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Original Research Article

Survivor-Perpetrator Relationship and Consensual Sexual Act in Children.

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Abstract

Protection of Children from Sexual Offences Act in India seeks to protect both girls and boys below the age of eighteen years from crimes of sexual assault and pornography. This study was conducted to evaluate the survivor- perpetrator relationship with emphasis on consensual sexual act of children and the reasons for delay in reporting and medical examination. A total of 65 child survivors of sexual assault under POCSO Act 2012 were included in this study. Female survivors were 93.8 % and male were 6.2%. Maximum survivors i.e. 49 (75.3%) belonged to the age group of 12-18 years. Fear of social stigma (26.8%) was the most common cause of delay for police complaint. In 54 % of cases, interval between last incidence of sexual assault and medical examination was more than 96 hours. Survivor knew the perpetrator in 89.3 % cases. In most of the consensual penetrative sexual assault cases, the perpetrator was her boyfriend. It is observed that there is a rise in the number of teenagers and young adults booked under POCSO Act for being involved in consensual sexual acts. The POCSO act should be amended and more liberal provisions should be added for the cases of teenager's consensual sexual relationship.

1. Introduction

Child Sexual abuse (CSA) is a brutal reality violating the rights children irrespective of socio-economic levels, and cultural backgrounds. It has resulted in detrimental health development and economic aftermath for both the victims and society.[1,2] A National Study in India on Child Abuse reported that extreme forms of sexual abuse were experienced by about 21% of the participants, of which 57% were boys and 43% were girls.[3]

As per the available statistics of the National Crime Records Bureau, 17780 cases of sexual offences on children were registered in India in the year 2017.[4] CSA is a major concern affecting more than one in five females and one in ten males globally.[5] A meta-analysis showed that 19.7% of females and 7.9% of males had experienced some form of sexual abuse during their childhood.[6]

The Protection of Children from Sexual Offences Act 2012 is a landmark law passed in India which intends to protect both girls and boys below the age of eighteen years from crimes of sexual assault and pornography.

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POCSO Act takes account of a various forms of sexual offences. It includes penetrative sexual assault (complete and partial); non-penetrative sexual assault; using the child for pornography; showing pornography; stalking or exhibitionism. The law aims to protect children from both physical and non-physical forms of abuse.[7]

Many countries use various models to provide co-ordinated services to the victims of sexual assault. These include psychological, health, forensic and legal services at a single location. In India there are efforts being made to establish one stop centre (OSC) on similar lines of Sexual Assault Referral Centres (SARC) as in England.[8,9] In USA and Australia services in remote area are provided through the use of Forensic Nurse Examiners.[10] In countries namely Norway, Iceland, Sweden and Denmark the multidisciplinary and victim-focused centres started as early as 1986 and referred to as a centre of excellence.[11] In 2004 European Commission endorsed the Daphne II program to prevent and combat violence against children and women. It also provides assistance to victims of rape and abuse in Italy.[12]

In India the protocol and guidelines recognize the role of health sector in strengthening legal frameworks, developing comprehensive and multi-sectorial national strategies. This is a positive way of providing empathetic support and rehabilitating lives of the survivors after sexual assault. These guidelines and protocols put into effect the standard operating procedures for the care, evidence collection, treatment, psychological support and rehabilitation of victims of sexual violence.[13]

We hereby discuss the survivor- perpetrator relationship with emphasis on consensual sexual act of children and the reasons for delay in reporting and medical examination.

2. Material and Methods

This longitudinal observational study was undertaken at tertiary care center in Mumbai after the approval from institute's ethics committee during the period of January 2018 to October 2018 with approval number ECARP/2017/84. All the child survivors of sexual assault under POCSO Act 2012 brought to the department of forensic medicine were included in this study. Whenever any incidence of child sexual assault was identified in the hospital or brought to the casualty, forensic medicine department was intimated and a quick response team carried out the medical examination. The Quick Response Team consisted of doctors from departments of Forensic Medicine, Psychiatry and Gynecology or Surgery or Pediatric Surgery according to the sex and age of the survivor.[14] The examination was done as per the guidelines and protocols for medico-legal care of survivors of sexual violence by the Government of India.[13] The data obtained from all the survivors was tabulated on MS Excel program. Number and percentages were calculated for each of the variable. The final data was presented in the form of tables and graphs.

3. Results

During the study period, a total of 65 cases were reported to the department with an alleged history of sexual assault under the POCSO Act 2012. Most of the cases i.e., 58 were referred by the police for examination to the hospital. Seven survivors were brought by the parents directly to the hospital.

Table 1: Age & sex distribution of child survivors. (n=65).

Age (Years)	Male		Female		Total	
	No.	%	No.	%	No.	%
1-6	2	3.1	3	4.6	5	7.7
7-12	2	3.1	9	13.9	11	17
13-18	0	0	49	75.3	49	75.3
Total	4	6.2	61	93.8	65	100

Female survivors were 93.8 % and male were 6.2%. Maximum survivors i.e., 49 (75.3%) belonged to the age group of 13-18 years (Table 1). Youngest female & male survivor was 2 years & 4 years old respectively.

Table 2: Reasons for delay of more than 24 hours in informing police. (n=52).

Reasons	No. of Survivors	(%)
Fear from social stigma	14	26.8
Emotional disturbance	11	21.2
Fear of questioning or of not being believed by police	8	15.4
Fear of perpetrator	6	11.5
Punishment to the perpetrator being her boyfriend	5	9.6
Feeling of guilt	4	7.8
Trust on the perpetrator due to false promise of marriage	4	7.8
Total	52	100

The police complaint was lodged by 13 survivors within 24 hours of incidence. In the remaining 52 cases there was a delay of 24 hours to 2 years in lodging the police complaint. Fear from social stigma was the most common cause of delay for police complaint followed by emotional disturbance (Table 2). In 54 % of cases, interval between last incidence of sexual assault and medical examination was more than 96 hours.

Majority of the incidences of sexual assault occurred in the offender's house (37%) and in an isolated place (35.4%). The other places were survivor's home, hotel, vehicle, and relative's home. Only one episode of sexual assault occurred with the survivor in 50.8 % of cases. In 49.2 % cases, the survivors were sexually abused multiple times.

All the perpetrators were male. In 53 incidences one perpetrator was involved. In 5 cases each; two perpetrators and in 3 cases each; three perpetrators were involved. Most of the perpetrators were in the age group of 15-24 years (Figure 1).

Figure 1: Distribution according to the age of perpetrators.

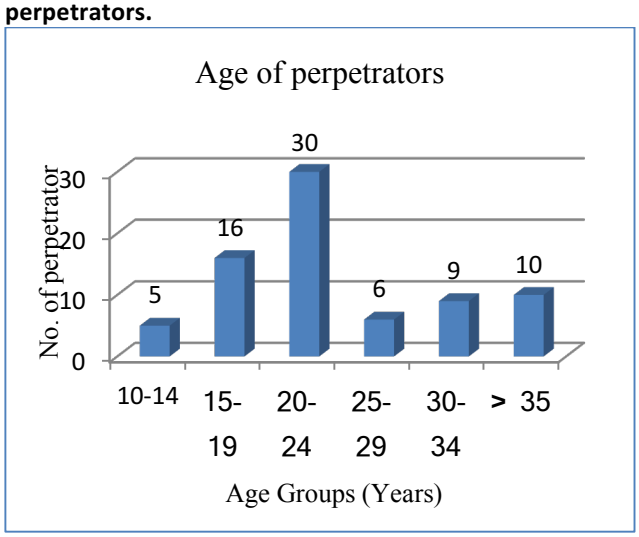
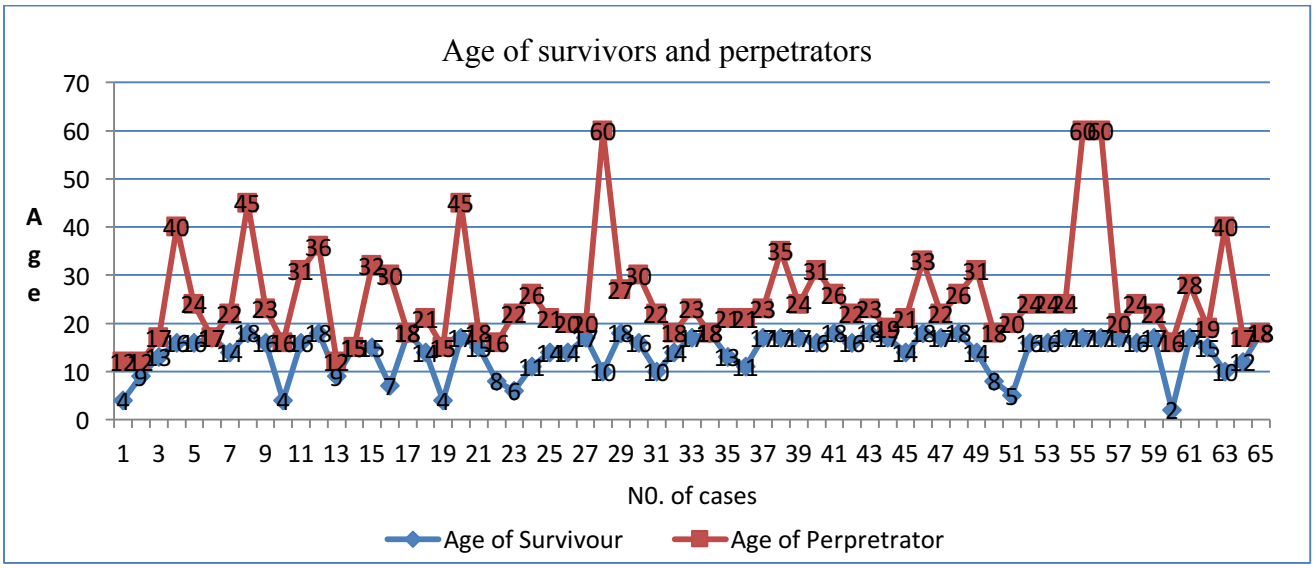


Figure 2: Age of survivors versus age of perpetrators (n=65).



Age of perpetrator was either same or more than that of the survivor in all cases (Figure 2). It was observed that 35 survivors (53.8%) were in the age group of 16 -18 years. Out of these 35, 13 cases (37%) were consensual; where the age difference between the survivor and perpetrator was not more than 5 years. Survivor knew the perpetrator in 89.3 % cases. In 78.5 % of cases perpetrator was her boyfriend, a neighbor or a work colleague. In 10.8 % instances they were family members and near relatives. Strangers were involved in 10.7% of cases. There was a history of penetrative sexual assault in 76.9 % of cases and remaining were non-penetrative forms of sexual assault. Out of 50 cases of penetrative sexual assault, 26 were consensual and 24 were non-consensual (Table 3).

It was observed in the study that all the non-penetrative sexual assaults were non-consensual. The age of consensual survivors was between 12-18 years. However, non-consensual sexual assault was observed among in all the age groups.

Table 3: Survivor- perpetrator relationship. (n=65).

Relationship	Perpetrators involved				
	Consensual penetrative act	Non - consensual penetrative	Non-penetrative act	Total	%
Boyfriend	20	5	3	28	43.1
Neighbor	0	9	8	17	26.3
Work colleague	4	0	2	6	9.2
Relatives	2	5	0	7	10.7
Stranger	0	5	2	7	10.7
Total	26	24	15	65	100

The perpetrator was the boyfriend of the survivor in 20 of the 26 penetrative sexual assault cases which were consensual. However, in non-consensual penetrative sexual assault cases, the most common perpetrator was the neighbor followed by a stranger (Table 3). On learning about the love affair of their minor daughter, the parents of said survivor would register a complaint with the police, making it the most common reason for a police complaint. The other reasons were elopement, false promise of marriage and pregnancy.

4. Discussion & Conclusion

Females are more vulnerable to sexual abuse[15-17] and the most commonly affected age group is 13-18 years.[18-21] However some researchers observed that females less than 15 years are more vulnerable.[22,23]

There was a delay in reporting to the police due to fear from social stigma and emotional disturbance. Delayed reporting is common. Many children do not reveal the incidence of abuse to anyone at the time, or during their childhood or adolescence; an unknown number never tell anyone.[24,25] The emotional trauma endured may prevent victims from reporting the crime to police, and when they do, it may take time for victims to process the event and make the decision to inform law enforcement.[26] The reluctance of victims to report to police immediately following a sexual assault can be explained by a number of psychological and emotional factors, including- but not limited to - denial, self-blame, shame, humiliation, fear, feeling threatened by the perpetrator, and a sense of helplessness.[26,27] The reasons for wide variation in the time of incidence and the disclosure to family members or to the police is perhaps due to threats or fear of stigmatization, violence or even death.[28] The other causes of delay were fear of parent's reaction, fear of use of corporal punishment by mother and perpetrator's use of persuasion.[29,30] Missing of the survivor, elopement, transfer of the case from one police station to another, non-availability of facilities for medical examination could be the reasons of delay for medical examination. Delay in disclosure of the incidence and medical examination lowers the quantity as well as quality of forensic evidences, consequently affecting the outcome of the case in the court of law.[31]

The swabs from oral cavity, breast, vagina, anus, perianal region or from any other site must be collected on the basis of the nature of assault. If a woman reports within 96 hours of the assault, the likelihood of getting positive forensic evidence after 72 hours (3 days) is greatly reduced.[32] It is suggested to collect evidence up to 96 hours when the survivor is unaware about the exact duration since the assault.[13] A study conducted in Mumbai showed that 74.34% survivors reported for examination almost after a week of incidence.[19] In another study 58% survivors presented within 96 hours.[33] The time of presentation of the survivor in the hospital affects the outcome of evidence collection. In sexual assault cases, collection of forensic samples is of more value if the patient presents within three to four days of the reported assault.

Majority of the incidences of sexual assault would occur in the perpetrator's house or the survivor's house.[15,19,34,35] Large number of victims reported being assaulted by more than one assailant.[19,33,36] Most of the perpetrators were in the age group of 15 - 24 years, on the contrary other studies observed it to be in age group of 20-59 years.[22,37] In most of the cases survivor knew the alleged accused and stranger being a perpetrator is observed less frequently.[20,22,38] The most common offenders are close friend, neighbor, co-workers and family members.[3,19,36-40]

The POCSO Act defines a child as, any person below eighteen years of age.[7] The age of consent has been increased to 18 years which was 16 years before the enactment of POCSO Act.[41] The High Court of judicature at Madras, India also observed that the majority of cases found were those of consensual relationship between adolescent boys and girls.[42] Therefore counseling for adolescents shall be made compulsory in all the schools and colleges. POCSO awareness programs should be carried out for the people of the State in order to achieve the ultimate aim of the society to be free from such crimes in future.

The High Court also suggested that "the definition of child under the POCSO Act can be redefined as 16 instead of 18 and teenage relationship after 16

years can be to distinguish from the cases of sexual assault on children below 16 years where the age of the offender ought not to be more than five years or so than the consensual victim girl of 16 years or more.[42] In view of the profound assertions made by many organizations that the act should be amended and more liberal provisions should be added for the cases of teenager's consensual sexual relationship. However, it becomes imperative to consider the age of perpetrator in such cases.

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