

Profile of Sexual Assault Cases Examined in a Tertiary Care Hospital

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Abstract

Introduction: Sexual assault is a violation of the dignity of a person. Although stringent laws in the form of Protection of Children from Sexual Offences Act (POCSO Act) 2012¹ and Criminal Law Amendment Act 2013² have been implemented, sexual crimes still continue to plague our society. In the face of these changed laws, retrospective study was conducted by the Department of Forensic Medicine and Toxicology where individuals were (both accused and victims) brought in relation with sexual assault cases in a Tertiary care centre over a span of 2 years. **Results:** Of the 26 victims, 69.2% were less than 18 years, 30.7 % were more than 18 years old. Among the 21 accused examined, 95.2% were more than 18 years and 4.8% were less than 18 years old. Peno-vaginal intercourse or an attempted peno-vaginal intercourse was the method of abuse in all cases except for one where sodomy was attempted. **Conclusion:** Sexual assault presents to the society and the law makers of the Nation a great challenge as it is a rampantly prevalent yet abysmally under reported crime. Although it is a crime committed against a single individual, but it highlights inequalities, low education and lack of awareness that is prevalent in the society at large. The study has helped us infer that the sexual assault examination protocol has be optimised further to strengthen the legal impact of medico legal evidence. Stringent laws accompanied by better education and awareness among the people will go a long way in curbing this menace.

Keywords: Sexual assault, POCSO Act 2012, Criminal Law Amendment Act 2013

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Introduction:

Sexual assault is a violation of the dignity of a person. It is a heinous crime which need not always cause a physical injury but definitely leaves long lasting and indelible mental scars on the individual. Although stringent laws in the form of Protection of Children from Sexual Offences Act (POCSO Act) 2012¹ and Criminal Law Amendment Act 2013² have been implemented, sexual crimes still continue to plague our society with the implementation

of newer laws, the medico legal examination has evolved beyond the realms of mere evidence collection into an all-inclusive system which provides a comprehensive care for the aggrieved person³. This study was undertaken in our centre to analyse the cases that were examined in the face of these newly introduced laws.

Aim of the study:

To tabulate socio demographic features of the victim and assailant and describe the assault characteristics in sexual assault cases examined at our centre

Methodology:

This was a retrospective study conducted by the Department of Forensic Medicine and Toxicology where individuals were (both accused and victims) brought in relation with sexual assault cases in a Tertiary care

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centre over a span of 2 years. The data required for the study was obtained from the reports issued by the Department from February 2013 to February 2015. The individuals examined were the alleged victims who had filed a case of sexual assault under Section 376 IPC or POCSO Act 2012 and alleged accused who those individuals were booked under the various provisions of the above mentioned acts. Cases were referred to the Department for examination by Investigating Police authorities. Written informed consent explaining the procedure of examination, recording the injuries on the body or genital areas and collection of relevant bodily evidence was obtained from individuals who were above 12 years and from the guardian if the individual was less than 12 years as per the provisions mandated by the laws. The injuries were examined by visual inspection as well as magnifying glass with adequate illumination.

The data from the case reports was tabulated to obtain the following results: a) sociodemographic profile of the both victim and assailant (age, education, occupation, marital status) b) Injuries and their characterisation (genital and extra genital) noticed on the body of the individual c) Nature of the act (penovaginal/ oral/ anal/ others or forced/ consensual) d) time gap between the assault and the examination

Results:

A total of 47 individuals were examined at our Centre which included 26 victims and 21 accused. Among the victims, 25 were females and 1 was a male. All the 21 accused were males. The age range of the victims brought for examination was 10- 45 years with a mean of 19.85 years. The age range of the accused brought for examination was 15-43 years with the mean of 24.31 years.

Of the 26 victims, 69.2% were less than 18 years, 30.7 % were more than 18 years old. Among the 21 accused examined, 95.2% were more than 18 years and 4.8% were less than 18 years old.

The educational status and occupation of the individuals examined is shown in table number 1 and 2 respectively.

History obtained from the 26 victims suggested that 65.4 % of the individuals were familiar with their assailant (eg neighbour, boyfriend or family member) while 34.6% of them stated that they did not know the perpetrator.

On questioning the victims about the nature of the act, 11 of them admitted to having a consensual intercourse while 14 of them stated that it was forced, 1 of the victims stated that sodomy was attempted on them. 71.4% of assailants stated that the intercourse was consensual. None of the assailants had a knowledge about the recent change of sexual assault laws where consensual intercourse with a female less than 18 years is a crime.

In 22 cases there was a single assailant, 2 of the victims were sexually abused by 2 people and 2 victims were abused by multiple assailants. Penovaginal intercourse or an attempted penovaginal intercourse was the method of abuse in all cases except for one where sodomy was attempted. In one case the victim was also forced to perform oral sex with another individual. No contraceptives were used by either victim or accused in any of the cases. Intoxication with alcohol or any other substance was not seen in either the assailant or victim in all the cases examined.

Distribution of bodily injuries in the victims is depicted in Table number 3.

The findings of genital examination of the victims is illustrated in Table no. 4. Examination of the hymen of the victims showed that there were no tears in 19.2%, fresh tears in 15.4%, old healed tears in 7.7% and absent hymen in 57.7% of the cases.

Our study showed that, 14.9% of the individuals were examined within 24 hours of the incident, 42.6% were produced for examination between 24-72 hours and 42.6% were examined 72 hours after the incident.

Table 1 Education levels of individuals examined

Level of Education	Primary	High school	Pre University college	Professional	Illiterate	Total
Number of Victims	8	7	8	2	1	26
Number of Accused	10	6	4	-	1	21

Table 2 Occupation of the individuals examined

Occupation	Student	Manual labourer	Skilled labourer	Homemaker	Unemployed	Self-employed	Total
Number of Victims	16	5	2	2	1	-	26
Number of Accused	1	11	5	-	-	4	21

Table 3 Distribution of bodily injuries in the victims examined

Distribution of bodily injuries	Percentage of victims
Genital injuries only	76.9
Combined genital and extra genital injuries	3.8
No injuries	11.5
Refused examination	7.7

Table 4 Genital examination findings in the victims

Findings of genital examination	Percentage
No injuries	19.2
Fresh tears of posterior fourchette	15.4
Healed tears of the posterior fourchette	50
Obliteration of posterior fourchette	15.4

Discussion:

Sexual assault presents to the society and the law makers of the Nation a great challenge as it is a rampantly prevalent yet abysmally under reported crime as per the recent National Crime Records Bureau reports⁴. After the Nationwide protests in our country following Nirbhaya case, Criminal Law amendment act was compiled by the Justice Verma Committee. This was brought into force on Feb 2, 2013. Stringent laws were

brought into force where the perpetrators of abuse would be sentenced to stricter punishments. With the passing of these laws, sexual assault cases have been recognised as a medico legal emergency that has made the medical examination of the victim a necessity and not an option. In the present scenario of revamped laws the presence of positive medical evidence is no longer a requirement to prove charges³.

We observed in our study that 25 victims were females and 1 was a male whereas all the accused were males. This could be attributed to the societal norms and attitudes prevalent in our country that still consider women are the weaker sex thus having less dignity and respect when compared to their male counterparts⁶. These findings were also seen in studies conducted in other parts of the country by Shingee et al⁷ and Bandyopadhyay et al⁸. Susceptibility of females to be victims of sexual assault was also noteworthy in few of the studies conducted in various cities of Western countries like Paris, California, Denmark and Toronto⁹⁻¹².

Our study deduced that 69.2% of the victims were less than 18 years old. These findings suggest that younger age groups are more vulnerable to abuse as they can be easily over powered, lured or manipulated into participating in such acts. A majority of these victims were teenage girls who had

sexual intercourse with their boyfriends. The cases were still brought for examination as consensual intercourse with a female less than 18 years is also a crime under the provisions of the new laws. The findings matched with the studies conducted by Shingeet al⁷.

The findings of the study showed that majority of the victims were familiar with their assailant. This proves that, it is the known people who usually take the opportunity of misusing the vulnerability of the victims to commit such crimes. Similar results were observed in Paris where the perpetrator was father, step father, family member, acquaintance or person with authority⁹. The present study showed that 11 of the victims admitted to have consensual intercourse. However, the case was filed, as consensual intercourse with an individual less than 18 years is a crime as per the recent amendments in criminal law.¹⁻²

The findings of genital examination of the victims in our study were in agreement with studies conducted by Biggs et al¹², Grossin et al⁹, Shinge et al⁷, where genital injuries were present in 34.8%, 55.2%, 32.94% of the cases examined respectively. The pattern of genital injuries in the present study matched with the studies conducted by Bandyopadhyay et al⁸. None of the victims examined at our centre suffered from serious internal injuries whereas 8% of the victims in Bandyopadhyay's⁸ study had complete perineal tears and 26% of the victims in Slaughter et al's¹⁰ study sustained internal injuries to vagina and cervix. No injuries were noted around the anogenital areas of the victim of sodomy as it was a case of attempted assault. Tears were the most common type of injury seen in the present study and this matched with other studies^{7,9-10,13}.

Majority of the victims had hymenal and posterior fourchette injuries which corroborated with findings in California¹⁰.

The delay in reporting can be explained by the victim's inability to divulge the incident to anyone due to the mental trauma of the

incident which is called Rape trauma syndrome mentioned in literature. The involvement of the family and social community of the victim could also delay the process of reporting as sexual violence is considered as a stigma that taints the honour of the victim and her family¹⁴.

Studies conducted by Lisaket al¹⁵ showed that 5.9% of the allegations were false which was proven after thorough examination, interviewing the individuals involved and correlating the history with medical findings. Although there was a suspicion of false allegation in few of the cases due to vague history and contradictory medical findings, the falsity could not be proven as the cases were still under investigation.

Conclusion:

Sexual crimes still continue to plague our nation despite introducing stringent laws. A Holistic approach to victims by providing medical treatment as well as collection of forensic evidence has been a welcome change brought on by the recent amendment. However the awareness among the public about the changes is dismally low and highlights the need of vigorous campaigning to educate the people and sensitize them to these laws. The examination protocols which has been formulated have also plenty of grey areas which have to be addressed in the forms of methods of examination employed and addressing confounding variables like prior sexual history so that there is better application of scientific knowledge to evidentiary findings which in turn would help the judiciary to give a judgement based on facts rather than opinions. To conclude, our study has helped us infer that the sexual assault examination protocol has been optimised further to strengthen the legal impact of medico legal evidence. A closer look taken in each of these cases portray problems like inequalities and low education levels. These underlying problems in the society have to be addressed in order to bring about a change in the attitude of the people

which in turn would reflect as lower number of such crimes.

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