

# 9TH INTERNATIONAL STUDENT CONFERENCE ON LOCAL SAFETY AND SECURITY



University of Maribor

Faculty of  
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Erasmus+



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## PROTECTING THE UNHEARD: CRIMINAL MINDS, VULNERABILITY, AND JUSTICE FOR NON-VERBAL CHILDREN WITH DISABILITIES

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# Introduction: Global Vulnerability Stats



## The Dark Figure of Crime

Statistical benchmarks from **WHO (2020)** and **UNICEF** reveal that institutional silence masks the true scale of violence against non-verbal children.

# Problem Statement

## Phonocentric Jurisprudence

Current legal systems equate "**Truth**" with "**Speech**." This biological bias effectively excludes non-verbal children from legal protection.

**The Extraction Crisis:** Forensic systems are not equipped to capture non-verbal narratives, leading to pre-emptive case dismissals at first contact.



# Component I: Criminal Minds

## Rational Choice Calculus

Offenders act as reasoning actors performing a risk-benefit analysis. A non-verbal victim represents a "Low-Cost" target due to systemic forensic deafness.

- **Selection Logic:** Intentional targeting of "Impossible Witnesses."
- **Perceived Impunity:** Confidence that the victim cannot "tell" the system.
- **Exploitation:** Leveraging the child's reliance on trusted caregivers.

## Component II: Vulnerability



### Testimonial Injustice

Gatekeepers apply a "Credential Discount," assuming silence correlates with an inability to form witness memory.



### Hermeneutical Void

Absence of a shared interpretive framework (AAC) to read signs of trauma and forensic testimony.



### Legal Invisibility

Victims remain physically present but legally non-existent within the formal record of crime.

# Component III: Justice

## Facilitation & Systemic Antidotes

Justice is not found in a building, but in the removal of communication barriers. Key reform pillars:

- Mandatory **Forensic Intermediaries**.
- Pictorial Evidence-in-Chief (Forensic AAC).
- Abolition of Oral Competency barriers.
- Multi-modal legal record preservation.



# Research Methodology

## Qualitative Comparative Analysis (QCA)

Benchmarking institutional readiness across three global categories using a tripartite maturity framework.

**Units:** Statutory frameworks, gatekeeping protocols, and evidence standards.

**Theory:** Epistemic Injustice (Fricker) and Rational Choice (Cornish & Clarke).

# Tier I: Institutional Absence

## Philosophy: Medical/Deficit Model

In Tier I, disability is viewed as a witness liability. No "Communication Ramps" exist for evidence extraction.

- Reliance on standard interrogation only.
- Non-verbal signals dismissed as "unreliable."
- **Absolute Impunity** for offenders.
- Lack of multidisciplinary advocacy.

# Tier II: India - Implementation Asynchrony

## Statutory Vision vs. Field Reality

**The Law:** POCSO (2012) and RPwD (2016) provide robust rights for assistance.

**The Bottleneck:** First-contact officers lack technical AAC kits. Intermediaries often untrained in forensic extraction.

**Finding:** Offender risk is *Strategic*—banking on the system's inability to bridge the silence during extraction.

# Jurisprudence: Patan Jamal Vali (2021)

## The Judicial Mandate

*"The State has a mandatory duty to facilitate communication... Courts must proactively remove barriers to ensure the unheard child is recognized as a competent witness."*

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- Recognition of (Gender + Disability).
  - Mandate for technical AAC aids as a right.
  - Rejection of "Oral Competency" trap.
  - Training for specialized POCSO judges.

# Tier III: Procedural Inclusion (Nordic)

## The Barnahus (Children's House) Standard

Systems where facilitation is the baseline. **Neuro-Inclusive** approach ensures evidence extraction from non-verbal witnesses.



**Integration:** Multi-disciplinary hubs where police and therapy work simultaneously.



**Intermediaries:** Neutral AAC experts to "bridge" communication in court.

**Key: Initial recorded interview serves as the legal Evidence-in-Chief.**

# Results: Comparative Maturity Matrix

Pillar Analysis	Underdeveloped	Developing (India)	Developed (Nordic)
Forensic Role	Standard Police	Untrained Support Person	AAC Intermediary
Evidence Format	Oral Only	Bottlenecked Gestural	Systemic/Digital
Offender Mind	Absolute Impunity	Strategic Impunity	Forensic Deterrence
Infrastructure	Absent	Asynchronous	Integrated Hubs

# Policy Recommendations & Reform

## Technical

Mandatory **Forensic AAC Kits** in every specialized POCSO unit.



## Structural

Adoption of **District Advocacy Hubs** (Barnahus model hubs).



## Personnel

Training specialized **Linguistic Intermediaries**.

*"Accessibility is the Gateway to Justice."*

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