

Sexual abuse in women with special reference to children: Barriers, boundaries and beyond

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INTRODUCTION

Manu Smruti described about women values in ancient time - "Yatr naaryastu pujayante ramante tatr devtaa," that is Gods abound where women are honored, this was the ancestral enchanting in the land of Bharatvarsha (India) where gory heinous crimes against women and specially children are on rise these days.^[1]

It is said that sexual abuse is the most common and threatening behavior calculated to induce fear in all women, it means men have chosen to maintain control over women. Rape is the fastest growing crime in the country.^[2] Rape occurs in India every twenty minutes.^[3]

Ministry of Women and Child Development concluded that 53.22% of children reported having faced sexual abuse of which 21.90% faced severe form.^[4] Sexual abuse in children refers to sexual behavior between a child and an adult or between two children when one of them is significantly older or uses coercion. More than 70% of abusers are immediate family members and close acquaintance.^[5] There is hence a need to focus the enquiry on children. The perpetrator and the victim may be same sex or opposite sex. The sexual behaviors include touching breast, buttocks and genitals, whether the victim is dressed or undressed; exhibitionism; fellatio; cunnilingus and penetration of the vagina or anus with sexual organs or object. Sexual abuse may involve behavior over an extended time or a single incident. In addition to the form, inappropriate sexual touching, sexual abuse also refers to sexual exploitation of children for instance, conduct or activities related to pornography depicting minors promoting or trafficking in prostitution of minors.^[6]

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It is not just a phenomenon by itself but also has very serious and long lasting impact as psychological disturbances. Thus, ranges from anxiety to sexual dysfunction or post-traumatic stress disorder that follow sexual abuse. Research so far has concentrated on sexual crimes against women in the reproductive age. There is increasing incidences of sexual abuse in children today. This area is very sensitive. We should be receptive for early identifications and prevention of such incidences in girls in the community.

HOW BIG IS THE PROBLEM?

Child abuse in one or another form has existed in almost all societies throughout the history however, recognition of child abuse as a social problem is of recent origin. The research on child sexual abuse (CSA) in India has not received much attention this due to low reporting of victims. Nearly, 53% of children faced some amount of sexual abuse; among them 52.94% were boys and 47.06% girls. The significant finding was that contrary to the general perception, the overall percentage of boys was much higher than that of girls. Across the country, every second child is being subjected to one or other forms of sexual abuse and every fifth child is facing severe forms of sexual abuse.^[4]

A total of 33,098 cases of sexual crime against children were reported in country in 2011 as compared to 26,694 in 2010 it means increase by 24%. Number of cases under procurement of minor girls increased from 679 (2010) to 862 in 2011, i.e., increase by 27%. A total of 7,112 cases of child rape were reported in country during 2011 as compared to 5,484 in 2010, increase by 29.7%. Sexual abuse is highest in Madhya Pradesh (1,262) followed by Uttar Pradesh (1,088) and Maharashtra (818).^[7]

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In 2011, more than 24 thousand cases were reported - about 70 a day. New figures released by the Delhi Police reveals that a woman is raped every 18 h or molested every 14 h.^[8] There are 80,000 pending rape cases in India and nearly 1,000 rape cases are pending in Delhi courts.^[9]

Off late, we have seen some cases of CSA in Wardha district which is again a very traumatic event. The cases are yet to start in court.

PROTECTION OF CHILDREN FROM SEXUAL OFFENCES ACT 2012

The Act has come into force on the 14th of November 2012. It defines a child as any person below the age of 18 years and provides protection from the offences of sexual assault, sexual harassment and pornography. These offences have been clearly defined for the first time in law. The Act provides for stringent punishments, which have been graded as per the gravity of the offence.

The highlights are: (1) The Act is gender-neutral and has listed aspects of touch as well as non-touch behavior (photographing a child in an obscene manner) under the ambit of sexual offences. (2) The Act incorporates child friendly procedures for trial of offences and special court to complete trial in a year. (3) For speedy trial, evidence of child to be recorded in 3 days of offence. (4) The attempt to commit an offence has also been made liable for punishment. (5) The act also covers trafficking of children for sexual purposes. (6) Burden of proof is shifted on the accused. (7) The media has been barred from disclosing the identity of the child. (8) In keeping with the best international child protection standards, the Act provides for mandatory reporting of sexual offences. It also prescribes punishment for a person if he provides false information with the intention to defame any person, including a child.^[10]

On 22nd February 2013 a circular has been issued by the School Education Department, under section 21 of the Protection of Children from Sexual Offences Act, 2012. It is mandatory for teachers and school management to report CSA to local or Juvenile Police, otherwise there is 6 months imprisonment, fine or both.^[11]

DRAWBACKS OF INDIAN PANEL CODE LAWS

These sections do not include the common form of CSA or their impact on the children. The restrictive interpretation of "penetration" in the explanation to section 375 is an obstacle to cases of CSA. Explanation to section 375 does not treat force sexual intercourse by a husband against the wife (above 15 years) as an offence. Courts are not child-friendly and the whole atmosphere is intimidating and there is no protection law for boys. Absence of legal aid by lawyers trained in child rights and child

protection. Guidelines lay down to protect the privacy and confidentiality especially of victims of sexual offences and children often flouted by media. There is no provision to deal with psychological trauma of the child. Insensitive police, medical and court procedures along with delay in registering cases as well as in trials is commonly noticed. In several cases, the girls have become adults by the time the final judgment comes through.^[12]

EARLY IDENTIFICATION OF A PERPETRATOR CAN BE MADE IF CERTAIN POINTS ARE CONSIDERED IN CASE OF CSA

(1) An adult shows undue attention toward a child. (2) Insists on touching, hugging, kissing, tickling or holding child even when child does not want. (3) Is overly interested in child's sexuality (talks about his growing body). (4) Constantly maneuvers to get time alone or insists for such. (5) Spends most of time with children and has little interest with some one of his/her age. (6) Buys children expensive gifts or gives them money for no apparent reason. (7) Frequently, intrudes a child's privacy, (walks in on the child in bathroom). (8) Allow children to consistently get away with undisciplined behavior.^[13]

WHAT PARENTS AND SCHOOL TEACHERS NEED TO KNOW?

Teach child to trust their feelings and that it is ok to say no when somebody they know and care about them, does something they do not like, set and respect family boundaries, speak up when inappropriate behavior is seen or reported, talk about sexual abuse and teach proper names of body parts to children, educate children about difference between safe and unsafe touch, children also need to understand that people they know are capable of hurting them, encourage, affirm and acknowledge a child's opinions and feelings-giving them a sense of self-esteem and confidence, involve your child in setting up safety plan that is easy to remember, make a list for yourself and child-whom to call for advice, information, help. School children and teachers should be taught about these above points.^[13]

JUSTICE VERMA COMMITTEE RECOMMENDATIONS

The committee suggested ways to make rape laws stronger in country and has submitted its report on 23 January 2013. The report suggesting amendment of criminal law to provide for higher punishment to rapists, including those belonging to police and public servant: (1) Every complaint of rape must be registered by the police and civil society. (2) It suggests that the punishment for rape should be rigorous imprisonment from 7 years to life. (3) Voyeurism, acid attacks is punished by imprisonment up to 7 years in jail. (4) Protocols for examination of rape victims for

sexual abuse have been suggested. (5) Special procedures for protecting persons with disabilities from rape and requisite procedures. (6) It suggests various measures for complete reformation of political and judicial system is equally responsible for it. (7) Thus, there is an urgent need to review the continuance of Armed Forces Special Powers Act and also recommends posting special commissioners for women's safety in conflicting areas.^[14]

CRIMINAL LAW (AMENDMENT) ACT 2013

It was approved by President of India on 2nd April 2013. The salient features are: (1) It provides stringent punishment for rapists and repeat offenders; it also includes offences such as stalking, voyeurism, disrobing and acid attacks. (2) The age of consent for sex has been fixed to 18 years. (3) It provides punishment for minimum 20 years or can be extended up to life imprisonment or death by hanging if the act causes death of victim or leaves her in a permanent vegetative state. Repeat offenders may also get death penalty under the new law. (4) Act keeps rape as a gender-specific crime where only a male can be punished for committing such offence. (5) The first offence will be bailable a second offence will become non-bailable. (6) The Act prescribed a punishment ranging from 10 years to life imprisonment if someone is involved in trafficking a minor and a jail term of 14 years that may be extended to life term if the offender is involved in trafficking more than one minor. (7) For acid attack that caused harm to the victim, the offender will get a jail term of minimum 10 years, which can be extended to life term. An offender can attract a penalty of 5-7 years if he attempted acid attack. (8) No hospital whether the private or public can deny treatment to a rape victim. Treatment should be provided immediately and free of cost. Such denial could result into jail term of 1 year. (9) It provides punishment for minimum 7 years to life imprisonment for rape convict if he is found to be a police officer, a public servant, armed force personnel or management or hospital staff. (10) The law seeks to amend the Indian Evidence Act to allow rape victim to video graph the proceedings.^[15]

There are many barriers and the victims are very young and traumatized. The police are not well-trained to assess such sensitive and tender issues. Approach and assessment by investigating officers should be very friendly and they should be able to feel trauma of victims as seen in European countries. Their receptiveness and tender loving approach makes victims very comfortable. In India, it takes many months and years when case comes in court. In summary, whole process is very traumatic.

SEXUAL ABUSE RECOGNITION AND NON-DISCLOSURE INVENTORY

The SARANDI is a classroom survey designed to assess the frequency of undisclosed sexual abuse in young adolescents

in the age range of 12-15 years. The research presentation and survey are written in terms that could be accepted by school administrators for use in young adolescents.

A brief "Body Safety" presentation and survey administration instructions are presented in an 11 min video tape. Administration of the survey took less than 30 min. Participants are assured anonymity with regards to their responses. Students could elect voluntarily to respond to the survey or return the sealed response cards unanswered. At the conclusion of the survey, information on where to get help was provided and on-site counselors are made available. This indeed is a very useful tool for assessment.^[16]

CONSIDERATIONS BARRIERS AND BEYOND

Reporting is difficult and highly personal decision for many survivors. There are several barriers in reporting cases like the incidence would prevent them from moving beyond the experience to heal as a survivor, feel embarrassed or ashamed that they were victimized and fear that they may be blamed for it, fear of revictimization through the criminal justice system. People who identify themselves as lesbian, gay, bisexual or transgender may be afraid to report violent crimes due to homophobia and heterosexism present in the criminal justice and social service system fear of being identified as a member of these communities.

Cultural and language boundaries may also impact an individual's decision to report. Sometimes, religion is used to justify violence within relationships. Finally, law can never be the entire answer. One also needs to build the political will to implement just laws. But, framing laws and getting them perfect should not take up all our time. Sexual abuse is a multidimensional problem having legal, social and psychological implications. Hence, a team work is required to assess and approach the problem.

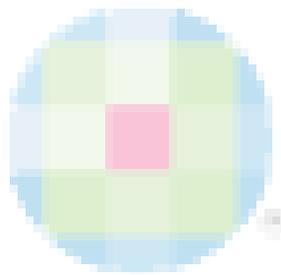
Despite these barriers and boundaries, some survivors find reporting the violence to be an empowering experience. Others feel that reporting the violence serves as an important step in regaining control of his or her life and continuing with the healing process. Even if survivors choose not to report to law enforcement, it is important to go beyond and seek emotional support for the healing process from friends, family or professionals.

Finally, India is home to the largest child population in the world and almost 42% of its total population is under 18 years of age. Implementing new laws, public awareness, better understanding of the issues and improved therapeutic approaches have not been the individual solutions. However, they have all contributed to working toward solution. It is important to remember that providing protection and safety for even one child is significant. The school is singularly the best place to bridge the gap for sexual abuse victims.

Health service professionals can assist survivors in determining what reporting option may be most appropriate according to their individual circumstances. Thus working with CSA cases result in huge challenges to professionals and efforts at all level are highly needed to increase professionals' capabilities and capacities in assisting help to victims and their families.

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