



Child sexual abuse in Brazil: “He raped me. Who listens to me?”

Ivan Dieb Miziara^{1*}(0000-0001-7180-8873), Carmen Silvia Molleis Galego Miziara² (0000-0002-4266-0117)

¹Department of Legal Medicine, Bioethics, Occupational Health, Physical Medicine, and Rehabilitation, Paulo University Faculty of Medicine, Brazil

²Legal Medicine and Bioethics, ABC School of Medicine, Brazil

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*Corresponding author: Ivan Dieb Miziara, Department of Legal Medicine, Bioethics, Occupational Health, Physical Medicine, and Rehabilitation, Sao Paulo University Faculty of Medicine, Sao Paulo, Brazil

Abstract

The child's testimony is a central part of investigating child sexual abuse. Many episodes of abuse don't leave physical signs, and forensic examiners and pediatricians must be prepared to interview the child and obtain their description of the attack properly to get reliable evidence for the punishment of the crime. Based on extensive medical literature research, the authors discuss the justifications that lead the experts to consider the child testimony/disclosure about the abuse as vital evidence to convict the perpetrators in the courtroom.

Keywords: Child Sexual Abuse; Child Interviewing; Children's Testimonies

Introduction

A previous study [1] showed that between 11,725 reports from victims under 18 years, regarding medical-legal findings, only 1735 reports (14,8%) confirmed sexual abuse in Brazil. In these cases, medical history and the account of the alleged abuse are critical points of the conclusion that child sexual abuse happened. There are some types of sexual abuse [2] and which do not always leave material traces. Non-contact sexual abuse, for example, or contact sexual abuse without sexual intercourse, like “inappropriate touching or kissing,” rarely leaves shreds of evidence on the child's body. Clinical findings and material evidence differ according to the time between the incident and the expert examination.

For example, Buswell et al. [3] in an observational retrospective study analyzing the forensic examination case notes of 239 clients, concluded that “the low prevalence of anal injury amongst pre-pubertal children suggests that absence of injury at the time of examination, following allegation of anal assault, is a common finding.” However, it didn't prove that sexual abuse did not occur. Daily forensic practice is a severe problem because the lack of physical evidence of sexual abuse can lead to impunity for the perpetrator. Thus, the victim's words and history become especially relevant in this context. So, the victims' narrative became very important in clinical forensic practice and

almost every clinical medical practice. The U.S. Supreme Court unanimously decided in 1992 “that the spontaneous statement of an abused child, made outside the courtroom and while receiving medical treatment because of molestation, is trustworthy and may be allowed as evidence at trial.”

[4] In this context, the criteria, and legal requirements for the competence of child witnesses are not related to chronological age but to a child's ability to understand the concept of the truth and to perceive, recall, and connect. [4] In Brazil, in 2017, Law 13431 [5] was enacted on the protected listening of child victims of violence. In general, a group of experienced professionals (psychologists and social workers) conducts this first listening and evaluation of the child's testimony regarding the consistency and reliability of the report. By this law, the testimony before the authority increases the victim's security conditions, allowing him (or her) to be heard without constraints when reporting the facts that occurred. Moreover, in the case of sexual violence, it will even serve as an advanced production of evidence, guaranteeing the accused's right to defense. From a forensic point of view, a medico-legal conclusion is worthless without a good history [2].

A good history directs the clinical examination and guides forensic experts about the nature of sexual contact and promotes a proper collection of evidence. Adams et al. [6] stated, “When

the child makes a clear, consistent, and detailed statement, the physical examination should not be relied upon to provide the 'proof' before proceeding with criminal charges." Hatim [7] goes further: "Unfortunately, in these cases, especially in sexual abuse, there are often only two people who witness the trauma- the victim and the offender – as these are private acts that often leave no physical evidence. The child is frequently the only one able or willing to provide details of the abuse. This testimony/disclosure is often vital to the courts and the community in identifying and prosecuting offenders". Indeed, in cases where the aggression does not leave physical signs, the child's testimony is the only way to determine who is responsible for the abuse.

Anyway, the Commonwealth of Kentucky considers a child competent to testify in court if they can "demonstrate the ability to observe, the ability to remember, the ability to communicate, the ability to differentiate truth from falsehood, and the ability to comprehend that punishment follows false testimony" [7]. Marinovic et al. [8] point out that it is "important to take the child's testimony as soon as possible and to avoid the repetition." Besides, the authors recommend enabling children's interrogation through a professional person without the presence of other parties and recording such interrogation by "audio-video link," which diminishes the secondary victimization [8]. Although a child fulfills all the requirements for his statement to be considered truthful, it is necessary to prevent unrealistic allegations that could contaminate forensic information due to the forensic nature of the victim's testimony.

Some authors point out that "younger children and those with developmental delays may have limited cognitive and linguistic ability to recognize the abuse clearly and report it coherently. Therefore, it may raise credibility concerns" [9]. Hence, a professional group qualified in these issues has taken the importance of the child's testimony. Knowledge of psychological development is essential to make the quality arrangements for interrogation [8] and is also "of great importance for the credibility evaluation of the child's testimony." Despite everything, we cannot disregard the possibility of false allegations on the part of the child during a regular forensic examination. However, false claims are rare. Jones et al. [10], in a study published in 1987, demonstrated that only 8% of 576 children made false allegations. It is more common among adolescents than in "children younger than six years, where the rate of false allegations is 2%" [10].

Conclusion

Finally, we cannot help but see the victim as the child they are a child experiencing tremendous emotional stress. Revealing intimate details, cross-examination, and family conflict can increase the traumatic effects of the event [7]. In this regard, Brazilian law seeks to prevent this new trauma by limiting the

number of times authorities or forensic experts must hear an abused child. In summary, there are some essential pointers to take into consideration in the assessment of cases of child sexual abuse by the forensic practitioner:

1. Children sexually abused may not present any clinical signs
2. The testimony of sexual activity given by the child is of the utmost importance in the assessment. It is essential to take the child's testimony as soon as possible and to avoid repetition
3. Examiners, mostly the less experienced ones, can make human errors
4. False allegations are uncommon but cannot be ruled out
5. The interviewer must let the children explain in their own words, without assuming assumptions, remembering that the lack of accuracy in their narrative is more due to omission than to an elaboration of the lie
6. A multidisciplinary team experienced in the subject should take the victim's first report. Knowledge of the child's psychological development is vital to the quality and credibility of the child's testimony.

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