Ways to Treat a Child Witness

What is the issue?

- The police have been allegedly violated the rules while questioning the school children in Bidar (Karnataka) for a case.
- After this, much of the spotlight has been on reports of how the police treated the children.

What are the international conventions?

- Since 1992, India has been a signatory to the United Nations (UN) **Convention on the Rights of the Child of 1989**.
- The Convention states that in all actions concerning children, whether undertaken by public or private social welfare institutions, law courts, etc, the best interests of the child shall be a primary consideration.

What are the international guidelines?

- 'UN: Justice in Matters involving Child Victims and Witnesses in Crime: **Model Law of 2009**' provided a more specific set of guidelines in the context of child witnesses.
- It recommends that authorities treat children in a caring and sensitive manner, with interview techniques that minimise trauma to children.
- They recommend specifically that an investigator specially trained in dealing with children be appointed to guide the interview of the child.
- The investigator shall, to the extent possible, avoid repetition of the interview during the justice process in order to prevent secondary victimisation of the child.
- [Secondary victimisation - Occurs not as a direct result of a criminal act, but through the response of institutions and individuals to the victim.]

How do Indian laws address the issue of child witnesses?

- Under **Section 118 of the Indian Evidence Act, 1872**, there is no minimum age for a witness.
- Usually during a trial, the court, before recording the testimony of a child witness, determines their competency on the basis of their ability to give rational answers.
- When a child doesn't understand the significance of taking an oath to speak

the truth, the judge or the staff should explain to the child that s/he should speak the truth.

Have courts dealt with how child witnesses are to be treated?

- The Delhi High Court (HC) has come up with guidelines for recording of evidence of vulnerable witnesses in criminal matters.
- [Vulnerable witness - Anyone who has not completed 18 years of age.]
- These guidelines allow for a facilitator for such a witness to be appointed by a court for effective communication between various stakeholders.
- In 2016, the Delhi HC said that while children can be pliable, their testimony can be considered after careful scrutiny.

What does the JJ Act say about questioning of children?

- The Juvenile Justice (Care and Protection of Children) Act, 2015 is the primary legislation in the country pertaining to children.
- It says that a **child-friendly approach** in the adjudication and disposal of matters in the best interest of children must be adhered to.
- It also requires that interviews of children be done by specialised units of police who are trained to sensitively deal with them.
- It prescribes that a **Special Juvenile Police Unit** is to be constituted by the state government in each district and city.
- Their work includes coordinating with the police towards sensitive treatment of children.
- The Act also provides for a **Child Welfare Committee** in every district to take cognisance of any violations by the authorities in their handling of children.

What does the POCSO Act say about questioning of children?

- The Protection of Children from Sexual Offences (POCSO) Act, 2012 has specific guidelines regarding interviewing children as witnesses.
- While it **pertains to child sexual abuse victims**, child rights activists say the guidelines are a framework for all children witnesses who are being interviewed by the police.
- The Act states that interviews should be conducted in a safe, neutral, child-friendly environment.
- It also says a child should not be made to recount the incident in question multiple times.
- The Act allows for a support person, who could be trained in counselling, to be present with the child to reduce stress and trauma.

Source: The Indian Express

