

INTRODUCTION

While child protection finds its way in various policy and programme documents of government and civil society actors, in practice, children's access to justice and restorative care remains a neglected area. The gaps include lack of affordable and effective legal support, untrained professionals (police, doctors, judicial officers, public prosecutors and lawyers), poor medical and mental health care and other essential support services. One of the ways to strengthen the systemic gaps is to work with the system directly through provision of case-by-case support for children/adolescents who need it and improve children's experience of the justice delivery process.

HAQ: Centre for Child Rights has been supporting individual cases of child abuse and exploitation since the year 2002. While case work management is the strength of HAQ's work on access to justice and restorative care, presenting the learnings and data generated through such work helps understand the gaps in implementation of laws and suggest areas for improvement.

In February 2018 HAQ shared its first set of 10 Fact Sheets on Children's Access to Justice and Restorative Care based on 126 cases where children were provided both legal and psychosocial support [<https://haqrc.org/wp-content/uploads/2018/04/childrens-access-to-justice-and-restorative-care.pdf-1.pdf>]. In 2020, we bring you a fresh set of 10 Fact Sheets with more data on aspects that do not get captured through the crime statistics of the National Crime Records Bureau or the court records available on the E-Courts portal.

Over the years, court records with respect to cases of sexual violence against women and children in particular, have become limited and difficult to access. Daily orders and judgements in cases under the POCSO Act for example, are no longer available in Delhi in the name of protecting privacy and confidentiality of victims. Research and evidence that can inform law and policy reform thus faces a huge data challenge and so does ensuring judicial transparency and accountability when it comes to matters pertaining to women and children. These Fact Sheets hence aim at bridging the data gaps, while highlighting areas to work on for improving children's access to justice and restorative care.

In addition they can feed into any efforts being made by the government and civil society actors on monitoring implementation of SDG 16.2.

SDG 16.2 and Justice for Children

SDG Goal 16 specifically requires investing in data collection and management that can help monitor its implementation.

While the Niti Aayog has set out indicators for measuring compliance on the SDGs, little is getting reflected on child protection and children's access to justice through those indicators.

The Profile of the Child Victims

THE PROTECTION OF CHILDREN FROM SEXUAL OFFENCES ACT 2012 (POCSO) WAS ENACTED TO PROTECT CHILDREN FROM OFFENCES OF BOTH PENETRATIVE AND NON-PENETRATIVE SEXUAL OFFENCES. WHILE THE LAW MADE REPORTING MANDATORY AND FAILURE TO REPORT AN OFFENCE, REPORTING REMAINS A CHALLENGE. WHAT CATCHES THE EYE ARE CASES THAT RECEIVE MEDIA ATTENTION. THE EASIEST AND POPULAR RESPONSE FROM THE CENTRAL AND STATE GOVERNMENTS HAS BEEN MORE IN TERMS OF AMENDING THE LAWS TO MAKE THEM MORE PUNITIVE, OVERLOOKING DATA THAT SPEAKS VOLUMES AND HAS BEEN PLACED IN PUBLIC DOMAIN TO HIGHLIGHT GAPS REQUIRING SYSTEMATIC INTERVENTIONS RATHER THAN QUICK FIX SOLUTIONS.

THESE FACTSHEETS ARE YET ANOTHER ATTEMPT AT SHARING DATA DERIVED FROM HANDS ON EXPERIENCE WITH CASES WHERE HAQ: CENTRE FOR CHILD RIGHTS HAS BEEN PROVIDING LEGAL AND PSYCHOSOCIAL SUPPORT SINCE JANUARY 2013.

HAQ received a total of 1161 cases from 1 January 2013 till 30 September 2019. In 876 of these cases some or the other form of psychosocial intervention was made and in another 285 cases, both legal and psychosocial support was provided to children and their families so as to help them access justice and restorative care. The factsheets are based on an analysis of 237 cases where both legal and psychosocial support was provided. Cases that do not form part of the analysis are:

- Where the child's family was not interested in receiving support – 19
- Where the case had to be closed by HAQ for various reasons ranging from the child turning hostile to family entering into a compromise with the accused – 25
- Where complete data is not available as the Public Prosecutor and the Courts did not allow active participation of the child's lawyers, thus affecting access to case records – 4

PROFILE OF 237 CHILDREN AND THEIR FAMILIES

Gender and Age

The disparity in recognising and reporting cases along gender lines has been a prevalent phenomenon which is highlighted from the cases received by HAQ from different sources. Out of the total 237 cases, around 88 per cent (209 cases) are of sexual abuse of girls and approximately 12 per cent (28 cases) are of male child sexual abuse. There are no cases of transgender children as reporting in such case is virtually negligible.



While social stigma, shame and protection of family honour are paramount considerations that inhibit reporting of sexual offences irrespective of gender orientation and sex of the child, masculinity and gender roles make it worse for boys to share their abuse. The most common fear shared by parents or guardians of boys stem from concerns regarding their child’s sexuality. There is always a question mark in their minds as to whether the boy will have a normal sexual life when he gets married. In the case of girls, possibility of marriage itself becomes a concern and hence it remains shrouded in secrecy.

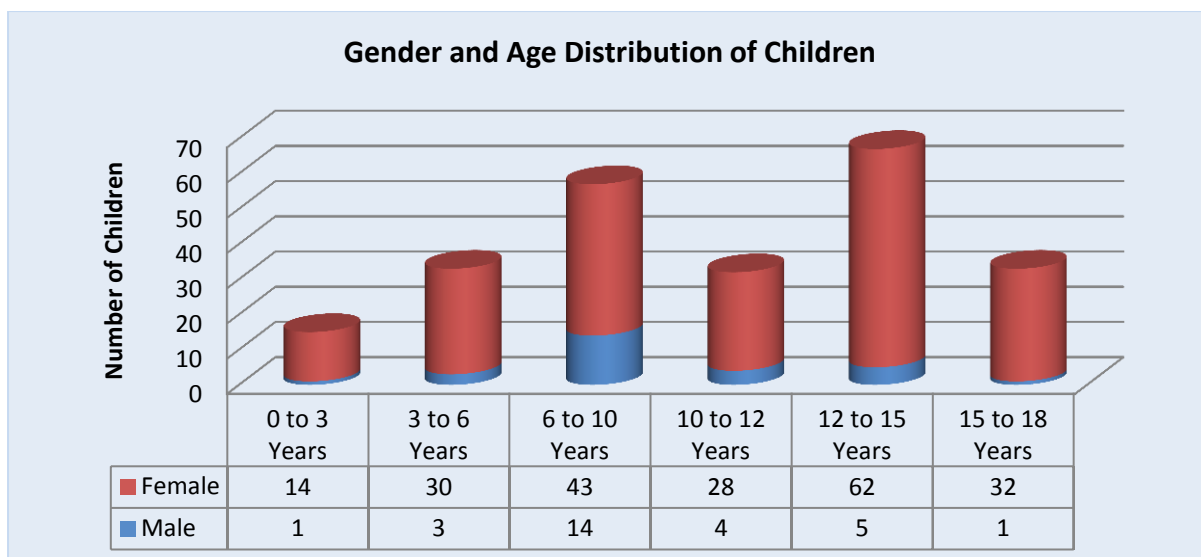
Sexual abuse does not discriminate among children of different age groups, though the maximum number of cases supported by HAQ have been of children aged 12-15 years (28 per cent), followed by the 6 to 10 years age group (24 per cent).

TABLE 1: GENDER AND AGE DISTRIBUTION OF CHILDREN

Age Group (In years)	Male	Female	Number of Children	Percentage of Children in different Age Groups
0 to 3	1	14	15	6%
3 to 6	3	30	33	14%
6 to 10	14	43	57	24%
10 to12	4	28	32	14%
12 to 15	5	62	67	28%
15 to18	1	32	33	14%
Total No. of Children	28	209	237	100%
Percentage of Male and Female Children	12%	88%	100%	

There are fewer cases of boys in the youngest and the oldest age categories of 0-3 years and 15 to 18 years respectively. Maximum number of cases of boys lies in the 6 to 10 years age category, while for girls it is the 12 to 15 years age group.

It must be mentioned that HAQ receives several cases of girls aged 15 to 18 years, many of which are cases where only psychosocial support is extended as these are cases of romantic relationships. Either the girls do not wish to pursue a legal case or HAQ declines its legal support, despite family’s keenness on legal action against the boy.



HOW DID THE CHILDREN AND THEIR FAMILIES REACH HAQ?

The Child Welfare Committees (CWCs) in Delhi play an active role in seeking support for children who have faced sexual crimes and this is reflected in the maximum number of cases (75% of total case referrals) forwarded to HAQ by the CWCs. This is also in compliance with sub-rule 7 of rule 4 of the POCSO Rules that requires the CWCs to provide services of support persons to children. The next important source of referral is NGOs, mostly shelter homes where the girls are placed for temporary or long-term care. HAQ has received cases in the past from NGOs such as Prayas, Courage and Healing Home, Global Family Charitable Trust, Butterflies, Azad Foundation, Teach for India and St. Stephen's Hospital Mother NGO for Homeless. Other case referrals are from police stations, individuals, courts/court staff. In three cases, HAQ offered its services to the child and the family directly on learning about the abuse from children HAQ was already supporting in two different cases.

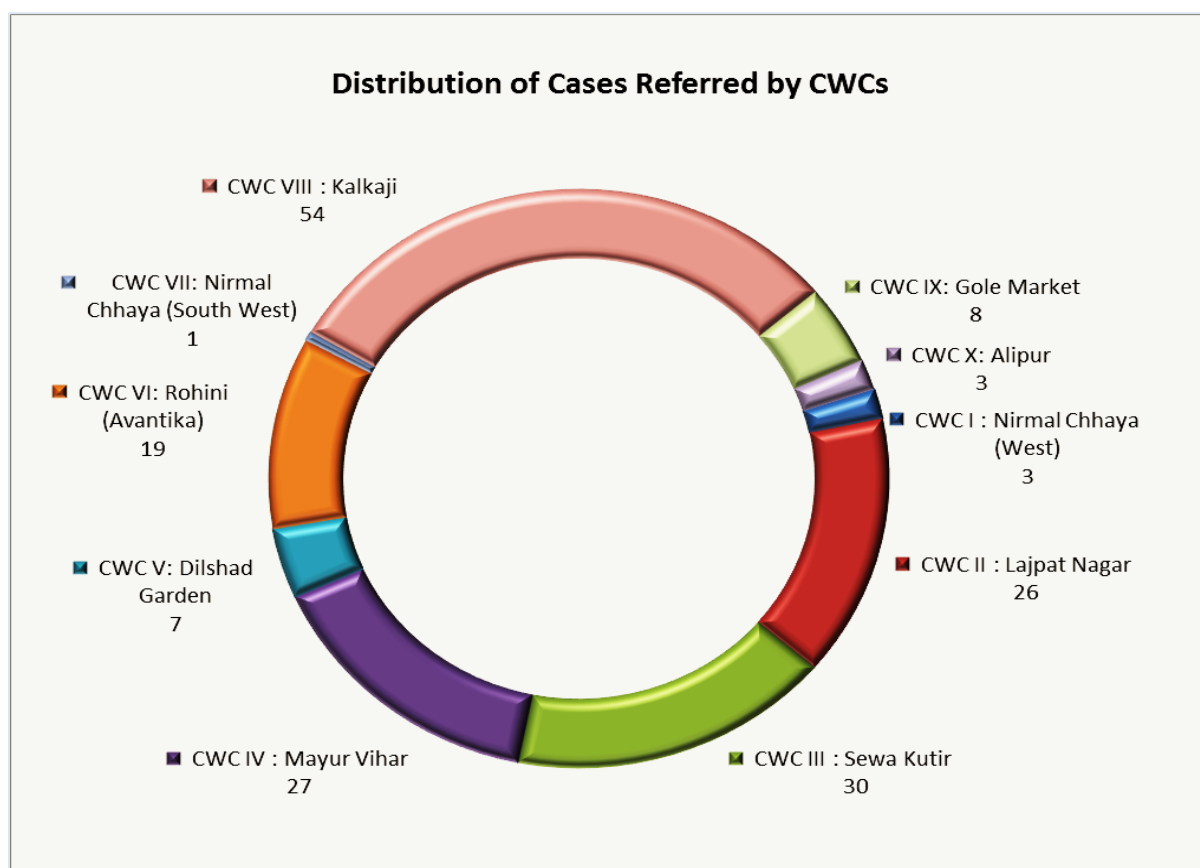
TABLE 2: SOURCE OF REFERRAL AND CASE INTAKE

Source of Referral	Total No. of Children
CWC	178
NGOs/Shelter Home	32
Court/Court Staff	7
Family	4
Police	7
Suo-moto	3
Individuals	6
Total	237

DISTRIBUTION OF CASES BY JURISDICTION

Child Welfare Committees (CWC)

Over the years, HAQ has seen an increase in case referrals from all the 10 CWCs across Delhi. Initially, case referrals from CWCs depended on inter-personal relationship and/or HAQ's location and geographical proximity to the CWC as well as CWC's perception about HAQ's outreach. This has changed over the years. Some CWCs are more regular in marking cases to HAQ than others. The highest number of cases have been referred from CWC-VIII, located in Kalkaji followed by CWC-III in Sewa Kutir Complex, CWC-IV in Mayur Vihar and CWC-II in Lajpat Nagar. Sometimes, CWCs mark cases to HAQ even when the child has refused any support services. These are largely cases of romantic relationships or incest, and exhaust the scarce resources of an organisation, when greater attention could have been paid to other more deserving cases.

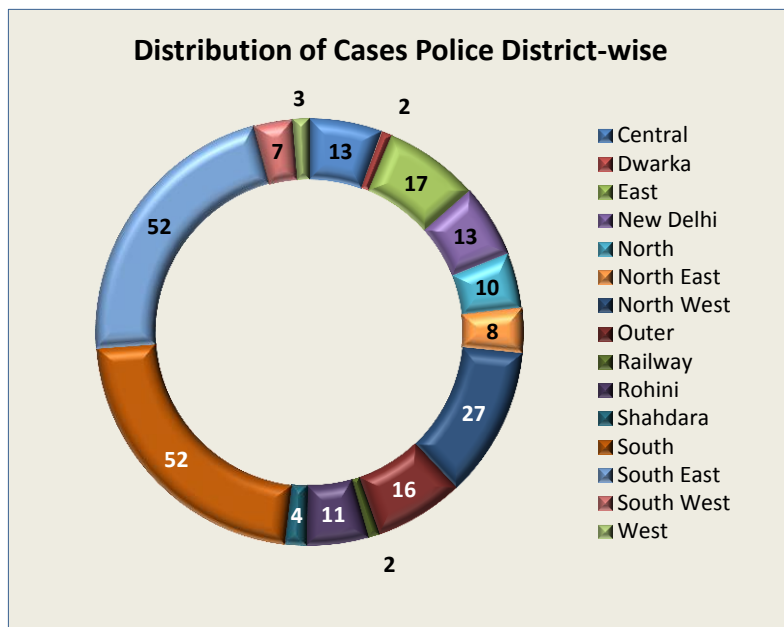


It goes without saying that the number of cases referred to HAQ is a very small fraction of the actual incidence. This is not to suggest that most cases are marked to other organisations or there is equal division of cases amongst the few organisations working closely with the CWCs. Since the support person engagement is a long term engagement spanning throughout the investigation and trial, and sometimes beyond trial as well, there is a dearth of organisations willing and ready to provide such continued services. In cases

where children are not produced before the CWCs, no orders are passed for support person services under Rule 4 (7), unless the CWC takes an interest in meeting the child upon receipt of a copy of the FIR from the police. In other words, compliance of Rule 4(7) is inadequate for many reasons explained in Factsheet #10.

Police District and Police Station

Out of the 7 cases referred to HAQ by the police directly, 3 have been referred by the concerned Investigating Officer who came in touch with HAQ through other cases or because of inter-personal relationship. All the 7 cases are from the South or South East police districts, given HAQ’s geographical location and greater physical presence in these districts.



The list of police districts is ever changing. As on 30 September 2019, there were 18 police districts in the NCT of Delhi. Maximum number of cases analysed in these factsheets pertain to the South and South-East police districts, followed by North-West and Outer districts.

Distribution of the 237 cases in terms of police district and police station is as follows:

TABLE 3: CASE DISTRIBUTION AS PER POLICE DISTRICTS AND POLICE STATIONS

District	Police Station	No. of Cases
Central	Anand Parbat	1
	Chandni Mahal	2
	D.B.G. Road	1
	Hauz Qazi	1
	I.P. Estate	1
	Jama Masjid	1
	Nabi Karim	1
	Pahar Ganj	1
	Patel Nagar	4
	Dwarka	Dwarka Sector 23
Uttam Nagar		1
East	Ghazipur	1
	Kalyanpuri	2

	Madhu Vihar	2
	Mayur Vihar PH-1	5
	Mandawali	2
	Pandav Nagar (East)	3
New Delhi	Chanakyapuri	7
	Mandir Marg	1
	South Avenue	1
	Tughlak Road	1
North	Kotwali	4
	Maurice Nagar	2
	Roop Nagar	1
	Sarai Rohilla	2
	Wazirabad	1
North East	Bhajanpura	1
	Gokulpuri	1
	Jafrabad	1
	Jyoti Nagar	1
	Karawal Nagar	2
	Khajuri Khas	1
	New Usmanpur	1
North West	Adarsh Nagar	2
	Ashok Vihar	2
	Bharat Nagar	2
	Jahangirpuri	2
	Keshav Puram	5
	Maurya Enclave	1
	Model Town	3
	Mukherjee Nagar	1
	Shalimar Bagh	3
	Subhash Place	4
Outer	Mangolpuri	1
	Mianwali Nagar	1
	Mundka	1
	Nangloi	2
	Nihal Vihar	2
	Pachim Vihar West	1
	Rani Bagh	1
	Sultanpuri	1
Outer North	Bawana	1
	Narela	2
	Narela Industrial Area	1
	Samaipur Badli	2
	Swaroop Nagar	1
Railway	New Delhi Railway Station	1
	Old Delhi Railway Station	1
Rohini	Aman Vihar	4
	Kanjhawala	3
	Prashant Vihar	3
	Vijay Vihar	2

Shahdara	Anand Vihar	1
	Gandhi Nagar	1
	Jagatpuri	2
	Seemapuri	1
	Vivek Vihar	1
South	Ambedkar Nagar	5
	Fatehpur Beri	7
	Hauz Khas	3
	Kotla Mubarkpur	3
	Lodhi Colony	2
	Malviya Nagar	3
	Mehrauli	8
	Neb Sarai	7
	Saket	2
	Sangam Vihar	6
South East	Amar Colony	2
	Badarpur	5
	Govind Puri	12
	Hazrat Nizamuddin	6
	Jaitpur	2
	Jamia Nagar	9
	Kalindi Kunj	1
	Lajpat Nagar	1
	Okhla Industrial Area	4
	Pul Prahladpur	3
	Sarita Vihar	4
Sunlight Colony	3	
South West	Palam Village	1
	R.K. Puram	1
	Sagarpur	1
	Safdarjung Enclave	2
	Sarojini Nagar	4
	South Campus	3
	Vasant Kunj (North)	1
	Vasant Kunj (South)	1
Vasant Vihar	2	
West	Inderpuri	2
	Punjabi Bagh	1
Total		237

Courts

The number of Special Courts designated to try cases under the POCSO Act too has increased with time. Delhi is one of the fortunate states where the Special Courts today have exclusive jurisdiction. From a time when each district had one such designated Special Court, 11 Special Courts for 11 districts, the number increased to 16 Special Courts in November 2017, and further to 26 Special Courts as on 30 September, 2019. Increasing

number of cases and pendency in certain districts has led to continuous efforts at streamlining the justice delivery mechanisms. At present, HAQ provides legal support to child victims of sexual abuse in all the 26 Special Courts located in the six district court complexes and 3 of the 6 Juvenile Justice Boards (JJBs) in Delhi.

TABLE 4: CASE DISTRIBUTION AS PER COURTS

District Court Complex	Special Court	Court No.	No. of Cases
Saket (89 cases)	Court of ASJ-1 (South East)	315	37
	Court of ASJ-7 (South East)	308	10
	Court of ASJ-1 (South)	302	30
	Court of ASJ-4 (South)	501	12
Tis Hazari (28 cases)	Court of ASJ-1 (West)	122	9
	Court of ASJ-1 (Central)	116	11
	Court of ASJ-5 (Central)	14	6
	Court of ASJ-6 (West)	209	1
	Court of ASJ-7 (West)	216	1
Patala House (22 cases)	Court of ASJ-1 (New Delhi)	04	22
Karkardooma (27 cases)	Court of ASJ-1 (Shahdara)	53	13
	Court of ASJ-1 (North East)	75	4
	Court of ASJ-1 (East)	34	3
	Court of ASJ-6 (East)	09	7
Rohini (40 cases)	Court of ASJ-1 (North West)	210	26
	Court of ASJ-1 (North)	307	12
	Court of ASJ-6 (North)	308	2
Dwarka (3 cases)	Court of AS-1 (South West)	609	2
	Court of ASJ-1 (South West)	302	1
JJB I			8
JJB II			17
JJB III			3
Total			237

DISCLOSURE OF IDENTITY OF THE CHILD IN DAILY ORDERS / JUDGEMENTS

Section 33 (7) of the POCSO Act requires the Special Court to ensure that the “identity of the child is not disclosed at any time during the course of investigation or trial”, except when, in the opinion of the Special Court, such disclosure is in the interest of the child and the reasons for disclosure are recorded in writing.

The explanation to Section 33 (7) clearly suggests that identity of the child includes identity of the child’s

- Family
- School
- Relatives
- Neighbourhood
- Any other information that reveals the child’s identity

In 19% cases (44 cases), identity of the child was disclosed by the Special Courts in different forms. The total number of daily orders that disclose child's identity is 185 and the total number of violations is 191. Of these violations, 22.5% disclose the child's name, 44.5% give away the identity of the child by disclosing the mother's name and 17.3% disclose the child's father's name.

Over the years however, such violations have stopped as tables 5 and 6 suggest. At the same time the E-Courts portal has stopped uploading daily orders and judgements pertaining to cases of sexual violence on grounds of protecting privacy and confidentiality of the victim. Although it seems a positive step by itself, non-availability of court records can hinder research on judicial accountability towards children. Instead of denying access to daily orders and judgements, the courts should continue to ensure that the identity of the victims is not disclosed in any way.

TABLE 5: CASES OF DISCLOSURE OF CHILD'S IDENTITY BY SPECIAL COURTS

Year	Total No. of cases	No. of cases where child's identity is disclosed	Percentage of cases disclosing child's identity
2013	8	4	50%
2014	5	5	100%
2015	58	29	50%
2016	50	5	10%
2017	44	1	2%
2018	44	0	0%
2019	28	0	0%
Total	237	44	19%

TABLE 6: TYPE OF IDENTITY OF DISCLOSED

Type of Identity disclosed	2013	2014	2015	2016	2017	2018	2019	No. of Violations
Child's Name	1	20	19	3	0	0	0	43
Father's Name	2	4	8	15	4	0	0	33
Mother's Name	3	13	24	38	7	0	0	85
Brother's Name	0	3	5	0	0	1	0	9
Sister's Name	0	0	0	2	0	0	0	2
Grandparent's Name	0	3	6	1	0	0	0	10
Relative's Name	0	0	1	0	1	0	0	2
School	0	1	2	1	3	0	0	7
Total	6	44	65	60	15	1	0	191

The Profile of the Perpetrators of Child Sexual Abuse

(Coming Soon)