

## राष्ट्रीय मानवाधिकार आयोग ने जारी की एडवाइजरी बाल यौन शोषण सामग्री के प्रसार पर अंकुश जरूरी

भास्कर न्यूज़|नई दिल्ली

राष्ट्रीय मानवाधिकार आयोग (एनएचआरसी) ने कहा है कि वह बाल यौन शोषण सामग्री के बढ़ते प्रसार को लेकर चिंतित है। ऐसी सामग्री का बच्चों पर मनोवैज्ञानिक प्रभाव पड़ सकता है, जो उनके विकास पर असर डाल सकता है।

भारत में छोटे बच्चों की उनके परिजन द्वारा खींची तस्वीरों के अनुचित इस्तेमाल को बाल यौन शोषण के रूप में वर्गीकृत किया गया है। आयोग ने बाल यौन शोषण सामग्री के प्रोडक्शन, डिस्ट्रीब्यूशन और कंजंप्शन के खिलाफ बच्चों के अधिकारों की सुरक्षा के लिए एडवाइजरी जारी की। एनएचआरसी के महासचिव भरत लाल की ओर से जारी इस एडवाइजरी में कहा गया है कि सभी हितधारकों, सरकार,

**इस साल 4 लाख से ज्यादा  
मामले सामने आ चुके हैं**

मिनिस्ट्री ऑफ इलेक्ट्रॉनिक्स एंड इन्फॉर्मेशन टेक्नोलॉजी ने इससे पहले सोशल मीडिया प्लेटफॉर्मों को नोटिस जारी कर उन्हें भारतीय इंटरनेट पर अपने प्लेटफॉर्म से बाल यौन शोषण सामग्री को हटाने का निर्देश दिए थे। साल 2023 में अब तक बाल यौन शोषण सामग्री के प्रसार से जुड़े 4,50,207 मामले सामने आ चुके हैं।

एजेंसियों, इंटरनेट इंटरमीडियरीज और सिविल सोसाइटी को इस खतरे पर अंकुश लगाना चाहिए। आयोग ने सभी संबंधित अथॉरिटी को एडवाइजरी की सिफारिशें लागू करने की सलाह दी है।

Deccan Herald

## **Trapped in a binary system, trans people denied basic rights**

<https://www.deccanherald.com/specials/trapped-in-a-binary-system-trans-people-denied-basic-rights-2746543>

On the hollow eve of 47-year-old Janasya's\* death, her closest friends, those she considered family, were forced to contend once again with statements that questioned the core of their existence and gender identities.

"Her parents kept referring to her as their 'son'. They quickly performed the funeral, before any questions arose," says Uma P, a Bengaluru-based transgender rights activist and founder of Jeeva, an NGO.

It was clear that Janasya's family did not recognise Janasya's perception of herself. Yet, without question, it was to them that the house that she had carefully saved to build in Bengaluru went.

"For most transgender people, even if we are on good terms with our families, inheritance is out of the question. We are abandoned in our childhoods, with no education or financial resources, but we cannot return to our families hoping that we will get financial support or what is rightfully ours," says Uma.

Like inheritance, access to education, economic opportunity, dignity and justice have been severely impeded for generations of transgender people across India. To date, there is no accurate picture of the population of gender minorities in the country. The last census, conducted in 2011, put that number at 4.88 lakh transgender people in India, but NGOs estimate that a more accurate figure would be 4 to 5 times that.

As a result, trans people have been living on the margins even after years of documented political and social struggle.

There was hope that the Transgender Persons (Protection of Rights) Act, 2019 (TPPRA) would be a realisation of this struggle and would bring progress in rights to self-determination, prohibit discrimination and put in place welfare measures and more importantly, obligations for both state and non-state actors.

The material legal advancement that the 2019 Act provided was welcomed by the National Human Rights Commission (NHRC) in an advisory circulated in September this year. However, it recognised that even after the Act has been passed, "transgender persons continue to grapple with discrimination in multiple facets of life. This discrimination manifests in various forms such as employment disparities, limited access to healthcare, and exclusion from social circles."

Similarly, gender and sexual minorities have found the TPPRA to be severely lacking, and hardly implemented.

## Document change

A particularly sore point was the Act's move to mandate legal gender recognition—the process by which trans people can change their documents to reflect their identity. According to Madhumitha, a Mysuru-based trans woman, this process exposed them to the red-tapism around bodily autonomy.

“I have been living and identifying as a trans woman for more than 20 years. All my identification documents—including my voter ID and Aadhar card—identify me as female,” she says.

Madhumitha's passport was the only pending document that needed to be updated. “I was told I needed a transgender certificate and identity card (TGID) to carry out the change. I was one of the first few from my community to apply in the Mysuru district,” she says.

After the TPPRA was brought into effect, the Ministry of Social Justice and Empowerment launched the National Portal for Transgender Persons, through which trans persons could apply to acquire an ID based on their self-perceived identity.

In reality, self-perception is not enough, as the application process also requires a self-attested affidavit declaring their gender identity, a place of residence, and a government ID. This bundle of documents is then sent for the approval of a district magistrate, who has jurisdiction over the applicant's place of residence.

A major contention for the community has been the requirement to furnish a permanent address, which specifies that the applicant must have spent a full year of residence in the area under the magistrate's jurisdiction.

Many trans people communicate that since government documents are not updated with self-perceived identities, they often have estranged families' addresses. “After suffering serious abuse and hearing taunts year after year from my parents, I ran away at the age of 17. I did not have a permanent place of residence at the time,” says Mallika\*, a trans woman in Bengaluru.

Mallika's experience with temporary and changing housing situations is unfortunately the standard for trans people across the country. A mismatch in the addresses enlisted in the ID card versus the one mentioned in the application might be cited as reasons for rejection of the TGID application, Mallika says.

## Delays in processing

Even when applications are not rejected, long delays mire the process. Within 30 days from when the magistrate receives an application, the certificate and ID are mandated to be issued, according to the TPPRA.

On the ground, this process is longer and more arduous than described. “It has been more than a year since I applied, and there is no sign of the ID card yet,” says Madhumitha.

To date, the national portal has received 18,969 applications, out of which 3,892 are pending. Close to 20% of these applications have been pending for more than 4 months, and 18% have been pending for more than a year.

Of all the states and union territories in India, Karnataka has the highest number of pending applications (43%).

An officer from the Karnataka State Women's Development Corporation provides some insight into why such delays could occur. “The national portal was launched by the Union Ministry of Social Justice. In Karnataka, the programmes for the welfare of trans people fall under the ambit of the Women and Child Development Department,” the officer says.

This split in managing authorities means that those responsible for processing ID cards are deputy commissioners. “Deputy commissioners wait for many applications to come in and clear them maybe once a month,” the officer adds.

Ultimately, in slow cases, “the application changes so many hands that it is easy for officers to blame each other and pass on the responsibility,” Madhumitha says. Without her ID, she has not been able to avail welfare programmes but more importantly, she has been unable to ensure that all her government documentation matches her gender identity.

### Families and partnerships

Also integral to the process of self-determination is the right to break away from bonds that enforce limiting norms of the self, families and partnerships. The recent Supreme Court ruling, which legalises marriage of transgender individuals in heterosexual relationships, does so only if the individual has identified within a gender binary—as a man or a woman. “The right to marry for people who identify as transgender, and are in the process of self-determination, is not recognised,” says Arvind Narrain, an advocate and founder member of the Alternative Law Forum. Even queer familial structures are not recognised or considered in policy.

Mallika explains that her time at home, with her family, was torturous. “I was being shamed every day for the way that I walked, talked and lived. Everything I did was wrong,” she says. The body and the mind, in such atmospheres, are sites of recurrent violence or intrusions.

The culmination of such a struggle is escape — which ultimately leads to the forging of new bonds that encourage and support trans people’s existence. “After I was accepted into a hijra mane, I had some measure of security, I had food and a roof over my head. I was very grateful,” she explains.

In hijra manes or gharanas, the 'guru' is the guardian of transgender youths, called chelas who pay for food and shelter. In fact, according to a study sponsored by the NHRC, due to the unavailability of accommodation, around 53% of trans people live in hijra households.

The TPPRA, recognises transgender people's right to residence but only does so in the context of birth families. The Act states that, "every transgender person shall have a right to reside and be included in their household. If the immediate family is unable to care for the transgender person, the person may be placed in a rehabilitation centre, on the orders of a competent court."

The issue, according to Uma, is that the transgender person is not vested with the power to make this decision and trans familial structures are not given legal legitimacy. Instead, "it is blood relatives who are given this privilege, even when there is a lot of physical and emotional abuse involved."

While there are many advantages to such hijra communities, Mallika explains that the power that the guru has can quickly devolve the relationship into one resembling bonded labour. "There can be increases in the cut in our income or tasks given without reason. Some heads of families can choose to target individuals as well," she says.

Vyjayanthi Vasanta Mogli, a Hyderabad-based transgender woman and activist, explains that there is a serious need to put the house in order because of such intra-community violence. "There are enough and more issues to fix. However, instead of improving the situation, the government is choosing to further marginalise a disenfranchised community," she says.

### Inheritance rights

One way that the government can protect transgender persons from familial, intra-community, or societal violence is to reduce residential instability. "No one wants to rent to us. After 50, when we are unable to beg, who will take care of us? The guru-chela system at least provides this protection," explains Mallika.

A vital component of civil rights law—property rights—still remains largely elusive to gender minorities. In fact, the Supreme Court recognised this lack in its landmark 2014 NALSA judgment. It attributed hurdles in accessing inheritance rights to being based on a binary notion of gender and difficulty in identifying successors due to the lack of marriage and adoption rights.

For instance, the Hindu Succession Act 2005 is strictly limited to male and female heirs in its definition and order of succession. Additionally, although the definition of 'heirs' is more gender-neutral in the Indian Succession Act 1925, gender-based inequality in its order of succession is still present.

Additionally, failure in the past to recognise trans partnerships, family structures and adoption has also meant that succession of property rights is under question. Kiran

Nayak, a trans man with disabilities based in Bengaluru, says, "I have informally adopted a relative's baby. My partner and I have been taking care of the baby for five years, but have no idea if we would be able to pass on our assets."

The NHRC advisory recognises that the trans population has historically been denied property rights. It recommends that the Union and state governments should allow transgender persons to inherit ancestral agricultural land.

Jayna Kothari, executive director of the Centre for Law and Policy Research and senior advocate in the Supreme Court of India explains, "Most often, trans persons are forced to leave home or run away from home when they are very young. The family then cuts them out of property inheritance."

To access these rights, trans people have to also make the decision to spend financial resources and undertake legal effort. "They might not have the resources to fight such cases," says Kothari. In this context, the advisory's recommendation to enable the inheritance of agricultural land was welcome. "This should be extended to all property. They should have this legal right just as any other citizen has," she says.

#### Employment and reservations

Employment, too, is a site of gross inequality. For instance, when the recruitment notification came that the Karnataka police forces were hiring at the tail-end of 2021, Janavi Mallesh, a trans woman, grew hopeful. The recruitment announcement came after the Karnataka High Court held a 1% horizontal reservation for transgender people in civil services posts.

She tied up loose ends, quit her job at an NGO and dedicated five months to preparing for the exams. The recruitment process required physical examinations, "which are absolutely not designed for trans people. The tests are gendered and involve a timed run, high jump and shotput," she says. "Many trans people who have undergone gender-affirming surgeries are in recovery for years. However, the tests do not take this into consideration," she says.

Nevertheless, she persevered. "I was sure that I would pass the written exam too. The cut-off was only 50 marks," she says. When the results came, her name was not on the list. Janavi was in shock, she approached several senior police officials to find out what had happened.

"A senior official in the force told me that they intended to hire 'male' candidates. He even advised me to refrain from pursuing the job since it would mean that I would have to share accommodation in the bunker with men," she says.

In the past, Janavi had to rely on begging and sex work to put herself through B Com and M Com. "People judge us for begging and sex work, but society keeps us from moving on from these jobs. They are the ones who box us in," she says.

A study commissioned by the NHRC found that just 6% of transgender people are formally employed in either the private or non-governmental organisation (NGO) sector. About 5% are engaged in sex work and domestic labour respectively.

To improve economic opportunity, gender minorities have been advocating for horizontal reservations—similar to the order in Karnataka — but as Janavi's experience illustrates, there is a long way to go to ensure that trans people are able to access these opportunities and that workplaces are secure environments for trans people.

According to the NHRC study, close to 60% of transgender individuals have never attended school. "If we expect trans people to compete and apply for civil service positions, you must start with education," says Mogli.

#### Next steps

Nayak explains that though the TPPRA has flaws on several fronts and misses out on its opportunity to fortify fundamental rights, many of its positives have not been implemented. "There is a wide variation in the pension provided by the state governments, ranging from Rs 800 in Karnataka to Rs 3,000 in Telangana. Some states have put in place transgender welfare boards, while others have not," he says.

The Act also obligated private establishments, educational institutions and government agencies to create inclusive environments free of discrimination. These are key for trans people to live dignified lives and enjoy their fundamental rights, Nayak adds.

Additionally, the advisory circulated by the NHRC, although neither binding nor comprehensive, contains actionable, implementable solutions in different areas—consultative medical treatment, anti-discrimination cells at educational institutions and grievance redressal mechanisms in the workplace, says Kothari. "States should take this up in the right spirit and implement these guidelines," she adds.

Awareness programmes matching the scale and popularity of the 'Beti Bachao Beti Padhao' movement could also help educate and sensitise the public about trans issues, says Mogli.

Over the years, trans activists and individuals have been growing increasingly disheartened. "It is easy to feel demotivated looking at the daily violence and slow progress. Our mentors always tell us to look at the positives, though. So, I am viewing it this way: Out of all the things we are fighting for, we are bound to see some change in our generation. This adds fuel to our fight," says Mallika.

(\*Names have been changed to protect identity)

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New Indian Express

### **Dengue cases in Odisha's Ganjam go up to 152**

Meanwhile, social worker Rabindra Mishra complained that under-construction drains across the district have turned into breeding grounds for mosquitoes.

<https://www.newindianexpress.com/states/odisha/2023/oct/28/dengue-cases-in-odishas-ganjam-go-up-to-152-2627823.html>

BERHAMPUR: The spurt in dengue cases across Ganjam district has become a cause of concern for the residents. As per health administration records, dengue cases have gone up to 152 this year. Till last week, the district had recorded 141 dengue cases. While 87 positive cases were reported last month, one dengue positive case was detected from Kukudakhandi block on Thursday while two other cases were reported from Kabisuryanagar and Jagannathprasad blocks on Friday.

However, district nodal officer Dr Santosh Padhy claimed the indigenous cases of dengue this year are extremely low as compared to the previous years. "Of the 152 positive cases, only 59 are indigenous in nature," he informed adding, three patients are currently undergoing treatment. He said health staff visit the dengue-prone areas frequently and advice people on maintaining proper sanitation.

Meanwhile, social worker Rabindra Mishra complained that under-construction drains across the district have turned into breeding grounds for mosquitoes. Mishra had also filed a petition with National Human Rights Commission (NHRC) seeking its intervention to prevent the spread of dengue. "Despite the Commission's direction to the district collector to take necessary steps, nothing was done in this regard," he rued.



India Times

## **NHRC Recommends Replacing 'Child Porn' With CSAM, Specialised Police Unit To Deal With Such Cases**

<https://www.indiatimes.com/news/india/nhrc-recommends-replacing-child-porn-with-csam-618881.html>

The National Human Rights Commission has made several recommendations to all states and UTs to combat the circulation of child sexual abuse material (CSAM) online.

The NHRC, in its advisory, has recommended replacing the phrase 'child pornography' in the text of the POCSO Act, 2012, with 'Child Sexual Abuse Material'.

Why the term should be replaced

The phrase 'Child Pornography' in Section 2(1) (da) of the POCSO Act, 2012, should be replaced with 'Child Sexual Abuse Material' (CSAM). Terms like 'use of children in pornographic performances and materials', 'child sexual abuse material' and 'child sexual exploitation material' to be preferred over 'Child Pornography', the advisory said.

How to define sexually explicit?

The term "sexually explicit" needs to be defined under Section 67B of the IT Act, 2000, to ensure the prompt identification and removal of online CSAM, the NHRC said.

Why there should be a special police

"A specialised central police unit in the government of India to deal with CSAM-related matters, including detecting CSAM content, maintaining its repository, analysing patterns, assisting investigative agencies, initiating the process for takedown of content and so forth, be established.

"It should consist of experts in identification and investigation of CSAM in order to focus on identifying and apprehending CSAM offenders both in dark web and open web and developing a comprehensive and coordinated response of investigation and law," the advisory read.

Every state and UT should have at least one specialised police unit for the detection and investigation of CSAM-related cases and the apprehension of offenders. The government of India will assist the setting up and equipping these units, for instance, through grants under the Modernisation of State Police Forces (MPF) Scheme, Police Technology Mission and Nirbhaya Fund, it added.

A national database of CSAM with hash values of known CSAM be created by the proposed specialised central police unit so that the required content be blocked by intermediaries. This should be maintained by the proposed specialised central police unit, it said.

What should be the punishment?

The NHRC has recommended that the current quantum of punishment for offences pertaining to online CSAM under Section 14 of the POCSO Act and Section 67B of the IT Act (seven years or less) "may be relooked or exempt the application of Section 41A CrPC by making appropriate legislative changes," it says.

What ISPs, and OTTs should do?

"Intermediaries, including social media platforms, Over-The-Top (OTT) applications and Cloud Service Providers, must deploy technology, including content moderation algorithms, to proactively detect CSAM on their platforms and remove the same. Similarly, platforms using end-to-end encryption services may be mandated to devise additional protocols/ technology to monitor the circulation of CSAM. Failure to do so to invite withdrawal of 'safe harbour' clause under Section 79, IT Act, 2000," reads the advisory.

ISPs, web browsers and OTT players to ensure that pop-up warning messages are displayed for searches related to CSAM, the NHRC has recommended.

How to rehabilitate CSAM survivors?

Further, the rights body said that there should be training courses for and sensitisation of officials and psycho-social care and support for survivors.

Survivors of CSAM should be provided support services and opportunities for rehabilitation through various means, like partnerships with civil society and other stakeholders. Psycho-social care centres may be established in every district to facilitate need-based support services and organization of stigma eradication programmes, it said.

Hindustan Times

## **NHRC issues advisory regarding Child Sexual Abuse Material on internet**

[https://www.hindustantimes.com/india-news/nhrc-issues-advisory-regarding-child-sexual-abuse-material-on-internet-101698473197792.html#google\\_vignette](https://www.hindustantimes.com/india-news/nhrc-issues-advisory-regarding-child-sexual-abuse-material-on-internet-101698473197792.html#google_vignette)

The National Human Rights Commission (NHRC) has issued a new advisory to protect the rights of children by combating the production, distribution, and consumption of Child Sexual Abuse Material (CSAM) on the internet.

The tremendous increase in the production, distribution and consumption of CSAM needs to be imperatively addressed as it may have a lasting psychological impact on the child leading to further disruption of his/her overall development, the human rights body said.

According to the advisory, there has been a 'colossal' rise in CSAM on the internet across the globe, with more than 1,500 instances of publishing, storing, and transmitting CSAM being reported in 2021.

According to the NHRC, about 450,207 cases of CSAM have been reported in 2023 so far. 204,056 cases reported in 2022 and 163,633 cases reported in 2021.

The four-part advisory released by NHRC on Friday aims to address the legal gaps in laws concerning CSAM and offers suggestions regarding training officials and offering support to survivors of sexual abuse, creating a specialised law enforcement team to investigate CSAM crimes, and regulating internet websites to monitor and block CSAM content online.

### Legal changes, addressing gaps

NHRC recommended terminology changes and suggested that the term 'child pornography' in the Protection of Children from Sexual Offences (POCSO) Act, 2012 should be changed to 'Child Sexual Abuse Material (CSAM)'.

"Terms like 'use of children in pornographic performances and materials', 'child sexual abuse material' and 'child sexual exploitation material' to be preferred over 'Child Pornography'", the advisory read.

It also urged the government to redefine the term 'sexually explicit' in the IT Act, 2000 to ensure timely identification and removal of online CSAM.

The Centre urged for the harmonisation of laws across jurisdictions in India for arrests and asked the government to enhance punishments by making appropriate legislative changes considering the gravity of the offences.

### Detection, and investigation of CSAM

The advisory recommends States and Union Territories install a Specialised State Police Unit in each state solely for the detection and investigation of CSAM-related cases and to apprehend offenders, and also a Specialized Central Police Unit in the government to deal with CSAM-related matters.

“It (Specialized Central Police Unit) should consist of experts in identification and investigation of CSAM in order to focus on identifying and apprehending CSAM offenders both in the dark web and open web and developing a comprehensive and coordinated response of investigation and law enforcement agencies towards monitoring, detection, and investigation of CSAM,” the advisory read.

The human rights body has also asked the government to form and maintain a national database of CSAM to collect data regarding the trends, prevalence, patterns, names, and other socio-economic parameters to better understand interventions. A suggestion was also made to include CSAM offenders convicted under the IT Act, 2000, and the POCSO Act, 2012 to be included in the National Database of Sex Offenders in India.

“The proposed Specialized Central Police Unit must ensure collection of disaggregated data pertaining to prevalence, trends, and patterns of CSAM, involving gender, age, caste, ethnicity, or other socio-economic parameters to better understand the issue and inform policy-based interventions,” it said.

NHRC recommended the government use technology like hotspot mapping and predictive policing to identify repeat offenders and to incentivize the development of technological tools to detect CSAM through hackathons and grants as well.

Sensitisation, awareness, and victim support

The advisory further recommended training courses and sensitisation of prosecutors, judges, police officials, and all those directly involved in the handling of CSAM cases.

“Police officials dealing with cases pertaining to CSAM to be imparted sensitisation training on rights of children in the digital environment, their specific vulnerabilities on the Internet, the extent and emerging manifestations of CSAM and the use of child-friendly procedures in investigation,” it said.

The advisory also encouraged awareness and sensitisation of parents and children in schools, colleges, and other institutions to increase awareness to recognize the signs of online child abuse.

Psycho-social care centres for survivors of CSAM have also been recommended.

Regulations regarding social media, OTT platforms

The NHRC has recommended that all internet intermediaries should develop a CSAM-specific policy outlining an in-house reporting mechanism and how they'll use technology to detect and remove CSAM from their platforms.

“Intermediaries, including Social Media Platforms, Over-The-Top (OTT) applications and Cloud Service Providers, must deploy technology, including content moderation algorithms, to proactively detect CSAM on their platforms and remove the same,” it said.

Similarly, the media platforms were advised to speed up the time taken for the removal of CSAM content from their platforms and that they should explore partnerships amongst themselves and the government to ensure real-time sharing of information concerning CSAM content on the internet.

Further, the NHRC has asked all concerned authorities of the Union/State Government(s)/ UT Administration(s) to implement the recommendations contained in the advisory and send an Action Taken Report (ATR) within two months for information of the Commission.

Times of India

## **Man gets life imprisonment for raping a minor in Rajkot**

<https://timesofindia.indiatimes.com/city/rajkot/man-gets-life-imprisonment-for-raping-a-minor-in-rajkot/articleshow/104769315.cms>

A man in Rajkot has been convicted and sentenced to life imprisonment for raping a minor girl. The crime occurred in 2018 when the girl was 16 years old. The court also ordered a compensation of Rs 7 lakh to be paid to the survivor. The accused, Jignesh Yadav, had befriended the girl and raped her at his home. Despite arguments from the defense, the court found the accused guilty based on witness testimonies and medical reports.

RAJKOT: A special POCSO court of Rajkot on Thursday convicted a man for raping a minor girl and awarded him life imprisonment. The girl was 16 and studying in Class 10 when the crime took place in 2018. POCSO court judge J D Suthar also ordered that a compensation of Rs 7 lakh be paid to the rape survivor. According to the case, in July 2018, accused Jignesh Yadav, then 20 years, would intercept the girl on her way to school.

After a few days, he managed to befriend her. One day, he took her to his home on his bike and raped her.

When the girl's mother came to know about this, she filed a police complaint though 20 days had passed since the incident. During the trial, the prosecution produced in the court witnesses and medical reports of both the accused and the survivor. The defence argued that the complaint was registered 20 days after the crime and that it was not proved that she had come to the place from where it was stated that she was kidnapped.

The defence also argued that no traces of sperm or blood of the accused were found in the private parts of the survivor during medical examination. However, district government pleader S K Vora argued that POCSO Act does not say that the survivor should have disclosed about the crime on the day of the incident. "The minor rape survivor needs courage to report this kind of incident and when she told her mother about it, her mother immediately filed the complaint. "That the FIR was filed late does not mean that the accused is innocent. The traces of blood and sperm are supportive evidence but not the only evidence to prove this case," argued Vora.

At the end of hearing, the POCSO judge convicted accused Yadav for raping the minor and awarded him life imprisonment and ordered the government to pay Rs 7 lakh compensation to the survivor. (The victim's identity has not been revealed to protect her privacy as per Supreme court directives on cases related to sexual assault)

Jagran English

## **NHRC Recommends Replacing 'Child Porn' With 'Child Sexual Abuse Material' In POCSO Act**

<https://english.jagran.com/india/nhrc-recommends-replacing-child-porn-with-child-sexual-abuse-material-in-pocso-act-10110274>

The rights panel stated in the advisory that the term "sexually explicit" needs to be defined under Section 67B of the IT Act, 2000, to ensure the identification and removal of the online CSAM.

The National Human Rights Commission (NHRC) has issued a new advisory to safeguard children's rights by restricting the production, distribution, and consumption of Child Sexual Abuse Material (CSAM) on the internet. The human rights body has also recommended that the phrase 'child pornography' in the POCSO Act should be replaced with Child Sexual Abuse Material (CSAM).

The rights panel stated in the advisory that the term "sexually explicit" needs to be defined under Section 67B of the IT Act, 2000, to ensure the identification and removal of the online CSAM.

"Terms like 'use of children in pornographic performances and materials', 'child sexual abuse material' and 'child sexual exploitation material' to be preferred over 'Child Pornography'", the advisory by human rights body read.

The Advisory for Protection of the Rights of Children against Production, Distribution and Consumption of Child Sexual Abuse Material (CSAM) has been sent to all the states and Union Territories, and NHRC sought an action report in two months, as reported by news agency PTI.

The four-part advisory released by the NHRC on Friday intends to address the legal gaps in laws concerning CSAM. In addition to making recommendations for regulating internet websites to monitor and block CSAM content online, the advisory also offers suggestions to provide training to officials, offering support to the survivors of sexual abuse.

The rights panel also recommended that the national database on sex offenders should be expanded to include CSAM offenders convicted under the IT Act and Pocso Act.

"It should consist of experts in identification and investigation of CSAM in order to focus on identifying and apprehending CSAM offenders both in dark web and open web and developing a comprehensive and coordinated response of investigation and law," the advisory read.

It also mentioned that the current sentence for offences involving online CSAM under Section 14 of the POCSO Act and Section 67B of the IT Act (seven years or less) "may be relooked or exempt the application of Section 41A CrPC by making appropriate legislative changes."

Sunday Guardian

### **Bengal sees 300% jump in police custody deaths in one year**

<https://sundayguardianlive.com/top-five/bengal-sees-300-jump-in-police-custody-deaths-in-one-year>

The number of deaths in police custody saw an alarming 300% spike in West Bengal between 1 April 2022 and 31 March 2023, shows data collected by the Ministry of Home Affairs and the National Human Rights Commission. In terms of actual figures, Maharashtra recorded the highest number of 23 police custody deaths during the period—a drop of around 20% from 30 such deaths in 2021-22. At the overall national level, the data showed, there were a total of 164 deaths in police custody in the country in 2022-23, down 6% from 175 in 2021-22. The rise in cases in West Bengal seems sharp, partially due to a low base effect as the number of police custody death cases in the state in 2021-22 stood at 5. The number has shot up to 15 in 2022-23. Due to a similar low base effect, in Andhra Pradesh the spike in the number of such deaths appears to be 400% as the cases rose from 1 in 2021-22 to 5 in 2022-23. Delhi also recorded a 400% rise in custody deaths—from 1 to 5—during this period. Uttarakhand's figure of such deaths rose 200% from 2 in 2021-22 to 4 in 2022-23. In Tamil Nadu, there was a 75% jump in such deaths, up from 4 in 2021-22 to 7 in 2022-23.

The other big states that recorded a rise of about 25% in deaths in police custody include Uttar Pradesh and Punjab. In both states, the number of such deaths rose from 8 to 10 over one year. In Assam, the number of police custody deaths rose 22%, from 9 in 2021-22 to 11 in 2022-23.

In terms of the number of police custody deaths in 2022-23, Bihar recorded the second-highest figure of 16 cases. Gujarat recorded the third highest number of 15 such deaths, followed by Madhya Pradesh with 8 cases of such deaths. Interestingly, Madhya Pradesh recorded 8 such deaths each in the last two years as well. The sharpest fall in cases of police custody death, among the larger states, was recorded in Rajasthan over the past one year. From 13 in 2021-22, the number of police custody deaths dropped to 4 in 2022-23—a fall of about 69%. In Karnataka, the cases of such deaths fell 37%—from 8 in 2021-22 to 5 in 2022-23. In Kerala, police custody deaths fell by 67%.

In Haryana, the number of police custody deaths dropped by 25%—from 4 in 2021-22 to 3 in 2022-23. Jharkhand, for the third year running, recorded 5 police custody deaths in 2022-23. Himachal Pradesh recorded one police custody death in 2023. Earlier, a parliamentary panel took note of an NHRC report on police custody deaths and suggested the setting up of a National Commission for Police Custodial Deaths to monitor and investigate all cases of police custodial deaths.



Its other suggestions under consideration of the home ministry include an amendment to the CrPC to make it mandatory for the police to video record the interrogation of all detainees; training of police personnel on the prevention of torture and other forms of ill-treatment of detainees.

The setting up of a compensation scheme for the families of the victims of police custodial deaths was also a key suggestion to the ministry. The report also called for the strengthening of the oversight mechanisms to ensure that the police are accountable for their actions.

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Also, 1,505 instances of publishing, storing and transmitting CSAM under provisions of the IT Act and the POCSO Act were reported in 2021. Alarmed by this troubling trend, 71 Governments joined forces at the UN in June to endorse a call-to-action statement, urging swifter and more comprehensive measures to eliminate known instances of



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In line with the UN call, the NHRC has also stated that the IT Act should include Virtual Private Network (VPN) service providers, Virtual Private Servers (VPS) and cloud service providers to avoid ambiguity and reinforce compliance of CSAM-related provisions of the Act.

It also recommended that the national database on sex offenders be expanded to include CSAM offenders convicted under the IT Act and the POCSO Act.

“Considering the speed of circulation of online CSAM, the time taken for removal of content by intermediaries after getting information from authorised agencies should not be more than six hours, as against 36 hours under the rules of the intermediary guidelines 2021,” the advisory said.

It further suggests setting up at least one specialised State police unit in every State and UT and a specialised Central police unit under the Central Government to deal with CSAM-related matters. Indicating that fund should not be an excuse to delay action in the matter, the NHRC called upon the Centre to assist in the setting up and equipping these units, for instance, through grants under the Modernisation of State Police Forces (MPF) Scheme, Police Technology Mission and Nirbhaya Fund, it added.

In an elaborate advisory comprising four-parts, the top human rights body said terms like “use of children in pornographic performances and materials,” “child sexual abuse material” and “child sexual exploitation material” to be preferred over “child pornography.”

The term “sexually explicit” needs to be defined under Section 67B of the IT Act, 2000 to ensure the prompt identification and removal of online CSAM, the rights panel has said in the advisory.

Considering the gravity of the offence, the current quantum of punishment for offences pertaining to online CSAM under Section 14 of the POCSO Act and Section 67B of the IT Act (seven years or less) “may be relooked or exempt the application of Section 41A CrPC by making appropriate legislative changes,” it said.

The advisory further stresses that intermediaries, including social media platforms, OTT applications and Cloud Service Providers, must deploy technology, including content moderation algorithms, to proactively detect CSAM on their platforms and remove the same.

“Similarly, platforms using end-to-end encryption services may be mandated to devise additional protocols/ technology to monitor the circulation of CSAM. Failure to do so invites withdrawal of the ‘safe harbour’ clause under Section 79, IT Act, 2000. ISPs, web browsers and OTT players to ensure that pop-up warning messages are displayed for searches related to CSAM,” the NHRC has recommended.

A national database of CSAM with hash values of known CSAM be created by the proposed specialised central police unit so that the required content be blocked by intermediaries. This should be maintained by the proposed specialised central police unit, as per the advisory.

“Survivors of CSAM should be provided support services and opportunities for rehabilitation through various means, like partnerships with civil society and other stakeholders. Psycho-social care centres may be established in every district to facilitate need-based support services and organisation of stigma eradication programmes,” says the NHRC advisory.

# साइबर जगत को बच्चों के लिए सुरक्षित बनाने की पहल

● राष्ट्रीय मानवाधिकार आयोग ने अपने एक परामर्श में इस संबंध में उपायों का किया जिक्र

अर्चना ज्योति। नई दिल्ली

पोक्सो अधिनियम में 'चाइल्ड पोर्नोग्राफी' शब्द को 'बाल यौन शोषण सामग्री' (सीएसएएम) से बदलना, आईटी अधिनियम के तहत शब्द की स्पष्ट पहचान को प्रेरित करना और ऑनलाइन सीएसएएम को हटाना सुनिश्चित करना उपायों की एक श्रृंखला है, जिसका उद्देश्य साइबरस्पेस को बच्चों के लिए सुरक्षित बनाना और साथ ही अपराधियों पर शिकंजा कसना है। राष्ट्रीय मानवाधिकार आयोग (एनएचआरसी) द्वारा



प्रस्तावित एक एडवाइजरी में ये उपाय बताए गए हैं।

एनएचआरसी ने ऑनलाइन सीएसएएम से संबंधित अपराधों के लिए मौजूदा सजा की समीक्षा के लिए भी एक मजबूत मामला बनाया है ताकि उन्हें विधायी कवर देकर सुरक्षित किया जा सके। आयोग का यह कदम नेशनल सेंटर फॉर मिसिंग एंड एक्सप्लॉइटेड चिल्ड्रन की 'साइबर टिपलाइन रिपोर्ट 2022' से जुड़ी चिंताओं के बाद आया है, जिसमें पता चला है कि अमेरिका

स्थित एनसीएमईसी को सभी देशों से प्राप्त 3.2 करोड़ रिपोर्टों में से, 56 लाख रिपोर्ट भारत से बाहर स्थित अपराधियों द्वारा अपलोड किए गए सीएसएएम से संबंधित हैं। इसके अलावा 2021 में आईटी अधिनियम और पोक्सो अधिनियम के प्रावधानों के तहत सीएसएएम को प्रकाशित करने, संग्रहीत करने और प्रसारित करने के 1,505 मामले सामने आए।

वास्तव में इस चिंतित करने वाली प्रवृत्ति से परेशान होकर, संयुक्त राष्ट्र में पहली बार जून में 71 सरकारों एक साथ आई और सहमत हुई कॉल टू एक्शन घोषणा में ऑनलाइन से ज्ञात बाल यौन शोषण सामग्री को हटाने के लिए आगे और तेज कार्रवाई का आग्रह किया गया है। कॉल टू एक्शन घोषणा इस मुद्दे पर जोर देता है कि इस बात पर वैश्विक सहमति बढ़ रही है।

Times of India

### **Custody of under-10 girls always mother's, says Madras high court**

<https://timesofindia.indiatimes.com/city/chennai/custody-of-under-10-girls-always-mothers-says-hc/articleshow/104791419.cms>

The Madras high court in Chennai has ruled that custody of a minor girl under the age of 10 should always be with the mother, citing the Hindu Minority and Guardianship Act. The court rejected a plea by a husband seeking custody of his 8-year-old daughter, noting that he had left the girl with his parents and moved to the US. The court directed the husband to hand over custody to the mother within four weeks.

CHENNAI: The Madras high court has made it clear that custody of a minor girl, aged less than 10 years, must always be with the mother. Though the Guardians and Awards Act is silent about the aspect, the Hindu Minority and Guardianship Act provides for it, HC said.

“We can take judicial notice of provisions available under the Hindu Minority and Guardianship Act which provides that custody of a girl child less than 10 years must always be with a mother,” a division bench of Justice R Subramanian and Justice D Nagarjun said.

The court made the observation while rejecting a plea moved by a husband seeking custody of his 8-year-old daughter. The bench further pointed out that the husband was happily living in the US for over a year leaving the girl in the custody of his aged parents. According to the father, he had left his well-paying job in the US and taken up a job in Mumbai to take proper care of his daughter.

Refusing to accept the claim, the bench said, “The minor child was born in 2015 and she is now eight-years-old. The father, who had the custody of the child, left the child with his parents and left to the US even in February, 2020.” The father said there was a prohibitory order passed by Mahila Court in Salem on November 30, 2020, injuncting him from taking the child with him to the US on February 1, 2020.

The court then dismissed the appeal moved by the husband and directed him to hand over the custody of to the child to her mother within four weeks.

# Custody death: Rs 7L paid to victim's kin

**PNS ■ BHUBANESWAR**

**T**he National Human Rights Commission (NHRC) has been informed that Rs 7 lakh was paid to the family of a victim, who was allegedly killed in the custody of Odisha Forest Department officials in Cuttack district.

The NHRC had directed to pay the compensation, acting on a petition filed by Supreme Court lawyer and rights activist Radhakanta Tripathy.

The petitioner alleged that the victim Dhaneswar Behera (59) was picked up by Forest Department officials on charges of poaching a tusker and removing its tusks. Later, Behera was found dead in the custody of the officials.

Tripathy requested the NHRC for fair investigation of the case, legal action against the accused officials and heavy compensation to the family members of the deceased with a job.

The commission directed the Odisha Government to pay a compensation of Rs 7 lakh to the family of the deceased within six weeks and submit the compliance report.

In response, the Superintendent of Police, HRPC, Odisha in a letter submitted the compliance report along with the e-payment advice made to the next of kin (NOK) of the deceased.

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It further suggests setting up at least one specialised State police unit in every State and UT and a specialised Central police unit under the Central Government to deal with CSAM-related matters. Indicating that fund should not be an excuse to delay action in the matter, the NHRC called upon the Centre to assist in the setting up and equipping these units, for instance, through grants under the Modernisation of State Police Forces (MPF) Scheme, Police Technology Mission and Nirbhaya Fund, it added.

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