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CURATIVE JURISPRUDENCE AND CONSISTENCY **IN EVIDENCE LAW**

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Abstract

This article examines the tension between two fundamental needs in Indian courts: the goal to heal through justice rather than mere adjudication, and the demand for consistent, reliable evidence in fact-finding. The central argument is that consistent application of evidence law is not opposed to curative justice but is essential for it providing the psychological safety and procedural legitimacy that enable parties to accept outcomes as fair and begin healing. This research analyzes key statutes including the Indian Evidence Act 1872, the Bharatiya Sakshya Adhiniyam 2023, Criminal Procedure Code 1973, Bhartiya Nagarik Suraksha Sanhita 2023, POCSO Act 2012, and constitutional provisions under Articles 14, 21, and 39A. It examines recent case law from 2023-2026, including the landmark Surendra Koli v. State of Uttar Pradesh (2025) decision, which affirmed consistency as a constitutional imperative. Comparative analysis with the UK, Canada, and Australia informs reform proposals for India.

Chapter 1

Curative Jurisprudence and the Indian Constitutional Ethos

Traditional conceptions of adjudication are narrow: a judge determines rights and liabilities by applying law to facts, then issues a remedy. The focus is on legal rules, not the emotional or psychological wellbeing of litigants. Curative jurisprudence challenges this limited vision, insisting that legal proceedings carry real consequences for human wellbeing and that these effects should be intentionally considered in crafting and interpreting law. This approach finds deep resonance in India's constitutional framework. Article 21, as expansively interpreted, demands procedures that are "just, fair and reasonable"¹ procedures that respect human dignity and minimize unnecessary harm. The Indian judiciary has increasingly positioned itself not merely as an umpire but as a champion of social justice, creating fertile ground for curative

¹ Maneka Gandhi v. Union of India, (1978) 1 SCC 248, 7 (establishing that procedure under Article 21 must be "just, fair and reasonable")

jurisprudence to flourish. Therapeutic Jurisprudence² (TJ) emerged in the late 1980s through the work of Professors David Wexler and Bruce Winick. Its core insight: legal rules and practices have psychological consequences. TJ asks whether legal processes can be reformed to minimize emotional harm while respecting bedrock values like due process. Key elements include

The Judge's Role: In TJ, judges actively engage with litigants, offering encouragement and imposing sanctions aimed at rehabilitation, particularly visible in drug courts and family courts.

Procedural Justice: Drawing from Tom Tyler's research, TJ emphasizes that litigant satisfaction depends less on winning than on feeling heard. Four elements matter: voice (opportunity to tell one's story), neutrality (perceived fairness), respect (treatment with dignity), and trustworthiness (belief that decision-makers care about justice).

Lawyer as Therapeutic Agent: Lawyers advise clients not only on legal strategies but also on emotional consequences of different approaches. Curative jurisprudence goes further. While TJ asks how to minimize harm, curative jurisprudence asks: what would active healing look like? In post-colonial societies like India, law is called upon not merely for order but for genuine transformation. Courtrooms become potential sites for mending individuals, relationships, and communities. The shift toward curative justice in India is anchored in Article 21: "No person shall be deprived of his life or personal liberty except according to procedure established by law." Initially interpreted narrowly in *A.K. Gopalan v. State of Madras* (1950) which held that any procedure prescribed by law sufficed Article 21 was transformed by *Maneka Gandhi v. Union of India* (1978). The Maneka Gandhi revolution established that: **Procedural Due Process:** Procedure must be "right and just and fair," not merely technical. **Interlinked Rights:** Articles 14 (equality), 19 (freedoms), and 21 must be read together; laws affecting liberty must satisfy non-arbitrariness (Article 14), reasonableness (Article 19), and fairness (Article 21). **Human Dignity:** Process must respect human dignity; degrading or traumatizing procedures are constitutionally impermissible. Post-Maneka jurisprudence expanded Article 21's reach **Right to Speedy Trial** (*Hussainara Khatoon v. Home Secy., State of Bihar*, 1980): Prolonged pretrial detention violates Article 21, recognizing that uncertainty and incarceration cause psychological harm. **Right to Free Legal Aid** (*Khatri v. State of Bihar*, 1981): Free legal assistance is integral to fair procedure. **Right to Fair Trial** (*Zahira Habibulla H. Sheikh v. State of Gujarat*, 2004): Trials are "sacred quests for truth" requiring victim voice. **Compensation for State Failure** (*Nilabati Behera v. State of Orissa*, 1993): Monetary compensation under Article 32 for fundamental rights violations. Unlike common law judges elsewhere who maintain

² David Wexler and Bruce Winick, *Essays in Therapeutic Jurisprudence* (Durham: Carolina Academic Press, 1991), p. 8 (origins of Therapeutic Jurisprudence at the University of Arizona).

passive roles, Indian judges have embraced proactive, inventive identities since the Emergency (1975-77). Public Interest Litigation (PIL), pioneered by Justices P.N. Bhagwati and V.R. Krishna Iyer, loosened locus standi rules, enabling marginalized groups to access justice. Family Courts under the Family Courts Act 1984 adopt conciliatory, inquisitorial approaches judges act as counselors and mediators. Even criminal courts handling POCSO cases increasingly emphasize trauma-informed practice. However, judicial activism has limits. When Article 142 empowers "complete justice," or curative impulses override evidentiary protocols, inconsistency risks undermining legitimacy. Section 165³ of the Evidence Act empowering judges to ask any question enables curative intent while maintaining principle. The challenge is using such powers consistently. Lok Adalats ("People's Courts") under the Legal Services Authorities Act 1987 embody curative principles institutionally. They resolve disputes through consensus rather than adversarial confrontation, with awards carrying legal force while maintaining therapeutic character. The Architecture of Consistency in Evidence Law The Indian Evidence Act 1872, drafted by James Fitzjames Stephen, aimed to consolidate and define evidence law across a diverse legal landscape. Its carefully constructed rules on relevancy, proof, and presumptions are not obstacles to curative justice but prerequisites. A stable framework provides what theorists call "the dignity of certainty" predictability that enables acceptance and healing.

Part I: Relevancy of Facts (Sections 5-55)

Section 5 establishes: "Evidence may be given of every fact in issue as are hereinafter declared relevant, and of no others." Sections 6-55 provide an intricate taxonomy: facts forming part of the same transaction (Section 6, *res gestae*); occasion, cause, or effect (Section 7); motive, preparation, conduct (Section 8); explanatory or introductory facts (Section 9); conspiracy (Section 10); state of mind or body (Section 14). This structure channels judicial focus toward probative material while excluding distraction or prejudice.

Part II: Proof (Sections 56-100)

This part addresses how facts must be proved. Facts judicially noticeable (Section 57) or admitted (Section 58) need no proof. Oral evidence must be "direct" (Sections 59-60) witnesses must testify to what they personally perceived; hearsay is excluded. Documentary evidence requires primary evidence the original document with secondary evidence admissible only

³ Indian Evidence Act, 1872, Section 165 (empowering judges to "ask any question he pleases, in any form, at any time" to discover truth)

under specified conditions (Section 65). Presumptions about documents (Sections 79-90) assume genuineness of certified copies and official records.

Part III: Production and Effect of Evidence (Sections 101-167)

This part governs burden of proof and witness examination. Section 101 places the burden on the party seeking judgment; Section 102 assigns risk when no evidence is presented. Statutory presumptions shift burdens in specific contexts:

Section 112: Presumption of legitimacy during valid marriage.

Section 113A: In suicide within seven years of marriage, court may presume abetment by husband/relatives.

Section 113B: Dowry death if woman dies unnaturally within seven years after dowry-related cruelty, court shall presume dowry death.

Section 114A: In certain rape prosecutions, court shall presume absence of consent.

Witness examination rules (Sections 118-166) establish competence (Section 118 all persons competent unless unable to understand questions), accommodation for "dumb witnesses" (Section 119 may give answers in writing or by signs), and examination procedures (Sections 135-166). Section 165 grants judges sweeping authority to ask any question, at any time, in any form, to discover truth. The Evidence Act's structure rests on three pillars essential for healing: Predictability: Parties know what facts must be proved and how. Procedural justice research confirms that knowing expectations enables participation and acceptance. Neutrality: Uniform application ensures like cases are treated alike, preventing bias and preserving legitimacy. Finality: Conclusive presumptions and estoppel (Sections 115-117) bring disputes to closure, enabling parties to move forward.

Chapter 2

Conflict Between Healing Goals and Evidentiary Rigor

Four battlegrounds reveal the tension between curative aims and evidentiary consistency:

1. Vulnerable witnesses in POCSO cases
2. Dowry death presumptions under Section 113B
3. Electronic evidence certification under Section 65B
4. Judicial power under Section 165

The POCSO Act 2012 creates protective architecture: Section 33 requires child-friendly environments; Section 36 prohibits aggressive or repetitive questioning. Yet the accused's right to fair cross-examination (Section 138, Evidence Act) persists. In *Andaman and Nicobar Islands (2023)*, a trial court refused recall of witnesses for recross-examination citing POCSO protections. The Calcutta High Court reversed, holding that "each case has to be judged on its own merits" where original cross-examination was so deficient as to deny fair defense, recall is "absolutely essential." This illustrates individualized justice: blanket rules yield to case-specific fairness. Section 113B responds to evidentiary challenges in dowry deaths crimes typically unwitnessed. It requires courts to presume dowry death where unnatural death occurs within seven years and cruelty "soon before" death is proved. Yet mechanical application risks wrongful conviction. In *State of Maharashtra v. Nandkumar (2026)*, the Bombay High Court upheld acquittal, holding that foundational facts must be proved with credible, consistent evidence before presumption operates. "Soon before" requires proximate connection; contradictory witness testimony defeats the presumption. Section 65B requires certification for electronic evidence admission a safeguard against tampering. The Supreme Court's journey reflects tension between technical compliance and substantial justice. *Shafiq Mohammad (2018)* suggested flexibility; *Arjun Panditrao Khotkar (2020)* overruled, holding certification mandatory. However, *Khotkar* permitted flexibility in timing. In *Kailas v. State of Maharashtra (2025)*, the Court refused retrial where certification was eventually produced. The balance: certification protects against fraud, but rigid application must not exclude reliable evidence. Section 165 empowers judges to ask any question, at any time, to any witness a truth-seeking license. In *Zahira Habibulla (2004)*, the Supreme Court held that Section 165 (with Section 311 CrPC) requires active judicial engagement to ensure truth. In *Kumari H.P. Shobha v. Managing Director (2020)*, the Karnataka High Court used Section 165 to call a doctor whose testimony was essential for fair compensation. The power must be exercised transparently, respecting all parties' rights. The infamous Nithari murders involved multiple killings. Surendra Koli was convicted for one victim (Rimpa Haldar) based on Section 27 disclosures and a Section 164 confession. Twelve other cases with identical evidence resulted in acquittals. Koli filed a curative petition, arguing conviction on evidence deemed inadmissible in identical cases violated Articles 14 and 21. The Supreme Court granted the petition, holding: Section 27 disclosures were invalid where police already knew recovery locations. The confession was suspect given prolonged police custody and magistrate's failure to ensure voluntariness. Forensic evidence failed to link Koli to crimes. Most critically: identical evidence yielding opposite outcomes violates constitutional equality. "Letting a conviction stand on an

evidentiary foundation that we've already deemed involuntary or inadmissible in exactly these facts runs afoul of Article 21 and Article 14." Surendra Koli⁴ establishes that consistency is not merely procedural but constitutional. A "curative" outcome achieved through inconsistent evidence application is not healing but arbitrary power. The Dying Declaration A Case Study in Curative Consistency Section 32(1) of the Evidence Act renders statements by deceased persons relevant if they relate to cause of death or circumstances of the transaction resulting in death. Dying declarations hold unique curative power: they give voice to the silenced, offer closure to grieving families, and deter offenders who might believe eliminating witnesses serves their interests. For victims denied voice in life, final statements enable dignity in death. In *State of Maharashtra v. Nandkumar* (2026), despite the family's shifting accounts undermining admissibility, the victim's identification of tormentors represented an act of truth-telling that law acknowledged. For families, reliable dying declarations provide closure a foundation of facts enabling grief and healing. In *Kamalavva v. State of Karnataka* (2009), conviction based on the deceased's precise account of being set afire by her mother-in-law and sister-in-law provided moral vindication. At systemic level, consistent admission of dying declarations signals that silencing victims will not erase their voices, advancing curative jurisprudence's societal dimension. Section 32(1) requires no particular form, magistrate involvement, or imminent death expectation. The Supreme Court in *Neeraj Kumar v. State of U.P.* (2025) clarified that statements recorded under Section 161 CrPC become admissible upon death, even weeks later. "The High Court erred in holding that these statements cannot be treated as dying declaration(s) merely because death occurred after substantial lapse of time." Courts have developed "rules of prudence" to ensure reliability: Sole Basis for Conviction: *Khushal Rao v. State of Bombay* (1958)⁵ established that conviction can rest solely on a dying declaration if found trustworthy and voluntary. Fit State of Mind: Courts require evidence of mental fitness; medical certification is advisable but not mandatory. In *Dhanraj v. State of Maharashtra* (2025), 98% burns did not automatically invalidate a declaration where medical testimony confirmed consciousness. Multiple Declarations: Courts require "substantial consistency" on core facts. Irreconcilable contradictions favor the accused (*Sanjay v. State of Maharashtra*, 1999). Motive: Failure to prove motive does not undermine a credible declaration (*State of Himachal Pradesh v. Chaman Lal*, 2026). Despite judicial guidance, inconsistency persists: Unrecorded Declarations: Oral dying declarations transmitted through

⁴ *Surendra Koli v. State of Uttar Pradesh*, (2025) INSC 47, ¶ 89 (holding that identical evidence yielding opposite outcomes violates Articles 14 and 21)

⁵ *Khushal Rao v. State of Bombay*, AIR 1958 SC 22, ¶ 16 (laying down "rules of prudence" for dying declarations under Section 32(1))

family members receive uneven treatment some courts accept them as the only available account, others reject them as unreliable hearsay. Thumb Impression Controversy: In burn cases, thumbprint validity is frequently challenged; outcomes vary dramatically. Section 498-A Complications: In Jagdish Kumar v. State of M.P. (2017), the Madhya Pradesh High Court held that where accused are acquitted of murder charges, dying declarations cannot be used for cruelty charges alone a technical barrier to accountability. Mandatory Protocols: States should adopt uniform protocols for recording dying declarations in burns units, including trained magistrates, medical certification, and video documentation. Judicial Training: Magistrates and police need trauma-informed communication skills. Focus on Coherence, Not Perfection: Courts should follow Chaman Lal in treating minor discrepancies as immaterial. Legislative Clarity: Parliament should amend Section 32(1) to explicitly address: admissibility of Section 161 statements; no rigid format requirement; non-disqualification for lack of medical certification; applicability to cruelty prosecutions.

Chapter 3

The Victim in Indian Criminal Justice

Traditional criminal justice centered on the state-offender dyad; victims were witnesses, not participants. Justice V.R. Krishna Iyer lamented: "It is a weakness of our jurisprudence that victims of crime and the distress of the dependents of the victim do not attract the attention of law. Victim reparation is still the vanishing point of our criminal law."The Constitution reinforced this focus: Articles 20 and 21 extensively protect accused persons, with no mention of victims. The Mathura rape case (1972) where acquittal rested on the victim's "habituation to sexual intercourse" exemplified systemic betrayal, sparking reforms but coming too late for Mathura herself.The UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power articulated four fundamental needs: access to justice and fair treatment; restitution from offenders; compensation from the state; and assistance (medical, psychological, social). This framework shaped Indian reforms.The Code of Criminal Procedure (Amendment) Act, 2008 (effective 2009) transformed victims' status:Definition of "Victim" (Section 2(wa)): Includes any person who has suffered loss or injury caused by the offense, and their guardian or legal heir. Courts have interpreted "loss or injury" broadly to include psychological harm.Right to Appeal (Proviso to Section 372): Victims may appeal acquittals, inadequate sentences, or insufficient compensation. The Punjab & Haryana High Court in Tata Steel Ltd. v. Atma Tube Products Ltd. (2013) affirmed this as a substantive right,

not merely procedural. Victim Compensation Scheme (Section 357A): Requires states to establish schemes for compensating victims regardless of conviction. District Legal Services Authorities (DLSAs) award compensation on court recommendation or direct application. The Supreme Court has repeatedly emphasized that this duty is mandatory, not discretionary. Pre-Trial Stage: Section 154 CrPC requires mandatory FIR registration; Section 166A IPC criminalizes police failure to register offenses against women. For sexual offenses, Section 154 requires recording by woman officers, with interpreters for disabled victims, and videography. Trial Stage: Sections 24(8), 301(2), and 302 permit victims to engage pleaders, though their role is limited they act "under direction from the public prosecutor" and typically only file written submissions. In practice, victims remain largely sidelined. Sentencing Stage: Victim Impact Statements (VIS) are gaining recognition globally. Section 235(2) CrPC requires hearing the accused but not victims. In *Mallikarjun Kodagali v. State of Karnataka* (2018), the Supreme Court emphasized VIS importance. In *Karan v. State NCT of Delhi* (2020), the Delhi High Court mandated victim impact reports through DLSAs. The BNSS 2023 explicitly references VIS, though implementation remains uneven. Compensation: Two parallel tracks exist: Section 357 CrPC (Section 395 BNSS): Courts order offenders to pay compensation as part of sentencing. Section 357A (Section 396 BNSS): State-funded compensation through DLSAs regardless of conviction. In *Rajinder Singh v. State* (2025), the Supreme Court clarified these are distinct mechanisms with different implementing authorities. Implementation gaps persist: awareness deficits, procedural complexity, uneven awards, and non-payment. In Bihar, documentation requirements for bail and compensation exclude asset-less victims. Victim Impact Statements: Critics warn VIS may "create a partial approach in the minds of judges," potentially biasing outcomes. The challenge is balancing victim voice with reasoned, evidence-based sentencing. Victim Appeals: When victims appeal acquittals that state prosecutors declined to challenge, consistency risks identical cases may yield different outcomes depending on victim resources and initiative. Uniform standards for leave and coordination with state appeals are essential. Role Collision: Victims as witnesses and participants may experience tension testifying honestly while knowing they may later appeal. Procedural safeguards must manage this duality. Structured VIS: Statements should be submitted after conviction but before sentencing, verified by DLSAs, focused on harm rather than sentencing recommendations, with accused given opportunity to respond. Uniform Appeal Standards: Victim appeals should require leave, apply same standards as state appeals, and be heard jointly with state appeals where both exist. Harmonized Compensation Schemes: State schemes need uniform guidelines to ensure equal treatment across jurisdictions. Legal Aid and Support:

DLSAs must provide dedicated victim assistance, following models like Bihar's social worker program for under-trial prisoners.

Chapter 4 Comparative Perspectives

The BSA replaces the 1872 Act, modernizing evidence law for the digital age. Electronic Evidence as Primary: Section 2(d) defines "document" to include digital formats; Section 2(e) includes electronic statements as oral evidence. Section 57⁶ treats electronic records as primary evidence, with Explanations 4-7 confirming that multiple files, simultaneous storage, and broadcasts all constitute primary evidence. Certification: Section 63(4) requires both "person in charge" and "expert" certification in prescribed format. Secondary Evidence: Section 58 broadens admissibility, replacing "means and includes" with "includes" giving courts latitude to admit secondary evidence beyond enumerated categories. Presumptions: Section 80 requires courts to presume genuineness of official records, including newspapers and legal journals. Confessions: Section 22 adds "coercion" to inducement, threat, or promise as grounds for inadmissibility. Expert Opinions: Section 39 allows expertise from any relevant field. The BSA advances curative aims by removing technical barriers to electronic evidence, expanding secondary evidence access for marginalized litigants, and aligning confession rules with constitutional values. The UK framework provides comprehensive protection for vulnerable witnesses Special Measures (Sections 16-17): Available for witnesses under 18, those with mental/physical disorders, and those intimidated. Measures include screens, live links, private proceedings, removal of wigs/gowns, video-recorded evidence, intermediaries, and communication aids. Ground Rules Hearings: Post-R v. Lubemba (2014), courts must actively manage witness questioning through pre-trial hearings setting parameters for cross-examination. Intermediaries for Defendants: Section 33BA (not yet fully implemented) will permit intermediaries for defendants with communication difficulties; courts have already recognized inherent power to appoint intermediaries. Canadian courts admit social context evidence in sexual assault trials to counter myths and educate fact-finders: R v. Seaboyer (1991): Evidentiary rules must reflect real-world context; restrictions on sexual history evidence must balance rights with protection. R v. Mills (1999): Limits on accessing complainants' private records upheld as balancing privacy, equality, and fair trial rights. Judicial Education: The National Judicial Institute provides training on social context, trauma-informed approaches, and gender-based violence. Australia's uniform evidence law (Evidence Act 1995

⁶ Bharatiya Sakshya Adhinyam, 2023, Section 57 (treating electronic records as primary evidence)

(Cth)) maintains core standards while accommodating cultural difference. Indigenous sentencing courts where magistrates sit with elders incorporate restorative principles and community participation. Lessons for India: questioning styles must accommodate cultural difference; support persons facilitate testimony; narrative accounts may be more effective than rigid Q&A. Across jurisdictions Consistency is Constitutional: Surendra Koli establishes that identical evidence must yield identical outcomes. Clear Statutory Frameworks: The UK's YJCEA and India's BSA demonstrate that legislative clarity enables predictable application. Judicial Education is Essential: Canada's model shows that consistent application requires understanding social context. Procedural Innovations Matter: Ground rules hearings and cultural accommodations enhance both healing and reliability. Technology Enables Healing: Digital evidence and video testimony reduce trauma while maintaining standards. Avoid Pure Instrumentalism: The UK experience warns that framing protections solely as "evidence-quality" measures creates gaps; constitutional dignity foundations provide stronger grounding.

Chapter 5

Building a Curative-Evidentiary Synthesis

Five pillars support the integration of curative aims with evidentiary consistency: judicial education, procedural innovations, legislative reforms, institutional support, and the overarching principle of "curatorial consistency." A holistic curriculum for judges should include Module 1: Understanding Trauma: Neurobiology of trauma, typical responses, impact on testimony, secondary traumatization. Module 2: Communicating with Vulnerable Witnesses: Age-appropriate language, cultural sensitivity, interpreter use, narrative approaches. Module 3: Evidence Rules for Vulnerable Witnesses: Section 118 (competence), Sections 135-166 (examination), POCSO protections, BSA provisions. Module 4: Social Context in Decision-Making: Dynamics of domestic violence, sexual assault realities, dowry pressures, caste/class bias. Module 5: Judges as Curative Agents: Procedural justice principles, intervention without partiality, self-care. Implementation: mandatory training for family court, POCSO, and criminal judges; refresher courses every three years; evaluation through surveys and case analysis; peer learning networks. Ground Rules Hearings: Mandatory for POCSO cases, sexual assault, child witnesses, disabled witnesses, and intimidated witnesses. Pre-trial hearings establish: support measures; questioning duration and breaks; topics to be covered; questioning style; intermediary role; judge's intervention triggers. Same-judge continuity

required. Video-Recorded Evidence: Under BSA Section 57, vulnerable witnesses may give evidence-in-chief in single recorded session, with cross-examination via video link if needed. This spares repeated retelling. Intermediaries: India should pilot intermediary schemes in select districts. Qualifications: communication expertise (speech therapy, psychology, social work) plus legal process training. Appointment by courts on DLSA recommendation. Role: facilitate communication, not testify or opine. Funding through State Legal Services Authority. Victim Impact Statements: Structured framework: timing (post-conviction, pre-sentence); content (harm-focused, not sentence recommendations); verification (DLSA fact-checking); accused response opportunity; weight (one factor among many). Pre-Recorded Cross-Examination: Following UK Section 28 pilots, India should consider pre-recording cross-examination in POCSO cases. Pre-trial hearing captures full cross-examination on video; witness not required at trial. BSA Implementation: Central government must draft rules on electronic evidence certification (Section 63(4)), expert qualifications, secondary evidence (Section 58), and video testimony procedures. Supreme Court should issue practice directions. BSA Amendments (Three-Year Review) : Consider adding: explicit VIS provisions; statutory intermediary scheme; codified dying declaration standards; pre-recorded cross-examination for POCSO. BNSS Victim Provisions: States must revise Victim Compensation Schemes to ensure: transparent criteria; interim payments; fixed deadlines; periodic review; appeal rights. NALSA should draft model guidelines. Legal Services Authorities Act should be amended to explicitly include crime victims for free legal aid. DLSAs need dedicated victim assistance cells. POCSO Act Strengthening: Mandatory trauma-informed training for all POCSO actors; child-friendly courtrooms in every district (separate waiting, video link, screens); fully implemented support persons (Section 39); strict trial timelines (Section 35) with monitoring. DLSAs as Victim Hubs: Each DLSA requires Victim Assistance Cells with coordinator, lawyers, social workers, administrative staff. One-Stop Centres ("Sakhi Centres") must link to DLSA networks. Outreach programs in local languages through schools, clinics, community groups. Forensic Infrastructure: Upgrade forensic laboratories with equipment, training, accreditation, and speedy analysis. Mobile forensic units for every district. Judicial training on evaluating scientific evidence (DNA, digital forensics, pathology). Monitoring and Evaluation: NCRB should track: vulnerable witness numbers; special measures use; compensation awards (amount and timing); Section 372 appeals; POCSO trial delays. National Law Universities should conduct empirical studies on trauma-informed judging, special measures effectiveness, and implementation gaps. Curatorial consistency treats evidentiary rules not as mechanical obstacles but as precious artifacts requiring thoughtful handling to ensure both soundness and

healing. Elements are Predictability: Clear rules enable participation and acceptance, Neutrality: Like cases treated alike (Article 14), Flexibility Within Bounds: Discretion exercised according to principle, not whim, Accountability: Decisions open to review and critique.

Chapter 6 Conclusion

The journey through curative jurisprudence and evidentiary consistency has traced a clear arc: from Article 21's mandate for just, fair, and reasonable procedure; through the Evidence Act's architecture of predictability; across battlegrounds where healing aims and procedural rigor clash; into victims' transformed role; through comparative insights; to Surendra Koli's constitutional affirmation of consistency; and finally to a practical blueprint for synthesis. Consistency is not opposed to curative justice it is essential. A verdict heals only when perceived as legitimate. Legitimacy requires predictability (known rules), neutrality (like cases treated alike), respect (participants heard and dignified), and trust (decisions from principle, not whim). Evidence law, consistently applied, provides these foundations. When identical evidence yields different outcomes, faith in justice crumbles, and healing becomes impossible. For Judges: Curative aims must operate within evidentiary boundaries, not outside them. Section 165 power requires restraint, transparency, and rights-respect. Every ruling carries therapeutic or anti-therapeutic consequences. Consistency is constitutional discipline. For Legislators: Statutes must clearly bound discretion. BSA and BNSS are significant, but implementation requires rules, funding, and periodic review. Law reform is ongoing, not one-time. For Practitioners: Advocacy requires trauma sensitivity. Prosecutors must use special measures; defence counsel must recognize aggressive cross-examination often backfires. Staying current with BSA and BNSS is essential. For Educators: Curative perspectives must permeate curriculum. Evidence law should address human impact; criminal procedure should center victims; clinical courses must teach trauma-informed communication; technology literacy is non-negotiable. For Scholars: Empirical research is urgently needed on special measures use, compensation implementation, dying declaration patterns, and judicial attitudes. Comparative study must adapt foreign models to Indian context. The trajectory depends on: Implementation: Will BSA and BNSS promises be realized through rules, training, and resources? Judicial Balance: Will courts maintain Surendra Koli's commitment to consistency while addressing new challenges? Legal Education: Will law schools equip graduates with skills and mindsets for curative practice? Civil Society Engagement: Will organizations continue advocating and monitoring, partnering with DLSAs. The healing

verdict is not about making everyone happy, nor about emotion overriding evidence. It is a decision born of fair process: where participants feel heard, rules are known and applied evenly, and outcomes rest on reliable evidence clearly reasoned. For victims, validation their pain acknowledged. For accused, assurance fate not left to chance. For society, confidence justice truly done. India's legal landscape has advanced: Article 21's expansive interpretation, legislative reforms (BSA, BNSS), landmark cases (Surendra Koli), and growing judicial sensitivity. Yet gaps remain: trauma training, procedural innovations, legislative refinement, institutional support. Closing these gaps requires sustained commitment to curatorial consistency the principle that binds healing and reliability. The POCSO judge who began this journey now conducts ground rules hearings, ensures intermediary support, uses video testimony, and applies BSA standards. Her verdict may not please everyone, but it persuades because the process was fair, the evidence reliable, and every participant treated with dignity. That is the healing verdict: law's power to repair, exercised through law's commitment to consistency.

