Comparison between Protocol prepared for the office of the Director General of Health Services for Medical Examination of Sexual Assault, WHO guidelines and WHO Technical Opinion

The following table presents a comparison of the Protocol prepared for the office of the Director General of Health Services, vis-à-vis the WHO standards for medical examination of sexual assault and the Technical Opinion provided by the WHO on a proforma and manual issued by a committee set up by the DHS, Maharashtra in connection with a 2009 Public Interest Litigation (PIL) filed with the Nagpur Bench of Mumbai High Court[1].

Criteria	WHO guidelines	WHO Technical Opinion	Proforma issued by DGHS, Delhi
A. Informed Consent	• "Obtaining informed consent means explaining all aspects of the consultation to the patient. These include: o examination o collection of evidence to diagnose medical problems o collection of evidence for criminal investigations o photography o reporting to police/ other investigators o treatment" The patient can consent to any/all of these. • "It is crucial that patients understand the options and are given sufficient information to enable them to make informed decisions about their care. It is	"Currently the proposed proforma by the committee does not include provision to decline consent for any one part of the medical examination procedure. For instance, the victim may be hesitant to consent for photography but may not have the scope to refuse that part of the examination as entire examination and treatment may be linked to an all or none consent approach. The WHO guidelines recommend the following process for informed consent: 1. Review the consent form with the survivor. Make sure she understands everything in it, and explain that she can refuse any aspect of the examination she does not wish to undergo. Explain to her	The proforma issued by the DGHS seeks blanket consent and has no scope of assenting or dissenting to different parts of the medical examination procedure.

1 The Public Interest Litigation was filed with the Nagpur Bench of the High Court on 9th Sept 2010 by Dr.Ranjana Pardhi and others against Union of India in 2009 seeking to streamline the medico-legal response to sexual assault.

	also important to ensure that a patient has a sense of control returned to them when in medical care. Above all, the wishes of the patient must be respected."	that she can delete references to these aspects on the consent form. Once it is ascertained that she understands the form completely, ask her to sign it. 2. It is important to make sure that the patient understands that her consent or lack of consent to any aspect of the exam will not affect her access to treatment and care she can refuse any aspect of the examination she does not wish to undergo. she will be asked to sign a form which indicates that she has been provided with the information and documents what procedures she has agreed to."	
B. History of offence/ sexual assault	• "The main aims of obtaining an account of the violence inflicted are to: o detect and treat all acute injuries o assess the risk of adverse consequences, such as pregnancy and STIs o guide relevant specimen collection o allow documentation (the history should be precise, accurate, without unnecessary information that may result in discrepancies	"Reconsider the omission of *"probes for recording the different types of sexual assault, whether or not condoms were used, objects were used etc from the proforma.* These probes and the responses to these probes have a bearing on the examination findings and evidence to be collected. Vital facts may be missed by the doctor, for example - the use of condoms by the perpetrator if not probed for and recorded may	• This form, provides no direction for recording the details of the types of sexual assault that might occur – whether and what kind of penetration occurred, if there was non-penetrative assault in terms of fondling, kissing, sucking, licking of body parts or forced masturbation, whether there was emission of semen, if a condom or lubricant was used, use of verbal/physical threats or weapons; alcohol/drug

	with police reports) o guide forensic examination” The focus of the doctor’s role evidently is that of providing treatment and accurately documenting findings. • The proforma includes details of the offence documented from the patient and other parties with specific probes for time, location, name and relation of assailant/s, alcohol/drug consumption, use of weapons, verbal threats etc. • A checklist is provided to record specific details such as vaginal/anal/oral penetration, presence/absence of ejaculation, use of object, use of condom/lubricant etc. • Post-assault details such as whether the survivor has changed/cleaned clothes, taken a bath etc. are to be documented. • History of recent intercourse is limited to a week prior to the assault or between the assault and examination. This is done with the intent to rule out sperm or semen	lead to the mistaken conclusion that absence of semen on lab investigation indicates no penetration occurred. Moreover the probes allow the person recording the details to be thorough in a situation where the survivor may omit details of the assault that are vital for providing medical care and establishing the evidence because of trauma or feelings of embarrassment and shame at their experience. This may for example include details about oral sexual contact, anal penetration and other relevant details about the assault. Therefore, it is important to include the probes (see Text Box 2 for a checklist of questions that should be specified in the proforma as probes) and explain to the survivor the reason for asking these questions.” The Technical Opinion also provides a list of questions that should be specified in the proforma so that this important information is recorded by the doctor.	intoxication. History plays a vital role in explaining why some kind of evidence may not be found. For instance, absence of semen/spermatozoa if the survivor was menstruating at the time of assault/examination, washed, bathed, douched, or if a condom was used; absence of injuries if a lubricant was used or if threats were issued or the survivor was intoxicated. The proforma provides no direction for recording these important facts. • There is a high chance that doctors may miss documenting these vital components in the history if they are not a part of the proforma. Doctors are often uncomfortable and overlook asking for oral/anal intercourse, masturbation, condom use, etc. unless it is explicitly incorporated as a question in the form.

	from a consensual act.		
C. General physical examination	• Initial appearance is to be documented as intellect, physical, sexual development, clothing, emotional state, effects of alcohol/drugs.	---	• The proforma offers no scope to assess and record the general mental condition of the survivor. • There is no mention that in survivors of certain age groups, age estimation is required. Estimation of age is crucial in survivors in the age group of 10-20 years as it has a bearing on the legal proceedings and the punishment that may be meted out to the assailant.
D. Injuries	• "Absence of injuries does not disprove the survivor's claim. Most studies indicate that less than 30% of pre-menopausal women will have genital injuries visible to the naked eye after non-consensual penetration. This figure increases to less than 50% in postmenopausal women. An understanding of this issue is of fundamental importance in sexual	**"**A common myth associated with sexual violence is that rape leaves obvious signs of injury. The fact is that most rapes do not involve a significant amount of force there may be no physical injuries. Just because a person has no physical injuries does not mean they were not raped. Therefore, following caution needs to be explicitly included in the manual in relation to injuries:	● The section on injuries begins with asking the doctor to "Look for Bruises, Systemic Physical torture injuries, Nail abrasions, Teeth bite marks, Cuts, lacerations, head-injury, any other injury". There is no mention of the fact that injuries are not always seen in cases of sexual assault and so examination should not be restricted to this. Instead, the purpose of

	assault medicine." • "The pattern of injuries sustained during a sexual assault may show considerable variation." • Body charts are provided for documenting examination findings such as injuries, stains, foreign body etc. on body parts and genitalia. This is to ensure that depiction is made easier and more accurate.	● Evidence suggests that not all women who allege sexual assault will have genital injuries that are visible on examination performed without magnification. Indeed, in many cases, none would be expected. ● If a mature, sexually active woman does not resist, because of fear of force or harm, and penile penetration of her vagina occurs, then it is likely that no injury will be sustained. This finding does NOT disprove her claim of sexual assault. ● Most studies indicate that less than 30% of premenopausal women will have genital injuries visible to the naked eye after non-consensual penetration. This figure increases to less than 50% in postmenopausal women. An understanding of this issue is of fundamental importance in sexual assault medicine." *"Reconsider the omission of body charts to record and document the injuries.* The WHO guidelines recommend the	examination should be to identify signs of harm that has been caused to the survivor as a result of the assault. ● The proforma provides space to record and describe injuries, however there is no direction on which parts of the body are to be examined, nor are there body charts on which they can be marked. injuries are best represented when marked on body charts. They must be numbered on the body charts and each injury must be described in detail.

		following with respect to recording of the injuries: II. Without accurate documentation and expert interpretation of injuries any conclusions drawn about how injuries occurred might be seriously flawed. This will have profound consequences for both the victim and the accused. III. Injury interpretation is entirely dependent on the accuracy and completeness of the recorded observations of wounds. […] IV. Documentation of the history and of injuries can be greatly aided by recording notes and use of diagrams during the consultation to make this more accurate."	
E. Genital Examination	• Finding of any injury on the body, including genitalia is to be described, with diagrammatic representation on the body charts. No special emphasis is placed on describing the hymen.	"Consider the *exclusion of specific details related to the hymen included in the proforma such as whether the hymen is intact or not, tears, age of tears etc.* While it is important to record genitoanal injuries, evidence shows that an intact hymen does not rule out sexual assault, and a torn hymen does not prove previous sexual intercourse. The hymen may be torn due to other	● The proforma directs the doctor to record the status of hymen, whether intact or torn. However, the status of the hymen may not be relevant and must therefore be commented upon only when relevant to the case of sexual assault. Hymen should be treated like any other part of the genitals while documenting examination findings. Only those findings such as fresh tears, bleeding, edema etc.

		activities like cycling, horse-riding etc, and therefore, should be treated like any other part of the genitals while documenting examination findings in cases of sexual assault. Emphasis on the status of the hymen can perpetuate a myth that status of hymen can determine virginity or lack thereof. Therefore, observations about the hymen should be limited to those that are relevant to the sexual assault such as fresh tears, bleeding, edema etc."	that are relevant to the episode of assault are to be documented. Old tears are largely irrelevant in the case of adult women who are married or sexually active, and these should not be recorded. Guidelines to ensure standard practices based on the above-mentioned points should be provided.
F. Treatment and follow-up care	• A prime focus of the WHO guidelines is to ensure that treatment is provided to the patient for the range of health consequences of sexual assault. • "Comprehensive care must address the following issues: physical injuries; pregnancy; sexually transmitted infections (STIs), HIV and hepatitis B; counseling and social support; and follow-up consultations." • Detailed guidelines are provided for medical management of each of the above health consequences, including investigations required, standard drug regimens for	*"Strongly consider the inclusion of clear guidance on treatment of injuries, STI assessment and prophylaxis, pregnancy assessment and appropriate counselling, care/referral in the manual as well as documenting it in the proforma.* Currently the manual excludes guidance on treatment for injuries, STI assessment and prophylaxis, pregnancy assessment and prophylaxis or counseling. Health care providers may be unaware of the various components of management/treatment of injuries and health needs arising from sexual assault. Hence they might miss out on some aspects if not explicitly provided	• No part of the proforma records the nature of treatment that was provided to the survivor at all. Treatment for the effects of sexual assault is the most crucial role of the health care provider. Unfortunately, treatment is often not provided at several health facilities whose focus rests on medico-legal examination and evidence collection. To ensure that survivors receive treatment at health facilities, it is crucial that this be made a part of the proforma. The WHO prescribes that survivors be assessed and treated for injuries, pregnancy, Sexually Transmitted Illnesses, and psychological trauma. This

	treatment and prophylaxis, protocol for follow-up visits and so forth. • Counseling and referral services to be provided are described in depth to ensure that all needs of the survivor may be addressed, particularly the long-term consequences of the assault. • The WHO proforma records the nature of medication provided, hospital pathology investigations performed, follow-up arrangements and referrals to other health workers made.	with the guidance. Absence of such guidance may result in treatment and care not being provided to sexual assault survivors. A prime focus of the WHO guidelines is to ensure that treatment is provided to the patient for the range of health consequences of sexual assault. For example, the recommendations include the following: • The key guiding principle of responding to survivors of sexual assault is the overriding priority to be given to addressing the health and welfare of the patient. The provision of medico-legal services thus assumes secondary importance to that of general health care services i.e. the treatment of injuries, assessment and management of pregnancy and sexually transmitted infections (STIs). • *Performing a forensic examination without addressing the primary health care needs of patients is negligent.* • Comprehensive care must address	includes conducting urine pregnancy tests, microbiological investigations for assessment of STIs, blood investigations for Hepatitis B and HIV. In case a pregnancy is detected, abortion needs to be provided. Further, counselling to address psychological trauma caused due to the assault is to be provided. All of these need to be included in the proforma.

		the following issues: physical injuries; pregnancy; sexually transmitted infections (STIs), HIV and hepatitis B; counseling and social support; and follow-up consultations. • Detailed guidelines are provided for medical management of each of the above health consequences, including investigations required, standard drug regimens for treatment and prophylaxis, protocol for follow-up visits in Chapter 6 of the WHO Guidelines on medico-legal care for victims of sexual violence. • Counseling and referral services to be provided need to be specified in depth to ensure that all needs of the survivor may be addressed, particularly the long-term consequences of the assault. • The proforma in the WHO guidelines (Annex 1 of the document) includes documentation on the nature of medication provided, hospital pathology investigations performed, follow-up arrangements and referrals to other	

		health workers made. It is important that these details are part of the documentation of the case."	
G. Chain of custody	• Guidelines for labeling, packaging and transporting forensic specimens are provided, including maintaining a log for documentation.	---	• No such guidelines have been provided
H. Medical Opinion	• "Healthcare providers be familiar with the basic principles and practice of the legal system as it applies to their jurisdiction and make sound clinical observations (these will form the basis of reasonable assessment and measured expert opinion)."	---	• The opinion section of this form asks the doctor to choose between options of whether the findings are 'consistent/ inconsistent with recent sexual intercourse/ assault' or to reserve opinion altogether till reports of samples are obtained. We find such opining grossly insufficient. The opinion should be able to comment on whether there is any evidence of a penetrative or non-penetrative sexual assault and reasons for the same [signs of use of force, drug/alcohol intoxication, stains etc.]. It must offer scope for the doctor to record injuries or other signs of assault that might have been observed, or relevant findings from history which explains why signs/ evidence may be absent. Provisional opinion must be provided by doctors. If doctors choose the option of

			reserving their opinion pending final reports, the entire purpose of history and examination findings is lost. •

SOURCES:

- "Medical Examination Report for Sexual Assault" issued by the office of the Director General of Health Services, Delhi
- "Guidelines for medico-legal care for victims of sexual violence", 2003. World Health Organization, Geneva
- Technical Opinion (dated 4th August 2011) provided by the Department of Reproductive Health and Research, World Health Organization, Geneva on the proforma and manual issued by a committee set up by the DHS, Maharashtra in connection with a 2009 Public Interest Litigation (PIL) filed with the Nagpur Bench of High Court