Need for a Child-Centric Approach in the Criminal Justice System

Abstract

Children are the most vulnerable part of society, and every adult citizen has a duty and responsibility to protect their well-being. Child victims are in danger of discrimination, psychological trauma, and lack of proper protection and rehabilitation facilities. Even though several laws are present to safeguard these children's rights, they do not receive the full benefits of these laws due to their lukewarm implementation.

Through this article, the author aims to highlight the dire repercussions of the execution of child victim protection laws insufficiently and ineffectively and the need to reform these laws to ensure a child-centric approach to ensure the physical, emotional, and psychological well-being of child victims. Through this article, the author examines various laws regarding the protection of child victims and puts forth suggestions for reformation of existing laws and future policies that could be implemented in India to strengthen child victim protection and rehabilitation.

Keywords: Child Victims, Rehabilitation, Child Centric Approach, Psychological Trauma

Introduction

Children are a country's most valuable resource and the foundation of a better future. They are buds awaiting to bloom, and every adult individual must safeguard and protect them. Recently, crimes against children have been increasing at an alarming rate throughout the world. Children become victims of numerous offenses such as domestic violence, neglect, trafficking, child labor, sexual offenses, cybercrimes, child marriage, and various other forms of physical and emotional abuse, as they are vulnerable and require constant care and protection.

But the brutal reality is that the people responsible for protecting and safeguarding these rights are often the perpetrators, or they ignore their responsibilities. In the 2024 NCRB report, 187,702 cases of offenses against children were reported, a 5.9% increase from 2023, when 177,335 cases were reported.[1] According to the 2016 NCRB report, a child becomes a victim of sexual abuse every 15 minutes.[2]and in 53% of cases, the perpetrators are individuals having a close relationship with the child.[3]

Child victims face the most challenging situation in terms of their safety and rehabilitation. The traumatic experience one faces as a child, if not addressed with proper care, would have a long-lasting impact on the mental and physical health of the child. Even though there are several laws present in Indian criminal law regarding the protection of child victims during the investigation and legal proceedings, due to the failure to implement such laws, child victims are subjected to revictimization and traumatization.

Moreover, the child's safety is at risk during legal proceedings, as they could be subjected to threats and physical harm. Child victims of sexual offenses are faced with several challenges due to grave negligence in the implementation of protection laws, as many child victims do not receive proper medical care or a child-centric approach during legal procedures and are subjected to threats of

[1] Nat'l Crime Records Bureau, Ministry of Home Affairs, Crime in India 2024, vol. 1, at 21 (2025), https://ncrb.gov.in (last visited Oct. 20, 2026) (archived at https://perma.cc/56TY-QPAB).
[2] Nat'l Crime Records Bureau, Ministry of Home Affairs, Crime in India 2016, vol. 1, at 239 (2017), https://ncrb.gov.in (last visited Oct. 20, 2026) (archived at https://perma.cc/ZQ8F-8BP5).
[3] Gwen Fernandes et al., Prevalence of Child Maltreatment in India and Its Association with Gender, Urbanisation and Policy: A Rapid Review and Meta-Analysis Protocol, 11 BMJ Open e044983 (2021), https://doi.org/10.1136/bmjopen-2020-044983 (last visited [20/10/16]) (archived at [https://perma.cc/2EX8-DCHW]).

exposing their identities by the perpetrators. Even rehabilitation facilities are not available to most of the child victims, and they are in grave danger of living in the same place as the offenders.

This highlights that the reformation of child victim protection laws in India is the need of the hour, as it is necessary for ensuring the safety of child victims as well as educating society about the importance of a child-centric approach in legal proceedings and focusing on the mental and emotional health of victims.

1. Objectives of this article

This article aims to advocate the reformation of child victim protection laws in India and to emphasize the need for a child-centric approach to legal proceedings. In this regard, the following are some of the pressing issues addressed in this article:

- The need for laws protecting child victims from revictimization and traumatization.
- The need for experts in the field of child psychology at every stage of legal proceedings
- To ensure proper rehabilitation facilities and timely availability of victim compensation.

2. Theoretical Approach

2.1. Best Interest of Child and Criminal Jurisprudence

The UN General Assembly adopted the Convention on the Rights of the Child (UNCRC) on 20 November 1989; it opened for signature on 26 January 1990, and India ratified it on 11 December 1992. The UNCRC is a comprehensive declaration covering all aspects relating to the rights of the child, consisting of ten principles from the 1959 Declaration of the Rights of the Child, expanding it to 54 articles.

Article 3(1) of the UNCRC, “In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration”, emphasizes the best interests of the child in terms of legal proceedings.

Similarly, Article 39 of UNCRC states that “States Parties shall take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of: any form of neglect, exploitation, or abuse; torture or any other form of cruel, inhuman or degrading

treatment or punishment; or armed conflicts. Such recovery and reintegration shall take place in an environment which fosters the health, self-respect, and dignity of the child".

Based on Articles 3 and 39 of the UNCRC[4]The Government of India has enacted laws such as the Juvenile Justice Act and the Protection of Children against Sexual Offences (POCSO) Act, which focus on the rights of child victims and their protection and rehabilitation.

The 2013 National Policy for Children focuses on creating a child-friendly approach in the judicial process and on adopting measures in legislative and administrative fields to develop policies aimed at child protection and empowerment at both national and state levels.[5]

Even though there are laws in place for the protection of child victims, they are not properly implemented by the responsible authorities, nor do they focus on actions that would benefit the child.

Time and time again, children are involved in the criminal justice system either as victims or as witnesses to a wide range of offences, testifying before the court about their experience in an unfamiliar setting, intimidated by being questioned by counsel and judges. This causes the child to experience the traumatic situation each time they are subjected to answering questions in court. Moreover, the traditional court settings are not child-friendly, which further leads to additional traumatisation. This has a serious impact on the mental health of the child, as they are subjected to revictimization and are forced to undergo the stressful world of an "adult" during legal proceedings.

Usually, criminal case procedures involve an FIR being registered based on the complaint in written form by the child themselves or an adult if the child is unable to do so. The police would record the statement of the child in their home or a place where they are comfortable. According to Section 176 (1) proviso 2 of the current BNSS, the statement of the rape victim could also be recorded as audio/video using a mobile phone.[6].

If the child is a victim of a sexual offense, they are to undergo medical examinations within 24 hours, and the physician must submit a report within 7 days according to Section 184 (6) of the

[4] *Convention on the Rights of the Child art. 3(1)* and *art. 39* (Nov. 20, 1989, 1577 U.N.T.S. 3)
[5] Ministry of Women & Child Development, Government of India, National Policy for Children, 2013
[6] Bharatiya Nagarik Suraksha Sanhita, Section 176(1), proviso 2.

BNSS[7]. The police must report the offense to the Child Welfare Committee and the POCSO court established to deal with sexual offenses against children. The Child Welfare Committee

may provide support and assistance to the child. The police must gather evidence, submit samples for forensic analysis, and call witnesses. Within ninety days, the inquiry must conclude and the police must present a chargesheet to the Special Court.[8]

Special courts appoint a Judge and Public Prosecutor trained in child psychology. The first step is to record the child's statement within thirty days, done by the judge in the presence of a parent, guardian, or relative. This process is in camera, ensuring the child never meets the accused. The child's identity must remain confidential to protect their dignity. The court should create a child-friendly environment, with the judge asking questions instead of counsel. Any hostile questioning must be stopped, and the child should not be required to testify multiple times. The goal is to complete the child's statement in a single visit while minimizing any trauma.[9]

The reality is that children are called repeatedly to the court to testify. The courts are also granting adjournments, and the child must go back home without testifying. This issue was strictly addressed in *Soumen Biswas @ Litan Biswas vs Unknown.*[10]

Delays in the trial procedures and repeated narration of the abuse faced by the child in each stage of legal proceedings subject a child to relive the traumatic experience faced by them. Moreover, being questioned about the same traumatic experience once again in an intimidating setting like the court will have a severe impact on the mental well-being of the child. In addition to this, the attitude of society, the police, advocates, and the judges towards them can lead to being revictimized.[11]

[7] Bharatiya Nagarik Suraksha Sanhita, Section 184(6)
[8] Protection of Children from Sexual Offences Act, Section 28.
[9] Ranjana Ferrao, Special Courts for Children: Lessons Learnt from India, 15 Int'l J. for Ct. Admin. 7, [page 4] (2024), https://doi.org/10.36745/ijca.485.
[10] *Soumen Biswas @ Litan Biswas vs Unknown*, C.R.M. (DB) No. 2220 of 2022 (Cal. Aug. 23, 2022) (India)
[11] D. Dube & R.K. Shaw, *Child Victims' Interactions with Criminal Justice: An Observational Study in West Bengal*, 6 J. Victimology & Victim Just., no. 1, at 49 (2023) [https://doi.org/10.1177/25166069231157915]

2.2. Psychological and Child-Centric Approach in Legal Proceedings Concerning Child Victims

The flawed approach to child victims and the chaos resulting from it causes a long-lasting impact on the physical and mental health of the child, which will even persist during adulthood and cause several mental health problems such as anxiety, post-traumatic stress disorder (PTSD), suicidal thoughts, etc. This emphasizes the importance of adopting measures that will ensure the mental well-being of the victim and safeguard them from traumatization at each step of the legal procedures.

To achieve this, a child-centric approach must be applied in the legislative process. Child-centrism is a way of treating children by prioritizing their needs and wishes. It is similar to the best interest doctrine, where children are considered as individual stakeholders and their opinions and views are given importance during legal proceedings. As children can not deal with complicated legal proceedings like adults, a different approach using child psychology must be applied in situations dealing with child victims,

According to Section 24 of the POCSO Act[12]the statement of the child victims should be recorded at the residence of the victim or any comfortable place by a female police officer in non-uniform. This is also stated under the guidelines for police officers under the Juvenile Justice Act.[13]. Mostly, the police officers would be accompanied by members of the Child Welfare Committee. In most cases, the officers would bluntly ask the victim to narrate the issue and would put unnecessary pressure on the victim to state all the facts. This is mainly because these officers, as well as members of the Child Welfare Committee (CWC), are not trained properly to approach a child victim while taking the victim's statement.

According to Section 39 of the Protection of Children from Sexual Offences (POCSO) Act[14], the State Government must develop guidelines for the involvement of non-governmental organizations, professionals, and experts with knowledge in psychology, social work, physical health, mental health, and child development. This initiative aims to ensure their collaboration

[12] Protection of Children from Sexual Offences Act, Section 24
[13] Guidelines for Establishment of Child Friendly Police Stations, [page 15-17], NCPCR, Government of India
[14] Protection of Children from Sexual Offences Act, Section 39

during the pre-trial and trial stages to support child victims, a service that is frequently lacking in various cases.

Young children have limited ability to assess their emotions and to communicate directly in words about their thoughts and feelings. Moreover, the pressure on the child to narrate the disturbing facts will make them reluctant to engage in the conversation, making it difficult to get information. This emphasizes the need for the presence of a child psychologist at every stage of legal proceedings.

In countries like the USA and Canada, forensic interviews are conducted at specialized facilities known as Child Advocacy Centers (CACs)[15]. A CAC is designed to be child-friendly and typically includes a team of professionals such as police officers, child protective services, prosecutors, medical staff, victim advocates, and trauma referral services, all accessible through a single point of intake. These multidisciplinary teams work together to connect children who report physical or sexual abuse with additional community support and resources, such as counseling and medical treatment. In Canada, there are approximately 25 CACs spread across seven provinces and three territories.[16]

Psychologists conduct interviews with the children using the play method. Playing is the way in which a child interacts with people and their surrounding environment. Children gather information about the world through play, express feelings, experiment with social roles, practice new learning, and understand relationships. Playing helps children deal with emotions like fear, stress, sadness, etc and helps them form social relationships and interact with society in a much better way.[17]

The gradual remembering and communicating about the traumatic event through play constitutes a process of desensitization. Through play therapy, the traumatic experiences of the child could be converted into emotions that they could process and understand, and not into something that causes everlasting mental and emotional trauma, making it easier for them to engage in the legal

[15] Jeffrey Nels Westman, NO MATTER HOW SMALL: CHILD WITNESSES IN CANADIAN CRIMINAL TRIALS, 23 Appeal Publishing Society 15 (2021), https://canlii.ca/t/7bt.
[16] Jeffrey Nels Westman, NO MATTER HOW SMALL: CHILD WITNESSES IN CANADIAN CRIMINAL TRIALS, 23 Appeal Publishing Society 15 (2021), https://canlii.ca/t/7bt.
[17] Penny Knapp et al., *Treatment of Child Crime Victims*, *in Mental Health Care for Child Crime Victims: Standards of Care Task Force Guidelines* ch. 5, at [page 5] (Michele Winterstein & Scott R. Scribner eds., 2001)

proceedings without feeling like they are reliving the pain and trauma of the abuse they faced.[18] So using play therapy by a certified child psychologist in each stage of legal proceedings is of utmost importance to ensure their mental well-being in such stressful situations.

The presence of a psychologist in the courtroom is also necessary because they could review the questions asked to the child during cross-examination as well as train the judges on how to communicate with child victims.

Constant support from parents and caregivers is essential for conducting therapy for children. The commitment of parents is a key factor in the success of the therapeutic process. When parents and caregivers maintain a positive attitude towards therapy, it fosters a similar outlook in children, encouraging them to attend sessions consistently and reducing counterproductive behaviors. Additionally, support from peers, teachers, and healthcare providers is also crucial for the effectiveness of therapy.[19]

In India, there is a significant lack of emphasis on the mental health of child victims, and many people are unaware of the importance of therapy. Factors such as poverty, illiteracy, the stigma surrounding mental healthcare, and a lack of awareness about mental health contribute to parents not encouraging their children to seek mental health treatment. Although several initiatives have been launched by the Child Welfare Committee (CWC) and NGOs to provide mental healthcare to child victims, access is not universal. This situation highlights the need for a legislative framework that mandates compulsory treatment for victims in need, which should be enforced by the courts and the CWC.

Therapy should also be offered to parents and caregivers. Parents often experience various mental health challenges as a result of their children's victimization. This issue is frequently overlooked, yet it significantly impacts both the recovery process for the children and the overall well-being of the entire family. Therefore, support should be extended to the families of child victims.[20]

[18] *Id.at [page 5]*
[19] *Id.at [page 7]*
[20] *Id. at[page 7]*

One of the major challenges faced by child victims is the lack of adequate rehabilitation facilities. In many cases, members of the Child Welfare Committee (CWC) do not take the initiative to admit victims to rehabilitation centers where they can receive the necessary support.

Most facilities are constructed in isolation and lack playgrounds or spaces for children to relax and play. A crucial aspect of the reform and rehabilitation process is incorporating recreational activities, including sports and cultural pursuits such as art, painting, singing, and dancing. Childcare institutions must ensure that children have access to both indoor and outdoor games.[21].

Additionally, rehabilitation centers should provide appropriate counseling and therapeutic support, which will empower children to navigate and overcome the trauma they have faced, fostering a positive and healing environment.

2.3. Legal Framework in India

Several provisions under the POCSO Act and Juvenile Justice Act focus on the mental and psychological well-being of the child victims; many of these are not followed because of a lack of awareness, and there are no provisions for criminalizing such conduct during legal proceedings.

The very first case to address the need for a child-centric approach in judicial proceedings is in the case of *Sudesh Jhaku v. K.C.J & Ors.*[22] In this case, the Hon'ble Delhi High Court laid down guidelines for how judicial proceedings should be conducted, focusing on the mental health and well-being of child victims and avoiding harassment by counsel during cross-examination. Supreme Court insisted that proceedings involving children be carried out as "in camera" proceedings, that adequate breaks be given during questioning, and that the questions be asked in a manner in which the child can understand, etc. This same was reiterated in the case of *Sakshi v. Union of India.*[23]

In *Soumen Biswas @ Litan Biswas vs State of West Bengal,* the Calcutta High Court issued guidelines regarding granting adjournments in POCSO cases. It was held by the court that adjournments must not be granted in POCSO cases and can only be granted in cases where the

[21] Protection of Children from Sexual Offences Act, Section 39
[22] *Sudesh Jhaku v. K.C.J., 1998 Cri. L.J. 2428 ([para. 38t]) (Del. [23 May, 1996]) (India).*
[23] *Sakshi vs Union Of India., A.I.R. 2004 S.C. 3566 to (2004) 5 SCC 518 ([para. 27]) (S.C.[26 May, 2004]) (India)*

child could not attend the proceedings for genuine reasons, and in such cases online proceedings can be carried out.

Even though there are several judgments governing the court proceedings, there are several cases where children are verbally harassed both by judges and the opposing counsel. There are several instances where comments regarding the character of the child were made by judges, and confusing and illegible questions were asked to the victims purposely to confuse the child while giving their depositions, etc.[24]

Before court proceedings, children are informed about the process; however, they often lack detailed knowledge about it. Sometimes, a child may not have visited the court and thus have no information about the proceedings. As a result, they may struggle to respond adequately, leading to feelings of humiliation and exhaustion after the proceedings.

In POCSO court, the judges are supposed to ask the questions to the child during cross-examination. This is not followed in several cases across India. Questions are posed directly to victims by the counsels. Aggression is the favorite tool employed by defense counsels to elicit answers from victims while also disbelieving them and questioning their credibility.[25] The defense counsel should be barred from asking questions to the victims, and the use of any humiliating language towards the victim should carry serious repercussions.

One significant challenge in the protection of child victims of sexual offenses is the limited awareness among some judges and specialized public prosecutors (SPP) concerning the provisions and implications of the POCSO Act and a lack of training in child psychology. Even with the appointment of experts, the judicial system often suffers from irregular proceedings, leading to delays in the expeditious adjudication of cases. Moreover, certain POCSO courts lack the appropriate infrastructure to ensure a child-friendly environment, increasing the risk of inadvertent contact between child victims and their perpetrators during court proceedings.

[24] Soumen Biswas, C.R.M. (DB) No. 2220 of 2022, [para. 11]
[25] Dube & Shaw, *supra* note 8, at [para 10].

3. Suggestions and Recommendations

These are some suggestions that could be made into policies for reforming the existing laws for the protection of child victims.

1. Appoint a trained child psychologist in cases dealing with child victims at every step of legal proceedings. The psychologist has to work along with law enforcement officers by taking the statement of the victims, training the special public prosecutor to handle the case, being present with the child during court proceedings, ensuring the proceedings are carried out in a child-friendly manner, and helping the judge ask questions to the victim during cross-examination.

2. Rehabilitation centers for child victims should be child-friendly and have an environment for the mental, physical, and emotional well-being and growth of the child. To ensure this, routine inspection by CWC and DCPU is needed. A set of rules and criteria must be established by a law governing rehabilitation centers for children.

3. Laws must be made to ensure a child-friendly court environment and proceedings, especially in the POCSO courts. Any humiliating or degrading questioning or treatment by the defense or the judge should be penalized.

4. Courts should have infrastructure that accommodates child victims. There must be separate rooms and restrooms for children; the courtroom must be constructed to create a playful and friendly environment and not to intimidate the child.

5. Necessary measures must be taken to prevent the victim from meeting the accused at any point in court proceedings. It should be made mandatory to take the victim's statement during legal proceedings through videoconferencing and not to bring child victims to the courts.

6. Mandatory mental health care must be provided to the child victims.

Conclusion

"There is no trust more sacred than the one the world holds with children. There is no duty more important than ensuring that their rights are respected, that their welfare is protected, that their lives are free from fear and want, and that they can grow up in peace."-- Kofi Annan[26].

The rights of children are to be protected as they are the torchbearers of a better tomorrow. In India, the rates of crimes against children are increasing at an alarming rate and the fact that there is no strong legislation to protect child victims makes this situation more dire.

To build a sustainable and protective framework for child victims in India, it is essential to enhance the current legal systems and provide comprehensive training for legal professionals on child psychology and trauma-informed practices. Furthermore, improved rehabilitation facilities, timely compensation for victims, and stricter enforcement of existing laws are necessary to create a supportive environment for healing and recovery.

By reforming child victim protection laws and fostering a societal commitment to prioritizing children's rights, India can take significant strides toward creating a safer future for its most vulnerable citizens. The collective responsibility of individuals, communities, and the state is crucial in laying the foundation for a society where every child can thrive, free from fear and harm. Only through concerted efforts can we ensure that the principles laid out in the Convention on the Rights of the Child are fully realized, thereby fulfilling the promise of a safer and more just world for every child.

[26] Foreword by Kofi A. Annan, Secretary-General of the United Nations, The State of The World's Children 2000, United Nations International Children's Emergency Fund