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Rethinking Testimonial Credibility Trauma & Evidence under POCSO

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ABSTRACT

In order to establish a thorough legal framework for addressing child sexual abuse in India through child-sensitive procedures and evidentiary presumptions, the Protection of Children from Sexual Offences Act, 2012 (POCSO) was passed. Significant obstacles still exist in the judicial consideration of child testimony, notwithstanding its progressive design. This essay explores the conflict between the psychological realities of child victims' suffering and conventional evidential standards, namely the emphasis on consistency, immediacy, and coherence. The study makes the case that trauma typically causes delayed disclosure, fragmented memory, and testimonial inconsistencies—all of which are commonly misconstrued as signs of unreliability—based on psychiatric research and judicial developments. It also draws attention to the possibility of secondary victimization in adversarial procedures and the uneven implementation of child-friendly norms. In support of a trauma-informed approach to evidence review, the study highlights the necessity of expert intervention, judicial training, and contextual interpretation of testimony. It finds that in order to maintain the pursuit of justice's sensitivity to the lived reality of child survivors, it is imperative to reconsider believability standards.

I. INTRODUCTION

In India, child sexual abuse (CSA) is still a widespread and underreported problem that calls for a legislative framework that is both protective and sensitive to the sensitivities of child victims. By adopting child-friendly processes and putting some evidential obligations onto the accused, the Protection of Children from Sexual Offences Act, 2012 (POCSO) was a significant legislative step toward resolving these concerns (*Government of India, 2012*). Despite these developments, the adjudication of CSA cases still reveals a crucial conflict between the psychological realities of trauma endured by child survivors and traditional evidentiary standards.

As indicators of reliability, consistency, immediacy, and coherence in testimony are frequently highly valued under traditional legal criteria. However, psychological studies show that

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traumatic events often interfere with the construction of memories, causing victim narratives to appear inconsistent, delayed disclosure, and fragmented recall (*Herman, 1992; Lyon, 2007*). Important questions about how courts perceive and assess kid testimony under the POCSO framework are raised by this discrepancy.

In order to better match legal practice with psychological realities, this essay calls for a reevaluation of credibility standards and investigates whether current judicial procedures effectively account for trauma-informed understandings of testimony.

II. TRAUMA & TESTIMONIAL BEHAVIOUR

The psychological effects of child sexual abuse significantly change how victims view, interpret, and describe their experiences. It has been demonstrated that trauma interferes with regular memory encoding and retrieval, frequently leading to disjointed, non-linear, and inconsistent memories of events (*Herman, 1992*). It is challenging for young victims to give temporally consistent stories because, in contrast to ordinary memory, traumatic memory may be maintained as sensory and emotional pieces rather than coherent narratives (*Van der Kolk, 2014*).

Delayed disclosure in child sexual abuse situations is another well-documented issue. Children frequently postpone reporting abuse due to fear of the perpetrator, feelings of shame, confusion, or pressure from family and social structures (*London, Bruck, Ceci, & Shuman, 2005*). However, in court, these delays are sometimes misconstrued as signs of fabrication or embellishment.

Additionally, children are particularly vulnerable to authority pressure and suggestibility, which may affect how they describe their experiences during legal and investigative procedures (*Ceci & Bruck, 1995*). The idea that true testimony needs to be prompt, thorough, and internally consistent is challenged by these elements taken together.

Because of this, the application of conventional credibility indicators to kid evidence ignores the intricate psychological aspects of trauma, which puts authentic victim narratives at danger of being misinterpreted.

III. EVIDENTIARY FRAMEWORK UNDER THE POCSO ACT

To address the particular vulnerabilities of child victims, the Protection of Children from Sexual Offenses Act, 2012 (POCSO) creates a specialized evidentiary framework. In-camera trials, support person assistance, and the recording of comments in a non-threatening setting are just a few of the child-friendly procedural safeguards included in the Act (*Government of India,*

2012). Notably, Sections 29 and 30 shift the burden of proof and purportedly bolster the prosecution's position by introducing statutory presumptions of guilt and culpable mental state against the accused.

Despite the progressive legislative purpose behind these measures, their actual influence on evidence evaluation is still quite little. The prosecution still frequently relies heavily on the young victim's statement, frequently without supporting forensic or medical evidence (*Kumari, 2020*). This reintroduces conventional norms of consistency and coherence into judicial evaluation by placing an excessive amount of weight on the child's account's apparent believability.

Furthermore, the substantive assessment of testimony often follows traditional evidential expectations based on adult-centric ideas of dependability, even in the face of procedural modifications (*Jain, 2018*). As a result, there is still a disconnect between the protective framework envisioned under POCSO and the realities of trial interpretation, especially when trauma-affected testimony is involved.

IV. JUDICIAL APPROACHES: KEY CHALLENGES

Even with the POCSO Act's progressive structure, judicial methods for assessing child testimony still show notable discrepancies, especially when it comes to situations involving victims who have experienced trauma. The handling of testimony inconsistencies is one of the main issues. Contradictions and omissions have historically been seen by courts as signs of unreliability; however, the Supreme Court stressed in *State of Punjab v. Gurmit Singh* (1996) that small discrepancies should not overshadow the prosecutrix's overall credibility, particularly in cases involving sexual offenses. However, this rule is not always followed, and lower courts frequently still examine juvenile testimony using a strict coherence standard.

In the case of delayed reporting, a second difficulty emerges. Even though it has been repeatedly acknowledged that delays in submitting First Information Reports (FIRs) are typical in sexual offenses, judicial mistrust over these delays endures. The Supreme Court recognized in *State of Himachal Pradesh v. Sanjay Kumar* (2017) that reluctance and postponement of reporting are normal reactions to trauma, especially for victims who are children. In actuality, however, delays are still sometimes seen as undermining the prosecution's case.

Furthermore, the issue of secondary victimization is exacerbated by the adversarial character of criminal proceedings. Child witnesses may be retraumatized by aggressive cross-examination and repetitive recounting of events, which can have an impact on their psychological health and the consistency of their evidence. The POCSO Act requires child-sensitive procedures, but their

use is still inconsistent, which limits their ability to protect the credibility and dignity of child witnesses.

V. EMERGING JUDICIAL SENSITIVITY

Even if there are still many obstacles to overcome, current court developments point to a slow transition toward a more complex and trauma-informed view of child testimony. Courts are increasingly realizing that a victim's account does not always lose credibility due to little discrepancies or contradictions. The Supreme Court reaffirmed in *State of Maharashtra v. Bandu @ Daulat* (2018) that a prosecutrix's testimony does not need to be corroborated if it is deemed credible, even if there are some inconsistencies. This method reflects an increasing recognition of the psychological effects of trauma on narration and memory.

In a similar vein, judicial opinions have highlighted the need to analyze child victims' testimony sensitively and without subjecting it to overly technical examination (*Alamelu v. State, 2011*). Nevertheless, despite these progressive rulings, different courts continue to apply them inconsistently.

Therefore, even though the judiciary has started using trauma-informed viewpoints, the efficacy of these advancements in guaranteeing justice for child victims is still limited by the lack of a consistent methodology.

VI. TOWARDS A TRAUMA-INFORMED EVIDENTIARY APPROACH

The POCSO framework must change to a trauma-informed evidential strategy in order to address the gap between legal requirements and psychological realities. In order to help judges better comprehend behaviors like delayed disclosure, fragmented memory, and inconsistent testimony, there is an urgent need for specific judicial training on the psychological effects of trauma (*Judicial Academy, 2019*). More knowledgeable credibility evaluations that go beyond strict evidence requirements would be made possible by such training.

Second, the inclusion of expert testimony can help courts contextualize the child's story and differentiate between fabrication and inconsistencies brought on by trauma, especially from psychologists and child behavior specialists (*Lyon, 2007*). In keeping with the POCSO Act's child-friendly mandate, procedural improvements must also guarantee that cross-examination is carried out in a way that reduces intimidation and re-traumatization.

Lastly, the over-reliance on oral testimony alone would be lessened by bolstering forensic and investigative procedures. To make sure that the legal system reacts to child victims in an efficient and considerate manner, a comprehensive evidential strategy that combines legal

protections with psychological understanding is crucial.

VII. CONCLUSION

A major legal attempt to address child sexual abuse within a framework that is protective and child-centric is the POCSO Act. But as this essay shows, there is still a significant discrepancy between the intent of the law and how it is applied by judges, especially when it comes to the assessment of testimonies impacted by trauma. The psychological realities of abuse are not taken into consideration by the ongoing emphasis on conventional indicators of credibility, such as consistency and immediacy, which puts authentic victim narratives at risk of being misinterpreted. The impact of these difficulties is limited by the lack of a consistent trauma-informed approach, even though new judicial trends show an increasing awareness to them. In order to close this gap and prevent the pursuit of justice from unintentionally silencing the same voices it aims to defend, evidentiary standards must be fundamentally rethought.
