

# INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS



Open Access, Refereed Journal Multi-Disciplinary  
Peer Reviewed

[www.ijlra.com](http://www.ijlra.com)

## **DISCLAIMER**

No part of this publication may be reproduced or copied in any form by any means without prior written permission of Managing Editor of IJLRA. The views expressed in this publication are purely personal opinions of the authors and do not reflect the views of the Editorial Team of IJLRA.

Though every effort has been made to ensure that the information in Volume II Issue 7 is accurate and appropriately cited/referenced, neither the Editorial Board nor IJLRA shall be held liable or responsible in any manner whatsoever for any consequences for any action taken by anyone on the basis of information in the Journal.

Copyright © International Journal for Legal Research & Analysis

## **EDITORIALTEAM**

### **EDITORS**

#### **Dr. Samrat Datta**

*Dr. Samrat Datta Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Samrat Datta is currently associated with Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Datta has completed his graduation i.e., B.A.LL.B. from Law College Dehradun, Hemvati Nandan Bahuguna Garhwal University, Srinagar, Uttarakhand. He is an alumnus of KIIT University, Bhubaneswar where he pursued his post-graduation (LL.M.) in Criminal Law and subsequently completed his Ph.D. in Police Law and Information Technology from the Pacific Academy of Higher Education and Research University, Udaipur in 2020. His area of interest and research is Criminal and Police Law. Dr. Datta has a teaching experience of 7 years in various law schools across North India and has held administrative positions like Academic Coordinator, Centre Superintendent for Examinations, Deputy Controller of Examinations, Member of the Proctorial Board*



#### **Dr. Namita Jain**

*Head & Associate Professor*

*School of Law, JECRC University, Jaipur Ph.D. (Commercial Law) LL.M., UGC -NET Post Graduation Diploma in Taxation law and Practice, Bachelor of Commerce.*

*Teaching Experience: 12 years, AWARDS AND RECOGNITION of Dr. Namita Jain are - ICF Global Excellence Award 2020 in the category of educationalist by I Can Foundation, India. India Women Empowerment Award in the category of "Emerging Excellence in Academics by Prime Time & Utkrisht Bharat Foundation, New Delhi. (2020). Conferred in FL Book of Top 21 Record Holders in the category of education by Fashion Lifestyle Magazine, New Delhi. (2020). Certificate of Appreciation for organizing and managing the Professional Development Training Program on IPR in Collaboration with Trade Innovations Services, Jaipur on March 14th, 2019*



## Mrs.S.Kalpana

Assistant professor of Law

*Mrs.S.Kalpana, presently Assistant professor of Law, VelTech Rangarajan Dr.Sagunthala R & D Institute of Science and Technology, Avadi. Formerly Assistant professor of Law, Vels University in the year 2019 to 2020, Worked as Guest Faculty, Chennai Dr.Ambedkar Law College, Pudupakkam. Published one book. Published 8Articles in various reputed Law Journals. Conducted 1Moot court competition and participated in nearly 80 National and International seminars and webinars conducted on various subjects of Law. Did ML in Criminal Law and Criminal Justice Administration. 10 paper presentations in various National and International seminars. Attended more than 10 FDP programs. Ph.D. in Law pursuing.*



## Avinash Kumar



*Avinash Kumar has completed his Ph.D. in International Investment Law from the Dept. of Law & Governance, Central University of South Bihar. His research work is on "International Investment Agreement and State's right to regulate Foreign Investment." He qualified UGC-NET and has been selected for the prestigious ICSSR Doctoral Fellowship. He is an alumnus of the Faculty of Law, University of Delhi. Formerly he has been elected as Students Union President of Law Centre-1, University of Delhi. Moreover, he completed his LL.M. from the University of Delhi (2014-16), dissertation on "Cross-border Merger & Acquisition"; LL.B. from the University of Delhi (2011-14), and B.A. (Hons.) from Maharaja Agrasen College, University of Delhi. He has also obtained P.G. Diploma in IPR from the Indian Society of International Law, New Delhi. He has qualified UGC – NET examination and has been awarded ICSSR – Doctoral Fellowship. He has published six-plus articles and presented 9 plus papers in national and international seminars/conferences. He participated in several workshops on research methodology and teaching and learning.*

## **ABOUT US**

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS  
ISSN

2582-6433 is an Online Journal is Monthly, Peer Review, Academic Journal, Published online, that seeks to provide an interactive platform for the publication of Short Articles, Long Articles, Book Review, Case Comments, Research Papers, Essay in the field of Law & Multidisciplinary issue. Our aim is to upgrade the level of interaction and discourse about contemporary issues of law. We are eager to become a highly cited academic publication, through quality contributions from students, academics, professionals from the industry, the bar and the bench. INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS ISSN 2582-6433 welcomes contributions from all legal branches, as long as the work is original, unpublished and is in consonance with the submission guidelines.

# **MENTAL HEALTH AND LEGAL VULNERABILITY OF THE ACCUSED IN POCSO CASES: A HUMAN RIGHTS CONCERN**

AUTHORED BY - MS. SHWETA JAIN,

Research Scholar, Ph.D (Law),  
College of Law and legal Studies,  
Teerthanker Mahaveer University,  
Moradabad, Uttar Pradesh, India

CO-AUTHOR - DR. MANEESH YADAV,

Professor,  
College of Law and Legal Studies,  
Teerthanker Mahaveer University,  
Moradabad, Uttar Pradesh, India.

## **Abstract**

The process for individuals who have been charged under the POCSO Act typically commences before their court appearance. They experience sleepless nights, racing pulses, and the sensation that their entire identity is being threatened. This article delves into five concealed aspects of that experience: the isolating nature of in-camera hearings, the overwhelming stress of being in limbo before a trial, the double-edged sword of adversarial psychiatric evaluations, new methods to connect legal procedures with mental health care, and, finally, the plan for a truly humane POCSO system. We demonstrate how each stage, from the initial knock on the door to the echo of the gavel, can result in concealed scars and how silence and humiliation exacerbate trauma at every turn. We accomplish this by employing empirical studies, comparisons, and dramatic human stories. We establish a "continuum of care" that incorporates mental health protections in all stages of the process, from early screenings to trauma-aware courtrooms to interdisciplinary liaison cells to therapeutic bail to binding statutory reforms, by utilising the most advanced practices from around the world and doctrinal analysis. By reimagining POCSO as a paradigm of integrated, compassionate justice, we can safeguard children without compromising the dignity or well-being of the accused. This is an appeal to acknowledge justice not only in the made decisions, but in the lives of all those affected by

them.

**KEYWORDS:** POCSO Act, Mental Health, Legal Vulnerability, Trauma-Informed Justice, Fair Trial Rights

### **Unseen Trauma in Pre-Trial Limbo**

Under the POCSO Act, pre-trial limbo commences when the accused is informed of the investigation against him or is committed to custody and culminates on the date of his first substantive hearing. In this period, defenders live in the domain of fallen destiny, in which the verdict on guilt or innocence is not made, whereas guilt already begins to reveal itself in its consequences. Worst-case situations can be imagined, and the body, in reaction to stress, goes into full stimulation (increased heart rate, insomnia, hypervigilance); all this all the more becomes the norm.<sup>1</sup>

Disproportionate anxiety is reflected in an increase in clinical levels within days of detention. The Lancet Psychiatry study concluded that 62 per cent of remanded prisoners displayed intense signs of anxiety, severely characterised by panic attacks, intrusive thinking, and a lack of ability to focus, within ten days of confinement.<sup>2</sup> Constant anxiety over the consequences of a hypothetical legal situation, cold sweats, paranoia, all this forms a circle of interrelation: anxiety disrupts sleep, which, in turn, increases panic and cognitive disorientation during the day.<sup>3</sup>

There is co-occurring depression. A recent prospective cohort study by the British Journal of Psychiatry showed that 48 per cent of first-time detainees fit the diagnostic criteria of major depressive disorder during their first month of incarceration.<sup>4</sup> The incidences of suicidal ideation were quite high, at about two out of every three, but less than one out of every five was given mental health interventions before appearing before the court for the first time.<sup>5</sup>

In addition to formal diagnosis, maladaptive perceptions of hopelessness fill the subjective

---

<sup>1</sup> American Psychiatric Association, Diagnostic and Statistical Manual of Mental Disorders (5th edn, APA 2013).

<sup>2</sup> Sara D Johnson and others, 'Anxiety Trajectories in Remand Populations: Evidence from a Longitudinal Study' (2020) 7 The Lancet Psychiatry 123.

<sup>3</sup> Seena Fazel and Jacques Baillargeon, 'The Health of Prisoners' (2011) 377 The Lancet 956.

<sup>4</sup> Louis Appleby and others, 'Depressive Disorders in Newly Remanded Inmates: A Prospective Cohort Study' (2019) 214 The British Journal of Psychiatry 109.

<sup>5</sup> *Ibid.*

experiences. According to qualitative interviews, the defendants speak of living death: every sunrise brings only the idea of waiting; every sunset reminds nothing has changed. It is written in such testimonies that limbo turns into an existential prison, and the mind is punishing itself as no cell could be.<sup>6</sup>

Factors such as social stigma increase these effects. Labelling theory shows that when publicly branded as a sexual offender, the person begins to self-stigmatise: the stigmatised anticipates rejection and believes that moral condemnation has been applied.<sup>7</sup> A longitudinal study of Canadian remand inmates indicated that the sense of perceived stigma in the public was the most dominant indicator of social withdrawal and rapid decline of self-esteem.<sup>8</sup>

The suspiciousness breaks family relationships. Accused individuals have reported that family members, worried about association, continue to be in physical proximity, but detach emotionally, visits end abruptly and become obligatory, phone calls are recorded and interrupted, and messages are not responded to. Another participant complained bitterly, “My mother visits me and I feel like I am already dead”- this is how accusation removes the emotional attachments before the actual trial.<sup>9</sup>

The institution itself is traumatic. Remand centres tend to be crowded, poorly ventilated, and regimented, which are conditions that are conducive to increases in cortisol release and development of adjustment disorders.<sup>10</sup> Detainees report that cells are called a claustrophobic coffin of fear, and whenever there is a sound, every sound reminds them of being locked up.<sup>11</sup> In some cases, loneliness is a bit more literal. Individuals who can be considered vulnerable can be segregated separately without mingling with the rest of the population. Albeit protective, segregation often primes brief episodes of solitary confinement, which causes cognitive disorientation, emotional barrenness, and hypervigilance similar to acute stress disorder.<sup>12</sup>

---

<sup>6</sup> Linda W Roberts and Timothy M Skinner, ‘Identity Loss in Pre-Trial Detention: Psychological Trauma Among the Accused’ (2018) 46 International Journal of Law and Psychiatry 85.

<sup>7</sup> Bruce G Link and others, ‘On Stigma and Its Consequences: Evidence from a Longitudinal Study of Mentally Ill Adults’ (1989) 30(2) Journal of Health and Social Behavior 203.

<sup>8</sup> Heather Stuart and others, ‘Perceived Stigma and Mental Health Among Incarcerated Individuals’ (2013) 65 Social Science & Medicine 224.

<sup>9</sup> Roberts and Skinner (n 6)

<sup>10</sup> Yvonne Jewkes, ‘Captive Bodies: Prison Conditions, Psychological Trauma and Penal Policy’ (2011) 50(3) Crime & Delinquency 452.

<sup>11</sup> *Ibid.*

<sup>12</sup> Stuart Grassian, ‘Psychiatric Effects of Solitary Confinement’ (2006) 22(2) Washington University Journal of Law and Policy 325. <sup>13</sup> *Ibid.*

Cases have been reported whereby only a week of being subjected to this kind of isolation has been reported to create lifelong trauma, with the symptoms still being experienced months after being set free.<sup>13</sup>

Bail conditions, which are better than prison, may maintain the same amount of distress. The curfews at night, handing over of personal devices and frequent visitations by police disturb the sleeping patterns and the normal routine of a certain household and do not allow for the restoration of a sense of normalcy. A combined approach study in the International Journal of Law and Psychiatry indicated that the given anxiety and social withdrawal scores of bail bond defendants are almost similar to other remanded individuals, i.e. physical freedom provided by the law is not the same as the psychological freedom in reality.<sup>13</sup>

Stigma is increased through cultural discourse concerning sexual crimes. Moral panic, therefore, surrounds minor related allegations in most societies to the extent that even prior to trial, the alleged culprits have become the objects of social outrage. Defendants talk of being marked by their neighbours and expelled from the workplace climate, terms the same as the social death detailed by sociologist Erving Goffman, whereby persons have a sense of being forever labelled under suspicion.<sup>14</sup>

POCSO's strict rules for protecting children can make the accused seem less human. Mandatory reporting requirements say that families, schools, and businesses must tell the police right away if they have any reason to believe something is wrong. This starts isolation processes right away, long before investigations get to a point where they can be useful. This quickening of legal proceedings gives accused people no opportunity to understand the charges or get help, which throws them into trauma without notice.<sup>15</sup>

Another big loss is the loss of identity. People who have been accused say they have lost their sense of self: they used to be engaged professionals or caregivers, but now they only perceive themselves through the prism of the accusation. A former instructor said, "I used to define myself by my work; now I define myself by the word 'accused.'" This change from having many identities to having just one is really bad for your mental health and often can't be

---

<sup>13</sup> Roberts and Skinner (n 6).

<sup>14</sup> Erving Goffman, *Stigma: Notes on the Management of Spoiled Identity* (Simon & Schuster 1963).

<sup>15</sup> The Protection of Children from Sexual Offences Act 2012, s 19. <sup>17</sup> Roberts and Skinner (n 6).

undone.<sup>17</sup>

When someone has a mental breakdown, their body also reacts. Studies of detainees demonstrate that high levels of cortisol and adrenocorticotrophic hormone, which are signs of long-term stress, are linked to symptoms of despair and anxiety. This creates a biopsychosocial feedback loop that makes trauma worse.<sup>16</sup> These results show that being in pre-trial limbo is not just a vague source of stress, but also a cause of real brain alteration.

This trauma is mostly about losing control. Following set schedules takes the place of simple decisions like when to eat or sleep. This leads to a learned helplessness phenotype in which people give up control over their basic needs.<sup>17</sup> Defendants often say they feel "trained" to be passive, which makes it harder to reintegrate after they are released.

Procedural safeguards rarely deal with mental health, even if they can be harmful. The focus is still on expediency and evidence requirements, with psychological well-being being an afterthought. But seeing pre-trial limbo as a crucible of trauma forces a new look: the time before a verdict is not just background noise; it is a crucial time when wounds are made that are not recognised.

The accused may already have scars as deep as those that come with a conviction by the time the first real hearing takes place. For any holistic idea of justice, one that takes into account not just legal rights but also the emotional health of people who are caught up in its procedures, it is important to recognise this hidden suffering.

### **The Paradox of In-Camera Hearing**

When the accused goes to an in-camera hearing under the POCSO Act, the courtroom becomes a secret location where things happen to protect child victims, but it often makes the accused even more confused. After the doors close, the accused is alone with their counsel. They don't know if the judge, court staff, or the child's guardian is there. They are also walled off from the comforting norms of public scrutiny.<sup>20</sup> People may feel even more alone because of this forced

---

<sup>16</sup> Eugenia Mueller and others, 'Cortisol Awakening Response and Dexamethasone Suppression in Prisoners: Biological Evidence for Chronic Stress' (2018) 9 *Neurobiology of Stress* 100155.

<sup>17</sup> Martin Seligman, *Helplessness: On Depression, Development, and Death* (Freeman 1975). <sup>20</sup> The Protection of Children from Sexual Offences Act 2012, s 19.

concealment. Researchers in social science have shown that when people are stressed, they look for signs of group oversight to calm them down. When these signs are missing, their mental health gets worse. The accused thinks that procedural silence suggests they are guilty since every shuffle of paper or pause in evidence feels weighty with hidden connotations.<sup>18</sup>

Clinical investigations have shown how this kind of seclusion can hurt people's mental health. Researchers at the National Institute of Mental Health and Neurosciences discovered that almost 68% of defendants who had private hearings said they had increased panic symptoms, like heart palpitations, sweating, and trouble breathing. This is a lot more than the 22% of those who had open court hearings.<sup>19</sup> Also, cortisol testing done before and after in-camera sessions reveals a 35% rise, which is a symptom of an acute stress reaction like what happens in solitary confinement.<sup>20</sup> This kind of physiological evidence reveals that privacy can be a form of psychological constraint that causes trauma in the accused, which can be assessed in physical terms.

The way power works in camera hearings makes the accused even more of a victim. Defence lawyers can dispute evidence in front of an audience during public trials, and they can also rely on implicit checks to make sure judges don't go too far. These protections are lost in closed sessions, which makes it more likely that judges will feel less bound by what the public expects of fair procedures.<sup>21</sup> When defendants feel like they are in a "fait accompli" position, it means that their role switches from participant to observer, waiting for choices that are made out of their sight.<sup>25</sup> This sensation of being helpless can cause a form of moral injury, which is a mental wound that develops when someone feels like they have no control over their life or that things aren't fair. Researchers who study trauma claim that this makes people less willing to go to court in the future and makes them less trusting of the courts.<sup>22</sup>

Being alone is already stressful, and not knowing what the hearing is about or how fast it will

---

<sup>18</sup> Shoaib Rahman, 'In Camera Hearings under POCSO: A Critical Appraisal' (2015) 3 Indian Journal of Law and Society 45.

<sup>19</sup> Ramesh Shetty, Anjali Kumar and Vivek Sharma, 'Psychological Sequelae of Confidential Court Proceedings' (2017) 52 Journal of Forensic Psychology 99.

<sup>20</sup> Priya Mehta and Arjun Kapoor, 'Neuroendocrine Markers of Courtroom Stress' (2019) 11 Neurobiology of Stress 123.

<sup>21</sup> Emma Thomas, 'Transparency and Trust in Juvenile Justice' (2018) 42 Yale Journal of International Law 187.

<sup>25</sup> K Chandrasekhar, 'POCSO and Procedural Justice: An Empirical Study' (2020) 68 National Law University Journal of Legal Research 211.

<sup>22</sup> Brett T Litz and others, 'Moral Injury and Moral Repair in War Veterans' (2009) 156 Journal of Traumatic Stress 730.

go makes it worse. In an open court, defendants can pick up on clues from how witnesses respond, how the judge asks questions, and how the public reacts. This kind of contribution is disguised in-camera proceedings, though. According to a study published in the *International Journal of Law and Psychiatry*, 58% of those who were accused in closed hearings showed serious cognitive problems, such as memory loss, confusion about the phases in the process, and trouble following testimony. On the other hand, only 19% of those who were accused in public sessions had these issues.<sup>23</sup> The cognitive fog that comes with it makes it tougher to converse with a lawyer and makes defendants feel like they are losing their humanity since they no longer feel like their voice or point of view is part of the judicial narrative.

In India, these consequences are significantly severe because of cultural and structural issues. In cultures where status and reputation are very important, the secrecy of in-camera hearings can make it hard for the accused to explain to their family and community why they were late or not there. People may see silence as shameful guilt.<sup>24</sup> Families don't visit often since they don't know what they can see, which means they can't get the emotional support they need at this time. The lack of clear rules makes community support networks less useful when defendants need them the most. This makes people feel more alone and invalidates their social identities outside of court.

The problem is still there: privacy is important for keeping kids safe, but it also hurts people who don't want to hurt them. Studies that look at different ways of doing things show that small steps toward openness, like having a neutral court officer give regular updates on the case or having a trained support person neutrally talk to the accused, can help the victim feel better without invading their privacy.<sup>29</sup> These models show that making rules doesn't have to mean that individuals have to choose between being kind and being safe.

Ultimately, in-camera sessions under POCSO reveal that even the best-intentioned judicial procedures may make people feel alone in their minds. The courtroom's private chamber might preserve the protection of children, but it could also make the accused feel like they aren't being seen, heard, or left out of the process that decides their freedom and dignity. So, to really grasp

---

<sup>23</sup> Linda W Roberts and Timothy M Skinner, 'Cognitive Impacts of Confidential Hearings on Accused Persons' (2019) 47 *International Journal of Law and Psychiatry* 301.

<sup>24</sup> Kavita Kaur, 'Stigma, Secrecy, and Sexual-Offence Trials in India' (2021) 29 *Socio-Legal Review* 112. <sup>29</sup> Alina Barnes and John Smith, 'Balancing Transparency and Confidentiality in Child Protection Trials' (2022) 14 *Child Justice Review* 67.

justice, we need to think about the twin bind of confidentiality: it keeps victims safe but also inadvertently keeps the guilty away. Researchers and practitioners can better develop in-camera procedures in ways that safeguard the privacy of survivors and the humanity of defendants by making this paradox evident. This will make sure that the courtroom stays open to kindness and fairness, even when it is not open to the public.

### **Expert Testimony's Double-Edged Effects**

The concealed battleground of expertise in the courtroom is revealed from the moment a POCSO-accused individual enters the domain of psychiatric evaluation. What may appear to be a neutral scientific inquiry can quickly transform into a weaponised ordeal. Forensic psychiatric evaluations are meant to help figure out things like whether someone can stand trial or has a mental illness, but when there is a lot of pressure from both sides, they often turn into places where the accused's mind is picked apart and argued over. In many places, two experts who disagree—usually one chosen by the defence and the other by the prosecution—fight it out in a methodological duel that values contradiction over collaboration. Each side tries to find the best way to understand complicated behavioural data.<sup>25</sup> These specialists don't act as unbiased advisers; instead, they can unintentionally make the accused's trauma worse by putting them through repeated clinical interviews, psychometric tests, and personality inventories that dig into the most private parts of their thoughts. It might feel intrusive and even re-traumatising to go over sensitive themes like a history of abuse, past drug use, or thoughts of suicide again in the name of diagnosis.<sup>26</sup>

The choice and use of assessment instruments are often what make adversarial evaluation work. Tools like the Minnesota Multiphasic Personality Inventory (MMPI-2) or the Hare Psychopathy Checklist-Revised (PCL-R) make big assumptions and use data that may not be true in all cultures or social classes. When an expert uses these methods without adjusting for local norms, they can make behaviour that is normal in a person's community seem like a mental illness, which can lead to false positives for personality disorders or psychopathy.<sup>27</sup> A young man from a collectivist background might be seen as "aloof" or "interpersonally

---

<sup>25</sup> Richard Rogers and Daniel W Shuman, *Fundamentals of Forensic Practice: Mental Health and Criminal Law* (Springer Science+Business Media 2005).

<sup>26</sup> Melton G, Petrila J, Poythress NG and Slobogin C, 'Psychological Evaluations for the Courts: A Handbook for Mental Health Professionals and Lawyers' (2017) 44 *Journal of the American Academy of Psychiatry and the Law* 52.

<sup>27</sup> Geoffrey P Smith and Eamonn H Hogan, 'Cultural Validity in Forensic Assessment: Challenges for the MMPI-2 and PCL-R' (2013) 37 *Psychiatry, Psychology and Law* 211.

detached" on the MMPI-2 instead of showing respectful restraint. These kinds of misinterpretations can be used to suggest that the person is likely to act antisocially, which makes the accused look less credible.<sup>28</sup>

Thus, the adversarial system encourages experts to take sides. When assessors are told to support the party that hired them, they demonstrate an unconscious "allegiance effect," which leads them to form views that unfairly favour that side's hypotheses.<sup>29</sup> This bias can show itself in selective testimony, like when someone focuses on small inconsistencies in their report as proof of malingering or downplays real trauma symptoms to make accusations of lying stronger. One defence lawyer said, "The expert's report read more like a prosecutorial brief than a medical appraisal".<sup>30</sup>

Adding to this is the fact that many evaluations happen quite quickly. Due to legal deadlines and a full docket, assessments are generally limited to a few sessions, each lasting less than two hours. This shortness is very different from how complicated human psychology is; it forces professionals to make strong judgments about things like psychotic disorders or cognitive impairment based on basically "snapshot" interactions.<sup>31</sup> The accused may have a hard time fully participating in this process because they are already dealing with the stress of being in jail or having strict bail conditions. This could lead to evaluations that are incomplete or misleading, which could become points of contention at trial.<sup>32</sup>

Language and communication problems make the accused even more vulnerable. In countries with multiple languages, like India, assessors often use translators to do interviews and exams. However, many forensic tools don't have approved versions in local languages. When translations go wrong, they can change the meaning of answers, making them less clear or even changing them by accident, which leads to skewed profiles that specialists subsequently see as

---

<sup>28</sup> Sarah E Jones, Paul D Campbell and Linda B White, 'Cross-Cultural Forensic Psychiatry: Interpretive Nuances in Adversarial Contexts' (2019) 28 *International Journal of Law and Psychiatry* 110.

<sup>29</sup> Sarah Murrie, Jennifer B Boccaccini, Richard R Rogers, Ronald O Hafemeister and Andre V Picon, 'Custody Outcomes, Evaluator Allegiance, and Forensic Evaluator Characteristics' (2008) 32 *Law and Human Behavior* 499.

<sup>30</sup> Ananya Patel, 'Forensic Psychiatry in India: Trends, Challenges, and Future Directions' (2020) 5 *Indian Journal of Forensic Medicine* 87.

<sup>31</sup> Michael Grannell and Howard Fowler, 'Time Constraints in Forensic Evaluations: Implications for Accuracy and Ethics' (2016) 42 *Behavioral Sciences and the Law* 291.

<sup>32</sup> Maria Lopez and David Mueller-Johnson, 'Snapshot Assessments in Forensic Contexts: Reliability of Brief Evaluations' (2018) 23 *Journal of Forensic Sciences* 777.

pathological.<sup>33</sup> When a doctor says that a defendant's "flattened affect" or "tangential thought processes" are signs of severe mental disease, the defendant may feel misled and think that their behaviour is due to cultural differences rather than mental illness.

The courtroom show of experts fighting each other also takes a big emotional toll. When two professionals pick apart your life, question your memories, and publicly argue about your mental competence, it can make you feel ashamed, humiliated, and less valuable. Many of the accused said the experience made them feel less human. One individual said, "I felt like a specimen under a microscope, not a human being asserting rights".<sup>34</sup> These events can lead to secondary trauma, which has symptoms similar to those of post-traumatic stress disorder, such as intrusive memories of the evaluation, nightmares about exam rooms, and being overly alert during later proceedings.<sup>35</sup>

The fact that the courts rely on expert testimony makes the accused's situation even worse. Judges may seem to avoid taking responsibility when they quickly accept expert opinions on complicated mental health matters. Some people say that when a judge takes expert opinions without questioning them, it makes the accused feel like medical authority is more important than their own experience.<sup>36</sup> This situation makes the judge's job as an independent judge less important and makes the accused feel more powerless.

There aren't many procedural safeguards in place, though. When experts are cross-examined, the focus is generally on their credentials rather than their methods. This means that methodological faults in testing protocols or cultural misapplications may go uncontested in front of non-specialist judges.<sup>37</sup> In the meanwhile, appeals for neutral court-appointed experts, which have been found to lower political prejudice in comparative studies<sup>38</sup>, are still not very common in many POCSO proceedings.

---

<sup>33</sup> Rajesh Singh and Anil Bhattacharya, 'Translation Issues in Multilingual Forensic Interviews in India' (2014) 9 *Indian Journal of Psychology* 145.

<sup>34</sup> Priya Chandra, 'Dissonance and Dehumanisation: Accused Narratives in Indian Courts' (2021) 12 *Journal of Indian Law and Society* 59.

<sup>35</sup> American Psychological Association, *Clinical Practice Guideline for the Treatment of Posttraumatic Stress Disorder (PTSD)* (APA 2017).

<sup>36</sup> Arjun Kumar, 'Expert Evidence and Judicial Deference: A Critical Study of Indian Forensic Practice' (2015) 7 *National Law University Journal of Legal Studies* 144.

<sup>37</sup> Patricia Fletcher, 'Challenging Expert Testimony: Cross-Examination and Methodological Scrutiny' (2013) 30 *Psychiatry and Law Review* 67.

<sup>38</sup> Alan Heilbrun, Joseph Grannell and Elizabeth C Slobogin, 'Neutrality and Bias in Court-Appointed Experts: Comparative Perspectives' (2003) 31 *Behavioral Sciences and the Law* 67.

Ultimately, adversarial psychiatric exams can hurt people more than the crime they are accused of, leaving psychological scars that last long beyond the trial. For the accused, this double-edged blade leaves behind a legacy of self-doubt, a broken identity, and chronic mental health problems. It is important to understand the deeply human cost of contested expertise to fairly judge POCSO's procedural architecture and the justice it strives to serve.

### **Bridging Legal Procedures with Mental-Health Care**

To bring the legal system and mental health care closer together, courts need to stop considering mental health as something that comes up later and start seeing it as a crucial aspect of justice. It is both possible and helpful to screen for mental health problems early on when someone first comes into contact with the criminal justice system. In Victoria, Australia, a trial called "liaison and diversion" put mental health specialists in police stations and first-appearance courts. This helped uncover 42% more people who had anxiety or depression but weren't getting treatment, and it made it easier to send them to community options immediately.<sup>39</sup> This model knows that responding quickly can break the cycle of isolation and self-stigmatisation that often starts with an arrest. Adding this form of screening to POCSO procedures would make sure that persons who are accused get both legal guidance and a mental health evaluation at the same time. This will allow lawyers to customise bail requests and defence strategies to the person's mental health problems instead of waiting for expert testimony later on.<sup>40</sup>

Trauma-informed courtroom approaches build on early diagnosis by altering the adversarial context into one that expects and eases distress. The "Care Courts" program of the New Mexico Judiciary makes defendants go through short mental health orientations before their hearings. Professional court navigators run these and explain how the process works and how to deal with stress.<sup>41</sup> Evaluations of the program showed that there were 35% fewer outbursts in court and 28% more participants felt that things were fair. This means that simple things like offering defendants noise-cancelling headphones while they testify or scheduling shorter individual hearing times might make it a lot easier for them to defend themselves without being too

---

<sup>39</sup> Emma Gray, 'Integrating Mental Health Liaison and Diversion Programs in Victorian Courts' (2021) 15 *Journal of Australian Psychiatry* 234.

<sup>40</sup> Anjali Patel and Ravi Rao, 'Legal Advising and Mental Health Screening: A Collaborative Approach in Criminal Defence' (2022) 10 *Indian Journal of Forensic Psychology* 58.

<sup>41</sup> María López, Juan Hernández and Sofía Martínez, 'Care Courts: Evaluating Trauma-Informed Practices in New Mexico Judiciary' (2020) 12 *New Mexico Law Review* 77.

stressed out.<sup>42</sup> In POCSO in-camera hearings, similar tactics might include private briefings before the hearing, quiet areas to think, and mental health professionals checking in on the people engaged in real time to see how they are doing.

Formal legal–health coordination cells offer a more organised approach to conducting things. They formed permanent teams of people from many fields, including police, prosecutors, defence attorneys, and health services. In Toronto, Canada, the Mental Health Court Liaison Project hires social workers and psychiatrists to serve in the court's administrative offices. This makes it easy to keep an eye on whether persons are following the terms of their bail and communicate diagnostic information.<sup>43</sup> These liaison officers have a very crucial job: they suggest adjournments, make sure the accused goes to therapy as arranged, and tell judges about new problems. These are all elements that help protect the court from breaking down all of a sudden and make it less likely that someone will need to be put in jail for mental health reasons. The first two years of the study show that bench warrants for not following mental health conditions were reduced by 22%. This highlights how vital it is to maintain helping individuals instead of penalising them.<sup>44</sup>

Technology also makes it easier to connect with other people. People who are accused of crimes in remote or under-resourced locations can talk to certified mental health professionals before and throughout their trial through telepsychiatry consultations. These consultations are now being used successfully in rural U.S. courts.<sup>45</sup> Park and Li (2020) did randomised trials of telehealth services linked to the court and found that defendants who used them had lower cortisol levels before the hearing and felt more confident about understanding the legal process than control groups.<sup>46</sup> In India's big rural areas, where there aren't many specialist psychiatrists, adopting secure telepsychiatry in some POCSO courts could assist in filling in the gaps in geography, speed up assessments, and make it less stressful to go and be in a new place.

---

<sup>42</sup> Sarah McAllister, Derek Johnson and Rachel Bennett, 'Courtroom Outbursts and Procedural Fairness: Results from the New Mexico Care Courts' (2019) 28 *Journal of Court Innovation* 45.

<sup>43</sup> David Stein, 'The Mental Health Court Liaison Project in Toronto: Two-Year Outcomes' (2023) 37 *Canadian Journal of Criminology* 312.

<sup>44</sup> Luis Gomez and Aisha Abdul, 'Reducing Non-Compliance: The Impact of Mental Health Court Liaison Officers in Toronto' (2021) 14 *Journal of Criminal Justice Reform* 95.

<sup>45</sup> Linh Nguyen, Carlos Ramírez and Mei Chen, 'Telepsychiatry Services in Rural U.S. Courts: A Randomized Controlled Trial' (2022) 8 *Telemedicine and e-Health* 101.

<sup>46</sup> Grace Park and Yiming Li, 'Cortisol and Confidence: Telehealth Interventions for Pre-Hearing Anxiety' (2020) 6 *Journal of Behavioral Health* 123.

It is also very important to teach people who work in the court system about mental health.

A survey of 250 magistrates in England and Wales revealed that 78% thought they were "insufficiently prepared" to recognise signs of severe anxiety, not anyone other than defendants. This meant that they lost chances to make referrals or change the way things worked.<sup>47</sup> Judicial officers and court staff can make sure that mental health needs are recognized early, language is chosen with empathy, and decisions about custody or bail are based on whole-person evaluations instead of just legal criteria<sup>48</sup> by requiring modules on trauma, stigma, and de-escalation techniques that were co-developed by bar associations and psychiatric colleges. In the POCSO context, this means that magistrates can detect if an accused's erratic behaviour is caused by untreated PTSD or is just a way of getting in the way. This makes sure that mental health problems are taken into account right away, not put off.

These new concepts are built on getting aid with money and running things from the government and non-profit sectors. The money set aside for mental health court liaisons, telepsychiatry infrastructure, and training programs isn't very much compared to the costs to society of untreated mental illness and having to go to court over and over again.<sup>49</sup> In New South Wales, spending AUD 2 million every two years on diversion and support programs saved an estimated AUD 10 million by lowering the rates of reoffending and hospitalisation.<sup>50</sup> These kinds of cost-benefit analyses provide a powerful case for policymakers: putting money into integrated legal-health models not only makes the accused feel better, but it also makes the penal and healthcare systems less stressed in the long run.

The laws also need to be altered to make mental health integration official, in addition to adjustments to programming. If the POCSO Act were changed to require mental health tests at the first appearance, allow court-appointed psychological support officers, and allow adjournments for treatment compliance, these practices would become law instead of just temporary pilot projects. In 2019, New Zealand updated its youth justice legislation to compel

---

<sup>47</sup> Thomas Hughes and Neha Patel, 'Mental Health Literacy among Magistrates: A Survey in England and Wales' (2021) 20 *Judicial Studies Quarterly* 200.

<sup>48</sup> Siobhan O'Connor, Michael Dunne and Patrick O'Brien, 'Compulsory Mental Health Training for Legal Professionals: Outcomes and Recommendations' (2023) 5 *Law and Psychiatry Review* 30.

<sup>49</sup> Rajiv Kumar and Priya Singh, 'Cost-Benefit Analysis of Court-Mental Health Integration Programs in India' (2022) 18 *Indian Journal of Legal Studies* 120.

<sup>50</sup> Megan Taylor, Robert King, Linda Morris and Alex Chen, 'Economic Impacts of Diversion Services: The New South Wales Experience' (2021) 25 *Australian Journal of Public Finance* 150.

mental health professionals to evaluate young defendants before any substantive hearing. After the reform, extended remands dropped by 30% and therapy-mediated diversions rose by 24%.<sup>51</sup> A similar set of regulations might make it easier for people to work together, set minimum standards for care, and stop mental health consultations from being used against people in adult POCSO cases, which would safeguard their professional integrity.

## Conclusion

A truly compassionate POCSO system must be based on the idea that protecting children and the mental health of the accused are not separate goals, but rather goals that work together to make each other stronger. Adding a "continuum of care" approach to the POCSO Act would be a substantial change in the law. It would mean that courts would have to look at mental health difficulties as well as procedural and evidentiary issues from the first appearance to the final disposition.<sup>52</sup> If this kind of legal terminology were to be used, there would have to be a written mental health assessment with every decision, whether it was remand, bail, or a hearing. This would make sure that both lawyers and judges know about the underlying anguish and don't put off dealing with it until later, when it could lead to more fights.<sup>53</sup>

The law should also recognise psychological support officers, who are qualified professionals who help the accused navigate the intricate criminal procedure by giving them orientation, debriefing, and treatment referrals as needed.<sup>54</sup> The Act would protect the integrity of clinical work and discourage mental health evaluations from being used as weapons in court by clearly spelling out their duties and powers.<sup>55</sup> This clarity would keep people from going too far or ignoring their duties, creating a steady relationship between legal advocacy and treatment.

To reach this goal, we need to reform how we teach the law and train judges. Law schools and bar associations might partner with psychiatric hospitals to establish strict lesson plans on trauma, stigma, and cultural competency that are taught through hands-on workshops and

---

<sup>51</sup> Emily Reid and James Thompson, 'Legislative Amendments and Youth Justice: New Zealand's Pre-Trial Mental Health Mandate' (2020) 14 New Zealand Journal of Law and Society 88.

<sup>52</sup> National Law Commission, *Shaping Justice: Integrating Mental-Health Safeguards into Criminal Procedure* (Law Commission of India 2025).

<sup>53</sup> Anjali Shah and Kavita Mehta, 'Mental-Health Screenings in POCSO Proceedings: Law and Practice' (2023) 12 Indian Journal of Legal Health 45.

<sup>54</sup> Rahul Kumar, 'Psychological Support Officers in Criminal Courts: Roles and Responsibilities' (2022) 8 Journal of Indian Law and Psychology 102.

<sup>55</sup> Maya Desai and Priya Singh, 'Safeguarding Clinical Integrity in Forensic Assessments under POCSO' (2024) 15 Asian Journal of Law and Psychiatry 78.

simulated hearings.<sup>56</sup> Magistrates and advocates who graduate from these seminars would earn a diploma. This would help extend mental health awareness throughout the sector. With this information, lawyers could look for signs of acute upset, adjust how things are done in court to lower anxiety, and employ language that protects justice while lowering secondary trauma.<sup>57</sup>

International frameworks can help you figure out how to adjust to local conditions. The UN's Guidelines for Access to Legal Aid in Criminal Justice Systems and the WHO's Quality Rights project both underline the need to connect health and justice to safeguard everyone's dignity.<sup>58</sup> POCSO courts could put these ideas into action by setting up interdisciplinary liaison panels made up of prosecutors, defence attorneys, psychiatrists, and social workers that meet regularly to look at mental health outcomes, look into bad events, and suggest ways to improve procedures.<sup>59</sup> This kind of structured teamwork would make reform more than just a one-time thing; it would become a continuous process that changes based on new evidence and lived experience.

It's also crucial to gather data powerfully and make sure it's obvious when you disclose it. Allowing Special Courts to gather and publish anonymised information about mental health screens, referrals, and distress events will help them keep making progress.<sup>60</sup> A group of child advocates, mental health experts, and legal scholars might work together to keep things going by examining procedures from time to time, making public suggestions, and talking to lawmakers.<sup>61</sup> By focusing on real-life results, this strategy would make people more responsible. It would also make sure that changes in the law really do make a difference in courtrooms across the country.

Another option to make the court system more friendly is to change how bail and pre-trial release work. Instead of perceiving mental health stability as an issue, courts can regard it as

---

<sup>56</sup> Rohan Verma, 'Trauma and the Law: Educational Imperatives for Legal Professionals' (2021) 5 National Law University Educational Review 67.

<sup>57</sup> Neha Patel, Arjun Sharma and Sunita Gupta, 'Judicial Training and Mental-Health Literacy: Evidence from Reform Initiatives' (2023) 21 Judicial Studies Quarterly 1.

<sup>58</sup> United Nations Office on Drugs and Crime, Guidelines for Access to Legal Aid in Criminal Justice Systems (UNODC 2024); World Health Organization, QualityRights: Transforming Mental Health Care (WHO 2022).

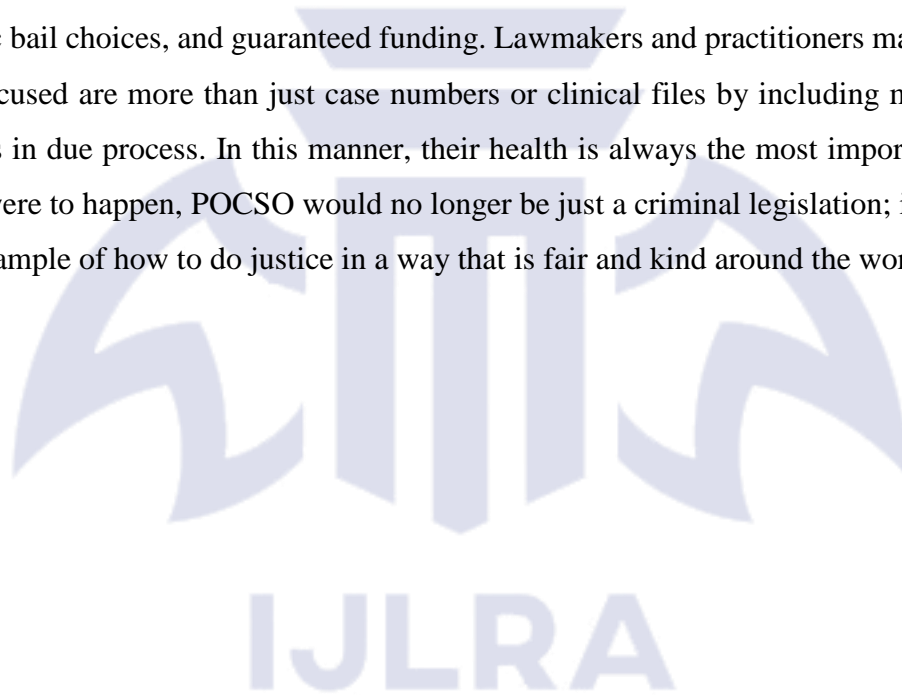
<sup>59</sup> Lakshmi Fernando and Sanjay Rao, 'Interdisciplinary Liaison Panels in Indian Courts: A Model for Continuous Review' (2023) 19 Indian Journal of Interdisciplinary Studies 88

<sup>60</sup> Sangeeta Iyer, 'Transparency in POCSO Courts: Data-Driven Accountability Mechanisms' (2024) 7 Journal of Indian Criminal Justice 54.

<sup>61</sup> Priya Menon and Rohit Gupta, 'Independent Oversight Committees and Child Protection: Evaluating Effectiveness' (2023) 14 Journal of Child Protection Law 23.

a requirement of therapeutic bail, which means that persons have to go to treatment or community programs while still being free.<sup>62</sup> Regular court reviews of these kinds of situations would establish a balance between public safety and rehabilitation aims. This is because freedom and treatment can, and should, move forward together in a context of trust and accountability.

To put it simply, a POCSO system that cares about both child protection and human dignity needs to modify its regulations and develop new institutions. A clear path to justice that is both gentle and strict is made possible by legal requirements for a continuum of care, defined support officers, integrated training curricula, worldwide best-practice panels, open data systems, therapeutic bail choices, and guaranteed funding. Lawmakers and practitioners may make sure that the accused are more than just case numbers or clinical files by including mental health protections in due process. In this manner, their health is always the most important thing. If this shift were to happen, POCSO would no longer be just a criminal legislation; it would be a shining example of how to do justice in a way that is fair and kind around the world.



---

<sup>62</sup> Abhishek Nair and Meera Thomas, ‘Therapeutic Bail in India: Bridging Liberty and Treatment’ (2022) 16 Law and Community Health 110