

Trend of Sex Related Crimes in Varanasi District

Shashank Shekhar Jha¹, Manoj Kumar Pathak²

¹Junior Resident, Department of Forensic Medicine, IMS, BHU, Varanasi (UP), ²Professor and Head, Department of Forensic Medicine and Toxicology, All India Institute of Medical Sciences, Patna (Bihar)

Abstract

Introduction: Sexual harassment and sexual assault both rely on dehumanizing the intended victims. Sexual violence is a significant cause of physical and psychological harm and suffering for women and children. The Indian Penal Code (IPC) is the crucial criminal code of India.

Material and Method: Consent of the victim and accused was taken prior to examination. In case of minor, the consent from his/her parents or legal guardian was taken. SAFE (Sexual Assault Forensic Evidence) kit was used for sample collection from sexual assault victims and accused.

Observation and Result: This study includes cases 160 victims of sexual assault.

Conclusion: The present study, being a pioneer one, is relevant in the context of crime against women of all age groups in the Eastern U.P., especially of Varanasi district in socio-demographic and medico-legal paradigms. The government must set up a special unit that recruits officers specifically to deal with sexual offences, and create easy access to doctors, forensic experts, rape survivors and psychologists.

Keywords: Sexual offence, SAFE Kit, Medico-legal examination, NCRB, Criminal force.

Introduction

A Sexual offence has been defined by the Law Reform Commission of Canada (1978) as sexual contact with another person (including touching of the sexual organs of another) or touching of another with one's sexual organs without that person's consent. Any person may understand sexual violence as any sexual act using coercion regardless of their relationship to the victim, in any setting, including but not limited to home and work. In sexual violence, coercion constitutes an important component, which covers a whole spectrum of degrees of force. Apart from physical force, it may involve

psychological intimidation, blackmail or other threats (Bancroft, J., 1974).^[1]

Sexual harassment and sexual assault both rely on dehumanizing the intended victims. Sexual assault justifications tend to rely on negatively stereotyping the behaviour of the intended victim^[2]. As per Crime Statistics 2018 by NCRB, Uttar Pradesh has been ranked as the worst state for women's security and Madhya Pradesh as the state where rape is most rampant. According to the statistics, while UP registered 59,445 cases of crime against women, Madhya Pradesh registered 5,450 rapes, the maximum in 2018^[3]. The Criminal Law (Amendment) Bill, 2018^[4] was passed to replace the Criminal Law (Amendment) Ordinance, 2018 which was promulgated after the Kathua and Unnao rape incidents. The bill covers the same amendments as were in the ordinance. CLAA 2018 provides amendments in The Indian Penal Code, 1860, The Criminal Procedure Code, 1973, The Indian Evidence Act, 1872 and The Protection of Children from Sexual Offences Act. The

Corresponding author:

Dr. Shashank Shekhar Jha

Junior Resident,

Department of Forensic Medicine,

IMS, BHU, Varanasi- 221005 (UP)

Contact No. - +91-9891831983,

Email id: shashank.nmch@gmail.com

CLAA, 2018 amended IPC in two ways; firstly, made amendments to existing sections, and secondly, inserted new provisions of law.

Sexual violence is a significant cause of physical and psychological harm and suffering for women and children. The World Health Organisation (WHO) defines Sexual Violence as “any sexual act, attempt to obtain a sexual act, unwanted sexual comments/ advances and acts to traffic, or otherwise directed against a person’s sexuality, using coercion, threats of harm, or physical force, by any person regardless of relationship to the victim in any setting, including but not limited to home and work. (WHO, 2003) Sexual assault, a form of sexual violence, is a term often used synonymously with rape^[5]. The Indian Penal Code (IPC) is the crucial criminal code of India. It is broad code intended to cover all substantive aspects of criminal law. The code was drafted in 1860 on the recommendations of first law commission of India established in 1834 under the Government of India Act 1833 under the Chairmanship of Thomas Babington Macaulay^[6].

Being a holy religious city for many religions, regular visit by people around the globe is paid and the approximate annual footfall of tourists, both international and domestic is around 6-6.5 lakh. According to 2011 Census of India, population of Varanasi itself was 3,676,841.^[7]

Material and Methods

Present study was carried out in the Department of Forensic Medicine at Institute of Medical Sciences, Banaras Hindu University, Varanasi for 10 post-mortem cases and District Women Government Hospital, Kabirchaura, Varanasi for 150 ante-mortem cases from September 2018 to March 2020. Also, for hands-on training, visit to state-of-the-art One Stop Centre at Seth G. S. Medical College and King Edward Memorial Hospital, Parel, Mumbai for 15 days was done and some data was collected from there too. Total 160 cases of victims of alleged sexual assault were examined.

Consent of the victim and accused was taken prior to examination. In case of minor, the consent from his/her parents or legal guardian was taken. If the accused was in police custody and refused to consent for medical examination, then the examination was carried out without the consent of accused as per provisions of Section 53(1) of CrPC. Similarly if the accused was a female then she was examined as per provisions of Section 53(2) of CrPC.

SAFE (Sexual Assault Forensic Evidence) kit was used for sample collection from sexual assault victims and accused.

Inclusion Criteria:

- All alleged victims of sexual assault brought for medico-legal examination with crime registered.
- All the victims of alleged sexual assault brought for examination directly to hospital without registering the crime at concerned police station.
- Dead bodies with alleged history of sexual assault wherein informed consent from the guardian of the deceased is obtained.

Exculsion Criteria:

- Victims of alleged sexual assault who refused to give consent for medico-legal examination.

Observation and Results

This study includes cases 160 victims of sexual assault. In this region such study has not been conducted, so the present study was carried out with the view of understanding the magnitude and pattern of alleged sexual assault cases to create a sense of awareness and to suggest preventive measures.

The data was entered and analysed by using MS-Excel SPSS software package. Frequency of all variables was derived to check completeness of data. Magnitude was expressed in percentages.

Table no. 1 : DISTRIBUTION OF SEXUAL ASSAULT VICTIMS AS PER GENDER AND AGE GROUP

AGE	FEMALE	MALE	TRANSGENDER	TOTAL (n=160)	PERCENTAGE (%)
BELOW 18YEARS	111 (69.375%)	7 (4.375%)	0	118	73.75
ABOVE 18YEARS	40 (25%)	0*	2 (1.25%)	42	26.25
TOTAL	151	7	2	160	100

Above table shows that in total 160 victims, in 111 (69.375%) cases victims are female and male in 7 (4.375%) cases while no case of transgender below 18 years and in 40 (25%) cases victims are female while 2 (1.25%) are transgender above 18 years.

*As per Criminal Law Amendment Act 2013, only man can commit rape on woman. Hence concept of rape is above 18 years of male is not legally recognized in India u/s 375 of IPC.

Table No. 2: RELATIONSHIP OF ACCUSED WITH THE SEXUAL ASSAULT VICTIM

RELATIONSHIP WITH VICTIM	NO. OF CASES (n=160)	PERCENTAGE (%)
FATHER	5	3.125%
UNCLE	13	8.125%
BROTHER-IN-LAW	4	2.5%
FRIEND	55	34.375%
NEIGHBOUR	38	23.75%
TEACHER	3	1.875%
SCHOOL STAFF	1	0.625%
EMPLOYER	5	3.125%
STRANGER	24	15%
TOTAL	160	100%

Above table shows that out of total 160 cases, in 85% of the cases the assailant is known to the sexual assault victim. In 4 (2.50%) cases accused is brother-in-law in 5 (3.125%) cases accused is employer, in 5 (3.125%) cases accused is father in 55 (34.375%) cases accused

is friend, in 38 (23.75%) cases accused is neighbour in 1 (0.625%) case accused is school staff, in 24 (15%) cases accused is stranger, in 3 (1.87%) cases accused is teacher, in 13 (8.125%) cases accused is uncle.

Table No. 3 : PLACE OF INCIDENT OF SEXUAL ASSAULT

PLACE OF INCIDENT	NO OF CASES (n=160)	PERCENTAGE (%)
HOUSE OF ACCUSED	69	43.125%
SURVIVOR'S HOUSE	18	11.25%
FIELD	9	5.625%
HOTEL	16	10%
OFFICE	1	0.625%
RAILWAY STATION	4	2.5%
SCHOOL	2	1.25%
SECLUDED PLACE	40	25%
TOILET	1	0.625%
TOTAL	160	100%

Above table shows that 69 (43.125%) victims are assaulted in the house of accused, 18 (11.25%) victims are assaulted in survivor's house, 9 (5.625%) victims are assaulted in field, 16 (10%) victims are assaulted in

the hotel, 4 (2.5%) are assaulted at the railway station, 1 (0.625%) is assaulted in the office, 2 (1.25%) are assaulted in school, 40 (25%) victims are assaulted in some secluded area while 1 (0.625%) victim in toilet.

Table No. 4: DISTRIBUTION OF SEXUAL ASSAULT VICTIMS AS PER THREATS GIVEN AND USE OF CRIMINAL FORCE/ THREATS BY ASSAILANT

CRIMINAL FORCE/ THREATS	No. OF CASES (n=160)	PERCENTAGE (%)
PHYSICAL ASSAULT	27	16.875%
TO HARM FAMILY/ KIN	4	2.5%
TO ACQUIRE PROPERTY	2	1.25%
BLACKMAILING BY THREAT TO CIRCULATE PHOTOGRAPH/ VIDEO	11	6.875%
USING ABUSIVE/ CHEAP WORDS	5	3.125%
NONE	111	69.375%
TOTAL	160	100%

As above table shows in total 160 cases, victim was physically assaulted in 27 (16.875%) cases, verbal threats to harm family/ kin in 4 (2.5%) cases, threat to acquire property was given in 2 (1.25%) case, blackmailing by threat to circulate photo/ video in 11 (6.875%) cases, using abusive/cheap words in 5 (3.125%) cases while no threat was used in 111 (69.375%) cases.

Discussion

Rape is the fourth most common crime against women in India according to NCRB records.^[3] Rape in

India received extensive media coverage after a fatal gang rape of a student in Delhi in December, 2012, and a village council-ordered gang rape of a young woman in West Bengal in January, 2014. Most recently a young veterinary doctor was raped, smothered and then burnt alive by a group of four people in November 2019. These incidents changed effect in policing ensured swift justice for most of the rape survivors and the complainants in cases of sexual harassment and molestation. India has been characterized as one of the “countries with the lowest per capita rates of rape”.^[8]

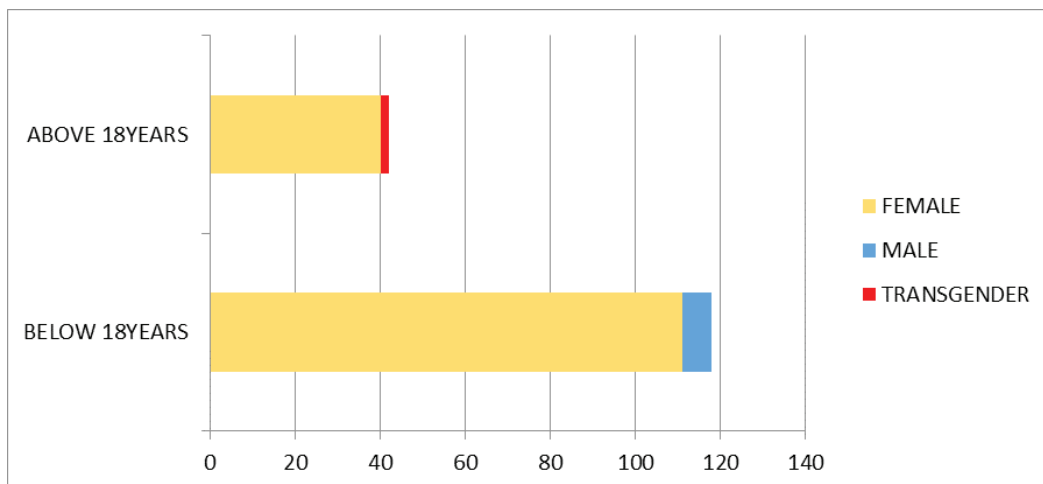


Figure no. 1 : Gender and age group wise Distribution

In the present study cases below 18 years of age group, we found female preponderance 113 (70.625%) cases as compared to males 7 (29.375%) while in 40 (25%) cases victims are female while 2 (1.25%) are transgender above 18 years.

This is in agreement with the study by S. Bandyopadhyay *et al*^[9] who observed almost 95% of cases of females as compared to 5% of males of sexual assault. Similarly our findings are consistent with other studies also Tamuli RP *et al*^[10] (98.43%), K. Bhowmik *et al*^[11] (97.08%) and Sarkar SC *et al*^[12] (88.9%).

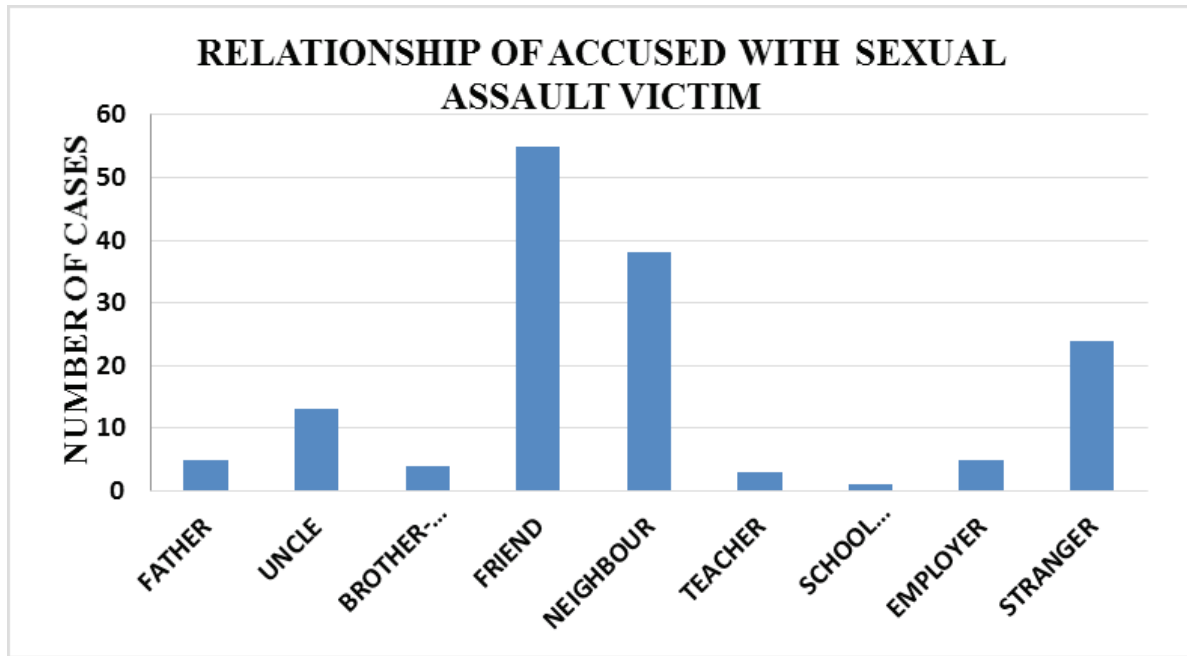


Figure No. 2: Relationship of Accused with the Sexual Assault Victim

As per present study out of 160 victims, most common relation with survivor was friend 50 (31.25%) victims, followed by neighbour 43 (26.88%) victims and in 24 victims (15%) assailant was stranger, in 3 (1.87%) the assailant was teacher, in 5 (3.13%) victims the assailant was father, in 5 (3.13%) cases the assailant was employer. Out of 5 fathers 2 assailants were widowed. Out of 12 uncles, 2 were paternal and 1 was maternal

uncle. Only 15% cases of sexual assault was committed by stranger and in 85% cases assailant was known to victim.

This finding is consistent with Rahul Jain *et al*^[13] who observed that in 87.5% of cases the rapist knew the victim (46.75% neighbour, 25% relatives, and 15.75% were friends) and Ian Mclean *et al*^[2] found that 69% of the assailants were known to the victim prior to assault.

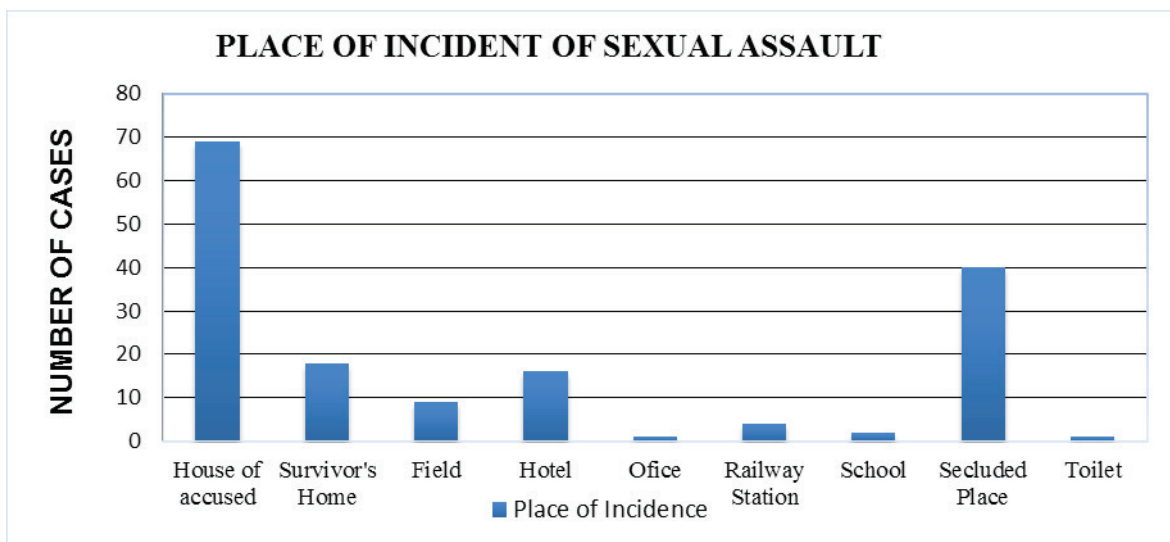


Figure No. 3 : Place of incident of sexual assault

In our study, the most reported site of offence was the house of accused i.e. 69 (43.125%) cases, Secluded area 43 (26.875%) and Survivors house 18 (11.26%) and in hotel 16 (10%) cases. Victims with known assailants are considerably more likely to be assaulted in a house/apartment where he resides than those assaulted by strangers. Victims assaulted by strangers are most likely to be assaulted outdoors.

Similarly study by Bhoi S *et al* [14] found that maximum incidence took place at accused house in 146 cases (38.52%) followed by victims house in 127 cases (33.50%). Also our study is consistent with Rahul Jain *et al* [13], who found that most of the cases 46.75% and, in the study of Bijoy S *et al* [15] 36.53% cases, where these victims were sexually assaulted in the house of the accused. Similarly as per study by Kumar Pal *et al* [16] most incidences occurred at the house of alleged accused (31.40%).

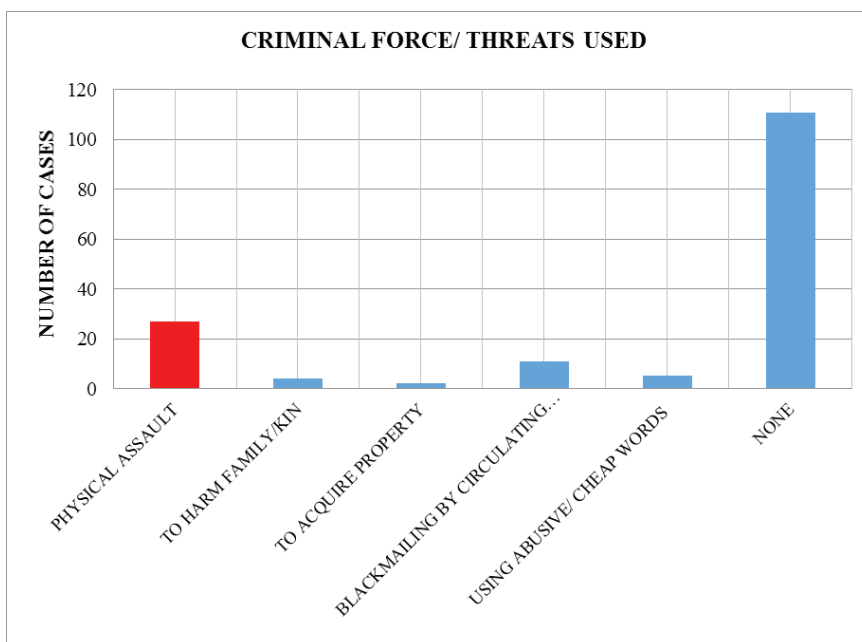


Figure no. 4: Threat/ Criminal force used wise Distribution

We observed in this study that among total 160 cases, victim was physically assaulted in 27 (16.875%) cases, verbal threats to harm family/ kin in 4 (2.5%) cases, threat to acquire property was given in 2 (1.25%) case, blackmailing by threat to circulate photo/ video in 11 (6.875%) cases, using abusive/ cheap words in 5 (3.125%) cases while no threat was used in 111 (69.375%) cases.

This is consistent with Rahul Jain *et al*^[13] (2008) and a similarly a study conducted at Massachusetts Executive Office of Public Safety and Security Research and Policy Analysis Division in 2008^[17], which concludes that for both strangers and known assaults, verbal threats were the most commonly reported type of force, reported in 58% of all assault cases.

Conclusion

The present study, being a pioneer one, is relevant in the context of crime against women of all age groups in the Eastern U.P., especially of Varanasi district in socio-demographic and medico-legal paradigms.

Of all the crimes, sex related crimes are the most barbarous and humiliating. Women and children remain the most vulnerable group of this crime. Justice Arijit Pasayat had observed that while a murderer destroys the physical frame of the victim, a rapist degrades and defiles the soul of helpless female.

The government must set up a special unit that recruits officers specifically to deal with sexual offences, and create easy access to doctors, forensic experts, rape survivors and psychologists. This will help victims feel confident in coming forward to seek justice. All registered offences must be dealt with by this unit within a month using fast-track courts. Predators must know that justice is swift and favourable to victims. India's approach to curbing sexual aggression must steer clear of diminishing women, and root out reckless patriarchal attitudes instead.

The latest NCRB data for the year 2018 states, majority of cases under crimes against women out of total IPC crimes against women were registered

under 'Cruelty by Husband or His Relatives' (31.9%) followed by 'Assault on Women with intent to Outrage her Modesty' (27.6%), 'Kidnapping & Abduction of Women' (22.5%) and 'Rape' (10.3%).

To conclude, the words of Robert F Kennedy seems appropriate:

"Laws can embody standards, governments can enforce laws but the final task is not a task for government. It is a task for each and every one of us. Every time we turn our heads the other way when we see the law flouted when we tolerate what we know to be wrong, when we close our eyes and ears to the corrupt because we are too busy, or too frightened, when we fail to speak up and speak out we strike a blow against freedom and decency and justice."

References

1. Jain R, Verma Dr. NK. Analysis of Sex Related Offences and Control Measures: An Indian Law Viewpoint. International Journal of Education and Science Research Review. April 2015, Vol. 2, Issue 2; Pp 39-42.
2. McLean I, Roberts SA, White C, Paul S. Female Genital Injuries resulting From Consensual and Non-consensual Vaginal intercourse. Forensic Sci Int. 2011 Jan 30;204(1-3):27-33
3. National Crime Report Bureau, New Delhi March 1986. Available from <http://ncrb.nic.in>
4. Criminal Law (Amendment) Act, Government of India, 2018. Available from https://www.mha.gov.in/sites/default/files/CSdivTheCriminalLawAct_14082018_2.pdf
5. World Health Organization., World report on violence and health (Geneva: World Health Organization, 2002), Chapter 6, pp. 149.
6. The Indian Penal Code, 1860. Current Publications. 7 May 2015. Retrieved 8 June 2015.
7. <https://www.census2011.co.in/census/city/153-varanasi.html>
8. Gregg Barak. Crime and Crime Control: A Global View: A Global View. ABC-CLIO. p. 74. Overall, however, rape rates are still lower than most other countries.
9. Bandyopadhyay S, Ghosh S, Adhya S, Pal K, Dalai

- CK. A Study on Sexual Assault Victims Attending a Tertiary Care Hospital of Eastern India. *IOSR Journal of Dental and Medical Sciences (IOSR-JDMS)*. Volume 6, Issue 6 (May.- Jun. 2013). Pp 16-19.
10. Tamuli RP, Paul B, Mahanta P. A Statistical Analysis of Alleged Victims of Sexual Assault – A Retrospective Study. *J Punjab Accad Forensic Med Toxicology* 2013; 13(1):12
 11. Kalpasree Bhowmik, Rituraj Chaliha, A Descriptive One Year Study on the Alleged Male and Female Victims and Accused of Sex Crimes, *Journal of Indian Academy of Forensic Med*, July September 2011, Vol. 33, No. 3. Pp 214-216.
 12. Sarkar SC, Lalwani S, Rautji R et al. A study of victims of sexual offences in South Delhi. *J FamWel* 2005; 51 (1):60-66.
 13. Rahul Jain, P. N. Mathur, N. S. Kothari, Phulvanti Mathur. Medico-legal Evaluation of Sex Assault Cases Admitted at Sardar Patel Medical College & P.B.M. Hospital, Bikaner, India. *MedicoLegal update*. Vol. 8, No. 1 (2008-01 – 2008-06)
 14. Santosh Baburao Bhoi, Kunal Bhimrao Shirsat, Profile of sexual offences: A 4 year retrospective study at tertiary care hospital of Western Maharashtra, *International Journal of Forensic Medicine and Toxicological Sciences*, January-June, 2017:2(1):P-17-21.
 15. Bijoy Singh. A Study of Child Rape in Manipur, *JIAFM*, 2006: 28 (4) ISSN: 0971-0973.
 16. Kumar-Pal, Sharma, Kumar Sehgal, Singh-Rana A Study of Sexual Assaults in Northern Range of Himachal Pradesh *International Journal of Medical Toxicology and Forensic Medicine*. 2015; 5(2): 64-72.
 17. Rape And Sexual Assault, United States Bureau of Justice Statistics, available at <https://www.bjs.gov/index.cfm?ty=tp&tid=317>.