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JUDICIAL PROTRACTION, CHILDHOOD SUBVERTED: ANALYZING THE IMPACT OF TRIAL DELAY ON POCSO VICTIMS AND REHABILITATION CONTINUITY

A FORMAL ANALYSIS OF SYSTEMIC FAILURES AND THE CRISIS OF EXPEDITED JUSTICE IN INDIA

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Chapter 1: Introduction and Conceptual Framework

1.1 The POCSO Act: The Legislative Mandate for Expediency

The Protection of Children from Sexual Offences (POCSO) Act, 2012, represents a critical legislative measure instituted by the Indian Parliament to establish a child-centric framework for addressing sexual abuse. A foundational requirement of this legislation is stipulated in **Section 35(2)**, which mandates that trial proceedings must be concluded, "**as far as possible, within a period of one year** from the date of taking cognizance." This strict timeline underscores a core legislative principle: that prolonged judicial engagement severely compromises the developmental and psychological well-being of the child victim. The objective of the Act is dual: to ensure the **punishment of perpetrators** and the **protection and restorative rehabilitation of child survivors**. This commitment is further buttressed by **Article 39(f)** of the Constitution [Source Ref: Article 39(f)], which directs the State to ensure that children are given opportunities to develop in a healthy manner, a principle directly undermined by judicial protraction.

1.2 Conceptualizing Judicial Delay as Secondary Victimization

This analysis examines trial durations extending significantly beyond the statutory one-year period, defining this protracted litigation as a critical manifestation of **secondary victimization**. Such systemic failure transforms the judicial process, which is intended to deliver closure, into a **Continuous Traumatic Event (CTE)** for the child. The chronic uncertainty and fear prolong the victim's psychological distress, often exceeding the harm of the original offence itself, as acknowledged by legal scholars and psychological experts. The legal

basis for expedited disposition is rooted in constitutional jurisprudence, specifically the recognition of the **right to a speedy trial** as an intrinsic component of the **fundamental Right to Life and Personal Liberty (Article 21)** [Source Ref: Hussainara Khatoon (1979)]. Consequently, the routine breach of the POCSO timeline constitutes a violation of the child's basic constitutional rights, effectively rendering statutory protections nugatory.

1.3 Scope, Objectives, and Methodology

This paper seeks to address the systemic impediments obstructing the timely delivery of

POCSO justice, arguing that the crisis is multi-sectoral and requires targeted, coordinated reform.

Objectives:

1. To quantify the monumental scale of the case backlog and analyze the efficacy failure of the oneyear trial mandate using official government data.
2. To identify the specific **structural drivers** of procedural delay across the investigative, forensic, and judicial spheres, detailing the mechanism of their failure.
3. To detail precisely **how protraction inhibits the continuity of mandated victim care** and rehabilitation (POCSO Sections 33 & 39), particularly regarding psychological support and financial compensation.
4. To propose **structural, evidence-based reforms** necessary for enhancing judicial accountability and procedural efficiency, focusing on implementation steps.

Methodology: The research employs a comprehensive methodology, utilizing **quantitative data** derived from **National Crime Records Bureau (NCRB)** reports (2018-2023)

[Source Ref: NCRB (2022)], **Department of Justice (DoJ)** Fast Track Special Court (FTSC) scheme reports, and **qualitative analysis** of Supreme Court judgments and investigative journalism. The research methodology employed utilized artificial intelligence tools for data aggregation, representing approximately **five percent of the overall analytical process**; primary reliance was placed upon documented governmental and investigative sources.

Chapter 2: The Scale of Judicial Protraction: Quantitative Analysis

The quantitative data unequivocally demonstrates that the judicial system is operating at an unacceptable velocity, resulting in an exponential increase in case pendency that effectively negates the Act’s core mandate.

2.1 Exponential Pendency and Inadequate Clearance Rates

The volume of pending POCSO cases has experienced alarming growth, indicating a critical disparity between new case institution and judicial disposition capability, a failure which cannot be sustained.

Metric	Statutory Mandate (1 Year)	Empirical Reality (2021-2023)	Implication
Trial Completion Time	365 days	4 to 6 Years (Average duration in highpendency states)	Constitutional noncompliance.
Total Pendency (Jan 2023)	Minimal backlog	Exceeding 2.43 Lakh cases awaiting trial [Source Ref: The Economic Times (Dec 2023)]	Severe systemic overload.
FTSC Goal	165 cases cleared per annum	~28-52 cases cleared per annum (Actual average) [Source Ref: The Hindu (Dec 2023)]	Failure to achieve mandated efficiency targets.

Pendency Growth (2015-2022)	Static	Increased by 217% (from 71,552 to 2,26,728) [Source Ref: NCRB (2022)]	Uncontrolled expansion of the crisis.
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Quantitative Finding: As reported in *The Economic Times* (December 2023), the accumulated backlog of over **2.43 lakh** POCSO cases implies that, at the current national rate of disposal, states such as **Delhi and Arunachal Pradesh** would require approximately **27 to 30 years** to clear pending caseloads [Source Ref: *The Economic Times* (Dec 2023)].

This projection signifies a complete systemic failure to fulfill the POCSO mandate.

Furthermore, NCRB data indicates that the number of pending cases swelled from 71,552 in 2015 to 2,26,728 by early 2022 [Source Ref: NCRB (2022)], confirming that the initiation of FTSCs has been insufficient to curb the influx and backlog.

2.2 The Deterioration of Conviction Rates and Efficiency

The diminished rate of conviction is directly attributable to judicial protraction, as extended time fundamentally erodes the efficacy of testimonial evidence, which is central to these cases.

- **National Conviction Rate (2022):** Official data suggests a critically low national conviction rate, estimated at approximately **3%** of disposed cases [Source Ref: ICPD/Deccan Herald (Dec 2023)], as cited in **Deccan Herald** (December 2023). This low rate contrasts sharply with the high percentage of cases chargesheeted, suggesting a critical failure point during the trial phase itself.

.Causative Factors: The extended duration of trials induces:

1. **Witness Attrition:** Families face relentless trauma, financial exhaustion,

and intimidation, leading to withdrawal from prosecution, resulting in acquittals due to "hostile witnesses."

2. **Testimonial Compromise:** The substantial temporal distance from the crime facilitates natural memory decay in child witnesses, which is systematically exploited by the defense bar to introduce "reasonable doubt," thereby securing acquittals.

Conclusion on Efficiency: The proportion of completed trials remains alarmingly low; only **10.8%** of the POCSO cases under trial in 2021 were actually disposed of [Source Ref: NCRB (2022)], indicating a severe structural incapability to manage the caseload effectively and efficiently.

Chapter 3: Impediments to Expediency: Analysis of Structural Drivers

Judicial delay is a multi-sectoral failure, originating in deep-seated deficiencies across the entire criminal justice infrastructure, particularly the investigative and forensic agencies.

3.1 The Forensic Bottleneck: A Crisis of Infrastructure

The incapacity of **Forensic Science Laboratories (FSLs)** serves as the most critical non-judicial barrier to timely trials, effectively stalling entire case cohorts.

- **Resource Deficits:** FSLs nationally suffer from acute shortages of scientific personnel, severely strained budgets, and outdated technological capacity. This failure extends to specialized units, particularly in **cyber forensics**, which are crucial for cases involving technology-facilitated abuse.

- **Evidence Paralysis and Media Report:** The submission of critical evidence (DNA,

electronic, medical reports) routinely incurs delays ranging from **six months to two years** [Source Ref: The Hindu (March 2023)]. **The Hindu (March 2023)** specifically highlighted this crisis, reporting that forensic and toxicology departments in states frequently operate under immense strain, leaving a massive backlog of time-sensitive biological and material evidence pending analysis [Source Ref: The Hindu (March 2023)]. The newspaper emphasized that this systemic inability to process evidence promptly directly translates into the inability of Special Courts to commence or proceed with the trial, confirming that the FSL backlog is the single largest structural driver of judicial protraction. The delay in FSL reports also compromises the integrity of time-sensitive biological samples.

3.2 Investigative and Procedural Deficiencies

- **Charge Sheet Protraction:** Investigative Officers (IOs) frequently fail to file the charge sheet within the stipulated statutory period. This systemic delay is exacerbated by heavy police workloads, insufficient specialized, **trauma-informed training** within the police force, and administrative reliance on archaic documentation practices.
- **Witness Attendance Failure:** Police forces routinely fail to ensure the prompt and consistent attendance of official witnesses (IOs and medical staff). This procedural negligence compels Special Courts to grant repeated **administrative adjournments**, thereby contributing significantly to the overall protraction and increasing the child's psychological exposure to the adversarial system.

3.3 Judicial Complicity and Systemic Overload

- **Exploitation of Legislative Ambiguity:** The phrase "**as far as possible**" in Section 35(2) is routinely exploited by the defense bar to file protracted motions for delay,

often seeking minor administrative relief to disrupt the timeline.

• **Judicial Overload:** Special Court Judges, often operating with dual dockets (handling regular

Sessions work alongside POCSO cases), are structurally compelled to grant these adjournments.

The failure to appoint exclusively dedicated judges compromises judicial quality and efficiency. The Delhi High Court in **Rajesh Kumar v. State (NCT of Delhi) (2020)** [Source Ref: Rajesh Kumar

v. State (NCT of Delhi) (2020)] explicitly cautioned against this "**habitual tendency,**" emphasizing that judicial discipline is paramount to enforce the timeline.

• **Illustrative Case Load:** The rejection of a voluminous 500-page bail plea by a Delhi Special

POCSO Court, citing the court's burden with "**the disposal of old matters**" (*Indian Express, October 2025*) [Source Ref: Indian Express (October 2025)], demonstrates how judicial overload directly impedes procedural efficiency and slows the disposition of all cases.

Chapter 4: Compounding Trauma and the Failure of Continuity of Care

Protracted litigation acts as a chronic stressor, actively undermining the victim's psychological recovery and sabotaging the restorative and rehabilitative goals of the Act.

4.1 Psychological Erosion and Testimonial Vulnerability

- **Continuous Traumatic Stress:** The perpetual uncertainty of the trial prevents the resolution of **Post-Traumatic Stress Disorder (PTSD)**. The child is unable to achieve psychological closure while the threat of the accused and the necessity of testimony remain active.

- **Erosion of Testimony:** Delay facilitates memory decay, which the defense systematically leverages during cross-examination. The Supreme Court addressed this vulnerability in *Arjun Sonar v. State of Arunachal Pradesh (2025)* [Source Ref: *Arjun Sonar v. State of Arunachal Pradesh (2025)*], strongly deprecating attempts to recall child victims for re-cross examination, recognizing such attempts as a form of **secondary victimization** and an abuse of the legal process.

- **Constitutional Scrutiny:** The Supreme Court's finding in *In Re: Right to Privacy of Adolescents (May 2025)* [Source Ref: *In Re: Right to Privacy of Adolescents (May 2025)*]-that the legal battle itself "**traumatized the victim more than the original act**"-serves as a high-level judicial indictment of the system's profound failure to provide adequate psychological scaffolding during

the protracted legal timeline. The judgment prioritized the victim's rehabilitation over strict sentencing mandates, acknowledging the systemic failures that contributed to her suffering.

4.2 Discontinuity in Financial and Psychosocial Support

- **Delayed Interim Compensation (Section 33(8)):** The provision for **Interim Compensation**- essential for immediate medical and therapeutic intervention-is frequently delayed for **6 to 12 months** due to administrative inefficiencies between the Special Court and the District Legal Services Authority (DLSA). This delay critically ensures the early intervention window is missed, allowing acute trauma to become chronic.

- **Support Person Attrition (Section 39):** Protracted trials inevitably lead to the high turnover of **Support Persons** (often volunteers or contracted staff with limited

remuneration). The resultant loss of a consistent, trusted figure forces the child to re-establish rapport repeatedly, compounding emotional exhaustion and hindering recovery. This compromises the continuity of the mandatory legal and emotional support structure.

4.3 Social Stigma and Withdrawal

- **Media Evidence:** Investigative reports, including those cited from *The Indian Express (February 2024)* [Source Ref: *The Indian Express (February 2024)*], confirm a direct correlation between the **protracted judicial timeline** and the phenomenon of victims' families either becoming **hostile witnesses** or withdrawing from the case entirely due to years of intimidation and financial strain. This prolonged legal status perpetuates social stigma and interrupts the child's education and social development.

Chapter 5: Essential Reforms and Accountability Mechanisms

Achieving time-bound justice requires a multi-pronged strategy focused on enforcing accountability and structural investment across the executive and judicial branches.

5.1 Enhancing Judicial Accountability and Procedural Strictness

1. **Mandatory Continuous Hearings:** High Courts must establish protocols enforcing **day-to-day continuous hearings** (Sec. 35(1)) immediately following the child's deposition. Adjournments must be virtually eliminated, with any delay requiring a **detailed, certified justification** filed with the High Court Monitoring Committee [Source Ref: *In Re: Alarming rise...* (2019)].

2. **Dedicated e-POCSO Courts:** FTSCs must be genuinely **dedicated**, with judges exclusively assigned to POCSO/Rape dockets, removing the systemic overload that compels judicial laxity. This requires fulfilling the initial target for

establishing these courts and ensuring adequate resource allocation per FTSC judge.

5.2 Strengthening Investigation and Forensic Infrastructure

1. FSL Modernization and Decoupling: Substantial government investment is required to eliminate FSL backlogs. Procedural reform must allow trials to proceed on preliminary evidence, with the final FSL report mandated to be submitted within a strict **90-day post-cognizance window**, preventing forensic delay from paralyzing the entire trial. Specific budget allocations for FSL staffing and equipment must be transparently audited.

2. IO Accountability: Mandatory, specialized training in trauma-informed investigation and strict adherence to timelines must be enforced for IOs, with disciplinary measures necessary for chronic failures in filing charge sheets or ensuring witness production.

5.3 Guaranteeing Rehabilitation and Continuity of Care

1. Automated Compensation Release: The DLSA must develop a standardized protocol for the **automatic release of interim compensation** within **60 days of the FIR**, based solely on the medical report. This action effectively decouples immediate financial aid from the slow judicial process, prioritizing early therapeutic intervention.

2. Continuous Monitoring: The Child Welfare Committee (CWC) must be mandated to submit **periodic status reports** (e.g., quarterly) to the Special Court, documenting the continuity of the victim's therapeutic interventions and the utilization of compensation funds, thereby ensuring active judicial oversight of the victim's rehabilitation throughout the trial's pendency. The CWC must also facilitate educational and vocational continuity.

Chapter 6: Conclusion

The persistent judicial delay in POCSO trials poses an existential threat to the integrity of the Act and the constitutional rights of child survivors. The failure to meet the one-year statutory deadline is systemic, driven by forensic deficits, judicial overload, and procedural inadequacy. This protraction generates a state of protracted trauma, erodes testimonial evidence, and consequently compromises the efficacy of the law. To realize the promise of the POCSO Act, systemic overhaul is required:

guaranteeing strict **judicial accountability**, investing massively in **FSL infrastructure**, and ensuring the continuous, monitored **integration of care** with the trial process. Only through these concerted efforts can the system ensure that for the child victim, **justice is delivered with the requisite expediency, and the right to a protected childhood is upheld.**

Appendices and Bibliography (Selected Sources)

Appendix I: Key Data Summary (2021-2023)

Metric	Statutory Mandate	Empirical Reality (2021-2023)	Evidence Source
Trial Completion Time	1 Year	4.0 – 6.0 Years (Average)	NCRB & DoJ FTSC data
National Conviction	High	~3% (2022 estimate)	ICPF/Deccan Herald (Dec 2023)

Pending Cases (Jan 2023)	Minimal	>2.43 Lakh	The Economic Times (Dec 2023)
FTSC Disposal	165 cases/year	~28 cases/year (Actual average)	The Hindu (Dec 2023)
Pendency Growth	Constant	Increased by 217% (2015-2022)	NCRB (2022)

Selected Bibliography and Case Law Citations

- **Hussainara Khatoon (1979):** Established the right to a speedy trial as part of Article 21.

In Re: Alarming rise... (2019): Supreme Court directives mandating monitoring and continuous hearings in POCSO.

- **In Re: Right to Privacy of Adolescents (May 2025):** SC cited systemic failure, noting the legal process caused profound trauma.
- **Arjun Sonar v. State of Arunachal Pradesh (2025):** SC deprecated recalling victims for re-cross examination, citing secondary victimization.
- **Rajesh Kumar v. State (NCT of Delhi) (2020):** Delhi HC criticized the habitual granting of routine judicial adjournments.

