

GOVERNMENT OF JAMMU & KASHMIR
DIRECTORATE OF SCHOOL EDUCATION, JAMMU
MUTHI CAMP, JAMMU-181205

Circular No. 1150 DSEJ of 2023

Dated: 02-08-2023

Sub: Prevention of Child sexual abuse.

Ref: Administrative Communication vide No. Edu/142/2023-01, Dated 04-07-2023.

No: DSEJ/Counselling Cell/ 23369-71

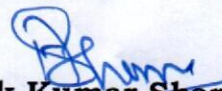
Dated: 02 / 08 / 2023

With reference to the subject & reference cited above, minor children irrespective of their sex are being sexually abused. White paper on Child Sexual Abuse by Kashmir Women's Collective has made useful suggestions to prevent the menace of child sexual abuse.

In this connection, in order to spread mass awareness among schools (Both Govt. and Private) general public (rural and urban) about the menace of Child sexual abuse, Chief Education Officers (All) of Jammu Division are hereby directed to instruct the HoIs of all the Schools (Govt. & Private) to implement the following:-

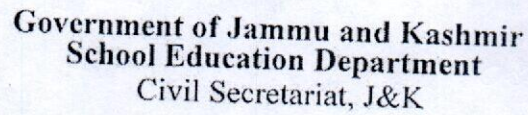
- i. Conduct sensitization programmes on child sexual abuse, Safe Unsafe touch, POCSO act 2012, gender sensitization etc. through counseling cells so as to aware all the stakeholders.
- ii. Create a child friendly reporting mechanism (contact number, email, complaint Box) in the school so that children can easily report the incidence of child sexual abuse.
- iii. Wherever feasible, Install CCTV cameras at vulnerable places adjacent to washroom and play zone of the school/creches.
- iv. Check antecedents of cab drivers of school/creches with the help of local police and in case of any complaint getting established against them, take necessary action.
- v. Mental health/Counselling experts should be involved in dealing with the victims of child sexual abuse sensitively.
- vi. Use different experiential methodologies (Short movie screening (Komal by Child line), Role play, Poems, storytelling etc.) to sensitize young kids about the menace of child sexual abuse.
- vii. Make all the students aware about the **POCSO E-Box**. (It is NCPDR's online complaint box for reporting child sexual abuse.
- viii. Make children aware about **Child line (1098)** and DSEJ's "**Aao Baat Karein** Helpline (6006800068) to report cases of child sexual abuse.
- ix. Conduct open houses with students (especially female students) to know about any incidence of child sexual abuse.
- x. Counseling cells already constituted in schools should be actively involved in carrying out special campaign regarding child sexual abuse.

Yours faithfully,


(Ashok Kumar Sharma) JKAS
Director School Education
Jammu

Copy to the:-

1. Principal Secretary to Government, School Education Department, Civil Secretariat, Jammu J&K for kind information.
2. Dr. Romesh, I/C counselling Cell DSEJ for coordination.
3. I/C Website for uploading on the website.



(Abhishake Abrol)JKAS
Deputy Secretary to the Government,
School Education Department

GOVERNMENT OF JAMMU AND KASHMIR
Department of Law, Justice and Parliamentary Affairs
(Legislation Section) Civil Secretariat
Jammu/Srinagar

O.M No: LAW-Leg/140/2022-10[7042501]

Dated: 23-03-2023

Subject: White paper on Child Sexual Abuse by Kashmir Women's Collective.

The undersigned is directed to forward to the Principal Secretary to Government, Higher Education Department, Principal Secretary to Government, School Education Department and Commissioner Secretary to Government, Social Welfare Department, copy of representation along-with copies of O.M No. Home-GB/105/2022 dated 17-02-2022, dated 03-03-2022 and letter No. 10/Missing-IV/CIV/CR/18/30 dated 08-01-2022 of Police Headquarters J&K received from Home Department regarding the subject cited above. In this connection, it is requested to take immediate necessary action in the matter.

Reyes
23.03.23
Assistant Legal Remembrancer

Principal Secretary to Government
Higher Education Department

Principal Secretary to Government
School Education Department

Commissioner Secretary to Government
Social Welfare Department

Encls: (As above)

Copy to the Financial Commissioner (Additional Chief Secretary) Home Department for information. U.O.No. Home-GB/105/2022-10-Home along-with two files are returned herewith.

INTRODUCTION

Despite the alarming rate at which child sexual abuse is increasing, there are no reliable statistics available on CSA in Jammu and Kashmir. Although there is enough evidence that CSA happens in our homes, schools and religious institutions, most people deny the occurrence of CSA in J&K. Despite the fact that Prevention of Children from Sexual Offences Act (POCSO) was enacted in 2012 as a Central Act, it does not apply to the State of J&K. Consequently, J&K is left without any effective socio-psycho-legal response to CSA cases.

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Ajaz Sheikh, a serial child-rapist, based in Sopore, North Kashmir, is under trial in the Court of Chief Judicial Magistrate, Sopore. Ajaz, a self-declared faith-healer lured hundreds of naive 'murids' (followers) into leaving young boys from their families to stay overnight with him. What followed was the worst kind of abuse- physical, mental and sexual. According to victim accounts, more than 3000 boys were raped, beaten, forced to perform oral sex and rape each other.

But the trial has been slow to take off and has been further complicated by the fact that he has been booked under Section 377, unnatural sex and not under Section 375

CASE 2

EXISTING LEGAL FRAMEWORK

Therefore, it is only logical that like other states in India, the state of J&K should also have special legislation in place to deal with sexual offences against women. In this regard, the government of J&K has passed the J&K Prevention of Children from Sexual Offences Ordinance, 2018, which is awaiting Governor's assent by Article 91 of the Constitution of J&K.

RECOMMENDATIONS

We understand that the existing POCSO serves as a bare bone structure based on which the state Ordinance has been drafted. However, this should not be a blind adaptation of the current Act. In this regard, please note the following recommendations:

1. The enactment must undergo at least two rounds of review by experts in this field - including judges of the HC, eminent lawyers, organizations that work for women and child development.
2. There must be a timeline within which the final legislation must be passed, the current social and political environment in the State will serve as an impetus, and this can be a lasting contribution of the government to the State.
3. The POSCO has been criticized for not having provisions dealing with 'hostile victims'. It is a perennial issue and can be addressed by ensuring that investigation is speedy and conducted in a time bound manner. Offenders of sexual violence should not be granted bail till the inquiry, and cross-examination is not complete. It can help ensure that victim is not intimidated, and the witness are not influenced;
4. A large proportion of births in the state are just not registered, and therefore substantial sections of the population do not have documents like birth certificates or school leaving certificates to provide proof of age. Consequently, sometimes determining the age of victims of CSA is difficult. A hyper-technical approach should not be adopted by the State in determining the victim's age; as it was ruled by the Supreme Court in the case of BablooPasi vs the State of Jharkhand and Anr. The Court should lean towards giving the benefit of the doubt to the juvenile while ensuring that the law is not being misused.
5. The existing definition of 'sexual assault', 'sexual harassment' should not be diluted in any manner. The state may consider the redefining of the terms by following the standard definition adopted by The National Society for the Prevention of Cruelty to Children (UK), to ensure that all possible forms of abuse are covered -
 - **Contact abuse** which involves touching activities where an abuser makes physical contact with a child, including penetration. It includes:
 - sexual touching of any part of the body whether the child's wearing clothes or not

- rape or penetration by putting an object or body part inside a child's mouth, vagina or anus
 - forcing or encouraging a child to take part in sexual activity
 - making a child take their clothes off, touch someone else's genitals or masturbate.
 - **Non-contact abuse** involves non-touching activities, such as grooming, exploitation, persuading children to perform sexual acts over the internet and flashing. It includes:
 - encouraging a child to watch or hear sexual acts
 - not taking proper measures to prevent a child being exposed to sexual activities by others
 - meeting a child following sexual grooming with the intent of abusing them
 - online abuse including making, viewing or distributing child abuse images
 - allowing someone else to make, view or distribute child abuse images
 - showing pornography to a child
 - sexually exploiting a child for money, power or status (child exploitation)
6. Amicus curiae should be appointed by the court, and these should be selected based on their expertise in dealing with minors and sexual offences concerning children. The state should insist upon the training of these lawyers to sensitive them and ensure they create a conducive environment for the minor
7. The State Act should have mandatory provisions on sex education in schools at primary level - both for private and government schools;
8. Providing financial aid and compensation to victims should form an integral part of the enactment or alternately it can be brought in as an amendment to the already existing Victim Compensation Scheme (2013) which also deals with compensation to victims of sexual crimes.
9. Medical treatment of victims should be streamlined maintaining the privacy of the minor and also ensure complete, unbiased attention to the same. Further, if the victim refuses to provide consent for medical examination, consent of the parent should be taken (in case the victim is less than 12 years of age), or consent from both parent and victim should be sought (for victims between 12 - 18 years of age). Hospital staff, police personnel and other professionals dealing with victims of child abuse should be provided specialized training to enable them to interact with victims sensitively. Additionally, the State can also consider the appointment of support workers in social

over decades in North Kashmir in the garb of being a peer, a faith healer. Similarly, Gulzar Peer of Budgam raped girls at his home in the name of healing them. Asifa is just one of the rape victims whose case got highlighted and reported - many girls go through a lifetime of rape, and harassment and it goes unnoticed. And still, perpetrators are free because society is silent, laws are weak, and there's no deeper and progressive understanding of gender-based issues in a small, conflict-ridden, insecure society of Kashmir which is struggling for three decades now due to political conflict. Enacting of laws is only a little initiation, ensuring their implementation by the State is the actual challenge and any regime that holds itself accountable to the public at large will be the real champion of causes including sexual abuse of children.

Further, not only strong legislation and their stronger implementation is required, but what remains a challenge is to engage experts in the field in devising a preventive and educative model to prevent CSA. It can be done by the introduction of primary sexual education in schools, workshops on gender sensitization and sexual abuse and training workshops of police such that acts like POCSO are implemented in spirit. Attention is also needed on the strengthening of Domestic Violence Act by way of shelter homes and actual passage of Prevention of Sexual Harassment at Workplace Act of 2013 as exists in India, instead of confining it to a few sections in RPC. Safety of women, children and other vulnerable groups is the priority of a welfare state, and it is a moment in the history of the state of J&K to prove it for the existing government.

**Government of Jammu and Kashmir
Home Department
Civil Secretariat, J&K**

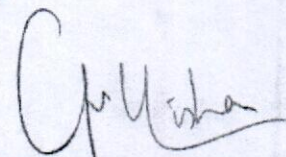
No.Home-GB/105/2022

Dated: 17.02.2022

Subject: White Paper on Child Sexual Abuse by Kashmir Women's Collective.

The undersigned is directed to forward herewith a copy of communication No. 10/Missing-IV/CIV/CR/18/30 dated 08.01.2022 received from Police Headquarters, J&K, Jammu to all Officers of the Home Department with the request to furnish their comments within a week, so that necessary comments can be furnished to Law Department.

Matter may be treated as most urgent.


(Gurpreet Singh)KAS
Deputy Secretary to the Government

Encl: A/A

All Officers of Home Department.

4. The concerned institution should be made to have mandatory CCTV cameras installed in the class rooms, adjacent to washroom and play zone of the schools/ crèches.
5. Cab drivers of school/ crèches should be engaged after checking their antecedents through local Police and in case of any complaint getting established against them, should earn them cancellation of their licenses through concerned authorities. Moreover, presence of female attendants in cabs would be feasible for achieving the objective of safe and secure travel to children.
6. Such institutions should remain open for inspections, in this behalf by authorities constituting of child welfare committee, as a nodal agency and child Welfare Committee should have power to seal the premises and stop the functioning of any such institution in which such perversions are found to be unchecked.

Yours faithfully,

Rajesh Bali, JKPS
AIG (CIV)

For Director General of Police,
J&K, Jammu.