



# A Socio-Legal Analysis Of Child Abuse: Legal Mechanisms And Psychological Outcomes

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**Abstract:** Child abuse is not a legal issue or mental health issue, and it remains both, and the inability to approach it as a legal issue has long diminished the quality of efforts raised by both legal institutions and mental health facilities. The paper will attempt to do a socio-legal analysis of child abuse in Indian context looking at both the structural conditions that facilitate the abuse, legislative and judicial processes that are supposed to play a factor in curbing the vice and the psychological impacts that follow legal proceedings and in current form actually serve to intensify abuse. The paper uses the juvenile justice act, 2015 as a reference material to demonstrate that the greatest gap in the current management of this issue is not a legislative gap, but the systemic lack of psychologically informed practice within the legal establishment as reflected in the statutes, including the Protection of Children from Sexual Offences Act, 2012, the Juvenile Justice Act, 2015 as well as the applicable provisions of the Constitution of India. It argues that effective child protection cannot be ensured just by having proper laws but by having a justice system that appreciates the impact of abuse on a child - and structures itself to respond.

**Index Terms** - child abuse, socio-legal analysis, POCSO Act, trauma, psychological outcomes, criminal justice, India

## 1. INTRODUCTION

Inquire a child psychologist on what she requires of the legal system when dealing with an abused child, she will probably respond with: time, consistency, minimum re-exposure to trauma and a process that trusts the child. A criminal lawyer will say: The complainant must be coherent, the evidence supporting his case must back him up, and an eyewitness must be able to resist cross-examination. These two groups of requirements are not necessarily mutually exclusive, but they are often in conflict with each other - and that conflict is the core of the problem why the legal response to child abuse so often fails to meet the needs of victims.

The concept of child abuse, in a broad sense, touches on physical abuse, sexual exploitation, emotional abuse, and neglect. Its roots lie in social organizations - poverty, lack of power, patriarchy, institutional ineffectiveness, as much as with the psychology of individual perpetrators. The effects it has go way beyond the damage it causes in the present, developmental disturbance, attachment disorders, post-traumatic stress, depression and in most instances a permanent reorganization of the relationship of trust, authority and self of the survivor. It is because of these reasons that the purely legal interpretation of child abuse, the one that concerns the existence of right offences to be defined and the right penalties to be prescribed, lacks much of the matter.

A socio-legal approach, in contrast, demands that law be analyzed in its social situation: not only what is said in the statute, but how it functions in reality, who gains and who is marginalized by it and what social situations its adoption strengthens or threatens, and so on. When applied to children and child abuse, this translates to enquiring how the law is subjectively experienced by the children who end up in the system,

and how the social environment processes information to either report and handle abuse or not, whether mechanisms of the law actually deliver results of what the survivors require to regain.

This question is very acute in India. Regardless of the legislative progress made in this area, especially the implementation of the POCSO Act in 2012 and the reorganization of the juvenile justice system in 2015, there is documented evidence that indicates child abuse tends to be grossly underreported, that the rate of conviction in cases where a child has been registered is rather low, and that the process of taking a child to court continues to be rather traumatizing than restorative. Meanwhile, mental health support of child abuse survivors is severely underdeveloped, and the disparity between service demand and supply is the most pressing in rural and peri-urban regions.

## **2. A CONCEPTUAL FRAMEWORK OF CHILD ABUSE.**

The concept of child abuse has significantly changed over the last 50 years, shifting away from a rather limited medical definition, used by Kempe and others in 1962, the battered child syndrome, to a more multidimensional and inclusive definition of physical, sexual, emotional, and neglect-based abuse. World Health Organization defines child maltreatment as all physical or emotional ill-treatment, sexual abuse, neglect, and exploitation that cause or may cause harm to the health, existence, growth or dignity of the child in a relationship of responsibility, trust or power.

### **2.1 Defining Child Abuse**

The concept of child abuse has significantly changed over the last 50 years, shifting away from a rather limited medical definition, used by Kempe and others in 1962, the battered child syndrome, to a more multidimensional and inclusive definition of physical, sexual, emotional, and neglect-based abuse. World Health Organization defines child maltreatment as all physical or emotional ill-treatment, sexual abuse, neglect, and exploitation that cause or may cause harm to the health, existence, growth or dignity of the child in a relationship of responsibility, trust or power.

There are a number of aspects of this definition that should be mentioned in terms of the law and policy. To begin with, it is relational: abuse is usually being committed with a relationship of power imbalance, most of the time, with a caregiver, family member, and teacher or other authority figures. This interdependent nature has significant consequences when it comes to reporting - children who have a dependency either emotionally or economically on their abuser and who experience a especially difficult route to disclosure. Secondly, the definition is inclusive of acts and omissions: neglect, which can be defined as the lack of support of a child in terms of his or her basic needs, is an equally important part of abuse as violence. Third, it is developmental in definition: the same act can produce varying consequences regarding the age of the child and the developmental stage as well; hence the need to have age-based legal safeguards and psychologically-tuned reactions.

There are aspects of this general perception in the Indian law. The definition of sexual offence in the POCSO Act is extensive, and it encompasses both contact and non-contact behavior as well as expanding it to digital and online environments. The notion of a child as in need of care and protection as provided in the Juvenile Justice Act appeal to cases of neglect and emotional injury that are not covered by narrowly criminal laws. But, as is mentioned in the introductory chapter, no separate legislative definition of physical abuse of children exists, and emotional abuse, which is the most widespread and, perhaps, the most developmentally harmful form of maltreatment, is the subject of little or no action of criminal law.

### **2.2 A Socio-Legal Perspective**

Socio-legal scholarship is interested in the interaction between law and the social life - in how social forces determine the rules of law and in how social behaviour and relations are in turn determined by these rules. As applied to child abuse, this view brings into focus various aspects that doctrinal analysis does not normally take into account.

It, first, points to the social construction of the meaning of abuse. What is accepted as normal practice in a certain social setting, such as physical punishment, marrying off children, child labour in the family, and so on, might amount to abuse in the international human rights law and developmental psychology. This difference between these framings is not just academic: it directly influences how families and communities classify conduct as harmful, whether victims have the right to report it, and whether legal authorities take it seriously. In India such a tension is evident in the maintenance of corporal punishment as a normal, though banned, disciplinary measure in schools despite it being condemned in the judiciary as damaging and its effects being well known in India.

Second, a socio-legal approach attracts our interest to the role of social institutions, such as family, school, religious institutions, the state, and their contribution to abuse in both enabling and responding. Abuse thrives in institutions where individuals are in positions of power without being held accountable, where the voices of children are systematically muffled and where the actions are addressed in-house, to

safeguard institutional reputation. The disclosure of the systemic maltreatment in residential schools and institutions dealing with children around the globe, including India, is not a sign of the aberrant behavior of an individual but of institutional cultures, which did not have children and their wellbeing as their primary concerns.

Third, this method demands looking at those who are served by the law and those who are not. Historically, child protection law in India has been more sensitive to the interests of middle-class urban families than to the larger population of children who experience the most structural vulnerability: children in informal labour, children in Scheduled Castes and Scheduled Tribes, children in institutional care, and children in communities with a limited access to formal justice. These varied experiences of the law have to be taken care of by a truly socio-legal analysis.

### **3. SOCIAL FACTORS WHICH FACILITATE CHILD ABUSE.**

Child abuse is the most frequent in the family. Investigations into the Indian context always conclude that most perpetrators of physical and sexual abuse of children are familiar with the victim - a family member, neighbour, domestic worker, or another adult within the close social network of the child. The implications of this revelation on the legal system are far-reaching in that the legal system can better tackle crimes committed by strangers than those existing in the environment of continuous intimate relationships.

#### **3.1 Family Organisation and Home Dynamics.**

Abuse among family members is likely to be clustered around stress, dysfunction, and power imbalance. Domestic violence, substance dependence, extreme financial distress, and the mental illness of a primary caregiver are all variables linked to a very high prevalence of child maltreatment. A study by the Ministry of Women and Child Development established that in a significant percentage of the physical abuse cases, the abuser was a parent or a close relative. The study by the same author concluded that boys and girls were nearly as likely to report physical abuse, although girls were much more likely to report sexual abuse, especially in the family setting.

The cultural taboo that surrounds privacy in families the notion that the affairs of the family are not the legitimate business of the external institutions remain in effect an important impediment to intervention. Child welfare workers and police officers can be faced with opposition in their efforts to investigate claims of abuse involving family members and in some cases, the courts interpret the relationship the child has with the accused to lessen the weight of the offence which must be sternly judicial corrected.

#### **3.2 Gender, Patriarchy and Vulnerability.**

Gender is one of the most significant structural predictors of child abuse especially sexual abuse and child marriage. The disparaging of girl children in most areas of India, which manifests through varied nutrition, educational access and movement as well as bonused by son preference and dowry structures, establishes a space, in which girls are disproportionately vulnerable to exploitation and abuse. The yearly statistics of crimes released by the National Crime Records Bureau have proven that the majority of the victims of the registered POCSO cases are female children.

However, it is not only the female gender that exhibits gender vulnerability. Severe sexual abuse has been perpetrated against male children especially in institutions like residential schools, religious institutions and detention in which male victimization is also felt by society due to the discomfort of such society and because of the power structures within which the abuse takes place. The fact that the POCSO Act has been gender-neutralized to serve as an encompassing term to denote any child irrespective of sex is indeed a significant legislative change, but social and institutional challenges in reporting abuse perpetrated against male children persist.

#### **3.3 Poverty, Marginalization, and Institutional Vulnerability.**

Economic deprivation is not only a risk factor that directly affects children abuse but also a mediating factor that increases the effects of other risks. Child labour raises the risks of becoming an adult victim since it enhances exposure to poverty. It decreases the accessibility to education, which has been established as a protective factor against abuse, and reduces family's ability to seek legal redress in the case of abuse taking place. The children of the most economically disadvantaged communities' urban informal settlements, rural agricultural labour communities, nomadic and tribal populations are compound vulnerable.

Children who are in institutional care are one of the high-risk groups. In India, there are documented cases of abuse in the children's homes, observation homes, special children's schools, and even places of religious education. The inspection and monitoring framework of the Juvenile Justice Act of Child Care Institutions is a legislative effort to respond to this yet the ability of the State governments to enforce the robust oversight is patchy. The National Commission of Protection of Child Rights has repeatedly cited the situation of the registered child care institutions as being below the minimum standards.

#### 4. LEGAL MECHANISMS- ARCHITECTURE AND APPLICATION.

The Indian constitution regarding children protection is spread among the fundamental rights and directive principles chapters. Article 21 as interpreted based on a history of broad Supreme Court decisions, includes within the right to life and personal liberty, an entitlement to the child to live in dignity and without maltreatment and exploitation. Article 15(3) does allow special protection legislation as regards children. Article 24 disallows the use of children in dangerous conditions. Articles 39(e) and 39(f) guide the State to ensure healthy development, prevent abuse of children and provide conditions to them. The Eighty-Sixth Amendment added article 51A(k), which establishes a primary obligation on the parents to educate their children.

Such provisions have been operationally validated in court cases. In *Gaurav Jain v. The State of Union of India* (1997) the Supreme Court acknowledged that the State has a duty to rehabilitate the children who were rescued because of exploitation. In *Sampurna Behura v. The State of Union of India* (2010) the Court investigated the situation of children in observation homes and provided specific guidelines to reform the situation Union of India (2010). The constitutional jurisprudence in this respect represents a truly rights-oriented understanding of the interests of children - one that views children as subjects of rights, and no longer as the objects of welfare.

The POCSO act is the flagship of the Indian law in responding to child sexual abuse and it may be useful to explore its provisions not only as to their substantive nature but also as to the extent to which the documents evoke an image of child psychology and trauma.

The definitional architecture of the Act is far-reaching and graded. It differentiates between penetrative sexual assault and sexual assault, and contains aggravated categories that are applicable in situations where the person involved in the situation is in a position of trust or authority, such as a teacher, a police officer, a relative, a medical staff member, but acknowledges that the fact that the abuse is characterized by the breach of trust aggravates the resultant psychological damage. The burden of proving in Section 29 is reversed as a matter of constitutional concern, but as a matter of common sense, this seeks to recognize that the evidentiary disadvantage of the prosecution cannot be combated by means of mere ordinary resources, in cases of child sexual abuse, due to the secrecy involved in the conduct, and the power imbalance between the child and the accused.

The most obvious areas of the Act engagement with child psychology can be found in the procedural provisions of the Act. Section 26 dictates that the statement of the child should be taken by a woman police officer or woman officer and where feasible, at the place of residence of the child or at the place of choice of a child. Section 33 instructs Special Courts to make sure that the child is not repeatedly called to testify and the cross-examination should not include aggressive or character-attacking questions. Section 36 demands that the child is not exposed to the accused when recording evidence, and the use of screens or other waiting areas is required. Section 38 accommodates the use of interpreters and special educators to enable communication with children that have difficulties with communication.

Taken as a whole, these provisions are a legislative acknowledgment of the fact that the traditional adversarial process is ill-equipped to accept child witnesses - the conventions of cross-examination, face-to-face confrontation with the accused and appearance in open court which might be permissible with adult witnesses is psychologically crippling to child witnesses, especially those who are already traumatized. The question is on whether these provisions are being applied in a consistent manner. Practitioner experience and literature on POCSO case management indicate substantial differences: with some courts using them diligently, others considering them optional or unaware of their application, and so forth.

Child protection as provided by the Juvenile Justice Act of 2015 is viewed more as a form of welfare in contrast to the purely punitive approach. Its children care and protection provision includes the creation of Child Welfare Committees, social investigation reports, placement in Child Care Institutions or foster care, and the focus on rehabilitation and reintegration demonstrates the fact that children who suffered harm need a continuing support and not just a legal intervention.

The provisions of the Act regarding children in conflict with the law are also to be considered in the given analysis as children who became victims of abuse themselves are grossly overrepresented in the number of children who become in conflict with the law. Studies on the precursors to juvenile delinquency invariably point to the fact that the victimization of the child, especially sexual abuse and extreme neglect, is a significant risk factor. A justice system that mainly sees such children as criminals and not as a victim of previous injuries is not seeing a vital aspect of their position and is cutting off rehabilitative possibilities.

#### 4.2. Gaps in the Legal Framework

There are three loopholes in the current legal system that can be of special interest to a socio-legal approach. To begin with, the lack of any detailed and specific legal definition of physical abuse of children,

as opposed to the general assault laws, implies that the most common type of child abuse is being left in the gray area of the law. Most cases of parents and caregivers physically abusing children are not reported as they are seen as disciplining them and no law specifies where the limit on the two is.

Second, emotional abuse which is according to the psychological literature the most widespread and developmentally harmful type of maltreatment is practically invisible in the Indian criminal law. Although the broad definition of a child in need of care and protection, which is provided by Juvenile Justice Act, is capable of covering the worst types of cases, the systematic emotional degradation of a child will not be covered by any criminal provision.

Third, the interaction of the law with the digital environment, which, although enhanced by the amendments to POCSO of 2019 and the provisions of the Information Technology Act, is still reactive, is not preventive. The grooming process of abusers who form relationships with children online before contact or online sexual exploitation (so-called online grooming) is not defined and criminalized directly and thus remains open, which would become increasingly serious with the increased use of the internet by children.

## **5. CHILD ABUSE HAS PSYCHOLOGICAL CONSEQUENCES INCLUDING DEPRESSION, ANXIETY, SELF-HARMING, AND SUICIDAL BEHAVIORS IN CHILDREN.**

### **5.1 Trauma and Post Traumatic Stress.**

The mass of the psychological literature on the aftermaths of child abuse is tremendous in its general conclusions, exceptionally uniform. Trauma responses caused by physical and sexual abuse; especially in instances where adults are involved, and long-term effects are experienced can be both acute and chronic. One of the most documented consequences is the post-traumatic stress disorder (PTSD). Abused children demonstrate hyperarousal, avoidance, intrusive memories, emotional numbing and sleep disorders - a complex of symptoms that has a major negative effect on day-to-day functioning and development.

Complex PTSD as an idea, which has been introduced into the International Classification of Diseases (ICD-11), is especially applicable to victims of child abuse. Compared to single-incident trauma, chronic relational abuse, abuse experienced over an extended period of time in an intimate relationship, has a more widespread impact on the child, in terms of disrupting their sense of self, ability to self-regulate emotion and their capacity to enter into secure relationships. Complex PTSD does not only entail the typical PTSD symptom cluster, but also enduring negative self-beliefs, emotional control difficulties, relationship issues - the effects of which lie in the betrayal and disempowerment that defines a sustained abuse by a close individual.

### **5.2 Developmental Disruption**

The fact that it interferes with development is perhaps the most substantial aspect of child abuse as a type of harm as it is also the aspect that makes it most distinct among all forms of harm that are caused to adults. Children are not miniature adults but in the process of developing cognitive, emotional, relationship, and identity-forming capabilities that will mark their adult lives. The abuse in the formative stages interferes with these growth processes, which could prove hard or even impossible to reverse completely.

Studies using neuroscience as a foundation have determined that extreme early trauma brings about quantifiable alterations to the anatomy and function of the brain, specifically those areas of the brain involved in the response to stress (the amygdala and hypothalamic-pituitary-adrenal axis), memory (the hippocampus), and executive functioning (the prefrontal cortex). The affected children on the chronic abuse develop a sensitized stress-response system that stays on high-tenseness way after the abuse is over. This neurobiological impairment is not just a theory: it has manifestations in behavioural problems, academic failure, impulsivity or aggression behaviour, and an increased susceptibility to mental disorders throughout the life course.

### **5.3 Attachment and Relational Consequences.**

The Attachment theory, the initial theory proposed by John Bowlby and later advanced by Mary Ainsworth, among others, offers an exceptionally informative option of seeing the relational implications of child abuse. The key to healthy emotional development lies in secure attachment, or the experience of a responsive, available, and protective caregiver by the child. Maltreatment by the primary caregivers interferes with this basic relational prototype, leading to what the attachment researchers' term as disorganized attachment: where the person who is supposed to be seen as providing safety is the same person who is seen as providing fright.

Children who have disorganized attachment histories are likely to have a problem with trust, intimacy, and emotional control in relationships. They can exhibit self-contradictory patterns of relationships which are both desiring intimacy and at the same time are afraid of them that lead to the complications in their

friendship, romantic relationships and in the contexts of school and subsequent employment. Such relational after-effects of abuse cannot be effectively removed or relieved in adulthood as much as the actual symptoms of the trauma themselves, and it is these effects that psychological treatment is most in-need of remedying.

Child abuse has long-term mental health effects that are far beyond PTSD. Large-scale longitudinal research on the survivors of abuse has reported large prevalence rates of major depressive disorder, anxiety disorders, borderline personality disorder, substance use disorders, self-harm, and suicidal ideation. One of the best-established results in psychiatric epidemiology is the connection between childhood sexual abuse and adult depression.

These mental health effects are escalated in the Indian context by the stigma that surrounds sexual victimization. Child sexual abuse survivors who come forward and report on their experiences are usually socially denied, pressured by their families to withdraw, and victims receive a widespread cultural narrative that the abuse is a comment on their personality or value. This second social harm the reaction of the community to the revelation of abuse may be just as traumatizing to the mental health as the original crime, and it is extremely potent in influencing the readiness of the survivors to cooperate with legal procedures.

## **6. THE CROSSING OF LEGAL PROCESS AND PSYCHOANALYSIS RESULTS.**

### **6.1 Secondary Victimization in the legal proceedings.**

Secondary victimization is the term that is used to refer to the damage done to the victims who are not by the initial offence but by the reaction of institutions and social actors to the offence. Under the law, a secondary victimization of victims of child abuse may happen at various stages: at a police station when an FIR is not registered, in case the child is interviewed rudely or without much faith; in the medical environment when the procedures are not conducted in a sensitive manner; in the court room where cross-examination may focus on credibility of the victim or previous behaviour; and in the society in general when the family discourages the child to seek justice.

Psychological studies of the secondary victimization of legal institutions are also clear: the feeling of non-belief, hostility, and humiliation increases the trauma symptoms of the victim, reduces their readiness to cooperate with the proceedings, and the likelihood of psychological recovery is negatively affected. It is not just a welfare issue because it has a direct impact on the quality of evidence and conviction chances. A child with re-exposed witness is more likely to testify incoherently and inconsistently than is the case with a well-supported child, and child testimony inconsistency is one of the most frequent reasons to acquit in child abuse cases.

### **6.2 Child-Friendly Procedures: Promises and Reality.**

The provisions of the procedure section of POCSO Act is a grave legislative effort to minimize secondary victimization. The ban on exposing the accused to the child during evidence recording, the need to create child-friendly court settings, the right to a support person, and limiting aggressive interrogations are all based on the psychology of child trauma, although it may not be explicitly reflected in the law.

The difference between these provisions and their application, however, is very large. In 2019, a study by the Vidhi Centre for Legal Policy of the outcomes of POCSO cases in the city of Delhi has reported a discrepancy between the implementation of child-friendly procedures and the fact that delays in trial were the norm, and that support persons were not frequently practiced. Other cases have also been recorded by the Kailash Satyarthi Children Foundation where they have interviewed children over a prolonged period of time, which subjects them to repeated retelling of traumatic experiences by the various agencies that interrogate them. This implies that the prescription needed is not only legislative but also the institutional culture, training and supervision needed to implement such prescriptions.

### **6.3 The Psychological Support in Legal Processes.**

Various international best practice is increasingly appreciating that successful legal procedures in cases dealing with child abuse are now provided through the combination of psychological support throughout the whole process - not as a welfare appendix, but as an inherent part of the justice process. The forensic interview, during which a trained professional converses with the child in a non-leading, non-structured, but structured way before any formal legal action, has both an investigative and a therapeutic purpose: it acquires reliable information and also exposes the child to repeated questioning to the minimal extent possible. Those nations which have embraced formal forensic interview models, particularly in the so-called Barnahus model that was developed in Scandinavia and has since been extensively imitated, have had not only more evidence of quality but also improved psychological outcomes of child victims.

The legal system of India has not formalized this model yet, but the possibility of using child psychologists as the intermediaries is a similar shift of POCSO. Guidelines on child-friendly investigation have already

been issued by the NCPDR and other state governments, but these are not mandatory but only advisory, which is not uniformly applied. Incorporating a formal, compulsory forensic interview procedure into the POCSO system, backed by a team of trained individuals at each district, would be a major move towards a process of incorporating psychological expertise into the legal system.

## **7. TOWARDS INTEGRATION: REFORM PROPOSALS.**

As the discussion above suggests, a combination of reforms would be needed that would make India more of a genuinely integrated and psychologically informed practice towards child abuse. These suggestions are proposed in the understanding that they must be institutionally invested and politically committed, which may take some time to harness - but the existing model, which opines on legislative prescription but lacks the institutional capacity to give, is not serving the survivors of child abuse well.

The most significant procedural change is probably the introduction of forensic interview protocols that must be implemented in all POCSO cases. The current system where children are interviewed by the police, doctors and child welfare officers, and the courts would be substituted by the use of such protocols, provided by trained child protection professionals working at the district level by having a single and structured interview with specialists that could be used in all proceedings. This minimizes exposure, enhances quality of evidence and puts psychological welfare at centre of the process and not at its periphery.

The mental health impact of child abuse and the support of the victims with the legal process would be solved by mandatory psychological testing and support of all registered victims of child abuse under the condition of the Special Courts and Child Welfare Committees, which should be financed by the government and provided by trained child psychologists. In the present scenario, access to such support would be fundamentally dependent on the victim family having the means and knowledge to access it on a case-by-case basis. This is not the kind of situation that a child protection system should have.

Training to judiciary and police in the psychology of child trauma should cease being a professional development event, rather than a requirement they have to undergo before they can be appointed to child protection duties. This training must include the dynamics of trauma disclosure, both the well-documented dynamic of delayed, incremental, and retracted disclosure, which courts tend to interpret as fabrication, and the neurobiological and developmental effects of abuse that are the reasons why child victims present and behave the way they do.

Reform of the legislation to fill the gaps identified in this paper, namely, the addition of a defined offence of physical abuse of children and the consideration of emotional abuse a separate category of harm, would help to strengthen the legal framework and minimize contradictions that now can be manifested when the cases of non-sexual maltreatment are prosecuted on the basis of general IPC provisions.

Lastly, and possibly the most essential one, the stigma that hinders reporting and disclosing child abuse and secondary reporting needs a long-term social and community-level response. Awareness campaigns at the school and community level, non-stigmatizing and actually accessible helplines, and community-wide communication campaigns that present child abuse as a neighbourhood issue, not a family shame all these are not auxiliary to the legal response, but prerequisites to it. Unreported laws are not applied and the community adult who notices, believes and takes action is, in most cases, the greatest defense of a child victim.

## **8. CONCLUSION**

Child abuse is an issue which cannot be resolved only by law. It is not a hopeless counsel but a statement of the conditions, which successful intervention in the law must anticipate. The POCSO Act and the Juvenile Justice Act are real legislative successes, elaborated carefully, procedurally innovative and normatively founded on the determination to protect the rights of children. The legislative structure is firm in the constitution. In the judicial history, valuable and progressive judgments can be found. All of this matters.

But law is instituted and institutions are manned by individuals who are bearers of social attitudes, who work within resources constraints, and who are responsive to structures of incentives. A police officer that has no clue about what trauma disclosure means, a prosecutor that has never attended child-friendly examination training, a judge that sees retraction as evidence that a person lied, a court without a special children witness waiting area, these are not flaws of law but a flaw of action, training, and institutional culture. They also, cumulatively are failures of justice.

The psychological literature clarifies that what will occur to a child following the act of being abused; whether they believe it or not, whether the process is carried out in a delicate manner or not, whether they are supported or not, is very crucial in the way the child will recover. The phenomenon of secondary victimization in the justice system is not an isolate and a rare occurrence: it is one of the structural

attributes of a system that is yet to be redesigned to consider child trauma. It takes more than good will and good legislation to change this. It involves the allocation of funds to education, facilities and psychological support, readiness to take institutions to task when they do not afford child victims and the readiness to treat each child who enters the justice system as a rights-bearing person whose dignity and recovery are as significant as the conviction of the person who abused them.

Socio-legal analysis of child abuse eventually enables the realization that the system is both competent than it seems and ineffective than it would be. The disparity between what the law promises and what children receive is one issue that is critical and it is one of the issues

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