

Protecting children from sexual abuse



Implementation
of POCSO Act,
2012 and Beyond

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contents

Preface and acknowledgements	ii
Abbreviations	iv
Background	2
1 The Victims of Child Sexual Abuse	7
2 Disclosure and Reporting	11
3 Structural and Procedural Compliance under the POCSO Act	13
3.1 Special Courts - Nothing Special About Them	13
3.2 Special Public Prosecutors	16
3.3 Lawyers	16
3.4 Police	16
3.5 Support Persons	20
4 Procedural Problems	21
4.1 Delay in Judicial Procedures in Court	21
4.2 Medical Examination	23
4.3 Disclosure of Victim's Identity	26
5 Need for Convergence	26
6 Witness Protection	27
7 Age Determination	27
8 Victim Compensation and Rehabilitation	30
9 Age of Consent	33
10 Death Penalty for Rapists and Sex Offenders Registry	34
11 Prevention Strategies	35
12 The Way Forward	38
Annexure 1 Workshop Agenda	
Annexure 2 List of Participants	

preface and acknowledgements

HAQ: Centre for Child Rights is dedicated to the recognition, promotion and protection of all rights for all children. The organisation's mission is to mainstream child rights into all development agenda and strengthen governance for children. Realisation of human rights of children through policy, law and action is therefore a core area of HAQ's work. Our long-term aim is to work towards a responsive, sensitive and accountable justice system for children. As part of our initiative on access to justice and restorative care, we have specifically engaged with child victims of sexual abuse and the justice delivery mechanisms. Since 2015, HAQ has intervened in over 700 cases registered in Delhi under the Protection of Children from Sexual Offences (POCSO) Act, 2012, providing legal and psychosocial support. Documenting the challenges faced by children, gaps in implementation of law and identifying areas requiring systemic change and strengthening has been a critical component of our work. This has helped generate evidence required for legal and policy reform. Like HAQ, many other organisations too have engaged with the POCSO Act and generated experience and evidence on similar lines. Research by the Centre for Child and the Law, NLSIU Bangalore on implementation of the POCSO Act in 5 states is exemplary in this regard.

Concerned over growing incidents of child sexual abuse, people have been taking to streets off and on, demanding stringent sentences and death penalty for child rape while the government is trying to find solutions in amending the legal framework, the civil society has been grappling with children's realities, system's response and failure of society at large to build a protective environment for children. Five years since the enforcement of the POCSO Act provided good enough reason for taking stock and deliberating on critical issues that need to inform law and policy reform as well as public outcry.

The National Consultation titled "Protecting Children from Sexual Abuse: Implementation of the POCSO Act and Beyond" has been an effort in this direction. Jointly organised by HAQ: Centre for Child Rights and the Centre for Child and the Law, NLSIU, Bangalore with support from Tata Trusts, UNICEF and the Human Dignity Foundation, the Consultation witnessed overwhelming participation of various stakeholders from across the country and brought out several areas that can guide the action agenda for future. Unfortunately, given the resource constraints, it was not possible to bring on board several other organisations and individuals who have made significant contributions through their work on child protection and access to justice for children. We regret their absence, but are happy to reach out to them through this report and seek their inputs to strengthen the discourse on protecting children from sexual abuse.

We thank Hon'ble Justice Madan B. Lokur, Judge, Supreme Court of India for laying a strong foundation for the consultation with his key note address and a wake up call. We are also grateful to Hon'ble Justice Gita Mittal, Acting Chief Justice, High Court of Delhi for joining us and reiterating her commitment to the cause. Mr. S.S. Rathi, Director, National Legal

Service Authority (NALSA), Ms. Geetanjli Goel, Special Secretary, Delhi State Legal Services Authority (DSLISA), Ms. Neena Krishna Bansal, Director, Delhi Judicial Academy and all other participant members of the judiciary from Delhi and other states, have always been a great support in addressing children's concerns. We thank them all for being with us, providing useful information and sharing their thoughts.

Our sincere thanks to Mr. Ajay Tirkey, Additional Secretary, Ministry of Women and Child Development, Government of India, Ms. Aastha Saxena Khatwani, Joint Secretary, Ministry of Women and Child Development, Government of India, Ms. Stuti Kacker, Chairperson, National Commission for Protection of Child Rights (NCPCR), Chairpersons and Members of various State Commissions for Protection of Child Rights who could make it possible to be part of the event and the deliberations. We look forward to a continuous dialogue with them on such issues.

Indeed it is very difficult to thank each and every one of our valuable panelists, speakers and participants by name. What is important for us is to let them know that this consultation would not have been possible without them.

Partnering with the Centre for Child and the Law, NLSIU has been a wonderful experience and the synergy also brought on board support from Tata Trusts, UNICEF and the Human Dignity Foundation. A consultation at national level with over 100 participants could never have been possible without combining resources available at different ends. We remain grateful to our partners and supporters for not just providing the necessary resources, but also being critical partners in the social change we want to see.

We also thank Amit Mitra for wading through the transcripts and trying to make sense of the matter for writing the draft and putting together this report.

Last but not the least, it is always the backstage team that deserves the credit for any successful event, those handling the logistics, our interns, printer, everyone who was up on their feet to cater to the last minute demands and managed it all efficiently.

We do hope that this report will provide substantial food for thought and the recommendations that have emerged will help in charting out the future course of action.

Bharti Ali
Co-Director

Enakshi Ganguly
Co-Director

abbreviations

BPR&D	Bureau of Police Research and Development
CCL-NLSIU	Centre for Child and the Law (CCL), National Law School of India University (NLSIU)
CCR-NUJS	Centre for Child Rights, West Bengal National University of Juridical Sciences
CICL	Children in conflict with the law
CNCP	Children in need of care and protection
CrPC	Code of Criminal Procedure
CSA	Child Sexual Abuse
CWC	Child Welfare Committee
DCPO	District Child Protection Officer
DCPU	District Child Protection Unit
DLSA	District Legal Services Authority
DNA	Deoxyribonucleic Acid
DSLISA	Delhi State Legal Services Authority
DSP	Deputy Superintendent of Police
FACSE	Forum Against Sexual Exploitation of Children
FIR	First Information Report
FSL	Forensic Science Laboratory
HAQ	HAQ: Centre for Child Rights
ICPS	Integrated Child Protection Scheme
IPC	Indian Penal Code
JJ	Juvenile Justice
JJB	Juvenile Justice Board
MLC	Medico-legal case
MTP	Medical Termination of Pregnancy
MWCD	Ministry of Women and Child Development
NALSA	National Legal Services Authority
NCRB	National Crime Records Bureau
NGO	Non-Governmental Organisation
NIMHANS	National Institute of Mental Health and Neurosciences
NLU	National Law University
PLD	Partners in Law and Development
POCSO	Protection of Children from Sexual Offences
PP	Public Prosecutor
SPP	Special Public Prosecutor
UNICEF	United Nations Children's Fund

**A child victim is
not a statistical
number – we
are talking of a
life that is going
to be there for
many many
years**

– Justice Madan B Lokur



background

Under the Protection of Children from Sexual Offences Act (POCSO), 2012, State Governments should, in consultation with the Chief Justice of the High Court, designate a Sessions Court as a Special Court, to try offences under the Act. This is with a view to facilitate speedy trial. If a Sessions Court has been notified as a Children's Court under the Commissions for Protection of Child Rights Act, 2005, or if any other Special Court has been designated for similar purposes under any other law, it will be regarded as a Special Court under the POCSO Act.

The Special Court can take up the case directly without it having been committed for trial by the Magistrate's Court. Questions to the child have to be put by the judge during the hearing on evidence. The Special Court has been vested with the responsibility of ensuring that the proceedings are child friendly. The Act does not explain the term 'child-friendly', but has introduced several procedures aimed at making a child comfortable in court. For instance, video conferencing, curtains or one way mirrors should be used to prevent the child from seeing the accused throughout the proceedings. Further, the child is entitled to have a parent, guardian, or any other person whom she or he trusts to be present during the recording of evidence. The child must be questioned in a child-friendly way. The court has to ensure that the child is not called to testify repeatedly. The child's identity has to be protected throughout the proceedings. The permission to disclose the identity of the child must be given only if it is in her/his best interest. The trial should be held in camera and the matter should be disposed within one year from the date of cognizance by court.

Objective of the Consultation

Overall Objective:

To build a comprehensive understanding of the issues affecting the implementation of the POCSO Act, 2012; identifying and sharing gaps in implementation and ways to address them.

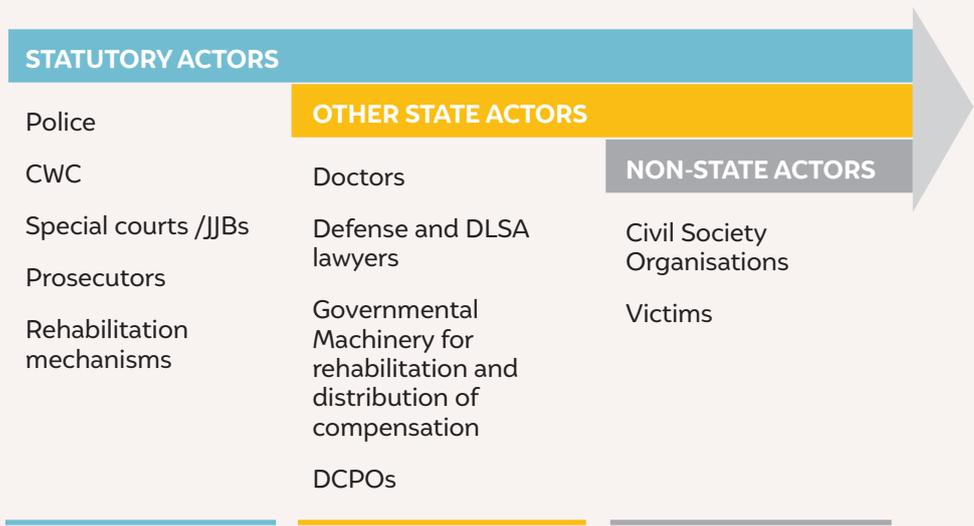
Specific Objectives:

1. Identifying gaps in structural and procedural compliance at the National and State level that require addressing on a priority basis.
2. Addressing challenges related to compensation and support gaps, developing an action plan to build a robust support system, and ensuring that compensation is proactively awarded and effectively disbursed.
3. Addressing challenges related to age-determination and ways in which it can be overcome.
4. Deliberating on the issues and challenges faced in implementing the POCSO Act, and considering ways to remove the most commonly experienced bottlenecks.
5. Addressing accountability measures that should be in place to ensure better investigation and prosecution of cases under the POCSO Act.
6. Identifying areas of convergence and deliberating on the way forward.

The POCSO Act does not explicitly state the rights of children that must be protected or promoted in the course of investigation and trial. The Preamble to the Act contains references to the right to privacy and the best interest principle. However, several procedural provisions advance the right to privacy, right to legal representation, right to be informed about proceedings and services, and dignity of child victims. The Act implicitly requires judges, prosecutors, and lawyers to modify their practices and attitudes in order to ensure that the proceedings are sensitive to the needs and rights of children. Without mandating a change in the structure of the courtroom, it requires that measures be adopted to prevent the child from being exposed to the accused while ensuring that the rights of the latter are not compromised. It requires the Central Government and the State Governments to take measures to ensure that government servants, police officers and other concerned persons are imparted periodic training on matters related to the implementation of the Act.

The functioning of special laws/legal provisions requires investment in the special justice delivery mechanisms and procedures and the convergence of services. State Governments and High Courts need to collectively

develop an action plan to address challenges that impede the effective implementation of the POCSO Act and the effective functioning of the Special Courts. A multi-agency and multi-disciplinary approach is necessary to ensure that children are treated sensitively and are adequately supported and protected in their journey through the criminal justice system. Multiple departments and stakeholders are involved in the implementation of the POCSO Act and effective functioning of the Special Courts. For instance, without dedicated Special Public Prosecutors (SPP) and sensitive and trained police, disposal of cases and outcomes cannot improve. This would require the involvement of the Home Department as well as the Department of Prosecution. Further, unless there is a robust action plan to protect and support victims of sexual offences, the rate of victims turning hostile due to threats and pressures cannot be reduced. This would require action from the State Legal Services Authorities, Home Department, Child Welfare Committees (CWC) and the nodal departments. Action and attention is required at the National as well State level to ensure that Special Courts under the POCSO Act can work effectively.



Legal Correspondent

High Courts told to hand in details in four weeks

As an eight-month-old rape survivor from Delhi battles for her life at the AIIMS, the Supreme Court on Monday ordered a nationwide inquiry into how many child sex abusers had actually been punished for the years.

A three-judge Bench, led by Chief Justice of India Dipak Misra, ordered data from the High Courts on the number of pending cases of child abuse booked under the Prevention of Children from Sexual Offences Act, 2012.

Public interest litigation petitioner and advocate Alok Alakh Shrivastava said there was a 95% pendency rate, as per the statistics of the National Crime Records Bureau. Chief Justice Misra said the court wanted fresh and independent data collected by a team constituted under the supervision of the Chief Justices of the High Courts.

The Bench said it wanted to know the status so as to set a deadline for the completion of trials in special courts designated under the Act.

The court gave the High Courts four weeks to submit the data to the Supreme Court Registry.

Though Shrivastava urged the court to prescribe the noose for child abusers, rapists and paedophiles, the Centre in February said: "The death penalty is not the answer for everything."

The case concerns the "brutal" sexual assault of an eight-month-old child in the national capital. The child was shifted to the AIIMS for intensive care under the court's January 31 order.

(<http://www.thehindu.com/news/national/supreme-court-seeks-data-on-child-sex-abusers/article23165157.ece>)



Lot of us here have journeyed in different ways looking at children's issues and particularly their right to protection as well as access to justice. And there are newer terms that we keep adding to our vocabulary every time we talk about child protection and access to justice. HAQ for instance has added 'restorative care' as a term that is integral to access to justice. We believe that access to justice has to go beyond ensuring legal aid.

In this consultation we will be talking about not just implementing the law as it is, but looking at things that we tend to miss out.

– Bharti Ali
Co-Director, HAQ:Centre for Child Rights

It is only when child protection is re-engineered and strengthened as a robust system staffed by sensitised and competent stakeholders that the POCSO Act and the Juvenile Justice (JJ) Act can be effectively implemented. It is only then that holistic justice encompassing healing and social integration for child victims and children who commit sexual crimes can be genuinely achieved, while also building a more caring and protective community in which children can thrive.



**– Arlene Manohoran,
Fellow, Programme Head - Juvenile Justice, Centre for Child and the Law, NLSIU, Bangalore**

Six Years of POCSO- Time to Introspect

POCSO is now almost 6 years old. I think the time has come to introspect about it. There are always a few teething problems when an Act is enacted by Parliament but they get sorted on assessment of its achievements and shortcomings. We need to study not just the POCSO Act, but also a very large number of other statutes- such as for child marriages, for the amendment in the Indian Penal Code (IPC) relating to rape and so on. We need to have an audit of the system to assess whether it is working as expected. We know that cases are not getting decided within a year and that is a matter of concern. Can they be expedited? If so, how?



**Justice Madan B Lokur,
Supreme Court of India**

Need for Robust Implementation of the Law, Support for Victims and Importance of Good Quality Research

Sexual abuse of children remains highly prevalent and is among the serious problems faced by the children in the country. If we look at the data of National Crime Records Bureau (NCRB), there were 14913 reported cases in 2015 under POCSO Act, which went up to 36022 in 2016. I understand the reporting in 2016 includes rape cases which were earlier tabulated separately under IPC 376. Even by that account there is an increase of 39%. It is also a matter of great concern that the conviction rate for POCSO cases was only 29.6%, with a very high pendency of 89%. Hence it is important that we take concrete measures to ensure better and more effective implementation of the Act. Evidence from interventions across the world show that a comprehensive approach is needed to end child sexual abuse. It includes ensuring effective implementation and enforcement of laws, creating a safe environment for children at all places, awareness generation, influencing existing norms and practices regarding child safety, education and life skills for children and providing parent and caregiver support.



Robust law enforcement works as a strong deterrent. The law enforcement machinery and the judiciary thus have important roles to play in investigating cases of child sexual abuse (CSA) and prosecuting offenders.

We need to support victims at every stage of their daunting journeys to recovery and help to transform and even save their lives. Victims of such heinous crimes often carry very deep scars throughout their lifetime. We must never forget that their healing is an essential component of a broader effort to do justice to the victim child. We are fully aware that this is a daunting task and the government cannot do it alone. Families, schools and non-governmental organisations together play a very vital role in realising children's rights to protection. We expect to create a protective environment for each and every child first, by generating awareness and community vigilance. Often children and their families find it difficult to engage with the law enforcement and the judicial system. We need to work together to make our systems more responsive, approachable, comfortable and accessible.

**– Ajay Tirkey
Additional Secretary, Ministry of Women and Child Development**



"The problem is that it is almost 6 years since POCSO was enacted and nobody is going back to the objectives of the legislation. Instead we are only testing whether the legislation is functioning or not. But are we complying with the objectives of the act? There were three main demands that we had for child victims of sexual abuse when the law was being enacted. The first demand was we wanted a fine calibration of sexual offences against children because we believed that what was available in IPC, basically related to adults and did not apply to the different type of sexual offences against children. Next, we were seeking special procedures to be followed both by the investigating agencies and the special court. This is because we believe that if we want to achieve the objectives of justice for children, there will have to be special procedures. Children cannot face cross examination the way adults do, they cannot go to the police stations all by themselves and get their statement recorded. And the third and the most important thing was the supportive structures children must have while they journey through the criminal justice system."

– **Maharukh Adenwalla,**
Advocate

Evidences from interventions across the world show that there is need for a comprehensive approach to end child sexual abuse (CSA). This includes ensuring effective implementation and enforcement of laws, creating a safe environment for children at all places, awareness generation, influencing existing norms and practices regarding safety of the child, education and life skills for children and providing parent and caregiver support.

Robust law enforcement works as a strong deterrent. The law enforcement machinery and the judiciary thus have important roles to play in investigating CSA cases and prosecuting offenders.

Instead of a session-wise narration, this report has been structured according to the issues discussed during the two-day consultation.



1. The Victims of Child Sexual Abuse

Despite all the confidentiality provisions attached to the POCSO Act, unfortunately, there continue to be violations. In some form or another, the identity of the child is disclosed. HAQ's study based on 126 cases shows that in 65 daily orders there were 78 violations.¹ In 20% cases the child victim's name was disclosed, and in 47% cases the identity of the child was revealed because the mother's name was mentioned. While such disclosures by courts are reducing, it is not completely eliminated from the system as yet.²

All those who are enacting or dealing with POCSO Act cases or child welfare issues- police officers, judicial officers, public prosecutors, CWC members, people who are acting as support persons to the child victim - everyone must be sensitised together. They must work together in coordination at each unit- a mandal or a district or a sub- division. Only then will we understand the spirit behind the law. Or else for everyone it will be just another case. For example, if a CSA victim and a child involved in an accident be brought simultaneously to a doctor, at present, she will definitely give first priority to the accident case. If she is sensitised, she would ask a nurse to sit with the victim to comfort her while she attends to the accident case. The only difference between the first and the second approach is sensitivity or sensitisation. The action might be the same but there is difference in perspective and approach.



KGV Saritha,
Deputy Superintendent of Police (DSP), Guntur



1 HAQ: Centre for Child Rights, 2018. Children's Access to Justice and Restorative Care-Factsheets

2 Ibid.

“ Most children who are victims of sexual abuse are in the 3-12 years age group, most of whom are girls. Most cases of abuse against 16-18 year olds are actually found to be ‘consensual sexual’ acts or romantic relationships- 97% of which therefore end in acquittal.

Bharti Ali

“ We can make the child and parents believe that their identity will not be disclosed and their dignity will be maintained. This is what the Act provides for. But, unfortunately, this is not the practice.

Vandana Tendulkar,
President, Goa Children’s Court

Speaking of sexual abuse of children with disability, Advocate Roma Bhagat said the first challenge is acceptance and disclosure. Any person who is reporting on their behalf encounters instant disbelief: “A child with disability? Why would anybody even want to sexually abuse them? They are sexless.” According to Bhagat, the attitudes of the judges affects justice. She said, “Let us take two cases, where the testimony of the adults in the case is garbage. Experience shows that in one case the judge feels that because the victim who has identified the abuser is a ‘mainstream child’, what the child is saying must be true. But in the case of a disabled child where the testimony of the other people is also as much garbage, the judge will not address it, because of the condition of the child.” She added, “Our justice system actually needs to wake up to the fact that whether it is disabled children themselves, their parents or siblings, very often within the family there is a narrative of mental or physical abuse which creates a backdrop against which these cases come to court. And that narrative itself is the biggest impediment to getting conviction in most cases.”

Following up on Bhagat’s concerns about sexual abuse of children with disability, Surinder S Rathi, Director, National Legal Services Authority (NALSA), Delhi, raised the issue of age as a challenge in the case of persons with intellectual disability. “We understand the child as a person below the age of 18 years. But how do we define a child whose mental faculties are not grown – like in the case of an adult with a mental age of 6 years. How will we treat this person? This was the dilemma when we received a case of a 34 year old woman whose mental age was 6 years. In a petition filed in

the Supreme Court, relying on the legislative intent, the court concluded that ‘age’ under the POCSO Act refers to biological age and not the mental age and that any other interpretation is not within the purview of the court but a matter of legislative function.”

Studies by HAQ & Forum Against Sexual Exploitation of Children (FACSE)³ and CCL⁴ indicate that most children who are victims of sexual abuse are in the 3-12 years age group, most of whom are girls.

The presenters, quoting studies, indicated that most of the cases registered under the POCSO Act in the older age group, 16-18 years, are actually romantic relationships registered as abuse. Not surprisingly therefore, there is a very high (97%) rate of acquittal in rape cases of 16 to 18 year olds.⁵ This raises questions about the wisdom of increasing the age of consent to 18 years in the POCSO Act from the earlier 16 years.

Given that substantial resources, including precious court time, are spent in dealing with these cases, most of them ending in acquittal, this is an area that needs serious attention.

After the enactment of the POCSO Act, the age of consent was raised to 18 years. This meant any sexual activity below this age will be considered a crime. The reality is that young people engage in sexual activity. On occasions that adults, especially parents, object, or problems arise in the relationship, these are reported. Legal and judicial action then becomes imperative as per the law. One of the most debated and discussed issues in the cases of CSA are those related to what can be termed as ‘consensual’. Shraddha Chaudary, from the CCL-NLSIU presented the key findings of their study in this regard⁶.

- Victims often agreed that they were in a romantic relationship with the accused.

3 HAQ & FACSE, November 2017

4 Centre for Child and the Law (CCL)- National Law School of India University (NLSIU). February 2018, Implementation of POCSO Act, 2012 By Special Courts: Challenges and Issues. Based on CCL-NLSIU’s Studies on the Working of Special Courts in Five States.

5 HAQ: Centre for Child Rights & Forum Against Sexual Exploitation of Children (FACSE), November 2017. Implementation of the POCSO Act- Goals, Gaps and Challenges, Study of cases of Special Courts in Delhi & Mumbai (2012 – 2015)

6 Centre for Child and the Law (CCL). National Law School of India University (NLSIU). February 2018 Implementation of POCSO Act, 2012 By Special Courts: Challenges and Issues. Based on CCL-NLSIU’s Studies on the Working of Special Courts in Five States.



- There is widespread confusion about the age of consent. According to the IPC it is 16 years while the POCSO Act says it is 18 years.
- In romantic cases the rate of conviction is 10% less than in the non-romantic ones.
- In one case in Andhra Pradesh, a girl was pulled out of school by a group of boys on the pretext her grandfather had passed away. She was taken to a remote area and raped. Later on it was discovered that she was in a relationship with the main accused. The court blamed the girl for the unfortunate incident as she had written 'love letters' to the boy and stated that it was 'consensual'.
- Age related documents are often not produced. The girl is assumed to be a minor and the partner is then convicted.
- Age differences ranged from 6 to 15 years in romantic relationships.

Nimisha Shrivastav, Child Protection consultant, Gujarat shared findings of an analysis of 1336 First Information Reports (FIR) across 8 districts of Gujarat including urban, rural and tribal areas. It was seen that 51.06 % of the victims were aged 16 to 18 years. In comparison, the study by the Ministry of Women and Child Development (MWCD) on child sexual abuse in 2007 reported that the incidence of CSA declined after 15 years and only about 20% of the victims were aged 15-18 years.⁷

Swagata Raha from CCL-NLSIU pointed out that often there is a lot of violence in the romantic cases. The only reason that the term "romantic relationship" is used is to classify them in some way. The rationale is that at some point of time the victim admitted to be in a relationship with the accused. The special courts have overlooked the violence. The study by CCL-NLSIU found Special Courts leaned in favour of deeming the victim a major even if records showed otherwise.⁸

⁷ MWCD, Study on Child Abuse: India 2007, [https://www.childlineindia.org.in/pdf/MWCD-Child Abuse-Report.pdf](https://www.childlineindia.org.in/pdf/MWCD-Child%20Abuse-Report.pdf)

⁸ Centre for Child and the Law (CCL), National Law School of India University (NLSIU), February 2018. Implementation of POCSO Act, 2012 By Special Courts: Challenges and Issues. Based on CCL-NLSIU's Studies on the Working of Special Courts in Five States.

Enfold Trust's research suggested that adolescent sexuality and subsequent POCSO Act cases are common in several states. In addition to consensual sex, grooming and coercion are also observed and cannot always be ruled out as false cases as several stakeholders believe.⁹

There are violations, sometimes very grave, in romantic relationships. Bharti Ali, Co-Director, HAQ, opined that support should definitely be provided if the victim has felt violated. Vandana Tendulkar, Judge, Children's Court, Goa, added that in romantic relationships if the victim has faced violence then conviction is needed. However, if there is no violence and they want to stay together the matter has to be viewed differently.

Some concerns were raised in this context:

- Is the magnitude of the problem really being addressed? How long will we keep going to the police and ignore these issues because they think that POCSO cases are all false?
- During puberty, teenagers often experiment with their sexualities and have consensual relations. How to address concerns such as health or individual rights?

Some recommendations were made:

- Court should take into consideration the age of both the parties and the difference in their age.
- Better training of stakeholders, imparting of sex education, sensitisation of judges, better access to healthcare services, mandatory reporting of the cases.



⁹ <http://haqrcr.org/wp-content/uploads/2018/03/pocso-study-in-karnataka-as-basis-support-gaps-in-the-system-gaps-in-convergences-between-cjs-and-cps.pdf>

2. Disclosure and Reporting

One of the biggest challenges is the non-reporting or delayed reporting of CSA cases. Tendulkar pointed out that despite the Goa Children’s Act having been in existence since 2003, CSA cases are not reported. This is due to many reasons, ranging from lack of knowledge of the law to the psychological trauma the child faces. Other reasons include fear of social stigma, children being afraid that they may be disbelieved, or because of a sense of guilt that perhaps it is indeed ‘their own fault’. The net result is that the child does not ‘open up’ to the parents or anyone else leading to a delay in reporting. Even after disclosure by the child, the parents take time to report the cases.

Tendulkar said that each time children talk about the incident, they remember and re-live the trauma. She found that getting the children to speak up is sometimes difficult because the child is afraid that the person who groomed and abused them will stop loving them or get in trouble because of them. This is because of manipulations during the ‘grooming’ process and especially in cases where the offender is a family member. This also leads to delayed reporting.

Further, Preeti Jacob of the National Institute of Mental Health and Neurosciences (NIMHANS), Bangalore said that reporting is hampered because children generally lack the vocabulary to express what they have experienced. They are unable to express the temporal sequencing of events.

Unfortunately, when dealing with a case, the assumption of the service providers is that children have the same language competence of an adult and will be able to express





A 17 year old was raped by six men. She was pregnant. Deoxyribonucleic acid (DNA) testing was done. All six accused were arrested. But despite all our efforts and interventions, all six were acquitted. So where are we going forward? How did the judge acquit them? What the judgement says is, 'Prosecution has not done its work well.'

However, who pays the price for the prosecution not having done their job well? We called the victim to our office. She was crying in uncontrolled manner because all the rapists live in her locality.

Who should be held responsible? In such cases, we need to look at where the system is going wrong. When men like these are acquitted, it also means that in the eyes of communities these girls are liars!

What happens to a person who tells us, 'I want justice?' What is the justice?' Actually, justice is just an illusion she has gone searching for and in the end she is told that she is a liar! She is the one paying price. However, what is the responsibility of judges? Of the prosecutors? The police? What is the responsibility of all the people sitting here in this hall?

– **Advocate Flavia Agnes,**
Co-Founder, Majlis

themselves. As a result, a child is repeatedly asked the same question with the expectation of a sequential and lucid response. The adults who are dealing with the victim do not recognise that coercing the answers from the child does not mean they have got into the depth of the issues confronting her/him. The need is to therefore pay attention to verbatim reporting of what the children are saying, their physical gestures and body language. It must be recognised that children do not understand criminal justice procedure. Hence, repeated questioning traumatises them and negatively effects children's response and consistency.

3. Structural and Procedural Compliance under the POCSO Act

"As a judge, I feel that we are very sadly lacking in the implementation of laws. There are several laws which are supposed to benefit people ... excellent laws but for some reason or the other the government seems to be a little hesitant in implementing them fully. So you have situations where the Government of India says it's the job of the State Government, the State Government says –"well, we don't have the money". So between the two of them, the matter just keeps shuttling and eventually the laws are not implemented.

– Justice Lokur



Several questions arise in the context of pendency.

Speedy trial is one of the objects and reasons for the enactment of the POCSO Act but are the trials being conducted speedily? There is a one year time limit. But it is not adhered to. Is it because the special judges are doing several types of cases or is it because there is a problem from the side of the prosecution? Is there a problem from the side of the defence? Is there a problem in the understanding of the procedures?

3.1 Special Courts- Nothing Special About them

Special Courts have been in existence in India from the 1950s. Unfortunately, despite their being designated as such, this is not the case. The State Government in consultation with the Chief Justice of the High Court is required to designate a Sessions Court to be a Special Court for POCSO Act cases. Studies in 5 states – Delhi, Assam, Karnataka, Maharashtra and Andhra Pradesh, of 2788 judgements and it interviews with various stakeholders in these states by CCL-NLSIU,¹⁰ the study by HAQ and FACSE in Delhi and Mumbai (1803 cases from Delhi and 154 from Mumbai),¹¹ and another HAQ in Delhi (126 cases reported between January 2015 to 31st Dec 2017),¹² all show that **there is nothing special**

Special Courts are only in name because these Sessions Courts are dealing with all other matters that come before them and not exclusively with cases under the POCSO Act.

What needs to change is ad-hocism—ad-hoc Judge, ad-hoc Court and ad-hoc Public Prosecutor.

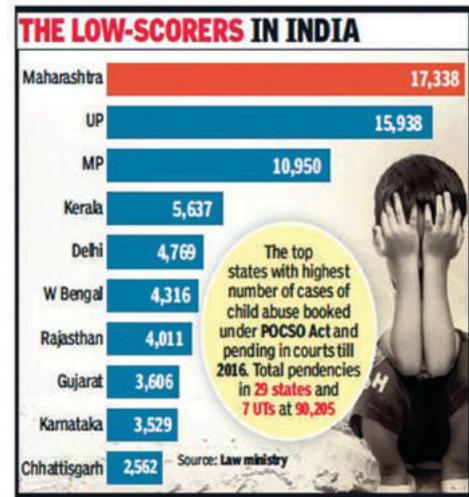
10 Centre for Child and the Law (CCL), National Law School of India University (NLSIU), February 2018. Implementation of POCSO Act, 2012 By Special Courts: Challenges and Issues. Based on CCL-NLSIU's Studies on the Working of Special Courts in Five States.

11 HAQ: Centre for Child Rights & Forum Against Sexual Exploitation of Children (FACSE), November 2017. Implementation of the POCSO Act- Goals, Gaps and Challenges. Study of cases of Special Courts in Delhi & Mumbai (2012 - 2015)

12 HAQ: Centre for Child Rights, 2018. Children's Access to Justice and Restorative Care-Factsheets

about the Special Courts. These Sessions Courts deal with all other matters that come before them and not exclusively with POCSO Act cases. According to Maharukh Adenwalla, “It is the responsibility of the special court to understand the vulnerabilities of the case and to ensure that the child is able to journey through the criminal justice system”.

The Special Court system, though good and necessary, needs some study to find out if things are going wrong and how to improve them. Some issues were highlighted at the consultation.



Judges hold Multiple Charges

Recognising that the same judge presides over the special and other courts, some of the judges pointed out that, “It is very difficult to switch your mind from a civil case to a criminal case or from a criminal case pertaining to an adult murder and then 10-30 minutes later to that relating to CSA. I would imagine that even shifting your mind from adult sexual abuse to CSA is not easy because you are dealing with a different kinds of victims.”

“Special courts must be special. We have cases where the judges are in a special court for half the day and doing some other work for the other half. I think specialisation is necessary. We need not just child-friendly courts, but child-friendly judges and child-friendly procedures.”

Justice Lokur

Lack of Infrastructure

The Rights of Persons with Disabilities Act in Section 12 requires all states to ensure that the courtrooms are accessible to persons with disabilities without discrimination. However, none of the court complexes met this requirement. The study by CCL-NLSIU in 5 states shows that in almost all cases, neither the courtrooms nor the toilets in court complex are designed to be accessible to persons with disability.¹³

Structural modifications have to be introduced to ensure that child-friendly courts are established and this should be applied even to the Juvenile Justice Boards (JJBs). There are also no mechanisms in the JJBs to prevent the exposure of the child in conflict with the law (CICL) and the child victims. In addition, child friendly norms need to be established. Simply colouring the walls in pink or green, or placing coloured chairs and few toys does not make a court child-friendly.

Delhi has shown the way by setting up ‘vulnerable witness deposition complexes’ catering to 13 of the 16 special courts. Experience has shown that children really feel relaxed and comfortable in these facilities. These complexes have different parts, which become part of a whole, so there is:

- A vulnerable witness deposition room, where the child actually deposes and speaks into the camera,
- A waiting area for the child. For younger children, there are toys and games, drawing books and colours.
- They get food when hungry,
- Transport facilities are provided to pick them up from home and drop them back in the evening.

¹³ Centre for Child and the Law (CCL). National Law School of India University (NLSIU). February 2018 Implementation of POCSO Act, 2012 By Special Courts: Challenges and Issues. Based on CCL-NLSIU’s Studies on the Working of Special Courts in Five States.

The Delhi 'Vulnerable Witness Court Room' is a system that can become a model for the rest of the country. However, given the vastness of the country with 704 districts, it might take a while for the structural modifications to be made. Until then, the Special Courts have a duty to take some minimal but essential measures to overcome these structural limitations. Some of these are easily implementable. These include the judges examining the child in their chamber or any other room within the court complex if the child is uncomfortable in the courtroom and the designation of a separate waiting space or room. These simple measures do not require any fund allocations.

"All we need is the will to do the needful and be innovative rather than solely depending on the Government for funds".

Vandana Tendulkar

Vandana Tendulkar, Special Judge, Goa Children's Court shared her personal experience of how she ensured that the court's infrastructure was more child-friendly. She accessed support from the private sector in creating this infrastructure. She tied up with a toy company that contributed toys and replenished them periodically.

However, Ruchira Goswami, Head, Centre for Child Rights, West Bengal National University of Juridical Sciences (CCR-NUJS) sounded a note of caution. She pointed out that there is a complete lack of understanding of what is child-friendly though everybody uses the term. Typically it is understood in infrastructural terms. The police understands it in terms of having a child-friendly corner. "There is a very upper middle class perception of what constitutes child-friendly. In remote districts a child-friendly corner having walls of a particular colour painted with Mickey Mouse is problematic because it does not resonate with the perceptions of the tribal child sitting there. This applies to sofas too as it may not be in synchrony with the tribal child's infrastructural reality." She stressed on the deep problematic vision of what constitutes child friendly and the need to understand it from the child's perspective in specific cultural contexts.

3.2 Special Public Prosecutors – Hardly Special

The POCSO Act requires the State Governments to appoint Special Public Prosecutors (SPPs) who will exclusively conduct cases under the Act. But in practice this does not happen. Like everything in the Special Court, SPPs are only special in name. The CCL-NLSIU study in the 5 States shows that the Public Prosecutors (PPs) who are attached to the regular courts were asked to also handle cases under the POCSO Act.¹⁴ Naturally, they are overburdened and that contributes to the pendency.



Advocate Satish Borulkar explained, “PPs in Sessions Court and High Courts are not employees. They are deputed as PPs without any orientation on the issues and how to handle such cases. Hence they lack understanding of the object and spirit of the POCSO Act.” He said he has seen cases where investigating officers start the investigation with myths and stereotypes in recording of statement under section 164 of Criminal Procedure Code (CrPC)¹⁵, for example “*ladki ne daaru pee thi*” (the girl had consumed alcohol), “*ladke ka chalan kharab hai* (the boy has a loose moral character).”

3.3 Lawyers

Just like the PPs, the lawyers who assist them or even the defence lawyers need to be sensitive when dealing with child victims and CSA cases. The POCSO Act, under Section 40, gives the right to the child to take the assistance of a legal practitioner of her/his choice.

However, as various presenters pointed out, the awareness of this provision in itself is a challenge. Not all PPs are open to presence of lawyers for the victims, nor do the courts acknowledge their presence. For example, Bharti Ali said that over the years, it has been seen that the children’s lawyers have gained acceptance in the Delhi Courts, but their names are not included in the daily orders. The presence of the child’s lawyer is not seen as necessary for the bail hearing of the accused. Therefore, it has been found that bail hearings can happen anytime, without notice to the victim and often without adequate consideration to witness protection needs.

3.4 Police

Swagata Raha pointed out that children’s statements are not recorded in their language although the law provides for it. There are insufficient numbers of women officers, most of whom are not adequately trained in investigation skills. Consequently, they have to wait for the male officers to return to the police station and seek their assistance in proceeding on matters, however serious, relating to the case.

Ali said the studies by HAQ and FACSE¹⁶ as well as by HAQ¹⁷ show a very good record of filing charge sheets on time. The charge sheet was filed in 97.6% of the cases and in 87% cases, it was filed within 90 days from the date of first arrest. She shared that the research shows that the biggest problem arose when it came to registering cases of children below 12 years. Further, despite all their investigations and training, the police seldom recognise the aggravated nature of sexual assault.

Due to this lapse, people representing children in courts end up spending a lot of time arguing on the inclusion of relevant sections of the POCSO Act at the time of the framing of charges. This often results in delays at that stage. The charges framed would determine the nature of justice.

Ali further pointed out that key witnesses are not brought on record and documents are not properly filed in court. This causes unnecessary delays and the judges are forced to send them back for the requisite paperwork. A couple of adjournments happen meanwhile.

There is often a violation of Sec. 19(6) of the POCSO Act that requires the police to inform the CWC and the Special Courts as to whether the child in question has certain specific needs for care and protection. Unfortunately, the police do not even know they are supposed

I don't think the police still understand and recognise the vulnerability of the child or why and when the provision for aggravated nature of sexual assault must be used.

Bharti Ali

¹⁵ As per section 164(1) of CrPC, a Judicial Magistrate or Metropolitan Magistrate, whether or not having jurisdiction in the case, can record any statement or confession made to him in the course of investigation. The Magistrate is also empowered to administer the oath to the person making such statement.

¹⁶ HAQ: Centre for Child Rights & Forum Against Sexual Exploitation of Children (FACSE), November 2017. Implementation of the POCSO Act- Goals, Gaps and Challenges, Study of cases of Special Courts in Delhi & Mumbai (2012 - 2015)

¹⁷ HAQ: Centre for Child Rights, 2018. Children's Access to Justice and Restorative Care.

to do so. That is why they simply pass on the FIR to the Special Court and CWC, thereby completely leaving out information pertaining to the care and protection needs for the child. Under Rule 4(9) of the POCSO Rules, they are supposed to inform the Special Court about the appointment of the support person by CWC. But they are often unaware of this.

Police are totally into law and order issues. They are unable to see what a child goes through.

The HAQ and FACSE study reveals :

Charge sheeting rate is 97.6%, higher than the national rate of 94.2 % as per NCRB's Crime in India Report, 2016 .

In 87% cases charge sheet is filed within 90 days from the date of first arrest made in the case.

But how an offence is registered and investigation carried out is the real question.

1. What makes a sexual offence aggravated is still not clear to the police. Anomalies are found in many FIRs. For Example:
 - 32 out of 71 cases of children below the age of 12 years at the time of the incident
 - 8 of the 33 cases involving family members and close relatives as the accused
 - 3 out of 7 cases where the accused is a person trusted by the child /staff of the institution or school of the child / teacher
2. Some but not all mistakes get corrected in the charge sheet filed on completion of investigation. For example:
 - In 13 cases the nature of offence changed in the charge sheet on account of child's age
 - But in 12 cases no change was made despite children being below the age of 12 years
 - Arguments at the stage of framing of charges last longer in such cases causing delay
 - Child's version suffers unnecessary scrutiny.
3. Other problems:
 - FIR or child's statement not recorded in the 'language of the child'
 - Inadequate number of women police officers / women police officers not trained in investigation
 - Key witnesses not brought on record
 - Documents not filed properly, causing unnecessary delay
 - Violation of Section 19 (6) – informing CWC and Special Court about child's need for care and protection
 - Violation of Rule 4 (9) – informing Special Court about support person appointed by the CWC within 24 hours of such appointment

Presentation by Bharti Ali

KGV Saritha, Deputy Superintendent of Police (DSP), has been working for the past eight years in Andhra Pradesh. Presently she is DSP, Guntur district. She said that the challenges that an investigation officer faces are from both the child's and police's point of view.

She identified several challenges. The reluctance of parents to speak up due to the fear of social stigma, despite the police having received a report, acts as an impediment. So they find it difficult to support the child.

What do we have to do? We have to educate the society, there is no other option. It is not our job to toughen the children to face this cruel and heartless world .It is our job to see that the child enters into the world which is less cruel and less heartless.

- KGV Saritha



"As DSP, Warangal, I have dealt with a child being sexually abused by a group of 5 men, which was photographed and video graphed on the cell phone. The photos and the video was circulated to the entire village but still the mother was hesitant to file a report at the police station. There may be several reasons for this hesitation to approach the police, apprehensions about the judicial process and fear of social stigma.

This is one of the major challenges which we face. In spite of knowing the child has been sexually abused, getting a report from them is one of the biggest challenges for us. We have to plead. I personally have pleaded on several occasions - even where the father himself was the abuser – he sexually abused the child, poured kerosene on her and burnt her. But no one would come forward to complain. I went to the crime scene and I could not stop crying. I know a lady in uniform should not cry. The girl's mother was still hesitant to report because of family pressure. She had swallowed her tears and suppressed all her emotions despite a vengeful attitude towards her husband who had brutally raped and murdered her child. What can the police do?"

– **KGV Saritha,**
Deputy Superintendent of Police (DSP), Guntur

The economic status of the child and her family is yet another challenge for both the police as well as the victim child. Because of the poverty of the families, Saritha said that the police found that the families entering into compromises. She said that the families' attitude was, "the child has lost so much, so let us compensate in the form of other things -may be pecuniary benefit or property." Moreover, in rural communities settlements are made at the local level. CSA, once it comes to light, is not automatically reported to the police. According to Saritha, it almost always gets settled among the group of elders in the village. Only when it is not settled at that level does a case get reported to the police. In this way, many CSA cases remain unreported and unrecorded.

She said that despite all the rhetoric, making the justice process child-friendly remains a misnomer. The children and their families have to repeatedly go to the police station, court, PP and the hospital. She emphasised that it is a long drawn process that victimises the child further. Drawing attention to the basic purpose of the POCSO Act, she said that the law should ensure that the child who is already a victim should not be further victimised and also ensure that the child is properly rehabilitated in a very child-friendly manner.

The police face challenges daily. Saritha pointed out that the police force, although trained in law and also in maintaining law and order, are largely untrained in addressing child related issues.

"I can never expect the head constable or an Assistant Sub-Inspector, or a Sub Inspector or even a Circle Inspector to be child sensitive because they are totally into law order issues. They might see the child's issue as a trivial one. They might not see it in the same way as I see because I am a mother of two kids. I know the agony the child can face.

This affects the recording of the statement of the child. We cannot expect the police to understand child psychology and child friendly procedures. I admit there are errors in procedure while investigating like in medical investigation or recording of CrPC 164 statements or CrPC 161 statements¹⁸. These lacunae exist because there is ignorance of not the letter of the POCSO Act but of the spirit behind it."

¹⁸ CrPC 161: Section 161 of the Criminal Procedure Code: Examination of witnesses by police

1. Any police officer making an investigation under this Chapter, or any police officer not below such rank as the State Government may, by general or special order, prescribe in this behalf, acting on the requisition of such officer, may examine orally any person supposed to be acquainted with the facts and circumstances of the case.
2. Such person shall be bound to answer truly all questions relating to such case put to him by such officer, other than questions the answers to which would have a tendency to expose him to a criminal charge or to a penalty or forfeiture.
3. The police officer may reduce into writing any statement made to him in the course of an examination under this section; and if he does so, he shall make a separate and true record of the statement of each such person whose statement he records.

Provided that statement made under this sub-section may also be recorded by audio-video electronic means.

Provided further that the statement of a woman against whom an offence under Section 354, Section 354A, Section 354B, Section 354C, Section 354D, Section 376, Section 376A, Section 376B, Section 376C, Section 376D, Section 376E or Section 509 of The Indian Penal Code is alleged to have been committed or attempted, shall be recorded, by a woman police officer or any woman officer

3.5 Support Persons

Introducing the crisis in the availability of support persons, and their critical role for the child victim, Krishnadeva Rao, Vice Chancellor, National Law University (NLU), Odisha, said, “this is the problem when we look at the faceless, powerless victims who Justice Krishna Iyer called the Narayanas in India. Where are these people? We create excellent laws, rules and guidelines but where are the support systems, the mechanisms, the institutions? That’s the real challenge.”

The law has laid down a very important role for support persons to reduce the trauma of the victim child through the legal process. As the very name suggests, the support person is meant to hand-hold the child, ensure her/his comfort, undertake pre-trial counselling, interact with the family and when necessary, act as a bridge between the child and the judicial process. Unfortunately, like the police, the courts too are often not aware of who a support person is. Not surprisingly, children are restored to their families without the knowledge of the courts by the CWC. Since the courts are not informed, a lot of time is wasted because summons are sometimes sent to the wrong address. Unless the juvenile justice system and the criminal law system that address the two laws tie up, children will not receive justice.

Indeed, the concept of support persons has not got the required attention. Thus, Ruchira Goswami said that in West Bengal there is no understanding of support person. No support persons have been appointed and there is complete lack of clarity as to who can be a support person.

Sujatha Sukumaran, from the Bangalore based Enfold Trust that has 17 years’ experience of working on CSA, is a support person authorised by the CWC. She said that a major challenge they face is the possible inconsistencies in the child’s statements due to faded memories. This may be due to delays in judicial proceedings and adjournments, or because of the social pressures that the child and the family face.

Another challenge is that the counsellors trying to heal the child strive hard to help her/him forget the incident. Sujatha shared their experiences of how the healing process is ignored in the criminal justice system. When in court, the child and the family are expected to recollect and recount the details. This creates confusion in the child’s mind, leading to problems and inconsistencies in deposition. She added that once the judicial proceedings begin, to make the case successful, it is forgotten that the child and the family have been through healing processes in the interim.

Sujatha shared few practices of Enfold Trust contributing towards providing psychosocial and legal support to the child victims. Illustrating the importance of working closely with families, Sujatha said that they have seen that more than the child, it is often the parents, particularly the mother, who is more devastated, There have been instances when the mother had to be treated for depression at NIMHANS. There are fathers who lost jobs following the incident of sexual abuse of their child. “We are so busy in figuring out the legal system that the entire aspect of mental health gets ignored,” she said. Sujatha informed the participants that in Karnataka, particularly in Bangalore, NIMHANS is working very closely with them in counselling the child and the family.

Another issue that repeatedly arises is the need for medical termination of pregnancy of the victim. They find that the stakeholders are not aware of how, when, what to do when in a CSA case the child gets pregnant. Whom do they approach? When do they do the abortion? Is there a need for a court order? Is there need for CWC’s permission? What is significant is that many in the districts do not have the answers for these questions or the answers vary across districts and stakeholders.

The CCL-NLSIU study revealed that most CWCs did not have a panel of support persons.¹⁹ They also did not proactively assign support persons. There was a tendency to institutionalise the child till the statement was recorded, on the assumption that it is necessary to ensure conviction. According to the JJ Act, institutionalisation should be a matter of last resort. It may not be in the children's best interest to move them out of the family and just for the sake of a criminal case.



¹⁹ Centre for Child and the Law (CCL), National Law School of India University (NLSIU), February 2018. Implementation of POCSO Act, 2012 By Special Courts: Challenges and Issues. Based on CCL-NLSIU's Studies on the Working of Special Courts in Five States

4. Procedural Problems

Procedural Challenges

- Defense lawyers and PPs continue to put questions to the child directly.
- Courtroom procedures are rarely explained to the child and the family by the Special Court or PPs.
- Identity of the child is poorly protected. The POCSO courts are known to all. Children are identified in judgements.
- No list of interpreters, special educators, translators prepared by DCPU.
- Child victims rarely receive legal representation as per Section 40, POCSO Act.
- Evidence is rarely recorded within 30 days of taking cognizance.
- Presumptions of guilt and culpable mental state are rarely mentioned or applied by Special Courts.

Presentation by Swagata Raha

Challenges in the Trial Process

- Lack of understanding what is "child-friendly"
 - Too much of emphasis on infrastructure
- The defense lawyers and their unwillingness to comply with the legal mandate.
- Very few cases being disposed of within the period mandated by the law
 - Frequent adjournments on account of :
 - Absence of witnesses at the time of trial
 - 'Cease work' by lawyers.
- Very low rate of convictions
 - Witnesses turn hostile
 - Settlements & lack of witness protection

Presentation by Ruchira Goswami

A wide range of procedural issues were discussed at the consultation. Some of these include:

4.1 Delay in Judicial Procedures in Court

There are delays in judicial procedures that lead to pendency of cases. For example, there are delays in recording the victim's testimony. The HAQ and FACSE study found that in Delhi in 89.4% cases the period of recording testimony extended beyond 30 days from date of cognizance and went as far as up to 27 months. In the case of Mumbai, this delay was 86%, extending as far as 18 months. In another study by HAQ in Delhi, it was also seen that in 99% cases testimony is recorded beyond the stipulated period of 30 days extending as far as 29 months.²⁰

²⁰ HAQ: Centre for Child Rights & Forum Against Sexual Exploitation of Children (FACSE), November 2017. Implementation of the POCSO Act- Goals, Gaps and Challenges, Study of cases of Special Courts in Delhi & Mumbai (2012 - 2015)



Large number of adjournments is another matter of concern. Presenting HAQ's study²¹, Ali said that there were 38.2% adjournments in Delhi, mostly due to court related issues (24% of total due to the judge being on leave, 9% due to paucity of time, 17% due to victim related issues, 15% due to defence counsel and 3% due to lawyers' strike).

Adenwalla added that delays and pendency in the POCSO courts are because they are also Children's Courts.²² They have to deal with all other cases of crimes against children, and also following the enactment of the Juvenile Justice (Care and Protection of Children) Act, 2015 (JJAct 2015), cases of CICL in the 16-18 year age group that have been 'transferred' by the JJBs.²³ Under the circumstances, she said that the problem is that "children are caught within the system with its deficiencies. Whatever lacuna there are in this system applies to both CICL and child in care of need and protection (CNCP) cases".

Agnes informed the participants that they had a convergence meeting with the Chief Justice of the Maharashtra High Court where they informed him about more than 4000 pending rape cases, of which 3000 are POCSO Act related. Based on this meeting, the Chief Justice passed an order that all session courts in Maharashtra would henceforth function as Special POCSO courts thereby solving the problem. According to Agnes, all Sessions Court judges have now become expert POCSO judges. "The system - the government and the judiciary, always finds ways to overcome the statutory requirements when they wish to do so", she said.

21 HAQ: Centre for Child Rights, 2018. Children's Access to Justice and Restorative Care.

22 The Commissions for Protection Of Child Rights Act, 2005 provides for Children's Courts for providing speedy trial of offences against children or of violation of child rights.
Section 25. Children's Courts.—For the purpose of providing speedy trial of offences against children or of violation of child rights, the State Government may, with the concurrence of the Chief Justice of the High Court, by notification, specify at least a court in the State or specify, for each district, a Court of Session to be a Children's Court to try the said offences: Provided that nothing in this section shall apply if— (a) a Court of Session is already specified as a special court; or (b) a special court is already constituted, for such offences under any other law for the time being in force. Section 26. Special Public Prosecutor.—For every Children's Court, the State Government shall, by notification, specify a Public Prosecutor or appoint an advocate who has been in practice as an advocate for not less than seven years, as a Special Public Prosecutor for the purpose of conducting cases in that Court.

23 As per the JJ Act 2015, if a child is 16 years of age or above on the date of commission of offence and is alleged to have committed an offence which qualifies to be included in the definition of "Heinous Offence", then JJB conducts a preliminary assessment and decides if it needs to be transferred to Children's Court for trial as an adult. But in all other cases and in cases where JJB decides not to send a child for trial as an adult, it conducts inquiry to establish if child has committed the offence or not, and if found to have committed such offence, pass appropriate dispositional orders.

4.2 Medical Examination

It is very important to recognise that medical evidence is not mandatory,- it is corroborative.

However, given the clause for mandatory reporting in the POCSO Act (Section 19) and the penal provision for non-reporting (Section 21), a major issue is regarding what should the doctor do when a child comes for treatment. Given that it is obligatory on the part of the doctors to report any case of sexual intercourse between children, and that often the cases that result in pregnancy are as a result of 'consensual sex' between the parties who do not want to file a complaint, the doctors are in a dilemma. In practice it has been found that the clause of mandatory reporting is forcing doctors to deny children treatment and even safe abortion, because they do not want to be embroiled in legal proceedings and court procedures. If they report, the parties are forced into a court case they do not want, so they often opt for unsafe and illegal abortions. This clause of mandatory reporting is placing the doctors in a dilemma between reporting and care giving where the child is not yet ready to report and take the judicial course of action.

Medical/ Health Department

- The doctors have no idea about POCSO!!
 - Understood as a gender-specific penetrative crime
- Lack of lady doctors in the system.
- The doctors are hesitant to conduct medical examinations and prefer to refer the case to a gynaecologist.
- Least amount of convergence with the other stakeholders.

Presentation by Ruchira Goswami

Jagadeesh Narayana Reddy, Professor and Head of the Department of Forensic Medicine, Vydehi Institute of Medical Sciences, Bangalore, identified the following issues in the context of medical evidence:

- Trace of evidence
- Injuries present on bodies
- Sexually Transmitted Infections
- Pregnancies
- Evidence of treatment.

Reddy posed relevant questions and challenges in understanding the medical evidence. The major challenges are mandatory reporting vs. health care, section 41 of the POCSO Act²⁴ vs. incest, and elopement and over-reliance on DNA matching.

According to him, injuries that can be admitted as evidence are found only in less than 1/3rd cases. Sometimes if there is delay in reporting, even those injuries are not to be found. There may be pregnancies due to sexual violence.

There is also the issue of reaching out to the hospital. Which hospital to reach? What must be done if there is absence of government doctors? Another issue is need of a female doctor to examine the sexual assault. What if the female doctor is not present? Therefore, there are dilemmas between treatment and technicalities.

The history of the survivor plays a major role in the aspect of age and medical treatment.

²⁴ Section 41. Provisions of sections 3 to 13 not to apply in certain cases.-The provisions of sections 3 to 13 (both inclusive) shall not apply in case of medical examination or medical treatment of a child when such medical examination or medical treatment is undertaken with the consent of his parents or guardian.

What facts does a survivor narrate? Since sex is considered a taboo, what happens when the survivor holds back facts and keeps narrating the same story? Should we go by face value of the facts being narrated or look for more?

History becomes even more important in the case of the child who may or may not have the capacity to re-narrate the same story. In many cases acquittal occurs due to this.

Yet another issue pointed out by Reddy was regarding the emphasis on DNA matching. He asked, "In cases of non-penile penetration, how is the DNA matching to be done? Nobody understands that this crucial piece of evidence has its limitation in non-penetrative sexual assault cases. Delay in medical examination can also cause denaturation of DNA. Scientific basis is given precedence."

He also questioned the medical practices being continued despite Supreme Court judgements, "On the one hand the Medical Termination of Pregnancy (MTP) Act and its Rules says that absolute confidentiality and privacy must be guaranteed. On the other hand, with this provision of mandatory reporting, if somebody comes for MTP services to the hospital and that pregnancy is an outcome of sexual violence, as a doctor, I am supposed to inform the police. That means, to give the MTP services that the law provides for with anonymity, I am forcing them into a criminal investigation. Sometimes the medical attention is immediately needed and we cannot wait to provide it – which in effect we will have to if we must first report and await court orders. In our analysis we found out there were several courts who question doctors on why mandatory reporting was not done. But the doctors are also questioned as to why treatment was not initiated? Nobody seems to understand the plight of the doctor who is caught between the need for treatment of the patient and the reporting of the offence. This takes away the survivor from the hospital. We have to address this issue of mandatory reporting which is affecting treatment, keeping in mind how we can still punish the accused."

Jagadeesh Narayana Reddy

such as the two finger test and the enquiry into the sexual history of the victim. The Ministry of Health guidelines have removed these practices and these should have been the standard operating procedure across the country. However, in several States these guidelines are not being followed. So, much of these insensitive practices are still part of the medical examination.

Section 41 of the POCSO Act requires consent of guardian or parents. What happens in cases of incest where the father may be the perpetrator? Further, in cases of elopement, the child may need medical intervention, but may not want the parents or guardians to know. What does the doctor do then?

Borulkar raised the issue of delay in medical examination. He pointed out that often the collection of evidence from the crime scene is completely ignored and important forensic evidence like saliva, hair and blood are lost. The scene of offence, he affirmed, should be sealed immediately so that Forensic Science Laboratory (FSL) team is able to collect the required evidence. Police usually fails to link the crime and criminal from the crime scene, said Saritha.

Mrinal Satish, Professor, NLU, Delhi, began by asking the question, why do we need medical evidence? Do we need medical evidence in cases both of POCSO as well as sexual abuse of adult women? What is the relevance of medical examination in these trials? The history of evidence law shows that medical evidence is predominately corroboratory. The courts have consistently over the last few decades said that the sole testimony of the woman or the child is sufficient to convict so long as it inspires confidence. So medical evidence just corroborates in those cases where it is available.

He asked the question, "What are we looking for when we are seeking proof of penetration in medical evidence? Is it presence of body fluids? Even in penetrative sexual assault there may not be presence of body fluids."

Medical examiners also look for injuries. Injury is a factor that is important in those cases



for indicating violence and may help corroborate that there has been sexual violence against the victim. But can it be said that if there are no injuries, courts can treat them as cases of consensual activity? There are judgements that say that this must not be the inference. The Verma Committee had to put the statutory explanation in section 375 of the IPC saying that lack of injuries does not mean consent.²⁵

Satish emphasised that DNA evidence is given undue importance in medical and forensic evidence.

"Investigating officers, prosecutors and judges are trying to use medical evidence as a sort of a lie detector test. Sadly, we begin with an assumption that all cases are false and that medical evidence will help us figure out if the case is true. This again is not a right assumption. Indeed another assumption seems to be that all women lie about rape and therefore the doctor is the saviour of the accused. That's where all of this comes from, which is why it is shocking to know that we're still looking at proof of virginity."

Mrinal Satish

4.3 Disclosure of victim's identity

The POCSO Act does not allow the revealing of any information about the identity of the victim child and of anyone else connected with the child, that may lead to disclosure of the child's identity. This includes any details such as the name of the family, school, neighbourhood or any other information by which the child can be identified. The studies presented show that while some judges, as a practice, attempt to ensure that name of the victim or any details that may lead to the identification of the victim, are not mentioned in the order, often the very first paragraph of many judgements starts with the name of the parents. Hence, the child is automatically identifiable. Also when the accused is a family member, the child is automatically identifiable. In the HAQ study it was seen that in 65 daily orders the child's identity was disclosed, with a total number of 78 violations. Of these violations, 20% disclosed the name of the child and 47% gave away the name of the mother.²⁶ Over the years such violations are declining.

²⁵ <https://lawandotherthings.com/2013/02/verma-committee-report-two-part-note/>

²⁶ HAQ: Centre for Child Rights, 2018. Children's Access to Justice and Restorative Care.

5. Need for Convergence

Studies conducted by CCL-NLSIU, HAQ and Enfold Trust show the need for the convergence of all the stakeholders. A multi-disciplinary team is needed to address the case, address the family, just to get conviction and also all the other issues involved. The most important issues are that of reintegration and rehabilitation. It is also seen that a good support system is absent, more so in the appointment of a support person. Given the crucial role of the support person, the participants asked why we cannot push for it and have more such persons in every district and state and take it to the national level.



6. Witness Protection

Over the years the importance of witness protection has come up very strongly. The setting up of the Vulnerable Witness facilities in Delhi District Courts was the first critical step in the recognition of the importance of witness protection. Surinder S. Rathi said, “Today is very important day because we just concluded the drafting of the first National Draft for Witness Protection of 2018 led by Bureau of Police Research and Development (BPR&D) and NALSA.” Witness protection has been discussed since 1958 as part of the First Law Commission Report but it was only in the 198th report in 2006, that there was a concerted focus on this issue. In Delhi, this became a reality through the Delhi Witness Protection Scheme of 2015.



7. Age determination

Age determination is one of the most litigated subjects. The process of age determination in the JJ Act still continues to be unsettled and debatable.

There are numerous challenges in determining the age of children in contact with the law. It is also one of the most critical areas of the POCSO Act. These were discussed by Anant Asthana. He divided the age determination issues into four categories:

1. Whether age determination is an inquiry?
2. What is the principle that should be followed in age determination?
3. Can a previous age determination be the basis of determining the age in a subsequent case?
4. What are the standards for medical age determination?

According to Asthana, there is a debate regarding the importance of age determination of CSA victims. While some advocate to strengthen age determination procedures to accord victims a more substantial and stronger position in the trial, others feel it unnecessarily delays and complicates the age determination.

While the Criminal Law principle of “Benefit of Doubt to Accused” has been conventionally a principle for age determination, this cannot be so in CSA cases. The decision necessarily needs to be based on the principle of “Best Interest of the Child”. However, the question of benefit of doubt for the accused keeps coming up in CSA cases too.

On the issue of whether previous age determination should be the basis in subsequent cases, he cited the case of a child who was produced in a theft case before the JJB. In the absence of any documentary evidence, the JJB declared him to be a child based on medical age tests. When on bail, the child was involved in a murder case and was again produced before the same JJB. The JJB attempted to declare him a child based on the previous age determination. But in this case the complainant brought documentary evidence showing him to be an adult. The JJB still declared him a child. The order was challenged before the Sessions Court which set aside the JJB’s order and directed the age to be decided based on evidence coming forth

Law on Age Determination	
JJ ACT, 2000	JJ ACT, 2015
• Entire Law on Age Determination was available under Section 49 of the JJ Act and under Rule 12 of Model JJ Rules, 2007.	• Erstwhile Section 49 and Rule 12 have been merged into Section 94.
• Section 7 and 7-A provided law for Age Claim.	• Erstwhile Section 7 and 7-A have been merged into Section 9.

Is Age Determination an “Inquiry”?

The Supreme Court’s judgment in Ashwini Kumar Saxena Versus State of Madhya Pradesh was based on interpretation of term “Inquiry” used in the JJ Act 2000. Interestingly, the new JJ Act (2015) has omitted the word “Inquiry”. To eliminate possibility of misuse of JJ Act by adults, we have to strengthen the age determination procedure and accord victims of crimes a more substantial position. But some feel it unnecessarily delays and complicates the age determination.

in the murder case. Hence, it set the precedence for using the latest evidence available to determine age.

However, according to Asthana there are no authoritative standards for medical age determination test at present, and there is no guidance on the tests. Often doctors are found to give divergent opinions.

Swagata Raha presented the challenges related to age determination based on evidence from 5 states - Delhi, Assam, Karnataka, Maharashtra and Andhra Pradesh. She said that there was a strong link between birth registration and access to justice, because that determines the treatment that the child receives. She said that receiving the birth certificate is an important aspect of getting justice. Unfortunately, since only few people get birth certificates there are no documentary proofs. School records are generally rejected as they are poorly maintained. The radiological examination for the age is also based on errors. There is a need that the investigating officers should collect the proofs of age and be held accountable.

However, sometimes in the case of consensual relationships, the victim, even though she may be somewhere between 15-18 years old, says she is 18 and her parents had lied about her age.

The Goa Children's Act, 2003, deals with all types of offences against children including child abuse and child labour. The main challenge relates to age determination, especially in the cases where the victims are 16 to 18 years old, said Tendulkar. She suggested that at the start of the investigation it is for the investigating agency to first and foremost find out age proof and the document of age proof which is listed under rule 12 (3) of the JJ rules. In case any of these documents are not available, it is necessary to send the child for a medical examination by a duly constituted medical board.

Justice Lokur mentioned that age determination is a huge problem that should be looked at more seriously and particularly when the offender and victim both claim to be juveniles.

Gulf between registering births and receiving birth certificates

- Birth registration: "a first step towards safeguarding individual rights and providing every person with access to justice and social services." (UN Secretary General, Progress Towards SDGs)
- Assam: 87.1% births below 5 registered, but only 69.1% received certificates. (DLHS 2012-13)



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We had an incident of a 10 year old girl who had become pregnant and delivered a child. We had asked the Chandigarh Legal Services Authority to give her some compensation so that the child could be looked after. The State Legal Services Authority said they did not have the money. We told the government to release the money but were told that there were about 30 pending cases. So the issue was that should this girl jump the queue or should all those 30 also be compensated?. So we had to direct the government of Chandigarh to give the money so that all the pending 30 and this girl can get the compensation. Indeed there is a serious lack of support to the victims in terms of compensation money.

Justice Madan B. Lokur

For Consideration

- Special Courts should **adhere to the procedure prescribed under Section 94(2), JJ Act**, to satisfy themselves about the age of the victim.
- Investigating Officers should **collect proof of age** and be held **accountable** for the failure to do so.
- How should the rights of the accused be balanced with that of child victims? Leaning in favour of the upper age limit of an ossification test will **invariably deprive some between 14-18 years, without birth documentary proof, of the protection under law.**
- Discussions on age of consent should factor the challenges related to age-determination.

Presentation by Swagata Raha



8. Victim Compensation and Rehabilitation

Compensation and rehabilitation are two critical areas not only in the POCSO Act but in the entire criminal justice system. Compensation emerged as important safeguard and also as a right from the 1990s. Even then compensation is not largely understood as a rehabilitation measure; nonetheless all over the world, including in India, several Supreme Courts and High Courts have started awarding monetary compensation.

HAQ's study found that 20% of children had to relocate their residence after the incident. Out of these cases, 60% had to move due to safety reasons. 26% children discontinued education, 16% had medical needs caused by the incident for which they needed assistance more than free treatment in government hospital.²⁷

Most victims need compensation immediately after the incident occurs. The situation is worse in incest cases where the accused is the sole earner. It is important to understand the kinds of support that victims need to walk the legal journey because otherwise it will be difficult to complete the process. It is important to know how the compensation schemes come into effect when the victim needs it the most. The confusion regarding the compensation schemes were also raised. It was suggested that more clarity is needed in this regard.

A study by HAQ found that²⁹

- Special Courts are yet to understand their powers to grant and decide the amount of victim compensation (interim and final) using the provisions of the POCSO Act and Rules
- In maximum number of cases, it takes between three to six months to receive the interim compensation, which is actually for meeting the most immediate needs.
- Some courts tend to wait for child's testimony to be completed before granting compensation.
- Other reasons for delay in granting compensation:
 - The child does not have a bank account
 - The child does not have valid documents to open a bank account
 - The child's bank account was opened recently and the District Legal Services Authority (DLSA) is yet to receive details of the same
 - The DLSA did not receive copy of the interim compensation order
 - Delay in disbursement due to lack of funds with DLSA

²⁷ HAQ: Centre for Child Rights, 2018. Children's Access to Justice and Restorative Care.

- The child presently staying in a shelter home
- Police are also not aware of victim compensation provisions of the POCSO Act and Rules – so they file applications with DLSAs
- Sometimes interventionists/activists also file applications with the DLSAs if the courts are not too forthcoming as the process is less time taking
- The DLSA helps in opening the bank accounts – but all are not aware of this

Children who turn 18 face difficulties, especially when restored to their home state. No instructions are given to banks to transfer child's accounts to a bank near their residence once the child turns 18.

In the study by CCL-NLSIU in Delhi, Assam, Karnataka, Maharashtra and Andhra Pradesh, it was found that with the exception of Assam, the number of cases where compensation was ordered was below 10%.²⁸ Barring Delhi and Assam, in the other three states it was the accused who was asked to pay compensation to the victim. The fine imposed on the accused is paid as the compensation to the victim. It was also observed that compensation is linked to the testimony of the child. Many special courts keep the decision pending till the testimony of the child is taken as they want to be sure that the child is actually supporting the prosecution. If the child turns hostile, the court prefers not to give any compensation. However, the POCSO Act says that compensation can be given at any stage after filing of the FIR and not only at the stage of evidence.

Award of Compensation – An Exception

State	Total Cases of compensation ordered by Special Courts	Compensation payable by State Government	Compensation payable by accused
Delhi	36/667 (5.39%)	35/36 (97.22%)	2/36 (5.55%)
Assam	38/172 (22%)	29/38 (76.31%)	9/38 (23.68%)
Karnataka	3/110 (2.72%)	0/3 (0%)	3/3 (100%)
Maharashtra	125/1330 (9.39%)	20/125 (16%)	109/125 (87.2%)
Andhra Pradesh	17/509 (3.35%)	3/17 (17.64%)	16/17 (94.11%)

Source : Presentation by Swagata Raha

Ruchira Goswami shared that in a study by CCR- NUJS in 10 districts of West Bengal it was found that (a) there was complete lack of interim compensation; (b) meagre amounts were granted as final compensation after trial, to be paid by the convict and (c) the victim compensation scheme and the process of payment was not clear and was not used for POCSO Act cases.

Justice Lokur mentioned that there are several excellent laws which are supposed to benefit people but for some or the other reason, the government seems to be a little hesitant in implementing them in full, leading to situations where the central government says that it is the job of the state government and vice versa. The matter just keeps shuttling from one government to the other and eventually the laws are not implemented. He narrated an incident where a state government was asked to pay compensation to a 10-year-old victim who had delivered a child but it came to light that 30 compensation cases were already pending.

Victims of such heinous crimes often carry very deep scars throughout their lifetime and require support at every stage of their journey to recovery. Healing is an essential component

28 Centre for Child and the Law (CCL), National Law School of India University (NLSIU), February 2018. Implementation of POCSO Act, 2012 By Special Courts: Challenges and Issues. Based on CCL-NLSIU's Studies on the Working of Special Courts in Five States.

29 HAQ: Centre for Child Rights, 2018. Children's Access to Justice and Restorative Care.

of a broader effort to do justice to the victim child. It is a daunting task and the government cannot do it alone. Families, schools and non-governmental organisations together play a very vital role in realising children's rights to protection and rehabilitation. Often children and their families find it difficult to engage with the law enforcement and the judicial system. Various stakeholders need to work together to make the system more responsive, approachable, comfortable and accessible.

Speaking on the issue of compensation, Rathi said there was a lot of confusion regarding who must be in charge of awarding compensation. This confusion increases when the IPC and the POCSO Act provisions are considered together. As per the principles of the law of torts it is the wrongdoer who pays compensation, this applies only after the trial is over and the guilt is proven. While in CSA crimes too it is the duty of the accused to compensate the victim, this cannot be a practical solution. Moreover, most often in CSA cases there is a need for immediate assistance, hence interim compensation becomes important. As far as the POCSO Act is concerned, Section 33(8) and rule 7 makes it clear that the Special Court (POCSO Court) will award the compensation. As far as the final compensation is concerned, that is only to be made available after the case is over. According to Rathi, the final compensation should be paid by the Government only if the accused is unable to do so.

Flavia Agnes highlighted that though it is the liability of the accused to pay compensation, often they are socially and economically incapable of paying. Hence the State has to take the responsibility to ensure payment at the earliest and not link it to conviction but to the incident. Enakshi Ganguly, of HAQ reminded the house that compensation should be paid as soon as the FIR is registered. Sujatha, on the basis on their experience, supported this view. She said that as support persons they pursue compensation. She pointed out that it is mentioned that in the Integrated Child Protection Scheme (ICPS) fund there is Rs 10,000 available for compensation. This should be immediately given through the office of the District Child Protection Officer.

Agnes pointed out that though some want to link compensation to 164 Cr.PC this was strongly opposed by activist lawyers who opined that reliance should be on the medical examination and the FIR only. She said that if the convict is in a position to pay, the state can recover the amount. However, the plethora of schemes and systems makes it very confusing. She hoped that once the NALSA directions in this matter comes out, the law will become much clearer.

Roma Bhagat drew attention to the multiple times a victim child faces trauma, from the incident to the police and the entire justice system. She mentioned the case of a 7 year old in Chennai who had to narrate the incident 11 times before going to court and wait 8 hours for the medico-legal case (MLC). She re-emphasised the role of support persons and felt they should be there through the entire journey.

Agnes pointed out the importance of institutionalisation over individualisation saying that while there maybe a few good and sensitive judges, not everyone is the same. Moreover, she said that there is a vast difference between the suburbs and the city courts. In the former there is formal cooperation.



9. Age of Consent

The age of consent was increased from 16 to 18 years under the POCSO Act. This means that all sexual activity or interaction below the age of 19 years is now a status offence.³⁰ According to the government it was for child protection. However, it is being found that the system is getting choked with cases of consensual sexual behaviour and love cases. Young people are being criminalised for it.

As pointed out by Madhu Mehra, the Executive Director of Partners in Law and Development (PLD), because there is a lot of anxiety around sexuality, the POCSO Act is becoming a tool to control and criminalise young people or adolescent sexuality. She added that when the POCSO Act was being discussed, the age of consent was debated. There were arguments made about making the age of consent same as the age of adulthood. If 18 is the age of driving, marriage, voting and so on, why should the age of sexual consent be 16, argued those in favour of a higher age of consent. Unfortunately, the concept of evolving capacity, and adolescent sexual exploration, was lost in this discussion and today we are faced with a situation where in many cases girls are insisting that they consented all through the duration of legal proceedings.

Sharing her experiences as a judge, Neena Krishna Bansal said that because of the age of consent at 18 years, by law any sexual activity below that age becomes rape. She added, “When it comes to practicalities in the court, we are not dealing with dead letters. Young children appear before us and tell us that they were in a consensual relationship. When we see these children there is a huge dilemma because the law may say it is an offence but they are young children engaging in sexual activity that is part of puberty. On one hand there is a concern about their health, their security but at the same time punishing them will only affect their future. It becomes very difficult for us as judges to strike a balance between the social reality and the legal binding.” Hence, as she said, while in serious cases of abuse the judges are very clear about the legal course of action, the challenges before the court or before all the stakeholders are in the cases of consensual relationships. Citing a case before her, Bansal said that the girl was barely 14 years old and had already given birth to a child with the accused and was adamant about continuing with the relationship. It was a difficult situation as the girl was abandoned by her parents, the accused was jailed, and nobody was there to support the young girl and her child. Such realities of life pose a big challenge as a child is suffering both ways – abandoned by parents and the accused not being there to support her either. Bansal reiterated from her court experience that it has become rather difficult, more so because the room to exercise judicial discretion granted by the IPC no longer exists in the POCSO Act.

The debate gets even more complicated in the context of the Prohibition of Child Marriage Act 2006. As per the law, child marriages are prohibited, but if the marriage takes place, it is legal. With the POCSO Act in place however, sexual activity with the child in the marriage (in case one party is a child), or between both children, if both are children, becomes an

“When children had limited information, the age of sexual consent was much lower. As children have greater access to information due to technology and get deeper into sexuality, the age of consent is going up. This is basically criminalising all sorts of contact, from physical touching to intercourse. I feel that those fighting against child sexual offences need to protest against this. This flaw is putting at risk and harming young children.”

Madhu Mehra,
PLD.

³⁰ A status offence is what in most cases would be a noncriminal act that is considered a law violation only because of a youth's status as a minor or a child. In other words these acts would not be considered an offence if it was committed by an adult.

offence. And this has become clarified by an order of the Supreme Court.³¹ So now there is a peculiar situation in which the marriage is legal but sex within it is not. While child marriage forced on children by families and communities is a reality, many children are not just having sexual intercourse, they are also eloping and getting married.

Ganguly said that it is important to protect children against violence and abuse. But there must be a distinction made between “protection” and a “protectionist” approach. A protectionist attitude is based on the need to control children because of social norms, culture and false notions of morality based on them. It is also derived from the need to control children’s, especially girls’, sexuality. For many parents, child marriage itself emerges as a way of protecting their girl children. However, experience with implementing interventions in such a setting shows that it is important to work with this notion in order to turn this argument on its head. Interventions need to demonstrate to the communities how girls may in fact be left unprotected by child marriage. Thus, a dialogue is required to clarify the difference between these two frameworks. At the same time there is need to acknowledge the agency of children in exercising their rights. Instead of setting restrictions, it is important to facilitate the choices and decisions children make at different points and within different worldviews in their lives.

Pooja Taparia, Founder and Chief Executive, Arpan, Mumbai, shared her experience of working with children over the past three years, especially with adolescent children. She said that children are very mindful. They are curious but understand their boundaries and the difference between healthy and harmful relationships. She felt that the age of consent should be brought down.

However, as Raha pointed out, discussions on age of consent should factor in the challenges related to age-determination. Resonating this, Vidya Reddy, of the Chennai based Non-Governmental Organisation (NGO), Tulir, said that as age determination is itself a very big issue, bringing changes in the age of consent at this stage might lead to more confusion. Anup Surendranath, Director, Centre for Death Penalty, NLU, Delhi, said that although there seemed to be an apparent inconsistency between reality and the law, bringing down the age of consent may not be a solution unless this discussion is undertaken within the right to liberty framework.



31 https://www.sci.gov.in/supremecourt/2013/17790/17790_2013_Judgement_11-Oct-2017.pdf

10. Death Penalty for Rapists and Sex Offenders Registry

While some states had already undertaken these measures, the Government of India had also passed an ordinance on death penalty for rape of girls under the age of 12 years (which has since become a law³²) and also set in motion the setting up of a Sex Offenders Registry. Both these issues were discussed in some detail by the participants. All the speakers pointed out the detrimental effects of such punitive measures. They would not just discourage disclosures, but would lead to the destruction of evidence and may raise expectations from victims, putting them to harsher scrutiny in order to justify death penalty. Unfortunately, there are many activists and rights practitioners too who believe that death penalty can be a deterrent.



32 <http://pib.nic.in/newsite/PrintRelease.aspx?relid=181760>

11. Prevention Strategies

Participants deliberated prevention strategies and related issues at length. Geetanjali Goel, Special Secretary, Delhi State Legal Services Authority (DSLISA), pointed out that although the number of reported cases under the POCSO Act has been increasing, a large number of CSA cases still go unreported. This raises the issue of prevention, but she felt that total prevention (100 %) is not possible because of various reasons including the ‘personalities and mentalities’ of the people involved. Yet she stressed that there was a need to reduce the incidents through preventive measures. To her, the first and foremost step involved listing the various stakeholders including the community, police, judiciary, NGOs, schools and other institutions, sensitising them and holding them accountable.

She emphasised the importance of society as a whole working together for prevention instead of indulging in blame games and witch hunting. Solutions happen when each one takes responsibility, individually and collectively. She was emphatic that, “Only if society as a whole takes the initiative will we be able to work some strategies for preventing such cases from happening, more so in cases of incest within POCSO.” While not exactly defending the police, she felt that often the legalities of a case lead to blaming the police but it is not possible to have a policeman in front of every house or street corner. She pointed out that while the police system is not perfect in India, even in countries with better policing systems such incidents do occur. She suggested the need to look beyond coercive measures or the fear of the law to prevent incidents happening and stressed the importance of schools in the prevention process.

She listed out the measures being taken by the DSLISA to promote prevention, including puppet shows and community interactions that not only generate awareness but also help build rapport with the communities. A major awareness campaign is underway in schools through the use of posters and educating children about the safe and unsafe touch, on how to speak up when something happens as well as preventive strategies they can adopt. She stressed the importance of talking to children, their parents and teachers. She suggested training teachers as counsellors so that they could identify incipient issues and counsel the children involved at an early stage. The DSLISA also engages with other stakeholders, undertaking sensitisation programmes for the police and the judiciary. Lawyers and support persons for the victims are also provided.

Citing the NCRB data, Aastha Saxena Khatwani, Joint Secretary, MWCD pointed towards the increase in crimes against children – in 2014 it was 18.2%, in 2015 it became 19.2% and 2016 it became 22.4% . While some of it could be due to more reporting, it is undeniable that crimes are happening at an increasing rate. 33.68% of the cases are under the POCSO Act. She felt that people are now getting aware about the Act and reporting, a sign that it is going in the right direction. Giving the example of rape of an 8 month old by a family member, she wondered what should be done when the perpetrators of the crime are related to the victim. She rued that laws like the JJ Act or the POCSO Act are post-event – responsive and rehabilitative but not preventive. She stressed the role of the community and suggested that all preventive measures be rooted in and owned by the community.

Javier Aguilar, the Chief, Child Protection, UNICEF- India, drawing on his experiences as a clinical psychologist working in the area of child protection and dealing mostly with CSA

cases 20 years ago, said that three issues were important in the context of prevention. Firstly, the role of the perpetrators tends to be over-emphasised, ignoring the fact that they are embedded in institutions and communities that have actually failed the children. Secondly, the victims are questioned a lot. The victim's, particularly the girl's behaviour, in avoiding abusers is emphasised but men who are the perpetrators are not questioned. Potential victims are pressurised but the perpetrators or community enablers that lead to abuse are not challenged. Thirdly, we are fascinated by prosecution and punishment but we do very little when it comes to prevention and rehabilitation.

Despite the increasing attention being paid to CSA, in the overall analysis, cases of CSA tend to be dismissed by saying that they were exceptions or bad apples. But to Aguilar, such attitudes are delusory as things do not happen by chance. The underlying conditions need to be understood. He gave some global examples of serial child abusers in eminent positions and high social standing, including a physician in the US who abused over 150 girls before being exposed. Peace keepers in Central African Republic and Democratic Republic of Congo sexually abusing children, abuse in elite boarding schools in the UK, or in Catholic institutions and organisations show the prevalence at all levels. Aguilar re-iterated, "If you are serious about prevention of child sexual abuse, we need to look into the institutional and community framework."

The abusers move around but return to abuse over time. Institutional power is used to silence children and communities. A pattern of denial and inaction exists that paralyzes complaints.

There are very important obstacles regarding prevention. There is no possibility of discussion about sexuality. "When I was a clinical psychologist more than 20 years ago, children were unable to understand what was going on in their minds and their bodies, because simply they would never discuss about sexuality or what is really my body? What is not acceptable?" The other issues that he highlighted were the rigid gender roles, lack of language to disclose, power dynamics, threats, lack of services and a very fragile social network around those children.

"Long protocols on protection will not work unless the adults are made sufficiently accountable for their children's protection. We need to make senior management accountable. I have seen how many organisations, schools go into this check list culture to say, yes we have a child protection policy. I have also seen with my own eyes than when they come across a problem they are lost; they have forgotten their 300 page child protection policy that they do not know what to do about. If there is no accountability in institutions – like schools, boarding schools, community settings in India, things will not work. We also need to review all the policies we implement. We need to promote a culture that supports disclosure. It is fine to speak about it, but do we trust these disclosures? And we need to fully understand the techniques and tactics of grooming. This is not a simple behaviour and children tend to get very confused with it. Sexual abuse does not necessarily require physical violence to happen and grooming can make the child so confused that she/he become an easy prey to an abuser. "

THE INSTITUTIONAL ENABLERS OF CSA

Organizational culture allows to prey on children without fear of punishment

Reputation, performance is more important than protection: medals over morals

Closed environments, where children had limited interaction with the broader community

Cover-up is reliant on the abuse of institutional power

Pattern of denial and inaction

Systematically deny children's own experience.

MAKING A DIFFERENCE IN PREVENTION

- Shifting the focus on children to adults and institutional culture
- Child safety should be embedded in governance and management: senior management is accountable
- Promote a culture that supports disclosure and early identification
- Independent oversight of 'closed' environments.
- Children equipped with skills and knowledge with focus on agency, understanding contradictory feelings, grooming and ambivalence; sexuality and gender stereotypes.
- Effectiveness of policies and procedures is regularly and independently reviewed.

Javier Aguilar,
UNICEF

Uma Subramanian, from the Aarambh India Initiative, Mumbai, said that it is imperative now to change the way we are communicating about CSA with different stakeholders. Today a lot of materials are easily available and accessible than in the past but the imagery derives from a fear based approach. She emphasised the need to ask whether we are promoting a culture of fear and paranoia that leads to puritanism. She opined that prevention cannot be reduced to just a question of security, otherwise the focus will be only on the infrastructure (eg. CCTVs all over). The cultures of shame and stigmatisation will not be addressed. Contemporary approaches often treat preventive strategies like terrorism but lack the necessary nuances. Though the template for prevention has come from the West and adapted to Indian cultural context, Subramanian felt that lot more needs to be done as cultural remedies for prevention have to be found. This would necessitate decentralisation and moving away from the metros to the grassroots. An associated component would be moving away from homogenised training, as at present, to multi-stakeholder training.

She emphasised the need for balance between communicating risks and opportunities in prevention programs because the ultimate aim has to be building resilience. Children also have the right to make a mistake and learn from it and the disruption should not haunt children for life. Shame and stigma are the biggest hurdles to work on in CSA cases. Cultural remedies have to be found to address them. Children must be told that facing CSA is not the end of life. Giving the example of the #MeToo campaign, she said this taught us how survivor voices are potent and how they can really spearhead a movement. It struck at the rape culture because more than the perpetrator, it was targeted at a Culture of Silence and Sexual Violence – it became a campaign that targeted a culture because the task was not the shaming.

Subramanian said that these nuances are not reflected in the communications material, campaigns or the discourse at present because the strategies have failed to view child rights in the larger human rights framework. The fact is that one day the child is going to turn 18 and s/he is going to be on the other side of the laws that protect them. It is also important to examine how other groups are fighting for their rights because a lot of work that is done has happened in the adjacent fields – Gender, LGBTQI+, Internet Freedom groups, Sexuality Education groups. Lessons need to be drawn from them as well linkages need to be established so that the intersectionalities are addressed.

Taparia shared her experiences of prevention over the last 10-12 years. She highlighted Arpan's personal safety education programme through schools. The programme is a combined model of prevention and intervention and not just prevention. From her experience, she felt that unless a safe dialogue is created for both children and adults it would not be possible to break the silence. This necessitates education and awareness generation. Working with family members and adults is essential. Adults have to be made aware of their roles in keeping children safe. This is critical because the onus of protection lies with adults. Taparia stressed the importance of training teachers, social workers and society at large.



12. The Way Forward

The participants suggested various ways of moving forward. It was postulated that activists and lawyers had three main demands. Firstly, a final calibration of sexual offences against children is needed as those in the IPC are basically related to adults and do not apply to the different type of sexual offences happening against children. Secondly, special procedures need to be followed both by the investigating agencies and the Special Courts as children need to have them. They cannot face cross examination like an adult or go to the police stations all by themselves and get their statement recorded. Thirdly, the structures to support the child in the journey through the legal system need to be built and reinforced.

The structural and procedural compliances have to be strengthened. Structural modification in line with the Supreme Court's directions in the Sampurna Behura case should be put in place, the SPP should exclusively try cases under the POCSO Act, the Bar Council of India should draft rules on the conduct of defence lawyers in CSA cases. The identity and privacy of the child should be protected. Interpreters need to be assigned based on the specific needs of children with disability. The state government through the DCPU may consider issuing advertisements for interpreters, translators, special educators and support persons.

With regards to strengthening investigation and prosecution, the consultation recommended strengthening working relationships between the prosecutor and the police. A lot more attention needs to be given to the quality and components of training programmes and the persons being trained. Training and sensitisation of stakeholders should be undertaken to ensure a change in attitude and more compassionate justice delivery. The training has to go beyond concentrating on the provisions of the law and be linked to the objectives of the legislation. Measures to ensure the accountability of prosecutors, legal-aid lawyers, police and judges need to be put in place in a systematic manner, either by way of positive incentives or by way of communication.

There must be only one forum that can actually deal with the children in conflict with the law and the child victim and it is the JJB. The present system of transferring the child to the children's court needs to be challenged as setting up an exclusive court for children transferred by the JJB, involving a child victim, is unrealistic.

Judges should set a time line for each case then adhere to the same and also record the reasons of delay if there is any. This would help identify the real reasons for delay in system and those can be worked upon.

There is also a need to raise the cost in case of unnecessary and unwanted adjournments. It all depends on leisure and pleasure of the judges. Higher judiciary should encourage those judges



who put a cost to minimise the delay. When there is a long delay, inconsistencies in the statement of the child are bound to happen. We cannot expect a child to repeat a statement verbatim as suggested by the advocate. To ensure accountability, a report should be taken from the investigating officers and the judges about the efficiency and role played by the PP in each trial.

The act and rules imply that police, prosecutors, lawyers and judges modify their practices and attitudes in order to ensure that the proceedings are sensitive to the needs and rights of the children. Child-friendly courts need to be set up in all districts in accordance with the suggestion of the Supreme Court to the Chief Justices of all the High Courts.

Given the nature of cases that are being handled by Special Court Judges, some additional weightage can be given to them for the manner in which they handle the cases and compliances with standards.

Attitude based appointments are needed to ensure that functionaries and decision making authorities are motivated and passionate. There should be a standard operating procedure on compensation and better linkages between the stakeholders in the child protection system, which today seems to be fragmented and is not really a system. Victim support system should be able to continue to serve its purpose regardless of whether there is a conviction or not. The healing process should not be ignored in the criminal justice system. More support persons should be enlisted and trained and the child welfare community should appoint them specifically to cases. A robust victim protection system will help address the problem of high rate of hostility resulting in acquittals.

The participants felt that it is important to take ideological positions on issues of CSA and the implementation of the law as well as how victims and perpetrators should be addressed. Certain non-negotiables like doing away with mandatory reporting, not raising the age of consent, not increasing punitive punishments including death penalty and sex-offenders registry were unanimously recommended. Ad-hocism or 'band-aidism' has to be ruled out. The issue of age verification and determination needs serious thought and attention. The role of institutions, including Panchayats, needs to be looked into. The onus of protection is being increasingly put on children, but this has to stop. Simultaneously, the children should not be made paranoid and made to feel that all the adults around them are abusers. Protectionism that promotes fear and takes away agency should give way to empowering protection. The onus of protection has to be on the adults even as disclosure has to replace reporting.

Finally, the participants felt that children's rights have to be understood in the framework of human rights. This makes understanding the intersectionality of the rights, the indivisibility of rights and the interdependence of rights crucial. Child rights cannot be kept separate from all the other rights. The participants also recommended the need for pooling funds from diverse departments and ministries instead of relying on the ICPS to promote efficient financial resource management.



annexure

Annexure 1



TATA TRUSTS



**Protecting Children from Sexual Abuse:
Implementation of POCSO Act, 2012 and Beyond**

24-25 February 2018

Pride Plaza Hotel, Aerocity, New Delhi

Supported by

TATA TRUSTS, UNICEF, and HUMAN DIGNITY FOUNDATION

Agenda

24 February 2018		
Time	Session	Speakers
10:00 - 10:45 a.m.	Welcome Address	Bharti Ali, HAQ: Centre for Child Rights
	Introduction and Background to the National Consultation	Arlene Manoharan, Fellow and Programme Head, Juvenile Justice Team, CCL-NLSIU
	Opening Remarks	Sh. Ajay Tirkey IAS, Additional Secretary, Ministry of Women and Child Development, Government of India
	Keynote Address	Hon'ble Justice Madan B. Lokur, Judge, Supreme Court of India
10:45 - 10:50 a.m.	Release of Publications	
10:50 - 11:15 a.m.	Tea Break	
11:15 a.m. - 12 noon	Session I: Strengthening Structural and Procedural Compliance under the POCSO Act	Moderator: Ms. Ruchira Goswami, CCR-NUJS Panelists: Swagata Raha, CCL-NLSIU Bharti Ali, HAQ Ms. Vandana Tendulkar, President, Children's Court, Goa
12 noon - 12:15 p.m.	Open House Discussion	

12:15 p.m. - 1:00 p.m.	Session II: Strengthening Investigation & Prosecution in POCSO Cases	Moderator: Prof (Dr.) Mrinal Satish, NLU-Delhi Panelists: Advocate Borulkar, Mumbai Ms. Saritha, Deputy Superintendent of Police, Guntur Advocate Michelle Mendonca, Delhi
1:00 p.m. - 1:15 p.m.	Open House Discussion	
1:15 p.m. - 2:15 p.m.	Lunch Break	
2:15 p.m. - 3:15 p.m.	Session III: Compensation and Support Systems under the POCSO Act	Moderator: Prof. (Dr.) Srikrishna Deva Rao, Vice- Chancellor, NLU-Odisha Panelists: Mr. Surinder S. Rathi, Director, NALSA Advocate Flavia Agnes, Director, Majlis Sujatha Sukumaran, Enfold, Bangalore Advocate Roma Bhagat
3:15 p.m. - 3:30 p.m.	Open House Discussion	
3:30 p.m. - 3:45 p.m.	Tea Break	
3:45 p.m. - 5:00 p.m.	Q & A on Emerging Con- cerns	Moderator: Ms. Enakshi Ganguly, HAQ: Centre for Child Rights Panelists: Advocate Flavia Agnes Advocate Maharukh Adenwalla Madhu Mehra, PLD Vidya Reddy, Tulir - Centre for the Prevention & Healing of Child Sexual Abuse Dr. Anup Surendranath Director, Centre for Death Penalty, NLU-Delhi Pooja Taparia, Arpan
25 February 2017		
9:30 a.m. - 10:30 a.m.	Session IV: Challenges related to Age Determination and Medical Examinations	Moderator: Ms. Neena Krishna Bansal, Director, Delhi Judicial Academy Panelists: Dr. Jagadeesh Narayanareddy Dr. Mrinal Satish, NLU-Delhi Advocate Anant Asthana, New Delhi Swagata Raha, CCL- NLSIU
10:30 a.m. - 10:45 a.m.	Open House Discussion	
10:45 a.m. - 11:15 a.m.	Tea Break	
11:15 a.m. - 12:15 p.m.	Session V: Addressing the Challenges faced in Implementing the POCSO Act	Moderator: Ms. Nina Nayak Panelists: Advocate Maharukh Adenwalla Ms. Shraddha Chaudary, CCL- NLSIU Dr. Preeti Jacob, NIMHANS Ms. Ruchira Goswami, CCR-NUJS
12:15 p.m. - 12:30 p.m.	Open House Discussion	

12:30 p.m. - 1:30 p.m.	Session VI: Prevention Strategies	<p>Moderator: Ms. Geetanjli Goel, Special Secretary, Delhi State Legal Services Authority</p> <p>Panelists: Ms. Aastha Saxena Khatwani ICAS, Joint Secretary, Ministry of Women and Child Development Javier Aguilar, UNICEF Uma Subramanian, Aarambh, Mumbai Pooja Taparia, Arpan</p>
1:30 p.m. - 1:45 p.m.	Open House Discussion	
1:45 p.m. - 2:45 p.m.	Lunch Break	
2:45p.m. - 4:00 p.m.	Session VII: Areas of Convergence and Way Forward	<p>Moderator: Ms. Shireen Vakil, TATA TRUSTS</p> <p>Panelists: Retd., Hon'ble Mr. Justice Ashok Hinchigeri Ms. Aastha Saxena Khatwani ICAS, Joint Secretary, Ministry of Women and Child Development Ms. Stuti Kacker, Chairperson NCPCR Arlene Manoharan, CCL-NLSIU Ms. Enakshi Ganguly, HAQ: Centre for Child Rights</p>
4:00 p.m. - 4:15 p.m.	Open House Discussion	
4:15 p.m. - 4:30 p.m.	Vote of Thanks	CCL-NLSIU

Annexure 2

List of participants

Government of India

1. **Mr. Ajay Tirkey**, Additional Secretary, Ministry of Women and Child Development (MWCD), Government of India, Delhi
2. **Ms. Aastha Saxena Khatwani**, Joint Secretary, Ministry of Women and Child Development (MWCD), Government of India, Delhi

Judiciary

3. **Mr. Justice Madan B Lokur**, Judge, Supreme Court of India, Delhi
4. **Ms. Justice Gita Mittal**, Acting Chief Justice, Delhi High Court, Delhi
5. **Ms. Vandana Tendulkar**, Principal District & Sessions Judge and President, Children's Court, Goa
6. **Ms. Neena Krishna Bansal**, Director (Academics), Delhi Judicial Academy and Former Principal Judge, Family Court, Delhi
7. **Mr. Surinder S. Rathi**, Additional District & Sessions Judge and Director, National Legal Services Authority of India (NALSA), Delhi
8. **Ms. Geetanjali Goel**, Additional District & Sessions Judge and Special Secretary, Delhi State Legal Services Authority (DSLISA), Delhi

National and State Commissions for Protection of Child Rights

9. **Ms. Stuti Kacker**, Chairperson, National Commission for Protection of Child Rights (NCPCR), Delhi
10. **Ms. G. Hymavathi**, Chairperson, Andhra Pradesh State Commission for Protection of Child Rights (APSCPCR), Visakhapatnam, Andhra Pradesh
11. **Mr. Anurag Kundu**, Member, Delhi Commission for Protection of Child Rights (DCPCR), Delhi
12. **Ms. Jyoti Duhan Rathee**, Member, Delhi Commission for Protection of Child Rights (DCPCR), Delhi
13. **Ms. Kripa Alva**, Chairperson, Karnataka State Commission for Protection of Child Rights (KSCPCR), Bengaluru, Karnataka
14. **Ms. Uma M.G., Member Secretary, Karnataka State Legal Services Authority (KSLSA), Bengaluru, Karnataka**
15. **Ms. Nina Nayak, Former Member, National Commission for Protection of Child Rights (NCPCR), Bengaluru, Karnataka**

State Government

16. **Mr. Ashok Sarmah**, State Child Protection Society, Guwahati, Assam
17. **Ms. Arundathi Gururaj**, Law Officer, Bengaluru, Karnataka
18. **Ms. Priyamboda Mishra**, State Child Protection Society, Guwahati, Assam

Police

19. **Dr. K.P.A Ilyas**, Assistant Director, Sardar Vallabhbhai Patel National Police Academy, Hyderabad, Andhra Pradesh
20. **Ms. Amrita Dash**, Assistant Director, Sardar Vallabhbhai Patel National Police Academy, Hyderabad, Andhra Pradesh
21. **Ms. Saritha G.K.V.**, Deputy Superintendent of Police, Guntur, Vijayawada, Andhra Pradesh

Academic Institutions

22. **Prof (Dr.) Srikrishna Deva Rao**, Vice Chancellor, National Law University, Odisha (NLUO)
23. **Prof (Dr.) Mrinal Satish**, Professor of Law, and Executive Director, Centre for Constitutional Law, Policy, and Governance, National Law University, Delhi
24. **Dr. Jagadeesh Narayana Reddy**, Department of Forensic Medicine, Vydehi Institute of Medical Sciences and Research Centre, Bengaluru, Karnataka
25. **Dr. Lina Acca Mathew**, Assistant Professor, Government Law College, Kozhikode, Kerala
26. **Dr. Preeti Jacob**, Assistant Professor, Department of Child and Adolescent Psychiatry, National Institute of Mental Health and Neuro-Sciences (NIMHANS), Bengaluru, Karnataka
27. **Mr. Owais Hasan Khan**, Assistant Professor, Centre for Child Rights (CCR), National Law University, Odisha (NLUO)
28. **Ms. Ruchira Goswami**, Assistant Professor and Head, Centre for Child Rights, WB National University of Juridical Sciences (CCR-NUJS), Kolkata, West Bengal
29. **Mr. Mahesh Menon**, Assistant Professor, WB National University of Juridical Sciences (NUJS), Kolkata, West Bengal
30. **Ms. Gargi Banerjee**, Senior Programme Officer, Centre for Child Rights, WB National University of Juridical Sciences (CCR-NUJS), Kolkata, West Bengal
31. **Dr. Anup Surendranath**, Assistant Professor and Director, Centre on the Death Penalty, National Law University, Delhi
32. **Ms. Maitreyi Misra**, Research Associate, Centre on the Death Penalty, National Law University, Delhi
33. **Ms. Neetika Vishwanath**, Research Associate, National Law University, Delhi
34. **Ms. Shreya Shree**, Research Fellow, Centre for Constitutional Law, Policy and Governance, National Law University, Delhi
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40. **Advocate Mr. Satish Borulkar**, Mumbai, Maharashtra
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42. **Advocate Ms. Aparna Bhat**, Delhi
43. **Advocate Ms. Roma Bhagat**, Delhi
44. **Advocate Mr. Anant Kumar Asthana**, Delhi
45. **Advocate Ms. Michelle Mendonca**, Delhi

46. **Advocate Ms. Pritarani Jha, Ahmedabad, Gujarat**
47. **Advocate Mr. Vikas Kataria, Gurugram, Haryana**

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53. **Ms. Arsreeta Kashyap**, Programme Officer – Restorative Care, HAQ: Centre for Child Rights, Delhi
54. **Ms. Arupa Shukla**, Communication for Development Specialist, UNICEF India, Delhi
55. **Ms. Bharti Ali**, Co-Director, HAQ: Centre for Child Rights, Delhi
56. **Advocate Mr. Chandra Suman**, Legal Consultant and Panel Lawyer, HAQ: Centre for Child Rights, Delhi
57. **Mr. Dhanpal**, Assistant Researcher, HAQ: Centre for Child Rights, Delhi
58. **Advocate Mr. Emidio Pinho**, Lawyer and Child Protection Coordinator, Stop Child Abuse Now (SCAN) - India, Goa
59. **Ms. Enakshi Ganguly**, Co-Director, HAQ: Centre for Child Rights, Delhi
60. **Advocate Ms. Flavia Agnes**, Majlis, Mumbai, Maharashtra
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63. **Ms. Indrani Sarkar**, National Consultant- Adolescent Empowerment Programme, UNICEF India, Delhi
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68. **Ms. Kavita Magnani**, Antakshari Foundation, Jaipur, Rajasthan
69. **Ms. Komal Ganotra**, Director, Policy, Research and Advocacy, Child Rights & You (CRY), Delhi
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76. **Ms. Madhubanti Sadhya**, Consultant, UNICEF, West Bengal
77. **Mr. Manna Biswas**, Child Protection Officer, UNICEF, Assam
78. **Advocate Ms. Mariam Faruqi**, South Asia Regional Director, iProbono, Delhi
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82. **Ms. Nicole Rangel**, Co-founder and Director, Leher, Delhi
83. **Ms. Nimisha Srivastava**, Consultant - Social Justice and Empowerment Department,

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84. **Ms. Pooja Taparia**, Founder and Chief Executive, Arpan, Mumbai, Maharashtra
85. **Mr. Prabhat Kumar**, National Thematic Manager- Child Protection, Save the Children, Delhi
86. **Ms. Pratiksha Tewari**, Programme Officer - Mental Health Interventions, HAQ: Centre for Child Rights, Delhi
87. **Ms. Preeti Singh**, Coordinator - Administration and Accounts, HAQ: Centre for Child Rights, Delhi
88. **Ms. Priyanka Phalswal**, Associate Manager Direct Implementation Programmes – Education, Tech Mahindra Foundation, Delhi
89. **Mr. Ram Mohan N.V.S.**, Secretary, HELP, Vijayawada, Andhra Pradesh
90. **Mr. Roshan Kumar**, Director, Social Education & Economic Development Society (SEEDS), Vijayawada, Andhra Pradesh
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111. **Ms. Vidya Reddy**, Founder Director, Tulir - Centre for the Prevention and Healing of Child Sexual Abuse (CPHCSA), Chennai, Tamil Nadu

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112. **Ms. Bhavya Dore**, Journalist, Bengaluru, Karnataka
113. **Mr. Hary M. Pillai**, Sr. Legal Correspondent, Press Trust of India, Delhi

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118. **Mr. Rohit Jha**, Intern, HAQ: Centre for Child Rights, Delhi
119. **Mr. Rohit Pal**, Intern, HAQ: Centre for Child Rights, Delhi
120. **Ms. Shounali Arya**, Intern, HAQ: Centre for Child Rights, Delhi

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121. **Ms. Nandita Talukdar**, Delhi
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123. **Ms. Pramanshi**, Delhi
124. **Ms. Ritanshi Jain**, Delhi
125. **Mr. Sayed Abdulaziz**, Goa
126. **Mr. Suraj Lahkar**, Delhi

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128. **Mr. Murlidhar Dvivedi**, Office Assistant, HAQ: Centre for Child Rights, Delhi
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130. **Mr. Tarcitius Baa**, Administrative Assistant, HAQ: Centre for Child Rights, Delhi
131. **Mr. Tek Chand**, Accounts Assistant, HAQ: Centre for Child Rights, Delhi

