



## CHILD WITNESSES IN INDIA: A CRITICAL ANALYSIS OF EVIDENTIARY VALUE

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### **ABSTRACT**

*Child witnesses create important evidence in courts when dealing with abuse cases sexual assault cases and cases of domestic violence. The accuracy and lawful standing of child witness testimony face doubt because children experience three main difficulties during investigations including their developing cognitive abilities frail emotional state and suggestible nature. This abstract examines the legal system's perspective on child testimony evidence in India while discussing the established provisions that protect children during trials. The Indian Evidence Act, of 1872 together with the Bharatiya Nagarik Suraksha Sanhita, 2023 establish rules for accepting child testimony while focusing on how to decide if children can testify as witnesses. The weighty value of child testimony needs additional support from other independent evidence to demonstrate its reliability. The article examines judicial methods of assessing child evidence by taking into account the reliability markers consisting of how well the story holds together and the child's mental state and susceptibility to influence. The article describes safety mechanisms that ensure both trauma prevention and child protection throughout the legal proceedings. A child witness' court contribution retains value based on how effectively judges evaluate reliability and protect child rights and emotional well-being in the judicial process.*

**Keywords:** Child witness testimony, Cognitive abilities, Emotional state, Suggestibility.

### **INTRODUCTION**

The testimony of child witnesses plays a critical role in legal proceedings, particularly in cases involving serious crimes such as child abuse, sexual assault, and domestic violence. While child testimony can provide vital evidence, its admissibility and reliability often raise questions due to the inherent challenges associated with children as witnesses. These challenges include

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cognitive limitations, emotional vulnerability, suggestibility, and the potential for trauma or manipulation during the process. Legal systems, including India's, have established specific rules to evaluate the evidentiary value of child testimony, ensuring that their voices are heard while protecting their well-being. Under the Indian Evidence Act, 1872, and the Bharatiya Nagarik Suraksha Sanhita, 2023, child witnesses are permitted to testify provided they are deemed competent to understand the proceedings and communicate their recollections. However, the court must consider factors like the consistency of their testimony, their emotional state, and the presence of corroborative evidence.<sup>1</sup> This introduction delves into the complexities surrounding the evidentiary value of child witnesses and the legal safeguards designed to ensure justice while protecting vulnerable children.

### **WHO MAY TESTIFY?**

All person who observed an occasion, have the capability to deliver testimony. Section 118 of the Indian Evidence Act 1872 determines the value of evidence through three different conditions that must be met.<sup>2</sup>

1. The person needed for testimony must have reliable witnessing abilities.
2. Any potential witness must show an ability to answer questions that are directed at them.
3. The person must possess the capability to deliver reasonable answers to questions. The court possesses discretion to approve the testimonial statements of witnesses according to the initial reading of this provision.

The court needs to answer an important question regarding the testifying capabilities of children. The court needs to evaluate child witness testimony through normal witness evaluation procedures.

### **THE VALUE OF TESTIMONY OF CHILD WITNESSES: AN EVIDENTIARY PERSPECTIVE**

Child witnesses provide essential testimonies during legal hearings mainly when they become victims of child abuse domestic violence or sexual offences. Judicial institutions evaluate child evidence with great uncertainty because defense professionals question reliability factors and

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<sup>1</sup> Ekalavya Malniya – Admissibility of Child Witness: <https://www.iplleaders.com>

<sup>2</sup> <https://www.primelegal.in>

question the child's psychological stability while also debating the child's communication and understanding abilities. Jurors need to exercise careful assessment of child evidence while maintaining justice objectives along with preserving the child's health needs. Child evidence inherits its worth as courtroom evidence from a mix of factors that embrace child maturity level and thought capacity combined with subjective experience and the conditions binding their testimony. The different influences require legal systems to implement procedures that protect child testimony from pressure or controlling influences during examination procedures. Proficiency in interpreting child witness particulars enables a comprehensive understanding of the legal strategies that maintain child testimony integrity together with fairness.

**Testimony of Child Witness:** Considerations of factual events lead the court to dismiss child witness testimonies throughout various cases. In what circumstances does the court dismiss child testimonies because of the subject's youthful age? The court does not consider young children as dependable witnesses because their viewpoints are unclear and their understanding of questions is limited.

The Supreme Court expressed in *Nirmal Kumar v. State of U.P., 1992* that the evidence from children requires extensive evaluation while seeking verification because verification operates as a practical rule beyond legal grounds. Child witness testimony needs extensive evaluation because it often includes influences from those giving the testimony. Temptations together with fear can cause the child to falsely confirm observations they did not witness. Both the court system and the judge must examine any possible influences that have been taught to the child witness. The court should not disregard the evidence even though the child may receive teachings because of his young age.

**Competency of Child Witnesses:** The law of India along with multiple other jurisdictions does not impose specific age restrictions on child witness competency. The capacity of a child to testify depends on their ability to comprehend court proceedings while separating fact from fiction. The Indian Evidence Act elements stated in Section 118 allow children of any age to become legal witnesses when they can both grasp oath meanings as well as respond logically to questioning. Testing competence begins at age seven because children under this age can testify when they demonstrate the required cognitive and emotional maturity. Each child witness requires an individual evaluation to determine their competency even though some

assessment standards exist.<sup>3</sup> Before allowing child testimonies courts must examine to evaluate their ability to answer questions factually. The evaluation process checks to see if the child understands truthful statements and has a grasp of the oath or affirmation. When a child cannot satisfy fundamental criteria, the court determines them incompetent to testify therefore their trial evidence will be eliminated.

**Voir Dire Test:** The word evolved from Anglo-Norman language where it originally meant "oath to speak the truth." The word for (or voice) in this context derives from French and translates exactly to "true matter." The judicial proceeding exists to judge the reliability of child testimonies. The judge examines the child's witness to evaluate their honesty while checking whether the facts are consistent with the facts that have been presented. A test is conducted to judge a child's readiness for full witness potential before the court while the judge directs some pointless questions during the evaluation. Among the questions included in this examination are queries about the child's name together with inquiries about his father's name or his location of residence. The assessment measures the absolute fitness level of child witnesses through these tests which might contain limited restrictions.

In Rameshwar S/o Kalyan Singh's case Under Section 118 of the Indian Evidence Act, each person possesses the necessary competence to be a court witness unless proven incapable of answering court questions. A child's understanding ability during early years depends heavily on others' statements as it learns from their perspectives which might cause child testimonies to get altered or changed. Addressing child witnesses emerges as a crucial task because of its significance. *Nivrutti Pandurang Kokate Ors. v. The State of Maharashtra (2008)* became a significant case for this issue. In *The State of Maharashtra (2008)* the Supreme Court demanded that the testimony of child witnesses must undergo thorough examination to confirm no coercion or pressure occurred during their statement against tests and other related evidence.

### **CHILD TESTIMONY IN CASES OF SEXUAL ABUSE**

The examination process for evidence in child sexual abuse cases requires analysis of how children can testify in court. The findings from NLSIU Bangalore reveal that victims became hostile in 67.5% of cases and only provided testimony against the accused in 26% of instances.<sup>4</sup> The best approach in these situations includes reducing child witness court appearances and

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<sup>3</sup> <https://www.jevlidhi.com>

<sup>4</sup> <https://www.legalservices.com>

using a Union created under Section 39 of The Protection of Children from Sexual Offences (POCSO) Act, 2012 to establish child-friendly investigation facilities.<sup>5</sup> In the case of Rameshwar v. The courtroom determined Rameshwar guilty of rape against an 8-year-old female in the State of Rajasthan. Judicial authorities based their criminal conviction against the perpetrator on the statements made by the victim to her mother. The Sessions Court recognized that the provided evidence would sustain a moral conviction yet failed to meet legal standards. The High Court determined that although the law demands corroboration for this case it accepts the statement as legally substantiated proof according to law. The High Court granted petitioners a chance to challenge the case which in turn enabled the Supreme Court to evaluate the admissibility of statements. The court proceeded with listening to testimony from the child who did not understand oaths because the judge believed she comprehended truth-telling duties. The accused failed to say anything about the evidence at that point and thus never rejected it. The Supreme Court confirmed that the High Court could use evidence from the child in sentencing the accused.

### **CREDIBILITY AND NEED OF CORROBORATIVE EVIDENCE**

The court system closely examines child witness testimonies because of their young age and emotive state as well as their imperfect memory skills in remembering details. Ultimately the child testimony stands as unreliable evidence by itself especially when the investigated crimes involve sexual abuse or violent behavior. The judiciary maintains that child testimonies need additional supporting proof to establish their validity. Evidence obtained through independent means and confirming or supporting child-based facts guarantees the testimony will not lead to sole conviction.<sup>6</sup>

Child witness testimony can be admitted in India and other legal systems yet requires judicial assessments about its consistency and credibility. Under Indian Evidence Act, 1872 a child can act as a witness when a court determines the witness is suitable for testifying. Courts demand corroborative evidence to verify child statements to prevent false or misleading testimonies from being accepted. The court will accept diverse pieces of evidence including forensic findings and medical reports with an addition of witness statements and different types of evidence that support the case.

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<sup>5</sup> [www.timesofindia.com](http://www.timesofindia.com)

<sup>6</sup> <https://www.xournals.com>

Reliable corroborating evidence strengthens child complaints by protecting against possible wrong interpretations or memory mistakes. The establishment of claim authenticity alongside reduced chances of false convictions or unjust acquittals depends on the use of corroboration. Proof of events through corroboration is essential to validate the credibility and legal soundness of child witness testimony.

## CHALLENGES IN EVALUATING THE TESTIMONY OF CHILD WITNESSES

The evaluation of child witness testimony remains difficult because of three intrinsic factors affecting children - their developing cognitive abilities and emotional states along with their mental suggestibility. Courts must examine these difficulties carefully because this assessment determines whether child witness statements hold their validity as well as reliability. Major obstacles which must be considered are:<sup>7</sup>

1. Cognitive Development
2. Emotional Vulnerability
3. Suggestibility and Manipulation
4. False Memories
5. Trauma and Emotional Stress

**1. Cognitive Development:** The development stages of children directly influence their ability to view incidents and remember and discuss them. Cognitive development helps people learn abilities related to memory problem-solving and understanding complex situations because these skills enable them to accurately recall and answer questions in court proceedings. Young children under seven years usually lack the skills to understand time sequence and details, reality versus imagination, so their courtroom statements show unreliable evidence potential. Children demonstrate improved memory recall when they grow older because their cognitive skills progress enabling them to describe events better. Children's memories remain subject to outside influences despite developmental improvements because they can still change due to questioning that leads them or pressure from significant people. Children develop better skills to detect factual information from suggestions throughout their maturity period.

The cognitive developmental stage of a child plays a vital role in determining their courtroom usefulness when legal professionals evaluate testimonies. The judicial system depends on

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<sup>7</sup> <https://www.legalweb.com>

psychological expert evaluations for determining whether children understand the necessity to tell the truth while being able to comprehend the impacts their testimony would have on the court proceedings. Judicial proceedings benefit from this approach because it establishes a connection between a child's mental capabilities and courtroom testimony reliability and accuracy.

**2. Emotional Vulnerability:** The courts need to examine child witnesses' emotional sensitivity as a key factor during their testimony reliability assessment. Due to their developmental stage, children have greater susceptibility to emotional distress, confusion, and trauma which especially affects them in sensitive situations that include abuse and serious crimes or violent incidents. Attending a court trial to describe traumatic experiences damages children's abilities to testify clearly and consistently. The combination of concern about the criminal they faced along with legal uncertainties along with pressure from authority figures or relatives hinders the child's ability to present truthful statements with confidence during testimony.

Children tend to be swayed by the courtroom atmosphere due to attorney interactions or adult reactions that result in distorted event recollection or suggestibility regarding the sequence of events. Due to their emotional sensitivity children become susceptible to misleading questions and manipulation that affects their statement reliability. Courts use child psychologists to check the emotional health of children and video recordings and closed-circuit TV as alternative testimony methods because both provide ways to address investigative difficulties. The established measures both lighten the child's emotional weight while protecting their testimony's authenticity to promote judicial fairness.

**3. Suggestibility and Manipulation:** The disclosure of child witness evidence raises significant risks because of suggestibility and manipulation effects. A child's memory and recall will be influenced to different degrees by outside factors that include adult suggestions question leading and information presentation methods. Because of their developmental stage children particularly during early childhood years exhibit heightened susceptibility to suggestion so they tend to modify their memories through how questions are structured and through feedback from others.<sup>8</sup> The accuracy of legal testimony becomes crucial because this issue produces serious challenges in such settings. Event testimonies of children become manipulated when people use forceful or emotional communication methods or coercive

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<sup>8</sup> <https://www.studco.com>

practices to alter child statements. Parents together with caregivers and law enforcement officers can use indirect tactics to pressure children into delivering specific recollection details that contradict the child's first-hand memories. During criminal proceedings, false accounts provided by children result in endangering the judicial process integrity.

Courts implement various safeguarding methods when facing the challenges of suggestibility or manipulation. The process includes open-ended non-biased questions and expert trained professionals for questioning alongside procedures that decrease external impact. The requirement for corroboration evidence alongside child testimonies serves to prevent false convictions that would occur due to either suggestibility or manipulation of statements. Prosecuting teams must put in place these security measures to maintain evidence integrity from the child because they work to protect against falsification or distortion.

**4. False Memories:** The evaluation of child witness testimony becomes problematic because children have a higher risk of making false recollections about incidents. Children form false memories if they believe experiencing something that did not occur or if they confuse event details due to outside influences together with questioning techniques and their internal mental patterns. The memory development of younger children allows them to merge imagination into their perception of reality more easily. Children with developed cognitive abilities can either accept or believe false information when combined with friendly questioning techniques and messages from outside sources.

Children tend to remember information suggested by adults when adults provide them with repeated leading questions or expose them to false information which they eventually accept as memories. Children sometimes create fake memory details to fill empty spaces in their memory so they believe these invented details were actually in their original experience. This phenomenon is known as confabulation. Any form of suggestion transmitted through the media peer discussions or adult guidance possesses the power to construct false memories unintentionally though they create substantial injury. True memories are challenging to handle within legal frameworks because they alter reality thus producing incorrect conviction and release outcomes. The judicial system combats inaccurate child testimony through three standard procedures that include misleading questions mental health expert conduct and protective measures against exposure to suggestive content. The validity of a child's testimony depends on corroboration evidence to confirm the accuracy of their account in judicial proceedings.



**5. Trauma and Emotional Stress:** Trauma and emotional stress One of the most important elements influencing the reliability and quality of testimony provided by child witnesses is trauma and emotional stress experienced during the event. When a child has endured a traumatic event, such as abuse, assault, or witnessing a violent crime, they may have emotional scars that hinder them from accurately remembering and conveying the details of the event. The emotional burden of describing such traumatic events, particularly in a formal legal context, can also induce tremendous emotional distress confusion, anxiety,

Post-traumatic stress can affect a child's memory and perception of the event in addition to financial distress. Trauma can affect the child's capacity to process and integrate memories, resulting in fragmented or disorganized memories. They also might have flashbacks or nightmares, or become confused, making it even more difficult for them to testify accurately. The presence of the accused in the court or the intimidating nature of legal proceedings also adds to the child's emotional vulnerability. To counter these emotions, courts usually use special measures: allowing for the video recording of testimony, using child-friendly methods of questioning, and providing access to child psychologists, among others. Such accommodations work to limit the emotional burden placed on the child, allowing them to testify in a more congenial setting, at the same time maintaining the credibility and precision of their testimony. Corroborative evidence is critical to support a child's testimony, given that trauma and emotional distress can impact the child's memory and presentation.

### **SAFEGUARDS FOR PROTECTING CHILD WITNESSES**

The judicial system has put in place several protections to make sure that children's testimony is trustworthy and does not negatively impact their well-being because of their vulnerabilities. Important precautions include:<sup>9</sup>

- Child-Friendly Courtrooms
- Testifying in Camera
- Professional Guidance
- Limitations on Cross-Examination

**Child Friendly Courtrooms:** Several nations, including India, have established child-friendly courts with a more relaxed and non-threatening environment for children. Such courts are

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<sup>9</sup> <https://www.thelawbridge.com>

intended to relieve children of the trauma that may come from testifying and to ensure their testimony isn't hampered by the intimidating procedure of the courts.

**Testifying In Camera:** Child witnesses may be permitted to testify in secret or over video conference in delicate situations, particularly those involving abuse. This lessens the child's emotional and psychological load by shielding them from having to deal with the accused directly.

**Professional Guidance:** Expert direction is crucial to preserving child testimony for truthfulness or harm. Trained personnel like child psychologists, forensic interviewers, and legal experts facilitate an environment that is conducive to the child witness. These experts employ age-appropriate questioning techniques, minimize even inadvertent stress, and make certain that the child's testimony is obtained in a non-suggestive, non-coercive environment. Their participation mitigates the risks of suggestibility, trauma, and false memory, resulting in an accurate and ethically sound.

**Limitations on Cross-Examination:** The restrictions on cross-examinations are essential to safeguarding testimony from a minor against further emotional trauma or coercion. Courts frequently restrict harsh questioning, have simple or open-ended questions, and have age-appropriate procedures. Cross-examination can sometimes also be conducted by a specialist in dealing with child witnesses or through video testimony, reducing the emotional exposure for the child. These measures insulate them from intimidation and keep their testimony true as much as possible because their well-being is being concerned with during the legal proceedings.

#### **CASE LAWS: FEW EXAMPLES OF CHILD TESTIMONY AND CASE LAWS**

They are: Child evidence in court proceedings faces considerable opposition because of doubts regarding its quality as well as proof of their intellectual abilities and stress reactions. A child's testimony evaluated using proper methods can establish valuable evidence even though sceptics may doubt its reliability. Child testimony stands important to the Indian judiciary but the courts maintain strict requirements for verification evidence to validate justice. Below we examine legal proceedings where child testimony became essential for investigation purposes despite facing challenges due to child limitations and emotional conditions.<sup>10</sup>

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<sup>10</sup> <https://www.caselaw.in>

***State of Uttar Pradesh v. Krishna Master (2010)***: The Supreme Court of India solidified child evidence validity and maintained the importance of matched evidence and repeated testimony. The defendant Krishna Master faced prison time for sexually molesting a minor female. Since the child's testimony was critical the court applied strong scrutiny because she was both young and defenseless. According to the judgment, the court issued the child's witness testimony cannot be dismissed because of their age or developmental stage. These adversities facing child testimony led the Supreme Court to validate her statement because her story remained consistent and investigators backed the medical findings. The court established a precedent that allows child statements to be validated as evidence when positively verified by corroboration and consistent facts. Child testimonies demonstrate their power to obtain convictions but only when their statements meet credibility standards together with supporting evidence.

***State of Rajasthan v. Kashi Ram (2006)***: The child witness testimony proved essential for convicting Kashi Ram by proving his responsibility for sexually assaulting his underage daughter. The court used the child's witness testimony even after taking into account the difficulties she faced with speaking about her traumatic experience. According to the Supreme Court, it is essential to examine child witness statements thoroughly while dismissing age-based doubts about their credibility. The court emphasized that corroborative evidence should be present despite this ruling. The case proved the defendant's guilt through a combination of child testimony along with supporting medical findings generated by investigating authorities beyond a standard of reasonable doubt. The Court found that matching child statements with clinical medical data increased the reliability of their testimony. The court ruling illustrates why corroboration matters in child witness cases because it proves how child statements backed by medical evidence become powerful evidence for legal proceedings.<sup>11</sup>

***Gopal Singh v. State of Rajasthan (2007)***: The testimonial evidence of the child served as the main evidence needed to convict a person responsible for the murder of their relative. The child witness who was a young girl successfully imparted important information about who murdered the victim together with the series of actions that culminated in criminal activity. Defense attorneys attacked the child witness by challenging her abilities to comprehend the importance of the situation while also testifying reliably.

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<sup>11</sup> <https://www.latestlaw.com>

The Court confirmed the child's suitability to testify because she effectively understood the gravity of honest statements. The child's testimony received backing from evidence collected at the crime scene and other supporting evidence leading to the proof of the event sequence. The Supreme Court acknowledged the demand for guaranteeing untainted child testimony yet they identified corroboration as essential for making such testimony credible. The verdict shows that child witness evidence becomes valid if courts thoroughly examine it against consistency tests and receive supporting evidence. Criminal investigations that involve murder require corroborative evidence because it ensures justice is delivered simultaneously with child testimony verification.

***Suresh & Anr. v. State of Haryana (2005)***: The statements from a child witness served as critical proof to determine what happened before the fatal accident involving the young girl. Despite being hesitant and traumatized the child witness managed to tell the court about how the accused had carried out the offense. The Delhi High Court enabled belief in child witness testimony regardless of its initial contradictions provided the evidence was supported by both physical findings and adult witness accounts. The child's statement received additional credibility through the post-mortem results as well as evidence collected from the murder site. Under these circumstances, the Court established that child testimony can create a solid case when it holds and proves consistent with facts in the court record.

***Rattan Singh v. State of Punjab (1997)***: A 10-year-old boy acted as the main witness to testify about a sexual assault crime. The testimony served as direct evidence for the crime although the court determined the child had enough understanding for competency. The defense attacked this witness's testimony because they believed his inadequate age prevented him from understanding the court procedures and he could have been swayed by outside influences. The Supreme Court of India confirmed the validity of child witness evidence by ruling that youth by itself should not eliminate the importance of child testimony. By discussing the case systematically, the Court established that the child exhibited understanding through effective storytelling of the event. Medical evidence together with testimony from multiple witnesses supported the information given by the child. Children under proper protective conditions can give valid courtroom evidence but need independent proof to confirm both the validity and court acceptability of that evidence.

## CONCLUSION

To summarize, although child witnesses give testimony to legal proceedings, the value of this testimony can never be overemphasized since it provides variegated evidence in cases of abuse, violence, or any other serious offenses. Despite the hurdles that children present due to emotional vulnerability, cognitive development, and suggestibility, with appropriate handling, evidence given by children can bear a considerable amount of evidentiary weight. The legal structure must acknowledge the distinctive nature of children's testimony and ensure that measures are instituted to safeguard the child's welfare and the soundness of their testimony.

Using trained professionals, including child psychologists and forensic interviewers, to structure the process of gathering a child's testimony in an emotionally harmless yet scientifically valid way is paramount. Furthermore, courts should consider any corroborative evidence and avoid using coercive or manipulative interrogation methods with child witnesses. In addition, child witnesses may be protected from undue stress while preserving the child's evidence by employing alternative methods, such as video links or through intermediaries. In summary, while the testimony of a child witness may face some challenges, it is an important part of the justice system, and with careful consideration and adequate safeguards, it can offer insight that may prove invaluable in the prosecution of a criminal case. The case-by-case assessment of the child's testimony must include looking at the child's capacity to give consistent information, the emotional state of the child, and any corroboration in favour of what was testified to ensure justice, all the while protecting the welfare of the child.