



PRESS RELEASE

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Sexual abuse of girls followed by refusal of abortion: adding insult to injury

On 28 July, the case of a 10-year-old girl who became pregnant after being sexual abused by her uncle hit the news in India. According to reports, the family approached the district court in Chandigarh for permission for the child to have an abortion in the first part of July. It took until 15 July for the judge to order a medical board to examine the girl and submit a report on the feasibility of an abortion. Yet the feasibility of an abortion should never have been in question.

To make matters worse, the response of the medical board was clinically inaccurate and anti-abortion. It made doing an abortion appear to be more dangerous than if the child carried the pregnancy to term. And it led the judge, who seemed not to know better, to refuse the abortion.

An appeal to the Supreme Court of India was filed only on 22 July and yet another medical board was tasked with examining the girl. Again, the medical advice was spurious and an abortion was refused.¹ By this time, the girl was believed to be 32 weeks pregnant. However, even at this stage of pregnancy, an abortion is safer than carrying the pregnancy to term because the fetus is 8 weeks smaller than it will be at 40 weeks, substantially smaller.

CommonHealth, a coalition of groups supporting safe motherhood and safe abortion in India, along with other groups who also support women's health rights, are now working around the clock to gather bona fide medical expertise to take a new public interest petition to the Supreme Court challenging the judgment on clinical grounds.

This case is instructive of why depending on the courts and ad hoc medical opinion can lead to clinically unjustified delay and result in gross injustice and denial of care.

Background

As many as 20% of girl children (with prevalence ranging from 4% to 37% in the few countries where research has been done) are sexually abused. In many cases the abuse may last for years.²

Pregnancy is a not uncommon outcome of rape and sexual abuse of adolescents and adult women, but there is only anecdotal evidence as to the prevalence in children aged 8-14 years. Due to premature development, girls as young as 8 years of age may reach menarche and become pregnant. Sexual abuse may start before a girl reaches menarche and continue possibly for years afterwards. It is well known that many children do not report existing abuse until there is a crisis. The discovery of pregnancy in a girl child is one such crisis. The child is often too young to understand that she is pregnant. She may report stomach pain and be taken to a doctor, where the pregnancy is discovered. Or an adult notices the child is putting on weight and she is then examined. By then, the pregnancy is usually advanced.

At that stage, a combination of lack of knowledge of the safety of abortion even at late stages of pregnancy among both judges and medical professionals, and laws appearing to forbid second and third trimester abortions, are sometimes invoked. In fact, such abortions are – and should be seen as – legal in every country where abortion is permitted in order to save the life of the woman (and girl child)³ without the

¹ <http://www.safeabortionwomensright.org/abortion-plea-for-sexually-abused-10-year-old/>.

² Prevalence of sexual violence against children and use of social services – seven countries, 2007-2013. [CDC Morbidity and Mortality Weekly Report](#), June 5, 2015 / 64(21);565-69.

³ That is, all but 6 or 7 countries in the world.

need for courts or medical boards. This is because for a child aged 8-14 to have to carry a pregnancy to term constitutes a serious threat to her life. Without exception. And we would argue it should be considered legal without any upper time limit.

Without access to abortion, there are only two options for a pregnant child, both of which carry far more risk than abortion: 1) either a caesarean section to avoid carrying the pregnancy to term, or 2) to give birth from a small body that itself requires many more years of growth and development before being able to deliver a baby safely.

This is just one of the many reasons why campaigns against child marriage, which are growing in Africa, Asia and Latin America, exist.

It is the lack of this knowledge or deliberate anti-abortion obfuscation – and yes some judges and doctors are anti-abortion and are willing to see a pregnant child die rather than approve an abortion – that prevent an abortion taking place in a timely manner.

The result is the existence of child mothers at very young ages. Yet neither the courts nor the doctors have to take responsibility for the consequences when a child gives birth to another child and her family is left to pick up the pieces. This makes the child a victim not one but twice and for the rest of her life.

When a story like this hits the news, other similar stories also find their way into the media. This is currently happening in India. But these news reports are the tip of the iceberg. Little or no research has been done at country level to determine how frequently child pregnancies following sexual abuse occur – nor what the outcomes are for the girl children concerned.

Examples of cases reported in the media

Senegal

A 10-year-old girl who was pregnant with twins after she was raped by a neighbour was forced to continue with her pregnancy after human rights campaigners lost their fight to secure a legal route to abortion. The girl was understood to be five months pregnant and had to carry the pregnancy to term, according to the Senegalese Women Lawyers Association. “For a termination to be legal in Senegal, three doctors have to certify that the woman will die unless she aborts immediately. Poor people in Senegal are lucky if they see one doctor in their lifetime, let alone three,” the head of the Association said. “We had a previous case of a raped nine-year-old who had to go through with her pregnancy. We paid for her caesarean but she died a few months after the baby was born, presumably because the physical trauma of childbirth was too great.”

Mexico

A 13-year-old rape victim from the state of Sonora, northern Mexico, was denied an abortion after a judge ruled that the “sex” was consensual, despite medical evidence that she was subjected to sexual violence. Family members took her to the police station that same day to report the assault and, as a result of her complaint and accompanying medical evidence, the public prosecutor charged the man involved. The medical report showed physical evidence which corroborated her claim. She was not offered emergency contraception. The judge accused the alleged rapist of “illegal sex with a minor” and downgraded the charge by ruling that the man had gained the girl’s consent by deception. The state health service thus refused to allow the girl an abortion even though, under the state’s abortion law, abortion is legal when the pregnancy is the result of rape.⁴

Chile

In Chile, abortion is currently not permitted to save the life of a girl or woman. In 2013, the then president of Chile caused an uproar when he praised an 11-year-old rape victim as being “brave and mature” for her decision to carry the resulting pregnancy to term. Health professionals widely criticised the concept of an 11-year-old being prepared to give birth and cited the case as a prime example of why the Chilean abortion law needed to be reformed. The law reform bill proposed by President Bachelet followed when she took office in 2014.

⁴ <http://www.safeabortionwomensright.org/teenage-rape-victim-denied-abortion-in-mexico-after-judge-rules-attack-was-consent-by-deception/>

On 11 August 2016, the case of an 11-year-old girl from the Araucania region who became pregnant after repeated sexual abuse by her 41-year-old stepfather came to light and caused controversy, not least because the authorities did not allow the pregnancy to be terminated. The girl was already five months pregnant when her condition was reported to the police by the head of her school, her mother and the child herself. The school authorities discovered the pregnancy after noticing the physical changes in the girl. Ironically, the reason given as to why the abortion was not allowed was that the new law proposed by President Bachelet limits the termination of pregnancy in the event of rape to 14 weeks.⁵

*Denying an abortion is to inflict more violence on the victim of sexual abuse.*⁶

Recommendations: all survivors of sexual abuse and rape should be allowed a legal abortion, especially children

1. All governments should include in their standards and guidelines for safe abortion permission to provide a safe abortion for everyone who has been raped or sexually abused, in recognition that the pregnancy constitutes a serious risk to the life, health and mental health of the child and adolescent (as well as the woman), and especially in girls under the age of 18. In recognition that such cases are often reported in the second and third trimester of pregnancy, there should be no legal upper time limit on abortion in these cases.
2. The discovery of pregnancy in a child that has resulted from sexual abuse or rape constitutes a medical emergency. The courts cannot be expected to act with the required speed nor be made responsible for ruling on a medical judgement as to whether an abortion would be clinically safe in an emergency situation, let alone whether it is legal. Indeed, the courts should not be involved at all in such cases.
3. It is not necessary to constitute an ad hoc medical board to examine a girl child or indeed any adolescent girl or woman, to determine whether or not an abortion would be safe. Abortion is one of the safest medical procedures when managed by a trained person and one of the most common. It is always safer than continuing a pregnancy.

Pregnancy in a girl under the age of at least 18 is never safe. The uterus is under-developed. The pelvic bones and spine are not large or developed enough to carry the weight of a pregnancy without damage. The cervix and birth canal are far too narrow, and a vaginal delivery would run a serious risk of obstructed labour, a major cause of maternal death, which has killed many young women who fell pregnant at too young an age. A caesarean section in a child near term also carries far more risk than an induced abortion at an earlier moment.

This understanding of risk to a girl child of pregnancy should be taught in medical schools, and understood and duly acted upon by members of the medical and legal professions responsible for abortion services and cases when such an emergency arises.

4. The kind of anti-abortion views expressed in some of the cases reported, which have stopped abortions being permitted, constitute personal opinions based on private beliefs, not bona fide medical or legal judgments. They have no place in the courts, or in the management of the public health system or in the provision of health and medical care. While individual clinicians and judges have a right to hold their own beliefs, such beliefs should never obstruct or prevent or delay the care that every patient deserves to protect her life and health, to which she has a right.
5. The underlying social problem involved in these cases is the existence of widespread sexual abuse of children, especially girls, which is practised with near impunity and under a thick blanket of silence and denial in so many societies. It is a harmful traditional practice that is widely condemned when individual cases come to light, but hushed up and allowed to happen both within families and by the state, the courts and the police. Girls pay a high price for this neglect. They should never have to be burdened for life by

⁵ <http://www.safeabortionwomensright.org/4th-annual-demonstration-for-abortion-law-reform-25-july-pro-choice-poster-art-around-the-university-of-chile-in-santiago-and-the-case-of-an-11-year-old-pregnant-from-repeated-sexual-abuse/>

⁶ See Sanchita Sharma. [Hindustan Times](#), 23 July 2017; Subha Sri Balakrishnan, [Scroll.in](#), 29 July 2017; and [Times of India](#), 30 July 2017.

being forced to carry the pregnancy to term and be responsible for the child of their abuser for the rest of their lives. The punishment falls also on any child of rape and abuse, whose suffering is barely understood and rarely considered or acknowledged.

The media can play a critical role

Cases of girl children being sexual abused and rape should be reported in the media with an understanding of the medical and legal issues involved. We are happy to provide contacts with national experts for comment in such cases.

FURTHER INFORMATION:

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