



Child-Friendly Medico-Legal Processes in Child Sexual Abuse Enquiry

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The Prevention-Response Issue

Can CSA really be prevented from occurring?

- Those motivated to engage in CSA will always find ways to do so.
- Child safety policies (CCTVs/ background checks etc), though useful, as they act as deterrents, cannot totally prevent abuse.
- Coercive/ violent acts of sexual abuse are not preventable i.e. children cannot be expected to protect themselves.
- Non-coercive forms of CSA (contact and non-contact) occur due to the nature of child adult relationships i.e. hierarchical/ authoritative...in a culture of obedience, where it is not acceptable for children to say 'no'...protecting themselves from CSA is difficult.

Therefore a Strong Response to CSA is Essential!

Prevention=Response=Prevention...

So then what does CSA prevention really mean? How can preventive activities help ?

- Early reporting by children/ family/ caregivers.
- Increased alertness and ability of child to resist (further) abuse.
- Reduced psychological morbidity (greater awareness/ understanding—therefore less chances of shame/ guilt and negative self-thoughts).
- Adolescents at risk, due to family and situation vulnerabilities, can be better equipped to protect themselves from abuse. (eg- devadasi children/ street children).

What does CSA Response Comprise of?

- **Medical Response**

- Medical investigation and evidence
- Treatment of injuries
- Post-exposure prophylaxis

*Predicated on psychosocial well-being of child

- **Law Enforcement & Legal Response**

- Reporting to relevant bodies (incl. mandatory procedures)
- Investigative processes
- Identification of perpetrator

*According to considerations of child psychosocial well-being

- **Psychosocial Response**

- Addressing Post-Traumatic Stress Issues
- Supporting family to help the child
- Individual work with the child
- Reintegration into school

Objectives of Child-Friendly Medico-Legal Enquiry

- To streamline, systematize and make more child-friendly all the medico-legal processes involved in CSA enquiry.
- To arrive at a consensus about the sequence of inquiry and related processes that child and family need to engage in.
- To ensure that legal processes, including inquiry and evidence gathering, are strongly embedded in healing processes facilitated by child care services experts.
- To examine the function of SJPU, police investigative mechanisms, ICPS, CWC, and judiciary (in relation to CSA investigations), and to arrive at role clarity and a consensus on sensitization/ training needs of these parties.

I. Sequence of Reporting (incl. Role of CWC & NGOs)

Where the child/ family require to report immediately after the incident:

- Police station to launch FIR (Or CWC?)
- RMP/ government hospital for medical examination and PEP
- Psychosocial Care + Support for Forensic Enquiry/ Evidence Gathering

Note: In case of adolescent girls who are pregnant, priority to be accorded to MTP decisions.

Role of CWC

- What will CWC enquiry add to police enquiry?
- In case of child with parents, if child reports to police, can a report of the same be sent to CWC? (Parents/ child appearing before CWC is optional).
- If child with parents report to CWC, then CWC can function as information provider? i.e. filing FIR/ places for medical/ psychosocial assistance etc. (Not conduct inquiry)
- CWC to appoint a support person for all the cases? (Training for the support persons must be provided).
- Is CWC role mainly relevant in case of children from institutions/ without parents i.e. in need of care and protection?
- CWC to ensure better liaison with the free legal services?

Role of NGOs/ Helpline

- NGOs such as Makkala Sahayavani can only provide guidance to family when CSA case is reported to them i.e. filing FIR/ places for medical/ psychosocial assistance etc. (Speak to parents but NO inquiry with child)
- Other childline collaborative agencies like APSA/BOSCO role related to institutionalized children (where they are the caregivers) and report to police/ get assistance for child/ staff support child/ participate in forensic evidence gathering etc.
- In case of other children who have parents, NGOs function only as information providers/ guides to parents(Not conduct inquiry with child).

II. Medico-Legal Issues

- Where the abuse has occurred more than a couple of weeks before child presents for assistance, is he/she sent for paediatric/ gynaecological examination for evidence gathering?
- List of private hospitals where examination can be conducted/ is acceptable for evidence?
- All children with penetrative abuse must be referred to ICTC centre for PEP at:
 - Indra Gandhi Hospital (1st preference)
 - Bowring Institute/ Victoria/KIMS/K.C. General Hospitals
- The blood investigation reports of the child are made available to the family.
- ALL children reporting to police/CWC, irrespective of decisions on legal action, MUST be referred to mental health services (NIMHANS or other as per parents/ child's preference).

III. Child's Involvement in Investigative Processes

A. Interview of Child by Police

- Can inquiry with the child be conducted once instead of multiple times, and only by police personnel trained in CSA/ forensic interviewing with children?
- Can police investigation of child be conducted only by trained SJPU or if needed assisted by child care service experts?
- What is the role of the SJPU versus the (lady) IO appointed for the specific purpose of investigating CSA case?
- Is photo identification of perpetrator needed in all CSA cases? i.e. in case of older children who have already identified/ reported perpetrator, is it necessary?

Where Child Interviews can be Conducted:

- Child should not be interviewed in police station.
- Interview should be conducted in one of the following places:
- child's home/ place of residence
- a neutral space such as Police Commissioner's Office (create child-friendly space within?)

What Police Interviewing must Avoid:

- Having the perpetrator and the child come face to face.
- Repeated questioning.
- Taking the child to the scene of crime and/or re-enacting event.
- Persuading child to provide information through insistence/ use of sweets, toys, chocolate.
- Touching the child unnecessarily.

B. Forensic Interviewing by NIMHANS

For children below age 6/ developmental disability/ severe trauma/in cases where the police find it difficult to interview the child :

- Police should not attempt to conduct inquiry.
- The procedure be carried out at NIMHANS (using playroom/ special techniques).
- A period of 3-5 days must be allowed for the same.
- Arrangements for audio-visual recoding to be made by police with standard equipment.
- Role of NIMHANS:
 - Assistance with forensic interviewing.
 - But child's mental health/ well-being/ healing/ recovery is priority (and will be prioritized over justice).

C. Magistrate Statement

- In case on very young children (ages 0 to 6 years)/ children with intellectual disability/ severe trauma and associated dysfunctionality, can the magistrate's orders be passed under the existing provision to obtain the information from the parent? (i.e. no statement from child)
- Use audio-visual recording of child (from police or hospital) for magistrate statement?
- For other children, can the place for providing their statement to the magistrate be shifted from the magistrate's office/ chambers to more child-friendly environments? (Recommendation for child-friendly courts made under the J.J. Act/ POCSO). In the interim, can the statement be recorded in a CWC space?

Thoughts? Reflections?