



## Analysis of POCSO Act's Effectiveness in Supporting and Rehabilitating Child Victims of Sexual Offences in Rajasthan

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### ABSTRACT :

This study examines the implementation of administrative directives and support services for child victims of sexual abuse under the Protection of Children from Sexual Offences (POCSO) Act in Rajasthan, India. The research employs a mixed-methods approach, combining qualitative analysis of government orders, policies, and Standard Operating Procedures (SOPs) with observational studies of information dissemination processes. The study focuses on the role of the Child Welfare Committee (CWC) in assessing cases and recommending special relief measures, such as immediate financial assistance and monthly allowances. It also investigates the appointment and responsibilities of support persons, who provide crucial assistance to child victims throughout the legal process. The findings reveal gaps in the implementation of support services, including delays in appointing support personnel and lack of remuneration, leading to their withdrawal. CWC members face challenges due to the absence of timely case reports from police stations. The study recommends expediting the appointment and payment process for support personnel, developing standardized training programs, establishing clear reporting protocols, and enhancing coordination between relevant agencies. These recommendations aim to improve the overall support provided to child victims and address the identified gaps in the current system.

Keywords: - Child victims, sexual abuse, Protection of Children from Sexual Offences (POCSO) Act, Child Welfare Committee (CWC), support persons

### INTRODUCTION

The Indian Constitution, along with various laws, ensures the rights and protections of children against criminal activities. The Child Welfare Committee (CWC) is a statutory entity formed under the Juvenile Justice (Care and Protection of Children) Act, 2015, to address cases involving children who require care and protection. Special Courts, established under the Protection of Children from Sexual Offences Act, 2012, are designated to handle cases of sexual violence against children. The committee is composed of a Chairperson and four additional members, ensuring a range of perspectives and expertise. The Chairperson is responsible for leading the committee and ensuring its efficient operation. Among the four members, at least one must be a woman to guarantee gender representation and perspective. Furthermore, at least one member must be a specialist in child-related issues, offering expert knowledge to guide the committee's decisions. This setup enables the CWC to effectively fulfill its duty of protecting the welfare of vulnerable children.

The Child Welfare Committee (CWC) plays a crucial role in cases involving child sexual abuse and exploitation under the POCSO Act. The CWC is responsible for providing essential care and protection to child victims throughout the investigation and trial process. This includes ensuring the child receives necessary medical and psychological aid while in protective custody. The committee monitors case progress, safeguarding the child's interests at every stage of the judicial process. The CWC assists both the alleged victims and their families, while also working to minimize trauma during trial proceedings and protect the child's privacy. Additionally, the committee ensures that a support person is provided for the child throughout the investigation and trial. The CWC's responsibilities extend beyond the trial, as they continue to ensure necessary care and protection for the child after the case concludes.

### LITERATURE REVIEW

Rahul (2023)<sup>1</sup> in his doctoral research 'Protection of Children from Sexual Offences: A Socio-Legal Study with Special Reference to Human Rights' has explored the challenges in implementation of the POCSO Act. These include lack of awareness about the Act among the public and some stakeholders, inadequate infrastructure and resources for Special Courts, delays in trials despite mandated timelines, insufficient training of stakeholders in child-friendly procedures. It also discusses the importance of non-governmental organizations (NGOs) in raising awareness, providing support to victims, and advocating for child rights. Several NGOs working in this field, such as Arpan, RAHI Foundation, and Rati Foundation, are mentioned. The study recommends various suggestions including raising awareness among stakeholders, providing emergency medical care and psychological support to

<sup>1</sup> Rahul.(2023). Protection of Children from Sexual Offences: A Socio-Legal Study with Special Reference to Human Rights. [Ph.D. Thesis, Aligarh Muslim University].Shodhganga, a reservoir of Indian Theses. <http://hdl.handle.net/10603/508407>

victims, appointing trained professionals in schools and legal proceedings, implementing gender-sensitive training for medical personnel, and reforming the criminal justice system.

Malathi, R. (2020)<sup>2</sup> in the research work 'Rights of Child Victims of Sexual Offences during Trial Process - A Critical Analysis with Specific Reference to POCSO Act - 2012 in India' outlines comprehensive recommendations to enhance child protection laws and support for child sexual abuse victims in India. Key proposals for the Central Government include establishing dedicated children's courts, amending the POCSO Act for clearer definitions, adding protection order provisions, improving rights information processes, empowering Special Courts to assess victims' needs, creating monitoring committees, forming District Child Sexual Abuse Intervention Centres, developing techno-savvy investigation wings, establishing Anti-Libido Therapy centers, and forming research committees for POCSO Act evaluation. For State Governments, recommendations include ensuring child-friendly atmospheres in institutions, maintaining permanent histories of child victims, educating children about sexual abuse prevention, creating special vigilance cells, establishing crèches in rural and urban areas, developing victim compensation schemes, formulating standardized counseling methods, and publishing information about convicted offenders. The study emphasizes a holistic, child-centered approach to protection, reparation, and support services, addressing shortcomings in current implementation and advocating for a more sensitive criminal justice system. These proposals aim to strengthen India's child protection framework by improving legal processes, enhancing support services, and increasing awareness and prevention efforts. The comprehensive nature of these recommendations reflects the complex challenges in addressing child sexual abuse and highlights the need for coordinated efforts across various sectors to create a safer environment for children in India.

Bharti Ali, Co-Founder & Executive Director of HAQ: Centre for Child Rights, in presentation on the topic of 'Rehabilitation and Victim Compensation for Child Victims of Sexual Abuse'<sup>3</sup> discusses that child abuse victims require comprehensive support for recovery and rehabilitation. Mental health assistance addresses trauma-related issues like anxiety and depression. Medical care is essential, particularly for pregnancy-related cases. Some children need protection or relocation due to threats. Educational support helps children resume studies or pursue vocational training. Family members often require counseling and assistance with domestic issues. Paralegal aid is crucial for navigating legal procedures. A dedicated case worker is vital for managing various aspects of restorative care and providing ongoing support to the child victim. This holistic approach addresses the complex needs of child abuse survivors and their families.

The present study seeks to understand the status of child support services and the responsiveness of relevant stakeholders in practice. Additionally, the study aims to identify gaps in the implementation of administrative orders issued by the government, with particular reference to victims under the Protection of Children from Sexual Offences (POCSO) Act.

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## RESEARCH OBJECTIVE

1. To examine the administrative directives issued by the State government of Rajasthan concerning the rehabilitation of child victims of sexual abuse, and to assess the status of their effective implementation.
2. To examine the role of a support person in assisting child victims, including aspects such as appointment procedures, service provision terms, and tenure.
3. To analyze the Standard Operating Procedures promulgated by the State Government for the purpose of disseminating information regarding child support services to Child Welfare Committees.

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## RESEARCH QUESTIONS

1. What administrative directives have been promulgated by the State Government of Rajasthan concerning the rehabilitation of child victims of sexual abuse, in order to provide the requisite support services as stipulated in the POCSO Act?
2. What is the role of a support person in assisting child victims of sexual abuse, and what are the procedures for their appointment, the terms of service provision, and the duration of their tenure?
3. What Standard Operating Procedures (SOPs) have been established by the State Government of Rajasthan to disseminate information about child support services to Child Welfare Committees, and how effectively are these SOPs being implemented?

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## RESEARCH METHODOLOGY

The research methodology for this study will employ a mixed-methods approach. Qualitative analysis will be conducted on administrative directives, policies, and Standard Operating Procedures (SOPs) issued by the Rajasthan State Government regarding child sexual abuse rehabilitation. This will involve document review and content analysis. A comparative analysis between the provisions given including Child Welfare Committee members and

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<sup>2</sup> Malathi, R. (2020). Rights of Child Victims of Sexual Offences during Trial Process - A Critical Analysis with Specific Reference to POCSO Act - 2012 in India. [Ph.D. Thesis, SASTRA University]. Shodhganga, a reservoir of Indian Theses. <http://hdl.handle.net/10603/355606>

<sup>3</sup> Ali, Bharti. Study by HAQ: Centre for Child Rights & FACSE. Available at: <http://haqrc.org/wp-content/uploads/2018/02/implementation-of-the-pocso-act-delhi-mumbai-study-final.pdf>

support persons will provide insights into the implementation of these directives and the role of support persons. The effectiveness of SOPs will be assessed through a combination of document analysis and potentially observational studies of information dissemination processes.

## **SPECIAL RELIEF FOR POCSO VICTIMS BY CHILD RIGHTS DEPARTMENT, RAJASTHAN STATE GOVERNMENT**

The main subject of this government order<sup>4</sup> is providing special relief to child victims under the Protection of Children from Sexual Offences Act, 2012 (POCSO Act). The order outlines the process and details for granting special relief to children who have been victims of sexual offenses as defined by the POCSO Act. The government order mentions **two specific types of special relief** for child victims under the POCSO Act, 2012:

1. A **one-time lump sum amount of Rs. 12,000** for **immediate needs** such as clothing, utensils, footwear, transportation, etc.
2. A **monthly allowance of Rs. 1,500 per family member** for food items like rice, wheat, pulses, etc., **for a period of three months**.

These special relief measures are to be provided by the concerned **District Child Protection Unit based on the recommendation of the Child Welfare Committee**. The process for determining eligibility for the special relief involves several steps:

1. The Child Welfare Committee (CWC) plays a crucial role in assessing and recommending cases for special relief. They consider cases when:
  - a) The victim child appears before the committee, or
  - b) The police provide a First Information Report (FIR) of a case registered under the POCSO Act along with a preliminary assessment report in Form-B.
2. The CWC conducts an appropriate assessment of suitable cases where special relief is needed. They evaluate the victim's immediate needs such as food, clothing, utensils, footwear, and transportation.
3. Based on this assessment, the CWC sends a recommendation to the concerned District Child Protection Unit (DCPU) for providing special relief to the victim.
4. Upon receiving the recommendation from the CWC, the DCPU immediately issues administrative and financial approval for releasing the special relief to the victim child.
5. The special relief is then transferred to the victim's bank account by the DCPU.

It's important to note that this process should be carried out promptly, with the payment of special relief to be made within a maximum of 7 days from the receipt of the CWC's recommendation. If the Child Welfare Committee decides to place the victim child in institutional care, the special relief will be provided by the concerned child care institution. In such circumstances, the special relief as described in this order will not be applicable. This exception ensures that children who are placed in institutional care receive necessary support through the institution itself, rather than through the special relief process outlined in this order.

## **STANDARD OPERATING PROCEDURE TO ENHANCE AWARENESS**

The Department of Child Rights, Rajasthan Government has issued a Standard Operating Procedure<sup>5</sup> (SOP) to enhance awareness regarding the Protection of Children from Sexual Offences (POCSO) Act, 2012, and to mitigate incidents of child sexual abuse.

It outlines a Standard Operating Procedure (SOP) for awareness programs aimed at effectively preventing child sexual violence. The document highlights the increasing cases of sexual violence against children, particularly those under 6 years of age, and emphasizes the need for preventive measures. It mentions the implementation of the Protection of Children from Sexual Offences Act, 2012 (POCSO Act) and its associated rules, which came into effect on November 14, 2012. The Act includes provisions for child-friendly police and judicial proceedings, as well as measures for the protection and rehabilitation of child victims.

According to the SOP, the role of the Child Welfare Committee in relation to child sexual violence cases includes:

1. Taking cognizance of complaints of any kind of sexual violence against children and ensuring legal action as per POCSO Act provisions, as well as arranging for the care and protection of the affected child.
2. Ensuring the rehabilitation of sexually abused children by creating individual care plans and taking necessary steps for quick rehabilitation, along with follow-up for a specified period.
3. Ensuring free legal aid is provided to the affected child or their family through the District Legal Services Authority.
4. Informing the victim child or their family members about the provisions for victim compensation under the Rajasthan Victim Compensation Scheme, 2011 and the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Rules, 1995.
5. Ensuring that a child-friendly environment and procedures are followed at every stage in cases of child sexual violence victims.
6. Conducting regular inspections and supervision of homes/hostels in their area and discussing safety issues with children.

<sup>4</sup> Order vide Ref No. F 31 (01)(13)/POCSO/Review/19/46009, dated 02-11-2021

<sup>5</sup> Order with Ref. No. 31 (1)(02) बाअवि/ पोक्सो अधिनियम/गार्ट-2/014/6544)-1000 dated 21.03.2017)

7. Ensuring necessary legal action if the media or police disclose the identity of the victim child or details of the case.
8. Ensuring that counseling services are provided to children who are victims of sexual violence/exploitation.

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## APPOINTMENT OF SUPPORT PERSON

It is essential for the child to have access to support services that offer information, emotional and psychological aid, and practical help, as these are often vital for the child's recovery and ability to handle the aftermath of the crime and the stress of any legal proceedings. The Protection of Children from Sexual Offences Act, 2012 introduces the idea of a support person to assist the child throughout the pre-trial and trial stages. In this role, the support person acts somewhat like a guardian ad litem for the child, serving as a valuable link between the authorities and the child.

### *Rule 4(7) of the POCSO Rules states:*

“The Child Welfare Committee, on receiving a report under sub-section (6) of section 19 of the Act or on the basis of its assessment under sub-rule (5), and with the consent of the child and his/her parent or guardian or other person in whom the child has trust and confidence, may provide a support person to render assistance to the child through the process of investigation and trial. Such support person may be a person or organisation working in the field of child rights or child protection, or an official of a children's home or shelter home having custody of the child, or a person employed by the DCPU: Provided that nothing in these rules shall prevent the child and his/her parents or guardian or other person in whom the child has trust and confidence from seeking the assistance of any person or organisation for proceedings under the Act.”<sup>6</sup>

Therefore, the appointment of the support person can be made either by the Child Welfare Committee or by the child along with his or her family.

According to **Rule 4(2)(e) of the POCSO Rules, 2012**, it is the responsibility of the police officer who receives a report of an offense to notify the child and their parent, guardian, or another trusted individual about the availability of support services, such as counseling. The officer must also help them connect with those who provide these services and relief. Consequently, the police officer should inform the child and their parent, guardian, or trusted person about the option to engage a support person to assist the child and their family throughout the trial and pre-trial stages, and aid them in accessing these services.

According to **Rule 4(9) and (10) of the POCSO Rules, 2012**, the SJPU or local police station must notify the Special Court about the appointment and dismissal of a support person. This indicates that the support person has responsibilities before the Special Court as well. The Special Court may request the support person to provide information regarding the child, such as whether the child is in a secure and protective setting, and the child's preferences in certain situations. Since the support person is tasked with aiding the child throughout the entire process, they should be present whenever the child is required to appear before the Special Court.

### **BAL MITRA YOJANA SANCHALAN DISHA-NIRDESH, 2020 (CHILD SUPPORT PERSON SCHEME, 2020)**

The guidelines to provide a support person to the child victim have been delineated under the Bal Mitra Yojana Sanchalan Disha-Nirdesh, 2020<sup>7</sup> (Child Support Person Scheme, 2020) in Rajasthan. The scheme aims to provide support and assistance to child victims of sexual offenses and their families throughout the criminal justice process. The guidelines establish the role of a 'Support Person' who will be appointed by the Child Welfare Committee to assist the child victim and their family during the pre-trial and trial stages of the criminal justice process.

The guidelines delineate key terms and roles, including the child, support person, Child Welfare Committee, and Special Court. They also elucidate the eligibility criteria for support persons, who should be qualified social workers with a minimum of 5 years of experience in child protection. The guidelines explicate the appointment and removal process for support persons, their responsibilities, and the financial provisions for implementing the scheme. Support persons are expected to provide comprehensive assistance to child victims, including facilitating their navigation of the legal system, accessing support services, and ensuring the protection of their rights and best interests.

A notable insight from the guidelines is the emphasis on creating a child-friendly environment throughout every stage of the process, from investigation to trial. The guidelines stipulate that support persons must maintain the child's privacy and confidentiality, and are prohibited from disseminating case-related documents without consent. Another salient aspect is the provision for developing a digital portal for continuous evaluation and guidance of support persons' work, indicating a focus on leveraging technology for enhanced implementation and monitoring of the scheme. Furthermore, the guidelines underscore the importance of coordination among various stakeholders, including police, courts, and child protection units, to ensure effective support for child victims.

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## CONCLUSION & RECOMMENDATIONS

Upon examining the relevant legal provisions and administrative orders issued by the State, it is evident that the appropriate measures are being undertaken by the relevant authorities. However, inquiries with the district Child Welfare Committee (CWC) members revealed that a list of support personnel from the Child Welfare Department has been requested. This department is responsible for both appointing and remunerating these individuals. Initially,

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<sup>6</sup> Protection of Children from Sexual Offences Rules, 2020.

<sup>7</sup> Order with Ref. No. F 32(01)(10)बा.अ.वि./बाल मित्र योजना/2020/89957-90395

support personnel were appointed in five to ten cases, but they subsequently withdrew their willingness to serve due to the absence of remuneration. These support personnel typically accompany the victim on the hearing date and assist her in comprehending the procedure for recording statements. The CWC requires a written report from the support personnel following the issuance of a decision in the case. Appointments have been made in select cases; however, remuneration was not provided as stipulated in the guidelines for the Bal Mitra Yojana Sanchalan Disha-Nirdesh, 2020 (Child Friend Scheme) in Rajasthan by the State Government. Consequently, CWC members personally provide support as required by the child victim. Additionally, CWC members encounter the issue of not receiving a copy of the First Information Report (FIR) or factual report of the case registered at the police station within 24 hours, which results in the unavailability of proper services to the child victims as stipulated in the rules.

The recommendations focus on improving support for child victims in the legal system. Key recommendations include expediting the appointment and payment process for support personnel, ensuring adherence to guidelines, developing standardized training programs, and establishing clear protocols for reporting and communication. The proposals emphasize the need for timely provision of services, regular system reviews, and enhanced coordination between relevant agencies. Additional resources for the Child Welfare Committee are suggested to reduce the burden on members. These recommendations aim to address gaps in the current system and enhance the overall support provided to child victims throughout the legal process.

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