

Addressing the challenges faced in implementing the POCSO Act

Appreciating the testimonies of children and adolescents

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Issues related to children giving evidence in court

- Language competence
- Temporal sequencing of events
- Less skilled at inhibition
- Yes/No questions – great need to please/more likely to agree
- Use verbatim representations – tend to forget
- Less competent at using narratives to report their autobiographical memories systematically and completely, may end up omitting information that they do know (Brainerd, Reyna & Poole, 2000)
- Repeated questioning – negatively affects children's response and consistency (Krahenbuhl, Blades and Eiser, 2009)
- Don't understand criminal justice procedures

Eyewitness memory

- Episodic memory – recollections of personally experienced events that occurred at a specific time and place
- Autobiographical memory
- Challenge is for children to integrate their experiences into a meaningful time organised life story
- These personally significant memories are structured into a narrative format only by conversing about them with adults (Nelson & Fivush, 2004)

- Compared with Asian children, Western children produce narratives with more talk about their own thoughts, emotions and preferences – knowledge that contributes to an appreciation of the personal meaning of events – and therefore better recall (Wang, 2008)

Circumstances of abuse and reportage

- Intrafamilial abuse is particularly toxic and damaging to the child
- Existing relationship
- Vulnerable child
- Position of trust, authority both within and outside the family
- Loss of that relationship post-disclosure, loss of support
- Cycle of secrecy, silence and further abuse
- Guilt associated with the abuse
- Need to preserve the sanctity of the family
- “Grooming”
- Psychological and physical coercion
- Socio-cultural factors

Delay in disclosure

- Often taken as a point against the veracity of the child's account
- Children fear that if they disclose the abuse, they will be held responsible
- Shame, fear, embarrassment and guilt
- Grooming
- Psychological and physical coercion
- If there are developmental disabilities, further delay, till discovery
- Socio-cultural factors

Grooming

- “The process by which a child is befriended by a would-be abuser in an attempt to gain the child’s confidence and trust, enabling them to get the child to acquiesce to abusive activity. It is frequently a prerequisite for an abuser to gain access to a child” (Gillespie, 2002, van Dam, 2001)
- Most victims know their abusers
- The offenders who use grooming are less likely to cause physical harm and therefore less likely to be reported or even convicted
- An important facet to remember

What constitutes “appropriate victim behaviour”?

- There is no such behaviour
- Each victim reacts differently to abuse
- Factors that influence reactions to abuse include the characteristics and nature of abuse, the child’s own age and understanding of abuse, the degree of closeness to the abuser, whether the abuser is in a position of power, whether they have a supportive family
- Symptoms that the child shows changes over time
- What constitutes medical evidence?

Techniques for improving children's testimonies

- Closing the door, allowing a parent/support person to be with the child
- Maternal support especially crucial
- Mothers who were given help were much more equipped to help their children. This included explaining the criminal justice procedures to them and referral for mental health services if they needed it
- Children who testified more than once recovered more slowly than children testified just once
- Great need to discuss courtroom procedure with the child prior to exposure

- Repeated leading questioning can be detrimental to truth finding especially when the questions are ambiguous.
- These matters come to court after a certain delay and thus repeated questions by persons in authority or leading questions may make the child more vulnerable to answering inaccurately (Goodman and Clarke-Stewart, 1991)
- Interviewers must check with the child's caretaker for better understanding of any idiosyncratic responses the child may provide (Melton and Thompson, 1987).
- While children's ages may be the same, their positions in the developmental process may differ. Caretakers should be consulted for more individual information about the child.

Communication enhancement techniques

- Questions must be developmentally sensitive
- Must keep in mind that children:
 - Think in concrete terms.
 - Do not organize their thoughts logically.
 - Have limited understanding of space, distance, and time.
 - Have a complex understanding of truth and lying.
 - See the world egocentrically.
 - Have a limited attention span.
 - Have varying degrees of comfort with strangers (Waterman, 1986).

Thank you