



Centre  
for  
Child  
Rights

## Access to Justice for Children with Mental Disability

What about access to justice for children with mental disability? The response of investigating agencies, Courts and child protection system in dealing with such situations was exposed once again recently when the case of brutal sexual abuse of a child suffering from severe mental retardation came before A Special POCSO Court, demanding justice.

What if a child, who has mental illness and has become a victim of a crime? The inability of Courts and child protection systems to understand and deal with such situation got exposed when a child suffering from severe mental retardation was subjected to brutal sexual abuse came before the Court to demand for justice.

In 2016, Vandana, an 11 year old orphan, having mental age of 5 years was subjected to brutal sexual abuse and was found abandoned around the bushes in some part of Delhi. The incident got much exposure from political parties and it became a high profile case overnight. In order to save its face, police arrested one person and portrayed that the real culprit has been nabbed without much delay. In all this hurry to gain fame and glory, the focus was completely diverted from the child to the efficiency of Police. **The investigating agency did not take the statement of the child victim because she needed special assistance to make her statement due to her mental condition.** The statement before the Magistrate under section 164 Cr.P.C., one of the most crucial piece of evidence, was also not recorded for the same reason.



The case was referred to HAQ: Centre for Child Rights for providing legal aid and restorative care support. HAQ's lawyer brought the attention of the Court to the lapses in investigation and insisted on appointing a mental health professional to interact with the child to assess her condition and to assess whether she is fit to depose before the Court or not. Finally, one special educator was appointed by the Court but the sessions never took place since there is no system to reimburse the experts for their services. Meanwhile, Vandana was shifted to a child care institution where her special needs could be taken care of. HAQ's restorative care team kept a constant follow-up of the well-being of the child and with the help of child care institution (CCI), got her admitted to a Special School as well.

When the case got registered, Vandana was awarded an interim compensation of Rs. 1 Lakh by the District Legal Services Authority (DLSA). **The compensation amount was deposited into the bank account of the uncle of the child, which he eventually spent for constructing his new house.** The Support Person from HAQ got to know about this as she was in constant touch with the child and her uncle for regular follow-up. When HAQ team learnt about such misuse of compensation amount, the same was brought to the notice of the Court with the suggestion that the money be retrieved from the uncle and deposited in the child's bank account. Finally, HAQ team was able to convince the Court on this point and the child's uncle was ordered to deposit compensation amount with interest in the bank account of the child.



During trial, **all the eye-witnesses turned hostile** and since there was no statement from the victim, the Court was in a fix. The Court was still gauging whether the child, who is severely mentally challenged, can be called to the Court to depose and identify the accused. The Public Prosecutor was confident that even if the child has severe mental retardation, she can depose. **HAQ was not in favour of calling the child to Court** after six long years and add to her trauma. Finally, the assessment was carried out with the help of two experts and they deposed in the Court that the child is not in a the fit condition to depose before the Court as she is suffering from severe mental retardation. By now, it was crystal clear that the case was going towards acquittal since there was no evidence as to who committed the offence. But HAQ's effort was to draw the attention of the Court that the child had already suffered a lot and being a child with special needs, her rehabilitation could not be ignored just because of serious lapses in the investigation. After all the struggle, **the Court passed a strong order highlighting the serious lapses in investigation** and directed the higher police authorities to take appropriate action against the Investigating Officer and Station House Officer of the concerned police station. The Court also considered the fact that Vandana will turn 18 in two years and then she cannot be housed inside a child care institution (CCI). Therefore, recognizing that she will need adequate resources for her rehabilitation and to be able to lead a hassle free life, the Court awarded Rs. 8 Lakh as final compensation to the child.



Although this case did not end up in conviction, it highlights the challenges and usual investigation lapses in a case where the victim is a child with disability. **It was HAQ's efforts that compelled the Court to adopt a sensitive approach towards the child** and award final compensation on a higher side. Today, Vandana continues to stay inside the CCI, but we are sure that when she comes out of the CCI, she will at least have some resources to fall back on for building her life.

## **WE ARE NOT ALONE -**

### **HAQCRC Parents' Support Group of CSA Survivors**

HAQCRC started a parents' support group in 2013 in order to provide a platform to the parents, whose children have been victims of sexual abuse. The platform allows them to share their experiences, emotions, challenges that they face, how they can learn from each other, provide support to other parents and become agents of change.

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After a long gap due to COVID, a meeting of the group was held on March 22nd at the HAQ office. One of the participants was a mother of a survivor, in whose case the perpetrator has been sentenced to 20 years.

She shared the story of her struggle, the hardships faced and the support provided by HAQ. She spoke about how she had been threatened, offered bribes as well as socially ostracized in order to give up the fight for justice. She held strong in the face of these challenges and today she can hold her head high and move on to the next phase of her life, along with her children.



A young mother who is fighting a lonely battle for justice without the support of her husband and his family, found solace in the support provided by the group. Other members of the group gave her encouragement and cleared her self-doubts and reaffirmed that her step was in the right direction.

HAQ members encouraged the parents to speak about themselves and any issues they may be facing. The group will be meeting once a month and the topics of discussion will vary depending on suggestions received and any emerging issues.

## **Budget for Children** **(BfC)**

For HAQ, budget analysis fits perfectly into its work of holding the principal duty bearer - the State, accountable in all matters pertaining to the realisation of child rights.

The budget for children work (BfC) in India began in 2000 with a decadal analysis of the Union Budget by HAQ. Since then HAQ has been undertaking BfC analysis every year. Along with the Union Budget, HAQ has also been analysing budget of the state governments in a few selected states.



So far, HAQ has worked in the states of Andhra Pradesh, Himachal Pradesh, Odisha, West Bengal, Assam, Uttar Pradesh, Delhi, Jharkhand and Madhya Pradesh with local partner NGOs. The partnership is based on the premises that HAQ builds the capacity of their team on the methodology for BfC analysis and assists them in developing an advocacy plan to further the issues of children in their states with various stakeholders.

HAQ's BfC work is recognised by the Government of India and following its 2001 report, the government undertook BfC analysis for the first time in 2003, drawing upon HAQ's methodology. In October 2005, the Government of India declared its intention to undertake BfC at the central as well as state level. Child budgeting has since been included in the government's National Plan of Action for Children (2005).

## **Essai Workshops**

HAQ, in continued partnership with Essai organised a 6 week educational module on physical and mental wellbeing of adolescents. The students participated in the on-line workshop and were exposed to issues relating to puberty, hormonal and physical changes, reproduction, mental health, healthy body perception, building peer support and individual rights related to health. Through information shared as well as interactive games, the participants shared their stories of struggle as well as how they were able to support a peer. They were also informed about coping mechanisms so that they may be able to handle any issues better.



## #ChildLabourFreeIndia: An Awareness Campaign



"While child labour around the world has declined by more than a third in the last 15 years, it remains a serious challenge and barrier to the well-being of children.

According to a 2017 report by the International Labour Organization (ILO), the number of child labourers around the world fell from 246 million in 2000 to around 152 million in 2016. However, millions of children continue to be exploited for cheap labour, especially in countries such as India."

SOS CHILDREN'S VILLAGES CANADA

This is the story of a child labourer involved in mining...

One profession of many... One story of many...

Hitesh (full name not used to protect identity), lives in a village of Gujarat. He suffered from a major accident on July 15, 2011, at a construction site in Surat. He was a 12 year old boy at that time... On the day of the accident, the contractor found Hitesh sitting in a corner, taking care of his then 3 year old brother. On seeing that Hitesh was 'not doing any work', the contractor sent Hitesh to get an iron rod from downstairs.

The 12 feet rod was too big for Hitesh to balance. When he was walking, the rod hit the nearby electric line, and Hitesh was electrocuted.

He was immediately hospitalized. Hitesh had major 2nd degree burns. Fingers from his left hand and his entire right arm had to be amputated.

To put an end to this evil, we have taken a step towards mass awareness of the damaging effects of child labour and ways to get out of that system.

For this, as a member of CACL, HAQ CRC launched a 44 day social media campaign regarding awareness about the prevalence of child labour and the damage done by it.

Multiple quizzes, polls and posts involving poems, slogans and statistics were used to make viewers conscious of children forced into labour and the abuse they face.

# Football for Freedom



Wind in her hair, a stride in her steps, a shine in her eyes, a smile on her lips and freedom in her spirit...

She lost, She saw, She Conquered.

Many girls in India are married off at a young age. Consequently, there were places in and near Ajmer, Rajasthan where child marriages were the norm.

Challenging this, the social activists from Mahila Jan Adhikar Samiti (MJAS), decided to take action. After having convinced parents to let their daughters study at least for some time, the activists noticed that the girls lacked liveliness. To counter this, MJAS and HAQ CRC together dreamt of bringing these girls into the football field where they could kick their worries away and arranged for football coaching.

This not only motivated the girls to chase happiness but also gave them the hope and confidence of pursuing their dreams.



From a Google advertisement to an interview with Barkha Datt, these girls are receiving the recognition they deserve and motivating others to follow in their footsteps.

They still struggle, still face similar pressure of marriage but they now have a thirst for more.

And this ambition will continue to make a difference for ages to come.



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