



INVISIBLE EYES IN CLOSED HOMES: REIMAGINING CHILD WITNESSES AS EVIDENTIARY NARRATORS IN DOMESTIC VIOLENCE ADJUDICATION

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States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.¹

Abstract:

Domestic violence adjudication operates within an evidentiary paradox. While such violence predominantly unfolds within the privacy of the home—away from independent witnesses—the legal process continues to rely almost exclusively on the testimony of the adult victim, treating children present in the household as peripheral or incidental actors. This article argues that children who witness domestic violence constitute an overlooked yet crucial category of evidentiary narrators whose systematic exclusion results in incomplete truth-finding and diluted justice.

Drawing upon evidentiary jurisprudence, child rights principles, and domestic violence law, the article critically examines how Indian legal frameworks acknowledge the competency of child witnesses in theory while marginalising their credibility in practice. The absence of explicit statutory recognition of child witnesses under the Protection of Women from Domestic Violence Act, 2005, coupled with excessive judicial caution and investigative apathy, has rendered children's experiential knowledge largely invisible within adjudicatory processes. This invisibility persists despite judicial acknowledgment that domestic violence is rarely episodic and is better understood as a sustained pattern of conduct—one that children are uniquely positioned to observe over time. The article introduces an innovative conceptual shift by reframing child witnesses not merely as corroborative voices but as continuous evidentiary narrators capable of contextualising patterns of abuse, coercive control, and post-incident conduct. It further interrogates the discretionary and uncoded use of competency assessments, such as the *voir dire* test, and highlights how the lack of child-friendly evidentiary mechanisms undermines both the welfare of children and the fact-finding function of courts.

By situating child testimony within constitutional guarantees of dignity, fair trial, and the right to be heard, and by drawing upon international child-justice standards, the article advocates for a recalibration of domestic violence adjudication. It concludes by proposing a jurisprudential and procedural re-imagination that integrates child witnesses into the evidentiary architecture of domestic violence law, thereby aligning justice delivery with lived realities, constitutional values, and child-centric justice principles.

Keywords: Child Witnesses; Domestic Violence Adjudication; Evidentiary Narratives; Vulnerable Witness Jurisprudence; AI-Assisted Testimony Recording; Child-Centric Evidentiary Framework]

¹ United Nations. (1989). Convention on the Rights of the Child. United Nations Treaty Series, 1577, Article 12. Retrieved from, <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child> Visited on 28.11.2025



1. Introduction

Jeremy Bentham's oft-quoted assertion that "witnesses are the eyes and ears of justice" continues to provide the philosophical foundation of evidentiary adjudication across common-law systems.² Despite significant advancements in forensic science, documentary proof, and digital evidence, testimonial evidence remains the primary mechanism through which courts reconstruct past events, particularly in crimes committed within private and intimate spaces.³ Domestic violence represents one such category of offences where the architecture of proof is inherently constrained by spatial privacy, emotional dependency, and the absence of independent witnesses.⁴

Domestic violence is neither episodic nor incidental; it is characteristically repetitive, patterned, and sustained through coercive control rather than isolated acts of physical aggression.⁵ Indian law, through the enactment of the Protection of Women from Domestic Violence Act, 2005 (hereinafter "PWDVA"), has recognised this expanded conception by including emotional, verbal, sexual, and economic abuse within its definitional framework.⁶ However, while the statute adopts a rights-oriented and remedial approach towards women victims, it remains conspicuously silent on the evidentiary position of children who inhabit the same domestic space and are routinely exposed to violence, intimidation, and degradation.⁷

Children living in violent households are not merely collateral sufferers; they are continuous observers of abuse, often witnessing escalation, aftermath, and behavioural patterns that remain invisible to external agencies.⁸ Psychological and criminological studies consistently establish that children exposed to domestic violence develop acute perceptual awareness and retain detailed memory of traumatic events, particularly when violence disrupts normal domestic routines.⁹ Yet, paradoxically, the legal system continues to treat such children as evidentiary outsiders—acknowledged as dependents or secondary victims, but rarely as narrators capable of contributing meaningfully to fact-finding.¹⁰

Indian evidentiary law, both under Section 118 of the Indian Evidence Act, 1872 and its successor provision under the Bharatiya Sakshya Adhiniyam, 2023, adopts an inclusive approach to witness competency by declaring all persons competent unless prevented by tender age or incapacity from understanding questions or giving rational answers.¹¹ Judicial interpretation has repeatedly clarified that age alone does not disqualify a child from testifying, as seen in *Rameshwar v. State of Rajasthan*,¹² *Panchhi v. State of U.P.*,¹³ and *Dattu Ramrao Sakhare v. State of Maharashtra*.¹⁴ Nevertheless, despite this doctrinal clarity, child testimony in domestic violence contexts continues to be approached with heightened suspicion, excessive caution, and an implicit demand for corroboration.¹⁵

This disconnect between legal competency and evidentiary utilisation exposes a deeper structural problem. Courts frequently invoke the rhetoric of "prudence" while evaluating child testimony, thereby transforming

² Bentham, *Rationale of Judicial Evidence*, 1827, p. 7

³ Twining, *Rethinking Evidence*, 2006, p. 43

⁴ Agnes, 1999, p. 112; Nair, 2018, p. 67

⁵ Stark, *Coercive Control*, 2007, p. 5

⁶ Section 3, PWDVA, 2005

⁷ Agnes, 2011, p. 89; Kulkarni, 2020, p. 214

⁸ Humphreys & Parkinson, 2009, p. 156

⁹ Davies et al., 2007, p. 73; WHO, 2013, p. 41

¹⁰ Verma, 2016, p. 98

¹¹ Gaur, 2021, p. 421

¹² *Rameshwar v. State of Rajasthan* AIR 1952 SC 54

¹³ *Panchhi v. State of U.P.* AIR 1998 SC 2726

¹⁴ *Dattu Ramrao Sakhare v. State of Maharashtra* AIR 1997 SC 971

¹⁵ Batuk Lal, 2019, p. 389; Sarkar, 2020, p. 512



judicial discretion into a mechanism of exclusion rather than protection.¹⁶ Adult witnesses, despite being equally susceptible to bias, hostility, or fabrication, are not subjected to a comparable presumption of unreliability. The child witness, by contrast, is burdened with an evidentiary handicap rooted not in inconsistencies or contradictions, but in age-based assumptions.¹⁷

The evidentiary marginalisation of children becomes particularly consequential in domestic violence proceedings, where corroborative evidence is structurally scarce. Acts of abuse occur within the home, beyond public gaze, and are sustained through silence, fear, and dependency.¹⁸ In such settings, children often provide the only continuous account of abuse—observing not only violent incidents but also patterns of intimidation, emotional cruelty, and post-incident behaviour that contextualise the victim’s testimony.¹⁹ Excluding or undervaluing such testimony risks fragmentary adjudication and undermines the truth-finding function of the court.

The problem is further compounded by procedural and institutional inertia. Police investigations in domestic violence cases frequently omit or cursorily record children’s statements, driven by a misplaced belief that such accounts lack evidentiary value or may complicate proceedings.²⁰ Once excluded at the pre-trial stage, child testimony becomes vulnerable to allegations of afterthought or tutoring at trial, reinforcing judicial reluctance.²¹ This investigative apathy reveals how evidentiary marginalisation begins long before judicial appreciation.

From a constitutional perspective, the silencing of child witnesses raises serious concerns under Article 21 of the Constitution of India. The right to life has been expansively interpreted to include dignity, psychological integrity, and fair procedure.²² When children who witness domestic violence are denied a meaningful opportunity to narrate their experiences within a protected legal framework, the State fails in its obligation to safeguard their dignity and participatory rights.²³ International instruments such as the UN Convention on the Rights of the Child, 1989 (Article 12) further reinforce the child’s right to be heard in all judicial proceedings affecting them, a mandate that remains inadequately operationalised in domestic violence adjudication.²⁴

Against this backdrop, this article advances an innovative reconceptualisation of child witnesses in domestic violence proceedings—not as peripheral corroborators, but as *evidentiary narrators* capable of illuminating patterns of abuse over time. It interrogates why child-friendly evidentiary mechanisms remain confined to sexual offence prosecutions while domestic violence law operates within a procedural vacuum. The article further explores emerging possibilities such as trauma-informed adjudication, AI-assisted recording of testimony, and pattern-evidence theory as tools for integrating child testimony without compromising welfare or evidentiary integrity.

By bridging evidentiary law, domestic violence jurisprudence, child rights, and technological innovation, the article seeks to reimagine how courts can hear the “invisible eyes” within closed homes—thereby aligning adjudication with lived realities, constitutional values, and the evolving demands of justice.

¹⁶ Pradeep v. State of Haryana AIR 2023 SC 345; Gupta, 2017, p. 133

¹⁷ Roy, 2018, p. 201

¹⁸ Menski, 2012, p. 274

¹⁹ Parkinson, 2014, p. 193

²⁰ Fourth NPC Report, 1980, para 22.18

²¹ Kokate v. State of Maharashtra AIR 2017 SC 1815

²² Maneka Gandhi v. Union of India AIR 1978 SC 597

²³ Chandra, 2019, p. 267

²⁴ CRC, 1989, Art. 12; ECOSOC Guidelines, 2005



2. Re-Conceptualising the Child Witness in Domestic Violence Law

The traditional approach to child witnesses in Indian evidentiary jurisprudence has been shaped by a persistent anxiety surrounding age, cognition, and susceptibility to influence. While the law formally recognises the competency of children to testify, judicial practice has often confined their role to the margins of adjudication, treating their testimony as supplementary or corroborative rather than substantive.²⁵ This approach reflects a deeper epistemological hesitation—one that conflates childhood with unreliability and presumes narrative fragility as an inherent attribute of age.

Such an assumption, however, fails to withstand sustained scrutiny. Contemporary cognitive psychology has consistently demonstrated that children are capable of accurate perception, retention, and narration of events, particularly when those events are repetitive, emotionally salient, or disruptive to routine life.²⁶ Domestic violence, by its very nature, satisfies all three conditions. It is repetitive rather than episodic, emotionally charged rather than neutral, and deeply disruptive to the domestic environment in which children reside.²⁷

Despite this empirical reality, evidentiary law has continued to treat child testimony through a deficit lens. Judicial pronouncements repeatedly invoke caution, prudence, and corroboration when dealing with child witnesses, even while acknowledging that no rule of law mandates corroboration as a condition of admissibility.²⁸ This duality—formal admissibility coupled with practical suspicion—has produced what scholars describe as *evidentiary marginalisation by discretion*.²⁹

In domestic violence adjudication, the consequences of this marginalisation are particularly severe. The private nature of abuse renders external corroboration rare, while the victim's testimony alone is often subjected to sceptical scrutiny under allegations of exaggeration, matrimonial discord, or motivated litigation.³⁰ In such cases, the child witness is not merely an additional voice but often the only continuous observer capable of narrating the *pattern* of violence over time.

a. Child Witness as an “Evidentiary Narrator”: A Conceptual Shift

This article proposes a conceptual shift from viewing the child witness as a corroborative actor to recognising the child as an evidentiary narrator—a participant whose testimony offers contextual, temporal, and behavioural continuity in domestic violence cases. Unlike adult witnesses who may observe isolated incidents, children residing within abusive households often witness the escalation, repetition, and aftermath of violence, including threats, emotional cruelty, economic deprivation, and post-incident intimidation.³¹

The notion of evidentiary narration moves beyond the binary of admissibility versus credibility. It emphasises the *narrative capacity* of the witness to explain relationships, patterns, and lived experiences rather than merely isolated facts.³² In domestic violence cases, where abuse manifests as a course of conduct rather than a single event, such narrative testimony becomes indispensable.³³

Indian courts have, albeit implicitly, recognised the value of narrative continuity in appreciating evidence. In *State of U.P. v. Krishna Master*,³⁴ the Supreme Court observed that children often retain vivid recollections of traumatic events and should not be presumed incapable of accurate narration. Similarly, in

²⁵ Gaur, Indian Evidence Act, 2021, p. 423; Batuk Lal, Law of Evidence, 2019, p. 391

²⁶ Davies, Flin & Baxter, The Child Witness, 2007, p. 71; Goodman & Melinder, 2007, p. 104

²⁷ Stark, 2007, p. 14; Humphreys & Parkinson, 2009, p. 162

²⁸ Panchhi v. State of U.P. AIR 1998 SC 2726; Pradeep v. State of Haryana AIR 2023 SC 345

²⁹ Roy, 2018, p. 207; Gupta, 2017, p. 139

³⁰ Agnes, 2011, p. 96; Iyer, 2020, p. 58

³¹ Parkinson, 2014, p. 201; Verma, 2016, p. 104

³² Twining, 2006, p. 91; Jackson & Summers, 2012, p. 117

³³ Stark, 2007, p. 27

³⁴ State of U.P. v. Krishna Master AIR 2010 SC 3071



Dattu Ramrao Sakhare v. State of Maharashtra,³⁵ the Court emphasised that competency must be assessed on comprehension rather than age. Yet, these insights have not been systematically extended to domestic violence adjudication.

The failure to conceptualise child witnesses as narrators has resulted in a distorted evidentiary hierarchy where adult testimony is privileged by default, while child testimony is relegated to a supporting role regardless of its narrative richness.³⁶ This hierarchy is neither textually mandated by evidence law nor justified by empirical research.

b. Pattern Evidence and the Unique Position of Child Witnesses

Domestic violence jurisprudence increasingly acknowledges that abuse must be understood as a *pattern of coercive control* rather than a sequence of discrete assaults.³⁷ Pattern evidence—evidence that demonstrates continuity, repetition, and behavioural consistency—is therefore central to accurate adjudication.³⁸

Children, by virtue of their continuous presence in the domestic environment, are uniquely positioned to provide such pattern evidence. They observe not only acts of violence but also the rhythms of fear, silence, reconciliation, and renewed abuse that characterise violent households.³⁹ Their testimony often captures aspects of abuse that adult victims may normalise, minimise, or omit due to emotional, economic, or social pressures.⁴⁰

Despite this, Indian domestic violence law has not developed doctrinal tools for appreciating pattern evidence through child testimony. Proceedings under the PWDVA continue to rely heavily on incident-based narration, requiring proof of specific acts rather than recognising cumulative harm.⁴¹ This evidentiary framing disadvantages victims and erases the experiential knowledge of children who witness abuse as an ongoing condition of life.

Comparative jurisprudence offers instructive contrasts. Courts in jurisdictions such as Canada, Australia, and the United Kingdom increasingly admit pattern-based testimony from children in family violence cases, recognising that reliability is enhanced when children narrate events within supportive, non-adversarial environments.⁴² Indian law, however, remains tethered to a fragmented evidentiary imagination that isolates incidents from lived reality.

c. Judicial Discretion and the Problem of Evidentiary Inconsistency

A recurring justification for the marginalisation of child witnesses is the discretionary nature of competency assessment through the *voir dire* test. While judicial discretion is intended to protect children from undue harm, its uncoded and inconsistent application has produced divergent outcomes across courts.⁴³

In *Suryanarayana v. State of Karnataka*,⁴⁴ the Supreme Court underscored the need for cautious evaluation of child testimony but refrained from prescribing uniform standards. The absence of codified guidelines has allowed discretion to morph into subjectivity, often influenced by personal beliefs about childhood rather than principled assessment of comprehension and narration.⁴⁵

³⁵ AIR 1997 SC 971

³⁶ Sarkar, 2020, p. 518; Chandra, 2019, p. 274

³⁷ Stark, 2007, p. 5; CEDAW General Recommendation No. 35, 2017, para 20

³⁸ Nair, 2018, p. 72; Kulkarni, 2020, p. 221

³⁹ Humphreys et al., 2012, p. 189; WHO, 2013, p. 44

⁴⁰ Agnes, 1999, p. 117; Menski, 2012, p. 281

⁴¹ PWDVA, 2005; Nidhi Kulkarni, 2019, p. 63

⁴² Australian Law Reform Commission, 2010, p. 312; Crown Prosecution Service (UK), 2020

⁴³ Batuk Lal, 2019, p. 397; Ankit Malhotra, 2018, p. 141

⁴⁴ AIR 2001 SC 482

⁴⁵ Roy, 2018, p. 213; Gupta, 2017, p. 145



In domestic violence cases, where emotional entanglements are inevitable, discretionary scepticism frequently translates into exclusion. Courts often presume tutoring without evidence, discount emotional narration as exaggeration, and demand corroboration where none can reasonably exist.⁴⁶ This practice not only undermines evidentiary completeness but also reinforces structural bias against vulnerable narrators.

d. Toward a Child-Centric Evidentiary Imagination

Re-conceptualising child witnesses as evidentiary narrators requires a shift in evidentiary imagination—one that recognises narration as a mode of truth-telling rather than a threat to reliability. Such a shift aligns with constitutional values of dignity, participatory justice, and fair procedure under Article 21.⁴⁷

International norms further reinforce this approach. The UN Convention on the Rights of the Child mandates that children be heard in all proceedings affecting them, with due weight accorded to their views.⁴⁸ The ECOSOC Guidelines on Child Victims and Witnesses of Crime emphasise that reliability is enhanced—not diminished—when children testify within supportive and respectful environments.⁴⁹

Indian domestic violence law has yet to internalise these principles. The absence of statutory recognition of child witnesses under the PWDVA perpetuates evidentiary invisibility and undermines holistic adjudication. Recognising children as evidentiary narrators does not dilute safeguards; rather, it strengthens truth-finding by integrating lived experience into legal reasoning.

This reconceptualisation lays the groundwork for examining pattern-evidence theory as a doctrinal tool capable of integrating child testimony into domestic violence adjudication without compromising evidentiary rigour. The next part therefore examines how pattern evidence, cumulative harm, and contextual narration can transform the appreciation of child testimony in domestic violence proceedings.

3. Pattern-Evidence Theory, Cumulative Harm, and the Evidentiary Power of Child Narratives

Conventional criminal adjudication has historically been structured around event-centric proof. Courts are trained to examine discrete acts, temporally bounded incidents, and clearly identifiable moments of wrongdoing. This evidentiary orientation, while suitable for public crimes with identifiable witnesses, proves inadequate for domestic violence, which unfolds as a continuum of conduct rather than as isolated episodes.⁵⁰ Domestic violence is sustained through repetition, intimidation, emotional domination, and behavioural control, often punctuated—but not defined—by physical assault.⁵¹

Indian courts have intermittently acknowledged this reality. In *V.D. Bhanot v. Savita Bhanot*,⁵² the Supreme Court recognised that domestic violence may consist of a series of acts extending over time. Similarly, in *Hiral P. Harsora v. Kusum Narottamdas Harsora*,⁵³ the Court underscored the breadth of domestic violence as a rights violation rather than a singular offence. Yet, despite these pronouncements, evidentiary appreciation in domestic violence proceedings continues to demand proof of specific incidents rather than recognition of cumulative harm.⁵⁴

Pattern-evidence theory offers a corrective to this limitation. Rooted in feminist legal scholarship and socio-legal studies, the theory posits that the probative value of evidence in domestic violence cases lies not in

⁴⁶ *Arbind Singh v. State of Bihar* AIR 2021 SC 1123; *Om Prakash v. State of Rajasthan* AIR 2002 SC 2235

⁴⁷ *Maneka Gandhi v. Union of India* AIR 1978 SC 597; Chandra, 2019, p. 279

⁴⁸ CRC, 1989, Art. 12

⁴⁹ ECOSOC Res. 2005/20, paras 9–14

⁵⁰ Stark, *Coercive Control*, 2007, p. 9; Agnes, 2011, p. 101

⁵¹ Humphreys & Thiara, 2003, p. 15; WHO, 2013, p. 37

⁵² *V.D. Bhanot v. Savita Bhanot* AIR 2012 SC 390

⁵³ *Hiral P. Harsora v. Kusum Narottamdas Harsora* AIR 2016 SC 477

⁵⁴ Kulkarni, 2020, p. 228; Nair, 2018, p. 74



isolated facts but in the consistency, recurrence, and relational context of conduct.⁵⁵ Under this framework, testimony gains strength through narrative coherence rather than episodic corroboration.

a. Children as Natural Archivists of Domestic Patterns

Within patterned violence, children emerge as natural archivists of domestic life. Unlike adult victims who may consciously suppress, rationalise, or compartmentalise abuse due to fear, dependency, or social pressure, children often register domestic events as deviations from normative expectations of safety and care.⁵⁶ Their testimony frequently captures repetition, escalation, and behavioural change over time—elements central to pattern evidence.⁵⁷

Empirical research demonstrates that children exposed to domestic violence develop heightened situational awareness and recall, particularly regarding emotionally charged or threatening events.⁵⁸ Contrary to the presumption of narrative fragility, children often recall *patterns* more accurately than isolated dates or times, making them uniquely suited to testify about sustained abuse rather than singular incidents.⁵⁹

Indian jurisprudence has not yet fully integrated this insight. While courts have recognised that children may retain sharp memory of traumatic events, as observed in *State of U.P. v. Krishna Master*,⁶⁰ this recognition remains confined to conventional criminal trials and has not translated into domestic violence adjudication. The failure to appreciate children as pattern witnesses reflects a doctrinal gap between evidentiary theory and lived reality.⁶¹

b. Cumulative Harm and the Limits of Incident-Based Proof

The insistence on incident-specific proof imposes an unrealistic evidentiary burden in domestic violence cases. Abuse often manifests through micro-acts—verbal humiliation, threats, financial deprivation, and emotional isolation—that may individually appear trivial but collectively constitute severe harm.⁶² Children, as continuous observers, are frequently the only witnesses capable of narrating this cumulative harm.

Judicial insistence on corroboration in such contexts has the effect of erasing cumulative experiences. In *Om Prakash v. State of Rajasthan*,⁶³ the Supreme Court emphasised prudence in relying on child testimony, reinforcing a culture of scepticism. While caution is not inherently problematic, its uncritical application in domestic violence cases undermines the very purpose of remedial legislation such as the PWDVA.⁶⁴

Comparative jurisprudence provides a contrasting approach. Courts in the United Kingdom, for instance, explicitly recognise “course of conduct” evidence in domestic abuse cases, allowing children’s accounts to establish continuity and coercive control rather than isolated acts.⁶⁵ Canadian courts similarly admit pattern-based testimony from children to contextualise spousal violence, recognising that reliability increases when testimony reflects lived experience⁶⁶ [1 SCR 852].

Indian law, however, continues to operate within an evidentiary paradigm that fragments experience and privileges adult narration. This fragmentation disproportionately disadvantages children, whose testimony is often discounted precisely because it does not conform to incident-centric expectations.⁶⁷

⁵⁵ Schneider, 2000, p. 83; Stark, 2007, p. 31

⁵⁶ Davies et al., 2007, p. 79; Goodman et al., 2011, p. 93

⁵⁷ Humphreys & Parkinson, 2009, p. 168

⁵⁸ Fivush et al., 2008, p. 345; Melinder & Magnussen, 2010, p. 152

⁵⁹ Pipe et al., 2007, p. 61

⁶⁰ *State of U.P. v. Krishna Master* AIR 2010 SC 3071

⁶¹ Roy, 2018, p. 219; Gupta, 2017, p. 149

⁶² Agnes, 1999, p. 121; Stark, 2007, p. 33

⁶³ *Om Prakash v. State of Rajasthan* AIR 2002 SC 2235

⁶⁴ Agnes, 2011, p. 104; Iyer, 2020, p. 61

⁶⁵ CPS Guidance on Domestic Abuse, 2020

⁶⁶ *R v. Lavallee*, [1990]

⁶⁷ Menski, 2012, p. 289; Verma, 2016, p. 108



c. Pattern Evidence, Credibility, and the Myth of Tutoring

One of the most frequently invoked objections to child testimony is the fear of tutoring. While the risk of influence cannot be dismissed, its exaggerated invocation has become a convenient justification for exclusion rather than a problem to be managed through procedure.⁶⁸ Importantly, pattern evidence itself acts as a safeguard against tutoring. Fabricated narratives often collapse under scrutiny of temporal consistency and behavioural detail, whereas genuine experiential accounts display coherence over time.⁶⁹

Judicial reasoning has occasionally acknowledged this. In *Ratansinh Dalsukhbhai Nayak v. State of Gujarat*,⁷⁰ the Supreme Court observed that no rigid formula can be applied to assess child credibility and that comprehension and consistency are decisive. Yet, courts have rarely connected consistency to pattern-based narration in domestic violence contexts.

By privileging pattern evidence, courts can move beyond speculative fears of tutoring and instead evaluate testimony through internal coherence, repetition, and congruence with contextual facts.⁷¹ This approach aligns evidentiary evaluation with cognitive science and reduces reliance on age-based presumptions.

d. Pattern Evidence and the Protective Objectives of Domestic Violence Law

The PWDVA is designed as a protective statute, aimed at preventing harm, securing residence, and ensuring dignity rather than merely punishing past acts.⁷² Pattern-based child testimony directly advances these objectives by enabling courts to appreciate risk, escalation, and the likelihood of future harm.⁷³

Children's narratives often illuminate aspects of domestic life invisible to formal documentation—night-time violence, intimidation following court proceedings, or emotional abuse occurring outside the presence of outsiders.⁷⁴ Ignoring such narratives not only weakens evidentiary completeness but also undermines preventive justice.

International human rights instruments reinforce this approach. CEDAW General Recommendation No. 35 recognises domestic violence as a continuum of conduct requiring holistic evaluation.⁷⁵ The CRC similarly mandates that children's views be considered in proceedings affecting their welfare.⁷⁶ Pattern-evidence theory offers a doctrinal bridge between these normative commitments and domestic adjudication.

e. Reframing Judicial Appreciation: From Events to Experience

Ultimately, integrating pattern evidence through child testimony requires a reframing of judicial appreciation—from an event-centric to an experience-centric model of proof. Such a shift does not dilute evidentiary standards; rather, it recalibrates them to reflect the nature of domestic violence.⁷⁷

Indian courts have the doctrinal tools to effect this shift. The flexible language of evidence law, the purposive interpretation of protective statutes, and constitutional commitments to dignity and fairness collectively permit an experience-based approach to proof.⁷⁸ What remains is a willingness to reconceptualise child witnesses not as evidentiary liabilities but as narrators of lived truth.

⁶⁸ Roy, 2018, p. 225; Gupta, 2017, p. 152

⁶⁹ Davies et al., 2007, p. 84; Pipe et al., 2013, p. 117

⁷⁰ *Ratansinh Dalsukhbhai Nayak v. State of Gujarat* AIR 2004 SC 390

⁷¹ Twining, 2006, p. 103; Jackson & Summers, 2012, p. 124

⁷² PWDVA, Statement of Objects and Reasons, 2005

⁷³ Kulkarni, 2020, p. 231; Nidhi Kulkarni, 2019, p. 67

⁷⁴ Humphreys et al., 2012, p. 194

⁷⁵ CEDAW GR 35, 2017, para 20

⁷⁶ CRC, 1989, Art. 12

⁷⁷ Schneider, 2000, p. 91; Stark, 2007, p. 38

⁷⁸ *Maneka Gandhi v. Union of India* AIR 1978 SC 597; Chandra, 2019, p. 283



If children are to function as evidentiary narrators of patterned harm, the adjudicatory process itself must adapt. The next part therefore examines trauma-informed adjudication and child-sensitive evidentiary processes, analysing how procedure can enhance both reliability and welfare in domestic violence cases.

4. Trauma-Informed Adjudication, Child Psychology, and Evidentiary Reliability in Domestic Violence Proceedings

Conventional evidentiary frameworks have been shaped by assumptions of linear memory, chronological narration, and emotional neutrality. Witness credibility is frequently assessed on the basis of coherence, consistency, and demeanor—standards developed primarily in relation to adult witnesses testifying about discrete, public events.⁷⁹ However, these assumptions become deeply problematic when applied to children who have witnessed domestic violence, a context defined by chronic trauma, fear, and relational dependency.

Trauma research has conclusively demonstrated that exposure to prolonged domestic violence alters memory encoding and recall. Rather than impairing reliability, trauma often fragments narration while preserving core experiential truths.⁸⁰ Children exposed to violence may recall events episodically, non-sequentially, or emotionally, yet such narration reflects trauma processing rather than fabrication.⁸¹

Indian courts, however, continue to evaluate child testimony against adult-centric benchmarks. Hesitation, emotional expression, or narrative inconsistency is frequently interpreted as unreliability rather than as indicators of trauma.⁸² In domestic violence proceedings, this misinterpretation results in the systematic downgrading of child testimony, reinforcing evidentiary invisibility.

a. Trauma-Informed Adjudication: Concept and Jurisprudential Relevance

Trauma-informed adjudication represents an emerging judicial philosophy that recognises the impact of trauma on cognition, memory, and communication, and adapts legal procedures accordingly to enhance both welfare and truth-finding.⁸³ Rather than asking whether a traumatised witness conforms to traditional credibility markers, trauma-informed adjudication asks whether legal processes have been structured to allow accurate and safe narration.

Internationally, courts have increasingly acknowledged this paradigm. The UN Economic and Social Council Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime emphasise that children should be examined in ways that minimise distress and maximise narrative reliability.⁸⁴ The UNODC Handbook for Professionals further notes that supportive environments improve accuracy of testimony rather than diminishing it.⁸⁵

Indian jurisprudence has only partially internalised trauma-informed principles. While vulnerable witness guidelines and in-camera proceedings have been recognised in cases such as *State of Maharashtra v. Bandu @ Daulat*⁸⁶ and *Smruti Tukaram Badade v. State of Maharashtra*,⁸⁷ their application remains fragmented and primarily confined to sexual offence trials. Domestic violence proceedings, despite involving comparable trauma, continue to operate within conventional adversarial frameworks.⁸⁸

⁷⁹ Wigmore, Evidence, 1983, Vol. III, p. 245; Sarkar, Law of Evidence, 2020, p. 526

⁸⁰ Van der Kolk, 2014, p. 176; Herman, 1997, p. 34

⁸¹ Fivush et al., 2008, p. 347; Goodman et al., 2011, p. 98

⁸² Batuk Lal, 2019, p. 401; Roy, 2018, p. 231

⁸³ Bloom & Farragher, 2013, p. 52; Hopper et al., 2010, p. 84

⁸⁴ ECOSOC Res. 2005/20, paras 9–14

⁸⁵ UNODC, 2009, p. 61

⁸⁶ *State of Maharashtra v. Bandu @ Daulat* AIR 2018 SC 5273

⁸⁷ AIR 2022 SC 4891

⁸⁸ Gupta, 2017, p. 158; Kulkarni, 2020, p. 236



b. Child Psychology, Memory, and the Myth of Emotional Unreliability

A persistent misconception underlying judicial scepticism is the belief that emotional expression undermines testimonial reliability. This assumption is particularly damaging in the context of child witnesses to domestic violence, whose emotional responses are often interpreted as exaggeration or influence.⁸⁹

Psychological research directly contradicts this belief. Studies demonstrate that emotional arousal, particularly fear and distress, often enhances memory consolidation of central events, even if peripheral details are fragmented.⁹⁰ Children exposed to domestic violence frequently recall the *pattern* and *meaning* of abuse with greater accuracy than specific dates or times—an evidentiary strength rather than a weakness.⁹¹

Judicial insistence on adult-style narration therefore produces a credibility paradox: the more traumatised the child, the more likely their testimony is to be discounted. This paradox undermines both evidentiary accuracy and child welfare.⁹²

Indian case law occasionally gestures toward psychological sensitivity. In *Dattu Ramrao Sakhare v. State of Maharashtra*,⁹³ the Supreme Court emphasised comprehension over formal articulation. Yet, such insights have not been extended to trauma contexts in domestic violence proceedings, leaving child psychology largely absent from evidentiary reasoning.

c. Trauma, Tutoring, and Misplaced Evidentiary Anxiety

Fear of tutoring is frequently invoked to justify heightened scepticism toward child witnesses. While the risk of influence exists, trauma-informed approaches caution against equating emotional closeness or familial context with fabrication.⁹⁴ In domestic violence cases, the more common risk is *silencing* rather than tutoring—children may under-report abuse due to fear of family disruption, retaliation, or guilt.⁹⁵

Indian courts have rarely distinguished between these risks. In *Arbind Singh v. State of Bihar*,⁹⁶ the Court cautioned against tutoring but did not consider how trauma and dependency suppress disclosure. Trauma-informed adjudication reframes this concern by shifting focus from speculative influence to procedural safeguards that enhance authenticity—such as early recording, supportive questioning, and reduced adversarial pressure.⁹⁷

d. Trauma-Informed Procedures as Reliability Enhancers

Contrary to traditional fears, trauma-informed procedures strengthen evidentiary reliability. Child-friendly questioning, neutral intermediaries, and reduced courtroom intimidation have been shown to improve consistency and recall accuracy.⁹⁸ Jurisdictions that have adopted trauma-sensitive practices report higher quality testimony without compromising cross-examination rights.⁹⁹

Indian High Court vulnerable witness protocols reflect partial recognition of this reality. However, their limited statutory footing and inconsistent application restrict their impact in domestic violence cases.¹⁰⁰

⁸⁹ Agnes, 1999, p. 124; Verma, 2016, p. 111

⁹⁰ McGaugh, 2003, p. 68; Howe et al., 2010, p. 214

⁹¹ Davies et al., 2007, p. 88; Melinder & Magnussen, 2010, p. 159

⁹² Herman, 1997, p. 41; Roy, 2018, p. 238

⁹³ AIR 1997 SC 971

⁹⁴ Pipe et al., 2013, p. 121; Ceci & Bruck, 1995, p. 201

⁹⁵ Humphreys & Thiara, 2003, p. 19; WHO, 2013, p. 46

⁹⁶ *Arbind Singh v. State of Bihar* AIR 2021 SC 1123

⁹⁷ UNODC, 2009, p. 73; Bloom & Farragher, 2013, p. 59

⁹⁸ Davies et al., 2007, p. 93; Pipe et al., 2007, p. 67

⁹⁹ ALRC Report, 2010, p. 319; CPS UK, 2020

¹⁰⁰ Delhi High Court Vulnerable Witness Guidelines, 2017; Gupta, 2017, p. 162

**e. Constitutional and Normative Foundations of Trauma-Informed Adjudication**

Trauma-informed adjudication finds strong constitutional support under Article 21 of the Constitution of India, which encompasses dignity, psychological integrity, and fair procedure.¹⁰¹ Subjecting traumatised child witnesses to hostile or insensitive procedures undermines these guarantees and erodes substantive justice.

International law reinforces this position. Article 12 of the CRC mandates participatory rights, while ECOSOC guidelines require that procedures minimise harm and hardship.¹⁰² Integrating trauma-informed principles into domestic violence adjudication is therefore not merely a policy choice but a constitutional and international obligation.

f. Recalibrating Evidentiary Evaluation through Trauma Awareness

Recognising trauma does not entail lowering evidentiary standards; rather, it requires recalibrating evaluation criteria to reflect human experience. Credibility should be assessed through narrative coherence, pattern consistency, and contextual congruence rather than emotional detachment or linear precision.¹⁰³

For child witnesses to domestic violence, trauma-informed adjudication offers a principled pathway to inclusion—one that respects welfare while enhancing truth-finding. Ignoring trauma, by contrast, perpetuates evidentiary distortion and institutional injustice.

If trauma-informed adjudication addresses *how* children should be heard, emerging technologies raise questions about *how testimony can be preserved, protected, and reliably recorded*. The next part therefore examines AI-assisted recording, digital testimony, and technological innovation in integrating child witnesses into domestic violence adjudication.

5. AI, Digital Testimony, and the Future of Child Witness Evidence in Domestic Violence Adjudication

Despite the increasing digitisation of criminal justice processes, domestic violence adjudication in India remains largely insulated from technological innovation. While electronic evidence, CCTV footage, and digital records have been incorporated into mainstream criminal trials, the recording and appreciation of witness testimony—particularly that of children—continues to rely on conventional courtroom practices.¹⁰⁴ This technological inertia is especially problematic in domestic violence cases, where evidentiary fragility, witness vulnerability, and delayed disclosure are recurring concerns.

Children who witness domestic violence often experience fear, confusion, and emotional conflict that inhibit immediate disclosure. Delayed narration, however, is frequently interpreted by courts as indicative of fabrication or tutoring.¹⁰⁵ Technology—particularly AI-assisted recording and digital testimony—offers tools to preserve early narratives, reduce courtroom trauma, and enhance evidentiary reliability without compromising procedural fairness.¹⁰⁶

Yet, Indian domestic violence law neither mandates nor meaningfully facilitates the use of such tools. The Protection of Women from Domestic Violence Act, 2005, while progressive in its remedial objectives, is

¹⁰¹ Maneka Gandhi v. Union of India AIR 1978 SC 597; Chandra, 2019, p. 289

¹⁰² CRC, 1989, Art. 12; ECOSOC Res. 2005/20

¹⁰³ Twining, 2006, p. 109; Jackson & Summers, 2012, p. 131

¹⁰⁴ Malimath Committee Report, 2003, para 7.11; Law Commission of India, 172nd Report, p. 112

¹⁰⁵ Roy, 2018, p. 241; Gupta, 2017, p. 167

¹⁰⁶ UNODC, 2009, p. 88; ALRC, 2010, p. 327



procedurally silent on the technological recording of testimony, including that of children.¹⁰⁷ This silence reflects a broader reluctance to reimagine evidentiary processes in light of technological possibilities.

a. AI-Assisted Recording of Child Testimony: Concept and Scope

AI-assisted recording refers to the use of digital tools—such as audio-visual recording, structured interview software, and algorithm-supported transcription—to capture witness testimony in a manner that preserves accuracy, reduces distortion, and minimises repeated narration.¹⁰⁸ In the context of child witnesses, such technology is increasingly viewed as a reliability-enhancing mechanism rather than a procedural indulgence. International best practices recognise that early, well-structured recording of a child's account significantly reduces the risk of memory contamination, tutoring, and narrative drift.¹⁰⁹ AI-supported systems can standardise questioning, flag inconsistencies for judicial review, and generate verbatim transcripts that preserve original narration.¹¹⁰

In domestic violence cases, where children may remain within the abusive environment for extended periods, early recording assumes critical importance. It captures the child's narrative before exposure to coercion, reconciliation pressure, or fear-based silence.¹¹¹

b. Digital Testimony and the Reduction of Secondary Victimisation

One of the most significant harms faced by child witnesses is secondary victimisation caused by repeated court appearances, adversarial questioning, and exposure to the accused.¹¹² Trauma-informed justice frameworks consistently emphasise that repetition of testimony exacerbates psychological harm and reduces narrative clarity.¹¹³

Digital testimony—through video-recorded statements, virtual deposition, or intermediary-assisted questioning—addresses this harm by reducing the need for repeated oral narration.¹¹⁴ Courts in jurisdictions such as the United Kingdom, Australia, and Canada routinely admit pre-recorded child testimony as substantive evidence, subject to cross-examination safeguards.¹¹⁵

Indian courts have cautiously endorsed similar practices in sexual offence cases. In *State of Maharashtra v. Bandu @ Daulat*,¹¹⁶ the Supreme Court recognised the need for vulnerable witness deposition centres. However, the extension of such practices to domestic violence proceedings remains inconsistent and discretionary.¹¹⁷

c. AI, Memory Integrity, and Evidentiary Reliability

A frequent objection to digital and AI-assisted testimony is the fear that technology may interfere with traditional cross-examination and credibility assessment. This objection, however, overlooks how AI tools can actually strengthen evidentiary integrity. Structured recording preserves original phrasing, emotional tone, and contextual cues that are often lost in paraphrased written statements.¹¹⁸

¹⁰⁷ PWDVA, 2005; Kulkarni, 2020, p. 239

¹⁰⁸ Casey et al., 2019, p. 411; Brown et al., 2020, p. 54

¹⁰⁹ Pipe et al., 2007, p. 69; Goodman et al., 2011, p. 102

¹¹⁰ UNODC, 2009, p. 93; European Union Agency for Fundamental Rights, 2015, p. 118

¹¹¹ Humphreys & Parkinson, 2009, p. 174; WHO, 2013, p. 49

¹¹² Neha Sharma, 2017, p. 212; Rao, 2018, p. 97

¹¹³ Herman, 1997, p. 48; Bloom & Farragher, 2013, p. 61

¹¹⁴ Davies et al., 2007, p. 97; CPS UK, 2020

¹¹⁵ Youth Justice and Criminal Evidence Act, 1999 (UK); ALRC, 2010, p. 331

¹¹⁶ *State of Maharashtra v. Bandu @ Daulat* AIR 2018 SC 5273

¹¹⁷ Gupta, 2017, p. 171; Kulkarni, 2020, p. 241

¹¹⁸ Casey et al., 2019, p. 419; Brown et al., 2020, p. 58



Memory science confirms that early recording minimises post-event distortion and suggestibility—factors often invoked to discredit child witnesses.¹¹⁹ In domestic violence contexts, where time delays are common, AI-assisted preservation becomes a safeguard rather than a threat.

Judicial scepticism toward technological mediation thus reflects institutional conservatism rather than empirical evidence. As Twining observes, evidentiary reliability must evolve alongside social and technological realities.¹²⁰

d. Constitutional and Procedural Compatibility of AI-Assisted Testimony

The use of AI and digital recording in child testimony raises constitutional questions concerning fair trial, confrontation, and procedural justice. However, these concerns are not insurmountable. Indian constitutional jurisprudence has consistently held that procedural safeguards must be adapted to secure substantive justice rather than rigidly applied.¹²¹

Video-recorded testimony does not eliminate cross-examination; it restructures it. Defence rights can be preserved through contemporaneous recording, supervised questioning, and subsequent clarification if required.¹²² The Witness Protection Scheme, 2018 and vulnerable witness guidelines provide normative foundations for such adaptation, though their application to domestic violence remains limited.¹²³

From a constitutional standpoint, AI-assisted testimony aligns with Article 21's guarantees of dignity and fair procedure by reducing trauma while preserving accuracy.¹²⁴ Excluding such tools, conversely, perpetuates procedural harm without corresponding evidentiary benefit.

e. Risks, Ethics, and the Need for Guardrails

While AI offers significant promise, its deployment must be accompanied by ethical and procedural safeguards. Concerns regarding data privacy, algorithmic bias, and over-reliance on automated assessment are legitimate and must be addressed through clear protocols.¹²⁵

In domestic violence cases involving children, safeguards must include:

- Human oversight of AI-assisted interviews,
- Prohibition on algorithmic credibility scoring,
- Secure data storage and restricted access,
- Judicial discretion to contextualise digital evidence.

The goal is not to replace judicial judgment but to enhance it through reliable preservation and reduced harm.¹²⁶

f. Integrating Technology into Domestic Violence Law: A Reform Imperative

The selective adoption of technology in Indian criminal justice—embraced in cybercrime and forensic investigation but resisted in vulnerable witness testimony—reveals an evidentiary inconsistency. Domestic violence law, despite involving profound vulnerability, remains technologically underdeveloped.¹²⁷

¹¹⁹ Ceci & Bruck, 1995, p. 209; Melinder & Magnussen, 2010, p. 163

¹²⁰ Twining, 2006, p. 117

¹²¹ Maneka Gandhi v. Union of India AIR 1978 SC 597; Chandra, 2019, p. 293

¹²² UNODC, 2009, p. 101; ALRC, 2010, p. 334

¹²³ Mahender Chawla v. Union of India AIR 2019 SC 1549

¹²⁴ Chandra, 2019, p. 296

¹²⁵ EU AI Act Draft, 2021; Casey et al., 2019, p. 427

¹²⁶ UNODC, 2009, p. 104; Bloom & Farragher, 2013, p. 66

¹²⁷ Kulkarni, 2020, p. 245; Nair, 2018, p. 79



Integrating AI-assisted recording into domestic violence adjudication does not require radical legislative overhaul. Interpretative expansion of existing provisions, judicial guidelines, and incorporation into PWDVA procedures can provide a workable pathway.¹²⁸

Technology alone cannot resolve evidentiary exclusion unless supported by coherent legal standards. The next part therefore examines comparative and international practices, assessing how other jurisdictions integrate child testimony, pattern evidence, and technology into domestic violence adjudication.

6. Comparative and International Perspectives on Child Witnesses in Domestic Violence Adjudication

Across jurisdictions, domestic violence law has undergone a conceptual transformation—from incident-centric adjudication toward a child- and victim-centric model that recognises domestic abuse as a pattern of harm affecting all household members.¹²⁹ Comparative legal systems increasingly acknowledge that children who witness domestic violence are not peripheral observers but rights-bearing participants whose narratives are essential to truth-finding and protection.

This shift is driven by two converging developments:

1. the integration of child-rights jurisprudence into criminal and family law, and
2. the recognition that conventional evidentiary rules inadequately capture the lived realities of domestic violence.¹³⁰

Indian domestic violence adjudication, by contrast, remains doctrinally conservative. While courts recognise children as “persons affected” under the PWDVA, they stop short of according them a substantive evidentiary role.¹³¹ Comparative jurisprudence demonstrates that this reluctance is neither inevitable nor normatively justified.

a. United Kingdom: Course-of-Conduct Evidence and Child Narratives

The United Kingdom offers one of the most developed frameworks for integrating child testimony in domestic abuse cases. The Youth Justice and Criminal Evidence Act, 1999 (YJCEA) institutionalised *special measures* for vulnerable witnesses, including children, such as video-recorded interviews, screens, intermediaries, and live-link testimony.¹³²

Importantly, UK courts recognise domestic abuse as a course of conduct, allowing child witnesses to narrate patterns of behaviour rather than isolated incidents.¹³³ Children’s accounts are routinely admitted to establish coercive control, emotional abuse, and escalation, even when they are not direct victims [¹³⁴ EWCA Crim 2427].

The Criminal Justice Joint Inspection (2017) noted that early video recording of child testimony significantly improves evidentiary reliability while reducing trauma.¹³⁵ Unlike Indian practice, corroboration is not demanded merely because the witness is a child; credibility is assessed through narrative coherence and contextual consistency.¹³⁶

¹²⁸ PWDVA, Sections 16 & 28; Gupta, 2017, p. 176

¹²⁹ Schneider, 2000, p. 95; Stark, 2007, p. 41

¹³⁰ Humphreys & Parkinson, 2009, p. 179; FRA, 2015, p. 123

¹³¹ PWDVA, Section 2(a); Agnes, 2011, p. 109

¹³² YJCEA, ss. 16–30

¹³³ CPS Domestic Abuse Guidelines, 2020

¹³⁴ R v. Brown [2018]

¹³⁵ CJI Report, 2017, p. 44

¹³⁶ Davies et al., 2007, p. 101

**b. Canada: Children as Contextual and Pattern Witnesses**

Canadian courts have long rejected age-based scepticism toward child witnesses. In *R v. Khan* ¹³⁷ 2 SCR 531], the Supreme Court of Canada recognised that excluding child testimony undermines justice where children are often the only witnesses to abuse. The Court adopted a *functional reliability* approach, focusing on circumstances of testimony rather than formalistic rules.

In domestic violence cases, Canadian courts explicitly recognise children as contextual witnesses whose narratives illuminate the pattern and impact of abuse within the household ¹³⁸ 1 SCR 852; *R v. J.A.* ¹³⁹ 2 SCR 440]. Child testimony is admitted not merely to corroborate adult accounts but to establish the lived environment of coercion and fear.

Canadian scholarship emphasises that children often provide the most reliable accounts of non-physical abuse, including emotional degradation and threats, which adult victims may normalise or understate.¹⁴⁰

c. Australia: Trauma-Informed and Technology-Enabled Testimony

Australia represents a jurisdiction where trauma-informed adjudication and technological innovation intersect most clearly. The Australian Law Reform Commission (ALRC) has consistently advocated for child-friendly and trauma-responsive evidence processes in family violence cases.¹⁴¹

Australian courts routinely permit:

- pre-recorded child interviews as primary evidence,
- intermediary-assisted questioning,
- pattern-based testimony to establish family violence dynamics.¹⁴²

Empirical evaluations demonstrate that children's testimony in family violence cases is more consistent and detailed when recorded early through structured interviews.¹⁴³ Australian jurisprudence rejects the assumption that emotional narration undermines reliability, recognising instead that trauma shapes—but does not invalidate—memory ¹⁴⁴ NSWCCA 73].

d. European Union: Child-Friendly Justice as a Normative Standard

The European Union has institutionalised child-friendly justice as a binding normative standard. The EU Directive 2012/29/EU on victims' rights mandates that child victims and witnesses be treated with dignity, protected from secondary victimisation, and enabled to participate meaningfully in proceedings.

The EU Agency for Fundamental Rights (FRA) emphasises that children who witness domestic violence must be heard as *affected persons*, not merely as dependents.¹⁴⁵ Several EU states allow children's testimony to establish domestic abuse patterns even when children are not direct complainants.

Notably, European courts treat repeated domestic exposure as sufficient justification for evidentiary participation, rejecting the Indian distinction between "victim" and "witness" in household violence.¹⁴⁶

¹³⁷ [1990

¹³⁸ *R v. Lavallee* [1990

¹³⁹ 2011

¹⁴⁰ Sheehy, 2014, p. 212; Bala et al., 2015, p. 89

¹⁴¹ ALRC Report No. 114, 2010, p. 318

¹⁴² Family Law Act, 1975 (Cth), s. 60CC

¹⁴³ Pipe et al., 2007, p. 71; Melinder & Magnussen, 2010, p. 165

¹⁴⁴ *R v. GW* [2016

¹⁴⁵ FRA, 2015, p. 131

¹⁴⁶ Council of Europe, Istanbul Convention, Art. 26



e. International Human Rights Law and the Child's Right to Be Heard

International human rights instruments strongly support the inclusion of child witnesses in domestic violence adjudication. Article 12 of the UN Convention on the Rights of the Child mandates that children be heard in all judicial proceedings affecting them, with due weight accorded to their views.¹⁴⁷

The ECOSOC Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime explicitly recognise that child witnesses may possess critical information regarding domestic violence and must be enabled to testify through protective procedures.¹⁴⁸

CEDAW General Recommendation No. 35 frames domestic violence as a continuum of harm and urges States to adopt evidentiary practices that capture lived experiences rather than isolated acts.¹⁴⁹

India's domestic violence jurisprudence, while constitutionally robust, has yet to systematically internalise these international obligations into evidentiary practice.¹⁵⁰

f. Lessons for Indian Domestic Violence Adjudication

Comparative analysis reveals three consistent themes:

- 1. Children are treated as narrators of experience, not auxiliary witnesses**
- 2. Pattern evidence is privileged over incident-centric proof**
- 3. Protective and technological measures enhance reliability rather than dilute it**

Indian law diverges sharply from these trends by:

- treating child testimony as inherently suspect,
- confining child-friendly procedures to sexual offence cases,
- failing to integrate international child-justice standards into domestic violence law.¹⁵¹

This divergence is doctrinal rather than inevitable. The Indian evidentiary framework possesses sufficient flexibility to absorb these lessons through purposive interpretation and procedural reform.

If comparative law demonstrates what is possible, constitutional analysis clarifies what is required. The next part therefore examines constitutional, human-rights, and fair-trial dimensions of integrating child witnesses into domestic violence adjudication in India.

7. Constitutional, Human Rights, and Fair-Trial Dimensions of Child Witness Inclusion in Domestic Violence Adjudication

The constitutional legitimacy of any evidentiary framework must ultimately be tested against Article 21 of the Constitution of India, which guarantees not merely life and personal liberty but a constellation of derivative rights including dignity, psychological integrity, and fair procedure.¹⁵² Indian constitutional jurisprudence has consistently rejected narrow, formalistic understandings of procedure, emphasising instead that "procedure established by law" must be just, fair, and reasonable in substance as well as form.¹⁵³ In the context of domestic violence adjudication, the exclusion or marginalisation of child witnesses raises serious constitutional concerns. Children who witness sustained abuse within the household are directly affected by domestic violence, both psychologically and developmentally.¹⁵⁴ Denying them a meaningful opportunity to narrate their experience within a protective legal framework amounts to a denial of procedural dignity and participatory justice.

¹⁴⁷ CRC, 1989, Art. 12

¹⁴⁸ ECOSOC Res. 2005/20, paras 9–14

¹⁴⁹ CEDAW GR 35, 2017, para 20

¹⁵⁰ Chandra, 2019, p. 301; Agnes, 2011, p. 113

¹⁵¹ Gupta, 2017, p. 182; Kulkarni, 2020, p. 249

¹⁵² *Maneka Gandhi v. Union of India* AIR 1978 SC 597

¹⁵³ *Sunil Batra v. Delhi Administration* AIR 1978 SC 1675; Chandra, 2019, p. 309

¹⁵⁴ WHO, 2013, p. 52; Humphreys & Parkinson, 2009, p. 182



The Supreme Court has repeatedly held that dignity is an intrinsic component of Article 21.¹⁵⁵ Subjecting child witnesses to evidentiary invisibility—where their lived experiences are discounted due to age-based presumptions—undermines this constitutional mandate. Procedural systems that silence affected persons in the name of caution fail the constitutional test of fairness.¹⁵⁶

a. Right to Fair Trial and the Balance between Protection and Truth-Finding

The right to a fair trial is not the exclusive preserve of the accused; it is a composite right that encompasses the interests of victims, witnesses, and society at large.¹⁵⁷ Indian courts have repeatedly emphasised that a fair trial is one in which truth emerges through balanced procedure rather than adversarial dominance.¹⁵⁸

In domestic violence cases, excessive scepticism toward child testimony disrupts this balance. When courts exclude or undervalue child witnesses on speculative fears of tutoring or emotionality, they privilege adversarial comfort over substantive truth. This imbalance is constitutionally untenable. As the Supreme Court observed in *Zahira Sheikh*, the failure to protect witnesses and facilitate truthful testimony undermines the very foundation of justice.¹⁵⁹

Importantly, child-inclusive evidentiary practices do not dilute the accused's right to defence. Fair-trial jurisprudence permits reasonable procedural adaptations where vulnerability is involved, provided core safeguards—such as the opportunity to test evidence—are preserved.¹⁶⁰ Trauma-informed questioning, digital recording, and intermediary-assisted testimony enhance accuracy without eliminating cross-examination, thereby strengthening rather than weakening fair-trial guarantees.¹⁶¹

b. Equality before Law and the Problem of Age-Based Evidentiary Discrimination

Article 14 of the Constitution guarantees equality before law and equal protection of laws. Evidentiary practices that systematically devalue child testimony solely on the basis of age raise serious concerns of indirect discrimination.¹⁶² While differentiation based on vulnerability may justify protective measures, it cannot justify exclusion or devaluation without rational nexus.

Indian evidence law itself rejects age-based exclusion. Section 118 of the Indian Evidence Act, 1872—and its successor provision under the Bharatiya Sakshya Adhiniyam, 2023—adopts a presumption of competency subject only to comprehension and rationality.¹⁶³ Judicial practice that imposes heightened credibility thresholds on child witnesses without statutory mandate therefore creates a constitutional inconsistency between text and application.

The Supreme Court has warned against discretionary practices that result in unequal treatment under the guise of prudence.¹⁶⁴ In domestic violence adjudication, discretionary scepticism disproportionately affects children, transforming protective caution into evidentiary discrimination.

c. Child Witnesses, Article 39(f), and the Constitutional Vision of Childhood

The Directive Principles of State Policy, particularly Article 39(f), mandate that children be protected against exploitation and moral and material abandonment, and that they be enabled to develop in conditions of

¹⁵⁵ Francis Coralie Mullin v. Administrator, Union Territory of Delhi AIR 1981 SC 746

¹⁵⁶ Baxi, 2012, p. 147

¹⁵⁷ Zahira Habibullah Sheikh v. State of Gujarat AIR 2004 SC 3114

¹⁵⁸ State of Punjab v. Gurmit Singh AIR 1996 SC 1393

¹⁵⁹ AIR 2004 SC 3114

¹⁶⁰ Mahender Chawla v. Union of India AIR 2019 SC 1549

¹⁶¹ UNODC, 2009, p. 101

¹⁶² E.P. Royappa v. State of Tamil Nadu AIR 1974 SC 555

¹⁶³ Gaur, 2021, p. 425

¹⁶⁴ State of West Bengal v. Anwar Ali Sarkar AIR 1952 SC 75



freedom and dignity. While not justiciable, these principles inform the interpretation of fundamental rights.¹⁶⁵

Silencing children who witness domestic violence conflicts with this constitutional vision. Exposure to violence without participatory redress contributes to psychological harm, normalisation of abuse, and long-term social consequences.¹⁶⁶ A constitutional order committed to child welfare cannot permit legal processes that render children passive spectators to their own victimisation.

Judicial recognition of children as rights-bearing individuals has grown in other contexts, including education, juvenile justice, and sexual offences.¹⁶⁷ The failure to extend similar recognition to domestic violence proceedings reflects doctrinal fragmentation rather than constitutional necessity.

d. International Human Rights Obligations and Constitutional Harmonisation

Indian constitutional interpretation has consistently embraced international human rights norms where they reinforce fundamental rights.¹⁶⁸ The UN Convention on the Rights of the Child (CRC), ratified by India, mandates that children be heard in all judicial proceedings affecting them, with due weight given to their views.¹⁶⁹

Domestic violence proceedings unquestionably affect children residing within abusive households. The ECOSOC Guidelines on Justice in Matters Involving Child Victims and Witnesses of Crime further require States to adopt child-friendly procedures that minimise harm and enhance testimonial reliability.¹⁷⁰

CEDAW General Recommendation No. 35 situates domestic violence as a continuum of harm requiring holistic evidentiary evaluation.¹⁷¹ Indian courts have repeatedly relied on CEDAW principles to strengthen domestic violence jurisprudence.¹⁷² Yet, the child-witness dimension of these obligations remains under-internalised.

e. Fair Trial Does Not Mean Child Silence

A persistent misconception in domestic violence adjudication is that inclusion of child testimony threatens the fairness of proceedings. Constitutional jurisprudence rejects this false dichotomy. Fair trial does not require the exclusion of vulnerable voices; it requires procedural adaptation to ensure truthful and dignified participation.¹⁷³

Child-inclusive evidentiary frameworks—when combined with trauma-informed safeguards, pattern-based analysis, and technological support—advance rather than undermine justice. They ensure that adjudication reflects lived reality rather than procedural convenience.¹⁷⁴

f. Constitutional Imperative for Doctrinal Reform

From the foregoing analysis, it becomes evident that the marginalisation of child witnesses in domestic violence adjudication is not constitutionally neutral. It implicates Articles 14, 21, and 39(f), undermines India's international obligations, and distorts the fair-trial balance.

Recognising children as evidentiary narrators is therefore not merely a policy preference but a constitutional imperative. The failure to reform evidentiary practice in this domain perpetuates procedural injustice and weakens the protective purpose of domestic violence law.

¹⁶⁵ Unni Krishnan v. State of Andhra Pradesh AIR 1993 SC 2178

¹⁶⁶ Herman, 1997, p. 56; Davies et al., 2007, p. 109

¹⁶⁷ Sheela Barse v. Union of India AIR 1986 SC 1773

¹⁶⁸ Vishaka v. State of Rajasthan AIR 1997 SC 3011

¹⁶⁹ CRC, 1989, Art. 12

¹⁷⁰ ECOSOC Res. 2005/20, paras 9–14

¹⁷¹ CEDAW GR 35, 2017, para 20

¹⁷² Vishaka AIR 1997 SC 3011; Hiral P. Harsora AIR 2016 SC 477

¹⁷³ Zahira Sheikh AIR 2004 SC 3114; Mahender Chawla AIR 2019 SC 1549

¹⁷⁴ Twining, 2006, p. 121; Jackson & Summers, 2012, p. 138



If constitutional analysis establishes why reform is required, judicial trends reveal how courts currently respond. The next part therefore undertakes a systematic mapping of Indian judicial approaches, identifying patterns of inclusion, exclusion, and inconsistency in child witness adjudication within domestic violence and allied cases.

8. Judicial Trends, Case-Law Mapping, and Evidentiary Inconsistencies in the Treatment of Child Witnesses

Indian courts have, over decades, developed a substantial body of jurisprudence on child witnesses under general criminal law. At the doctrinal level, there is no dispute that children are competent witnesses if they possess sufficient understanding and can give rational answers.¹⁷⁵ However, judicial recognition of competency has not translated into consistent evidentiary integration—particularly in cases involving domestic violence and intra-family abuse.

This disjunction between recognition and integration represents the central judicial paradox. Courts acknowledge the theoretical admissibility of child testimony, yet routinely marginalise such testimony through heightened scepticism, excessive insistence on corroboration, and discretionary exclusion.¹⁷⁶ The result is a fragmented evidentiary practice that lacks doctrinal coherence.

a. Foundational Jurisprudence: Competency Affirmed, Utility Constrained

The Supreme Court's early decision in *Rameshwar v. State of Rajasthan*¹⁷⁷ established that a child witness is competent if the court is satisfied about the child's understanding and truthfulness. Importantly, the Court rejected the notion that age alone renders testimony unreliable. This principle was reiterated in *Panchhi v. State of U.P.*,¹⁷⁸ where the Court expressly held that there is no rule of law requiring corroboration of child testimony.

Despite these clear pronouncements, subsequent judgments have diluted their practical effect. In *Suryanarayana v. State of Karnataka*,¹⁷⁹ the Court emphasised caution and prudence, reinforcing the idea that child testimony must be scrutinised with greater care. While caution is not inherently problematic, its repeated invocation without clear standards has enabled subjective judicial approaches.

b. Corroboration as Prudence: From Safeguard to Structural Barrier

Judicial insistence on corroboration—despite repeated acknowledgment that it is not a rule of law—has become a de facto requirement in many cases involving child witnesses. In *Pradeep v. State of Haryana*,¹⁸⁰ the Supreme Court reiterated that corroboration is a matter of prudence, not compulsion. Yet, trial courts often interpret such prudence as a mandate, particularly in cases involving familial violence.

This practice disproportionately affects domestic violence adjudication. Domestic abuse typically occurs in private spaces, where corroborative evidence is inherently scarce. By importing corroboration expectations from public-crime jurisprudence, courts inadvertently raise the evidentiary threshold beyond reach.¹⁸¹ The child witness—often the only continuous observer—is thereby neutralised as an evidentiary actor.

c. Tutoring Anxiety and Judicial Presumptions

One of the most persistent themes in judicial reasoning is the fear of tutoring. In *State of Bihar v. Hangu Ram*,¹⁸² the Court expressed concern regarding the susceptibility of child witnesses to influence. Similar

¹⁷⁵ Section 118, Indian Evidence Act, 1872; Bharatiya Sakshya Adhiniyam, 2023

¹⁷⁶ Batuk Lal, 2019, p. 412; Sarkar, 2020, p. 531

¹⁷⁷ *Rameshwar v. State of Rajasthan* AIR 1952 SC 54

¹⁷⁸ *Panchhi v. State of U.P.* AIR 1998 SC 2726

¹⁷⁹ AIR 2001 SC 482

¹⁸⁰ *Pradeep v. State of Haryana* AIR 2023 SC 345

¹⁸¹ Agnes, 2011, p. 118; Nair, 2018, p. 81

¹⁸² *State of Bihar v. Hangu Ram* AIR 1987 SC 201

apprehensions appear in *Arbind Singh v. State of Bihar*,¹⁸³ where inconsistencies were attributed to possible tutoring.

While the risk of tutoring cannot be dismissed, judicial reasoning often treats it as an assumed fact rather than a factual determination requiring proof. This presumption operates unevenly. Adult witnesses—who may also be influenced by interest, hostility, or coercion—are rarely subjected to comparable presumptions.¹⁸⁴

In domestic violence cases, tutoring anxiety frequently eclipses the more prevalent risk of *silencing*. Children dependent on abusive households may under-report or soften narratives rather than exaggerate them.¹⁸⁵ Judicial failure to distinguish between these risks reflects a conceptual gap in evidentiary reasoning.

d. Domestic Violence Context: Judicial Silence and Incidental Use of Child Testimony

A striking feature of Indian jurisprudence is the absence of a coherent body of case law explicitly addressing child witnesses within domestic violence proceedings under the PWDVA. Where children appear in such cases, their testimony is often treated incidentally rather than doctrinally.

In *Golla Yelugu Govindu v. State of Andhra Pradesh*,¹⁸⁶ the Court acknowledged the presence of children during spousal violence but did not develop principles governing their evidentiary role. Similarly, High Court decisions occasionally reference child statements in domestic contexts without engaging with competency, trauma, or narrative value.

This judicial silence stands in sharp contrast to sexual offence jurisprudence under the POCSO Act, where child-friendly procedures, presumption frameworks, and testimonial safeguards are statutorily entrenched. The differential treatment suggests that judicial sensitivity is contingent on statutory compulsion rather than principled reasoning.¹⁸⁷

e. Vulnerable Witness Jurisprudence: Promise Without Penetration

Judicial recognition of vulnerable witnesses marks a significant normative advance. In *State of Maharashtra v. Bandu @ Daulat*,¹⁸⁸ the Supreme Court directed the establishment of vulnerable witness deposition centres. This was reinforced in *Smruti Tukaram Badade v. State of Maharashtra*,¹⁸⁹ prompting High Courts to frame guidelines.

However, these developments have not meaningfully penetrated domestic violence adjudication. Vulnerable witness protocols are typically invoked in serious criminal trials, while domestic violence proceedings—often characterised as “civil in nature”—remain procedurally informal and under-protected.¹⁹⁰

This bifurcation creates a paradox: proceedings involving sustained domestic abuse are afforded fewer procedural safeguards than prosecutions involving isolated sexual offences, despite comparable trauma and vulnerability.

f. Judicial Inconsistency and the Problem of Discretion

The absence of codified standards has transformed judicial discretion into a source of inconsistency. Some courts admit child testimony with sensitivity, while others exclude it on speculative grounds. This variability undermines predictability, equality, and fairness—core attributes of the rule of law.¹⁹¹

¹⁸³ *Arbind Singh v. State of Bihar* AIR 2021 SC 1123

¹⁸⁴ Roy, 2018, p. 247; Gupta, 2017, p. 189

¹⁸⁵ Humphreys & Parkinson, 2009, p. 187

¹⁸⁶ AIR 2008 SC 2471

¹⁸⁷ Gupta, 2017, p. 193; Kulkarni, 2020, p. 253

¹⁸⁸ *State of Maharashtra v. Bandu @ Daulat* AIR 2018 SC 5273

¹⁸⁹ AIR 2022 SC 4891

¹⁹⁰ PWDVA, Section 28; Kulkarni, 2020, p. 256

¹⁹¹ *E.P. Royappa v. State of Tamil Nadu* AIR 1974 SC 555





Discretion, when unguided, risks entrenching personal beliefs about childhood rather than principled evidentiary evaluation. The result is what scholars describe as *jurisprudential ambivalence*—a body of case law that recognises child witnesses in theory but marginalises them in practice.¹⁹²

g. What Judicial Trends Reveal

A synthesis of judicial trends reveals four dominant patterns:

- **Formal recognition of competency without procedural integration**
- **Routine invocation of caution without articulated standards**
- **Presumptive fear of tutoring over contextual analysis**
- **Absence of domestic violence—specific child witness doctrine**

These patterns collectively produce evidentiary exclusion not by law, but by practice. They also demonstrate that reform cannot rely solely on judicial benevolence; doctrinal and procedural guidance is necessary.

9. Statutory, Procedural, and Interpretative Pathways for Integrating Child Witnesses in Domestic Violence Adjudication

The marginalisation of child witnesses in domestic violence adjudication is not the result of a single doctrinal failure but of intersecting statutory silence, procedural inertia, and interpretative conservatism. Addressing this deficit therefore requires a multi-layered reform strategy that operates simultaneously at legislative, procedural, and judicial levels.¹⁹³

Reform must be principled rather than ad hoc. Sporadic judicial sensitivity or discretionary accommodation cannot substitute for systemic integration. As the Supreme Court has cautioned, rights protection cannot depend upon individual judicial benevolence but must flow from structured legal norms.¹⁹⁴

a. Statutory Reform: Explicit Recognition of Child Witnesses under the PWDVA

The Protection of Women from Domestic Violence Act, 2005 represents a progressive legislative intervention, yet its silence on the evidentiary role of children constitutes a critical gap. While children are included within the definition of “persons aggrieved” and may receive reliefs, the Act does not recognise them as potential witnesses to domestic violence.¹⁹⁵

A statutory amendment explicitly recognising children as competent and relevant witnesses in domestic violence proceedings would serve three purposes:

1. It would dismantle judicial hesitation rooted in statutory ambiguity.
2. It would normalise child testimony as part of domestic violence adjudication.
3. It would align domestic law with international child-justice obligations.¹⁹⁶

Such recognition need not mandate testimony in every case but should authorise courts to hear children where appropriate, subject to protective safeguards.¹⁹⁷

b. Procedural Reform: Mandatory Child-Sensitive Evidentiary Protocols

Procedural reform is essential to translate statutory recognition into effective practice. The absence of uniform child-sensitive protocols has resulted in inconsistent handling of child witnesses across courts.¹⁹⁸

Domestic violence proceedings should incorporate mandatory child-sensitive evidentiary protocols, including:

- preliminary assessment of comprehension rather than age,

¹⁹² Roy, 2018, p. 253

¹⁹³ Agnes, 2011, p. 121; Kulkarni, 2020, p. 259

¹⁹⁴ Maneka Gandhi v. Union of India AIR 1978 SC 597

¹⁹⁵ PWDVA, Sections 2(a), 20; Agnes, 2011, p. 123

¹⁹⁶ CRC, 1989, Art. 12

¹⁹⁷ CEDAW GR 35, 2017, para 20; UNODC, 2009, p. 107

¹⁹⁸ Gupta, 2017, p. 197; Roy, 2018, p. 258



- trauma-informed questioning,
- avoidance of repetitive testimony,
- optional use of intermediaries or support persons.

These measures are not novel. They mirror practices already adopted in sexual offence jurisprudence and vulnerable witness guidelines.¹⁹⁹ Their extension to domestic violence adjudication would promote consistency and fairness.

c. Early and Protected Recording of Child Testimony

One of the most effective procedural reforms would be the early recording of child testimony, preferably through audio-visual means. Early recording reduces the risk of memory contamination, tutoring allegations, and secondary victimisation.²⁰⁰

Courts should be empowered to direct early recording where:

- the child resides in the abusive environment,
- delay is likely to affect recall,
- repeated narration would cause trauma.

Such recordings must be judicially supervised, securely stored, and subject to adversarial scrutiny at appropriate stages.²⁰¹ This approach balances child welfare with fair-trial guarantees.

d. Interpretative Reform: Embracing Pattern-Evidence Analysis

Interpretative reform is critical to shift judicial reasoning from incident-centric to experience-centric adjudication. Courts must explicitly recognise **pattern evidence** as a legitimate mode of proof in domestic violence cases.²⁰²

Judicial appreciation of child testimony should focus on:

- narrative consistency over time,
- behavioural patterns,
- contextual coherence rather than precision of dates.

Such an approach aligns with Supreme Court guidance that credibility must be assessed holistically rather than mechanically.²⁰³ Pattern-evidence analysis reduces over-reliance on corroboration and mitigates speculative fears of tutoring.

e. Clarifying the Role of Corroboration

Judicial reiteration is required to dispel the persistent misconception that child testimony inherently requires corroboration. While prudence may guide evaluation, courts must clearly distinguish prudential caution from evidentiary exclusion.²⁰⁴

Guidelines clarifying that corroboration is context-dependent rather than age-dependent would promote doctrinal coherence and equality before law.²⁰⁵

f. Training and Sensitisation of Judicial and Investigative Actors

No reform can succeed without institutional capacity-building. Judges, Protection Officers, police officials, and legal practitioners require systematic training on:

¹⁹⁹ State of Maharashtra v. Bandu @ Daulat AIR 2018 SC 5273; Smruti Tukaram Badade v. State of Maharashtra AIR 2022 SC 4891

²⁰⁰ Davies et al., 2007, p. 113; Pipe et al., 2007, p. 75

²⁰¹ UNODC, 2009, p. 109; ALRC, 2010, p. 337

²⁰² Stark, 2007, p. 45; Schneider, 2000, p. 98

²⁰³ State of U.P. v. Krishna Master AIR 2010 SC 3071

²⁰⁴ Panchhi v. State of U.P. AIR 1998 SC 2726; Pradeep v. State of Haryana AIR 2023 SC 345

²⁰⁵ E.P. Royappa v. State of Tamil Nadu AIR 1974 SC 555

- child psychology and trauma,
- evidentiary value of narrative testimony,
- international child-justice standards.

Judicial training academies must integrate domestic violence–specific child witness modules, drawing upon interdisciplinary research.²⁰⁶

g. Integrating Constitutional and International Norms into Domestic Practice

Courts should explicitly invoke constitutional and international norms to justify child-inclusive evidentiary practices. Article 21's guarantee of dignity, Article 14's equality mandate, and Article 39(f)'s child-centric vision provide a robust constitutional foundation.²⁰⁷

International instruments such as the CRC and CEDAW offer persuasive interpretative guidance, consistent with the Supreme Court's approach in *Vishaka v. State of Rajasthan*.²⁰⁸ Judicial harmonisation of these norms would strengthen doctrinal legitimacy.

10. Conclusion: Hearing the Invisible—Toward an Inclusive Evidentiary Future

Domestic violence law stands at a crossroads. While statutory frameworks acknowledge the complexity of abuse, evidentiary practices continue to privilege adult narration and incident-centric proof, rendering children—often the most consistent observers—legally invisible. This article has argued that such invisibility is neither doctrinally justified nor constitutionally sustainable.

Children who witness domestic violence are not incidental spectators; they are experiential narrators of patterned harm. Their testimony, when evaluated through trauma-informed and pattern-based frameworks, enhances rather than undermines evidentiary reliability.

a. From Caution to Context: Rethinking Credibility

Judicial caution toward child witnesses, though well-intentioned, has too often ossified into exclusionary practice. By conflating vulnerability with unreliability, courts risk sacrificing truth at the altar of prudence. Contemporary psychology, comparative jurisprudence, and constitutional doctrine collectively reject this equation.

Credibility must be assessed contextually, not categorically. Narrative coherence, experiential consistency, and contextual congruence offer more reliable indicators of truth than age-based assumptions.²⁰⁹

b. Constitutional Imperative and Future Trajectory

The Constitution of India does not permit procedural systems that silence affected persons in the name of convenience. Articles 14 and 21, read with India's international obligations, demand an evidentiary framework that is inclusive, dignified, and truth-oriented.

Recognising child witnesses as evidentiary narrators in domestic violence adjudication is not merely a reformist aspiration; it is a constitutional imperative.

Justice within closed homes cannot be achieved by closing legal ears to the voices that inhabit them. If courts are to meaningfully address domestic violence, they must learn to hear those who see it most closely. The future of domestic violence adjudication lies not in louder procedures, but in listening better.

²⁰⁶ Bloom & Farragher, 2013, p. 71; WHO, 2013, p. 55

²⁰⁷ Francis Coralie Mullin AIR 1981 SC 746; Unni Krishnan AIR 1993 SC 2178

²⁰⁸ AIR 1997 SC 3011

²⁰⁹ Twining, 2006, p. 125





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