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Dr. A Haricharan
Assistant Professor,
Department of Forensic
Medicine and Toxicology,
Aarupadai Veedu Medical
College, Pondicherry, India

Dr. Jeevithan S
Assistant Professor,
Department of Forensic
Medicine and Toxicology,
Aarupadai Veedu Medical
College, Pondicherry, India

Dr. Meera Devi
Professor and HOD, Regional
Institute of Medical Sciences,
Imphal, Manipur, India

Dr. Neha Soibam
Senior Resident, All India
Institute of Medical Sciences,
Rishikesh, Uttarakhand, India

Dr. Vijayalakshmi S
Post Graduate Trainee,
Vinayaka Missions Medical
College and Hospital,
Karaikal, Pondicherry, India

Upadhyay Prakhyat Pankaj
MBBS Student, Aarupadai
Veedu Medical College,
Pondicherry, India

Corresponding Author:
Dr. A Haricharan
Assistant Professor,
Department of Forensic
Medicine and Toxicology,
Aarupadai Veedu Medical
College, Pondicherry, India

A case report of transgender sexual assault

A Haricharan, Jeevithan S, Meera Devi, Neha Soibam, Vijayalakshmi S and Upadhyay Prakhyat Pankaj

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Abstract

Background: Transgender individuals face significant social discrimination, legal vulnerabilities, and an increased risk of sexual assault. Despite the high prevalence of sexual violence against transgender persons, underreporting is common due to societal stigma and legal loopholes. This case report highlights the sexual assault of a transgender woman who had undergone sex reassignment surgery (SRS), emphasizing the forensic and legal challenges associated with such cases.

Materials and Methods: A 28-year-old transgender woman, who had undergone vaginoplasty and breast implantation, reported a case of sexual assault by a male acquaintance. The assault occurred in a confined space, leading to physical trauma, including bleeding from the surgical site and painful urination. Medical and forensic examinations were conducted to assess physical injuries and gather evidence. The case was legally registered under Sections 355, 367, and 377 of the Indian Penal Code (IPC), addressing criminal force, abduction, and unnatural offenses.

Results: The forensic examination revealed injuries consistent with forced sexual assault, with specific damage to the surgically reconstructed genitalia. No external bodily injuries were noted. The case underscores the complexities in recognizing and prosecuting sexual violence against transgender individuals, particularly under gender-restrictive legal frameworks.

Conclusion: The legal system needs to adapt to better protect transgender individuals from sexual violence, ensuring equal legal recognition and harsher penalties for offenders. Addressing social stigma, improving forensic documentation, and reforming legal definitions of sexual assault are crucial steps toward justice and inclusivity. Public awareness and sensitization programs are necessary to support transgender survivors in seeking justice.

Keywords: Transgender, sexual assault, forensic examination, legal challenges, sex reassignment surgery, gender identity, victimization, social stigma, criminal justice

Introduction

Transgender (TG) individuals are those whose gender identity, expression, or behaviour differs from the sex assigned to them at birth. This group includes hijras, eunuchs, and transsexuals, some of whom undergo or plan to undergo Sex Reassignment Surgery (SRS) [1]. Discriminating behaviour against transgender individuals and sexually marginalized group is a global scenario. Social discrimination and lack of legal protection make the transgenders vulnerable [2]. Sexual assault may be defined as an unwanted sexual contact with another person without that other person's consent, and it may include attacks such as rape or attempted rape [3]. Transgender individuals frequently face harassment, violence, and sexual assault, including rape, gang rape, molestation, and forced oral or anal sex, on a daily basis. It is widely recognized that rape is legally defined as a gender-specific crime, wherein only a man can commit it against a woman. This assumption and bias have led to the neglect of the fact that men and, in particular, transgender individuals can also be victims of rape and other sexual offenses. A case report of sexual assault on a transgender, who had undergone SRS is presented considering the rarity of reporting of such a case in this part of the country.

Case Report

A-28 years old, transgender, who had undergone SRS in the forms of vaginoplasty and breast implant, was brought to our centre last year with the complaint that 'she' was sexually assaulted by a male friend in a car after abducting 'her'. 'She was brought 3 days after the incident. Following incident, she developed bleeding from repair site (Vaginoplasty site) with painful micturition and she lodged against the accused person for sexual assault. The

case was registered under Section 355 IPC (133 BNS, Assault or criminal force with intent to dishonour person, otherwise than on grave provocation), 367 IPC (140 BNS Kidnapping or abducting in order to murder or for ransom etc.) and 377 IPC

On examination

- No physical injuries were observed on the body
- The vulva with only labia majora and no labia minora or clitoris appeared red on its medial aspects on both the sides and was tender.
- The hymen was absent
- Labioscrotum- lacerated near fourchette area, red, tender at bleeding, 0.3 cm x 0.2 cm, skin deep. (Fig 1)



Fig 1: lacerated near fourchette area, red, tender at bleeding, 0.3 cm x 0.2 cm, skin deep

Discussion

One in two transgender individuals are sexually abused or assaulted at some point in their lives. However, reporting of such cases is comparatively low 5.2 per 100,000 (NCRB). Sexual assault is a global concern, with transgender individuals experiencing disproportionately higher rates of victimisation. Across the world, especially in developing countries, social stigma and discrimination associated with their sexual orientation are considered as impediments for coming out in open and reporting. Some reports estimate that transgender survivors may experience rates of sexual assault up to 66 percent, often coupled with physical assaults or abuse [4]. According to the Indian law, rape is gender restricted, that is, it can only be committed by a man on a woman. The present case was brought under 355, 367, and 377 IPC i.e., for assault or criminal force with intent to dishonour, kidnapping/ abduction and unnatural offence against the order of nature. The punishment for which may be imprisonment for 2 years and 10 years respectively with fine or both. Interestingly, 377 IPC has already been decriminalised (Which is a great debate in new BNS law. Recently, the Transgender Persons (Protection of Rights) Act, 2020 [5], has come into effect. Chapter VIII, Section 18 of the Act outlines offenses committed against transgender individuals and the corresponding penalties, including those related to sexual offenses. The prescribed punishment ranges from a minimum imprisonment of six months to a maximum of two years, along with a fine. The punishment for rape of a woman under the Indian Penal Code (Now BNS law amendment) is same as for ten years but may extend to imprisonment for life, and liable for fine. Further, the death penalty can also be given in cases where the woman is left in a vegetative state or for repeat offenders or the rape of a girl under the age of 12. This may be considered as discrimination of the transgenders and

transgender rape is being treated as a comparatively petty offence. However, it should be remembered that sexual offences of any nature committed against any gender has a detrimental effect on them and they cause mental trauma to the victim. Sadly, reporting of such cases is a low⁶. The paper has been presented considering the rarity of reporting of such a case in this part of the country

Conclusion

The transgender victims of sexual assault should be encouraged to discuss their feelings regarding the assault, because it is an important step in achieving self-esteem. Transgenders face intolerance, discrimination and exclusion in the society. Judiciary, no doubt, has taken significant steps to remove the stigma. In due course of time, it is believed that they will be given the same status and rights as other members of the society. The widespread experiences of sexual harassment within the transgender community can be partly attributed to confounding factors related to family dynamics and mental health, rather than solely to gender identity itself. However, in the general adolescent population, identifying with the opposite sex is linked to a higher likelihood of experiencing gender-based harassment, while a non-binary gender identity is associated with both gender harassment, unwelcome sexual attention, and sexual coercion⁷. Adolescents with a non-binary gender identity may particularly challenge heteronormative norms. Therefore, health policies must address heteronormativity at cultural and environmental levels to ensure their protection in all aspects of life

Conflict of Interest: Nil

Ethical Issues: Taken

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