Improving Access to Justice

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

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

– Nelson Mandela

The other side of (In)justice ...

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

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

What did Priya and her family need to move ahead?

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

What did HAQ: Centre for Child Rights do?

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

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

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

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

Imagery: Black and white photograph of a child with a text box.
SO LITTLE TO PROTECT CHILDREN!

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

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

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

At the national level, the NCRB’s Crime in India - 2015 recorded 15.8 per cent of crimes against children under the POCSO Act – a total of 14,913 cases – a substantial escalation of almost 68 per cent from 8,904 cases in 2014.
The double jeopardy – Childhood Lost
Besides sexual abuse, the child faces additional trauma...

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

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

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

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<thead>
<tr>
<th>Year</th>
<th>Legal Support - CNCP</th>
<th>Counselling - CNCP</th>
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<td>Total (12 yrs)</td>
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<td>219</td>
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Note: The figures in the above tables reflect only the fresh cases taken up by HAQ in the different years. Every year there is also a backlog of cases being followed up from the previous years.

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

Need for a multi-pronged strategy
It becomes imperative to provide long term ‘handholding support’ to the children as well as their families. HAQ has adopted a multi-pronged strategy to ensure effective access to holistic justice for child survivors of sexual violence:
• **Legal intervention** – Providing legal aid, familiarising the child and family with court procedures and representing them in court.

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

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

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

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

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

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

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

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

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

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

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

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