

АКТУАЛЬНЫЕ ВОПРОСЫ РАЗВИТИЯ ОТРАСЛЕВОГО ЗАКОНОДАТЕЛЬСТВА

TOPICAL ISSUES OF THE DEVELOPMENT OF SECTORAL LEGISLATION

УДК 343.54

DOI 10.33184/pravgos-2020.4.14

THE IMPORTANCE OF STANDARDIZATION IN SEXUAL VIOLENCE CASES FOR CRIMINAL TRIALS

METE Korkut Gulmen

Professor Md., PhD., Director of the Institute and the Department, Cukurova University School of Medicine, Department of Forensic Medicine, Balcali 01250, Adana, Turkey.

E-mail: mete.gulmen@gmail.com

The management of sexual violence cases is a complex, multi-phase process that requires a multi-disciplinary approach. The examination and evaluation of sexual violence victims are carried out in different institutions and conditions, by health-care workers of varying experience and expertise, with varying examination procedures, and the inconsistencies in the reports that are prepared may cause difficulties in the protection of the legal rights of the people involved, and disruptions in the judiciary process. It is only through detailed, accurate and objective documentation that this process can be sustained. **Purpose:** to state the need for a common protocol or standardization in the area of sexual violence throughout the country. **Methods:** the article is based on the methods of system analysis, synthesis, description, generalization. **Results:** the author proves that the primary objective in sexual abuse/assault cases should be the use of current technology and laboratories and ensuring standardization in reporting.

Keywords: sexual violence; victim; medical assistance; forensic examination; investigation.

Sexual crimes cover acts that involve a sexual purpose and that are committed without the consent of the victim, and are crimes that aim all people, mostly women but also children and men, that cause many short- and long-term health problems [1; 2].

The management of sexual violence cases is a complex, demanding, delicate, long-term, multi-phase process that requires a multi-disciplinary approach. Ensuring that this process is permanent is only possible through detailed, accurate and objective documentation of the work. A high-quality forensic medical examination may potentially confirm and/or relieve the sexual assault victims' concerns, minimize their trauma and support their recovery. Additionally, the collected evidence may help reveal the material truth during the criminal investigation, leading to the execution of criminal sentences and the prevention of further sexual violence [3].

It is also reported that the victims' ability to reach medical assistance and being examined in an early period is important in terms of collecting bodily findings and evidential samples, and that especially the first 72 hours are critical [4]. Furthermore, it is noted that taking the victim who reaches medical assistance under protection and beginning rehabilitation in an early period may reduce the destructive effects of the sexual violence incident [5].

Sexual violence victims are beyond ordinary forensic cases and are seen as patients whose psychological, medical and forensic needs have to be considered [6]. Genito-anal findings observed in sexual abuse/assault cases are being reevaluated and reclassified in parallel with the changes and advances in imaging technologies. Therefore, in order for legal procedures to function regularly and correctly, the examination of sexual abuse/assault cases and the presentation of the results should be carried out by competent experts. Sexual abuse cases have to be examined and the results prepared in centers that have the necessary equipment and consultation capabilities, where experienced specialists who received the necessary training are present, multispectral colposcopes and supporting staining methods are used and photo-documentation is performed [7; 8; 9; 10].

Since the examination is also considered traumatic for the victim, it is very important to conclude the examination in a victim-oriented approach, in the shortest possible time, completely and carefully in order to avoid repeated traumas. Many countries have their own protocols in the area of sexual violence based on the cultural structure of the society, socio-demographic features of the victims, their potential needs, operational arrangements of health-care centers, and legal conditions [11].

There is no routine training provided for healthcare professionals who work with sexual abuse/assault victims in our country, nor a common protocol or standardization throughout the country. The lack of a common language for sexual violence is reported to cause confusion of meanings in the examination and evaluation process, differences in reports in addition to loss of rights and an increase in the intensity of short- and long-term effects of trauma on the victim [3; 5]. Gener-

ally, we believe that the main objective should be the use of a country-wide shared guide in order to protect the rights of all parties involved in the claim during the judiciary process, minimize the error margin, prevent the loss of evidence, ensure that healthcare professionals don't miss any steps in this complicated process, use a common language while preparing the report outline, contents, finding interpretation and results, and the standardization of reports.

The justice mechanism is based on identifying and punishing the perpetrator. Although it exists in legislation, prevention-protection efforts towards "children in need of protection" and the measures necessary for the recovery and healthy development of the victim are not adequately implemented in practice, and the long-term follow-up and treatment requirements of sexual violence victims are neglected. Therefore, the views of all specialties that are necessary to examine and evaluate the case should be requested, and our reports should contain the measures that the child's welfare requires, pressuring the system to activate the necessary mechanisms.

The examination and evaluation of sexual violence victims are carried out in different institutions and conditions, by healthcare workers of varying experience and expertise, with varying examination procedures, and the inconsistencies in the reports that are prepared may cause difficulties in the protection of the legal rights of the people involved, and disruptions in the judiciary process. Therefore, it is reported that the primary objective in sexual abuse/assault cases should be the use of current technology and laboratories and ensuring standardization in reporting [3].

References

1. Dahlberg L.L., Krug E.G. Violence a global public health problem. *Ciência & Saúde Coletiva*, 2006, no. 11, pp. 277–292.
2. UN Women. Violence against women prevalence data: Surveys by country. Available at: <https://www.justice.gov>.
3. Özkök M.S. Cinsel Şiddete Maruz Kalmış Ergen ve Erişkin Hastalarda Tıbbi ve Adli Tıbbi Yaklaşım. *Türkiye Klinikleri-Beşikten Mezara Kadına Yönelik Şiddet Özel Sayısı*, 2016, no. 2 (2), pp. 62–75.
4. Adams J.A., Kellogg N.D., Farst K.J., Harper N.S., Palusci V.J., Frasier L.D., Levitt C.J., Shapiro R.A., Moles R.L., Starling S.P. Updated guidelines for the medical assessment and care of children who may have been sexually abused. *Journal of Pediatric and Adolescent Gynecology*, 2016, no. 29 (2), pp. 81–87.
5. World Health Organization. Responding to children and adolescents who have been sexually abused: WHO clinical guidelines. Available at:

<https://www.who.int/reproductivehealth/publications/violence/clinical-response-csa/en>.

6. Cybulska B. Immediate medical care after sexual assault. *Best Practice & Research. Clinical Obstetrics and Gynaecology*, 2013, no. 27, pp. 141–149.

7. World Health Organization. Guidelines for medico-legal care for victims of sexual violence. Available at: https://www.who.int/violence_injury_prevention/publications/violence/med_leg_guidelines/en.

8. Tennessee Domestic Violence State Coordinating Council, Tennessee Office of Criminal Justice Programs. Tennessee Best Practice Guidelines For Sexual Assault Response Services Adult Victims. Available at: <https://statelaws.find-law.com/tennessee-law/tennessee-domestic-violence-laws.html>.

9. Cross TP, Schmitt T. Forensic medical results and law enforcement actions following sexual assault: a comparison of child, adolescent and adult cases. *Child Abuse & Neglect*, 2019, no. 93, pp. 103–110.

10. Eogan M, McHugh A, Holohan M. The role of the sexual assault centre. *Best Practice & Research Clinical Obstetrics and Gynaecology*, 2013, no. 27, pp. 47–58.

11. Office of the Attorney General, Division of Victim Services and Criminal Justice Programs. Adult and child sexual assault protocols: Initial forensic physical examination. Available at: <https://www.texasattorneygeneral.gov/crime-victims>.

Received: 29.10.2020

О ВАЖНОСТИ СТАНДАРТИЗАЦИИ В УГОЛОВНЫХ ДЕЛАХ, СВЯЗАННЫХ С СЕКСУАЛЬНЫМ НАСИЛИЕМ

МЕТЕ Коркут Гульмен

*Профессор медицины, доктор наук, директор института и отделения,
Медицинская школа Университета Чукурова, отделение судебной
медицины, Балкали 01250, Адана, Турция.
E-mail: mete.gulmen@gmail.com*

Рассмотрение дел о сексуальном насилии – сложный, многоэтапный процесс, требующий междисциплинарного подхода. Судебно-медицинская экспертиза жертв сексуального насилия проводится в различных учреждениях и в различных условиях медицинскими работниками, обладающими неодинаковым опытом и уровнем знаний, с использованием различных процедур обследования. Несоответствия в подготавливаемых ими эксперт-

ных заключениях могут создавать трудности при защите законных прав жертв преступлений и нарушать ход судебного процесса. Обеспечить единообразие процедур можно только путем подробного, точного и объективного документирования работы. **Цель:** обосновать необходимость разработки общего протокола или стандартизации для всей страны в сфере борьбы с сексуальным насилием. **Методы:** использовались методы системного анализа, синтеза, описания, обобщения. **Результаты:** автор доказывает, что при расследовании дел, связанных с сексуальным насилием или посягательством, должны использоваться современные технологии и лаборатории, должна быть обеспечена стандартизация в отчетности.

Ключевые слова: сексуальное насилие; жертва; медицинская помощь; судебно-медицинская экспертиза; расследование.

Библиографический список

1. Dahlberg L.L., Krug E.G. Violence a global public health problem // *Ciência & Saúde Coletiva*. 2006. № 11. P. 277–292.
2. UN Women. Violence against women prevalence data: Surveys by country. URL: <https://www.justice.gov>.
3. Özkök M.S. Cinsel Şiddete Maruz Kalmış Ergen ve Erişkin Hastalarda Tıbbi ve Adli Tıbbi Yaklaşım // *Türkiye Klinikleri-Beşikten Mezara Kadına Yönelik Şiddet Özel Sayısı*. 2016. № 2 (2). P. 62–75.
4. Adams J.A., Kellogg N.D., Farst K.J., Harper N.S., Palusci V.J., Frasier L.D., Levitt C.J., Shapiro R.A., Moles R.L., Starling S.P. Updated guidelines for the medical assessment and care of children who may have been sexually abused // *Journal of Pediatric and Adolescent Gynecology*. 2016. № 29 (2). P. 81–87.
5. World Health Organization. Responding to children and adolescents who have been sexually abused: WHO clinical guidelines. URL: <https://www.who.int/reproductivehealth/publications/violence/clinical-response-csa/en>.
6. Cybulska B. Immediate medical care after sexual assault // *Best Practice & Research. Clinical Obstetrics and Gynaecology*. 2013. № 27. P. 141–149.
7. World Health Organization. Guidelines for medico-legal care for victims of sexual violence. URL: https://www.who.int/violence_injury_prevention/publications/violence/med_leg_guidelines/en.
8. Tennessee Domestic Violence State Coordinating Council, Tennessee Office of Criminal Justice Programs. Tennessee Best Practice Guidelines For Sex-

ual Assault Response Services Adult Victims. URL: <https://statelaws.findlaw.com/tennessee-law/tennessee-domestic-violence-laws.html>.

9. Cross TP, Schmitt T. Forensic medical results and law enforcement actions following sexual assault: a comparison of child, adolescent and adult cases // Child Abuse & Neglect. 2019. № 93. P. 103–110.

10. Eogan M, McHugh A, Holohan M. The role of the sexual assault centre // Best Practice & Research Clinical Obstetrics and Gynaecology. 2013. № 27. P. 47–58.

11. Office of the Attorney General, Division of Victim Services and Criminal Justice Programs. Adult and child sexual assault protocols: Initial forensic physical examination. URL: <https://www.texasattorneygeneral.gov/crime-victims>.

Дата поступления: 29.10.2020