DISMAL RESPONSE TO SEXUAL ASSAULT BY HEALTH SECTOR IN INDIA

International / World Health Organisation (WHO) Standards	**Practice in India**
PROTOCOL AND PROCEDURES AT HEALTH FACILITIES :	
1. The facility should lay down clear procedures and protocols to be followed in cases of sexual assault and these should be made available to all providers.	1. There are no guidelines and standard operating procedures for responding to cases of sexual assault in India.
2. A uniform protocol should be implemented to ensure good quality documentation and evidence collection.	2. No uniform protocol used for examination and evidence collection in cases of sexual assault.
3. The facility should designate staff for examination of survivors and collection of evidence as well as to ensure comprehensive services.	3. a. There is no uniformity in who is designated to conduct the examination across hospitals. In some hospitals the examination is done by forensic experts, while in others it is done by gynaecologists. Further, in some places different parts of the examination are done by different cadres of doctors. b. There is no multi-disciplinary team designated to ensure that all needs of the survivors are met.
4. Staff should be trained on the issue of sexual violence and its impact on physical and mental health and have the necessary training and experience to carry out an examination appropriately.	4. There is no formal training provided to designated personnel so that they may carry out an examination appropriately. This is crucial as even medical education does not equip doctors with these skills.
5. The examination should be carried out in a non-threatening, quiet, well lit and private place.	5. There is no effort made to ensure privacy of the survivor and examinations of sexual assault are often carried out in places like the labour room, even in case of children.
6. There must be clear channels of inter-sectoral communication with the police and forensic science laboratory as they are also involved in investigation of the case.	6. There is no policy for co-ordination between the forensic science laboratory and the hospital. Because of this, chemical analysis reports do not come back to the hospital. This is crucial as the doctor is required to provide a 'final opinion' based on these reports and his/her examination findings.
7. A copy of the examination findings and documentation should be given to the patient free of cost.	7. No copy of the documentation of examination and evidence collection is given to the survivor for his/her records.

Consent:	
• Obtaining informed consent means explaining all aspects of the examination to the survivor.	• No effort is made to explain the purpose and nature of examination to the survivor. •
• Consent must be obtained for the following: • Treatment • Examination and Evidence Collection • Informing the police to file a legal case	• Consent of the survivor is not sought before activating police machinery. This is considered implicit and survivors are often forced to file an FIR against their wish. •
• Age of consent: In the Indian context, any person over the age of 12 years can consent to undergo a sexual assault examination and does not require the signature of an adult guardian.	• In practice, if a survivor is less than 18 years of age, the guardian's signature is mandatory. This age too is not uniform across hospitals in the country.
History:	
• Eliciting an accurate history of assault charts the nature of examination and forensic evidence collection that follows. As per international standards, the history must record: o Exact nature of assault o Whether there was emission of semen o Whether a condom or lubricant was used o Whether the survivor was threatened with verbal or physical threats o Whether there was any use of weapons o What activities the survivor engaged in after the assault (like washing, bathing, eating, douching etc)	• History does not sufficiently capture the nature of assault and other important facts about the assault. • Providers are unaware of the various forms of sexual assault and the protocols do not equip them with sufficient probes to elicit such a detailed history. • Forms have little space for writing history.
Examination:	
• Various areas of the body must be examined to identify injuries or signs of struggle. This includes genital and other body parts. Body charts should be used for better representation.	• Injuries are not described sufficiently and aids such as body charts are never used. • Body charts can serve as aids not just to represent injuries but also to elicit injuries that might have occurred. Because they are not used there may be loss of evidence.
• Status of the hymen is always not conclusive of whether forceful sexual intercourse has taken place or not and should hence not be over-emphasized.	• A detailed description of the hymen is routinely given in cases of sexual assault. This includes type, orifice size, old tears etc.
• The two-finger test of admissibility is an archaic examination which is not performed anywhere, internationally.	• The two-finger test to measure size of the vaginal opening is performed routinely.

Evidence Collection:	
The collection of forensic evidence should be dictated by the nature of assault, time lapsed between the assault and reporting to the hospital and whether the survivor has washed or bathed after the assault.	The manner of evidence collection in hospitals is rather arbitrary and mechanical. In some hospitals, all evidence is collected in all cases irrespective of the history, while in others evidence is not collected even when warranted.

Opinion:	
After conducting the examination, the doctor is required to provide a reasoned opinion on the case.	While in some hospitals the doctor refrains from providing any opinion at all, in others the doctors go so far as to pronounce a judgment of rape. Reference is often made to the woman's past sexual history (that she is 'habituated to sex') in the opinion.
Age Determination:	
• Determination of age should be done in borderline cases where age might be disputable.	• Even in cases where the age of the survivor is clearly known, she is unnecessarily exposed to x-rays for age determination.
• Age determination must be based on physical, dental and radiological examination.	• Age determination is based only on radiological examination.

Maintaining chain of custody:	
• The evidence collected must be stored in a safe place so as to prevent tampering.	• There is no designated chain of custody to ensure that the evidence collected is not tampered with.
• It must be air dried, packed and sealed to prevent it from disintegrating.	• The evidence collected is not air dried before packing and sealing. This would lead to fungal growth rendering the evidence unusable.

Provision of health care:	
• Assessment for pregnancy and emergency contraception as sexual assault could result in a pregnancy.	Assessment for pregnancy and provision of emergency contraception is not done routinely.
• Assessment and prophylaxis for sexually transmitted infections such as HIV, Hepatitis etc. which could be transmitted during the sexual assault	No investigations or prophylaxis for sexually transmitted infections are advised.
• Psychosocial support and crisis intervention services as long term psychological trauma may re-surface over a period of time.	Provision of psychosocial support and crisis intervention services is absent across all hospitals.
• Follow up care: Both physical and psychological consequences of the assault could surface at a later date and hence follow-up for such cases is extremely important.	Survivors are not given any instructions for follow-up.

The protocol and manual developed by CEHAT are in consonance with these International / WHO standards.

These findings are sourced from CEHAT's research and intervention projects on sexual assault.

For further information:

Cehat (Centre for Enquiry into Health and Allied Themes)

Survey 2804, 2805, Aaram Society Road,Vakola Santacruz (E), Mumbai 400 055. Tel.: 26661690

Email Address: *cehat@vsnl.com pehel@vsnl.net*

Contact Person: *Sana Contractor sanacontractor@gmail.com*

Sangeeta Rege sangeetarege@yahoo.com
