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CHILD WITNESS TESTIMONY IN INDIAN LEGAL PROCEEDINGS: A CRITICAL STUDY

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Abstract

Child witnesses occupy a sensitive and significant position in legal proceedings, particularly in cases involving sexual offences, domestic violence, child abuse, trafficking, matrimonial disputes, and other offences where children may be victims or eyewitnesses. In the Indian legal system, the testimony of a child is admissible if the court is satisfied that the child possesses sufficient intelligence, understanding, and ability to distinguish between truth and falsehood. However, the participation of children in judicial proceedings raises complex questions relating to reliability, vulnerability, suggestibility, trauma, and procedural protection. This paper examines the legal framework governing child witnesses in India with reference to the Indian Evidence Act, 1872, the Code of Criminal Procedure, 1973, the Protection of Children from Sexual Offences Act, 2012, and relevant judicial precedents. It analyses how Indian courts assess the competency and credibility of child witnesses and the extent to which procedural safeguards protect children from intimidation, secondary victimisation, and psychological harm. The study also highlights the role of child-friendly courts, in-camera trials, support persons, video conferencing, and sensitive examination techniques in ensuring fair trial standards while preserving the dignity and welfare of the child. Further, the paper identifies practical challenges such as delayed trials, hostile courtroom environments, lack of trained professionals, and inconsistent implementation of child-protection measures. The study concludes that while Indian law recognises the evidentiary importance of child testimony, a more consistent, trauma-informed, and child-centric approach is necessary to balance the interests of justice with the protection of children's rights.

Keywords: Child witness, legal proceedings, Indian evidence law, child-friendly courts, child rights.

1. Introduction

A child witness occupies a significant position in the administration of justice, particularly in cases involving abuse, violence, family disputes, trafficking, kidnapping, and sexual offences. A child witness may be understood as a minor who appears before a court or any legal authority to provide evidence relating to facts within his or her knowledge. Indian law does not prescribe a fixed age for determining the competency of a witness; rather, competency depends upon the capacity of the child to understand questions and give rational answers. Under the Bharatiya Sashay Adhinyam, 2023, every person is competent to testify unless the court considers that such person is incapable of understanding the questions or giving rational answers due to tender age, disease, or any other similar cause. Thus, even a young child may be accepted as a competent witness if the court is satisfied regarding the child's intellectual and moral understanding.¹

The testimony of child witnesses plays a crucial role in both criminal and civil proceedings. In many offences, especially those involving domestic violence or sexual abuse, children are often the only direct witnesses available to the prosecution. Their statements may become decisive in establishing the guilt or innocence of the accused. In matrimonial disputes, custody matters, guardianship proceedings, and juvenile justice cases, the views and testimony of children may assist courts in determining the welfare and best interests of the child. The evidentiary value of child testimony has therefore gained increasing recognition within the Indian legal system. Courts have repeatedly observed that a conviction can be based solely on the testimony of a child witness if it is found reliable and trustworthy.²

Historically, the approach toward child witnesses was marked by suspicion and caution. English common law traditionally viewed children as susceptible to tutoring, imagination, and external influence. Indian courts initially adopted a similar approach by insisting upon corroboration of child testimony. However, with the gradual development of modern psychology and child rights jurisprudence, judicial attitudes evolved toward a more balanced and child-sensitive approach. Landmark decisions of the Supreme Court of India recognized that children are capable of speaking the truth and that their evidence cannot be rejected merely because of age.³ Legislative developments, particularly the enactment of the Protection of Children from Sexual Offences Act, 2012 and the reforms introduced through the Bharatiya Nagarik Suraksha Sanhita, 2023, further strengthened procedural safeguards for child witnesses.

¹Section 124, Bharatiya Sashay Adhinyam, 2023.

²Dattu Ramarao Sakhare v. State of Maharashtra, (1997) 5 SCC 341. Pancha v. State of Uttar Pradesh,

³(1998) 7 SCC 177.

The need for protection of child witnesses arises from the vulnerable position occupied by children within the justice system. Courtroom procedures are often intimidating and traumatic for minors. Repeated questioning, aggressive cross-examination, delays in trial, and exposure to the accused may adversely affect the psychological well-being of the child. Fear, anxiety, and social pressure may discourage truthful disclosure and thereby affect the quality of justice. Consequently, modern legal systems emphasize child-friendly procedures such as in-camera trials, video conferencing, support persons, and witness protection mechanisms to ensure that children can testify freely without fear or intimidation.

The present chapter seeks to examine the legal and judicial framework governing child witnesses in India. It aims to analyse the competency, credibility, and evidentiary value of child testimony while evaluating the safeguards available for protecting child witnesses during legal proceedings. The chapter also explores the evolution of judicial attitudes and the impact of recent criminal law reforms in creating a more child-sensitive justice delivery system.

2. Concept and Definition of Child Witness

The concept of a child witness has gained considerable importance in modern legal systems due to the increasing recognition of children's rights and their role in judicial proceedings. A child witness refers to a minor who appears before a court or competent authority to provide testimony regarding facts perceived by him or her. Such testimony may relate to criminal offences, civil disputes, family matters, or juvenile justice proceedings. The evidence given by a child witness is often crucial because children may be the only direct witnesses to incidents occurring within domestic or private environments. Indian law does not completely exclude children from giving evidence; instead, it focuses upon their mental capacity and ability to understand questions and communicate rational answers.

The meaning of the term "child" varies under different Indian statutes. Under the Protection of Children from Sexual Offences Act, 2012, a child means any person below eighteen years of age. Similarly, the Juvenile Justice (Care and Protection of Children) Act, 2015 defines a child as a person who has not completed eighteen years of age. Constitutional provisions and international instruments adopted by India also recognize eighteen years as the standard age of childhood. The legal understanding of childhood is therefore linked with the recognition that minors require special protection due to their physical and mental immaturity.⁶

⁴ Protection of Children from Sexual Offences Act, 2012, Sections 33–38.

⁵Section 124, Bharatiya Sashay Adhinyam, 2023.

⁶Section 2(1)(d), Protection of Children from Sexual Offences Act, 2012.

The competency of child witnesses has been consistently recognized by Indian courts. Judicial decisions have emphasized that there is no absolute rule requiring corroboration of child testimony. A child witness can provide reliable evidence if the testimony appears natural, trustworthy, and free from tutoring or external influence. In *Rameshwar v. State of Rajasthan*, the Supreme Court of India held that conviction may be based on the uncorroborated testimony of a child witness if the evidence inspires confidence.⁷ at the same time, courts exercise caution because children are considered more susceptible to suggestion, fear, and imagination. Therefore, judges carefully evaluate consistency, spontaneity, and demeanour before relying upon such evidence.

A distinction must also be made between a child witness and a vulnerable witness. A child witness refers specifically to a witness who is below the legally prescribed age of adulthood. A vulnerable witness, on the other hand, is a broader category that includes persons who may face difficulty in participating effectively in judicial proceedings due to physical, mental, emotional, or social conditions. Vulnerable witnesses may include children, victims of sexual offences, persons with disabilities, elderly persons, or traumatized individuals. Therefore, while every child witness may be treated as vulnerable, not every vulnerable witness is necessarily a child. The recognition of vulnerable witnesses has led courts to adopt protective procedures such as in-camera trials, video-link testimony, support persons, and separate waiting rooms to minimize trauma and intimidation.⁸

Psychological and developmental factors significantly influence the testimony of child witnesses. Children possess different levels of memory, perception, communication skills, and emotional maturity depending upon their age and developmental stage. Younger children may have difficulty understanding complex questions, recalling exact details, or distinguishing imagination from reality. Fear of authority figures, pressure from family members, and exposure to repeated questioning may affect their confidence and accuracy. At the same time, psychological studies indicate that children can often recall traumatic incidents with considerable clarity, especially when questioned in a supportive and non-threatening environment. Modern child psychology therefore encourages the use of simple language, child-friendly procedures, and professionally trained interviewers during investigation and trial. The objective is to ensure that the child is able to communicate freely while preserving the fairness and reliability of the judicial process.⁹

⁷ *Rameshwar v. State of Rajasthan*, AIR 1952 SC 54.

⁸ Supreme Court of India, *Guidelines for Recording Evidence of Vulnerable Witnesses in Criminal Matters*, 2017.

⁹ Child Psychology, principles relating to memory and cognitive development of children.

3. Legal Framework Governing Child Witnesses in India

The legal framework governing child witnesses in India is founded upon constitutional guarantees, statutory protections, judicial interpretations, and international child rights principles. Indian law recognizes that children occupy a vulnerable position within the justice system and therefore require special procedural safeguards to ensure fairness, dignity, and protection from trauma. Over the years, the Indian legal system has evolved from a traditional evidentiary approach to a child-centric framework that balances the rights of the accused with the welfare and psychological needs of child witnesses. Recent criminal law reforms, including the enactment of the Bharatiya Nyaya Sanhita, 2023, the Bharatiya Nagarik Suraksha Sanhita, 2023, and the Bharatiya Sashay Adhinyam, 2023, have further strengthened the legal structure relating to child testimony and victim protection.

3.1 Constitutional Protection

The Constitution of India provides the foundational basis for the protection of children, including child witnesses involved in judicial proceedings. Although the Constitution does not specifically refer to “child witnesses,” several fundamental rights and Directive Principles ensure protection, dignity, equality, and welfare for children participating in the justice system. Article 14 of the Constitution guarantees equality before law and equal protection of laws to all persons. This provision ensures that child witnesses are entitled to equal access to justice and fair treatment during investigation and trial. Equality before law also implies that children should not be denied legal remedies merely because of their age or vulnerability. At the same time, the concept of equal protection permits reasonable classification and special procedures for children in order to address their unique psychological and developmental needs.

Article 21, which guarantees the right to life and personal liberty, has been expansively interpreted by the judiciary to include the right to dignity, privacy, mental well-being, and fair treatment. In the context of child witnesses, Article 21 requires that children be protected from harassment, intimidation, and secondary victimization during legal proceedings. The right to dignity under Article 21 mandates that child testimony be recorded in a sensitive and respectful manner. The Supreme Court of India has repeatedly emphasized that child victims and witnesses should not be exposed to hostile courtroom conditions that may aggravate psychological trauma.¹²

¹⁰Constitution of India, Article 14. Constitution of India, Article 21.

¹²Sākshi v. Union of India, (2004) 5 SCC 518.

The Directive Principles of State Policy further reinforce child welfare obligations. Article 39(e) directs the State to protect children from abuse and exploitation, while Article 39(f) requires that children be given opportunities to develop in conditions of freedom and dignity. Article 45 emphasizes early childhood care and education, and Article 47 promotes improvement in living standards and public health. Although Directive Principles are non-justiciable, they guide legislative and judicial policy relating to child protection and welfare.

3.2 Statutory Framework

The statutory framework governing child witnesses in India consists of procedural, evidentiary, and protective laws designed to ensure both fair trial standards and child welfare. The Bharatiya Nyaya Sanhita, 2023 contains substantive criminal provisions dealing with offences against children, including kidnapping, trafficking, sexual offences, cruelty, and exploitation. The law recognizes the seriousness of crimes affecting children and prescribes enhanced punishments in many instances. Protection of child victims indirectly strengthens the position of child witnesses because children who are victims of crime often become principal witnesses during prosecution. The BNS also reflects a stronger victim-oriented approach by recognizing the need for safeguarding dignity and bodily integrity.¹³

The competency and admissibility of child testimony are governed primarily by the Bharatiya Sashay Adhinyam, 2023. Section 124 of the Act provides that every person is competent to testify unless the court considers such person incapable of understanding questions or giving rational answers because of tender years, disease, or similar reasons.¹ Thus, age alone is not a ground for disqualification. Before recording evidence, judges generally conduct preliminary questioning to determine whether the child understands the obligation to speak the truth. Indian courts have consistently held that child evidence is admissible and can form the sole basis of conviction if found reliable and trustworthy.¹ However, courts remain cautious regarding possibilities of tutoring or external influence. The BSA therefore balances admissibility with judicial scrutiny to ensure reliability.

A major development in child witness protection came through the enactment of the Protection of Children from Sexual Offences Act, 2012. The POCSO Act provides a comprehensive framework for protecting children from sexual offences and establishes child-friendly procedures at every stage of investigation and trial. The Act mandates that statements of

¹³Bharatiya Nyaya Sanhita, 2023, provisions relating to offences against children. Section 124, Bharatiya Sashay Adhinyam, 2023.

¹⁵Dattu Ramarao Sakhare v. State of Maharashtra, (1997) 5 SCC 341.

children be recorded in a non-threatening environment, preferably by female police officers not below the rank of sub-inspector. the child should not be detained in police stations during the night, and aggressive questioning¹ must be avoided. The Act also provides for in-camera trials, confidentiality of identity, assistance of interpreters and support persons, and speedy trial mechanisms through Special Courts. Sections 33 to 38 specifically empower courts to adopt child-sensitive procedures to prevent secondary victimization.¹

The Juvenile Justice (Care and Protection of Children) Act, 2015 also contributes significantly to child protection within the legal system. The Act establishes Child Welfare Committees and Juvenile Justice Boards to address matters involving children in conflict with law and children in need of care and protection. The legislation emphasizes rehabilitation, dignity, and the best interests of the child. It discourages punitive approaches and instead promotes social reintegration and psychological support. In cases where children appear as witnesses, the principles of child welfare and best interests guide procedural handling.¹⁸

Apart from these statutes, various judicial guidelines and institutional mechanisms further strengthen the legal framework relating to child witnesses. The Supreme Court of India has issued guidelines regarding vulnerable witnesses, directing courts to establish separate waiting areas, video-link testimony systems, and support facilities for children. These measures aim to reduce fear and anxiety associated with courtroom participation. International instruments such as the United Nations Convention on the Rights of the Child also influence Indian jurisprudence by emphasizing the child's right to participation, dignity, and protection from abuse.

Thus, the legal framework governing child witnesses in India demonstrates a progressive movement toward a child-sensitive justice system. Constitutional guarantees, evidentiary principles, criminal procedure reforms, and special protective legislation collectively seek to ensure that children can participate effectively in legal proceedings without compromising their dignity, mental well-being, or rights.

4. Competency and Evidentiary Value of Child Testimony

The competency and evidentiary value of child testimony constitute important aspects of the law of evidence in India. Under the Bharatiya Sashay Adhiniyam, 2023, a child is considered a competent witness if the court is satisfied that the child possesses sufficient understanding to

¹⁶Section 24, Protection of Children from Sexual Offences Act, 2012.

¹⁷Sections 33–38, Protection of Children from Sexual Offences Act, 2012. Juvenile Justice (Care and Protection of Children) Act, 2015.

¹⁸Protection of Children) Act, 2015.

answer questions rationally. the primary test applied by courts is the test of intellectual capacity and understanding. Before recording evidence, judges generally conduct preliminary questioning to determine whether the child can distinguish between truth and falsehood and comprehend the duty to speak ¹ the truth. Age alone is not a disqualification, and even a very young child may testify if found capable of understanding the proceedings.

The reliability and credibility of child witnesses depend upon several factors, including spontaneity, consistency, demeanour, and absence of external influence.² Courts remain cautious because children may be vulnerable to tutoring, suggestion, fear, or imagination. Traditionally, courts preferred corroboration of child testimony; however, modern jurisprudence does not insist upon corroboration as an absolute rule. Conviction may be based solely upon the testimony of a child witness if it appears trustworthy and inspires confidence. Nevertheless, courts generally seek corroborative evidence in cases involving doubt or inconsistencies.

The appreciation of child evidence requires a balanced judicial approach. Judges must carefully analyse contradictions, memory lapses, and emotional responses while considering the age and psychological condition of the child. Evidentiary challenges often arise due to delayed reporting, communication difficulties, repeated questioning, and trauma suffered by the child. Minor inconsistencies are usually ignored if the core testimony remains reliable. The law therefore seeks to balance the need for truthful evidence with the protection and welfare of the child witness.²

5. Judicial Approach Toward Child Witnesses

The judicial approach toward child witnesses in India has evolved considerably over time. Earlier courts viewed child testimony with suspicion because children were considered impressionable and vulnerable to tutoring. However, modern judicial interpretation recognizes that children are capable of providing truthful and reliable evidence if examined carefully and sensitively. Indian courts now adopt a balanced approach that protects the rights of the accused while ensuring that child witnesses are not unfairly discredited merely because of their age. The judiciary has consistently emphasized that competency, reliability, and credibility are the true tests for accepting child testimony rather than age alone.

¹⁹Section 124, Bharatiya Sashay Adhinyam, 2023.

²⁰Dattu Ramarao Sakhare v. State of Maharashtra, (1997) 5 SCC 341. Rameshwar v. State of Rajasthan,

²¹AIR 1952 SC 54.

²²State of Madhya Pradesh v. Ramesh, (2011) 4 SCC 786.

One of the most significant judicial principles relating to child witnesses is the competency test conducted by judges before recording evidence. Under the Bharatiya Sashay Adhiniyam, 2023, every person is competent to testify unless incapable of understanding questions or giving rational answers because of tender years or similar causes.² Courts therefore conduct preliminary examinations to determine whether the child possesses sufficient intelligence, understanding, and ability to distinguish truth from falsehood. Judges usually ask simple introductory questions relating to the child's name, age, school, or surroundings in order to assess mental maturity and communication ability. If the court is satisfied that the child understands the duty to speak the truth, the testimony becomes admissible evidence. This competency test is an essential safeguard because it helps ensure the reliability of evidence while protecting the integrity of the judicial process.

Indian courts also follow a precautionary approach while evaluating child testimony. Since children may be vulnerable to fear, imagination, pressure, or suggestion, courts examine such evidence carefully and cautiously. However, caution does not imply automatic rejection of child evidence. Judicial decisions have repeatedly stated that child testimony can form the sole basis of conviction if it appears natural, trustworthy, and free from tutoring.² Courts generally evaluate factors such as consistency of statements, spontaneity, demeanour, emotional responses, and coherence of narration. Minor contradictions or omissions are often ignored because children may not possess the same level of memory or expression as adults. The judiciary recognizes that traumatic experiences may affect a child's ability to narrate events with precision.

The issue of credibility versus tutoring is another major concern in judicial evaluation of child witnesses. Courts are conscious of the possibility that children may be influenced by parents, police officers, relatives, or interested parties. Therefore, judges carefully analyse whether the testimony appears rehearsed or artificially structured. At the same time, courts also recognize that merely because a child has discussed the incident with family members does not necessarily mean that the evidence is false. The judiciary differentiates between natural discussion and deliberate tutoring intended to fabricate evidence. In assessing credibility, courts observe the child's spontaneity, confidence, and ability to answer unexpected questions during cross-examination. A child who provides clear, natural, and consistent responses is generally considered credible even in the absence of corroboration.

Section 124, Bharatiya Sashay Adhiniyam, 2023. Pancha v. State of Uttar Pradesh, (1998) 7 SCC 177.

The development of judicial principles relating to child witnesses can be understood through several landmark decisions of the Supreme Court of India. One of the earliest and most influential cases is *Rameshwar v. State of Rajasthan*.²⁵ In this case, the Court held that the evidence of a child witness is admissible and that conviction can be based upon such testimony without corroboration if the court considers it reliable and trustworthy. The Court clarified that corroboration is merely a precautionary rule and not a legal necessity. This judgment laid the foundation for the modern judicial approach toward child evidence in India.

Another important decision is *Pancha v. State of Uttar Pradesh*, where the Supreme Court observed that children are often unlikely to invent false stories and therefore their evidence should not be rejected solely because of age.²⁶ The Court emphasized that if the testimony of a child witness is found reliable after careful scrutiny, it can safely form the basis of conviction. This judgment reinforced the principle that child witnesses deserve equal evidentiary consideration within the justice system.

In *Dattu Ramarao Sakhare v. State of Maharashtra*, the Supreme Court further clarified the law relating to competency of child witnesses.²⁷ The Court held that a child witness who understands the duty to speak the truth and gives rational answers is a competent witness under the law. The judgment emphasized that there is no fixed age below which a child becomes incompetent to testify. It also reiterated that conviction may be based upon child testimony if the evidence appears credible and trustworthy.

Similarly, in *State of Madhya Pradesh v. Ramesh*, the Court dealt extensively with the reliability of child testimony in criminal proceedings.²⁸ The Supreme Court observed that children may be susceptible to influence, but this does not justify outright rejection of their evidence. The Court emphasized that judges must evaluate the testimony carefully while considering the age, maturity, and surrounding circumstances affecting the child. Minor inconsistencies were held to be natural and insufficient to discard otherwise reliable testimony.²⁹

1. Challenges Faced by Child Witnesses

Child witnesses often face numerous psychological, emotional, and procedural difficulties while participating in legal proceedings. Due to their tender age and limited understanding of judicial processes, children are particularly vulnerable to fear, trauma, and intimidation. Court

²⁵ *State of Madhya Pradesh v. Ramesh*, (2011) 4 SCC 786. *Rameshwar v. State of Rajasthan*, AIR 1952 SC 54.

²⁷ *Pancha v. State of Uttar Pradesh*, (1998) 7 SCC 177.

²⁸ *Dattu Ramarao Sakhare v. State of Maharashtra*, (1997) 5 SCC 341. *State of Madhya Pradesh v. Ramesh*, (2011) 4 SCC 786.

proceedings, police investigations, and interaction with legal authorities may create anxiety and confusion in the minds of children. In many criminal cases, especially those involving sexual abuse, domestic violence, or physical assault, children may experience severe emotional distress while recounting painful incidents before strangers in formal legal settings. Fear of the accused, social stigma, and pressure from family members may further discourage children from speaking freely and truthfully.

One of the major concerns faced by child witnesses is secondary victimization during cross-examination. Aggressive questioning by defence lawyers may intimidate or confuse children and can sometimes force them to relive traumatic experiences. Repeated questioning regarding sensitive incidents may adversely affect the child's mental health and emotional stability. In cases involving sexual offences, embarrassing and hostile questions may cause humiliation and psychological harm to the child witness. Recognizing these concerns, Indian courts have emphasized the need for sensitive and child-friendly methods of examination during trial proceedings.³¹

Another significant challenge is the delay in trials and repeated court appearances. Criminal cases in India frequently take several years to conclude, forcing child witnesses to repeatedly recall traumatic experiences over long periods of time. Delayed proceedings may weaken memory, create emotional exhaustion, and increase the chances of contradictions in testimony. Repeated appearances before courts may also disrupt education, social development, and psychological well-being. Speedy trial mechanisms under child protection laws seek to minimize these adverse effects, but delays continue to remain a practical concern.³

2. Child-Friendly Justice Mechanisms

The Indian legal system has introduced several child-friendly justice mechanisms to protect child witnesses from fear, trauma, and intimidation during legal proceedings. One of the most important safeguards is the conduct of in-camera proceedings, particularly in cases involving sexual offences. Such proceedings restrict public access to the courtroom and help preserve the privacy and dignity of the child witness. The use of video conferencing and electronic testimony has also become significant, as it allows children to give evidence without directly facing the accused. This reduces emotional stress and minimizes repeated court appearances.

³⁰ Protection of Children from Sexual Offences Act, 2012, Statement of Objects and Reasons. *Sakshi v.*

³¹ *Union of India, (2004) 5 SCC 518.*

³² *Bharatiya Nagarik Suraksha Sanhita, 2023*, provisions relating to speedy trial and victim-sensitive procedures.

The Bharatiya Nagarik Suraksha Sanhita, 2023 encourages technological methods for recording evidence in a sensitive and efficient manner.

Special Courts established under the Protection of Children from Sexual Offences Act, 2012 are specifically designed to ensure speedy and child-friendly trials. These courts adopt procedures that protect children from aggressive questioning and hostile environments. The Act also recognizes the important role of support persons, counsellors, interpreters, and psychologists who assist children throughout investigation and trial proceedings. Witness protection measures such as confidentiality of identity, separate waiting rooms, and protective arrangements further strengthen the safety of child witnesses. Additionally, the Supreme Court of India and child rights commissions have issued guidelines promoting child-sensitive judicial practices and establishment of vulnerable witness rooms in courts.³

3. International Perspective

The protection of child witnesses has received significant recognition at the international level through various conventions and legal standards. The United Nations Convention on the Rights of the Child (UNCRC), adopted in 1989, emphasizes the right of children to participate in judicial proceedings affecting them while ensuring dignity, protection, and psychological well-being. International standards encourage child-sensitive procedures such as privacy protection, speedy trials, use of trained professionals, and avoidance of repeated questioning. Countries such as the United Kingdom, United States, and Australia have adopted advanced mechanisms for child witness protection. These include video-recorded testimony, separate witness rooms, support persons, and specially trained investigators and judges. Courts in these jurisdictions emphasize minimizing trauma while ensuring reliable evidence. Best practices also include multidisciplinary child advocacy centres, psychological counselling, and restrictions on aggressive cross-examination. These international developments have influenced Indian child protection laws and judicial reforms aimed at creating a more child-friendly justice system.³⁸

³³Section 37, Protection of Children from Sexual Offences Act, 2012.

³⁴Bharatiya Nagarik Suraksha Sanhita, 2023, provisions relating to electronic recording of evidence.

³⁵Sections 28 and 33, Protection of Children from Sexual Offences Act, 2012.

³⁶Supreme Court of India, *Guidelines for Recording Evidence of Vulnerable Witnesses in Criminal Matters*, 2017.

³⁷United Nations Convention on the Rights of the Child, 1989, Articles 3 and 12.

³⁸UNICEF, *Guidelines on Justice in Matters Involving Child Victims and Witnesses of Crime*, 2005. Supreme Court of India, *Guidelines for Recording Evidence of Vulnerable Witnesses in Criminal*

4. Critical Analysis

The Indian legal system has developed substantial safeguards for protecting child witnesses through constitutional provisions, special statutes, and judicial guidelines. Laws such as the Protection of Children from Sexual Offences Act, 2012 and recent reforms under the Bharatiya Nyaya Sanhita, 2023, Bharatiya Nagarik Suraksha Sanhita, 2023, and Bharatiya Sashay Adhinyam, 2023 have strengthened procedural protections, victim-sensitive investigation, and admissibility standards relating to child testimony. However, significant gaps remain in practical implementation due to inadequate infrastructure, delays in trials, shortage of trained personnel, and limited availability of child-friendly courtrooms.³⁹

A major challenge lies in balancing the fair trial rights of the accused with the need to protect child witnesses from trauma and intimidation. Excessive cross-examination may harm children, while insufficient scrutiny may affect evidentiary reliability. Therefore, specialized judicial training in child psychology, communication techniques, and sensitive handling of child testimony is essential for ensuring both justice and child protection within the legal system.⁴⁰

5. Conclusion

The study of child witnesses in the Indian legal system highlights the growing recognition of children's rights and the importance of protecting their dignity during judicial proceedings. Indian law now accepts that children are competent witnesses if they possess sufficient understanding and the ability to provide rational answers. Constitutional guarantees, judicial precedents, and statutes such as the Protection of Children from Sexual Offences Act, 2012 and the recent criminal law reforms under the Bharatiya Nyaya Sanhita, 2023, Bharatiya Nagarik Suraksha Sanhita, 2023, and Bharatiya Sashay Adhinyam, 2023 have significantly strengthened the legal framework relating to child testimony.

Despite these developments, practical challenges such as delays, inadequate infrastructure, lack of trained personnel, and fear of intimidation continue to affect child witnesses. Stronger procedural safeguards, specialized judicial training, child-friendly courtrooms, effective witness protection, and speedy trials are necessary to improve implementation. A truly child-sensitive justice system is essential for balancing fair trial rights with the welfare, dignity, and psychological protection of children participating in legal proceedings.

³⁹*Matters*, 2017.

⁴⁰ Protection of Children from Sexual Offences Act, 2012, Sections 33–38.

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