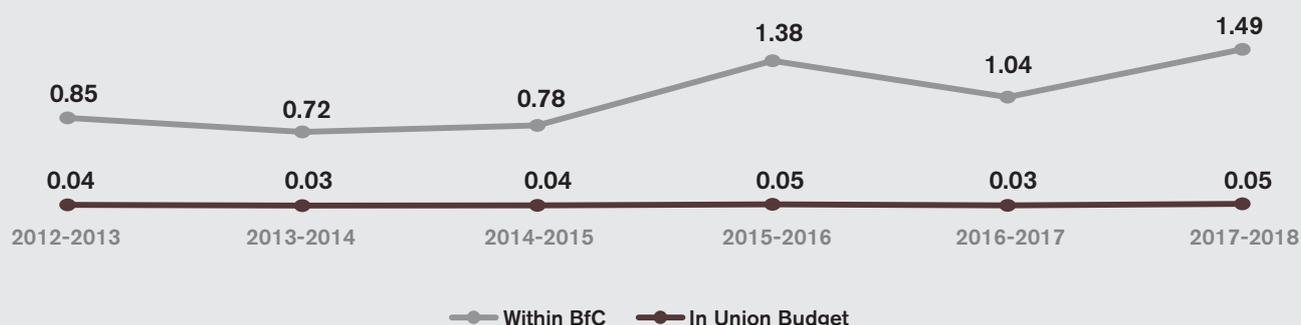
At the national level, the NCRB's Crime in India - 2015 recorded

15.8 per cent of crimes against children under the POCSO Act – a total of

14,913 cases

– a substantial escalation of almost 68 per cent from 8,904 cases in 2014

Share of Child Protection (BE) in Union Budget and Within BfC (Per Cent)



The double jeopardy – Childhood Lost Besides sexual abuse, the child faces additional trauma...

- Parents refuse to allow the child to move out of the house, to access education, or even play in the neighbourhood because of stigma. Restrictions are enforced and childhood is lost in this process.
- Landlords ask children and their families to vacate their homes.
- Schools also do not want abused children and subtly force them to leave.
- Parents lose employment pursuing court cases or supporting their children.
- Children feel unsafe even within their own families and find it difficult to confide when the abuser is an insider.
- At times, in cases of incest, even when the child shares, the matter is over looked or dismissed and the child is blamed for everything.

Every child has the right to an education

Punish those who deny victims of sexual violence their legal right to go to school

How does society break the spirit of a girl who has survived the worst form of sexual violence, physical assault or life-threatening medical condition? You deny her the right to get an education. That is what happened in the case of a Delhi student whose parents have alleged that her school has asked her not to attend classes as it would “furnish the image of the school.” The class X student was kidnapped, raped and thrown out of a moving car. Even after she recovered, the girl was in for another shock. The school told the parents it would promote their daughter to Class XI only if she stopped attending classes. The school even forbade her from using the bus services, added the parents. The discrimination isn't limited to rape victims alone. According to studies by non-governmental bodies, children living with or affected by HIV/AIDS are increasingly being denied admission, suspended, expelled and publicly ridiculed by school authorities.

Apathetic teachers are not the only ones perpetuating hostility on unfortunate victims of sexual violence. Often, it is the pressure from parents of other children that forces many schools to expel students suffering from HIV. In January, while hearing a public interest litigation, the Supreme Court came to the rescue of such students with a promise to evolve guidelines under the Right to Education Act.

Government statistics say a woman is raped every 15 minutes in India and according to NACO statistics, 2.45 lakh of the 30.9 lakh people living with HIV in the country are children aged 15 or less. For a country that preens about its demographic dividend—more than 63% of the population is aged 15-59 years—such stigmatising is a shameful reality staring us in the face. The State needs to come down hard on those indulging in blame shifting and discrimination. It is the least we owe to the victims of such circumstances.

HAQ's role – making holistic justice accessible and effective

Since 2002, HAQ has been supporting individual cases of child abuse and exploitation, working closely with the police, administration, JJBs, CWCs, State and District Legal Services Authorities, the Juvenile Justice Committee of the Delhi High Court, judicial academies and other government and non-governmental agencies to address the gaps in law, policy and action and strive for a better world for children.

Legal support and counselling provided by HAQ over the last 12 years...

Year	Legal Support - CNCP		Counselling - CNCP	
	M	F	M	F
2005	4	3	0	0
2006	1	3	1	0
2007	2	3	0	0
2008	1	1	0	2
2009	15	10	1	6
2010	14	28	2	9
2011	21	12	2	3
2012	6	15	7	14
2013	4	22	2	8
2014	2	14	2	18
2015	15	65	15	94
2016	8	43	8	125
Total (12 yrs)	93	219	40	279

Note: The figures in the above tables reflect only the fresh cases taken up by HAQ in the different years. Every year there is also a backlog of cases being followed up from the previous years.

Before the enactment of the POCSO Act in 2012, not many cases were reported. This law helped the children to break the silence around sexual abuse and seek justice. As an organisation dealing with survivors and their families it is amply clear that even while the impact of abuse on children and their families is long term, some solutions have to be immediate and they cannot wait!

Need for a multi-pronged strategy

It becomes imperative to provide long term 'handholding support' to the children as well as their families. HAQ has adopted a multi-pronged strategy to ensure effective access to holistic justice for child survivors of sexual violence:

- **Legal intervention** – Providing legal aid, familiarising the child and family with court procedures and representing them in court.

Fourteen year old Saurav was sexually abused by his seniors in school. Boys are not covered under the state victim compensation scheme and a petition was filed in the High Court of Delhi. Boys who were sexually abused became entitled to compensation... just like girls.

- **Psychosocial support, counselling and rehabilitation** to child survivors of sexual abuse. In 2013, HAQ initiated an informal support group of parents of survivors of CSA to meet, share their stories and experiences with the system and find emotional support from each other's struggles. Every child is entitled to the services of a support person under the POCSO Act as per the order of the CWC..

HAQ is currently providing the services of a support person in 290 POCSO cases, largely from South, South-East, North and Central Districts of NCT Delhi.

- **Creating linkages:** Provide medical support, educational and skill building opportunities for survivors.

Vaishali was only ten years old when she was trafficked to Delhi and sexually abused. With legal support from HAQ, the offender and his wife were convicted. Vaishali completed her graduation and computer training. She now works with the Lemon Tree Hotels.

- **Capacity building** of service providers and diverse stakeholders: Law enforcement agencies, judiciary, functionaries in child protection and juvenile justice system, media and NGOs are trained on a regular basis.

- **Campaigns** against various forms of exploitation and abuse of children to create awareness in society.

HAQ in partnership with the Theatre World staged Bitter Chocolate, a poignant and revealing solo performance by Lushin Dubey based on Pinki Virani's book by the same name.

This powerful play, as Lushin mentions, "will help generate awareness and thereby prevention, which is so much better than cure."

- **Research:** HAQ and Forum against Child Sexual Exploitation (FACSE) with support from UNICEF, is engaged in a study on the implementation of the POCSO Act in Delhi and Mumbai, with data from three courts in Mumbai and five from the national capital.

A small beginning and still a long way to go.....

HAQ: Centre for Child Rights, a Delhi based non-governmental, non-profit organisation, working since 1999, is dedicated to the recognition, protection and promotion of child rights.

HAQ undertakes research and documentation on child labour, child trafficking, child sexual abuse, children in emergencies, juvenile justice, budgets for children and a range of similar issues concerning children and governance, with a special focus on child protection. The aim is to fill in existing gaps in information and to facilitate effective policy and legal frameworks as well as training, capacity building and public education.



HAQ: Centre for Child Rights
B-1/2, Ground Floor,
Malviya Nagar
New Delhi 110017 INDIA

Phone: +91 (0)11 26673599
+91 (0)11 26677412
+91 (0)11 41077977
Fax: +91 (0)11 26674688

E-mail: info@haqcrc.org
Web: www.haqcrc.org
www.facebook.com/HaqCentreForChildRights