Retrospective Observational Study on Relevance of Delayed Clinical Examination in Cases of Sexual Assault Survivor

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Abstract

Rape is a heinous crime that can have devastating effects on the survivor. The immediate medical examination and treatment of a rape survivor are crucial for their well-being and to gather the necessary evidence to strengthen the case. Proper evidence collection is important for a successful legal prosecution. The earlier a survivor arrives for evaluation in the emergency department, the greater the chance of obtaining critical forensic evidence such as DNA samples. When patients delay presentation, or shower and change their clothes, relevant microscopic and macroscopic evidence is often lost. Evidence collection, including injury documentation, becomes less fruitful as time passes and tissue heals. Medical documentation has been shown to be positively associated with filing of charges and conviction. A Retrospective analysis of 67 cases of sexual assault examined at Department of Forensic Medicine at SMS medical college from 1st Jan to 31st Oct, 2020 was done, The clinical findings of the survivors were correlated to the time duration elapsed between incidence and medico-legal examination for all cases. 15 out of 67 cases (22%) were reported within 72 hrs; out of which 9 (60%) cases had corroborative clinical findings, 45 (67%) cases, who had reported later than 7 days only 1 (2%) had corroborative clinical findings. delayed reporting is most common hurdle for corroboration of material evidence and alleged accusation in these cases, The correlation of time of examination and clinical findings, in the present study, questions the relevance of mandatory medical examination in all cases.

Key words: sexual assault, sexual assault survivor clinical findings, delayed clinical examination, reporting/disco-lower.

Introduction

Torment over body may heal without scar but not on soul. Rape is a heinous crime that can have devastating effects on the survivor. Sexual assault is a violation of the dignity of a person. Sexual assault is the most common violence against women in India. It is a heinous crime since it not only abuses the body of a female, but also causes permanent injuries to her mental and emotional well-being as well as to her dignity, modesty and reputation. Recent statistics suggest that every 22 minutes a rape case is getting reported in our country.12 As time progress psychological trauma impact start rooting deeper and deeper but physical injuries they are most evident at initial time period from rape incidence and start fainting as time progresses. This crucial time where survivor needs your attention most. Attention

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to provide care, psychological support, medical treatment, medical examination and to preserve the evidences. The immediate medical examination and treatment of a rape survivor are crucial for their well-being and to gather the necessary evidence to strengthen the case. However, sometimes survivors may delay the examination due to various reasons such as fear, shame, guilt, or lack of awareness of the importance of medical examination.

Bodily injuries start fainting soon after trauma but trauma lasts forever in memories and leads to stress, anxiety, grief also leading to post traumatic stress disorders, when trauma of such devilish kind like rape is inflicted upon. medical treatment and examination of the survivor are crucial not only for the immediate relief to the survivor but also provide intrinsic evidence for the cases relating to rape. This means that the evidence collected during the medical examination can be used to strengthen the case against the accused. Therefore, it is highly recommended that a rape survivor seeks medical attention as soon as possible after the assault. Few adolescent and adult women seek out formal support services in the acute period (7 days or less) following a sexual assault. Instead, many women choose to disclose weeks, months, or even years later. This delayed disclosure may be challenging to support workers, including those in health-care settings.

Medico-legal services have increasingly been developed worldwide to improve the collection of medico-legal evidence and provide better care to survivors. These services document and collect available evidence (e.g., injuries and semen) in order to corroborate accounts of sexual assault for courts of law. The settings, staff and protocols of such services operate on different models and are unevenly developed and implemented across and within regions.

Sexual assault includes all these survivor involving unwanted sexual contact occurring between the survivor and assailant. Sexual assault is one of the offenses most under reported to the law enforcement. Sexual assault follows the iceberg phenomena. The amount of it visible to our eyes is much less than the amount beneath the burden of social ethics. Most of the cases of crime related to sex go unannounced due the social stigma related to such events. Sexual offenses have social and legal obligations and their investigation is in need of justifiable revisions in alignment to amendments in the law. Proper evidence collection is important for a successful legal prosecution. The earlier a survivor arrives for evaluation in the emergency department, the greater the chance of obtaining critical forensic evidence such as DNA samples. When patients delay presentation, or shower and change their clothes, relevant microscopic and macroscopic evidence is often lost. Evidence collection, including injury documentation, becomes less fruitful as time passes and tissue heals. Medical documentation has been shown to be positively associated with filing of charges and conviction.

There are several reasons why timely medical examination is important for rape survivors. Some of them are:

- To assess and treat physical injuries: Rape is a violent crime that can cause serious physical injuries to the survivor. The medical examination can help identify and treat these injuries, prevent infections, and provide necessary medication to the survivor.
- To collect evidence: Medical examination can help collect physical evidence that can be used in court to prosecute the accused. This includes DNA samples, semen samples, hair samples, and other bodily fluids.
- To assess psychological trauma: Rape can cause severe emotional and psychological trauma to the survivor. A medical examination can help assess the psychological condition of the survivor and provide necessary counseling and support.
- Medical examination should be conducted as soon as possible after the crime. Delaying it can lead to the following problems:
  - Degradation of evidence: Physical evidence can degrade over time, making it difficult or impossible to collect DNA or other intrinsic evidence.
  - Loss of information: Delaying the medical examination can lead to the loss of crucial information, including the survivor’s memory of the perpetrator’s appearance, the location of the crime, and the details of the crime itself.
• Hinders the prosecution process: Delaying the medical examination can hinder the prosecution process by making it difficult to prove the crime in court.

**Objective**

To study the relevance of medico-legal/clinical examination in cases of sexual assault examined at SMS Hospital, Jaipur during Jan to Oct, 2020.

**Methodology**

After receiving institutional review board approval we conducted a Retrospective analysis of 67 cases of sexual assault examined at Department of Forensic Medicine from 1st Jan to 31st Oct, 2020 was done. Records of sexual assault will thoroughly and focused on time of sexual assault and survivor presented for medico-legal examination to hospital Alleged History of sexual assault given by survivors and presented injuries at the time of examination were noted, chart was prepared and the clinical findings of the survivors were correlated to the time duration elapsed between incidence and medico-legal examination for all cases. On the basis of data collected analysis done and Cases with and without corroborative clinical findings for various duration were represented as percentages for correlation.

**Result**

**Table 1: Sexual assault survivor reporting time and corroborative clinical findings**

<table>
<thead>
<tr>
<th>Reporting time</th>
<th>Case reported</th>
<th>Corroborative clinical findings</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>0-3 days</td>
<td>15</td>
<td>9</td>
<td>60%</td>
</tr>
<tr>
<td>4-7 days</td>
<td>7</td>
<td>2</td>
<td>28%</td>
</tr>
<tr>
<td>&gt;7 days</td>
<td>45</td>
<td>1</td>
<td>2%</td>
</tr>
</tbody>
</table>

1. 15 out of 67 cases (22%) were reported within 72 hrs; out of which 9 (60%) cases had corroborative clinical findings.
2. 7 out of 67 (11%) cases were reported within 4 to 7 days out of which 2 (28%) has corroborative clinical findings.
3. In rest 45 (67%) cases, who had reported later than 7 days only 1 (2%) had corroborative clinical findings; which is quite obvious, but represents the challenge to the legal application of medical examination in such cases.

After went through records of sexual assault survivor reports during period of January to October 2020 at SMS medical college, Jaipur, 67 cases taken up for analysis of this study, its been observed that most of the sexual assault survivor 45 out of 67 reported and medico-legal examination done after 7 days of sexual assault and most of the corroborative clinical finding observed in survivor which reported and medico-legal examination done within 3 days or 72hours from the incidence. 7 out of 67 cases were reported with in 4 to 7 days after incidence. It been observed that frequencies of corroborative clinical findings decreased as time progress, injuries start fainting which makes them less remarkable and notable. cases which reported earlier with in 72 hours had 60 % corroborative clinical findings followed by cases which reported between 4 to 7 days had 28% followed by only 2% corroborative clinical findings in cases which reported after 7 days.

**Discussion**

Sexual offenses have social and legal obligations. From that survivor point of view social stigma plays one of the important role in these obligations, sure there are multiple more reason for that but psychological trauma due to heinous assault and consequences to it make it more worse. To accept the cruel reality, handle her self, take action and report such crime is time consuming process. our study demonstrate most of the cases reported in delayed fashion. It is clear that sooner the survivor reported, the better the potential evidence and impact of care. This is true with regard to HIV post-exposure prophylaxis, pregnancy prophylaxis, injury documentation, and legal outcomes

The guidelines issued by The Ministry of health and family welfare, Government of India recommends refraining from preservation of swabs for spermatozoa, if a woman reports after 96 hours as chances of to spot spermatozoa or fragments of spermatozoa are very less. Abrasions and bruises are the most commonly encountered injuries in sexual offenses which heal within two weeks. The only way to corroborate application of mouth is the detection of salivary stains in swabs preserved, possibility of which is meager even after a single douche/urination. As time passes survivor took bath and change cloths
make it more difficult for evidence collections. These data may also have significant utility in legal settings, where delays in presentation and reporting are often characterized as exceptional or unusual, and suggestive of false or exaggerated accusations. Data also suggest that among reported sexual assaults delayed presentation is more common than prompt presentation. It is useful for investigators to know that most survivors present in a delayed fashion and it is therefore not unusual or known to be an indicator of veracity in the reporting of such events.

**Conflict of Interest:**

Despite the importance of immediate medical examinations, there are several conflicting interests that often lead to delays such as survival well being, legal procedure, medical system.

Survivors may hesitate to seek immediate medical attention due to fear, shame, or lack of awareness about available resources. Additionally, survivors may face conflicting emotions, making it challenging to make decisions promptly. This delay can have long-term physical and psychological consequences for the survivor. The legal system’s interests often clash with the urgency of medical examinations. The need for accurate forensic evidence requires survivors to undergo examinations as soon as possible. The survivor’s willingness to participate in these procedures may also be influenced by external factors. Efforts must be made to minimize delays and ensure survivors receive timely and comprehensive care. Addressing these conflicts and improving coordination among stakeholders can play a crucial role in supporting survivors and facilitating a fair and efficient justice system. Timely medical examinations, coupled with education, awareness, and legal reforms, can help bridge the gap and provide survivors with the necessary support they deserve.

**Conclusion**

Sexual offenses are a rampant crime in our society with profound legal implications. But, their delayed reporting is most common hurdle for corroboration of material evidence and alleged accusation in these cases. It is useful for investigators to know that most survivors present in a delayed fashion and it is therefore not unusual. The correlation of time of examination and clinical findings, in the present study, questions the relevance of mandatory medical examination in all cases, which is only corroborative and at times, may not even play the slightest role in implementation of justice.

Delayed clinical examination in sexual offenses is an asset for the defense. Known to be an indicator of veracity in the reporting of such events. Then, why subject the already traumatized survivor to the pain of medical examination in all cases?

**Limitation**

There are several limitations in our study and most significant is reporting by various individual persons which are not involved in this study and without specific intention. We had to depend on recorded information regarding time of assault, time to presentation. It is not possible to verify each and every information. However, strength database used for recorders.

**Ethical Clearance:** Taken from institutional ethics committee of SMS medical college, Jaipur.

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**References**