

Procedural Irregularities and Evidentiary Difficulties in Foreign-Related Child Sexual Abuse Proceedings

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Abstract: Foreign-related child sexual abuse cases engage two sets of procedural requirements at once: those designed to protect minors and those applicable to foreign-related criminal proceedings. Existing scholarship has largely addressed these issues separately, with limited attention to how failures in coordinating them may, through the process of evidence formation, lead to evidentiary difficulties. This article argues that the principal challenge in such cases often lies not in determining the offense itself, but in the failure, at the earliest stage of investigation, to coordinate protective evidence-gathering, interpretation safeguards, and the timely preservation of objective evidence. Such failures may weaken the stability of the victim's statements, undermine the reliability of interpreted interview records, and reduce the corroborative value of objective evidence. The article therefore proposes a response centered on procedural integration, emphasizing early identification of the case' dual procedural character, coordination of key evidentiary steps, and the reduction of procedural irregularities through checklist-based operations, inter-agency coordination, and earlier supervisory intervention.

Keywords: Foreign-Related Criminal Procedure; Child Sexual Abuse; Procedural Safeguards; Evidentiary Difficulties

1. Introduction

In judicial proceedings involving minors, the question of how to balance protection, participation, and the quality of evidence collection has long attracted sustained attention in international scholarship[1]. In foreign related child sexual abuse cases, that question becomes considerably more complicated. Such cases require compliance with rules designed to protect minors, including appropriate interview

settings, child-sensitive questioning, simultaneous audio-video recording, and the avoidance of repeated interviews. They also require attention to identity verification, interpretation arrangements, notification of rights in a language understood by the person concerned, and other necessary procedural matters. They are therefore not simply ordinary criminal cases to which a foreign element has been added. From the moment the case enters the legal process, it is shaped by two sets of special procedural requirements that must operate at the same time.

Existing scholarship has tended to examine these issues separately. One line of discussion focuses on protective evidence gathering in child sexual abuse cases, while another concentrates on interpretation and procedural safeguards in foreign related criminal proceedings. In actual case handling, however, the source of prosecutorial difficulty often lies elsewhere. The problem is usually not the isolated failure of a single rule, but the cumulative consequences that follow when these two sets of procedural requirements are not activated and coordinated from the outset. Once that occurs, weaknesses that appear procedural at the beginning may gradually affect the way evidence is produced, recorded, preserved, and later assessed. To describe the problem simply as one of insufficient evidence is therefore incomplete. It leaves unanswered two prior questions that are more important for understanding the structure of the case, why did the evidence become insufficient, and at what point did it begin to lose reliability?

This article takes those questions as its starting point. Its central claim is that the principal difficulty in foreign related child sexual abuse cases lies neither in the substantive determination of the offense itself nor merely in the natural scarcity of objective evidence. More often, the difficulty arises because protective evidence gathering, interpretation safeguards,

and the preservation of objective evidence are not coordinated at the early stage of investigation. Once that happens, procedural irregularities do not remain confined to the level of form. They continue to affect the processes of evidence formation, preservation, and review, and in time they develop into genuine evidentiary difficulties. The discussion below first examines the mechanism through which this transformation occurs, and then considers a response centered on procedural integration.

2. How Procedural Irregularities Give Rise to Evidentiary Difficulties

2.1 Inadequate Protective Evidence Gathering Undermines the Stability of the Victim's Statements

Child sexual abuse cases often arise in closed and concealed settings. There are usually few direct witnesses, and objective traces may disappear quickly. For that reason, the victim's statement frequently becomes the point from which proof begins[2]. In cases of this kind, the evidentiary value of the statement does not depend only on what is said. It also depends on how the statement is obtained. The evidentiary value of the statement depends not only on its content, but also on the conditions under which it is obtained. Relevant considerations include the safety of the interview setting, the appropriateness of the questioning to the child's age and condition, the extent to which key questioning is completed in a single interview, and the preservation of the child's original account through simultaneous audio-video recording[3,4].

The problem is that these requirements are not always effectively implemented in practice. The first interview may take place in surroundings that are not well suited to a minor's expression. The pace of questioning and the manner of interaction may also fail to take proper account of the child's psychological state and trauma response. In some cases, a written record is prepared, but the original process of questioning and answering is not fully preserved. In others, investigators do not fully appreciate, at the outset, the time pressure created by the foreign related element of the case. As a result, they fail to recognize that the first interview may also be the most important opportunity to secure reliable evidence. When that happens, the core testimonial evidence begins to carry elements of

instability from the moment it is formed, even though it is precisely this evidence that ought to be made as reliable as possible at the earliest stage.

In ordinary cases, some procedural shortcomings may still be mitigated, at least to some extent, through supplementary interviews or later verification. In foreign related cases involving minors, however, the room for such remediation is usually quite narrow. Repeated interviews may aggravate secondary trauma, and they may also lead to the fading or reshaping of memory. Once the victim has left the country, any further attempt to obtain evidence is likely to encounter uncertainty in communication, scheduling, and procedural coordination. In that setting, inadequate protective evidence gathering is not simply a procedural defect in the ordinary sense. It directly weakens the stability of the starting point of proof. When difficulties later emerge in the process of proof, the source of those difficulties often lies not in the courtroom, but in the very first interview.

2.2 Irregularities in Interpretation Compromise the Accuracy of Statements as They Enter the Case File

In foreign related criminal proceedings, interpretation is more than a matter of converting one language into another. It is a basic safeguard that enables participants to understand the proceedings and to express themselves accurately[5]. This is particularly important when the victim is a minor. A child's linguistic ability and emotional regulation are already limited, and after experiencing abuse the child may be even more vulnerable to the effects of communicative style, questioning methods, and interview conditions. If the interpretation process itself is unstable, the facts of the case are unlikely to enter the proceedings in an accurate and complete form.

The risks associated with interpretation irregularities are concentrated in several respects. Interpreting problems may arise in several ways. An interpreter who lacks the necessary qualifications may struggle to convey accurately references to body parts, details of conduct, or emotional expression. Even seemingly minor deviations at that stage can later lead to materially different understandings of the facts. Problems may also arise where the interpreter has close ties to the background of the case, the reporting process, or other participants in the

proceedings, since such connections may cast doubt on the interpreter's independence and neutrality. In addition, where the interview and its interpretation are not preserved through simultaneous audio-video recording, there is often little basis for later verification. Under those circumstances, it becomes difficult to determine whether the wording recorded in the case file reflects the victim's original meaning or the interpreter's own rendering of it[6].

What makes the problem more serious is that these difficulties often do not appear one at a time. They tend to overlap and reinforce one another. A lack of neutrality on the part of the interpreter may weaken the reliability of the statement as it is incorporated into the written record. If the interview process cannot later be reconstructed, the opportunity for verification and correction becomes even more limited. The result is that, although a written statement exists, its completeness, credibility, and admissibility may all be placed in doubt. In foreign related child sexual abuse cases, irregularities in interpretation do not merely affect the surface efficiency of communication. They affect whether the victim's account can be transformed into evidence in a manner that is both accurate and reviewable. It is at that point that a procedural problem becomes a problem of proof.

2.3 Delayed Preservation of Objective Evidence Weakens the Corroborative Chain

Child sexual abuse cases cannot be supported by a single item of testimonial evidence alone. The timely preservation of objective evidence relating to movements and activities before and after the incident, the scene environment, traces of contact, immediate reactions, and electronic communications is often crucial to strengthening the stability of proof[7]. Materials such as surveillance footage, chat records, biological traces, access control logs, and location data may appear scattered and unrelated when viewed separately. In fact, they perform an important corroborative function. They help move the victim's statement from a position of isolated support to one in which it can be tested and reinforced by evidence from multiple sources.

The practical difficulty is that, once the victim's statement has been obtained, investigative authorities do not always move without delay to preserve objective evidence at the same time. Some surveillance footage is retained only for a short period and may soon be overwritten. Chat

records and platform data, if not extracted in time, may later become difficult or even impossible to recover. Biological traces are even more time sensitive. Once the best window for preservation has passed, it may already be too late, even if the significance of these materials is recognized at a later stage. What is lost at that point is not only a particular piece of evidence, but also the possibility of building a more stable corroborative structure around the victim's account[8].

The foreign related element further amplifies these risks. Persons connected with the case may leave the country within a short period of time, and later efforts to obtain supplementary evidence become not only more costly, but also more vulnerable to problems of identity verification, cross border communication, and language mediation. Once objective materials that could have played a corroborative role are lost, the victim's statement is more likely to stand alone, and the structure of proof may shift from one of multiple corroboration to one of single source support. In that sense, delayed preservation of objective evidence is not simply a matter of investigative pace or efficiency. It can directly alter the evidentiary structure of the case and narrow the basis on which the prosecution can rely.

3. A Procedurally Integrated Response

3.1 Identifying the Dual Procedural Character of the Case at an Early Stage

To reduce evidentiary risks in these cases, investigators need to move beyond a familiar but inadequate way of handling them. Too often, a case is treated at the outset as an ordinary criminal matter, while its special procedural requirements are addressed only after difficulties have already emerged. In foreign-related child sexual abuse cases, the sounder approach is to recognize from the time of the initial report that the case has a dual procedural nature. From the very beginning, it should be handled both as a child sexual abuse case and as a foreign-related criminal case. Seen in this light, the interview setting, the choice of interpreters, the communication of procedural rights, and the use of synchronized audio-video recording are not issues that can be left until after key evidence has already been collected. They form part of the evidentiary process itself, because the quality and reliability of a child's account depend not

only on what the child remembers, but also on how the interview is conducted and whether the interaction enables the disclosure of forensically relevant information [9].

What may appear, at first glance, to be no more than a matter of procedural timing in fact bears directly on the stability of the evidentiary structure that follows. When recognition of the case's dual procedural nature comes too late, the victim's original account, the ability to verify how that account was interpreted, and time-sensitive objective evidence are often the first to be lost and the hardest to recover. Recent research on forensic interviews with preschool-aged victims likewise suggests that the timing of invitation prompts affects how much forensically relevant information children provide, with earlier invitations tending to elicit fuller accounts [10]. In cases of this kind, early recognition is therefore not merely a matter of procedural form. It marks the point at which evidence begins to be generated, shaped, and preserved, and for that reason it conditions the stability of the evidentiary structure as a whole.

3.2 Coordinating Three Core Tasks around the Generation of Evidence

At the center of this response are three tasks that bear directly on the generation of evidence: protective evidence-gathering, interpretation safeguards, and the preservation of objective evidence. The first determines whether the victim's central account can be obtained in a stable and reliable form. The second determines whether a foreign minor is genuinely able to understand the proceedings and convey his or her account faithfully. The third determines whether the statement can be supported by materials outside the statement itself. Although these tasks may appear to belong to different parts of the process, they are functionally linked within a single evidentiary chain, and weakness in one part will often affect the others.

For that reason, they should not be treated as separate technical matters to be handled at different times without coordination. If attention is devoted only to the interview while the interpretation process is not properly reviewed, the statement may remain unreliable even after it has been formally recorded. If the written record is completed but surveillance footage, platform data, or other electronic records are not preserved without delay, the statement may lack effective corroboration. Conversely, if the

investigative focus falls exclusively on objective materials while insufficient attention is given to the conditions under which a minor victim is able to speak, the case may lose its most important factual point of entry. In foreign-related child sexual abuse cases, the better course is therefore not to deal with these weaknesses one by one after they have already appeared, but to organize evidence-gathering from the outset so that evidence is properly generated, preserved, and later verified.

3.3 Reducing the Risk of Procedural Irregularities through Operational Checklists and Earlier Supervisory Intervention

In practice, repeatedly restating general principles is often less useful than turning key procedural requirements into concise and reviewable checklists. A workable checklist may cover a limited number of concrete matters, such as the appropriateness of the interview setting, the use and preservation of simultaneous audio-video recording, the qualifications and independence of the interpreter, whether the notification of rights was genuinely understood, and whether surveillance footage, electronic data, and other objective materials were preserved in a timely manner. The value of such a checklist lies not only in improving procedural regularity, but also in making the process of evidence generation more stable and more readily reviewable. It helps translate general procedural norms into stable working practices that guide the generation of evidence and make later review possible.

Earlier involvement by the procuratorial authorities and effective coordination across departments are equally important. They should not be seen as peripheral support, nor as the addition of unnecessary procedural layers. Where there is a risk that persons connected with the case may leave the country, where language barriers exist, or where evidence is liable to disappear, early intervention can reduce delay, improve coordination across procedural stages, and help preserve the integrity of the evidentiary chain. Coordination with public security authorities, judicial administrative organs, and the relevant foreign affairs and immigration authorities serves precisely this function. Its purpose is not bureaucratic expansion, but the practical alignment of timing, personnel, and evidentiary needs[11]. In cases of this kind, meaningful legal supervision requires more than

asking whether the relevant procedures were formally completed. It also requires asking whether those procedures, in a concrete and verifiable way, actually contributed to the proper generation, preservation, and review of evidence.

4. Conclusion

What distinguishes foreign-related child sexual abuse cases is not simply that they are subject to both the procedural requirements designed to protect minors and those applicable to foreign-related criminal proceedings. It is also that procedural regularity is closely tied to the way evidence is formed. In such cases, procedural problems rarely remain merely formal. Instead, they tend to affect interviewing, interpretation, evidence preservation, and review, and ultimately weaken both the stability of the prosecution case and the reliability of fact-finding.

The central argument of this article is that, in foreign-related child sexual abuse cases, procedure is not separate from fact-finding. Nor is it merely secondary to it. Procedure helps determine which facts can be recorded in a stable manner, which statements can be accurately preserved in the case file, and which items of evidence can enter the chain of proof with adequate corroboration. For that reason, the appropriate response is not simply to repair evidentiary weaknesses after they have already emerged. What matters instead is to implement, at the earliest stage of investigation, both the protections designed for minors and the special procedural requirements applicable to foreign-related cases. Only then can protective evidence-gathering, interpretation safeguards, and the preservation of objective evidence be brought together within a unified framework, allowing procedural regularity to become evidentiary reliability and, in turn, a firmer basis for prosecution.

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