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CENTRE FOR CHILD & YOUTH JUSTICE, NALSAR UNIVERSITY OF LAW



NEWSLETTER
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ABOUT CENTRE FOR CHILD & YOUTH JUSTICE, NALSAR UNIVERSITY OF LAW, HYDERABAD



NALSAR University is one of the premier law schools known for its excellence in legal education and research with a strong focus on social justice. In furtherance of university's objectives, the Centre for Child and Youth Justice (CCYJ) was established, which is working to advance the rights and welfare of children & youth. The mission of the Centre is to serve the children through law. Its work focuses on interdisciplinary research, legal education, advocacy, stakeholder engagement, capacity-building and providing policy recommendations in line with international standards. It has partnership with UNICEF, various department of Telangana government, NGOs and many eminent figures working in child rights. At present, it is running a project on "Access to Justice for Children through systems strengthening on child protection issues" funded by CRY-Child Rights and You.

EDITORIAL



With the beginning of a New Year 2025, the Centre for Child and Youth Justice (CCYJ), NALSAR University of Law, Hyderabad reflects on its impactful and transformative activities over the last few months. We've devoted this time to developing the foundations of child protection research, working hand in hand with key stakeholders that shape progressive legal frameworks in safeguarding young citizens of India.

In this edition of our bi-annual newsletter, we go through the highlights from our orientation program on POCSO Act for various stakeholders, training program for Telangana's District Child Protection Unit staff focussing on preparation of Social Investigation Report & Individual Care Plan, discussions with US Consulate officials on International Parental Child Abduction and our heartwarming Children's day celebration at Secunderabad school. You'll also read recent child rights developments and when you reach the final page, you'll discover updates on some interesting initiatives currently underway.

With the start of the first month of the calendar year, we see endless possibilities in every child's smile. Our commitment grows stronger each day, and we welcome your insights as we expand to create impactful change.

Happy reading!

Dr. D. Bala Krishna,
Faculty and Coordinator,
Aishwarya Sinha & Raja Chandra,
Research Assistants,
CCYJ, NALSAR.



Orientation Program on POCSO Act, 2012 to various Stakeholders at Sangareddy District Police

On 8th November 2024, an orientation program on the Protection of Children from Sexual Offences (POCSO) Act, 2012, was organized at the Conference Hall, Office of the Superintendent of Police, Sangareddy district. The program was jointly conducted by Centre for Child & Youth Justice, NALSAR University of Law and Child Protection Resource Centre, UNICEF. It aimed to enhance the understanding and effectiveness of stakeholders dealing with child sexual abuse cases.

The program commenced with participant registration and a briefing on the agenda by Sri. CH. Rupesh, IPS, Superintendent of Police, Sangareddy district. He addressed all officers for strict adherence of statutory procedures of POCSO Act and stakeholder's responsibilities in POCSO cases, highlighting the use of Forms A and B for case documentation. The next session was taken by Prof. Bala Krishna from NALSAR University of Law and Mr. P. David Raj, Program Manager at CPRC-UNICEF who provided an overview of the POCSO Act, 2012.

Thereafter, Dr. Sudha, Professor, Forensic Department, Osmania Medical College, Hyderabad spoke on the role of medical examination of child victims, the protocols for medico-legal cases and the significance of adhering to legal requirements in length.

TRAINING PROGRAM ON PREPARATION OF SOCIAL INVESTIGATION REPORT & INDIVIDUAL CARE PLAN FOR DCPU STAFF, TELANGANA.

The training program on the preparation of Social Investigation Reports (SIR) and Individual Care Plans (ICP) was conducted from 21st - 23rd November, 2024 at Don Bosco Navajeevan, Pragathi Nagar, Ramanthapur, Hyderabad, Telangana. It was organized as a residential training program by UNICEF in collaboration with the Centre for Child & Youth Justice, NALSAR University of Law. The event brought together District Child Protection Officer (DCPO) staff from across Telangana, aiming to enhance their understanding and practical skills in child protection and case management.



CRY (CHILD RIGHTS AND YOU) VISIT TO NALSAR

CRY officials Ms. Puja Marwaha, CEO of CRY (Child Rights and You), Mr. Subhendu Bhattacharjee, Director of Research and Knowledge Exchange at CRY, and Ms. Ragini Pant, Associate General Manager at CRY visited NALSAR University of Law on the occasion of its 21st Convocation on September 28, 2024. During their visit, the officials engaged with the Centre for Child and Youth Justice, NALSAR to discuss the ongoing works related to child rights in the state of Telangana. The discussion focused on identifying gaps in the current initiatives and developing future plan of action to strengthen child protection efforts in the region. CRY officials also met Dansari Anasuya, commonly known as Seethakka, Minister of Women and Child Welfare of Telangana, and Justice B Prakash Rao, Retd. Judge of Andhra Pradesh High Court.



Discussion on International Parental Child Abduction with US Consulate



Discussion on the issue of International Parental Child Abduction (IPCA) was held on 11 December 2024, from 11 AM to 1 PM at NALSAR University of Law, Hyderabad. Delegates from the U.S. Government Mr. Adam Hall, Chief of US Citizen Services, Mr. Suresh Madan, US Citizen Services Specialist, US Embassy New Delhi and Ms. Sreedevi, US Citizen Services Specialist, US Consulate General Hyderabad joined NALSAR's Vice-Chancellor, faculty, and research assistants to discuss legal challenges related to IPCA.

The agenda focused on the implications of India not being a signatory to the Hague Convention on Civil Aspects of International Child Abduction and explored avenues for cooperation and solutions to address rising cases of IPCA involving India and the U.S. The discussions touched on specific issues such as gender biases in Indian custody laws and the disparity between U.S. and Indian approaches to custody disputes. Suggestions included raising awareness about the Hague Convention's benefits, contributing specialized training for legal professionals and developing mediation cells to handle sensitive custody disputes.

The meeting concluded with a consensus on the need for collaborative approach to address international parental child abduction issues including research, training and advocacy. The U.S. delegation expressed its commitment to the continued collaboration with NALSAR and Indian stakeholders to resolve IPCA cases effectively.

Children's Day program

Thursday, 14th November 2024



The Centre for Child and Youth Justice (CCYJ), NALSAR University of Law, Hyderabad in collaboration with Divya Disha Foundation organized a Children's Day event at the Government Primary & High School in Mudfort, Secunderabad, Telangana on 14 November, 2024 from 10 am to 2:30 pm. The program happened in two sessions, the morning session was held for the primary section students and the afternoon session was held for the high school students. Aishwarya Sinha and Raja Chandra, Research Assistants at CCYJ addressed children on the importance of their rights, the value of education and how they can change the world through learning and self-belief. To make their day special and celebrate them, CCYJ presented children with notebooks and snacks.

The afternoon session started with the cultural program by the high school children. Following this, an interactive discussion was held with the students to inspire them to pursue their aspirations, regardless of their socio-economic backgrounds. It was also joined by Mr Isidore Phillips, Director of Divya Disha foundation and Dr. D Bala Krishna, Coordinator and Head of Centre for Child & Youth Justice, NALSAR University of Law.



Recent Updates in Child Rights

Issues for prevention of Child Marriage in India

The Supreme Court focuses on addressing the pervasive issue of child marriage in India. The Court emphasized that child marriage directly undermines the principles of the POCSO Act and constitutes a form of sexual abuse by design. It stated that the children at risk of marriage were “Children in Need of Care and Protection” under the JJ Act, requiring rehabilitation through the Child Welfare Committees (CWCs). The Court also recognized the broader impact of child marriage on education, sexuality and the rights of both genders, stressing the need for compassionate treatment of all affected, including boys forced into child marriages.

The Apex court urged integrating child marriage prevention measures within the responsibilities of Child Marriage Prohibition Officers (CMPOs), Special Juvenile Police Units, and local authorities. The Court further issued comprehensive guidelines to strengthen enforcement mechanisms and create support systems for children. These included appointing exclusive CMPOs, conducting mandatory training programs, introducing community awareness initiatives, and setting up fast-track courts for child marriage cases. All States and UTs were directed to integrate comprehensive sexuality education into school curricula in line with the framework prescribed by the WHO and leading thoughts in the field of CSE, and creating centralized monitoring systems to track at-risk children.

Additionally, the apex court called for vocational training and financial aid for girls to prevent child marriages and aid survivors in transitioning to independent lives. The Court highlighted the need for convergence of services across departments and directed the formulation of Standard Operating Procedures (SOPs) for lawyers, law enforcement and rehabilitation agencies to ensure effective implementation of child protection laws.

~ **Society for Enlightenment and Voluntary Action Vs. Union of India, 2024 SCC OnLine SC 2922**

SC uphold the validity of education in Madarasas for children

The Supreme Court overturned a Allahabad High Court ruling that struck down UP law regulating registered Madarasas. The Allahabad High Court had called the law “unsecular” for promoting separate education for Muslim students and ordered their integration into regular schools. Over 20 lakh Muslim students enroll in Madarasas annually which despite being underfunded, play a key role in education and preserving religious culture.

CJI Chandrachud in the judgement upheld the law noting it balanced minority rights to run educational institutions with the state’s role in maintaining education standards. He also clarified that the RTE Act does not apply to Madarasas. However, provisions regulating Fazil and Kamil exams, which are equivalents of Bachelors and Masters degrees were struck down as higher education falls under the UGC Act.

~**Anjum Kadari Vs Union of India, 2024 SCC OnLine SC 3129**

Recent Updates in Child Rights

SC Suggests POCSO Amendment : Replace words “Child Pornography” with “Child Sexual Exploitative and Abuse Material” (CSEAM)

The Supreme Court of India in its judgment dated 23 September, 2024 emphasized the need for a crucial terminological amendment to the Protection of Children from Sexual Offences Act, 2012 (POCSO). The Court recommended substituting the term “Child Pornography” in Section 2(da) of the POCSO Act, 2012 with “Child Sexual Exploitative and Abuse Material” (CSEAM).

The Apex Court suggested the Union Government to implement this amendment through an ordinance under Article 123 of the Constitution of India, underlining the urgency of addressing these offenses. The Court also called for introducing educational reforms, mandating comprehensive sex education and setting up expert committees to develop child protection mechanisms.

The Court further clarified the mandatory reporting requirements under Section 19 of the POCSO Act. It stated that all instances of child sexual abuse or apprehension of such crimes must be reported exclusively to the police or Special Juvenile Police Units (SJPU). Reporting to Child Welfare Committees, NGOs, or other entities does not fulfill the statutory obligations under the POCSO Act. The Court further stated the need for child-friendly policing and proposed reforms such as recruiting social workers in SJPU and designating them as full-fledged police stations. These measures aim to ensure sensitive handling of cases, especially when reporting involves apprehensions rather than actual incidents.

~Just Rights for Children Alliance Vs. S. Harish, 2024 SCC OnLine SC 2611

SC overturns Calcutta HC controversial remarks on Adolescent Sexual Behavior under POCSO Act

The Supreme Court of India on August 20, 2024, set aside a controversial judgment by the Calcutta High Court, which had made sweeping remarks on adolescent sexual behavior in the context of the POCSO Act, 2012. The Calcutta High Court had exercised its powers under Section 482 CrPC which grants inherent powers to courts to pass orders to secure the ends of justice, to set aside the conviction of a man sentenced under the POCSO Act for kidnapping and aggravated sexual assault. In doing so, the High Court made controversial remarks about consensual sexual behavior among adolescents and suggested that the lack of recognition of such behavior led to the criminalization of older adolescent’s actions. These remarks also included views on the responsibilities and duties of adolescent boys and girls concerning sexual behavior.

The Supreme Court found the High Court’s observations to be “utterly irrelevant” for the case and an improper exercise of judicial authority. The case underlined that the POCSO Act, particularly Sections 3 and 4 (which address penetrative sexual assault) and the constitutional rights of adolescents under Article 21 (Right to Life and Personal Liberty) were violated by the High Court’s observations. The Supreme Court criticized the High Court for conflating consensual acts with non-consensual ones and for making sweeping generalizations about adolescent sexual behavior.

~In RE: Right to Privacy of Adolescents, 2024 SCC OnLine SC 2055

SUPREME COURT'S INTERPRETATION OF JJ ACT

In May 2024, a bench of Justices C.T. Ravikumar and Rajesh Bindal addressed a gap in the interpretation of the Juvenile Justice (JJ) Act. In the case '*Child in Conflict with Law through his mother*', the Court ruled that the terms 'Children's Court' and 'Court of Sessions' within the Act should be understood as interchangeable. Although this might seem like a minor technical adjustment, it has significant implications for child rights litigation. For instance, under Section 101(1) of the Act, decisions by the Juvenile Justice Board or Child Welfare Committee can be appealed to the Children's Court, but delays in filing appeals could only be excused by the Sessions Court. The Court's clarification ensures that the designated Children's Court in each district serves as the forum for both appeals and condonation of delays.

SUPREME COURT'S INTERPRETATION OF POCSO ACT

The Supreme Court has resolved long standing ambiguities in the interpretation of provisions under the Protection of Children from Sexual Offences (POCSO) Act, 2012 especially Section 15, which deals with the storage of child sexual abuse material (CSAM). Justice J.B. Pardiwala's judgement clarified that Section 15 outlines three distinct offences: failure to delete or report CSAM, transmission or propagation of CSAM, and storage or possession with commercial intent. The Court held that even private possession of CSAM is punishable under POCSO, aligning it with Section 67B of the IT Act, 2000 which penalizes both dissemination and possession of such material. In addition, the Court overturned earlier rulings and laid down in the case of *Ramji Lal Bairwa & Anr. Vs. State of Rajasthan & Ors., 2024 INSC 846* that offences under POCSO, including sexual assault and harassment, cannot be dismissed through out of court settlements, as the offence is heinous and not of private nature. It also addressed the misuse of Section 33(5) of POCSO, reaffirming that child victims should not be repeatedly summoned to testify, safeguarding them from unnecessary trauma.

ACCOUNTABILITY IN THE DIGITAL AGE FOR CHILD SEXUAL ABUSE MATERIAL IN INDIA



Social media platforms have long relied on the section 79 of the IT Act ‘safe harbour’ protection, shielding them from liability for third party content. Section 79 IT Act, 2000 states that “an intermediary shall not be liable for any third-party information, data, or communication link made available or hosted by them.” However, a 2019 MoU between India’s National Crime Records Bureau(NCRB) and a US based NGO, National Centre for Missing and Exploited Children (NCMEC) requires US-based platforms to report Child Sexual Abuse Material (CSAM) cases to NCMEC, which then informs Indian authorities. This conflicts with Section 19 of POCSO Act, which mandates direct reporting to local police or Special Juvenile Units.

In *Just Rights for Children Alliance Vs. S. Harish, 2024 SCC OnLine SC 2611*, the Supreme Court observed that intermediaries were failing to report cases to Indian authorities, despite forwarding them to NCMEC. It warned that failure to promptly remove CSAM upon government notification would void their safe harbour protection. Intermediaries argue they cannot share data with Indian law enforcement and point to the lack of a centralized reporting system like NCMEC in India. Given that the Court has not provided details of what kind of infrastructure has to be put in place for such reporting, the ball is now in the executive’s court.




Ongoing Activities

- Call for Chapters Monograph on 'International Parental Child Abduction', submission deadline by 11:59 PM IST of 15 February, 2025.
- Call for Papers for Indian Journal of Child & Youth Justice on 'Juvenile Justice and Child Rights' submission deadline by 11:59 PM IST of 10 March, 2025.
- Call for Blogs on rolling basis by CCYJ, NALSAR: <https://ccyj.nalsar.ac.in/storage/2025/01/Call-for-Blog-Submission-on-Rolling-Basis-.pdf>

“The past year has been significant for child rights in the Indian judiciary, emphasizing that safeguarding children’s rights is essential for building a just society and ensuring the holistic development of future generations. I extend my heartfelt congratulations to the CCYJ, NALSAR on the release of the second edition of their Newsletter and look forward to seeing many more such insightful issues in the future.”

~ Prof. Srikrishna Deva Rao, Vice Chancellor, NALSAR University of Law



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