

LETTER**Need for gender sensitive health system responses to violence against women and children**

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Five years since Nirbhaya, and nearly as long since the Justice Verma Committee Report, amendments to the Criminal Law Amendment Act 2013, and the National guidelines and protocols on medico-legal care for survivors of sexual violence by the Ministry of Health and Family Welfare (MoHFW) 2014, we, concerned individuals, women's groups, health organisations, ethicists, and academicians, urgently demand the attention of the central and state governments - to the continuing injustice, violations and discrimination against survivors of gender-based violence (GBV).

While the above progressive legal amendments and protocols mandate a comprehensive understanding and an urgent response to gender-based violence, and seek to enable survivors to access healthcare, critical support services and legal justice, the current evidence indicates otherwise.

Currently, only about seven states in the country (Chhattisgarh, Delhi, Madhya Pradesh, Maharashtra, Meghalaya, Odisha, and Uttar Pradesh) have issued orders for the implementation of the MoHFW protocols released in 2014. This continued inaction by the governments (central as well as state), and even subversion of these mandates exemplified by the recent *Kerala Medico-legal Protocol for Examination of Survivor of Sexual Offences* (1), is appalling and extremely disturbing.

The willful ignoring of the MoHFW protocol by the Kerala government is unfathomable, paving the way for a version that is in outright violation of the legal and health rights of the survivors. The MoHFW protocol is consistent with the legal amendments on sexual assault/rape; with a comprehensive healthcare response to survivors; excludes gendered biases; and attempts to promote ethical practices. It reaffirms the healthcare system's preparedness for attending to the survivors, ensuring dignity, privacy and informed consent of the survivor, while dispelling the existing gender-biased practices such as conducting the 'two finger test' or commenting on the past sexual history of the survivor. In complete contradiction to this, the Kerala version is in clear contravention of the MoHFW guidelines meant to safeguard the health and legal rights of survivors, and disproportionately emphasises the forensic role of the healthcare system. For example, it focuses excessively on recording genital injuries and describing the hymen (which is unnecessary), and sidelines the therapeutic role of doctors, including psycho-social care and support. It also seeks other irrelevant details like "history of psychiatric illness or any such mental disability

in the past". Psycho-social support or referrals, and other critical guidelines for care of vulnerable groups that find space in the MoHFW protocol are conspicuous by their absence, indicating a very limited and biased protocol. While efforts by the states to comprehensively address GBV and respond to survivors is appreciable, any compromise in the standards set by the MoHFW protocol is completely unacceptable.

However, mere orders for implementation of the protocol in the absence of systematic efforts to equip the healthcare system with quality infrastructure and human resources to implement them in a manner beneficial to affected individuals, is grossly insufficient. For example, even some states which have adopted the MoHFW protocols have not even made printed copies available for use in health facilities. The implementation is mostly confined to a few urban tertiary level facilities. The focus has disproportionately been on forensics - on examination and evidence collection. Access to services for other health needs - both physical and psychological - continue to be inadequate or completely absent. Despite the MoHFW protocol, the healthcare system routinely undermines the narrative of the women survivors, is preoccupied with genital injuries, and the absence of injuries is frequently equated with the absence of assault and denies their rights and autonomy. The implementation of the MoHFW protocol true to its letter and spirit thus necessitates an empathetic, efficient and accountable healthcare system to prevent survivors being denied healthcare and justice.

Moreover, alongside a comprehensive response to sexual violence, there is an urgent need for the health system to respond to domestic violence. The MoHFW should urgently initiate development of a protocol for a health system response to domestic violence and ensure its implementation. Several examples of public hospital-based crisis intervention centres as well as models of capacity building and engagement with the health sector already exist in various states. Lessons learned from these existing initiatives and models responding to sexual and domestic violence in the health sector can substantially inform the protocol.

The implementation of protocols must be supported by training of all healthcare providers to recognise the impact of gendered violence on health and provide the necessary care, support and referrals to other requisite services.

Other efforts have been initiated, like the setting up of one-stop centres (OSC) by the Ministry of Women and Child Development (MWCD) in the premises of public hospitals. Where OSCs have been set up, they need to be integrated with the functioning of the hospital. It is important that the public health system proactively builds these linkages and the MoHFW provides a directive for this to the hospitals. Moreover,

such services need to be available and functional in every district of every state in order to be effective.

Finally, we reiterate our demand that the Kerala protocol be immediately revoked, and that the MoHFW protocol be implemented by all States without further delay. Information about the protocol must be disseminated widely and publicly towards accountability and ethical implementation. Delays in the implementation of the protocol and in enabling health systems imply gross violation of the human rights of survivors, denial of healthcare and justice; such delays must be urgently addressed.

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Note: This statement has been endorsed by 78 individuals and groups from all over India.

References

1. Kerala Medico-legal Protocol for Examination of Survivor of Sexual Offences. Government of Kerala. 2015 May. Available from: <http://kgmoa.org/downloads/orders/medico-legal/47-kerala-medico-legal-protocol-for-examination-of-survivor-of-sexual-offences>