GOVERNMENT OF KERALA

KERALA MEDICO-LEGAL PROTOCOL FOR EXAMINATION OF SURVIVOR OF SEXUAL OFFENCES 2019

DEPARTMENT OF HEALTH SERVICES KERALA

NATIONAL HEALTH MISSION
ആരോഗ്യ കേരളം

2019

Kerala Medico-legal Protocol for Examination of Survivor of Sexual Offences – 2019

PINARAYI VIJAYAN
CHIEF MINISTER

Secretariat
Thiruvananthapuram-695 001

GOVERNMENT OF KERALA

No.1161/Press/CMO/18

7th December, 2018.

MESSAGE

It gives me immense pleasure to know that the "Kerala Medico-legal Protocol for Examination of Survivor of Sexual Offences 2018" has been prepared. It is reassuring that the provisions contained in the protocol are prepared in the most gender sensitive manner and with the objective to provide comprehensive medical and psychological care to all survivors of sexual offences.

The Government of Kerala is committed to ensure justice to all the survivors of sexual offences by safeguarding their fundamental rights as guaranteed in the Constitution of India. It is the declared policy of our Government that it will stand for gender equality and will do everything possible to ensure the safety and welfare of women and children. In accordance to that policy, the protocol provides for effective medico-legal examination, documentation and sample collection so that chance of culprits escaping from the law is minimal. I hope that the medical community will understand and follow the guidelines in the protocol to realise the objective of providing justice to the affected.

I wish that the "Kerala Medico-legal Protocol for Examination of Survivor of Sexual Offences 2018" is implemented successfully and congratulate the National Health Mission and the Department of Health, Government of Kerala, for preparing this protocol in tune with the legal provisions in this regard and in a most survivor friendly manner.

Pinarayi Vijayan

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K. K. SHAILAJA TEACHER
MINSTER FOR HEALTH, SOCIAL JUSTICE
WOMEN & CHILD DEVELOPMENT
Government of Kerala

Thiruvananthapuram
Date: 07.12.2018

Message

Sexual offences are the most heinous of all crimes against humanity. In more than ninety nine percent of such cases, helpless women and innocent children becomes prey to the cruel lust of the assailants. It is a fact that sexual violence takes place at all levels of the society, including the home, the workplace, schools, means of transportation and the community. The consequences of a sexual assault are not limited to the immediate physical trauma but may have long lasting physical, psychological, reproductive and social health consequences. Most often, doctors or other health care personnel becomes the first point of contact and interventions at all levels can effectively be implemented there with a view to provide comprehensive care and also professionals have a pivotal role in addressing almost all areas from identification of the sexual violence to adequately responding to it.

The Kerala Government have identified the importance of providing comprehensive, survivor friendly and gender sensitive health care services to survivors of sexual offences with a view to effect speedy recovery from the traumatic and distressing effects of the assault and to rehabilitate them in the best possible manner. The role of doctors and health professionals in documenting the findings of medico-legal examination of the survivor and in collecting the forensic evidence without any delay so as to ensure punishment to the perpetrator is equally important. In order to achieve these goals, comprehensive guidelines for medico-legal examination and care of the survivor is required. The Government have entrusted the task of developing the guidelines with the National Health Mission. I am happy to see that they have come up with this "Kerala Medico-legal Protocol for Examination of Survivor of Sexual Offences– 2018", after an year long discussions with all stakeholders from Health, Women and Child, Home, Law and Social Justice Departments and also with Women Organizations and leading NGOs. I am sure that this Protocol will fulfill every requirement in relation to the medico-legal examination and care of survivors of sexual offences. With immense pride and pleasure, I present this Protocol on the sincere hope that it will extend a helping hand to the innocent victims of sexual offences and also will help to ensure punishment to the perpetrators.

K K Shailaja Teacher

Foreword

We feel proud to present the "Kerala Medico-legal Protocol for the Examination of Survivors of Sexual Offences – 2018" jointly developed by the National Health Mission, Kerala and the Kerala Health Service Department. The development of this comprehensive document is made possible through more than a dozen meetings of representatives of Health Services Department, Directorate of Medical Education, Police Department, Social Justice Department, Women and Child Development Department, Legal Profession including Prosecutors, Child Rights Commission, Forensic Science Laboratory and various women organizations and also in consultation with State and National level experts. Feedback on the 2015 Protocol from doctors and opinions and suggestions from Judiciary and women organizations has also provided valuable guidance in finalizing the protocol.

We are very much sure that this protocol will clear all ambiguities about the available guidelines and protocols for the examination of survivors of sexual offences. By adopting the victim centric approach in its true spirit and accepting the motto "trust the survivor", even in comparison with similar international protocol, this has become the most survivor friendly one. Assurance is also there that no compromise has been made to the complete medico-legal examination and evidence collection procedures and hence it will continue to be friendly to the investigating officers and the members of the legal profession also. The most doctor friendly design of the protocol also deserves a special mention. It is effected through innovative restructuring of the reporting format that reduces the bulk on one hand and on the other hand, provides required instructions for medical and psychological care, medico-legal examination, documentation and evidence collection in the reporting format itself as a ready reference for the doctor.

This protocol contains four parts, in addition to a brief description of the evolution of the "Kerala Medico-legal Protocol for Examination of Survivor of Sexual Offences – 2015" and an introduction to this revised protocol incorporating the factors which necessitated the revision and the key changes that were made to the previous one. The fifty four clauses in part – I of the protocol are formulated in strict compliance to the legal provisions in this regard and incepting the changes in the concepts with reference to the rights of each survivor of sexual offences, globally accepted vision on gender equality, the State interest which is inherent in every medico-legal examination and the duties of the medical professionals in dealing with sexual offence survivors. Limiting the examination of local areas to cases where it is relevant and only based on the possibility for obtaining findings or evidence will relieve the survivor from the traumatizing experiences of unnecessary detailed examinations. The new directions regarding the use of SAFE kit will not only reduce the hardships of the survivor and the medical professional but will also prevent its use in cases where it will be a futile effort by all possibilities, thereby saving a lot of Government money.

In part – II of the protocol, relevant portions of "Guidelines and Protocols for Medico-legal Care for Survivors/Victims of Sexual Violence (2014)" issued by Ministry of Health & Family Welfare, Government of India are incorporated to provide guidelines regarding comprehensive medical and psychological care of survivors and for attending to special groups. Relevant parts of the Model Guidelines (September, 2013) under Section 39 of The Protection of Children from Sexual Offences Act, 2012, issued by Ministry of Women and Child Development (Guidelines for Use of Professionals) were also incorporated so as to provide further clarity to certain provisions regarding the examination of child survivors. In the third part of the protocol, the law including the Constitutional and statutory provisions, rules issued by Government of India and the directions and relevant parts of judgments from the Hon'ble Supreme Court till September 2018, applicable to medico-legal examination of survivor of sexual offences are detailed with a view to provide a better understanding among the medical professionals.

The fourth part consisting of the reporting format with its exceptional design in the most innovative manner effectively reduced the bulk of the report in to half of its original size of ten pages, thereby saving a lot of time in documentation and for changing the carbon and also made it easy for the doctors, investigating officers and the Courts to handle the same. Instructions to head of institutions given on the front cover page will ensure the infrastructure for ensuring comprehensive care of the survivor and will enable the smooth conduct of medico-legal examination without any delay. The instructions on the back page of the cover and on the triplicate copy of the first to fourth pages of the reporting format will serve as a ready reference for examining and documenting the report. Each column in the format is designed with a view to make comprehensive examination possible as required in the case and in a most gender sensitive manner. Features like defined opinions, list of consultations and further examinations and column for reasons for conclusions which are incorporated in conformity with relevant legal provisions will be helpful to the doctors, investigating officers and Courts.

We hope that the dissemination of this protocol will correct all the deficiencies prevailing in the area of medico-legal examination of survivor of sexual offences and will be of a fruitful assistance in ensuring justice to the survivor. We are looking forward to a scenario where every person engaged in medical profession, law enforcement and justice delivery system have ample awareness about this protocol and its contents.

Sri. KESHAVAENDRA KUMAR I.A.S
State Mission Director
NHM, Kerala.

Dr. SARITA. R. L.
Director of Health Services
Thiruvananthapuram.

Acknowledgements

On behalf of NHM, Kerala, I would like to place on record my deep gratitude to our Honourable Minister for Health and Family Welfare, Woman and Child Development and Social Justice, Smt. K. K. Shylaja, for constantly encouraging and supporting this important work.

NHM, Kerala is indebted to Sri. Rajeev Sadanandan I.A.S., Additional Chief Secretary, Health and Family Welfare Department for the staunch support and timely advices rendered for making this work comprehensive and complete.

Words will not suffice to express the gratitude to Sri. Keshavendra Kumar I.A.S., State Mission Director, NHM, Kerala for initiating and supporting the formulation of this protocol, throughout its evolution.

Sincere gratitude is due to Dr. Sarita. R. L., Director of Health Services, Kerala for the encouragement and support provided during all stages of this work.

I take this opportunity to thank Dr. Mridul Eapen, Member, State Planning Board, Dr. T. K. Anandi, Gender Advisor to Government of Kerala, Dr. Gopakumar, Special Private Secretary to the Minister of Health and Family Welfare and Smt. Shobha Koshi, Former Chairperson, Kerala State Commission for Protection of Child Rights for their valuable suggestions and for actively engaging in almost all the meetings convened for the development of the protocol.

The one man who made this possible, the spirit and the hands behind the conceptualization and development of the protocol, Dr. P.B Gujaral, Chief Consultant in Forensic Medicine and Police Surgeon Palakakd and President Kerala Medico Legal Society - no words will suffice to express our teams gratitude to him. Women who go through the terrible experience of a sexual assault would not have a better champion for their cause than Dr. Gujaral.

I am also grateful to Dr. K. Sreekumari, Joint Director of Medical Education and former Head of the Department of Forensice Medicine, Shri. N.R Jeevan, Deputy Secretary to Government and Former Law Officer, Directorate of Health Services, Dr. Sreekumar, Director, Forensic Science Laboratory and Smt. Nishantini I.P.S. Superintendent of Police and in charge of Nirbhaya project, for actively participating in the discussions and contributing valuable practical legal perspectives to the development of this protocol.

I would also like to express my gratitude to Adv. Sandhya, former Member of Kerala State Commission for Protection of Child Rights, Dr.V.Jithesh Superintendent I/C, District Hospital, Mananthavadi, Dr. N.R. Reena and Dr. Jaysree S Nair Gynecologists in Health Services Department, for actively participating in the discussions held during all the meetings and contributing to critical analysis of each and every provisions in the proposed protocol.

NHM Kerala is also thankful to Adv.. Kirti Singh, Smt. Mariyam Dhawale and Smt. Malini Bhattacharyya from All India Democratic Women Association and Dr. Avani Amin WHO, and other participants of the National Consultation on the proposed protocol thereby effectively contributing to making the proposal truly gender sensitive.

Successful completion of any task requires effective management of available resources and finding remedial solutions to any unexpected crisis situations. Smt. Seena K.M, Senior Consultant, NHM, Kerala has played the anchor role in the best possible manner and I am really indebted to her and for making this happen in the best possible manner.

Dr. Nita Vijayan
State Program Manager, RCH NHM &
Chairperson of the Committee for the revision of Kerala
Medico - Legal protocol for Examination of Survivor of Sexual Offences

GOVERNMENT OF KERALA

Abstract

Home Department – Police Establishment – Medico-Legal Protocol for Examination of Survivor of sexual offences – Revised guidelines/protocols approved - Orders Issued.

HOME(K)DEPARTMENT

G.O.(Ms)No.53/2019/HOME Dated,Thiruvananthapuram, 17/05/2019

Read 1 G.O(Ms)No.232/2011/Home dated 22.10.2011.

2 G.O(Ms)No.19/2015/Home dated 31.01.2015.

3 Letter No.NRHM/CSD/1017/2015/SPMSU dated 01.01.2019 of the State Mission Director, NRHM.

4 Letter No.Q1-21081/19 dated 28.03.2019 of State Police Chief, Thiruvananthapuram.

ORDER

As per the order read as 1st paper above, Government had issued guidelines for medico-legal post-mortem examination. The 'Kerala Medico Legal Protocol for Examination of Survivor of Sexual Offences 2015' was implemented in Kerala, as per the order read as 2nd paper above.

2. It has now come to the notice of Government that based on revisions in the Code of Criminal Procedure, Indian Penal Code and the Protection of Children from Sexual Offences Act and also in tune with the directions contained in various judgments from the Hon'ble Supreme Court of India and based on feedback obtained from all stakeholders, it has become necessary to revise the "Kerala Medico Legal Protocol for Examination of Survivor of Sexual Offences 2015". The modified Protocol is formulated in strict compliance to the provisions of sections 164 A and 357 C of the Code of Criminal Procedure, 166B, 375, 376 and other relevant sections of the Indian Penal Code, Section 53A of the Indian Evidence Act, the Protection of Children from Sexual Offences Act 2012 and the verdicts and directions from the Supreme Court and various High Courts in India. Medico-legal examinations of survivor of sexual offences are conducted in accordance to the provisions of "Kerala Medico-legal Protocol for Examination of Survivor of Sexual Offences" which is a modification of the protocol issued by Government of India. The revised guidelines/protocols has been submitted by the State Mission Director, National Health Mission, vide the letter read as 3rd paper above.

3. As per the letter read as 4th above, State Police Chief has reported

that the revised guidelines/protocol is well prepared incorporating various legal requirements based on the guideline issued by Ministry of Women and Child Development and also the Ministry of Health and Family Welfare, Government of India, and put forth some modifications/suggestions in the protocol.

4. Government have examined the revised guidelines/protocols in detail and are pleased to approve and to publish the 'Kerala Medico-Legal Protocol for Examination of Survivor of Sexual Offences 2019', as appended herewith, with immediate effect.

(By order of the Governor)
REMANI MATHEW
ADDITIONAL SECRETARY

To:-
The State Police Chief, Kerala, Thiruvananthapuram.
The Principal Accountant General (Audit/A&E), Kerala, Thiruvananthapuram.
The Health & Family Welfare Department
The Director of Health Services, Thiruvananthapuram
The Director of Medical Education, Thiruvananthapuram
The State Mission Director, National Rural Health Mission, NRHM State Mission Office, General Hospital Junction, Thiruvananthapuram – 35.
Stock file/Office copy.

Forwarded /By order

Section Officer

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Background of Kerala Medico-legal Protocol for Examination of Survivor of Sexual Offences 2015

Kerala, which has always taken the lead in addressing Women's Safety and Gender issues, realized that atrocities against women were being brought before law with increasing awareness among the community and the support of multiple agencies. However, an evaluation of justice rendered revealed an appalling situation with a conviction rate of single digit figures in all crimes against human body. The reasons were many. Hostile and coercive environment deterring the survivor from timely legal and Medical recourse, lack of knowledge of currently relevant laws among Medical fraternity, lack of a confidence building environment and professional approach to the collection and recording of Medical evidences vital for ensuring justice were all prevalent. It was this scenario that prompted the Government of Kerala to develop– "The Kerala Medico-legal Code", which was implemented in 2011 vide GO (MS).232/11/Home K dated 22/10/2011. This was followed by a statewide dissemination of the Medico legal Code. Meanwhile, the Criminal Law Amendment Act 2013 and the Protection of Children from Sexual Offences Act 2012, came into being, and there was a need for amending the relevant parts of the Code and developing a reporting format with guidelines for examination of survivor of sexual offences. Thus, in 2014, National Health Mission Kerala constituted a committee for developing the reporting format and guidelines for this purpose for implementing in the State in conformity to the legal provisions in relation to the examination and the directions in the judgments from the Hon'ble Supreme Court and High Courts, in this regard.

The Ministry of Health and Family Welfare, Government of India published and released guidelines and protocols for the country in 2014. The Technical committee in the process of developing the State Protocol, took both MOHFW guidelines and the already existing WHO guidelines for Medico-legal Care of victims of Sexual Violence in to consideration. After elaborate discussions it was decided to include relevant contents of the MoHFW Protocol regarding best practices in the treatment of the survivor, psychological care, mode of examination, approach to special groups, interface with other agencies etc and to modify the reporting format and guidelines with reference to those found inconsistent with Law and in tune with the State Medico-legal practices contained in the Kerala Medico-legal Code. Thus the draft proposal for "Kerala Medico-legal Protocol for Examination of Survivor of Sexual Offences" was prepared in 2014.The Health

department forwarded this draft to the Home department and it was affected as a Government order of the Home Department in January ’15.

Legally binding provisions, pointed out by the committee are detailed below for information of all service Providers.-

1) Clause (2) of section 27 of the PoCSO Act mandates the examination of a girl survivor of sexual offences only by a female registered medical practitioner. In Dilip vs State Of M.P. on 16 April, 2013, The Hon’ble Supreme Court gave the following directions – *“Undoubtedly, any direction issued by this Court is binding on all the courts and all civil authorities within the territory of India….. Certain care has to be taken by the Doctor who medically examines the victim of rape. The victim of rape should generally be examined by a female doctor.”*
2) As per section 357 (C) of the Code of Criminal Procedure, all cases of rape reported to hospitals shall be informed to the police immediately. Section 19 of the PoCSO also mandates immediate police intimation by any person who has knowledge that such an offence has been committed or apprehension that such an offence is likely to be committed.
3) As per sections 166B of IPC and 21 of PoCSO, non-intimation by the doctor or by the person having charge of the hospital has been made a criminal offence punishable with imprisonment up to a term of one year. By clarifying this aspect beyond any reasonable doubt, the number of doctors getting booked under these sections could be effectively reduced in the last two years.
4) Explanation (a) of amended (2005) section 53 of the Code of Criminal Procedure has included the examination of blood, sweat, semen, nails and all such biological material objects as a part of the examination thereby making the collection of relevant material objects a legal responsibility of the doctor. Considering this amendment, it can be seen that the consent for medico-legal examination invariably includes the consent for collection of material objects also and taking a separate consent for sample collection is unnecessary.
5) Informed consent written and signed by the survivor or parent or guardian herself/himself, after being completely informed about all aspects of the examination is more valid than the pre-printed consent as evidenced in many judgments from various Courts. Studies during the period from 2009 to 2014 showed that 69% of the survivors/parents/guardians wrote the consent themselves, nearly one sixth of them in English and the remaining in Malayalam and signed it. 26% wrote in Malayalam “understood and agree” in continuation to the sentence of consent written by the medical officer and signed it. 5% could not write due to illiteracy or other reasons among which majority were from other states. Only less than two percent of

survivors could not put a signature and affixed their thumb impression only. The high literacy rate in Kerala facilitated such recording of the informed written consent by the survivor/parent/guardian as evidenced by this study.

With a view to fool-proofing the content of the reports, the committee formulated instructions for examination and filling the columns of the Medico-legal Report in each page itself to be provider friendly. In addition, all possible findings were provided against each column so that the doctor can choose the correct one and strike off the others. This was with the intention to reduce subjectivity and has resulted in better documentation fulfilling the requirements of Law. It is almost impossible to fulfill the task of training each and every doctor working in public as well as private sector. In almost all situations, the doctor may be getting only the reporting format and she may not be able to refer to the entire protocol and guidelines, before commencing the examination. The inclusion of probable findings has benefitted the doctors as well as investigating officers and Courts. The structure of the reporting format was modified to facilitate easy and systematic recording and easy perusal while giving evidence in Court of Law. It was found that diagrammatic representation of injuries was necessary in less than one percent of cases. By making the diagrams as addendums to the preliminary report, the number of pages of the reporting format could be reduced.

There were many ambiguities in the opinion part of the MoHFW protocol and the suggested opinions were not in tune with the description of medical opinions as given in the judgments from the Hon'ble Supreme Court. In Smt. Nagindra Bala Mitraand vs Sunil Chandra Roy And Another, the Hon'ble Court has given a clear definition of medical evidence. "*When a medical witness is called in as an expert he is not a witness of fact. Medical evidence of an expert is evidence of opinion, not of fact. Where there are alleged eye-witnesses of physical violence which is said to have caused the hurt, the value of medical evidence by prosecution is only corroborative. It proves that the injuries could have been caused in the manner alleged and nothing more."* This was upheld in so many decisions of the Hon'ble Supreme Court and the opinion in medico-legal examinations should be given in accordance to this definition of medical evidence. Another aspect considered was the reporting pattern of sexual offences. Studies showed that about 65% of the cases were reported after a delay of seven days to many years since the incident. Of the remaining, 16% reported within the time period of 4 to 7days, 8% within 2 to 4 days and 11% within 24 hours of the incident. The possibility for positive findings becomes nil with passage of time. When a large majority of cases are brought without any positive findings, furnishing the opinion required

more consideration. It was based on these considerations that the first opinion in the Kerala Protocol was drafted as "findings of examination are consistent/not consistent with the alleged sexual assault". Opinions regarding recent vaginal/anal penetration and injuries on the body were also incorporated and provisions to record the opinions reserved pending the results of chemical and forensic analysis are there in the Kerala format. Defined opinion as given in Kerala Protocol was very much helpful to doctors.

The modifications made to the opinion part and structure of the reporting format not only cleared the ambiguities regarding opinion and inconsistencies with the definition of medical evidence but also facilitated the issue of the preliminary report without any delay, as necessitated by clause (6) of section 164A of the Code of Criminal Procedure. A separate format for furnishing the final opinion provides for framing the final opinion on the basis of reports of analysis of the material objects preserved in the case as it may take many days or weeks to get such reports. According to clause (3) of section 164A of Cr. P. C., the report of examination of the survivor should state precisely the reasons for each conclusion arrived at and the MoHFW protocol does not provide for this. Reasoning in a separate column as provided in the Kerala protocol, in continuation to the opinions has helped the registered medical practitioners to present the report in a better way while giving evidence in the Court. It was also helpful to the investigating officer and the Courts in getting a better understanding of the opinion.

There were no provisions in the MoHFW protocol to record the signature, name and designation/address of the officer issuing the original and duplicate copies of the report and of the officer/person receiving them. In Kerala protocol, this deficiency has been corrected by providing columns for the same at the end of the report in such a way that the complete data regarding the issue of the original and duplicate copies will be available in the triplicate office copy of the report. The allied examinations and consultations were listed in accordance to PoCSO Rules which served as a reminder of the need for such examinations and consultations to the examining doctor, according to the nature of each case and ensured the comprehensive examination and medical care as envisaged in the relevant legal sections.

Article 21 of The Constitution of India casts the obligation on the State to preserve life. In criminal offences affecting human body, it is this right to life guaranteed by Article 21 that is violated. In sexual offences, it is the right to life with dignity that is violated. In ParamanandKatara vs Union of India and Others, the Hon'ble Supreme Court of India has ordered that doctors are duty bound to do all that is possible within their limitations to save life. As per Article 21 of the

Constitution, every citizen in the country also has the right to get life saving treatment and a proper medico-legal examination done in every instance he/she approaches a registered medical practitioner as a survivor of criminal offence. Every criminal offence is considered as an offence against the State and it is based on this concept that the State becomes the Investigator and Prosecutor in criminal cases. In criminal offences affecting human body, every penny for investigation, trial, to effect punishment to the guilty and to provide compensation to the survivor is met by the State. In medico-legal examinations which are conducted to aid the administration of justice, the registered medical practitioner represent the State and the interest of the State gets priority over that of the person examined. To provide appropriate treatment, support and care including rehabilitation to the survivor and to punish the guilty are the two integral parts of the State interest which is inherent in every medico-legal examination. Thus, the State has the right to get the best report of examination and the best evidence from the best available expert in the field. In pursuance to this right of the State as well as the survivor, it was instructed in the Kerala Protocol that as far as possible the examination of a woman/girl survivor of sexual assault should be undertaken by a woman Gynecologist. This provision has helped in improving the quality of the report of examination and that of the medical evidence given in the Courts to a great extent in the last three years.

A SAFE kit was designed in conformity to the steps of examination of the survivor, as prescribed by the WHO Guidelines. The Kerala Medical Services Corporation produced the SAFE kits on a commercial basis and the same was supplied to all districts with a direction to obtain them from KMSCL on exhaustion of the stocks in the institution. Guidelines to the head of institutions with the objective of enabling the undertaking of examinations smoothly and ensuring adequate care and protection to the survivor were also incorporated. The NHM Director forwarded the proposal for “Kerala Medico-legal Protocol for Examination of Survivor of Sexual Offences” prepared by the committee to the Home Department. After obtaining the opinion of the Director General of Police and according to the medico-legal system in Kerala, the G.O. implementing the Protocol was issued from the Home department on 31st January 2015.

Introduction to the Revised Kerala Medico-legal Protocol for Examination of Survivor of Sexual Offences -2019

The Kerala Medico-legal Protocol for Examination of Survivor of Sexual Offences and the collection of evidence in SAFE kit was widely appreciated by the Judiciary and the Police so that the Courts, Child Rights Commission and investigating officers started demanding the examination and reporting only in that format. However, discussions with legal experts unveiled one particular inconsistency with the Law which may attract very dangerous adverse legal action against doctors who follow it as such. This particular mistake in relation to age of consent is still persisting in all the national protocols and the Kerala protocol and needs to be corrected immediately.

The changing global concepts aim to reduce the hardships encountered by the survivor due to elaborate medical examination procedures which are often referred to as a second assault on the survivor by the medical examiner. Complete and elaborate examinations recommended by all the protocols are most often unnecessary or irrelevant due to factors like changed definition of rape, delay in conducting the examination due to delayed reporting etc. The Supreme Court of India has accepted the concept of victim-centric approach in dealing with sexual offences. "Trust the Survivor" is the very basis of this approach adopted by the Hon'ble Court in many judgments since 2006. It has been observed that no further corroboration is necessary if the testimony of the survivor of rape inspires confidence. Revised Kerala protocol will be the first in the world to adopt this concept in the case of medico-legal examination of survivor of sexual offences thereby making it the most survivor friendly protocol.

Feedback obtained from doctors necessitates a restructuring of the reporting format with a view to reduce the bulk of the format. Computerization of all institutions may take years and documentation will have to be done in the printed format in many institutions. Changing the carbon ten times in every examination and handling a report with ten pages in the Court while giving evidence also cause hardships to the doctor. The bulk of format is causing difficulties to investigating officers and members of legal profession. There were criticisms from women organizations who pointed out that some clauses in the protocol may be interpreted as gender insensitive and need to be revised. Positively responding to these demands, the State Mission Director, NHM, Kerala appointed a committee with the State Program Manager, NHM as the Chairperson, to revise the Kerala Medico-legal Protocol for Examination of Survivor of Sexual Offences.

The committee considered the inconsistency with reference to the age of consent in great detail. It was based on sections 89 and 90 of IPC that the age of consent for medical as well as

medico-legal examination was fixed as 12 years and this forms the very basis of fixing 12 years to define the age limit of pediatrics. However, Section 41 of the PoCSO Act states as follows - *Provisions of sections 3 to 13 not to apply in certain cases – "The provisions of sections 3 to 13 (both inclusive) shall not apply in case of medical examination or medical treatment of a child when such medical examination or medical treatment is undertaken with the consent of his parents or guardian."* Section 2 (d) of the Act defines *a child as any person below the age of eighteen years.* This has created a situation where the parental consent is mandatory for examining a child aged above 12 years and below 18 years also. If a doctor medico-legally examines a child victim of rape in this age group up on the sole consent of the child and the parent of the child files a complaint against the doctor that he has committed the offence punishable under section 4 or 6 of the PoCSO Act, the charge will stand and the doctor will have to face trial. The report of examination bearing the signature of the doctor will constitute conclusive evidence to the commission of the crime by the doctor. The most dangerous aspect with regard to this Act is that it does not identify man alone as the perpetrator as in the case of section 375 of IPC. Lady Doctors are also likely to be charged for aggravated penetrative sexual assault in the event of such complaint getting proved in the Court and the punishment may extend to life imprisonment (imprisonment for the remainder of that person's natural life according to the latest amendment).

Another aspect that should be considered is that it is settled law that the special law will prevail over general law *(Generalia Specialibus Non Derogant)* and hence the provisions in PoCSO will prevail over IPC sections. This is well in accordance to section 42A of the PoCSO Act which states that *"Act not in derogation of any other law.- The provisions of this Act shall be in addition to and not in derogation of the provisions of any other law for the time being in force and, in case of any inconsistency, the provisions of this Act shall have overriding effect on the provisions of any such law to the extent of inconsistency".* It should also be taken in to consideration that another special Act, The Juvenile Justice (Care and Protection Act 2015) also prescribes the age limit of 18years for defining the child. In a most recent judgment from the Supreme Court of India, it has been clarified beyond any reasonable doubt that the provisions in the PoCSO Act will prevail over those in the IPC. The Hon'ble Court in Independent Thought vs Union of India, on 11-10-2017 observed that *"As provided in section 42A, in case of such an inconsistency, POCSO will prevail. Moreover, PoCSO is a special Act, dealing with the children whereas IPC is the general criminal law. Therefore, PoCSO will prevail over IPC".* If the condition in the Protocols including the one in Kerala Protocol is not amended immediately, that may create potentially dangerous situations for the doctors who examine a child survivor in the age group of 12 to 18 years without parental consent.

For taking a clear cut decision in this regard, the committee also considered the legal concepts which should form the basis of guidelines for medico-legal examinations. As far as medico-legal examinations are concerned, the Law mainly consists of The Constitution, Statutes passed by the Legislature, Rules framed by the Executive and directions from the Apex Courts. Nothing in any Statute shall be contradictory to any provisions in the Constitution and nothing in any Rules shall be contradictory to provisions in the Statutes. The directions issued by the Apex Courts are binding on all Courts and all civil authorities within the territory of India. Guidelines and Protocols are issued to facilitate the mechanisms for implementation of the statutes or rules. In the case of anything which is contained in the guidelines and protocols contradicting the provisions in Statute, the statute will prevail. When any of the contents of the guidelines or protocols are absolutely contradictory to the statute and when the said contradiction goes to the extent of facilitating the crime which the statute aims to prevent and punish the guilty, the very existence of the guidelines and protocols becomes unsustainable. It will not be wrong to say that the abovementioned contradiction in fixing the age of consent for medico-legal examination of survivor of sexual offences at 12years may be somewhat of the very same nature and extent. Hence it was decided by the committee to fix the age of consent at 18years.

At the same time, the rights of the child also need to be honored without violating the Law. After elaborate considerations, it was decided that if a child, after fully understanding the nature and consequences of the procedure with which she has to cooperate, refuses to co-operate with the examination or is resisting it in spite of consent from her parent or guardian, the examination may be deferred or even abandoned as directed in the Model Guidelines under section 39 of the PoCSO Act. It was also decided to instruct the registered medical practitioners that in situations where the consent is refused, they should take maximum efforts to convince the survivor, of the necessity of examination. This instruction however, does not mean that the doctor can resort to coercive or compelling methods or to the use of force since the Law does not contemplate the use of force or compulsion of any type on the victims of sexual offences. It was also decided to provide that in situations where the child, after fully understanding the nature and consequences of the examination desires to get examined in spite of the informed refusal to examination from the parent or guardian, the matter should be reported to the Child Welfare Committee and examination can only be conducted up on an order from the CWC, after obtaining consent from the person nominated by the CWC and the order specifying the capacity of the nominated person to give consent.

All the presently prescribed formats of examination gives an impression that all local areas like genitalia, perineum, breasts, buttocks, anus and thighs should be examined as a general rule in

every case of sexual offence. Even in many developed countries, there is an allegation that the elaborate medico-legal examinations causes great hardships to the survivor and are often referred to as a second assault. The new definition of rape and its counterpart in PoCSO Act necessitates a rethinking regarding the complete examination. In offences defined as per clause (iii) of section 375 of IPC it can be seen that manipulation of a body part in order to facilitate penetration in to any body part will constitute the offence of rape. In such cases, most often there may not be any finding at all and the examination of private parts are not at all indicated in such cases. Similarly, in cases with history of the vagina or anus touched with penis or a body part or any object and in cases getting examined after a delay of more than one week so that there is no possibility for any findings, the purpose of examination is only to identify any late complications or sequel of the assault so that adequate treatment can be provided. However, in children, the history may not be complete due to many reasons and a complete examination may be required to bring the entire details of sexual offence. If the examination in adult survivors is limited to areas which are relevant as per the history of the stated sexual assault, it will relieve the survivor from the agony and hardships of a detailed examination, well in accordance to the victim centric approach discussed earlier. This aspect has been taken care of in the proposed draft of the Kerala Medico-legal Protocol for Examination of Survivor of Sexual Offences – 2019.

The committee decided to accept the innovative proposal to restructure the format with a view to reduce the bulk of the reporting format to half of its size so that handling and recording becomes easy and to provide all relevant instructions for examination and recording on the front and back sides of the cover page and on the back side of triplicate copy of first to fourth page of the reporting format. The instructions for examination and making entries in the original of first to fifth pages of the reporting format will be there on the page on the left hand side and will serve as a ready reference to the registered medical practitioner. Considering the limitations in providing training to each and every doctor in the state, lack of awareness among them about the changes in legal as well as medical concepts in addressing sexual offences and the constraints like lack of facilities, non-availability of specialist doctors in all institutions on all hours of the day on 24x7 basis and the enormous workload caused by the increase in the number of patients approaching the hospitals in Government sector, this innovation will be of immense help to all concerned.

It was decided to make necessary changes in conditions regarding the estimation of age, in tune with the amendments to the Juvenile Justice (Care and Protection) Act 2015. Elaborate operational guidelines incorporating all these changes forms part I of the protocol. By providing the relevant parts of the Model Guidelines (2013) under Section 39 of The Protection of Children from Sexual Offences Act, 2012, issued by The Ministry of Women and Child Development and

Guidelines and Protocols for medico-legal Care of Survivors/victims of Sexual Violence, issued by Ministry of Health and Family Welfare Government of India in part II of the protocol, it can be ensured that all registered medical practitioners get a comprehensive understanding regarding the treatment of the survivor, psychological care, mode of examination, approach to special groups, interface with other agencies etc. Part III of the protocol will contain the Law relevant to medico-legal examination of survivor of sexual offences and part IV will be the reporting format and SAFE kit.

Consultations with women organizations at national as well as state level were organized and all the clauses which may get interpreted as having gender insensitive nature were removed from the guidelines and reporting format. Modifications in this aspect were made with a view to make it more gender sensitive than any of the available protocol without compromising on the medico-legal requirements. The updating with changes in Law and in tune with the judgments from the Hon'ble Apex Court has made the "Kerala Medico-legal Protocol for Examination of Survivor of Sexual Offences 2019" the friendliest to the survivor, doctors, investigating officers and the members of legal profession, in strict compliance to the law of the land.

PART – I

Guidelines for Examination and Report of Survivor of Sexual Offences

Guidelines for Examination and Report of Survivor of Sexual Offences

(1) Being one of the most sensitive of crimes, and with the requirement of adequate confidence building and confidentiality to elicit sensitive details of History and physical findings, which are vital for prosecution, conviction and for justice to prevail, the space identified for such examination should be adequate and is a prerequisite for the medico-legal examination.

(2) There should be adequate stock, in the institution, of the formats, facilities and materials necessary for the medico-legal examination of the survivor of sexual offence and allied medico-legal examinations as may be required with each such examination of the survivor, as enlisted hereinafter.

i. An examination table, preferably the one on which the survivor can be examined in the lithotomy, lateral and knee-elbow position, as is required and placed in a sufficiently spacious and bath attached room.

ii. A copy of the Kerala Medico-legal Protocol for Examination of Survivor of Sexual Offences 2019 and Kerala Medico-legal Code 2011, draft format for examination and report of sexual offence, intimation book with intimation slips in triplicate, register of police intimations and draft format for examination and report of allied examinations as may be necessary in accordance to the nature of stated assault and the formats of labels and forwarding note for dispatching the material objects collected during examination.

iii. A copy of the Guidelines & Protocols – Medico-legal Care for Survivors/Victims of sexual Violence issued by the Ministry of Health, Government of India or the Guidelines for Medico-legal Care for Survivors/Victims of sexual Violence issued by WHO, for further reference regarding the provision of medical and psychological care to the survivors readily available at the Casualty of every institution.

iv. Facilities and equipments necessary for a systematic medical examination in conformity to the stated history of each type of case. Facilities and equipments for collection, packing and sealing of vaginal swabs, smears, pubic hair combings, clothes and any such material object, the examination of which may have a bearing on the case, including cotton, glass slides etc and a metallic seal for affixing on melted wax, on the bottles and packets forwarded for chemical analysis (SAFE kit or the appropriate components).

v. There should also be facilities for collection and preservation of blood and urine samples, as may be necessary in cases of sexual assault on the survivor intoxicated with drugs, alcohol etc.

vi. There should be at least four sets of unused, readymade, colored dress (churidar) for females of small, medium, large and extra-large size and a system in place for appropriate replacement set of clothes for other survivors.

vii. If possible, facilities for toluidine blue dye test, wet mount slide test, colposcopic examination, Wood's Lamp for UV light examination etc should be made available at the institution.

viii. Wherever possible, SAFE kits may be made available to every institution undertaking examination of survivor of sexual offences to facilitate comprehensive examination, reporting and preservation of material objects.

ix. Details of the Child Welfare Committee and the S.H.O. of the nearest police station with contact phone numbers and email id should be readily available to the doctors who conduct the examination.

(3) The format for report of examination of the survivor of sexual offence and the body diagrams should be printed in a book form with Original (perforated to make detachable) for issuing to the Judicial / Police Officer, duplicate (perforated to make detachable) to be issued to the survivor or the person nominated by the survivor and the triplicate to be retained as office copy. Report should be printed in at least 30x21cm (A 4 Size) paper with good quality. The paper of the original should be white in color, duplicate light red and triplicate light blue. The intimation book should also be printed in a book form with Original (perforated to make detachable) for issuing to the Police Officer, duplicate (perforated to make detachable) to be issued to the survivor or the person nominated by the survivor and the triplicate to be retained as office copy. The printing, supply, maintenance and issue of the formats and reports of examination of survivor of sexual offences and allied examinations including examination of drunkenness and administration of intoxicants, estimation of age, examination to look for signs of recent delivery/abortion etc should be made according to the conditions laid down in the Kerala Medico-legal Code with exceptions and modifications detailed hereafter.

(4) All doctors and staff of the institution should be made aware of their duty to provide first aid or medical treatment, free of cost, to the survivor, duty to intimate the police of such incident immediately and the duty to maintain absolute confidentiality with regard to the details of the survivor and the examination. All doctors should be made aware of their duty to provide testing and treating of STIs, HIV, Hepatitis B and C. Whenever there possibility of pregnancy, testing of the survivor at pre-determined dates at relevant centers should be ensured. The head of the institution should also ensure provision of services for termination of pregnancy as applicable under the relevant laws.

(5) The examination of a woman (aged above eighteen years) survivor of sexual offences shall generally be conducted by a female registered medical practitioner. However, in situations where the examination by a female registered medical practitioner cannot be arranged within a reasonable time and the referral of the survivor to a female registered medical practitioner is not possible or not advisable due to reasons like life-threatening conditions in the survivor, non-availability of transport, condition of the road etc, the examination shall be conducted by the male registered medical practitioner available in the institution to which the survivor came or was brought. In all such situations where a woman survivor of sexual offences is examined by a male registered medical practitioner, consent of the survivor, specifying her willingness to be examined by a male registered medical practitioner should be obtained and the examination should be done in the presence of a female bystander. If such a female bystander is not available, a female hospital staff, preferably staff nurse should be made to be present at the time of examination. The name of the female bystander should be recorded in the report and her signature to that effect should be obtained. Medical examination of a girl survivor of sexual offence, the girl being a female child below the age of eighteen years, shall only be conducted by a female registered medical practitioner. However rendering of emergency medical care for any distressing symptom shall be the primary responsibility of the duty doctor irrespective of gender. No female registered medical practitioner working in an institution shall refuse to undertake the medico-legal examination of a female survivor, who came voluntarily or was brought to that institution and when such examination is requested by a male registered medical practitioner on duty at the particular time.

(6) In pursuance to the right of the State to get the best report of examination and the best evidence from the best available expert in the field as well as that of the survivor to get life saving treatment and a proper medico-legal examination done, whenever possible and subject to conditions laid down by the head of departments or institutions in this regard, the examination of a woman/girl survivor of vaginal penetrative sexual assault, brought within 96hours of the stated assault, should be undertaken by a woman Gynecologist, if she is on duty in the institution, at the material time. <u>This does not in any way constitute a ground for referral of medico-legal examination of a female survivor of sexual offence to another centre from an institution where there is a female registered medical practitioner on duty at the material time. In the absence of Gynecologist or when she is not able to attend to the examination due to any reason, the lady medical officer working in the institution and on duty at the material time should conduct the examination and shall not keep the survivor waiting or refer/redirect the medico-legal examination to another hospital for examination by</u>

Gynecologist. With regard to the doctor examining the survivor, the only pre requisite is that she should have undergone training on this protocol.

(7) Boy/man survivors should be examined by the casualty/duty medical officer, who is on duty at the material time. However, the survivor should be given the choice as to the gender of the examiner and if he wish to be examined by a male registered medical practitioner, the head of the institution should make necessary arrangements to effect the examination by a male doctor. In the case of transgender survivors, choice as to the gender of the examiner may be provided to the survivor. In all instances where a woman is brought with requisition for medico-legal examination with history other than that of sexual assault, like examination of arrested female, examination to look for signs of drunkenness or administration of intoxicants, brought as a victim in Immoral Traffic Prevention Act etc, the examination may be conducted by or under the supervision of the female doctor, on duty at that time. In Government Medical Colleges, a survivor brought during the working hours of the Department of Forensic Medicine and with the requisition from a police or judicial officer, may be examined by the doctors in that department, provided the survivor is not in need of any medical management or when such need is already met by a concerned doctor and also complying with the stipulations regarding the gender of the examiner and an adequate space with privacy as detailed above.

(8) The head of the institution shall ensure that any survivor, whether brought with requisition from police or a competent authority or brought by any person or the one who directly approached the institution is not made to wait for examination or referred or redirected to another institution when a registered medical practitioner complying to the above detailed stipulations is available on duty in the institution. The head of the institution should ensure the availability of lady medical officers for examining woman/girl survivors by preparing duty roasters for the same, incorporating the names of lady medical officers working in the institution. Whenever such duty roasters are prepared for examination of woman/girl survivors of sexual assault, as far as possible, specialist doctors from specialties other than Gynecology who were not having exposure to medico-legal examination of survivor of sexual offences for more than the last seven years should, as far as possible, be exempted, provided they are not given training on this Protocol. With regard to the doctor examining the survivor, the only pre requisite is that she should have undergone training on this protocol.

(9) With the conditions for exceptions laid down in the previous clauses, every registered medical practitioner, practicing Modern Medicine is bound to examine, without any delay, a survivor of sexual offence brought to or coming to the institution where he/she is working

and is on duty at the material time and he/she is also bound to record the findings of such examination, in the manner conforming to the requirements laid down by Sec.164A of the Code of Criminal Procedure and the Orders by the Apex Court of the country in this regard, only except in situations where the survivor or parent or guardian refuses to give consent to such medico-legal examination. In any situation where a survivor of sexual offence approaches or is brought to a registered medical practitioner by her parents/guardian and if the registered medical practitioner is not able to conduct the examination due to reasons like lack of facility, when she is doing only private practice at her residence, working in a one room clinic without infrastructure for the examination, stipulations regarding the gender of the examiner etc or any such valid reason, the registered medical practitioner should immediately give intimation to the police and should ensure that the survivor is taken to the nearest medical institution where the examination can be conducted.

(10) The first and foremost duty of every registered medical practitioner is to save life. In all situations where a survivor approaches or is brought to a registered medical practitioner with a life threatening condition in her, this duty should not be jeopardized on consideration of the gender or specialty of the doctor or any such considerations, even though the registered medical practitioner can not undertake the medico-legal examination due to any of the limitations described above. Then, the doctor so approached shall do everything possible within his limits to save the life of the survivor and should see that appropriate treatment is given to the survivor, without waiting for the arrival of the doctor who will be conducting the medico-legal examination. Even in situations where the survivor may have to be referred to another hospital, due to lack of facilities or concerned specialists, the registered medical practitioner shall do everything possible with a view to stabilize the condition of the survivor and to see that the survivor reaches the proper expert or facility safely.

(11) A registered medical practitioner shall examine the survivor when he/she presents/is brought with or without requisition for examination. The only essential pre-requisite for such examination is the written informed consent obtained from the survivor when the survivor is aged above eighteen years and from the parent/guardian when the survivor is aged below eighteen years. The registered medical practitioner should not consider it a prerequisite, that a requisition from Judicial or police officer or that registering a case is mandatory for examination of the survivor of sexual offence. In all situations where the survivor of sexual offences is brought with or without a request from an officer or agency having no authority for requisitioning, the examination may be conducted after obtaining the consent from the survivor/parent/guardian.

(12) Informed consent written by the survivor/parent/guardian is the most valid form of consent and the same should be obtained, in the language, which the survivor/parent/guardian can write or understand. If the survivor is below 18 years of age, consent of the parent or guardian alone needs to be taken. When the survivor is aged above 18 years, consent from the survivor alone needs to be obtained unless the survivor is unable to give valid consent due to reasons like mental illness, administration of alcohol or intoxicants etc. A sample of the wording of the said consent is given: "I, ……, hereby voluntarily consent for a complete medico-legal examination including collection of material objects to look for evidence of sexual offence on my body/on the body of …… who is my……, after being completely informed about all aspects of the examination, my right to refuse or to consent to the examination and to withdraw the given consent at any stage of the examination, the possible medico-legal consequences of loss of evidence if I refuse the examination, the possible medico-legal advantages if I consent to the examination, the duty of the doctor/medical institution to give intimation to the police or the concerned authority even if I refuse consent for examination and that appropriate treatment and counseling as per need will be provided to me even if I refuse the consent for medico-legal examination". The survivor /parent/guardian may be asked to write the translation of the above in the language which she/he can write and should be asked to sign it with her/his name and date in continuation to it.

(13) If the survivor /parent/guardian is not able to write the consent due to illiteracy or other such reasons, the examiner should write it and read it over to them, adding that "The consent was written by me in ……..language and was read over to the survivor or parent/guardian" and should sign it. In all such situations the signature (if possible) and left thumb impression (mandatory), should be obtained from the survivor/parent/guardian and the signature of an independent witness who can read the words of consent should also be obtained along with his/her name and address. Whenever necessary, translators or special educators should be provided and their name and signature should be included in the report. Separate consent for police intimation, collection of material objects and transmission of report of examination to investigating officer is not necessary since the law has made it mandatory.

(14) A child survivor shall only be examined in the presence of a parent or any person in whom the child reposes trust or confidence. If the parent or such a person cannot be present due to any reason, the examination shall be conducted in the presence of a woman, preferably a female staff nurse, nominated by the head of the institution. In all such situations and also when a child survivor is brought with requisition from a competent authority and with the

escort of a person other than the parent or guardian, the dictum of *loco parentis* may be applied and consent may be obtained from the person escorting the child (with the exception of police personnel) or the woman nominated by the head of institution, upon an order from the Child Welfare Committee or competent authority, specifying that nominated person's capacity to give such consent. In all situations where the examining doctor has any reason to believe that the parent or guardian of the child is not consenting for examination since such parent or guardian himself is the perpetrator or is colluding with the perpetrator, the doctor shall inform the matter to the CWC and up on an order from CWC specifying the capacity to give consent, shall obtain consent from the person nominated by CWC. Police personnel should not be allowed in the examination room, during the time of examination. No unauthorized person shall be entertained in the examination room.

(15) When the survivor or parent/guardian refuses consent for examination, the medical officer should understand that there may be several factors undisclosed that may be the reasons for denial, and a reassurance should be given that a complete examination is necessary for evaluating the extent of physical injury in order to deliver proper medical treatment and only after the relief of the most distressing physical and psychological complaints should the medico legal aspect take precedence. Maximum effort to convince the survivor or parent/guardian, of the necessity of such examination should then be taken towards this purpose, nevertheless not resorting to coercive or compelling methods or to the use of force. The Law does not contemplate use of force of any type on the victims of offences. The doctor should try to make the survivor or parent/guardian understand the necessity for conducting the examination, not only in the interest of the survivor and her family but also in the interest of the society, the State and also of justice. In spite of all such efforts by the doctor, if the survivor/parent/guardian refuses consent for examination, informed refusal should be recorded in the same manner as that for consent.

(16) In all situations where the informed refusal to medico-legal examination of the survivor is recorded, the signature of an independent witness should also be obtained and intimation should be given to the police without any delay. The doctor need not obtain or seek the consent of the survivor or her parents/guardian to inform the police since the law has made it mandatory. In situations where the survivor or her parents/guardian objects to such police intimation, the registered medical practitioner should specifically inform them that it is the legal duty of every doctor to intimate such cases to the police and if she fails to fulfill that legal responsibility, the doctor may get penalized as per sections 166B of IPC and section 21 of PoCSO Act. The survivor or her parent or guardian should also be made to understand the

fact that even if the doctor gives intimation, ordinarily the police will require a complaint/statement from the survivor or her parent or guardian to proceed with the case and the further course of the case will generally depend up on such statement.

(17) If a child, after fully understanding the nature and consequences of the procedure with which she has to cooperate, refuses to co-operate with the examination or is resisting it in spite of consent from her parent or guardian and the efforts of the registered medical practitioner, the examination may be deferred or even abandoned as directed in the Model Guidelines under section 39 of the PoCSO Act. In situations where the child, after fully understanding the nature and consequences of the examination desires to get examined in spite of the informed refusal to examination from the parent or guardian, the matter should be reported to the Child Welfare Committee and examination can only be conducted up on an order from the CWC and after obtaining consent from the person nominated by the CWC, specifying the capacity of such person to give consent. It must be ensured that the child survivor is comfortable before commencing the examination. Administration of sedatives to facilitate medico-legal examination shall not be done to children above twelve years of age.

(18) Even if the survivor refuses consent for medico-legal examination, adequate treatment for injuries and all physical and psychological conditions should be given and consultations as specified later shall be provided to the survivor in all instances. At the same time, the examining doctor should be aware that the survivor has the right to refuse any examination or treatment completely or part thereof and can ask the registered medical examiner to stop further examination at any point.

(19) During all stages of history taking and examination, the registered medical practitioner should adopt an empathetic and patient attitude towards the survivor and her interactions with the survivor should be in a compassionate manner without making any judgmental remarks which may hurt the feelings of the survivor. The reassurance of maintaining absolute confidentiality and also of the providing of all possible assistance to overcome the crisis should be given. Creating an environment of trust is essential for the survivor to speak out freely. The doctor should reiterate that whatever has happened is not due to any fault from the survivor and that the sole purpose of the medico-legal examination was to ensure justice to the survivor for which his/her cooperation is essential. Her approach to the survivor should be humane and sympathetic as well as unbiased and impartial at the same time. Professionalism should be exercised by the examining officer by neither adding or omitting any history or finding which may favour in an undue manner or adversely affect the lawful interests of the survivor or that of any other person, avoiding questions of humiliating or

incriminating nature which may cause mental agony, and allowing the survivor to narrate the history herself/himself without any interruption by the examiner, patiently. Care should be taken to avoid asking questions which do not have any relevance to the type of sexual assault or time of occurrence as stated or those to which the answers have already been given by the survivor. Adequate privacy must be ensured during all stages of history taking and examination. Whenever history is taken from a child survivor, directions in clause 3 of chapter 3 of Model Guidelines (2013) under Section 39 of The Protection of Children from Sexual Offences Act, 2012, issued by The Union Ministry of Women and Child Development should be followed. While attending to special groups, directions in Guidelines and Protocols – Medico-legal care for survivors/victims of Sexual Violence, issued by Ministry of Health and Family Welfare, Government of India, should be followed(Relevant portions of both Guidelines are incorporated in Part - II).

(20) A proper history should be obtained in the survivor's own words, in all possible instances and should be recorded as such. Record date, time and place of assault, type/nature of assault, number and name(s) of assailant(s) if known, whether the stated sexual offences were committed repeatedly on the survivor and other relevant details, as far as possible in the survivor's own words. If the history was stated by any person other than the survivor, his/her name, address and relation to the survivor should be recorded. State of consciousness and orientation of time and place at the time of sexual assault, history of any physical and verbal threats/abuses and use of weapons if any should also be asked if relevant. History of drugs or alcohol being given to the survivor before or during the assault should be enquired. Pain on urination or defecation since the assault, vomiting and relevant post-assault activities like bathing, washing the body part involved in assault and defecation etc should also be enquired depending on its relevance with reference to the type of assault, significance in relation to time gap between assault and reporting and also on the possibility for obtaining evidence. Whether the assailant has used condom during the assault should also be asked if the survivor can recollect it and only if it is relevant with regard to the possibility for detection of semen/spermatozoa and the possibility for transmission of sexually transmitted diseases or pregnancy. In case of boy or girl survivors, if there is a history of sexual abuse in the past, by the same assailant or anyone else, that should be recorded. If there are injuries on the body, history as to the cause of such injuries should be obtained. Use additional sheets if necessary and in conformity to the conditions detailed earlier. Whenever necessary, reference may be made to Guidelines and Protocols – Medico-legal care for survivors/victims of Sexual Violence, issued by Ministry of Health and Family Welfare, Government of India, for

detailed description of different types of sexual assaults, post-assault activities and other points related to history taking (Relevant portions of both Guidelines incorporated in Part - II).

(21) Whenever pregnancy is stated or suspected on the basis of history, signs and LMP, pregnancy test with urine sample should be done to confirm pregnancy and Ultrasound Scanning of abdomen should be done to find out the period of gestation. In all such situations where the survivor became pregnant as a result of sexual assault, the examining doctor has a responsibility to provide necessary advice and assistance for abortion as per the provisions of MTP Act, if the survivor or parent wishes for the same. In any such situation where a pregnancy resulted from rape is medically terminated or delivery is conducted, the registered medical practitioner conducting the medical termination of pregnancy or delivery has a responsibility to preserve the embryo/fetal tissue/fetal blood for DNA profiling.

(22) History of any disability should be obtained if present. If any disability is present or suspected, detailed evaluation of the survivor should be done by a Special Medical Board constituted for the purpose, unless the survivor has been already evaluated and a certificate of disability issued. This should be done as early as possible with the assistance of the head of the institution or the nearest medical institution where the required specialists are available.

(23) A complete examination with a view to assess the general physical and mental condition of the survivor should be conducted as per the scheme provided. Evidence or findings suggestive of disability should be looked for. Whenever any such hazards are detected, the examiner has the responsibility to pursue the possibility for detailed evaluation as indicated in the previous clause and to provide adequate treatment whenever it is necessary. If evidence of administration of intoxicants or alcohol or drugs is present or suspected, examination of the survivor should be done for drunkenness or that for administration of intoxicants or drugs, in the prescribed formats.

(24) Examination of all local areas should not be conducted as a general rule except in child survivors from whom it may not always be possible to obtain a complete history due to many reasons. According to the new definition of rape and its counterpart in PoCSO, assaults without direct involvement of any of these areas may also constitute the offence of rape. In a situation where manipulation of a body part in order to facilitate penetration is the stated history, detailed examination of all local areas will only add to the agony of the survivor. In such situations, the survivor not being a child, recording the history and a general examination to look for any health hazards only may be necessary and the examiner can avoid local examination as “not relevant”. Except in case of child survivors, the examiner

should consider the relevance of the examination of each private part with reference to the history as stated and then only proceed to examination of the area. In situations where the survivor is examined many days or weeks or months after the incident, the primary purpose of examination should be to identify any health hazard persisting in the survivor as a late complication or sequel to the assault with a view to provide treatment.

(25) If, at any stage during the examination, the survivor expresses her non-willingness to undergo further examination, the examiner should stop the examination, by giving a short break. In such situations the examiner should explain the need for continuing the examination so as to look for the health hazards that resulted from the assault and the possibility for obtaining evidence if any, to the survivor. In all situations where the further examination is refused by the survivor, informed refusal from that point of examination should be recorded against the column for recording the findings of that part of examination to which the consent is withdrawn. Recording of the informed refusal or withdrawal of consent should be done as described earlier.

(26) Examiner should take care to minimize the discomfort and pain during examination. Short breaks may be given if the survivor desires so. Subject to availability of SAFE kits, stepwise examination as prescribed in SAFE kit should mandatorily be done in all cases where there is possibility of obtaining evidence of sexual violence and the survivor is examined within 24hours of the stated time of assault. SAFE kit should also be used when the examination is conducted within 96hours of the assault and there is even a remote possibility of obtaining evidence. e.g. the survivor has not taken bath or cleaned or washed the area stated to be involved in the assault, survivor unconscious or disoriented due to intoxication or other reasons and the exact time of assault is not known etc.

(27) Examination shall only be done in adequate privacy and the presence of any person other than the survivor, examiner and the person referred to in section 27 of the PoCSO Act or independent witness should be allowed only with the consent of the survivor. Local examination includes examination of vagina and breasts (in females), penis and scrotum (in males), urethra, mouth and oral cavity, anus, buttocks and thighs. Areas involved in the type of sexual assault stated should be examined thoroughly. Discharge of thick viscid fluid, blood etc, smearing of skin and mucus membrane with thick viscid fluid, blood etc and dried stains of mucoid fluid, blood etc on skin should be noted if present and described. Whenever semen or saliva is suspected, swabs should be taken. Foreign body or particles should be noted if present. Unhealthy mucosa, infection, ulcers, evidence of STD etc should be

described, if present. Swelling, congestion/reddening and tenderness should be looked for and described if present.

(28) All injuries and other findings should be recorded in detail. Nail marks, bite marks and contusions should be specifically looked for. Description of injuries should include the type, size, site, direction etc. Bleeding, scab, color changes of wound/scab, stage of healing, infection etc which may indicate the age of injuries should be noted.

(29) Pubic hairs need to be examined in detail only in cases where the examination of pubic hairs is relevant as per history and when the survivor is brought before the pubic region is washed or cleaned after the assault. Findings like matting or smearing with blood or thick viscid fluid should be looked for and recorded if present.

(30) Except in the case of girl survivors, vagina need to be examined in detail only in cases where the examination of vagina is relevant as per history narrated. Detailed region-wise examination is warranted only in cases with stated history of vaginal penetration with a view to look for injuries, smearing with blood or thick viscid fluid, changes of inflammation or healing etc when the survivor is brought within the period of healing of injuries and for late complications of injuries when brought at a later time.

(31) Recent tears in hymen, with age of the tear consistent with the stated time of sexual assault and with associated findings like edges showing bleeding or signs of inflammation should be described, if present and corroborate the stated history of sexual assault. If there are tears of hymen in child survivors, they should be recorded. Healed hymenal tears in adult woman survivors need not be recorded. When a woman survivor is brought after many days so that no findings are detected, write ‘normal’ against the column. Registered medical practitioners shall not consider concepts like virginity or use terms to that effect while dealing with cases of sexual offences since such concepts have become immaterial in view of the changes in Law and also may be violation of the rights of the survivor. When the survivor is an adult, only those findings which are corroborating to the history of sexual assault as stated needs to be written. Except in case of child survivors, findings indicative of past anal penetrations should not be recorded unless they are corroborative to the history of sexual assault stated by the survivor.

(32) Registered medical practitioners shall not perform two finger test or record findings like diameter or circumference of the vaginal canal which may indicate the previous sexual experience of the female survivor. Per-vaginal examination should be limited to looking for tenderness and injuries in those cases where such examination is necessary for assessing and treating the injuries. Doctors are reminded that an intact hymen does not rule out rape as

defined by section 375 of Indian Penal Code or penetrative sexual assault defined by section 3 & 5 of Protection of Children from Sexual Offences Act 2012. Whenever necessary, reference should be made to Model Guidelines (2013) under Section 39 of The Protection of Children from Sexual Offences Act, 2012, issued by The Ministry of Women and Child Development and Guidelines and Protocols for medico-legal Care of Survivors/victims of Sexual Violence, issued by Ministry of Health and Family Welfare Government of India (Relevant portions incorporated in Part – II).

(33) All columns should be carefully filled in. Care should be taken to strike off whichever is not applicable in the history, examination and opinion parts. Strike off the portions which are not relevant with regard to the survivor, e.g. description of male genitalia when the survivor is a female and description of female genitalia and breasts when the survivor is a male. Strike off portions which are not relevant with regard to the type of sexual assault stated. If any particular column is not applicable to the examination of the survivor, write "Not Applicable" towards the column. When there are injuries to the genitalia and/or on the body, they should be described in detail and the age of the injuries (whether fresh or of age assessed by appearance) should be noted.

(34) For vaginal examination and specimen collection, the following sequence may be followed. Vaginal swab to be taken first and Toludine blue test should be done next. per-speculum examination should follow this, as the speculum may cause superficial injuries on the mucosa. Toluidine blue test should not be done before collection of vaginal samples, as spraying of the dye and washing away the excess can cause loss of evidence. UV light examination shall only be used to identify seminal/salivary stains on skin and for collection of swab from that area.

(35) Registered medical practitioners should bear in mind the fact that the absence of injuries on the body of the survivor does not imply consent of the survivor and also does not rule out resistance. In all such cases where injuries are present, the medical professional has a responsibility to provide appropriate treatment for such injuries and consultations with appropriate specialists should be made for the medical or surgical management of injuries and follow up treatment. A complete examination of all systems (CNS, CVS, RS and GIS) should be done to look for any ailments. Whenever any such ailments are detected, the doctor has a responsibility to ensure appropriate treatment and consultation with the concerned specialists, even if such ailments are not directly related to the stated sexual assault.

(36) The registered medical practitioner is also bound to preserve all the available material objects which may provide evidence and which may be of help in the further investigation of the

case (e.g. Clothes, Vaginal swab, anal swab etc), with a view to avoid loss of findings due to delay in collection and preservation. Whenever the survivor comes or is brought to the institution/hospital without changing the clothes worn at the time of assault, they will have to be preserved. In all such situations where the clothes worn by the survivor are preserved for further examination, the institution/hospital has the responsibility to provide clothes to the survivor from the stock maintained as per sub-clause viii of clause (1) above or by making local purchase using funds at the disposal of the head of institution.

(37) Relevant material objects should be preserved according to the nature of sexual assault. Strike off whichever is not preserved. Preservation of all the material objects relevant as per the stated history is mandatory in all cases when the survivor is brought for examination within 96 hours of the incident. When the survivor is brought after a period of 96 hours of the incident, all the material objects need not be preserved. However, the registered medical practitioner may preserve relevant material objects from a survivor brought after 96 hours but within one week of the sexual assault, depending up on the possibility for evidence to be retained on the body of the survivor as revealed by relevant points from the history (e.g. survivor unconscious for more than four days and till the time of examination, not taking bath or cleaning the genitalia due to mental illness etc.) When the survivor is brought after a period of seven days of the incident as per history, the doctor need not preserve all the material objects. In any case, it is better to preserve vaginal swabs in all cases where its preservation is relevant and the survivor is brought within one week of the sexual assault since this period will cover almost all the theoretical possibilities for detection of DNA evidence from it and will prevent any possible allegations against the doctor with reference to non-preservation. However, she should preserve material objects like blood for DNA profiling, hairs etc, if the same is requested by the investigating officer.

(38) While examining a survivor reporting within 24hours of the stated sexual assault and also if she haven't changed clothes or taken bath or washed the area since the assault, it is ideal that the survivor stands on a large, clean paper spread on the floor and undress herself as detailed in the SOP with the SAFE kit. This is for collecting and preserving possible material evidence of the perpetrated crime. Such exhaustive examination and sample collection is not recommended in other situations and the examination can be conducted in positions which are comfortable to the survivor. Collection of material objects must be done without causing any further physical or mental agony to the survivor. Whenever swabs and smears are preserved, they should be taken in sufficient numbers to look for spermatozoa, for analysis for semen and for DNA profiling if spermatozoa are detected. Whenever hairs are preserved

from a living person, cut samples should be taken ensuring the entire length of hairs by cutting them close to root and from different regions without causing pain or any detrimental effect on appearance. Hairs should not be plucked from the body of a living person. Vaginal, penile, anal, buccal and other swabs should be dried completely and packed in clean paper or paper envelope. Swabs should not be packed in plastic paper or bottles. Blood for DNA profiling should be collected in glass bottles or containers with EDTA as the preservative. Alternatively, blood can be preserved by soaking in sterile or autoclaved cotton gauze and dried well in air and packed in clean/sterile paper packet or envelope. When stains are to be collected, cotton gauze wetted with pure distilled water should be used to mop out the stain completely, air dry and pack in clean/sterile paper or paper envelope. Registered medical practitioners should always remember that moisture in the swabs may facilitate fungal growth and cause destruction of the biological evidence. Never use formaldehyde for preserving tissues for DNA profiling. Strike off whichever is not preserved.

(39) Any of the following material objects may be preserved for examination from a survivor of sexual assault –

- Vaginal swabs to look for semen and spermatozoa.
- Vaginal smear to look for spermatozoa.
- Nail clippings to look for foreign fibers, particles, hairs, epithelial cells etc.
- Loose hair from combing of pubic region to look for foreign hairs.
- Pubic hair (cut) samples for comparison.
- Scalp hair (cut) samples for comparison.
- Buccal swabs to look for semen or spermatozoa.
- Anal swabs to look for semen and spermatozoa.
- Swab from skin of thighs, with cotton soaked in normal saline.
- Loose hairs from anal region and buttocks to look for foreign hairs.
- Penile swabs to look for saliva.
- Clothes to look for seminal, blood and other stains and foreign particles or hairs.
- Urine for pregnancy test.
- Blood for chemical analysis.
- Urine for chemical analysis.
- Blood for screening for HbsAg, VDRL, HIV etc
- Fetal blood or products of conception preserved in saline for DNA profiling
- Any other, as the nature of the case demands.

(40) All material objects should be immediately sealed and labeled in the manner prescribed in the Kerala Medico-legal Code. Whenever the examination is conducted on a written requisition from a Judicial or Police Officer, the material objects in which DNA evidence is anticipated and those which require forensic examination should be immediately handed over to the Investigating Officer in a labeled and sealed envelope or container, for taking the same on a seizure mahassar and forwarding to the Forensic Science Laboratory, through the concerned Court of Law. Whenever such a material object is taken over by the Investigating Officer on a seizure mahassar, one Nursing Assistant/Attender, preferably male, on duty in the institution at the material time should be made a witness to the seizure.

(41) In all situations where the survivor directly comes or is brought to the institution/hospital and material objects are preserved from the survivor, it should be recorded in the police intimation that the material objects are preserved which will have to be taken on a seizure mahassar for immediate forwarding to the Forensic Science Laboratory. Only those material objects like blood, urine, stomach aspirate etc which require chemical analysis should be forwarded to the Chemical Examiner's Laboratory. In such cases, the Medical Officer should issue the forwarding note for chemical analysis and send the material objects through a Civil Police Officer, deputed by the Investigating Officer. Material objects like vaginal or other smears, swabs, nail clippings etc in which DNA profiling is anticipated should not be forwarded to Chemical Examiner's laboratory for examination since the first examination to identify semen or such biological fluids is likely to reduce the possibility for getting the spermatozoa or cells for DNA profiling. The preservation, packing, labeling and forwarding of the material objects, without compromising on the chain of custody should be done as per the provisions of the Kerala Medico-legal Code.

(42) In all cases where there is history or findings of penetrative assault, survivor should be screened for HbsAg, VDRL and HIV in compliance to the rules in this regard and with a view to provide prophylactic and therapeutic measures and also for the purpose of further investigation.

(43) Marking the injuries in diagrams is not recommended in every examination of survivor of sexual offence. It may be done to specify some special attributes of the wound indicating pattern or nature of the wound. E.g. bite marks, scratch abrasions, nail marks, pattern of an object etc. Each such diagram should bear the signature, name and designation of the registered medical practitioner and office seal of the institution. Reference may be made to Guidelines and Protocols – Medico-legal care for survivors/victims of Sexual Violence, issued by Ministry of Health and Family Welfare, Government of India, for detailed

description of different types of injuries and estimation of age of injuries (Relevant portions of both Guidelines incorporated in Part - II).

(44) In all situations where the age of the survivor stated in history is below eighteen years and if any of the valid proof of age [(1) Date of birth certificate from the school, or the matriculation or equivalent certificate from the concerned examination Board (2) Birth certificate given by a corporation or municipal authority or panchayat] is not available with the survivor or parent or guardian at the time of examination or at her home or at any place from where it can be obtained, the determination of age may be done by the concerned specialist(s) in the format prescribed in the Kerala Medico-legal Code, up on a requisition from the investigating officer or other competent authority. The head of the institution shall constitute a Medical Board of which he should be the Chairperson and any two specialists from among Orthopedic Surgeon, Radiologist, Dental Surgeon and Physician as members. When the survivor is a female, a lady medical officer, preferably the doctor who has examined the survivor should be made a member of the Board, substituting one specialist. In Government Medical Colleges, when the survivor is brought during the working hours of the Department of Forensic Medicine, determination of age may be done by the doctors in that department.

(45) If evidence of administration of intoxicants or alcohol or drugs is present or suspected, examination of the survivor should be done for drunkenness or that of a victim alleged to have been drugged, in the formats prescribed in Kerala Medico-legal Code. Whenever pregnancy is stated or suspected, pregnancy test with urine sample should be done to confirm pregnancy and Ultrasound Scanning of abdomen should be done to find out the period of gestation. As stated earlier, in all such situations where the survivor became pregnant as a result of sexual assault, the examining doctor has a responsibility to provide necessary advice and assistance for abortion as per the provisions of MTP Act, if the survivor or parent wishes for the same. In any such situation where a pregnancy resulted from rape is medically terminated or while conducting delivery in such a case, the registered medical practitioner conducting the medical termination of pregnancy or delivery has a responsibility to preserve the embryo/fetal tissue for DNA profiling. Tissues for DNA profiling shall not be preserved in formalin.

(46) Further examinations and consultations should be conducted without any delay, by concerned specialists and their reports should be forwarded to the Investigating Officer, as addendums to the original report. As per Section 357C of Code of Criminal Procedure, whoever being in charge of a hospital, public or private, whether run by the Central Government, the State

Government, local bodies or any other person, has a responsibility to provide first aid or medical treatment immediately to a female survivor of sexual offence, free of cost. At the upper end of the treatment record, it should be written in bold capital letters that "TREATMENT AND INVESTIGATIONS FREE OF COST". The survivor shall not be made to pay for anything including consultations, medicines and clinical investigations. If the survivor requires in-patient treatment, as far as possible admission should be made to a separate room where continuous monitoring is possible and the possibility for any threat or inducement from the side of accused can be prevented.

(47) In situations where any of the consultations or further examinations could not be done due to non-availability of concerned specialists a referral to the nearest higher centre can be made after the examination. Referral to a higher centre can also be made in situations where a life threatening condition existing in the survivor warrants the management of the same by concerned specialist(s) and under adequate facilities and when such specialist(s) or facilities are not available in the institution. Whenever such a referral is made, the doctor on duty in the institution has a responsibility to do everything possible within his limits and with the objective of stabilizing the condition of the survivor so that the survivor reaches the higher centre safely.

(48) Consultations with appropriate specialists should be made whenever necessary. The objectives of the treatment should be with a view to the following

- Treatment for cuts, bruises, and other injuries including genital injuries, if any.
- Treatment for exposure to sexually transmitted diseases (STDs) including prophylaxis for identified STDs.
- Treatment for exposure to Human Immunodeficiency Virus (HIV), including prophylaxis for HIV after necessary consultation with infectious disease control program experts.
- Emergency contraceptive measures if there is possibility of pregnancy from the sexual assault.
- Advice and assistance for abortion as per the provisions of MTP Act, in cases where the survivor who became pregnant as a result of sexual assault wishes for the same.
- Consultation for mental or psychological health or other counseling.
- Appropriate treatment for any other condition which require such treatment.
- Appointment for follow-up evaluation and treatment.

(49) Date of appointment for follow-up evaluation and treatment should be decided on completion of examination. As far possible and subject to availability of concerned specialists,

consultations should be arranged in the same room where medico-legal examination is conducted so as to ensure adequate privacy. The survivor should not be made to go to the busy out-patient department of the concerned specialist and to wait along with other patients. Reference may be made to Guidelines and Protocols – Medico-legal care for survivors/victims of Sexual Violence, issued by Ministry of Health and Family Welfare, Government of India, for detailed description regarding treatment, post-exposure prophylaxis, psychological care and further evaluation. (Relevant portions of both Guidelines incorporated in Part - II).

(50) The registered medical practitioner shall not, under any circumstances, disclose the identity of the survivor or the findings of her examination, to anyone other than the Investigating Officer or the Hon'ble Court. Adequate precautions should be taken to prevent others from getting the details regarding the identity of the survivor from the place of examination or the record keeping section of the institution. All records related to examination, treatment, consultation and police intimation should be kept under safe custody, maintaining absolute confidentiality. The report of examination of the survivor of sexual offences is exempted from the purview of Right to Information Act.

(51) As per section 357C of the Code of Criminal Procedure 1973 and section 19 of the Protection of Children from Sexual Offences Act 2012, the medical institutions and registered medical practitioners are duty bound to give immediate intimation of cases of sexual offences to police. In all cases of sexual assault brought with a requisition from a police officer, further intimation need not be given. In case of children, if there is anything in history, findings of examination or results of laboratory examinations which arouses a reasonable apprehension that there is possibility for sexual offence to have been committed on the child, the doctor should immediately intimate the police of the same.

(52) Transmission of intimation is the duty of the doctor and in all situations where the immediate transmission of written intimation is not possible, over phone intimation should be made. In all possible instances, an email may be sent to the nearest police station so as to fulfill the legal requirement of immediate intimation and as a proof of fulfillment of that legal responsibility. All such intimations should be confirmed by a written intimation. Separate intimation book with the intimation slip in triplicate and a separate register of intimations should be used to maintain confidentiality and as a record to safeguard the registered medical practitioner from adverse legal actions as per section 166B of the Indian Penal Code and section 21 of the Protection of Children from Sexual Offences Act. The original of the intimation should be issued to the nearest police station or outpost and signature of the

officer receiving it should be obtained on the backside of the triplicate copy and also in the register of intimation of sexual offences. The duplicate copy should be issued to the survivor or parent or guardian and her/his signature should be obtained as in the case of original of intimation. These records should also be kept under safe custody, maintaining absolute confidentiality.

(53) Opinion should be furnished by taking the history and findings of examination together in to consideration. In all situations where positive findings like injuries, corroborating the history of stated sexual assault are present, opinion that the findings are consistent with the history of stated sexual assault should be furnished. In situations where there are no positive findings due to any reason like stated sexual assault is of a type where no findings can be expected, delayed examination etc, opinion that the findings are not inconsistent with the history of stated sexual assault should be given. Only in situations where the findings of examination reasonably rules out the possibilities for the sexual assault stated in the history, the opinion that the findings of examination are seemingly inconsistent with the history of stated sexual assault can be furnished. Whenever there are findings or injuries corroborating the stated history of recent vaginal or anal or oral penetration or penetration of any part of the body, opinion that there is evidence of recent penetration of that body part should be furnished. Whenever there are injuries on the body which could be caused as stated in the history, opinion that the injuries could have been caused as stated should be furnished. In such situation opinion regarding the age of injuries and whether the age of injuries is consistent with the stated time of occurrence should also be added. It is ideal that the opinion as to whether the injuries are grievous or not is also added in such situations. Opinions reserved pending reports of chemical or forensic examination should be noted in the column provided. Words or sentences in the opinion part which are not applicable should be struck off. Any other opinion regarding any relevant history or findings should also be furnished if present. Opinion regarding recent vaginal or anal intercourse should be based on the detection of semen or spermatozoa in the vagina or anus respectively. This and any other opinion which was reserved pending results of analysis of material objects should be furnished as the final opinion in the prescribed format. Reasons for each conclusion arrived should be recorded in the column provided on the basis of points from history and findings of examination. Reasons for absence of injuries or findings like delay of weeks or months in reporting for examination etc should be recorded.

(54) The original of the report of examination should be issued to the investigating officer. The signature, name, number if any and designation of the issuing as well as the receiving

officers should be recorded in the column provided at the bottom end of the original of the report in such a way that legible carbon copies are recorded in the duplicate and triplicate of the report. Whenever the examination is conducted on the written requisition from a judicial or police officer, the report should be issued immediately to the investigating officer. In any case the report of examination shall be issued within a maximum time limit of 48 hours. When the examination is conducted on the written request from anybody other than a judicial officer or investigating police officer, the original of the report shall not be issued to the person who has requested the examination. In such situations the original of the report shall only be issued to the investigating police officer on a written requisition for the same. The duplicate copy should be issued to the survivor or a person nominated by the survivor free of cost, on a written request for the same. The signature, name and designation/address of the issuing officer as well as the recipient should be recorded in the column provided at the bottom end of the duplicate copy of the report in such a way that legible carbon copy of issue and receipt are recorded in the triplicate of the report. The triplicate should be retained as the office copy.

Part – II.

Relevant parts of the Model Guidelines (September, 2013) under Section 39 of The Protection of Children from Sexual Offences Act, 2012, issued by Ministry of Women and Child Development (Guidelines for the Use of Professionals

And

Relevant parts of "GUIDELINES AND PROTOCOLS FOR MEDICO-LEGAL CARE FOR SURVIVORS/VICTIMS OF SEXUAL VIOLENCE (2014)" issued by Government of India Ministry of Health & Family Welfare.

MINISTRY OF WOMEN AND CHILD DEVELOPMENT – Model Guidelines under Section 39 of The Protection of Children from Sexual Offences Act, 2012

Relevant parts of the September, 2013 Guidelines for the Use of Professionals and Experts under the POCSO Act, 2012

Chapter 4

Medical and Health Professionals (Doctors and supporting medical staff)

3. Modalities of Medical Examination of Children

3.1 Role of Medical Professionals in the context of the POCSO Act, 2012

Doctors have a dual role to play in terms of the POCSO Act 2012. They are in a position to detect that a child has been or is being abused (for example, if they come across a child with an STD); they are also often the first point of reference in confirming that a child has indeed been the victim of sexual abuse. The role of the doctor may include:

i) Having an in-depth understanding of sexual victimization

ii) Obtaining a medical history of the child‟s experience in a facilitating, non-judgmental and empathetic manner

iii) Meticulously documenting historical details

iv) Conducting a detailed examination to diagnose acute and chronic residual trauma and STDs, and to collect forensic evidence

v) Considering a differential diagnosis of behavioural complaints and physical signs that may mimic sexual abuse

vi) Obtaining photographic/video documentation of all diagnostic findings that appear to be residual to abuse

vii) Formulating a complete and thorough medical report with diagnosis and recommendations for treatment

viii) Testifying in court when required. There are at least three different circumstances when there is no direct allegation but when the doctor may consider the diagnosis of sexual abuse and have to ask questions of the parent and child. These include but are not limited to:

(i) when a child has a complaint that might be directly related to the possibility of sexual abuse, such as a girl with a vaginal discharge;

(ii) when a child has a complaint that is not directly related to the possibility of sexual abuse, such as abdominal pain or encopresis (soiling);

(iii) when a child has no complaint but an incidental finding, such as an enlarged hymenal ring, makes the doctor suspicious.

3.2 Mandatory Reporting: When a doctor has reason to suspect that a child has been or is being sexually abused, he/she is required to report this to the appropriate authorities (i.e. the police or the relevant person within his/her organization who will then have to report it to the police). Failure to do this would result in imprisonment of up to six months, with or without fine.3

3.3 Medical or health history: The purpose of this is to find out why the child is being brought for health care at the present time and to obtain information about the child‟s physical or emotional symptoms. It also provides the basis for developing a medical diagnostic impression before a physical examination is conducted. The medical history may involve information about the alleged abuse, but only in so far as it relates to health problems or symptoms that have resulted there from, such as bleeding at the time of the assault, or constipation or insomnia since that time. Where a child is brought to a doctor for a medical examination to confirm sexual abuse, the doctor must:

i) Take the written consent. The three main elements of consent are information, comprehension and voluntariness. The child and his/her family should be given information about the medical examination process and what is involved therein, so that they can choose whether or not to participate. Secondly, they should be allowed enough time to understand the information and to ask questions so that they can clarify their doubts. Lastly, the child and/or his or her parent/guardian should agree to the examination voluntarily, without feeling pressurized to do so. In some situations it may be appropriate to spend time with the child/adolescent alone, without the parent/guardian present. This may make it easier for the child to ask questions and not feel coerced by a parent/guardian.

ii) Where the child is too young or otherwise incapable of giving consent, consent should be obtained from the child's parent, guardian or other person in whom the child has trust and confidence.

iii) The right to informed consent implies the right to informed refusal.

iv) To be able to give informed consent, the child and his/ her parents/guardian need to understand that health care professionals may have a legal obligation to report the case and to disclose information received during the course of the consultation to the authorities even in the absence of consent.

v) Document who was present during the conversation with the child.

vi) Document questions asked and child's answers in the child's own words.

vii) Conduct the examination in a sensitive manner. It is important that the exam is never painful. The exam should be done in a manner that is least disturbing to the child.

viii) Focus on asking simply worded, open-ended, non-leading questions, such as the "what, when, where, and how" questions, which are important to the medical evaluation of suspected child sexual abuse.

ix) Reliance should be placed as far as possible on such questioning as "tell me more" followed by "and then what happened?"

x) Do not ask uncomfortable questions related to details of the abuse, but try to find out more about the medical and family history of the child

xi) Using the child's words for body parts may make the child more comfortable with difficult conversations about sexual activities.

xii) Using drawings may also help children describe where they may have been touched and with what they were touched.

xiii) Ensure that the child has adequate privacy while the examination is being conducted

xiv) Do not conduct the examination in a labour room or other place that may cause additional trauma to the child

xv) Always ensure patient privacy. Be sensitive to the child's feelings of vulnerability and embarrassment and stop the examination if the child indicates discomfort or withdraws permission to continue.

xvi) Always prepare the child by explaining the examination and showing equipment; this has been shown to diminish fears and anxiety. Encourage the child to ask questions about the examination.

xvii) If the child is old enough, and it is deemed appropriate, ask whom they would like in the room for support during the examination. Some older children may choose a trusted adult to be present. *Sexual abuse of children is usually not physically violent. In the* large majority of children the physical exam is normal. A normal or non-specific exam does not rule out sexual abuse.

xviii) As a minimum, the medical history should cover any known health problems (including allergies), immunization status and medications. In terms of obtaining information about the child's general health status, useful questions to ask would be:

a) Tell me about your general health.

b) Have you seen a nurse or doctor lately?

c) Have you been diagnosed with any illnesses?

d) Have you had any operations?

e) Do you suffer from any infectious diseases?

xix) Carefully collect and preserve forensic evidence

xx) Clothing collection is critical when evidence is collected. Clothing, especially underwear, is the most likely positive site for evidentiary DNA.

xxi) Scene investigation, including collection of linens and clothing should be done early. Evidence from clothing and other objects is more likely to be positive than evidence from the patient's body.

xxii) Children often report weeks or months after the abuse event, and physical injuries to the genital or anal regions usually heal within a few days. This is why the medical provider should always consider differential diagnosis and alternative explanations for physical signs and symptoms.

xxiii) In the case of a child with special needs, ensure that the procedures are explained to the child in a manner which he/she understands and that he/she is asked what help he/she requires, if any (e.g., a child with physical disabilities may need help to get on and off the medical examination table or to assume positions necessary for the examination). However, do not assume that the child will need special aid. Also, ask for permission before proceeding to help the child.

xxiv) Recognize that it may be the first time the child is having an internal examination. The child may have very limited knowledge of reproductive health issues and not be able to describe what happened to them. He/she may not know how he/she feels about the incident or even identify that a crime was committed against him/her.

xxv) Wherever necessary, refer the child for counseling

xxvi) Wherever applicable, refer the child for testing for HIV and other Sexually Transmitted Diseases

3.4 If the child resists the examination

i) If a child of any age refuses the genital-anal examination, it is a clinical judgment of how to proceed. A rule of thumb is that the physical exam should not cause any trauma to the child. It may be wise to defer the examination under these circumstances.

ii) It may be possible to address some of the child‟s fears and anxieties (e.g. a fear of needles) or potential sources of unease (e.g. the sex of the examining health worker). Further, utmost comfort and care for the child should be provided e.g., examining very small children while on their mothers (or caregiver's) lap or lying with her on a couch.

iii) If the child still refuses, the examination may need to be deferred or even abandoned. Never force the examination, especially if there are no reported symptoms or injuries, because findings will be minimal and this coercion may represent yet another assault to the child.

iv) The child should not be held down or restrained for the examination (exception for infants or very young toddlers).

3.4.1 Techniques to help the child relax

i) Offer clear age-appropriate explanations for the reasons for each procedure, and offer the child some control over the exam process.

ii) Proceed slowly, explain each step in advance.

iii) Use curtains to protect privacy, if the child wishes.

iv) Explain to parent or support person that their job is to talk to and distract the child, and the findings of the exam will be discussed with them after the exam is completed.

v) Position the parent near the child's head.

vi) Use distracters. For example, ask the parent to sing a song, or tell a familiar story, or read a book to the child. A nurse or other helper can do this if the parent is unable.

vii) Use TV, cell phone game, or other visual distraction.

viii) Do not forcibly restrain the child for the examination

3.5 Sedation for Medical Treatment

i) Sedation is rarely needed if the child is informed about what will happen and there is adequate parental support for the child.

ii) Consider sedation or a general anesthetic only if the child refuses the examination and conditions requiring medical attention, such as bleeding or a foreign body, are suspected.

iii) If it is known that the abuse was drug-assisted, the child needs to be told that he/she will be given a sedative or be put to sleep, that this may feel similar to what he/she has experienced in the past.

iv) Reassure the child about what will take place during the time under sedation and that he/she will be informed of the finding.

v) However, conscious sedation is an option if examination and evidence collection is required, and the child is not able to cooperate.

vi) Speculum exam on a pre-pubertal girl should be done under anaesthesia, not conscious sedation.

3.6 The following pieces of information are essential to the medical history:

i) Last occurrence of alleged abuse (younger children may be unable to answer this precisely). *When do you say this happened?*

ii) First time the alleged abuse occurred. *When is the first time you remember this happening?*

iii) Threats that were made.

iv) Nature of the assault, e.g. anal, vaginal and/or oral penetration. *What area of your body did you say was touched or hurt?* (The child may not know the site of penetration but may be able to indicate by pointing. This is an indication to examine both genital and anal regions in all cases.)

v) Whether or not the child noticed any injuries or complained of pain.

vi) Vaginal or anal pain, bleeding and/or discharge following the event. *Do you have any pain in your bottom or genital area? Is there any blood in your panties or in the toilet?* (Use whatever term is culturally acceptable or commonly used for these parts of the anatomy.)

vii) Any difficulty or pain with voiding or defecating. *Does it hurt when you go to the bathroom? (*indication to examine both genital and anal regions in all cases.)

viii) Any urinary or fecal incontinence.

ix) Whether or not the child noticed any injuries or complained of pain.

x) In case of children, illustrative books, body charts or a doll can be used if available, to elicit the history of the assault. When it is difficult to elicit history from a child, please call an expert.

3.7 When performing the head-to-toe examination of children, the following points are particularly noteworthy:

i) Record the height and weight of the child (neglect may co-exist with sexual abuse). Note any bruises, burns, scars or rashes on the skin. Carefully describe the size, location, pattern and colour of any such injuries.

ii) Check for any signs that force and/or restraints were used, particularly around the neck and in the extremities.

iii) Record the child's sexual development stage and check the breasts for signs of injury.

iv) If the survivor is menstruating at the time of examination then a second examination is required on a later date in order to record the injuries clearly.

v) Some amount of evidence is lost because of menstruation. Hence it is important to record whether the survivor was menstruating at the time of assault/examination.

vi) The same applies to bathing, douching, defecating, urinating and use of spermicide after the assault.

3.8 Role of Medical Professionals as Expert Witnesses

Deciding cases of child sexual abuse would be much easier if it left clear-cut physical evidence. Unfortunately, child sexual abuse often leaves no such evidence. Child sexual abuse is often exceedingly difficult to prove. It usually occurs in secret, often over a prolonged period of time, and does not always leave physical marks; in addition to this, the child is usually the only eyewitness. While many children are capable witnesses, some cannot give conclusive testimony, and consequently, children's testimony is sometimes ineffective. In such cases, the testimony of an expert medical witness can be useful. Physicians can provide opinion testimony that is based upon the child's history, statements, and medical examination, even if the physician's examination of the child reveals no concrete physical evidence supportive of the child's allegations.

i) Courts in India in their judgments described an expert as a person who has acquired special knowledge, skill or experience in any art, trade or profession. Experts have knowledge, skill, experience, or training concerning a particular subject matter that is generally beyond the knowledge of the average person. Such knowledge may have been obtained by practice, observation or careful study. The expert thus operates in a field beyond the range of common knowledge.

ii) Expert evidence is covered under Ss.45-51 of Indian Evidence Act. The subjects of expert testimony mentioned by the section are foreign law, science, art and the identity of handwriting or finger impressions.

iii) In general, whether or not the testimony of an expert will be useful in any given case is almost always left to the discretion of the trial judge before whom the testimony is proffered. However, even where the Court has some degree of knowledge or familiarity with the subject, an expert's testimony may be valuable to add insight and depth its understanding of the matter, or to educate them as to commonly held prejudices and misconceptions which might negatively impact upon an impartial and just decision.

iv) In general, the opinions of medical professionals are admissible upon questions such as insanity, the causes of diseases, the nature of the injuries, the weapons which might have been used to cause injuries or death, medicines, poisons, the conditions of gestation, etc. In the case of questions pertaining to age determination, positive evidence furnished by birth register, by members of the family, with regard to the age, will have preference over the opinion of the doctor: but, if the evidence is wholly unsatisfactory, and if the ossification test in the case is complete, such a test can be accepted as a surer ground for determination of age.

v) In their testimony regarding a forensic examination, medical professionals typically describe the process of examining the victim, the physical findings that were observed, and their interpretation. It is important to remember that the medical professional cannot be asked to testify to “diagnose” sexual abuse. The doctor cannot make any definitive conclusions regarding the degree of force used by the abuser or whether the victim consented to any sexual activity. What he/she can appropriately conclude is whether there is evidence of sexual contact and/or recent trauma. He/she can state whether the medical history and examination are consistent with sexual abuse.

vi) In many child abuse cases, experts have firsthand knowledge of the child because the expert treated or examined the child. However, an expert may be called upon to render an opinion concerning a child without personally examining the child.

vii) However, it is important to remember that doctors are rarely expert in interviewing, and often assume the truth of what the patient tells them. The testimony is presented as if the doctor's

opinion is based on physical findings when it is not. It is often largely or wholly based on statements made, a far different and less scientific basis than objective findings upon examination.

viii) In addition to this, opinions may be sought from mental health experts as to the psychological effects of child sexual abuse, such as PTSD and Child Sexual Abuse Accommodation Syndrome.

ix) It is for the legal representative who proposes the use of expert testimony to establish his/her credentials, preferably listing his/her formal qualifications. The adequacy of the qualification of the expert and the admissibility of his/her testimony are within the discretion of the Special Court.

x) Before giving evidence the expert will usually have prepared a report, either assessing one or more parties to the case or assessing other experts' reports. His/her report should be reliable on the basis of the following criteria:

a) It should provide a context in layman's terms from which to understand the basis of his/her opinion

b) It should be clear when the expert is stating corroborated fact and when he/she is merely repeating what he/she has been told by the alleged offender. Assertions which are based entirely on the alleged offender's perception are likely to be misleading.

c) The expert must review the information impartially rather than ignore matters which are inconvenient to his/her conclusions.

d) The report should avoid restating incidental trivia and give preference to examining and analysing the crucial issues of the case.

e) The expert should demonstrate knowledge of the process and dynamics of child sexual abuse and help to make sense of the child's and non-abusing parent's experiences and perceptions. Victims and non-abusing partners of offenders often do not act rationally and can appear collusive with the offender, whereas their behavior results from the control the offender exercises over them. It is useful to have this explained in the expert report.

f) All professions have their exclusive language, but it is best that the expert present the issues in language that the court, advocate and parties can understand.

g) The expert must not rely solely on quoted research to support his/her arguments, and should refer to clinical experience as well. An expert opinion must be premised on a reasonable degree of certainty. The expert cannot speculate or guess. It is clear, however, that an expert need not be absolutely certain about a subject before offering an opinion. All that is required is reasonable clinical certainty It is important to remember that while an expert's testimony may be deemed relevant, necessary, reliable, and therefore admissible under the aforementioned guidelines, it is ultimately the prerogative of the judge to determine what weight should be afforded the testimony.

No matter how qualified the expert, the court is not bound by an expert's conclusions and can exercise its discretion in this regard, keeping in mind all the other evidence presented to it.

4. FAQs on Medical Examination

Doctors may be faced with some of these questions from children as well as parents and caregivers:

i) Why is the medical examination necessary? The medical exam is a very important tool in evaluating sexual abuse. The physical examination can identify both new and old injuries, detect sexually transmitted diseases and provide evidence of sexual contact. If done in a sensitive manner, the examination can answer any questions or concerns the child may have and reassure the child about their well-being and that their body is private. The exam also has evidentiary value in a court of law.

ii) The last time my child was touched in a sexually inappropriate manner was over a year ago. Is the medical exam still necessary?

Yes. Most children reveal their experience of abuse after a long time has passed, for example, when they are older or feel that they are no longer in danger of being abused again. Some even reveal it accidentally. In such cases, the medical examination can reassure the child about their well-being and address any worried the child may have about the injuries they suffered due to the abuse. Some children may have injuries that healed a long time ago but can be seen with the help of special equipment.

iii) Is the examination uncomfortable for the child?

No. the examination itself is rarely physically uncomfortable for the child; however, what may cause discomfort is the attitude of the person conducting the examination. For this reason, it is important that all medical health care professionals be trained in conducting medical examinations of children in a sensitive manner. The doctor is expected to explain the procedure to the child and his/ her parents and obtain their consent prior to conducting the examination, as well as answer any questions they may have.

iv) Can the parent(s) be present while the examination is being conducted?

Yes. Section 27 of the new POCSO Act, 2012 specifically requires that the examination be conducted in the presence of the child’s parents/ guardian or other person in whom the child has trust and confidence.

RELEVANT PARTS OF "GUIDELINES AND PROTOCOLS FOR MEDICO-LEGAL CARE FOR SURVIVORS/VICTIMS OF SEXUAL VIOLENCE"

(Issued by Government of India Ministry of Health & Family Welfare)

Health consequences and role of health professionals

Sexual violence, in addition to being a violation of human rights, is an important public health issue as it has several direct and indirect health consequences. Survivors of sexual violence may present to health care services with varying signs and symptoms. For those survivors who do not reveal a history of sexual violence, the following signs and symptoms should prompt one to suspect the possibility of sexual abuse/assault:

Physical health consequences:

- Severe abdominal pain.
- Burning micturition.
- Sexual dysfunction.
- Dyspareunia.
- Menstrual disorders.
- Urinary tract infections.
- Unwanted pregnancy.
- Miscarriage of an existing fetus.
- Exposure to sexually transmitted infections (including HIV/AIDS).
- Pelvic inflammatory disease.
- Infertility.
- Unsafe abortion.
- Mutilated genitalia.
- Self-mutilation as a result of psychological trauma.

Psychological health consequences:

Short term psychological effects:

- Fear and shock.
- Physical and emotional pain.
- Intense self-disgust, powerlessness.
- Worthlessness.
- Apathy.
- Denial.
- Numbing.

- Withdrawal.
- An inability to function normally in their daily lives.
- Long term psychological effects:
- Depression and chronic anxiety.
- Feelings of vulnerability.
- Loss of control/loss of self-esteem.
- Emotional distress.
- Impaired sense of self.
- Nightmares.
- Self-blame.
- Mistrust.
- Avoidance and post-traumatic stress disorder.
- Chronic mental disorders.
- Committing suicide or endangering their lives.

Role of the health facility and components of comprehensive health care response

Health professionals play a dual role in responding to the survivors of sexual assault. The first is to provide the required medical treatment and psychological support. The second is to assist survivors in their medico-legal proceedings by collecting evidence and ensuring good quality documentation. After making an assessment regarding the severity of sexual violence, the first responsibility of the doctor is to provide medical treatment and attend to the survivor's needs. While doing so it is pertinent to remember that the sites of treatment would also be examined for evidence collection later.

Health professionals need to respond comprehensively to the needs of survivors. The components of a comprehensive response include:

- Providing necessary medical support to the survivor of sexual violence.
- Establishing a uniform method of examination and evidence collection by following the protocols. [in the Sexual Assault Forensic Evidence (SAFE) kit] [The contents of the kit are listed under Operational Issues (Page No.20)]
- Informed consent for examination, evidence collection and informing the police.
- First contact psychological support and validation.
- Maintaining a clear and fool-proof chain of custody of medical evidence collected.

- Referring to appropriate agencies for further assistance (eg. Legal support services, shelter services, etc). It is important to establish a rapport with the survivor. The following guidelines are to help establish rapport:
- Never say or do anything to suggest disbelief regarding the incident.
- Do not pass judgmental remarks or comments that might appear unsympathetic.
- Appreciate the survivor's strength in coming to the hospital as it can serve to build a bond of trust.
- Convey important messages such as: the survivor is not responsible for precipitating the act of rape by any of her actions or inactions.
- Explain to the survivor that this is a crime/violence and not an act of lust or for sexual pleasure.
- Emphasize that this is not a loss of honour, modesty or chastity but a violation of his/her rights and it is the perpetrator who should be ashamed.
- Take help of a counselor, if required.

Facilitating procedures:

- The health worker should explain to the survivor in simple and understandable language the rationale for various procedures and details of how they will be performed.
- Specific steps when dealing with a survivor from marginalized groups such as children, persons with disability, LGBTI persons, sex workers or persons from minority community, may be required as recommended in Chapter 3.
- Ensure confidentiality and explain to the survivor that she/he must reveal the entire history to health professional without fear. The survivor may be persuaded not to hide anything
- The fact that genital examination may be uncomfortable but is necessary for legal purposes should be explained to the survivor. The survivor should be informed about the need to carry out additional procedures such as x-rays, etc which may require him/her to visit to others departments.

While performing the examination, the purpose of forensic medical examination is to form an opinion on the following:

- Whether a sexual act has been attempted or completed. Sexual acts include genital, anal or oral penetration by the penis, fingers or other objects as well as any form of nonconsensual sexual touching. A sexual act may not only be penetration by the penis but also slightest penetration of the vulva by the penis, such as minimal passage of the glans between the labia with or without emission of semen or rupture of the hymen.

- Whether such a sexual act is recent, and whether any harm has been caused to the survivor's body. This could include injuries inflicted on the survivor by the accused and by the survivor on the accused. However, the absence of signs of struggle does not imply consent.
- The age of the survivor needs to be verified in the case of adolescent girls/boys. Whether alcohol or drugs have been administered to the survivor needs to be ascertained.

Guidelines for responding to special groups

This section aims to alert health professionals to the specific health care needs of different marginalized groups and equip them to respond to them in an appropriate, comprehensive and sensitive manner in a difficult situation. These guidelines stem from recognition of the historical stigmatization faced by marginalized groups in accessing health services.

For the purpose of these guidelines, marginalized groups are defined as

1. Individuals who face discrimination because their gender identity is not based on physiological appearance or where an individual's body doesn't fall in the rigid binary of male and female genitalia.
2. Individuals who face discrimination based on the sexual orientation they practice.
3. Individuals who face discrimination because they are involved in sex work.
4. Individuals with physical, psycho social and/or intellectual disability.
5. Individuals from religious minorities, castes or tribes.

Guiding principles for health professionals while working with special groups

1. Complete medical treatment and health care must be offered right at the outset at all health facilities. Health professionals should ensure that they are not biased against people belonging to marginalised groups and must treat them with respect.
2. Health professionals must steer clear from demonstrating shock, disbelief, ridicule and ensure that such a conduct does not seep into the doctor- patient relationship.
3. Health professionals must acknowledge challenges and obstacles faced by marginalised groups in accessing health services and create an enabling atmosphere for them in the health facility.
4. Health professionals must enable survivors to feel at ease to be able to reveal the abuse that they have faced.
5. There must be cultural sensitivity while carrying out medical procedures. Cultural sensitivity refers to recognition of the caste, class, community, religion-determined behaviour and perceptions of the patient, without any bias/prejudice.
6. Individuals belonging to marginalised communities are often mistreated and ridiculed. In many instances, complaints from marginalised communities do not even get recorded.

Therefore efforts must be made by health professionals to dialogue with the allied agencies such as the police, to record the complaint at the health facility if survivors express such a desire. Doing so at health institutions would be useful for survivors from marginalised groups as health institutions are perceived as less intimidating compared to police stations.

7. Health professionals must ensure that information on referral institutions providing good quality services for marginalised groups is available at the health facility.

A. Transgender and intersex persons

Medical practitioners must recognize that transgender and intersex people (TG/IS) are vulnerable to sexual violence due to the marginalization and discrimination they face. Under such circumstances, it is all the more essential that sexual violence faced by TG/IS people is recognized as such by health professionals who often serve as the first point of approach for a survivor of sexual violence. It is not uncommon for TG and IS persons to experience ridicule in the health facilities. Health professionals often ignorant of the variations in biology and gender identity and also tend to 'pathologize' them.

Guidelines for examination:

- Gender identity is not constituted by anatomy, especially appearance of genitals. Primacy should be given in the record to the survivor's stated gender identity and appropriate names and pronouns used.
- Intake forms and other documents that ask about gender or sex should have options as male/female/others.
- Genital anatomical variations of transgender and intersex people must be included in the examination proforma.
- Transgender and intersex people may be unwilling to report the case to law enforcement for fear of being exposed to inappropriate questions and abuse, therefore adequate care should be provided for those who do approach health institutions.
- Information on the intersex variations or transgender status of the survivor must be treated as confidential and not to be revealed without the survivor's consent.
- The inadvertent discovery during examination or history taking that a person is transgender or intersex must not be treated with ridicule, hostility, surprise, shock, or dismay. Such reactions convey that the person is being judged and is likely to make them uncomfortable in the health care setting.
- It is important to be aware of the possible health consequences that the sexual violence may have resulted in. For instance, transgender male individuals who still have ovaries and a uterus can become pregnant even when they were using testosterone and/or had not been

menstruating. Similarly, intersex variations which include non-typical genital appearance may still put some intersex women at risk of pregnancy. Health professionals must be aware of these variations and must anticipate health consequences accordingly.

- Some transgender or intersex survivors may want to talk about their perceptions of the role their gender identity might have played in making them vulnerable to an assault.
- Though Indian laws do not recognize gender identity-based hate crimes, it is important for the health professionals to record the survivor's account of the assault as part of the procedural history-taking, making note of the survivor's perception of the reasons for the assault, if so stated.
- Information about referral agencies that provide services to transgender or intersex survivors of sexual violence must be provided where available.

B. Persons of alternate sexual orientation

Sexual orientation refers to a person's sense of identity based on sexual attractions, related behaviour, and membership in a community of others who share those attractions. The 'normative' sexual orientation in our society is 'heterosexual', meaning that persons are expected to be attracted to others of the opposite sex. However, people may have various other sexual orientations. A person identifying with a homosexual identity for instance, is sexually attracted to a person of the same sex. There is widespread belief that homosexuality is a 'disease'; generally a 'mental illness' that needs to be cured or that homosexuality is a 'sin'. These ideas have no basis in fact and are responsible for deepseated prejudices in society against lesbian, gay and bisexual people which often lead to a number of violent acts against them, including sexual violence.

Guidelines for examination

- Even though the examination of a lesbian, gay or bisexual individual is not physically any different from that of a heterosexual person, a doctor should be especially sensitive to the former group's anxieties and concerns when it comes to such examinations.
- There should be no judgment on the person's sexual orientation in general or as a cause of the assault.
- Confidentiality of their sexual orientation should be maintained. One should not discuss or mention it to the other staff members unless needed for treatment reasons.
- The health professional should not express shock, wonder, or any other negative emotions when a person reveals their sexual orientation. The speech and behaviour of the health professional should remain inclusive.
- Old injuries or fact that a person is 'habituated to anal sex' should NOT be recorded.

- Treatment should NOT be denied to any person based on/due to their sexual orientation.
- The doctor and hospital staff should be understanding towards the survivor and should provide care and treatment with sensitivity.
- The doctor or the hospital staff should not give any advice or 'offer solutions' to 'cure' them of their sexual orientation.
- Lesbian, gay, bisexual and transgender persons are likely to be targets of hate crimes and may want to talk about the role their sexual orientation played in making them vulnerable to sexual violence. Their experience should be given a sincere hearing and validated. The survivors should be assured that it was not their fault that they were sexually assaulted.

C. Sex workers:

While women remain the largest group involved in sex work, the numbers of men acknowledged to be involved is growing. Although far less numerous, transgender individuals - both transvestites and trans-sexuals - are also active in sex work. It is important to bear in mind that just because sex workers exchange sexual acts for money or goods, does not mean that they cannot be sexually assaulted. The Supreme Court of India has acknowledged that a woman who is a sex worker has the right to decide with whom she will have sex, and so any non-consensual intercourse with her would therefore amount to rape.

Sexual abuse by clients, police, pimps, brothel owners and others is commonly encountered by sex workers. Coercion to perform sexual acts by use of verbal threats, physical force and forced unwanted sexual acts by clients have been reported by sex workers as some of the types of sexual violence that they face.

Guidelines for examination

While examining sex workers reporting sexual violence, it is important to keep in mind that sex workers face a number of challenges due to the nature of their work when they approach the healthcare system. They have already faced a significant amount of discrimination from various agencies of society at every stage and hence their decision to approach a health care facility for treatment or examination should be considered a courageous one.

• A sex worker has a right to receive treatment and not providing it for any reason is punishable by law.

• Do not make assumptions about the person's health. Myths such as, “Sex workers are all addicts/HIV positive” are only myths. These propagate an unhealthy assumption of this group which may lead to further marginalization.

• Sex workers can be of any gender. No statements blaming the survivor or his/her profession for the violence faced should be made.

• Only information of the current episode of violence that the survivor is reporting must be documented. Any information of past sexual encounters is irrelevant to the current incident of sexual violence and should not be noted.

D. Persons with Disability

Persons with disability includes those who have long term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others. Women and children with disability are particularly vulnerable to violence, discrimination, stigma and neglect. In fact, persons with disabilities may be repeatedly victimized, especially by caretakers. Some reports suggest that women and girls with disabilities are three times more likely to be victims of physical and sexual abuse as compared to other women and girls. Women and girls with disabilities who are institutionalized are at risk of abuse in shelters and hospitals.

This has now been recognized as 'custodial rape' in the revised Indian Penal Code (Criminal Law Amendment Act, 2013). Women with disabilities are often unable to report sexual abuse because of the obvious barriers to communication, as well as their dependency on carers who may also be abusers. When they do report, their complaints are not taken seriously and the challenges they face in expressing themselves in a system that does not create an enabling environment to allow for such expression, complicates matters further.

India has ratified the United Nations Convention on Rights of Persons with Disabilities (UNCRPD) which mandates that country must make specific provisions to end discrimination and violence faced by persons with disabilities. It also mandates that healthcare systems must make necessary provisions to ensure access to health care to persons with disabilities. However, our health systems in general are not friendly to persons with disabilities.

Guidelines for examination:

- Be aware of the nature and extent of disability that the person has and make necessary accommodations in the space where the examination is carried out.
- Do not make assumptions about the survivor's disability and ask about it before providing any assistance.
- Do not assume that a person with disability cannot give history of sexual violence himself/herself. Because abuse by near and dear ones is common, it is important to not let the history be dictated by the caretaker or person accompanying the survivor. History must be sought independently, directly from the survivor herself/himself. Let the person decide who can be present in the room while history is being sought and examination conducted.

- Make arrangements for interpreters or special educators in case the person has a speech/hearing or cognitive disability. Maintain a resource list with names, addresses and other contact details of interpreters, translators and special educators in and around your hospital, who could be contacted for assistance.
- Even while using the services of an interpreter, communicate with the person directly as much as possible, and be present while the interpreter or special educator is with the person.
- Understand that an examination in the case of a disabled person may take longer. Do not rush through things as it may distress the survivor. Take time to make the survivor comfortable and establish trust, in order to conduct a thorough examination.
- Recognize that the person may not have been through an internal examination before. The procedure should be explained in a language they can understand. They may have limited knowledge of reproductive health issues and not be able to describe what happened to them. They may not know how they feel about the incident or even identify that a crime was committed against them.
- Ensure that adequate and appropriate counselling services are provided to the survivors. If required, the services of an expert may be required in this regard, which should be made available.
- Consent: All persons are ordinarily able to give or refuse to give informed consent, including persons with mental illness and intellectual disabilities, and their informed consent should be sought and obtained before any medical examination. Some specific steps may be required when taking informed consent from persons with mental illness or those with intellectual disabilities. If it is deemed necessary, such persons should (a) be provided the necessary information (what the procedure involves, the reason for doing the procedure, the potential risks and discomforts) in a simple language and in a form that makes it easy for them to understand the information; (b) be given adequate time to arrive at a decision; (c) be provided the assistance of a friend/colleague/care-giver in making the informed consent decision and in conveying their decision to medical personnel. The decision of the person to either give consent or refuse consent with the above supports, to the medical examination, should be respected.

E. People facing caste, class or religion based discrimination

Sexual violence is mostly perpetrated by those in a position of power upon those who are relatively vulnerable. This position of power may be a function of a person's gender, class, caste, religion, ethnicity, sexual orientation and/or other factors. In India, the caste or religion that a person belongs to impacts on the power and influence that they exercise. Women are seen as symbols of

honour of their social community. Violating the bodily integrity of women is equated with violating the honour of the entire community and bringing disgrace to it. Health professionals should be aware that while women and girls are specifically targeted during communal or caste conflicts, other members of the targeted community (including young boys) may also be subjected to sexual violence.

Guidelines for examination:

- Do not pass any explicit or implicit comments, or in any other way communicate your personal opinion, about the person's caste or religion while medically treating them.
- Do not ask the person who is being given medical treatment any questions about her religion/caste, except those that are relevant to the nature of violence she has faced or the kind of treatment she requires.
- Do not make assumptions about the person's life, the number of children she has, the kind of treatment that she may be willing to undergo etc.
- In a situation of communal/caste conflict, health professionals should sensitively enquire about and look for signs and symptoms that suggest sexual violence, among all women and girls who access the health system, even where they do not explicitly claim to have suffered sexual violence.
- Some survivors may be willing to talk about the role that their religious or caste identity has played in the commission of the offence. The survivors experience should be listened to and recorded in the Medical Report.
- These are often reports that actions of the Police and other State/administrative functionaries are partisan during communal/caste and other kinds of conflict. This must be kept in mind while providing medical treatment to women in conflict situations, and the actions/instructions of the police/state functionaries should not interfere with the provision of medical treatment to the survivor and the documentation.

GUIDELINES FOR RESPONDING TO CHILDREN.

The prevalence of child sexual abuse in India is known to be high. A National Study on Child Abuse conducted by the Ministry of Women and Child Development showed that more than 53 per cent children across 13 states reported facing some form of sexual abuse while 22 per cent faced severe sexual abuse. Both boys and girls reported facing sexual abuse. Most commonly, abusers are persons who are well known to the child and may even be living in the household. Children are considered soft targets for sexual abuse because they may not realize that they are being abused. Abusers are also known to use chocolates and toys to lure children. Further, children are more easily threatened and less likely to speak out about the abuse.

While the principles of medical examination and treatment for children remains the same as that for adults, it is important to keep some specific guidelines in mind:

- Children may be accompanied by the abuser when they come for medical treatment, so be aware and screen when you suspect abuse. In such situations, a female person appointed by the head of the hospital/institution may be called in to be present during the examination.
- Do not assume that because the child is young he/she will not be able to provide a history. History seeking can be facilitated by use of dolls and body charts.
- Believe what is being reported by the child. There are misconceptions that children lie or that they are tutored by parents to make false complaints against others. Do not let such myths affect the manner in which you respond to cases of child sexual abuse.
- Specific needs of children must be kept in mind while providing care to child survivors. Doses of treatment will have to be adjusted as required in terms of medical treatment. For psychological support, it is imperative to speak with the carer/s of the survivor in addition the survivor themselves.
- Health professionals must make a note of the following aspects while screening for sexual abuse. Assurance of confidentiality and provision of privacy are keys to enabling children to speak about the abuse. However genital and anal examination should not be conducted mechanically or routinely. A few indicators for routine enquiry are –
  - Pain on urination and /or defecation
  - Abdominal pain/ generalized body ache
  - Inability to sleep
  - Sudden withdrawal from peers/ adults
  - Feelings of anxiety, nervousness, helplessness
  - Inability to sleep
  - Weight loss
  - Feelings of ending one's life

MEDICAL EXAMINATION AND REPORTING FOR SEXUAL VIOLENCE

The following guidelines are for health professionals when a survivor of sexual violence reports to a hospital. The guidelines describe in detail the stepwise approach to be used for a comprehensive response to the sexual violence survivor as follows:

I. Initial resuscitation/ first Aid
II. Informed consent for examination, evidence collection, police procedures
III. Detailed History taking
IV. Medical Examination

V. Age Estimation (physical/dental/radiological) – if requested by the investigating agency.
VI. Evidence Collection as per the protocol
VII. Documentation
VIII. Packing, sealing and handing over the collected evidence to police
IX. Treatment of Injuries
X. Testing/prophylaxis for STIs, HIV, Hepatitis B and Pregnancy
XI. Psychological support & counseling
XII. Referral for further help (shelter, legal support)

14. Relevant medical/surgical history

- Menstrual history (Cycle length and duration, Date of last menstrual period).If the survivor is menstruating at the time of examination then a second examination is required on a later date in order to record the injuries clearly. Some amount of evidence is lost because of menstruation. Hence it is important to record whether the survivor was menstruating at the time of assault/examination
- Vaccination history is important with regard to tetanus and hepatitis B, so as to ascertain if prophylaxis is required.

15. Sexual violence history

- Be sensitive to the survivor as she has experienced a traumatic episode and s/he may not be able to provide all the details. Explain to him/her that the process of history taking is important for further treatment and for filing a case if needed.
- Create an environment of trust so that the survivor is able to speak out. Do not pass judgmental remarks.
- A relative could be present with the consent of the survivor, if s/he is comfortable.
- Details of the date, time and location of incident of sexual violence should be recorded.
- In case of more than one assailant, their number should be recorded along with the names and relation if known.
- One must note who is narrating the incident- survivor or an informant. If history is narrated by a person other than the survivor herself, his/her name should be noted. Especially if the identity of assailants is revealed it is better to also have a countersignature of the informant.
- The doctor should record the complete history of the incident, in survivor's own words as it has evidentiary value in the court of law.

- Use of any Physical violence during assault must be recorded with detailed description of the type of violence and its location on the body (eg. Beating on the legs, biting cheeks, pulling hair, kicking the abdomen etc)
- Note history of injury marks that the survivor may state to have left on the assailant's body as it can be matched eventually with the findings of the assailant's examination.
- If any weapon(s) were used such as sticks, acid burns, gun shots, knife attacks etc.; if the use of drugs/alcohol was involved. Verbal threats should be recorded in survivor's words, eg. harming her or her near and dear ones.
- Information regarding attempted or completed penetration by penis/ finger/ object in vagina/ anus/ mouth should be properly recorded. There could also be other acts such as masturbation of the assailant by the survivor, masturbation of the survivor by the assailant, oral sex by the assailant on the survivor or sucking, licking, kissing of body parts. Information about emission of semen, use of condom, sucking or spitting along with the location should be clearly stated. Information about emission of semen outside the orifices should be elicited as swabs taken from such sites can have evidentiary value. Information regarding use of condom during the assault is relevant because in such cases, vaginal swabs and smears would be negative for sperm/semen.
- While recording history of sexual violence, it is important to enquire and record in simple language whether these acts occurred or not. A clear differentiation should be made between a 'negative' and 'not sure' history. If the survivor does not know if a particular act occurred, it should be recorded as “did not know”.
- One should not feel awkward in asking for history of the sexual act. If details are not entered it may weaken the survivor's testimony. The details of history are what will also guide the examination, treatment and evidence collection and therefore seeking a complete history is critical to the medical examination process, sample collection for clinical & forensic examination, treatment and police intimation.
- In case of children, illustrative books, body charts or a doll can be used if available, to elicit the history of the assault. When it is difficult to elicit history from a child, please call an expert.
- Details of clothing worn at the time of assault should be recorded.
- Post assault Information should be collected on activities like changed clothes, cleaned clothes, bathed/ urinated/ defecated/ showered/ washed genitals (in all cases) and rinsing mouth, drinking, eating (in oral sexual violence)/ had sexual intercourse after the incident of sexual violence. This would have a bearing on the trace evidence collected from these sites.

- If vaginal swabs for detection of semen are being taken then record history of last consensual sexual intercourse in the week preceding the examination. It should be recorded because detection of sperm/semen is a valuable evidence. While seeking such history, explain to the survivor why this information is being sought, because the survivor may not want to disclose such history as it may seem invasive.
- Information related to past abuse (physical/sexual/emotional) should be recorded in order to understand if there is any health consequence related to the assault. This information should be kept in mind during examination & interpretation of findings.
- Relevant Medical & Surgical History: Relevant medical history in relation to sexually transmitted infections (gonorrhea, HIV, HBV etc.) can be elicited by asking about discharge per-urethra/per-anus, warts, ulcers, burning micturition, lower abdominal pain etc. Based on this information reexamination/ investigations can be done after incubation period of that disease. If there is vaginal discharge, record its type, i.e., texture, colour, odour, etc.
- Relevant surgical history in relation to treatment of fissures/injuries/scars of ano-genital area should be noted.

16. General physical examination

- Record if the person is oriented in space and time and is able to respond to all the questions asked by the doctor. Any signs of administration of intoxicants by ingestion or injection of drug/alcohol must be noted.
- Pulse. B.P., respiration, temperature and state of pupils is recorded.
- A note is made of the state of clothing if it is the same as that worn at the time of assault. If it is freshly torn or has stains of blood/ semen/ mud etc.; the site, size, and colour of stains should be described.

17. Examination for injuries

- Presence of injuries is only observed in one third cases of forced sexual intercourse. Absence of injuries does not mean the survivor has consented to sexual activity. As per law, if resistance was not offered that does not mean the person has consented.
- The entire body surface should be inspected carefully for signs of bruises, physical torture injuries, nail abrasions, teeth bite marks, cuts, lacerations, fracture, tenderness, any other injury, boils, lesions, discharge specially on the scalp, face, neck, shoulders, breast, wrists, forearms, medial aspect of upper arms, thighs and buttocks
- Describe all the injuries. Describe the type of injury (abrasion, laceration, incised, contusion etc.), site, size, shape, colour, swelling, signs of healing, simple/grievous, dimensions.

Mention possible weapon of infliction such as - hard, blunt, rough, sharp, etc. Refer to Annexure 2 for noting time of injury

- Injuries are best represented when marked on body charts. They must be numbered on the body charts and each must be described in detail.
- Describe any stains seen on the body - the type of stain (blood, semen, lubricant, etc.) its actual site, size and colour. Mention the number of swabs collected and their sites.
- Whenever possible, the age of the injury consistent with the time of incident example one day. 24 hours, 48 hours etc should be noted. Similarly specific instances like bite mark or nail mark may be described as such.

18. Local examination of genital parts/other orifices

- External genital area and Perineum is observed carefully for evidence of injury, seminal stains and stray pubic hair. Pubic hair is examined for any seminal deposits/ stray hair. Combing is done to pick up any stray hair or foreign material, and sample of pubic hair, and matted pubic hair is taken and preserved. If pubic hair is shaven, a note is made.
- In case of female survivors, the vulva is inspected systematically for any signs of recent injury such as bleeding, tears, bruises, abrasions, swelling, or discharge and infection involving urethral meatus & vestibule, labia majora and minora, fourchette, introitus and hymen.
- Examination of the vagina of an adult female is done with the help of a sterile speculum lubricated with warm saline/ sterile water. Gentle retraction allows for inspection of the vaginal canal. Look for bruises, redness, bleeding and tears, which may even extend onto the perineum, especially in the case of very young girls. In case injuries are not visible but suspected; look for micro injuries using good light and a magnifying glass/ colposcope whatever is available. If 1% Toluidine blue is available it is sprayed and excess is wiped out. Micro injuries will stand out in blue. Care should be taken that all these tests are done only after swabs for trace evidence are collected.
  - Per speculum examination is not a must in the case of children/young girls when there is no history of penetration and no visible injuries. The examination and treatment as needed may have to be performed under general anaesthesia in case of minors and when injuries inflicted are severe. If there is vaginal discharge, note its texture, colour, odour.
- **Per-Vaginum examination commonly referred to by lay persons as 'two-finger test',** must not be conducted for establishing rape/sexual violence and the size of the vaginal

introitus has no bearing on a case of sexual violence. Per vaginum examination can be done only in adult women when medically indicated.

- The status of hymen is irrelevant because the hymen can be torn due to several reasons such as cycling, riding or masturbation among other things. An intact hymen does not rule out sexual violence, and a torn hymen does not prove previous sexual intercourse. Hymen should therefore be treated like any other part of the genitals while documenting examination findings in cases of sexual violence. Only those that are relevant to the episode of assault (findings such as fresh tears, bleeding, edema etc.) are to be documented.
- Genital findings must also be marked on body charts and numbered accordingly.
- Bleeding/swelling/tears/discharge/stains/warts around the anus and anal orifice must be documented. Per-rectal examination to detect tears/stains/fissures/hemorrhoids in the anal canal must be carried out and relevant swabs from these sites should be collected.

. Oral cavity should also be examined for any evidence of bleeding, discharge, tear, odema, tenderness.

19. Collection of samples for hospital laboratory/ clinical laboratory

• If requested by police radiographs of wrist, elbow, shoulders, dental examination etc. can be advised for age estimation. Refer to **Annexure 3** for details on Age estimation.

• For any suspected fracture/injury- appropriate investigation for the relevant part of the body is advised.

• Urine Pregnancy test should be performed by the doctor on duty and the report should be entered.

• Blood is collected for evidence of baseline HIV status, VDRL and HbsAg.

20. Collection of samples for central/ State forensic science laboratory

• After assessment of the case, determine what evidence needs to be collected. It would depend upon nature of assault, time lapsed between assault and examination and if the person has bathed/washed herself since the assault.

• If a woman reports within 96 hours (4 days) of the assault, all evidence including swabs must be collected, based on the nature of assault that has occured. The likelihood of finding evidence after 72 hours (3 days) is greatly reduced; however it is better to collect evidence up to 96 hours in case the survivor may be unsure of the number of hours lapsed since the assault.

• The spermatozoa can be identified only for 72 hours after assault. So if a survivor has suffered the assault more than three days ago, please refrain from taking swabs for spermatozoa. In such cases swabs should only be sent for tests for identifying semen.

• Evidence on the outside of the body and on materials such as clothing can be collected even after 96 hours.

• The nature of swabs taken is determined to a large extent by the history and nature of assault and time lapse between incident and examination. For example, if the survivor is certain that there is no anal intercourse; anal swabs need not be taken.

• Request the survivor to stand on a large sheet of paper, so as to collect any specimens of foreign material e.g. grass, mud, pubic or scalp hair etc. which may have been left on her person from the site of assault/ from the accused. This sheet of paper is folded carefully and preserved in a bag to be sent to the FSL for trace evidence detection.

• Clothes that the survivor was wearing at the time of the incident of sexual violence are of evidentiary value if there is any stains/tears/trace evidence on them. Hence they must be preserved. Please describe each piece of clothing separately with proper labeling. Presence of stains - semen, blood, foreign material etc - should be properly noted. Also note if there are any tears or other marks on the clothes. If clothes are already changed then the survivor must be asked for the clothes that were worn at the time of assault and these must be preserved.

• Always ensure that the clothes and samples are air dried before storing them in their respective packets. Ensure that clothing is folded in such a manner that the stained parts are not in contact with unstained parts of the clothing. Pack each piece of clothing in a separate bag, seal and label it duly.

Body evidence:

• Swabs are used to collect bloodstains on the body, foreign material on the body surfaces seminal stains on the skin surfaces and other stains. Detection of scalp hair and pubic hair of the accused on the survivor's body (and vice-versa) has evidentiary value. Collect loose scalp and pubic hair by combing. Intact scalp and pubic hair is also collected from the survivor so that it can be matched with loose hair collected from the accused. All hair must be collected in the catchment paper which is then folded and sealed.

• If there is struggle during the sexual violence, with accused and survivor scratching each other, then epithelial cells of one may be present under the nails of the other that can be used for DNA detection. Nail clippings and scrapings must be taken for both hands and packed separately. Ensure that there is no underlying tissue contamination while clipping nails.

• Blood is collected for grouping and also helps in comparing and matching blood stains at the scene of crime.

• Collect blood and urine for detection of drugs/alcohol as the influence of drugs/ alcohol has a bearing on the outcome of the entire investigation. If such substances are found in the blood, the validity of consent is called into question. In a given case, for instance, there may not be any

physical or genital injuries. In such a situation, ascertaining the presence of drug/alcohol in the blood or urine is important since this may have affected the survivor's ability to offer resistance. Urine sample may be collected in a container to test for drugs and alcohol levels as required.

• Venous blood is collected with the sterile syringe and needle provided and transferred to 3 sterile vials/ vaccutainers for the following purposes: Plain Vial/Vaccutainer – Blood grouping and drug estimation, Sodium Fluoride - Alcohol estimation, EDTA – DNA Analysis.

· Collect oral swab for detection of semen and spermatozoa. Oral swabs should be taken from the posterior parts of the buccal cavity, behind the last molars where the chances of finding any evidence are highest.

Genital and anal evidence

• In the case of any suspected seminal deposits on the pubic hair of the woman, clip matted portion of the pubic hair; allow drying in the shade and placing in an envelope.

• Pubic hair of the survivor is then combed for specimens of the offender's pubic hair. A comb must be used for this purpose and a catchment paper must be used to collect and preserve the specimens. Cuttings of the pubic hair are also taken for the purpose of comparison or to serve as control samples. If pubic hair has been shaved, do not fail to make a mention of it in the records.

• Take two swabs from the vulva, vagina, anal opening for ano-genital evidence. Swabs must be collected depending on the history and examination. Swabs from orifices must be collected only if there is a history of penetration. Two vaginal smears are to be prepared on the glass slide provided, air-dried in the shade and sent for seminal fluid/spermatozoa examination.

• Often lubricants are used in penetration with finger or object, so relevant swabs must be taken for detection of lubricant. Other pieces of evidence such as tampons (may be available as well), which should be preserved.

• Swab sticks for collecting samples should be moistened with distilled water provided.

• Swabs must be air dried, but not dried in direct sunlight. Drying of swabs is absolutely mandatory as there may be decomposition/degradation of evidence which can render it un-usable.

• Vaginal washing is collected using a syringe and a small rubber catheter. 2-3 ml of saline is instilled in the vagina and fluid is aspirated. Fluid filled syringe is sent to FSL laboratory after putting a knot over the rubber catheter.

• In case of male victim and the survivor is produced with in a reasonable time mouth wash/penis wash/hand wash, etc may be collected

• While handing over the samples, a requisition letter addressed to the FSL, stating what all samples are being sent and what each sample needs to be tested for should be stated. For example,

"Vaginal swab to be tested for semen". This form must be signed by the examining doctor as well as the officer to whom the evidence is handed over.

• Please ensure that the numbering of individual packets is in consonance with the numbering on the requisition form. Specimens sent to the Forensic Science laboratory will not be received unless they are packed separately, sealed, labeled and handed over.

21. Provisional clinical opinion

• Drafting of provisional opinion should be done immediately after examination of the survivor on the basis of history and findings of detailed clinical examination of the survivor.

• The provisional opinion must, in brief, mention relevant aspects of the history of sexual violence, clinical findings and samples which are sent for analysis to FSL.

• An inference must be drawn in the opinion, correlating the history and clinical findings.

22. Treatment guidelines and psychosocial support

Sexually transmitted infections:

- If clinical signs are suggestive of STD, collect relevant swabs and start PEP. If there are no clinical signs, wait for lab results. For non-pregnant women, the preferred choice is Azithromycin 1gm stat or Doxycycline 100mg bd for 7days, with Metronidazole 400 mg for 7days with antacid.
- For pregnant women, Amoxycillin/Azithromycin with Metronidazole is preferred. Metronidazole should NOT to be given in the 1st trimester of pregnancy.
- Hepatitis B. Draw a sample of blood for HBsAg and administer 0.06 ml/kg HB immune globulin immediately (anytime upto 72 hours after sexual act).

Pregnancy Prophylaxis (Emergency contraception)

• The preferred choice of treatment is 2 tablets of Levonorgestrel 750 ìg, within 72 hours. If vomiting occurs, repeat within 3 hours. OR 2 tablets COCs Mala D - 2 tablets stat repeated 12 hours within 72 hours

• Although emergency contraception is most efficacious if given within the first 72 hours, it can be given for up to 5 days after the assault.

• Pregnancy assessment must be done on follow up and the survivor must be advised to get tested for pregnancy in case she misses her next period.

Lacerations: Clean with antiseptic or soap and water. If the survivor is already immunized with Tetanus Toxoid or if no injuries, TT not required. If there are injuries and survivor is not immunized, administer ½ cc TT IM. If lacerations require repair and suturing, which is often the case in minor girls, refer to the nearest centre offering surgical treatment.

Post Exposure Prophylaxis (PEP) for HIV should be given if a survivor reports within 72 hours of the assault. Before PEP is prescribed, HIV risk should be assessed.

Follow-up: Please emphasize the importance of follow up to the survivor. It is ideal to call the survivor for re-examination 2 days after the assault to note the development of bruises and other injuries; thereafter at 3 and 6 weeks. All follow ups should be documented.

• Repeat test for gonorrhoea if possible.

• Test for pregnancy.

• Repeat after six weeks for VDRL.

• Assess for psychological sequelae and re-iterate need for psychological support as per section 5 of the guidelines.

Psychosocial care: All survivors should be provided the first line support. The health professional must provide this support himself/herself or ensure that there is someone trained at the facility to provide this.

Signature and seal

After the examination the medical practitioner should document the report, formulate opinion, sign the report and handover the report and sealed samples to police under due acknowledgement.

• On the last sheet, mention how many pages are attached. Each page of the report should be signed to avoid tampering.

• It is important that one copy of all documents be given to the survivor as it is his/her right to have this information. One copy to be given to the police and one copy must be kept for hospital records.

• **All evidence needs to be packed and sealed properly in separate envelopes.** The responsibility for this lies with the examining doctor. **All blood samples must be refrigerated until handed over** to next in chain of custody. The hospital has the responsibility of properly preserving samples till handed over to police.

• Each envelope must be labeled as follows

Packet number…….....…….....……

Name of the hospital & place …….....…….……

Hospital number & date …….....…….....

Police station with MLC number …….. …….....

Name of the person with age & sex …….....

Sample collected …….....

Examination required…….....

Date & time signature of doctor with seal

• Chain of custody: The hospital must designate certain staff responsible for handling evidence and no one other than these persons must have access to the samples. This is done to prevent mishandling and tampering. If a fool-proof chain of custody is not maintained, the evidence can be rendered inadmissible in the court of law. A log of handing over of evidence from one 'custodian' to the other must be maintained.

Miscellaneous information

If a woman reports with a pregnancy resulting from an assault, she is to be given the option of undergoing an abortion, and protocols for MTP are to be followed. The products of conception (PoC) may be sent as evidence to the forensic lab (FSL) for establishing paternity / identifying the accused. The examining doctor/AMO/CMO is to contact the respective police station, ask them to collect the DNA Kit from the FSL and bring it to the hospital to coincide with the time of MTP. The DNA Kit is used to collect the blood sample of the survivor. The accompanying DNA Kit forms are to be filled by the examining doctor. A photograph of the survivor is required for this form, and should be arranged for prior to the MTP. The products of conception (PoC) are to be rinsed with normal saline (NOT completely soaked in saline) and collected in a wide-mouthed container with a lid. This sample is to be handed over immediately to the police along with the DNA Kit, or preserved at 4 degree Celsius. It is to be transported by the police in an ice-box, maintaining the

temperature at around 4 degree Celsius (2 to 8 degree Celsius) at all times.

GUIDELINES FOR INTERFACE WITH OTHER AGENCIES LIKE POLICE AND JUDICIARY

Health professionals have to interface with other agencies such as the police, public prosecutors, judiciary and child welfare committees to ensure comprehensive care to survivors of sexual violence. Specific guidelines have been provided in this section for this interface for smooth interagency coordination.

Interface of health systems with police

• A standard operating procedure outlining the interface between the police and health systems is critical. Whenever a survivor reports to the police, the police must take her/him to the nearest health facility for medical examination, treatment and care. Delays related to the medical examination and treatment can jeopardize the health of the survivor.

• Health professionals should also ask survivors whether they were examined elsewhere before reaching the current health set up and if survivors are carrying documentation of the same .If this is the case , health professionals must refrain from carrying out an examination just because the police have brought a requisition and also explain the same to them

• The health sector has a therapeutic role and confidentiality of information and privacy in the entire course of examination and treatment must be ensured. The police should not be allowed to be present while details of the incident of sexual violence, examination, evidence collection and treatment are being sought from the survivor.

• The police cannot interfere with the duties of a health professional. They cannot take away the survivor immediately after evidence collection but must wait until treatment and care is provided.

• In the case of unaccompanied survivors brought by the police for sexual violence examination, police should not be asked to sign as witness in the medico legal form. In such situations, a senior medical officer or any health professional should sign as witness in the best interest of the survivor.

• Health professionals must not entertain questions from the police such as "whether rape occurred", "whether survivor is capable of sexual intercourse", "whether the person is capable of having sexual intercourse". They should explain the nature of medico legal evidence, its limitations as well as the role of examining doctors as expert witnesses.

1CLA, 2013 and POCSCO Act, 2012 both recognize that any registered medical practitioner can carry out a medico legal examination and provide treatment and records of that health provider will stand in the court of law(164A CRPC).

Interface of health systems and public prosecutors

• The doctor must review the notes of the case to equip him/herself with the history that has been provided by the survivor to the doctor, the police and the magistrate. In case there is a difference in the histories, the same should be clarified in advance with the public prosecutor. It is possible that a survivor revealed additional information to the doctor based on her comfort, than the police or the magistrate.

• Examining doctors should prepare themselves well in time with the case documents before reaching the court. Efforts must be made by doctors to dialogue with the public prosecutor and also ask them about the role that they need to play. This would help them to be well prepared and respond to questions asked in the court.

Interface of health systems and the judiciary

• Doctors are termed as "expert witness" by Law. As per 164 A, Cr.P.C., an examining doctor has to prepare a reasoned medical opinion without delay.

• A medical opinion has to be provided on the following aspects –

- Evidence that survivor was administered drugs/psychotropic substance/alcohol, etc;
- Evidence that the survivor has an intellectual, or mental disability;

- Evidence of physical health consequences such as bruises, contusions, contused lacerated; wounds, tenderness, swelling, pain in micturition, pain in defecation, pregnancy, etc.
- Age of the survivor if she / he does not have a birth certificate or if mandated by the court.

• Absence of injuries on the survivor has to be interpreted by the examining doctor in the courtroom based on medical knowledge and details of the episode provided by survivor to the doctor. Lack of injuries have to be based on the time lapse between the incident and reporting to hospitals, information pertaining to luring the child or adult survivor, or factors such as fear, shock and surprise or other circumstances that rendered the child or adult survivor unable to resist the perpetrator.

• The examining doctor will also have to provide a medical opinion on negative findings related to forensic lab analysis. Absence of negative laboratory results may be due to:

- Delay in reaching a hospital / health centre for examination and treatment;
- Activities undertaken by the survivor after the incident of sexual violence such as urinating, washing, bathing, changing clothes or douching which leads to loss of evidence;
- Use of condom/vasectomy or diseases of vas of the perpetrator, or
- Perpetrator did not emit semen if it was a penile penetrative sexual act.

• The examining doctor should clarify in the court that normal examination findings neither refute nor confirm whether the sexual offence occurred or not. They must ensure that a medical opinion cannot be given on whether 'rape' occurred because 'rape' is a legal term.

• Examining doctors must also ensure that comments on past sexual history, status of vaginal introitus must not be made as these are unscientific and the courts too have determined them as biased.

• In most health centres because of the constant turnover, the doctor appearing in the court room could be different from the one who carried out the medical management of the survivor. In such instances, it is critical that the doctor making the court appearance be thorough with the case file of the survivor, such as, documentation of history examination findings and clinical inference drawn by the examining doctor.

Interface of the health system with the child welfare committee

• Health professionals should communicate to the child the need for her/him (health professional) to disclose the abuse to the child welfare committee (CWC) so that the latter can take immediate steps to protect the child from abuse.

• Children may be referred for examination by the child welfare committees (CWC). Health professionals may have to orient the CWC about the health consequences of sexual abuse and the importance of provision of complete health care. At the same time they must explain the

limitations of medical evidence, thus even if medical evidence of sexual violence is not found, this in no way should be construed as a child lying about sexual abuse.

• Mobile care units (MCUs) must include indicators for assessing whether a child has been subjected to sexual violence. Such an enquiry must be included as a component of routine medical checkups. A standard operating procedure for routine medical examination, care and management must be adopted by all child welfare homes and they must be asked to provide reports of these assessments to the child welfare committee. Health professionals may be called upon for doing this.

Time since injury is as follows:

Abrasion

Fresh	Bright red
12 to 24 hours	Reddish scab
2 to 3 days	Reddish brown scab
4 to 7 days	Brownish black scab
After 7 days	Scab dries, shrinks and falls off from periphery

Contusion

Fresh	Red
Few hours to 3 days	Blue
4th day	Bluish black to brown (haemosiderin)
5 to 6 days	Greenish (haematoidin)
7 to 12 days	Yellow (bilirubin)
2 weeks	Normal

Note: This is a reference chart only, as many external and internal factors contribute in the healing of injuries. If there is deep bruise or contusion, signs of injury will usually show after 48 hours. In case you see signs of injury on the follow up, please record them and attach the documentation to MLC papers.

PART – III

Law relevant to examination and report of survivor of sexual offences

RELEVANT SUPREME COURT JUDGMENTS

1. State Of Karnataka vs Manjanna on 4 May, 2000: 18. Before parting with the case, we wish to put on record our disapproval of the refusal of some Government hospital doctors, particularly in rural areas, where hospitals are few and far between, to conduct any medical examination of a rape victim unless the case of rape is referred to them by the police. Such a refusal to conduct the medical examination necessarily results in a delay in the ultimate examination of the victim, by which time the evidence of the rape may have been washed away by the complainant herself or be otherwise lost. It is expected that the State/ appellant will ensure that such situation does not recur in future.

2. State Of M.P vs Dayal Sahu on 29 September, 2005: Non-examination of doctor and non-production of doctor's report would not cause fatal to the prosecution case, if the statements of the prosecutrix and other prosecution witnesses inspire confidence.

3. Om Prakash vs State Of U.P on 11 May, 2006: A prosecutrix of a sex-offence cannot be put on par with an accomplice. She is in fact a victim of the crime. The Evidence Act nowhere says that her evidence cannot be accepted unless it is corroborated in material particulars. She is undoubtedly a competent witness under section 118 and her evidence must receive the same weight as is attached to an injured in cases of physical violence.

4. B. C. Deva @ Dyava vs State Of Karnataka on 25 July, 2007: The plea that no marks of injuries were found either on the person of the accused or the person of the prosecutrix, does not lead to any inference that the accused has not committed forcible sexual intercourse on the prosecutrix.

5. Supreme Court of India, Lillu @ Rajesh & Anr. vs State Of Haryana on 11 April, 2013: In view of International Covenant on Economic, Social, and Cultural Rights 1966; United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power 1985, rape survivors are entitled to legal recourse that does not re-traumatize them or violate their physical or mental integrity and dignity. They are also entitled to medical procedures conducted in a manner that respects their right to consent. Medical procedures should not be carried out in a manner that constitutes cruel, inhuman, or degrading treatment and health should be of paramount consideration while dealing with gender-based violence. The State is under an obligation to make such services available to survivors of sexual violence. Proper measures should be taken to ensure their safety and there should be no arbitrary or unlawful interference with his privacy. Thus, in view of the above, undoubtedly, the two finger test and its interpretation violate the right of rape

survivors to privacy, physical and mental integrity and dignity. Thus, this test, even if the report is affirmative, cannot ipso facto, be given rise to presumption of consent.

6. Supreme Court of India, Dilip vs State Of M.P. on 16 April, 2013: 18. Undoubtedly, any direction issued by this Court is binding on all the courts and all civil authorities within the territory of India. In addition thereto, it is an obligation on the part of the State authorities and particularly, the Director General of Police and Home Ministry of the State to issue proper guidelines and instructions to the other authorities as how to deal with such cases and what kind of treatment is to be given to the prosecutrix, as a victim of sexual assault requires a totally different kind of treatment not only from the society but also from the State authorities. Certain care has to be taken by the Doctor who medically examine the victim of rape. The victim of rape should generally be examined by a female doctor. Simultaneously, she should be provided the help of some psychiatrist. The medical report should be prepared expeditiously and the Doctor should examine the victim of rape thoroughly and give his/her opinion with all possible angle e.g. opinion regarding the age taking into consideration the number of teeths, secondary sex characters, and radiological test, etc. The victim should be sent for medical examination at the earliest and her statement should be recorded by the I.O. in the presence of her family members making the victim comfortable except in incest cases.

7. Independent Thought vs Union Of India on 11 October, 2017: As provided in section 42A, in case of such an inconsistency, POCSO will prevail. Moreover, PoCSO is a special Act, dealing with the children whereas IPC is the general criminal law. Therefore, PoCSO will prevail over IPC.

8. Navtej Singh Johar & ORS vs Union of India, September 6, 2018: Consensual carnal intercourse among adults, be it homosexual or heterosexual, in private space, does not in any way harm the public decency or morality. Therefore, Section 377 IPC in its present form violates Article 19(1)(a) of the Constitution. (xvii) Ergo, Section 377 IPC, so far as it penalizes any consensual sexual relationship between two adults, be it homosexuals (man and a man), heterosexuals (man and a woman) or lesbians (woman and a woman), cannot be regarded as constitutional.

Relevant Sections of Law

The Code of Criminal Procedure 1973.

[4]**Section 164 A of Cr.P.C. – Medical examination of a victim of rape.**

(1) Where, during the stage when an offence of committing rape or attempt to commit rape is under investigation, it is proposed to get the person of the woman with whom rape is stated or attempted to have been committed or attempted, examined by a medical expert, such examination shall be conducted by a registered medical practitioner employed in a hospital run by the Government or a local authority and in the absence of such a practitioner, by any other registered medical practitioner, with the consent of such woman or of a person competent to give such consent on her behalf and such woman shall be sent to such registered medical practitioner within twenty-four hours from the time of receiving the information relating to the commission of such offence.

(2) The registered medical practitioner, to whom such woman is sent, shall, without delay, examine her person and prepare a report of his examination giving the following particulars, namely:-

i. The name and address of the woman and of the person by whom she was brought.
ii. The age of the woman.
iii. The description of the material taken from the person of the woman for DNA profiling.
iv. Marks of injury, if any, on the person of the woman.
v. General mental condition of the woman and
vi. Other material particulars in reasonable detail.

(3) The report shall state precisely the reasons for each conclusion arrived at.

(4) The report shall specifically record that the consent of the woman or of the person competent to give such consent on her behalf to such examination had been obtained.

(5) The exact time of commencement and completion of the examination shall also be noted in the report.

(6) The registered medical practitioner shall, without delay forward the report to the investigating officer who shall forward it to the Magistrate referred to in section 173 as part of the documents referred to in clause (a) of sub-section (5) of that section.

(7) Nothing in this section shall be construed as rendering lawful any examination without the consent of the woman or of any person competent to give such consent on her behalf.

Explanation.- For the purpose of this section, "examination" and "registered medical practitioner" shall have the same meanings as in section 53.

[4]*(Inserted by Act 25 of 2005, section 17, with effect from 23-6-2006*)

[Explanation in section 53 – (a) "examination" shall include the examination of blood, blood stains, semen, swabs in case of sexual offences, sputum and sweat, hair samples and finger nail clippings by the use of modern and scientific techniques including DNA profiling and such other tests which the registered medical practitioner thinks necessary in a particular case.

(b) "registered medical practitioner" means a medical practitioner who possess any medical qualification as defined in clause (h) of section 2 of the Indian Medical Council Act, 1956(102 of 1956) and whose name has been entered in a State Medical Register]

[9]**Section 357 C. Treatment of victims.-** All hospitals, public or private, whether run by the Central Government, the State Government, local bodies, or any other person, shall immediately, provide the first-aid or medical treatment, free of cost, to the victims of any offence covered under section 326A, 376, 376A, 376AB, 376B, 376C, 376D, 376DA, 376DB or section 376E of the Indian Penal Code (45 of 1860), and shall immediately inform the police of such incident. [9]*(Inserted by the Criminal Law Amendment Act, 2013, section 23, with retrospective effect from 3-2-2013)*

<u>The Indian Penal Code.</u>

***Section 166 B. Punishment for non-treatment of victim.-** Whoever, being in charge of a hospital, public or private, whether run by the Central Government, the State Government, local bodies or any other person, contravenes the provisions of section 357C of the Code of Criminal Procedure, 1973 (2 of 1974), shall be punished with imprisonment for a term which may extend to one year or with fine or with both.**(Inserted by the Criminal Law Amendment Act, 2013, section 3, with retrospective effect from 3-2-2013).*

Section 202. Intentional omission to give information of offence by person bound to inform.- Whoever, knowing or having reason to believe that an offence has been committed, intentionally omits to give any information respecting that offence which he is legally bound to give, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

Section 319 Hurt.- Whoever causes bodily pain, disease or infirmity to any person is said to cause hurt.

Section 320 Grievous hurt.- The following kinds of hurt only are designated as "grievous" :-

i. Emasculation.
ii. Permanent privation of sight of either eye.

iii. Permanent privation of hearing of either ear.
iv. Privation of any member or joint.
v. Destruction or permanent impairing of the powers of any member or joint.
vi. Permanent disfiguration of the head or face.
vii. Fracture or dislocation of a bone or tooth.
viii. Any hurt which endangers life or which causes the sufferer to be during the space of twenty days in severe bodily pain or unable to follow his ordinary pursuits.

[Explanation: member means a tissue, an organ or a limb being part of the body, capable of performing a distinct function]

Section 326A. Voluntarily causing grievous hurt by use of acid etc.- Whoever causes permanent or partial damage or deformity to, or burns or maims or disfigures or disables, any part or parts of the body of a person or causes grievous hurt by throwing acid on or by administering acid to that person, or by using any other means with the intention of causing or with the knowledge that he is likely to cause such injury or hurt, shall be punished with imprisonment of either description for a term which shall not be less than ten years but which may extend to imprisonment for life, and with fine:

Provided that such fine shall be just and reasonable to meet the medical expenses of the treatment of the victim:

Provided further that any fine imposed under this section shall be paid to the victim.

[1] [**Section 375.- Rape** A man is said to commit "rape" if he—

(a) penetrates his penis, to any extent, into the vagina, mouth, urethra or anus of a woman or makes her to do so with him or any other person; or

(b) inserts, to any extent, any object or a part of the body, not being the penis, into the vagina, the urethra or anus of a woman or makes her to do so with him or any other person; or

(c) manipulates any part of the body of a woman so as to cause penetration into the vagina, urethra, anus or any part of body of such woman or makes her to do so with him or any other person; or

(d) applies his mouth to the vagina, anus, urethra of a woman or makes her to do so with him or any other person, under the circumstances falling under any of the following seven descriptions:—

First.—Against her will.

Secondly.—Without her consent.

Thirdly.—With her consent, when her consent has been obtained by putting her or any person in whom she is interested, in fear of death or of hurt.

Fourthly.—With her consent, when the man knows that he is not her husband and that her consent is given because she believes that he is another man to whom she is or believes herself to be lawfully married.

Fifthly.—With her consent when, at the time of giving such consent, by reason of unsoundness of mind or administration of intoxicants or the administration by him personally or through another of any stupefying or unwholesome substance, she is unable to understand the nature and consequences of that to which she gives consent.

Sixthly.—With or without her consent, when she is under eighteen years of age.

Seventhly.—When she is unable to communicate consent.

Explanation 1.—For the purposes of this section, "vagina" shall also include *labia majora*.

Explanation 2.—Consent means an unequivocal voluntary agreement when the woman by words, gestures or any form of verbal or non-verbal communication, communicates willingness to participate in the specific sexual act:

Provided that a woman who does not physically resist to the act of penetration shall not by the reason only of that fact, be regarded as consenting to the sexual activity.

Exception 1.—A medical procedure or intervention shall not constitute rape.

Section 376. Punishment for rape

[1][376. (1) Whoever, except in the cases provided for in sub-section (2), commits rape, shall be punished with rigorous imprisonment of either description for a term which shall not be less than ten years, but which may extend to imprisonment for life, and shall also be liable to fine.

(2) Whoever,—

(a) being a police officer, commits rape—

(i) within the limits of the police station to which such police officer is appointed; or

(ii) in the premises of any station house; or

(iii) on a woman in such police officer's custody or in the custody of a police officer subordinate to such police officer; or

(b) being a public servant, commits rape on a woman in such public servant's custody or in the custody of a public servant subordinate to such public servant; or

(c) being a member of the armed forces deployed in an area by the Central or a State Government commits rape in such area; or

(d) being on the management or on the staff of a jail, remand home or other place of custody established by or under any law for the time being in force or of a women's or children's institution, commits rape on any inmate of such jail, remand home, place or institution; or

(e) being on the management or on the staff of a hospital, commits rape on a woman in that hospital; or

(f) being a relative, guardian or teacher of, or a person in a position of trust or authority towards the woman, commits rape on such woman; or

(g) commits rape during communal or sectarian violence; or

(h) commits rape on a woman knowing her to be pregnant; or

(j) commits rape, on a woman incapable of giving consent; or

(k) being in a position of control or dominance over a woman, commits rape on such woman; or

(l) commits rape on a woman suffering from mental or physical disability; or

(m) while committing rape causes grievous bodily harm or maims or disfigures or endangers the life of a woman; or

(n) commits rape repeatedly on the same woman, shall be punished with rigorous imprisonment for a term which shall not be less than ten years, but which may extend to imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, and shall also be liable to fine.

Explanation.—For the purposes of this sub-section,—

(a) "armed forces" means the naval, military and air forces and includes any member of the Armed Forces constituted under any law for the time being in force, including the paramilitary forces and any auxiliary forces that are under the control of the Central Government or the State Government;

(b) "hospital" means the precincts of the hospital and includes the precincts of any institution for the reception and treatment of persons during convalescence or of persons requiring medical attention or rehabilitation;

(c) "police officer" shall have the same meaning as assigned to the expression "police" under the Police Act, 1861;

(d) "women's or children's institution" means an institution, whether called an orphanage or a home for neglected women or children or a widow's home or an institution called by any other name, which is established and maintained for the reception and care of women or children.]

(3) Whoever, commits rape on a woman under sixteen years of age shall be punished with rigorous imprisonment for a term which shall not be less than twenty years, but which may extend to imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, and shall also be liable to fine.

Provided that such fine shall be just and reasonable to meet the medical expenses and rehabilitation of the victim;

Provided further that any fine imposed under this sub-section shall be paid to the victim.

Section 376A. Punishment for causing death or resulting in persistent vegetative state of the victim.- Whoever, commits an offence punishable under sub-section (1) or subsection(2) of section 376 and in the course of such commission inflicts an injury which causes the death of the woman or causes the woman to be in a persistent vegetative state, shall be punished with rigorous imprisonment for a term which shall not be less than twenty years, but which may extend to imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, or with death.]

Section 376AB. Whoever, commits rape on a woman under twelve years of age shall be punished with rigorous imprisonment for a term which shall not be less than twenty years, but which may extend to imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, and with fine or with death.

Provided that such fine shall be just and reasonable to meet the medical expenses and rehabilitation of the victim;

Provided further that any fine imposed under this sub-section shall be paid to the victim.

Section 376B. Sexual intercourse by husband upon his wife during separation.- Whoever has sexual intercourse with his own wife, who is living separately, whether under a decree of separation or otherwise, without her consent, shall be punished with imprisonment of either description for a term which shall not be less than two years but which may extend to seven years, and shall also be liable to fine.

Explanation.—In this section, "sexual intercourse" shall mean any of the acts mentioned in clauses (a) to (d) of section 375.]

Section 376C. sexual intercourse by a person in authority.

Whoever, being—

(a) in a position of authority or in a fiduciary relationship; or

(b) a public servant; or

(c) Superintendent or manager of a jail, remand home or other place of custody established by or under any law for the time being in force, or a women's

or children's institution; or

(d) on the management of a hospital or being on the staff of a hospital, abuses such position or fiduciary relationship to induce or seduce any woman either in his custody or under his charge or present in the premises to have sexual intercourse with him, such sexual intercourse not amounting to the offence of rape, shall be punished with rigorous imprisonment of either description for a term which shall not be less than five years, but which may extend to ten years, and shall also be liable to fine.

Explanation 1.—In this section, "sexual intercourse" shall mean any of the acts mentioned in clauses (a) to (d) of section 375.

Explanation 2. —For the purposes of this section, Explanation 1 to section 375 shall also be applicable.

Explanation 3.—"Superintendent", in relation to a jail, remand home or other place of custody or a women's or children's institution, includes a person holding any other office in such jail, remand home, place or institution by virtue of which such person can exercise any authority or control over its inmates.

Explanation 4.—The expressions "hospital" and "women's or children's institution" shall respectively have the same meaning as in Explanation to sub-section (2) of section 376.]

Section 376D. Gang rape.- Where a woman is raped by one or more persons constituting a group or acting in furtherance of a common intention, each of those persons shall be deemed to have committed the offence of rape and shall be punished with rigorous imprisonment for a term which shall not be less than twenty years, but which may extend to life which shall mean imprisonment for the remainder of that person's natural life, and with fine: Provided that such fine shall be just and reasonable to meet the medical expenses and rehabilitation of the victim: Provided further that any fine imposed under this section shall be paid to the victim.]

Section 376DA. Where a woman under sixteen years of age is raped by one or more persons constituting a group or acting in furtherance of a common intention, each of those persons shall be deemed to have committed the offence of rape and shall be punished with imprisonment for life which shall mean imprisonment for the remainder of that person's natural life, and with fine:

Provided that such fine shall be just and reasonable to meet the medical expenses and rehabilitation of the victim:

Provided further that any fine imposed under this section shall be paid to the victim.

Section 376DB. Where a woman under twelve years of age is raped by one or more persons constituting a group or acting in furtherance of a common intention, each of those persons shall be deemed to have committed the offence of rape and shall be punished with imprisonment for life which shall mean imprisonment for the remainder of that person's natural life, and with fine or with death:

Provided that such fine shall be just and reasonable to meet the medical expenses and rehabilitation of the victim:

Provided further that any fine imposed under this section shall be paid to the victim.

Section 376E. Punishment for repeat offenders.- Whoever has been previously convicted of an offence punishable under section 376 or section 376A or section 376AB or section 376D or section

376DA or section 376DB and is subsequently convicted of an offence punishable under any of the said sections shall be punished with imprisonment for life which shall mean imprisonment for the remainder of that person's natural life, or with death.']

1. Inserted by Section 9 of 'The Criminal Law (Amendment) Act, 2013'.

The Indian Evidence Act

[1]Section 53A. Evidence of character or previous sexual experience not relevant in certain cases.- In a prosecution for an offence under section 354, section 354A, section 354B, section 354C, section 354D, section 376, section 376A, section 376 AB, section 376B, section 376C, section 376D, section 376DA, section 376DB or section 376E of the Indian Penal Code or for attempt to commit any such offence, where the question of consent is in issue, evidence of the character of the victim or of such person's previous sexual experience with any person shall not be relevant on the issue of such consent or the quality of consent.".

[1]Inserted by the Criminal Law Amendment Act, 2013, section 25 with retrospective effect from 3-2-2013.

The Protection of Children from Sexual Offences Act 2012

Section 2. Definitions.

(d) "Child" means any person below the age of eighteen years.

3. Penetrative sexual assault.-

A person is said to commit "penetrative sexual assault" if-

a. he penetrates his penis, to any extent, into the vagina, mouth, urethra or anus of a child or makes the child to do so with him or any other person; or
b. he inserts, to any extent, any object or a part of the body, not being the penis, into the vagina, the urethra or anus of the child or makes the child to do so with him or any other person; or
c. he manipulates any part of the body of the child so as to cause penetration into the vagina, urethra, anus or any part of body of the child or makes the child to do so with him or any other person; or
d. he applies his mouth to the penis, vagina, anus, urethra of the child or makes the child to do so to such person or any other person.

4. Punishment for penetrative sexual assault.- Whoever commits penetrative sexual assault shall be punished with imprisonment of either description for a term which shall not be less than seven years but which may extend to imprisonment for life, and shall also be liable to fine.

5. Aggravated penetrative sexual assault.-

a. Whoever, being a police officer, commits penetrative sexual assault on a child-

i. within the limits of the police station or premises at which he is appointed; or

ii. in the premises of any station house, whether or not situated in the police station, to which he is appointed; or

iii. in the course of his duties or otherwise; or

iv. where he is known as, or identified as, a police officer; or

b. whoever being a member of the armed forces or security forces commits penetrative sexual assault on a child-

i. within the limits of the area to which the person is deployed; or

ii. in any areas under the command of the forces or armed forces; or

iii. in the course of his duties or otherwise; or

iv. where the said person is known or identified as a member of the security or armed forces; or

c. whoever being a public servant commits penetrative sexual assault on a child; or

d. whoever being on the management or on the staff of a jail, remand home, protection home, observation home, or other place of custody or care and protection established by or under any law for the time being in force, commits penetrative sexual assault on a child, being inmate of such jail, remand home, protection home, observation home, or other place of custody or care and protection; or

e. whoever being on the management or staff of a hospital, whether Government or private, commits penetrative sexual assault on a child in that hospital; or

f. whoever being on the management or staff of an educational institution or religious institution, commits penetrative sexual assault on a child in that institution; or

g. whoever commits gang penetrative sexual assault on a child.

Explanation.- When a child is subjected to sexual assault by one or more persons of a group in furtherance of their common intention, each of such persons shall be deemed to have committed gang penetrative sexual assault within the meaning of this clause and each of such person shall be liable for that act in the same manner as if it were done by him alone; or

h. whoever commits penetrative sexual assault on a child using deadly weapons, fire, heated substance or corrosive substance; or

i. whoever commits penetrative sexual assault causing grievous hurt or causing bodily harm and injury or injury to the sexual organs of the child; or

j. whoever commits penetrative sexual assault on a child, which-

i. physically incapacitates the child or causes the child to become mentally ill as defined under clause (l) of section 2 of the Mental Health Act, 1987 or causes impairment of any kind so as to render the child unable to perform regular tasks, temporarily or permanently; or

ii. in the case of female child, makes the child pregnant as a consequence of sexual assault;

iii. inflicts the child with Human Immunodeficiency Virus or any other life threatening disease or infection which may either temporarily or permanently impair the child by rendering him physically incapacitated, or mentally ill to perform regular tasks; or

k. whoever, taking advantage of a child's mental or physical disability, commits penetrative sexual assault on the child; or

l. whoever commits penetrative sexual assault on the child more than once or repeatedly; or

m. whoever commits penetrative sexual assault on a child below twelve years; or

n. whoever being a relative of the child through blood or adoption or marriage or guardianship or in foster care or having a domestic relationship with a parent of the child or who is living in the same or shared household with the child, commits penetrative sexual assault on such child; or

o. whoever being, in the ownership, or management, or staff, of any institution providing services to the child, commits penetrative sexual assault on the child; or

p. whoever being in a position of trust or authority of a child commits penetrative sexual assault on the child in an institution or home of the child or anywhere else; or

q. whoever commits penetrative sexual assault on a child knowing the child is pregnant; or

r. whoever commits penetrative sexual assault on a child and attempts to murder the child; or

s. whoever commits penetrative sexual assault on a child in the course of communal or sectarian violence; or

t. whoever commits penetrative sexual assault on a child and who has been previously convicted of having committed any offence under this Act or any sexual offence punishable under any other law for the time being in force; or

u. whoever commits penetrative sexual assault on a child and makes the child to strip or parade naked in public, is said to commit aggravated penetrative sexual assault.

6. Punishment for aggravated penetrative sexual assault.- Whoever, commits aggravated penetrative sexual assault, shall be punished with rigorous imprisonment for a term which shall not be less than ten years but which may extend to imprisonment for life and shall also be liable to fine.

Section19. Reporting of offences.

(1) Sub-section (1) : Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), any person(including the child) who has apprehension that an offence under this Act is likely to be committed or has knowledge that such an offence has been committed, shall provide such information to the (a) Special Juvenile Police Unit or (b) the local police.

Section 21. Punishment for failure to report or record a case.

(1) Sub-section (1) : any person who fails to report the commission of an offence under sub-section (1) of Section 19 or Section 20 or who fails to record such offence under sub-section (2) of Section 19 shall be punished with imprisonment of either description which may extend to six months or with fine or with both.

(2) Sub-section (2) : any person, being in charge of any company or an institution (by whatever name called) who fails to report the commission of an offence under sub-section (1) of Section 19 in respect of a subordinate under his control, shall be punished with imprisonment for a term which may extend to one year and with fine.

Section 27. Medical examination of a child

(1) Sub-section (1) : The medical examination of a child in respect of whom any offence has been committed under this Act, shall, notwithstanding that a First Information Report or complaint has not been registered for the offence under this Act, be conducted in accordance with Section 164 A of the Code of Criminal Procedure, 1973 (2 of 1974).

(2) Sub-section (2) : In case the victim is a girl child, the medical examination shall be conducted by a woman doctor.

(3) Sub-section (3) : The medical examination shall be conducted in the presence of the parent of the child or any other person in whom the child reposes trust or confidence.

(4) Sub-section (4) : Where, in the case the parent of the child or other person referred to in sub-section (3) cannot be present, for any reason, during the medical examination of the child, the medical examination shall be conducted in the presence of a woman nominated by the head of the medical institution.

Section 41. Provisions of sections 3 to 13 shall not apply in certain cases: The provisions section 3 to 13 (both inclusive) shall not apply in case of medical examination or medical treatment of a child when such medical examination or medical treatment is undertaken with the consent of his parents or guardian.

42. Alternative punishment.-

Where an act or omission constitute an offence punishable under this Act and also under sections 166A, 354A, 354B, 354C, 354D370, 370A, 375, 376, 376A, 376AB, 376C, 376D, 376DA, 376DB, 376E or section 509 of the Indian Penal Code (45 of 1860), then, notwithstanding anything contained in any other law for the time being in force, then, notwithstanding anything contained in any law for the time being in force, the offender found guilty of such offence shall be liable to punishment under this Act or under the Indian Penal Code as provides for punishment which is greater in degree.

Section 42A. Act not in derogation of any other law.- The provisions of this Act shall be in addition to and not in derogation of the provisions of any other law for the time being in force and, in case of any inconsistency, the provisions of this Act shall have overriding effect on the provisions of any such law to the extent of inconsistency.

The Protection of Children from Sexual Offences Rules 2012.

Section 5. Emergency medical care.

(1) Where an officer of the Special Juvenile Police Unit or the local police receives information under section 19 of the Protection of Children from Sexual Offences Act that an offence under the Act has been committed, and is satisfied that the child against whom an offence has been committed is in need of urgent medical care and protection, he shall, as soon as possible, but not later than 24hours of receiving such information, arrange to take such child to the nearest hospital or medical care facility centre for emergency medical care:

PROVIDED that where an offence has been committed under sections 3,5,7 or 9 of the Act, the victim shall be referred to emergency medical care.

(2) Emergency medical care shall be rendered in such a manner as to protect the privacy of the child, and in the presence of the parent or guardian or any other person in whom the child has trust and confidence.

(3) No medical practitioner, hospital or other medical facility centre rendering emergency medical care to a child shall demand any legal or magisterial requisition or other documentation as a pre-requisite to rendering such care.

(4) The registered medical practitioner rendering emergency medical care shall attend to the needs of the child, including-

(ii) Treatment for cuts, bruises, and other injuries including genital injuries, if any.

(iii)Treatment for exposure to sexually transmitted diseases (STDs) including prophylaxis for identified STDs.

(iv) Treatment for exposure to Human Immunodeficiency Virus(HIV), including prophylaxis for HIV after necessary consultation with infectious disease experts.

(v) Possible pregnancy and emergency contraceptives should be discussed with the pubertal child and her parents or any other person in whom the child has trust and confidence.

(vi) Wherever necessary, a referral or consultation for mental or psychological health or other counseling should be made.

(5) Any forensic evidence collected in the course of rendering emergency medical care must be collected in accordance with Section 27 of the Act.

The Juvenile Justice (Care and Protection of Children) Act 2015.- (Act 2 of 2016 w.e.f. 15-01-16)

Section 2 Clause (12): Child means a person who has not completed eighteen years of age.

Section 94. Presumption and determination of age Clause (2): (i) the date of birth certificate from the school, or the matriculation or equivalent certificate from the concerned examination board, if available and in the absence whereof; (ii) the birth certificate given by a corporation or a municipal authority or a panchayat;And only in the absence of (i) and (ii) above, age shall be determined by an ossification test or any other latest medical age determination test conducted on the orders of the Committee or Board.

The Protection Of Women from Domestic Violence Act 2005.-

3. Definition of domestic violence. For the purposes of this Act, any act, omission or commission or conduct of the respondent shall constitute domestic violence in case it -

(a) harms or injures or endangers the health, safety, life, limb or well-being, whether mental or physical, of the aggrieved person or tends to do so and includes causing physical abuse, sexual abuse, verbal and emotional abuse and economic abuse; or

(b) harasses, harms, injures or endangers the aggrieved person with a view to coerce her or any other person related to her to meet any unlawful demand for any dowry or other property or valuable security; or

(c) has the effect of threatening the aggrieved person or any person related to her by any conduct mentioned in clause (a) or clause (b); or

(d) otherwise injures or causes harm, whether physical or mental, to the aggrieved person.

Explanation I. - For the purposes of this section,-

(i) "physical abuse" means any act or conduct which is of such a nature as to cause bodily pain, harm, or danger to life, limb, or health or impair the health or development of the aggrieved person and includes assault, criminal intimidation and criminal force;

(ii) "sexual abuse" includes any conduct of a sexual nature that abuses, humiliates, degrades or otherwise violates the dignity of woman;

(iii) "verbal and emotional abuse" includes-

(a) insults, ridicule, humiliation, name calling and insults or ridicule specially with regard to not having a child or a male child; and

(b) repeated threats to cause physical pain to any person in whom the aggrieved person is interested.

(iv) "economic abuse" includes-

(a) deprivation of all or any economic or financial resources to which the aggrieved person is entitled under any law or custom whether payable under an order of a court or otherwise or which the aggrieved person requires out of necessity including, but not limited to, household necessities for the aggrieved person and her children, if any, stridhan, property, jointly or separately owned by the aggrieved person, payment of rental related to the shared household and maintenance;

(b) disposal of household effects, any alienation of assets whether movable or immovable, valuables, shares, securities, bonds and the like or other property in which the aggrieved person has an interest or is entitled to use by virtue of the domestic relationship or which may be reasonably required by the aggrieved person or her children or her stridhan or any other property jointly or separately held by the aggrieved person; and

(c) prohibition or restriction to continued access to resources or facilities which the aggrieved person is entitled to use or enjoy by virtue of the domestic relationship including access to the shared household.

Explanation II. - For the purpose of determining whether any act, omission, commission or conduct of the respondent constitutes "domestic violence" under this section, the overall facts and circumstances of the case shall be taken into consideration.

4. Information to Protection Officer and exclusion of liability of informant.

(1) Any person who has reason to believe that an act of domestic violence has been, or is being, or is likely to be committed, may give information about it to the concerned Protection Officer.

(2) No liability, civil or criminal, shall be incurred by any person for giving in good faith of information for the purpose of sub-section (1).

7. Duties of medical facilities. If an aggrieved person or, on her behalf a Protection Officer or a service provider requests the person in charge of a medical facility to provide any medical aid to her, such person in charge of the medical facility shall provide medical aid to the aggrieved person in the medical facility.

Part - IV : Reporting format for medico-legal examination of survivor of sexual offences – 2019

Part - IV : Revised reporting format for medico-legal examination of survivor of sexual offences – 2018

The Kerala Medico-legal Protocol for Examination of Survivor of Sexual Offences is a modification of the "GUIDELINES AND PROTOCOLS FOR MEDICO-LEGAL CARE FOR SURVIVORS / VICTIMS OF SEXUAL VIOLENCE (2014)" issued by Ministry of Health & Family Welfare, Government of India, designed to suit the medico-legal system in the State of Kerala and in tune with the Kerala Medico-legal Code. Modifications were made to the reporting format and conditions regarding the examination and reporting to make it strictly in compliance to the legal provisions and the directions from the Hon'ble Supreme Court of India in this regard, till September 2018 and to make it the friendliest to the survivor, Law and law enforcing agencies and the medical professionals. Relevant parts of guidelines issued by Ministry of Health & Family Welfare and the Model Guidelines under Section 39 of The Protection of Children from Sexual Offences Act, 2012, issued by Ministry of Women and Child Development are annexed as Part II of the Protocol, as a ready reference for examination of the survivor and for providing medical and psychological care to her. Elaborate guidelines for examination of the survivor of sexual offences are incorporated in Part – I of the Protocol. Extract of the guidelines is given on cover page and backside of the triplicate copy of the 1st, 2nd, 3rd and 4th pages of the reporting format for ready reference at the time of examination. Every medical professional examining the survivor should be well versed with these guidelines, especially in their approach to the survivor and attending to the special groups. It is of utmost importance to establish a good rapport with the survivors and make them comfortable before commencing the examination. The examiner should communicate with the survivor in an empathetic manner and should convince the survivors that they are not at fault for anything that has happened and that everything will be done for providing comprehensive medical and psychological care and protection to them and to ensure justice.

Instructions to the Head of the Institution:

(1) There should be adequate stock, in the institution, of the following formats, facilities and materials necessary for the medico-legal examination of the survivor of sexual offences and allied medico-legal examinations as may be required with each such examination of the survivor.

i. An examination table, preferably the one on which the survivor can be examined in the lithotomy, lateral and knee-elbow position, as is required and placed in a sufficiently spacious and bath attached room.

ii. Facilities and equipments for a proper physical examination in a separate room under adequate privacy and under proper conditions of light.

iii. A copy of the Kerala Medico-legal Protocol for Examination of Survivor of Sexual Offences 2018 and Kerala Medico-legal Code 2011, draft format for examination and report of sexual offence, intimation book with intimation slips in triplicate, register of intimations and draft format for examination and report of allied examinations as may be necessary in accordance to the nature of stated assault and the formats of labels and forwarding note for dispatching the material objects collected during examination.

iv. A copy of the manual for examination and care of survivor of sexual offence issued by the Government of India and WHO, for guidelines regarding the provision of medical and psychological care to the survivors.

v. Facilities and equipments necessary for a systematic medical examination in conformity to the history of each type of case.

vi. Facilities and equipments for collection, packing and sealing of vaginal swabs, smears, pubic hair combings, clothes and any such material object, the examination of which may have a bearing on the case, including cotton, glass slides etc and a metallic seal for affixing on melted wax, on the bottles and packets forwarded for chemical analysis.

vii. There should also be facilities for collection and preservation of blood and urine samples, as may be necessary in cases of sexual assault on the survivor intoxicated with drugs, alcohol etc.

viii. There should be at least four sets of unused, readymade, colored dress (churidar) for females of small, medium, large and extra-large size.

ix. If possible, facilities for toludine blue dye test, wet mount slide test, colposcopic examination, Wood's Lamp for UV light examination etc should be made available in the institution.

x. Wherever possible, SAFE kits may be made available to every institution undertaking examination of survivor of sexual offences to facilitate comprehensive examination, reporting and preservation of material objects.

xi. Details of the Child Welfare Committee and S.H.O. of the nearest police station with contact phone numbers and their email id should be readily available to the doctors who conduct the examination.

(2) The format for report of examination of the survivor of sexual offence and the body diagrams (Part – VI of the Protocol) should be printed in a book form with Original (perforated to make detachable) for issuing to the Judicial / Police Officer, duplicate (perforated to make detachable) to be issued to the survivor or the person nominated by the survivor and the triplicate to be retained as office copy. Report should be printed in at least 30x21cm (A 4 Size) paper with good quality. The paper of the original should be white in color, duplicate light red and triplicate light blue. The intimation book should also be printed in a book form with Original (perforated to make detachable) for issuing to the Police Officer, duplicate (perforated to make detachable) to be issued to the survivor or the person nominated by the survivor and the triplicate to be retained as office copy.

(3) Printing, supply, maintenance and issue of the formats and reports of examination of the survivor and allied examinations including examination of drunkenness and administration of intoxicants, estimation of age, examination to look for signs of recent delivery/abortion etc should be made according to the conditions laid down in the Kerala Medico-legal Code.

(4) All doctors and staff of the institution should be made aware of their duty to provide free first aid or medical treatment, free of cost, to the survivor, duty to intimate the police of such incident immediately and the duty to maintain absolute confidentiality with regard to the details of the survivor and the examination for ensuring her anonymity

(5) All doctors should be made aware of their duty to provide testing and treating of STIs, HIV, Hepatitis B and C and the testing of pregnancy at pre-determined dates at relevant centers. The head of the institution should ensure provision of services for termination of pregnancy as applicable under the relevant laws.

(6) The head of the institution should ensure the availability of lady medical officers for examining woman/girl survivors by preparing duty roasters for the same, incorporating the names of lady medical officers working in the institution.

(To be printed on the back side of front cover page of reporting format)

Instructions for examination and making entries in page 1 of the reporting format

1. **General Instructions:** Survivor must be given appropriate treatment and counseling as per need, even if the survivor refuses consent for medico-legal examination. First aid or medical treatment, free of cost shall immediately be provided to the survivor. Requisition or registering the FIR is not a necessary pre-requisite for conducting the examination. Write with ball point pen and use good quality carbon paper to ensure clear and legible duplicate and triplicate copies of the report. Each page of the report should be signed by the doctor with her name and designation legibly recorded. Use additional sheets whenever necessary. Each additional sheet should bear the reference ML number, date and name of the survivor at the top end and the signature, name and designation of the doctor at the bottom end.
2. **Column No. I (2):** Examination of a woman survivor of sexual assault shall generally be done by a female doctor and that of a girl survivor (aged below 18 years) shall be done only by a woman doctor. Whenever possible and subject to conditions laid down by the head of departments or institutions in this regard, the examination of a woman/girl survivor of vaginal penetrative sexual assault, brought within 96hours of the stated assault, should be undertaken by a woman Gynecologist, if she is on duty in the institution, at the material time. In the absence of Gynecologist or when she is not able to attend to the examination due to any reason, the lady medical officer working in the institution and on duty at the material time should conduct the examination and shall not refer or redirect the survivor to another hospital for examination by Gynecologist. Boy/man survivors should be examined by the casualty/duty medical officer, who is on duty at the material time. In the case of transgender/other survivors, choice as to the gender of the examiner may be provided to the survivor. In all instances where a woman is brought with requisition for medico-legal examination with history other than that of sexual assault, like examination of arrested female, examination to look for signs of administration of intoxicants, brought as a victim in Immoral Traffic Prevention Act etc, the examination may be conducted by or under the supervision of the female doctor, on duty at that time. In Government Medical Colleges, a survivor brought during the working hours of the Department of Forensic Medicine and with the requisition from a police or judicial officer, may be examined by the doctors in that department, provided the survivor is not in need of any medical management and also complying with the stipulations regarding the gender of the examiner as detailed above.
3. **Column No. I (3 & 13):** Examination should be conducted without any delay and the survivor must not be made to wait on account of any reason. The only pre-requisite for the examination will be the consent from the survivor/parent/guardian. Even in situations where the duty doctor is engaged with the life saving treatment of another patient, the head of the institution shall arrange the service of another doctor. When the survivor is a child, it should be ensured that the child is comfortable before beginning the examination.
4. **Column No. I (7 & 8):** In all situations where the age stated by the survivor is below eighteen years and any of the valid proof of date of birth [(1) Date of birth certificate from the school, or the matriculation or equivalent certificate (2) Birth certificate given by a local body is not available with the survivor or parent or guardian at the time of examination or at her home or at any place from where it can be obtained, the determination of age should be done by the concerned specialist(s), up on a requisition from the investigating officer or other competent authority.
5. **Column No. I (11)** Medico-legal examination of the survivor shall only be conducted after obtaining valid consent. Informed written consent should be obtained, in the language, which the survivor/parent/guardian can write or understand. If the survivor is below 18 years of age, consent of the parent/guardian alone needs to be taken. When the survivor is aged above 18 years, consent from the survivor alone needs to be obtained unless the survivor is unable to give valid consent due to reasons like mental illness, administration of intoxicants etc. A sample of the wording of the said consent can be the following. "I, ……, hereby voluntarily consent for a complete medico-legal examination including collection of material objects to look for evidence of sexual offence on my body/on the body of …… who is my……, after being completely informed about all aspects of the examination, my right to refuse or consent to the examination and to withdraw the given consent at any stage of the examination, the possible medico-legal consequences if I refuse the examination, the possible medico-legal advantages if I consent to the examination, the duty of the doctor/medical institution to give intimation to the police or the concerned authority even if I refuse consent for examination and that appropriate treatment and counseling as per need will be provided to me even if I refuse the consent for medico-legal examination"(Sample consent form in Malayalam annexed at the end). The survivor /parent/guardian may be made to write the translation of the above in the language which she/he can write. If she/he is not able to write the consent due to illiteracy or other such reasons, the examiner should write it and read it over to them, adding that "The consent was written by me in …….language and was read over to the survivor or parent/guardian" and should sign it. In all such cases the signature (if possible) and left thumb impression (mandatory), of the survivor/parent/guardian and the signature of an independent witness who can read the words of consent with his/her name and address should be obtained. Whenever necessary, translators or special educators should be provided and their name and signature included in the report. A child survivor shall only be examined in the presence of a parent or any person in whom the child reposes trust or confidence and if such a person cannot be present due to any reason, the examination shall be conducted in the presence of a woman nominated by the head of the institution. In all such situations and also when a child survivor is brought with requisition from a competent authority and with the escort of a person other than the parent or guardian, the dictum of *loco parentis* may be applied and consent may be obtained from the person escorting the child or the woman nominated by the head of institution, upon an order from the Child Welfare Committee or competent authority, specifying that nominated person's capacity to give such consent. In all situations where the examining doctor has any reason to believe that the parent or guardian of the child is not consenting since such parent or guardian himself is the perpetrator or is colluding with the perpetrator, the doctor shall inform the matter to the CWC and up on an order from CWC specifying the capacity to give consent, shall obtain consent from the person nominated. Police personnel should not be allowed during examination. Whenever consent is refused, the medical officer should take maximum effort to convince the survivor, of the necessity of examination. This does not mean that the doctor can resort to coercive or compelling methods or to the use of force. The Law does not contemplate use of force of any type on the victims of offences. The doctor should try to make them understand the necessity for conducting the examination, in the interest of the survivor and her family, the society, the State and also of justice. In spite of all such efforts by the doctor, if the survivor or the parent or guardian refuses consent for examination, informed refusal should be recorded in the same manner as that for consent, incorporating the signature of an independent witness to such refusal and should intimate the police immediately.

REPORT OF MEDICO-LEGAL EXAMINATION OF SURVIVOR OF SEXUAL OFFENCE

CONFIDENTIAL RECORD

Ref. ML./SSO/No : ...…….. Hospital OP/IP No.:…….. Date : ……..…

I. GENERAL INFORMATION AND CONSENT.

1) Name of Medical Institution :……

2) Name of doctor(s) who conducted the examination :…….

……

3) Date and time of arrival of the survivor at hospital :…….

4) Survivor is a Woman / Girl / Boy / Man / Transgender / Others……**

5) Name :……W/D/S/o…….

6) Address :……

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……..PIN……..Contact phone numbers ……

7) Age : …..years……months…….days. (As stated by the…….)

8) Date of birth :…….

Proof of date birth : School Certificate/Matriculation certificate/Birth Certificate/Not available anywhere.

9) Requisition (if any) from; ..…….

vide Crime No. …… of ……. Police station dated ……

and brought/accompanied by (Number if any, name & designation.)..……...……

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10) If not brought with requisition, name, address and relation of the person (if any) who brought or is accompanying the survivor……..…….

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11) Informed written consent/refusal: (Written by the survivor/parent/guardian/by the examiner and read over to the survivor)……

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Name & signature of the survivor. (Survivor completed 18years)

Name & Signature of the parent/ guardian/person authorized by CWC. (Survivor below 18 years/unable to give consent)

Left thumb impression of the survivor/parent.

12) Signature, name and address of the independent witness/translator/special educator if any:……

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13) Date and time of commencement of examination…..……..……..……..

14) Identification marks: (1)……..……..…..……..

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(2)……..……...……

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REPORT OF MEDICO-LEGAL EXAMINATION OF SURVIVOR OF SEXUAL OFFENCE

CONFIDENTIAL RECORD **Page 1 of DUPLICATE**

Ref. ML./SSO/No : ...…….. Hospital OP/IP No.:…….. Date : ……..…

I. GENERAL INFORMATION AND CONSENT.

1) Name of Medical Institution :……

2) Name of doctor(s) who conducted the examination :…….

……

3) Date and time of arrival of the survivor at hospital :…….

4) Survivor is a Woman / Girl / Boy / Man / Transgender / Others……**

5) Name :……W/D/S/o…….

6) Address :……

……..

……..PIN……..Contact phone numbers ……

7) Age : …..years……months…….days. (As stated by the…….)

8) Date of birth :…….

Proof of date birth : School Certificate/Matriculation certificate/Birth Certificate/Not available anywhere.

9) Requisition (if any) from; ..…….

vide Crime No. …… of ……. Police station dated ……

and brought/accompanied by (Number if any, name & designation.)..……...……

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10) If not brought with requisition, name, address and relation of the person (if any) who brought or is accompanying the survivor……..…….

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11) Informed written consent/refusal: (Written by the survivor/parent/guardian/by the examiner and read over to the survivor)……

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Name & signature of the survivor. (Survivor completed 18years)

Name & Signature of the parent/ guardian/person authorized by CWC. (Survivor below 18 years/unable to give consent)

Left thumb impression of the survivor/parent.

12) Signature, name and address of the independent witness/translator/special educator if any:……

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13) Date and time of commencement of examination…..……..……..……..

14) Identification marks: (1)……..……..……..

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(2)……..……...……

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REPORT OF MEDICO-LEGAL EXAMINATION OF SURVIVOR OF SEXUAL OFFENCE

CONFIDENTIAL RECORD **Page 1 of TRIPLICATE**

Ref. ML./SSO/No : ...…….. Hospital OP/IP No.:…….. Date : ……..…

I. GENERAL INFORMATION AND CONSENT.

1) Name of Medical Institution :……

2) Name of doctor(s) who conducted the examination :…….

……

3) Date and time of arrival of the survivor at hospital :…….

4) Survivor is a Woman / Girl / Boy / Man / Transgender / Others……**

5) Name :……W/D/S/o…….

6) Address :……

……..

……..PIN……..Contact phone numbers ……

7) Age : …..years……months…….days. (As stated by the…….)

8) Date of birth :…….

Proof of date birth : School Certificate/Matriculation certificate/Birth Certificate/Not available anywhere.

9) Requisition (if any) from; ..…….

vide Crime No. …… of ……. Police station dated ……

and brought/accompanied by (Number if any, name & designation.)..…….…...……

……...……..

10) If not brought with requisition, name, address and relation of the person (if any) who brought or is accompanying the survivor……..…….

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11) Informed written consent/refusal: (Written by the survivor/parent/guardian/by the examiner and read over to the survivor)……

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Name & signature of the survivor. (Survivor completed 18years)

Name & Signature of the parent/ guardian/person authorized by CWC. (Survivor below 18 years/unable to give consent)

Left thumb impression of the survivor/parent.

12) Signature, name and address of the independent witness/translator/special educator if any:……

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13) Date and time of commencement of examination…..……..……..……..

14) Identification marks: (1)……..……..…..……..

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(2)……..……...……

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To be printed on the back side of triplicate of Page 1 of reporting format

Instructions for examination and making entries in page 2 of the reporting format

Column II (a): During all stages of history taking and examination, the registered medical practitioner should adopt an empathetic attitude towards the survivor, showing compassion and patience to listen to her. Her interactions with the survivor should be in a consoling manner. The reassurance of maintaining absolute confidentiality and also of the providing of all possible assistance to overcome the crisis should be given. Her approach should be humane and sympathetic as well as unbiased and impartial at the same time. However, this does not mean in any way that the registered medical practitioner should add or omit anything which may favour in an undue manner or adversely affect the lawful interests of the survivor or that of any other person. Questions of humiliating or incriminating nature which may cause mental agony must not be asked to the survivor. Ideally, the survivor may be made to narrate the history herself/himself without any interruption by the examiner who should exercise adequate patience in listening to the survivor. Questions which do not have any relevance to the stated type of sexual assault or stated time of occurrence or those to which the answers were already covered in the narration by the survivor should not be asked. Utmost sympathy and compassion should be shown towards the survivor and adequate privacy must be ensured. Whenever history is taken from a child survivor, directions in clause 3 of chapter 3 of Model Guidelines (2013) under Section 39 of The Protection of Children from Sexual Offences Act, 2012, issued by The Union Ministry of Women and Child Development should be strictly followed. A proper history should be obtained in the survivor's own words, in all possible instances and should be recorded as such. Record date, time and place of assault, type/nature of assault, number and name(s) of assailant(s) if known, whether the stated sexual offences were committed repeatedly on the survivor and other relevant details, as far as possible in the survivor's own words. If the history was stated by any person other than the survivor, his/her name, address and relation to the survivor should be recorded. State of consciousness and orientation of time and place at the time of sexual assault, history of any physical and verbal threats/abuses and use of weapons if any should also be asked if relevant. History of drugs or alcohol being given to the survivor before or during the assault should be enquired. Pain on urination or defecation since the assault, vomiting and relevant post-assault activities like bathing, washing the body part involved in assault and defecation etc should also be enquired depending on its significance in relation to time gap between assault and reporting and also on the possibility for obtaining evidence. Whether the assailant has used condom during the assault should also be asked if the survivor can recollect it and only if it is relevant with regard to the possibility for transmission of sexually transmitted diseases or pregnancy. In case of boy or girl survivors, if there is a history of sexual abuse in the past, by the same assailant or anyone else, that should be recorded. If there are injuries on the body, history as to the cause of such injuries should be obtained. Use additional sheets if necessary. When any of the columns in II (a) (2) to (11) is not relevant, strike off such column.

Column II (b) Whenever pregnancy is stated or suspected on the basis of history, signs and LMP, pregnancy test with urine sample should be done to confirm pregnancy and Ultrasound Scanning of abdomen should be done to find out the period of gestation. In all such situations where the survivor became pregnant as a result of sexual assault, the examining doctor has a responsibility to provide necessary advice and assistance for abortion as per the provisions of MTP Act, if the survivor or parent wishes for the same. In any such situation where a pregnancy resulted from rape is medically terminated or while conducting delivery in such a case, the registered medical practitioner conducting the MTP/delivery has a responsibility to preserve the embryo/fetal tissue/fetal blood for DNA profiling. Strike off this column when not relevant with regard to history or not applicable.

Column II (c): History of any disability should be obtained if present. If any disability is present or suspected, detailed evaluation of the survivor should be done by a Special Medical Board constituted for the purpose, unless the survivor has been already evaluated and a certificate of disability issued. This should be done as early as possible with the assistance of the head of the institution or the nearest medical institution where the required specialists are available.

Ref. ML./SSO/No : ...…….. **Date : ……..…**

II. HISTORY

a) 1) History/Details of stated sexual assault (As stated by survivor/……):

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2) If history was narrated by anyone other than the survivor, name, address & relation of the person who narrated it: ……

3) State of consciousness and orientation at the time of sexual assault: ……
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4) History of physical and verbal threat/abuse and use of weapons if any:……
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5) History of drugs or alcohol being given to the survivor before or during the assault: ……..
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6) Pain on urination / defecation since the assault: ……...

7) Whether bathed/urinated/defecated/Vomited/washed the genitals or anus or mouth or the body part on which the sexual offence has been committed, since the incident: .……..

8) Did the assailant use condom or any lubricant: Yes/No/Don't know……

9) History of sexual abuse in the past in children:……..……
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10) History and stated cause of injury if any on the body: ……..
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11) Any other information to be conveyed: ……...…

b) Relevant menstrual and obstetric history (for females only): 1) LMP:…….…….

2) Whether menstruating (a) at the time of examination :Yes/No/NA (b) at the time of assault :Yes/No/NA.

3) Whether on any type of contraception at the time of assault : Yes/No/NA. If yes, type……..

4) Other relevant history if any :…….

5) Was the survivor pregnant at the time of assault : Yes / No / NA. If yes, length of gestation…….……..

c) Medical and Surgical history:

1) History of congenital or acquired disability in the past: Present/Not present/Not available.
If present, details :……...

2) History of vaccinations (Tetanus, Hepatitis B)……...

3) Any other relevant medical or surgical history:.…… …

Ref. ML./SSO/No : ...…….. **Date : ……..…**

II. HISTORY

a) 1) History/Details of stated sexual assault (As stated by survivor/……):

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2) If history was narrated by anyone other than the survivor, name, address & relation of the person who narrated it: ……

3) State of consciousness and orientation at the time of sexual assault: ……
……..……..

4) History of physical and verbal threat/abuse and use of weapons if any:……
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5) History of drugs or alcohol being given to the survivor before or during the assault: ……..
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6) Pain on urination / defecation since the assault: ……...

7) Whether bathed/urinated/defecated/Vomited/washed the genitals or anus or mouth or the body part on which the sexual offence has been committed, since the incident: .……..

8) Did the assailant use condom or any lubricant: Yes/No/Don't know……

9) History of sexual abuse in the past in children:……..……
……

10) History and stated cause of injury if any on the body: ……..
……..……..

11) Any other information to be conveyed: ……...…

b) Relevant menstrual and obstetric history (for females only): 1) LMP:…….…….

2) Whether menstruating (a) at the time of examination :Yes/No/NA (b) at the time of assault :Yes/No/NA.

3) Whether on any type of contraception at the time of assault : Yes/No/NA. If yes, type……..

4) Other relevant history if any :…….

5) Was the survivor pregnant at the time of assault : Yes / No / NA. If yes, length of gestation…….……..

c) Medical and Surgical history:

1) History of congenital or acquired disability in the past: Present/Not present/Not available.
If present, details :……...

2) History of vaccinations (Tetanus, Hepatitis B)……...

3) Any other relevant medical or surgical history:.…… …

Ref. ML./SSO/No : ...…….. **Date : ……..…**

II. HISTORY

a) 1) History/Details of stated sexual assault (As stated by survivor/……):

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2) If history was narrated by anyone other than the survivor, name, address & relation of the person who narrated it: ……..…….

3) State of consciousness and orientation at the time of sexual assault: ……
……...……..

4) History of physical and verbal threat/abuse and use of weapons if any:……
…….

5) History of drugs or alcohol being given to the survivor before or during the assault: ……..
……

6) Pain on urination / defecation since the assault: ……...

7) Whether bathed/urinated/defecated/Vomited/washed the genitals or anus or mouth or the body part on which the sexual offence has been committed, since the incident: .……..

8) Did the assailant use condom or any lubricant: Yes/No/Don't know……

9) History of sexual abuse in the past in children:……..……
…….

10) History and stated cause of injury if any on the body: ……..
……..……..

11) Any other information to be conveyed: ……...…

b) Relevant menstrual and obstetric history (for females only): 1) LMP:…….…….

2) Whether menstruating (a) at the time of examination :Yes/No/NA (b) at the time of assault :Yes/No/NA.

3) Whether on any type of contraception at the time of assault : Yes/No/NA. If yes, type……..

4) Other relevant history if any :…….

5) Was the survivor pregnant at the time of assault : Yes / No / NA. If yes, length of gestation…….……..

c) Medical and Surgical history:

1) History of congenital or acquired disability in the past: Present/Not present/Not available.
If present, details :……...

2) History of vaccinations (Tetanus, Hepatitis B)……...

3) Any other relevant medical or surgical history:.…… …

To be printed on the back side of triplicate of Page 2

Instructions for examination and making entries in page 3 of the reporting format

Column III: A complete examination with a view to assess the health condition of the survivor should be conducted as per the scheme provided. Evidence or findings suggestive disability should be looked for. Whenever any such hazards affecting health, either preexisting or as a consequence of the assault are detected in the survivor, the examiner has the responsibility to pursue the possibility for detailed evaluation as necessary and to provide adequate treatment. If evidence of administration of intoxicants or alcohol is present or suspected, examination of the survivor should be done for drunkenness or that for administration of intoxicants or drugs, in the prescribed formats. Whenever the clothes which a female survivor is wearing at the time of examination are preserved for examination, the institution has a responsibility to provide clothes from the stock maintained by them for the purpose or by making local purchase. Strike off the columns which are not relevant as per the history obtained.

Column IV: Local examination of all areas in Column IV (a) to (i) should not be conducted as a general rule. According to the new definition of rape and its counterpart in PoCSO Act, assaults without direct involvement of any of these areas may also constitute the offence of rape. In a situation where manipulation of a body part in order to facilitate penetration is the stated history, detailed examination of all local areas will only add to the agony of the survivor. In such situations, the survivor not being a child, recording the history and a general examination to look for any physical or mental health hazards only may be necessary and the examiner can avoid local examination as "not relevant". The examiner should consider the relevance of the examination of each private part with reference to the stated history and then only proceed to examination of the area. In situations where the survivor is examined many days or weeks or months after the incident, the primary purpose of examination should be to identify any health hazard persisting in the survivor as a late complication or sequel to the assault with a view to provide treatment. If, at any stage during the examination, the survivor expresses her non-willingness to undergo further examination, the examiner should stop the examination, by giving a short break. In such situations the examiner should explain the need for continuing the examination so as to look for the health hazards that resulted from the assault and the possibility for obtaining evidence if any, to the survivor. In all situations where further examination is refused by the survivor, informed refusal should be recorded as described earlier. Examiner should take care to minimize the discomfort and pain during examination. Short breaks may be given if the survivor desires so. Subject to availability of SAFE kits, stepwise examination as prescribed in SAFE kit should mandatorily be done in all cases where the survivor is examined within 24hours of the stated time of incident. SAFE kit should also be used when the examination is conducted within 96hours of the incident, provided the survivor has not taken bath or cleaned or washed the area stated to be involved in the assault due to continuous unconsciousness since the incident or any other reason. Examination shall only be done in adequate privacy and the presence of any person other than the survivor, examiner and the person referred to in section 27 of the PoCSO Act should be allowed with the consent of the survivor.

Column IV (a): Pubic hairs need to be examined in detail only in cases where it is relevant as per history and when the survivor is examined before the pubic region is washed or cleaned after the incident. Findings like matting or smearing with blood or thick viscid fluid should be looked for and recorded if present. Strike off the portion when not relevant or not applicable.

Column IV (b): Need to be examined in detail only in cases where the examination of vagina is relevant as per history of the stated type of sexual assault. Detailed region-wise examination is warranted in cases with stated history of vaginal penetration with a view to look for injuries, smearing with blood or thick viscid fluid, changes of inflammation or healing etc when the survivor is brought within the period of healing of injuries and for late complications of injuries caused by penetration when brought at a later time. When the woman survivor is brought after many days or a longer period so that no findings are detected, write 'normal' against the column. Hymenal tears need to be recorded only if they are corroborating the stated history of sexual assault. Recent tears of age consistent with the stated time of sexual assault and with associated findings like edges showing bleeding or signs of inflammation should be described. Healed tears in woman survivors need not be recorded. Registered medical practitioners shall not perform two finger test or record findings like diameter or circumference of the vaginal canal which may indicate the previous sexual experience of the survivor. Per-vaginal examination should be limited to looking for tenderness and injuries and only in cases where such examination is absolutely necessary for finding out the injuries and for providing treatment of injuries.

Column IV (c) to (j): The areas referred to in Column IV (c) to (j) need to be examined in detail only in cases where the examination of the same is relevant as per history of the stated type of sexual assault. Record the findings and injuries in sufficient detail. Strike off the portion when the examination of the area or organ is not relevant or not applicable. Discharge of thick viscid fluid, blood etc, smearing of skin and mucus membrane with thick viscid fluid, blood etc and dried stains of mucoid fluid, blood etc should be described if present. Whenever presence of semen or saliva is suspected, swabs should be taken. Foreign body or particles should be noted if present. Unhealthy mucosa, infection, ulcers, evidence of STD etc should be described, if present. Swelling, congestion/reddening and tenderness should be looked for and described if present. All the positive findings which may corroborate the history should be noted in accordance to the type of assault and area involved. Nail marks, bite marks and contusions should be specifically looked for. Complete description of injuries should be made incorporating the type of injury, size, site, direction etc. Bleeding, scab, color changes of wound/scab, stage of healing, infection etc which may indicate the age of injuries should be noted. Marking of the injuries in the diagrams may be done in cases where injuries are present and specifying the special attributes of the wound indicating its pattern. Use additional sheets whenever necessary.

Ref. ML./SSO/No : ...…….. Date : ……..…

III. GENERAL PHYSICAL EXAMINATION.

1) Pulse:…….. 2) BP:…… 3) Respirations:……..……

4) Level of consciousness : Conscious/Semi-conscious/Unconscious/……

5) General Mental condition : ……..……..……..

6) Memory : Normal / impaired. 7) Orientation of time & space : Normal / impaired/……..

8) Systemic examination (NS, CVS, RS & GIS):……..

……..

9) Examination of clothes (if same as those worn at the time of assault) : Intact/Disordered/Torn/NA.

If torn, description of tears, loss of parts, condition of buttons, stains and smearing etc:……

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Findings of UV light examination of clothes……..……...……

10) Examination of nails :……..…

…….

11) Evidence or findings suggestive of any disability: Present/Absent.

12) Evidence or findings suggestive of administration of intoxicants or alcohol : Present/Absent.

IV. LOCAL EXAMINATION.

a) Pubic Hairs. (Relevant / Not Relevant / Not Applicable)

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b) Female External Genitalia. (Relevant / Not Relevant / Not Applicable)

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c) Male External Genitalia. (Relevant / Not Relevant / Not Applicable)

Penis: Fore skin : Retractable/Non retractable/Circumcised. Smegma deposits: Present/Absent/NA.

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Scrotum and testes:……

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d) Urethra. (Relevant / Not Relevant / Not Applicable)

……..

……

e) Perineum. (Relevant / Not Relevant / Not Applicable)

……..

……

f) Anus. (Relevant / Not Relevant / Not Applicable)

1) Anal orifice and peri-anal regions:…....……..

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2) Anal sphincter and rectum : ……..……...……..

……

…...……

Ref. ML./SSO/No : ...…….. **Date : ……..…**

III. GENERAL PHYSICAL EXAMINATION.

1) Pulse:…….. 2) BP:…… 3) Respirations:……..……

4) Level of consciousness : Conscious/Semi-conscious/Unconscious/……

5) General Mental condition : ……..……..……..

6) Memory : Normal / impaired. 7) Orientation of time & space : Normal / impaired/……..

8) Systemic examination (NS, CVS, RS & GIS):……..

……..

9) Examination of clothes (if same as those worn at the time of assault) : Intact/Disordered/Torn/NA.

If torn, description of tears, loss of parts, condition of buttons, stains and smearing etc:……

……

Findings of UV light examination of clothes……..……...……

10) Examination of nails :……..…

…….

11) Evidence or findings suggestive of any disability: Present/Absent.

12) Evidence or findings suggestive of administration of intoxicants or alcohol : Present/Absent.

IV. LOCAL EXAMINATION.

a) Pubic Hairs. (Relevant / Not Relevant / Not Applicable)

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b) Female External Genitalia. (Relevant / Not Relevant / Not Applicable)

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c) Male External Genitalia. (Relevant / Not Relevant / Not Applicable)

Penis: Fore skin : Retractable/Non retractable/Circumcised. Smegma deposits: Present/Absent/NA.

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Scrotum and testes:……

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d) Urethra. (Relevant / Not Relevant / Not Applicable)

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e) Perineum. (Relevant / Not Relevant / Not Applicable)

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f) Anus. (Relevant / Not Relevant / Not Applicable)

1) Anal orifice and peri-anal regions:…....……..

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2) Anal sphincter and rectum : ……..……...……..

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…...……

Ref. ML./SSO/No : ...…….. **Date : ……..…**

III. GENERAL PHYSICAL EXAMINATION.

1) Pulse:…….. 2) BP:…… 3) Respirations:……..……

4) Level of consciousness : Conscious/Semi-conscious/Unconscious/……

5) General Mental condition : ……..……..……..

6) Memory : Normal / impaired. 7) Orientation of time & space : Normal / impaired/……..

8) Systemic examination (NS, CVS, RS & GIS):……..

……..

9) Examination of clothes (if same as those worn at the time of assault) : Intact/Disordered/Torn/NA.

If torn, description of tears, loss of parts, condition of buttons, stains and smearing etc:……

……

Findings of UV light examination of clothes……..……...……

10) Examination of nails :……..…

…….

11) Evidence or findings suggestive of any disability: Present/Absent.

12) Evidence or findings suggestive of administration of intoxicants or alcohol : Present/Absent.

IV. LOCAL EXAMINATION.

a) Pubic Hairs. (Relevant / Not Relevant / Not Applicable)

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b) Female External Genitalia. (Relevant / Not Relevant / Not Applicable)

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c) Male External Genitalia. (Relevant / Not Relevant / Not Applicable)

Penis: Fore skin : Retractable/Non retractable/Circumcised. Smegma deposits: Present/Absent/NA.

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Scrotum and testes:……

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d) Urethra. (Relevant / Not Relevant / Not Applicable)

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e) Perineum. (Relevant / Not Relevant / Not Applicable)

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f) Anus. (Relevant / Not Relevant / Not Applicable)

1) Anal orifice and peri-anal regions:…....……..

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2) Anal sphincter and rectum : ……..……...……..

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To be printed on the back side of triplicate of Page 3

Instructions for examination and making entries in page 4 of the reporting format

Column V: Every registered medical practitioner should understand that the absence of injuries on any part of the body of the survivor does not rule out sexual assault on her. Whenever injuries are present, detailed description of all injuries should be made in a region-wise manner and as discussed earlier. Injuries should be serially numbered. In all such cases, the medical professional has a responsibility to provide appropriate treatment for such injuries and consultations with appropriate specialists should be made for the medical or surgical management of injuries and follow up treatment. Use additional sheets whenever necessary.

Column VI: Complete examination of all systems should be done to look for any ailments. Whenever any such ailments are detected, the doctor has a responsibility to ensure appropriate treatment and consultation with the concerned specialists, even if such ailments are not directly related to the stated sexual assault.

Column VII: Toluidine blue test should be done before per-speculum examination as the speculum may cause superficial mucosal injuries. Toluidine blue test should not be done before vaginal samples collection, as spraying of the dye and washing away the excess can cause loss of evidence. UV light examination shall only be used to identify seminal/salivary stains on skin and for collection of swab from that area.

Column VIII: Relevant material objects should be preserved according to the nature of the sexual assault. Strike off whichever is not preserved. Preservation of all the material objects relevant as per the stated history is mandatory in all cases when the survivor is brought for examination within 96 hours of the stated assault. Whenever available SAFE kit should be used for collection of samples from the survivor examined within 24hours of the stated assault. SAFE kit should also be used when the examination is conducted after 24hours and within 96hours of the incident, if the survivor has not taken bath or cleaned or washed the area stated to be involved in the assault. When the survivor is brought after a period of 96 hours of the stated incident, all the material objects need not be preserved. However, the registered medical practitioner may preserve relevant material objects from a survivor brought after 96 hours but within one week of the stated assault, depending up on the possibility for evidence to be retained on the body of the survivor as revealed by relevant points from the history (e.g. survivor unconscious till the time of examination, not taking bath or cleaning the genitalia due to mental illness, exact time of assault is not known due to disorientation etc.) However, it is better to preserve vaginal swabs and smears in all cases where its preservation is relevant and the survivor brought within one week of the stated sexual assault since this period will cover almost all the theoretical possibilities for detection of DNA evidence from it and will prevent any possible allegations against the doctor with reference to non-preservation. While examining a survivor within 24hours of the stated sexual assault and also if she haven't changed clothes or taken bath or washed the area since the assault, it is ideal that the survivor stands on a large, clean paper spread on the floor and undress herself. Collection of material objects must be done without causing any further physical or mental agony to the survivor. Hairs should be cut close to the root from different regions without causing pain or any detrimental effect on appearance. Vaginal, penile, anal, buccal and other swabs should be dried completely and packed in clean paper or paper envelope. Swabs should not be packed in plastic paper or bottles. Blood for DNA profiling should be collected in glass bottles or containers with EDTA as the preservative. Alternatively, blood can be preserved by soaking in sterile or autoclaved cotton gauze and dried well in air and packed in clean/sterile paper packet or envelope. When stains are to be collected, cotton gauze wetted with pure distilled water should be used to mop out the stain completely, air dry and pack in clean/sterile paper or paper envelope. All biological samples in which DNA evidence is anticipated should be handed over to the Investigating Officer in a labeled and sealed envelope or container, for taking the same on a seizure mahassar and forwarding to the Forensic Science Laboratory, through the concerned Court of Law. Whenever such a material object is taken over by the Investigating Officer on a seizure mahassar, one Nursing Assistant/Attender, preferably a male, on duty in the institution at the material time should be made a witness to the seizure. Only those material objects which require chemical analysis should be forwarded to the Chemical Examiner's Laboratory. In such cases, the Medical Officer should issue the forwarding note for chemical analysis and send the material objects through a CPO, deputed by the IO. Material objects like vaginal or other smears, swabs, nail clippings etc in which DNA profiling is anticipated should not be forwarded to Chemical Examiner. The packing, labeling and forwarding of the material objects, without compromising on the chain of custody should be done as per the provisions of the Kerala Medico-legal Code. In all cases where there is history or findings of penetrative assault, blood should be sent for screening for HbsAg, VDRL and HIV in compliance to the rules in this regard for providing prophylactic and therapeutic measures and also for evidence collection. In all situation where a pregnancy resulted from rape is medically terminated or delivery is conducted, the embryo/fetal tissue/fetal blood should mandatorily be preserved for DNA profiling. Tissues for DNA profiling shall not be preserved in formalin.

Ref. ML./SSO/No : ...…….. Date : ……..…

g) Buttocks and Thighs. (Relevant / Not Relevant / Not Applicable)

……

……

h) Breasts (Relevant / Not Relevant / Not Applicable)

……

……

i) Mouth and Oral Cavity (Relevant / Not Relevant / Not Applicable)

……

……

j) Clitoropenis / labioscrotum (Relevant / Not Relevant / Not Applicable)

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V. INJURIES IF ANY, ON THE BODY.

a) Head, Neck and Face :……

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……

b) Trunk :……

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……

c) Upper limbs :……..

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……

d) Lower limbs :……..

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VI. SYSTEMIC EXAMINATION (CNS, CVS, RS & GIS):……

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VII. SPECIFIC EXAMINATIONS. (Wherever facilities exist and only if indicated)

Results of Toluidine blue test, wet mount slide test, colposcopic examination, anoscopic examination and UV light examination of skin:……..

..…….……...

VIII. MATERIAL OBJECTS PRESERVED:**

(1) Vaginal smears (2) Vaginal swabs (3) Nail clippings (4) Loose hair from combings of pubic region
(5) Pubic hair samples (cut) (6) Scalp hair samples (cut) (7)Blood to look for sedatives/hypnotics
(8) Urine to look for sedatives/hypnotics (9)Urine for pregnancy test (10) Swab from skin of thighs.
(11) Buccal smears and swabs (12)Anal swabs and smears (13) Loose hair from anal region & buttocks
(14) Penile swabs (15) Clothes. (16) Swabs from suspected stains on the body parts (Specify the region)
(17) Blood for DNA profiling (18) Fetal blood/tissue for DNA profiling after abortion or delivery.
(19) Blood for screening for HbsAg, VDRL, HIV:……
Any other :……..……
……
If not preserved, reasons :……..
……

Ref. ML./SSO/No : ...…….. Date : ……..…

g) Buttocks and Thighs. (Relevant / Not Relevant / Not Applicable)

……

……

h) Breasts (Relevant / Not Relevant / Not Applicable)

……

……

i) Mouth and Oral Cavity (Relevant / Not Relevant / Not Applicable)

……

……

j) Clitoropenis / labioscrotum (Relevant / Not Relevant / Not Applicable)

……

……

V. INJURIES IF ANY, ON THE BODY.

a) Head, Neck and Face :……

……

……

……

……

……

b) Trunk :……

……

……

……..……..

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c) Upper limbs :……..

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d) Lower limbs :……..

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VI. SYSTEMIC EXAMINATION (CNS, CVS, RS & GIS):……

……

……

VII. SPECIFIC EXAMINATIONS. (Wherever facilities exist and only if indicated)

Results of Toluidine blue test, wet mount slide test, colposcopic examination, anoscopic examination and UV light examination of skin:……..

..……..……..

VIII. MATERIAL OBJECTS PRESERVED:**

(1) Vaginal smears (2) Vaginal swabs (3) Nail clippings (4) Loose hair from combings of pubic region
(5) Pubic hair samples (cut) (6) Scalp hair samples (cut) (7)Blood to look for sedatives/hypnotics
(8) Urine to look for sedatives/hypnotics (9)Urine for pregnancy test (10) Swab from skin of thighs.
(11) Buccal smears and swabs (12)Anal swabs and smears (13) Loose hair from anal region & buttocks
(14) Penile swabs (15) Clothes. (16) Swabs from suspected stains on the body parts (Specify the region)
(17) Blood for DNA profiling (18) Fetal blood/tissue for DNA profiling after abortion or delivery.
(19) Blood for screening for HbsAg, VDRL, HIV:……
Any other :……..……

……

If not preserved, reasons :……..

……

Ref. ML./SSO/No : ...…….. **Date : ……..…**

g) Buttocks and Thighs. (Relevant / Not Relevant / Not Applicable)

……

……

h) Breasts (Relevant / Not Relevant / Not Applicable)

……

……

i) Mouth and Oral Cavity (Relevant / Not Relevant / Not Applicable)

……

……

j) Clitoropenis / labioscrotum (Relevant / Not Relevant / Not Applicable)

……

……

V. INJURIES IF ANY, ON THE BODY.

a) Head, Neck and Face :……

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b) Trunk :……

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……

c) Upper limbs :……..

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……

d) Lower limbs :……..

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VI. SYSTEMIC EXAMINATION (CNS, CVS, RS & GIS):……

……

……

VII. SPECIFIC EXAMINATIONS. (Wherever facilities exist and only if indicated)

Results of Toluidine blue test, wet mount slide test, colposcopic examination, anoscopic examination and UV light examination of skin:……..

..……..……..

VIII. MATERIAL OBJECTS PRESERVED:**

(1) Vaginal smears (2) Vaginal swabs (3) Nail clippings (4) Loose hair from combings of pubic region
(5) Pubic hair samples (cut) (6) Scalp hair samples (cut) (7)Blood to look for sedatives/hypnotics
(8) Urine to look for sedatives/hypnotics (9)Urine for pregnancy test (10) Swab from skin of thighs.
(11) Buccal smears and swabs (12)Anal swabs and smears (13) Loose hair from anal region & buttocks
(14) Penile swabs (15) Clothes. (16) Swabs from suspected stains on the body parts (Specify the region)
(17) Blood for DNA profiling (18) Fetal blood/tissue for DNA profiling after abortion or delivery.
(19) Blood for screening for HbsAg, VDRL, HIV:……
Any other :……..……

……

If not preserved, reasons :……..

……

To be printed on the back page of the triplicate copy of page 4 of the reporting format.

Instructions for examination and making entries in page 5 of the reporting format

Column IX: Further examinations and consultations should be conducted without any delay, by concerned specialists and their reports should be forwarded to the Investigating Officer, as addendums to the original report. As per Section 357C of Cr.P.C., whoever being in charge of a hospital has a responsibility to provide first aid or medical treatment immediately to a female survivor of sexual offence, free of cost. The survivor shall not be made to pay for anything including consultations, medicines and clinical investigations. If the survivor requires in-patient treatment, as far as possible admission should be made to a separate room where continuous monitoring is possible and the possibility for any threat or inducement from the side of the accused can be prevented. In situations where any of the consultations or further examinations could not be done due to non-availability of concerned specialists a referral to the nearest higher centre can be made after the examination. In situations where a life threatening condition existing in the survivor warrants the management of the same by concerned specialist(s) and under adequate facilities and when such specialist(s) or facilities are not available in the institution, the survivor can be referred to a higher medical institution. Whenever such a referral is made, the doctor on duty in the institution has a responsibility to do everything possible within his limits and with the objective of stabilizing the condition of the survivor so that the survivor reaches the higher centre safely. The objectives of the treatment should be with a view to the following:

♦ Treatment for cuts, bruises and other injuries including genital injuries, if any. ♦ Treatment for exposure to sexually transmitted diseases, including prophylaxis for identified STDs. ♦ Treatment for exposure to Human Immunodeficiency Virus (HIV), including prophylaxis for HIV after necessary consultation with infectious disease experts. ♦ Emergency contraceptive measures if there is possibility of pregnancy from the sexual assault. ♦ Advice and assistance for abortion as per the provisions of MTP Act, in cases where the survivor who became pregnant as a result of sexual assault wishes for the same. ♦ Consultation for mental or psychological health or other counseling. ♦ Appropriate treatment for any other condition present in the survivor ♦ Appointment for follow-up evaluation and treatment.

Column X: It is mandatory that the opinion as to whether the findings are consistent/not inconsistent/ seemingly inconsistent with the history should be furnished in all cases. In all situations where positive findings corroborating the history of stated sexual assault are present, opinion that the findings are consistent with the history of stated sexual assault should be furnished. In situations where there are no positive findings due to any reason like stated sexual assault is of a type where no findings are expected, delayed examination etc, opinion that the findings are not inconsistent with the history of stated sexual assault should be given. Only in situations where the findings of examination reasonably rules out the possibilities for the sexual assault stated in the history, the opinion that the findings of examination are seemingly inconsistent with the history of stated sexual assault can be furnished. Whenever there are findings or injuries corroborating the stated history of recent vaginal or anal or oral penetration or penetration of any part of the body, opinion that there is evidence of recent penetration of that body part should be furnished. Whenever there are injuries on the body which could be caused as stated in the history, opinion that the injuries could have been caused as stated should be furnished. It is ideal that the opinion as to whether the injuries are grievous or not is added in such situations. Opinions reserved pending reports of chemical or forensic examination should be noted in the column provided. Words or sentences in the opinion part which are not applicable should mandatorily be struck off.

Column XI: Reasons for conclusions should be based on the points from history as well as findings. Findings which corroborate the points in the history should be described to substantiate the opinion that the findings are consistent with the stated history of sexual assault. When there are no findings corroborating the history stated, reasons like stated sexual assault is of a type where no findings are expected, delay in examination causing disappearance of findings etc, should be described. When opinion that the findings are seemingly inconsistent with history is furnished, the findings which absolutely contradict the stated history should be described. When the opinion that there is evidence of recent penetration of vagina or anus or any other body part is furnished, the findings or injuries corroborating the opinion should be described. Absence of injuries may be reasoned by the fact that it does not in any way disprove the stated history of sexual assault.

Column XII: Any other report of examination attached to the report should be specified. Report should be signed by the medical officer and the name and designation of the medical officer should be legibly written.

Issue of reports: The original of the report of examination should be issued to the Investigating officer. Whenever the examination is conducted on the written requisition from a judicial or police officer, the report should be issued to the investigating officer without any delay. When the examination is conducted on the written request from anybody other than a Judicial Officer or Child Welfare Committe or investigating police officer, the original of the report shall not be issued to the person who has requested the examination. The duplicate copy should be issued to the survivor or a person nominated by her on a written request for the same and free of cost. The triplicate should be retained as the office copy. Absolute confidentiality with regard to all aspects of examination should be maintained at all levels and all records related to it should be kept separately under safe custody. Up on receipt of the results of chemical or forensic examinations, the final opinion should be furnished on the basis of the history, findings of examination and report of examination of material objects. The issue of the final report should be made in the same line as that of the report of examination.

Ref. ML./SSO/No : ...…….. **Date : ……..…**

IX. FURTHER EXAMINATIONS AND CONSULTATIONS:

1. Examination of drunkenness : Not Necessary / Done /……..…..
2. Examination for administration of intoxicants or drugs. : Not Necessary / Done /……
3. Examination to look for/assess mental or physical disability. : Not Necessary / Done /……
4. Examination of age. : Not Necessary / Done /……
5. Examination to confirm/assess/rule out pregnancy. : Not Necessary / Done /……
6. Advice and assistance for abortion : Not Necessary / Done /……
7. Consultation with infectious disease specialist. : Not Necessary / Done /……...
8. Consultation with psychiatrist. : Not Necessary / Done /……..
9. Consultation for treatment of injuries. : Not Necessary / Done /……..
10. Any other (specify) ……..

Appointment and advice for follow-up evaluation and treatment:…….
……
……

Examination concluded at ……....am/pm on……..……...

Intimation to police was given at …….. on ……/Not necessary.

X. OPINION(S).

- **Findings of examination are consistent / not inconsistent / seemingly inconsistent with the history of stated sexual assault.**…….…….**
- **Opinion regarding recent vaginal, anal, oral or any other penetrative sexual assault if any:…….**
- **The injuries on the body could have / could not have sustained as stated (Strike off when not applicable)……..……**
- **Any other……**
- **Opinion(s) reserved pending results of laboratory examinations (regarding recent vaginal, anal, oral or inter-crural intercourse or any other)…..…….....**

XI. REASONS FOR CONCLUSIONS;……..……..
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XII. OTHER REPORTS OF EXAMINATION ATTACHED. (1) Report of drunkenness. (2) Report of examination of administration of intoxicants or drugs. (3) Report of examination of age. (4) Report of examination of physical or mental disability. (6) Others if any …….

(Office seal)

Date : …….. Signature : …….

Place : …….. Name : ……

Name of Institution. : ……. Designation : ……...…….

****(strike off which is not applicable)**

Issued original to …..…….. as per his request No. …….dated ……

Dated Signature, Name and Designation of the issuing officer :……..……..

Dated Signature, Name and Designation of the Recipient :……..……

Issued duplicate to…….

Dated Signature, Name and Designation of the issuing officer :……..……..

Dated Signature, Name and address of the Recipient :……..……

Ref. ML./SSO/No : ...…….. **Date : ……..…**

IX. FURTHER EXAMINATIONS AND CONSULTATIONS:

1) Examination of drunkenness : Not Necessary / Done /……...…..
2) Examination for administration of intoxicants or drugs. : Not Necessary / Done /……
3) Examination to look for/assess mental or physical disability. : Not Necessary / Done /……
4) Examination of age. : Not Necessary / Done /……
5) Examination to confirm/assess/rule out pregnancy. : Not Necessary / Done /……
6) Advice and assistance for abortion : Not Necessary / Done /……
7) Consultation with infectious disease specialist. : Not Necessary / Done /……...
8) Consultation with psychiatrist. : Not Necessary / Done /……..
9) Consultation for treatment of injuries. : Not Necessary / Done /……..
10) Any other (specify) …..……..

Appointment and advice for follow-up evaluation and treatment:…….

……

……

Examination concluded at ……....am/pm on……..……...

Intimation to police was given at …….. on ……/Not necessary.

X. OPINION(S).

- **Findings of examination are consistent / not inconsistent / seemingly inconsistent with the history of stated sexual assault.**…….**
  ……..
- **Opinion regarding recent vaginal, anal, oral or any other penetrative sexual assault if any:…….**
  ……..
- **The injuries on the body could have / could not have sustained as stated (Strike off when not applicable)……..……**
  …….……
- **Any other……**
  ……..
- **Opinion(s) reserved pending results of laboratory examinations (regarding recent vaginal, anal, oral or inter-crural intercourse or any other)…..…….....**
  …….……

XI. REASONS FOR CONCLUSIONS;……..……..

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XII. OTHER REPORTS OF EXAMINATION ATTACHED. (1) Report of drunkenness. (2) Report of examination of administration of intoxicants or drugs. (3) Report of examination of age. (4) Report of examination of physical or mental disability. (6) Others if any …….

(Office seal)

Date : …….. Signature : …….

Place : …….. Name : ……

Name of Institution. : ……. Designation : ……...…….

****(strike off which is not applicable)**

Issued original to …..…….. as per his request No. ……..dated ……

Dated Signature, Name and Designation of the issuing officer :……..

Dated Signature, Name and Designation of the Recipient :……..…….....

Issued duplicate to…….

Dated Signature, Name and Designation of the issuing officer :……..

Dated Signature, Name and address of the Recipient :……..…….....

Ref. ML./SSO/No : ...…….. **Date : ……..…**

IX. FURTHER EXAMINATIONS AND CONSULTATIONS:

1) Examination of drunkenness : Not Necessary / Done /……...…..
2) Examination for administration of intoxicants or drugs. : Not Necessary / Done /……
3) Examination to look for/assess mental or physical disability. : Not Necessary / Done /……
4) Examination of age. : Not Necessary / Done /……
5) Examination to confirm/assess/rule out pregnancy. : Not Necessary / Done /……
6) Advice and assistance for abortion : Not Necessary / Done /……
7) Consultation with infectious disease specialist. : Not Necessary / Done /……...
8) Consultation with psychiatrist. : Not Necessary / Done /……..
9) Consultation for treatment of injuries. : Not Necessary / Done /……..
10) Any other (specify) ……..

Appointment and advice for follow-up evaluation and treatment:…….

……

……

Examination concluded at ……....am/pm on……..……...

Intimation to police was given at …….. on ……/Not necessary.

X. OPINION(S).

- **Findings of examination are consistent / not inconsistent / seemingly inconsistent with the history of stated sexual assault.**…….**
  ……..
- **Opinion regarding recent vaginal, anal, oral or any other penetrative sexual assault if any:…….**
  ……..
- **The injuries on the body could have / could not have sustained as stated (Strike off when not applicable)……..……**
  …….……
- **Any other……**
  ……..
- **Opinion(s) reserved pending results of laboratory examinations (regarding recent vaginal, anal, oral or inter-crural intercourse or any other)…..…….....**
  …….……

XI. REASONS FOR CONCLUSIONS;……..……..

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XII. OTHER REPORTS OF EXAMINATION ATTACHED. (1) Report of drunkenness. (2) Report of examination of administration of intoxicants or drugs. (3) Report of examination of age. (4) Report of examination of physical or mental disability. (6) Others if any …….

(Office seal)

Date : …….. Signature : …….

Place : …….. Name : ……

Name of Institution. : ……. Designation : ……...…….

****(strike off which is not applicable)**

Issued original to …..…….. as per his request No. ……..dated ……

Dated Signature, Name and Designation of the issuing officer :……..

Dated Signature, Name and Designation of the Recipient :……..…….....

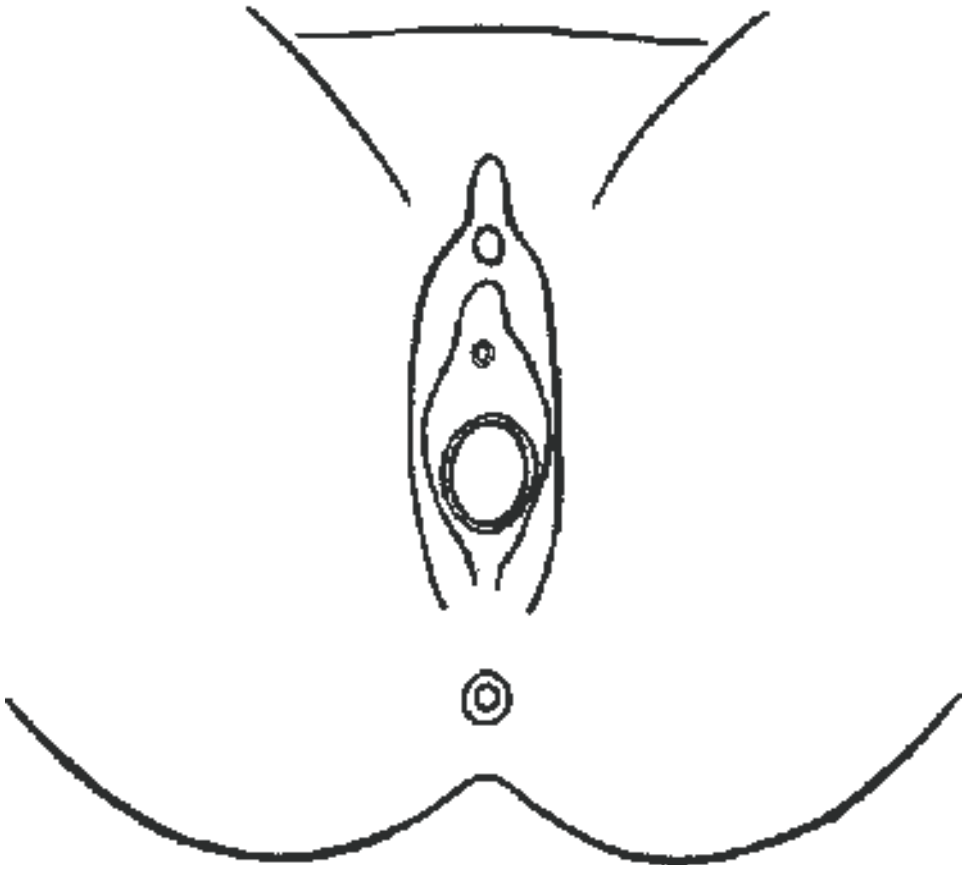
Issued duplicate to…….

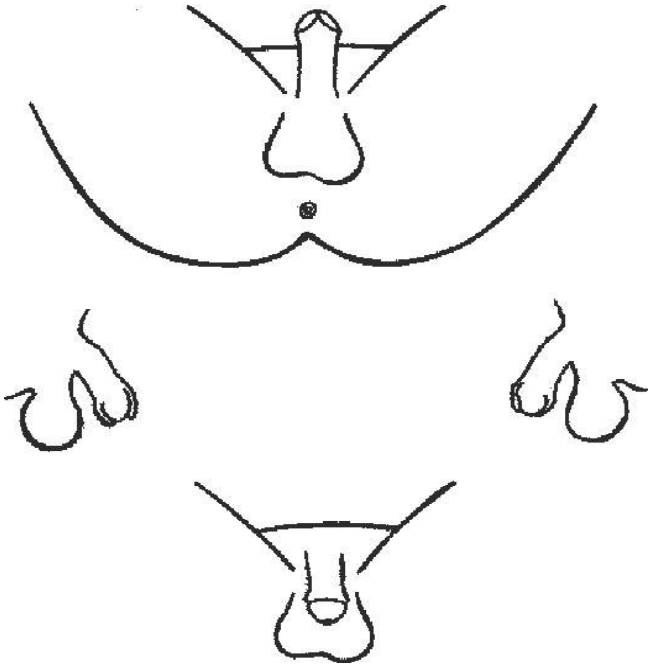
Dated Signature, Name and Designation of the issuing officer :……..

Dated Signature, Name and address of the Recipient :……..…….....

CONFIDENTIAL RECORD **Diagram 1 of ORIGINAL**

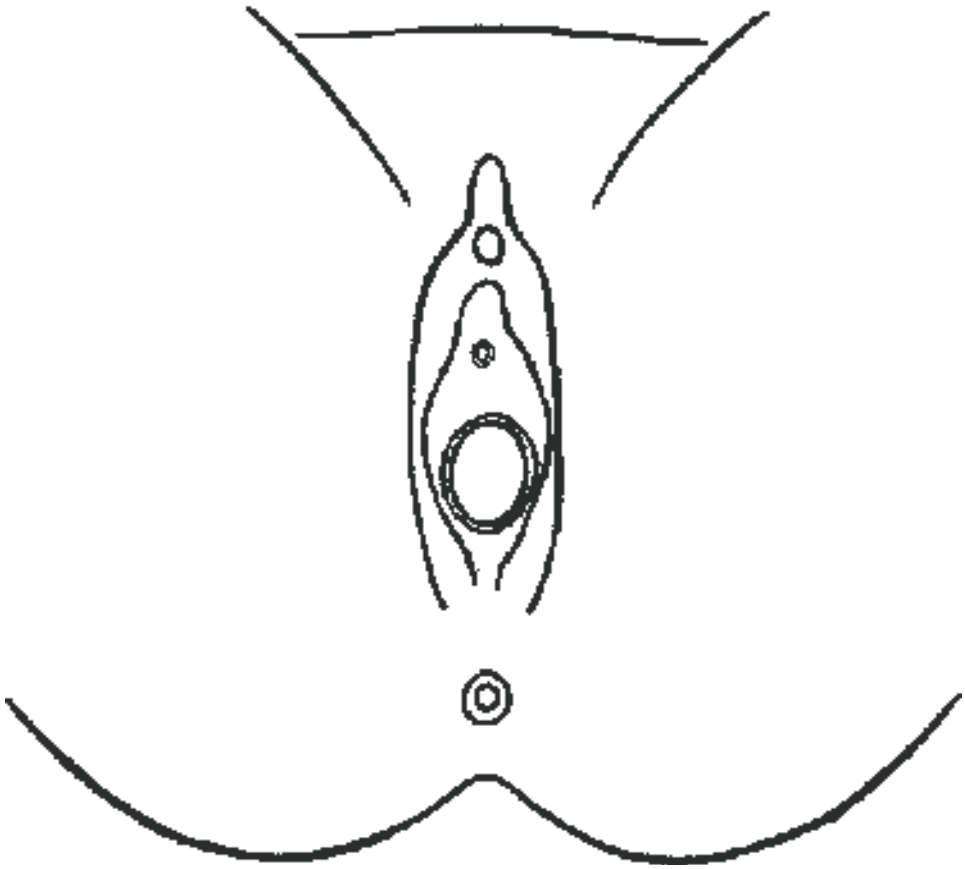
Ref. ML./SSO/No : ...…….. **Date : ……..…**

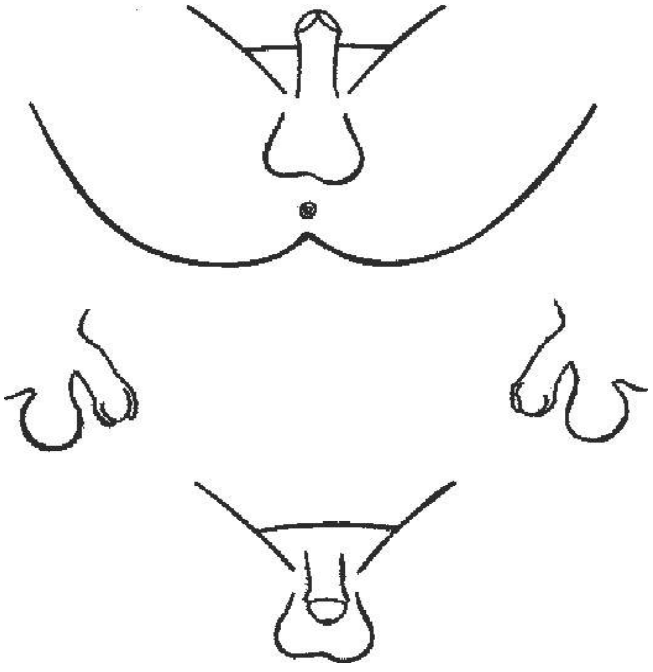




CONFIDENTIAL RECORD **Diagram 1 of DUPLICATE**

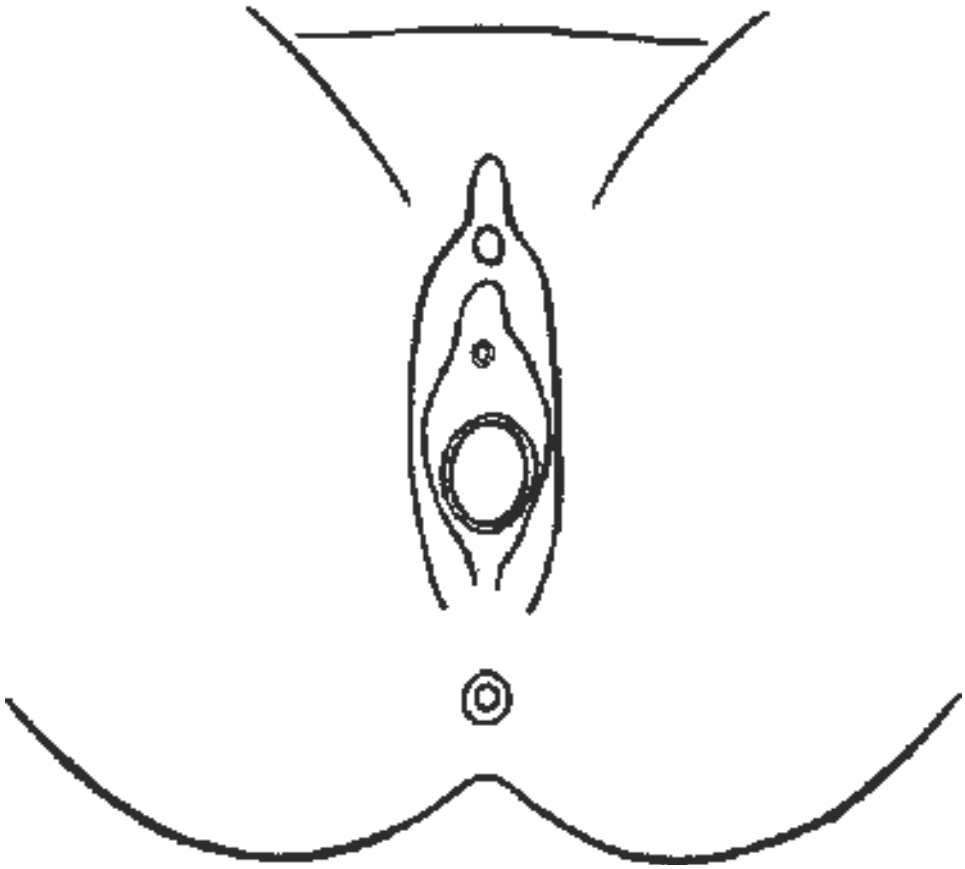
Ref. ML./SSO/No : ...…….. **Date : ……..…**

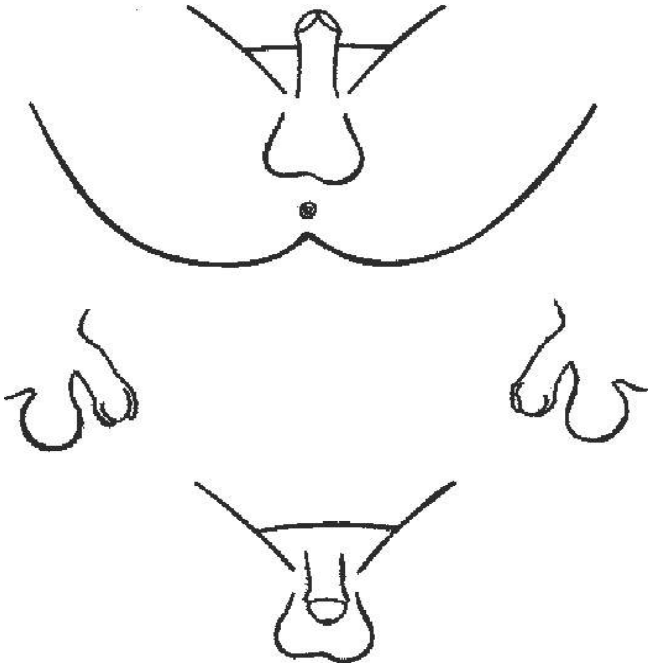




CONFIDENTIAL RECORD **Diagram 1 of TRIPLICATE**

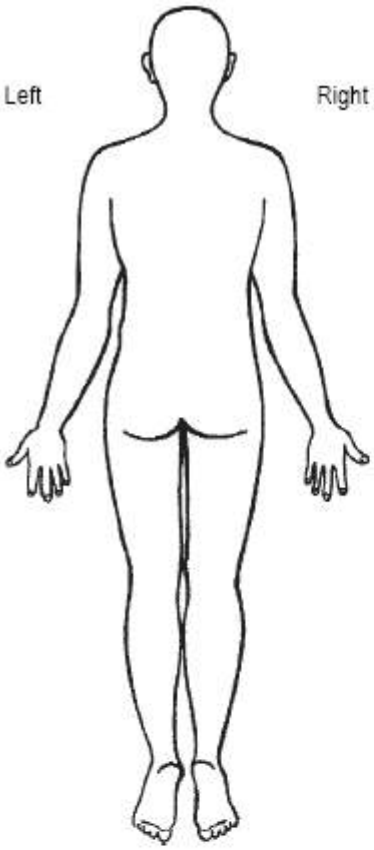
Ref. ML./SSO/No : ...…….. **Date : ……..…**

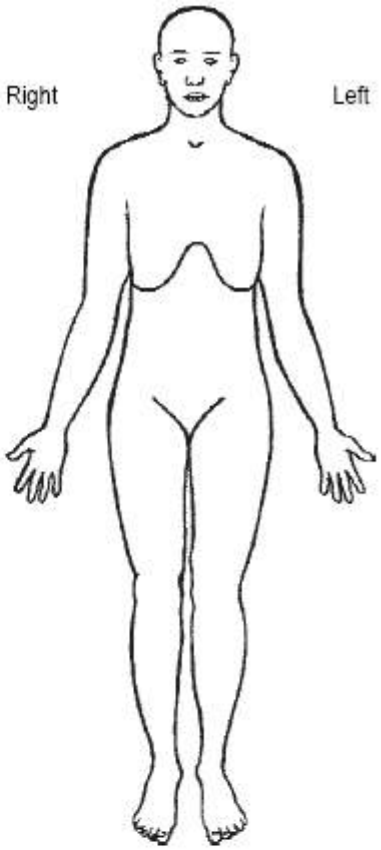


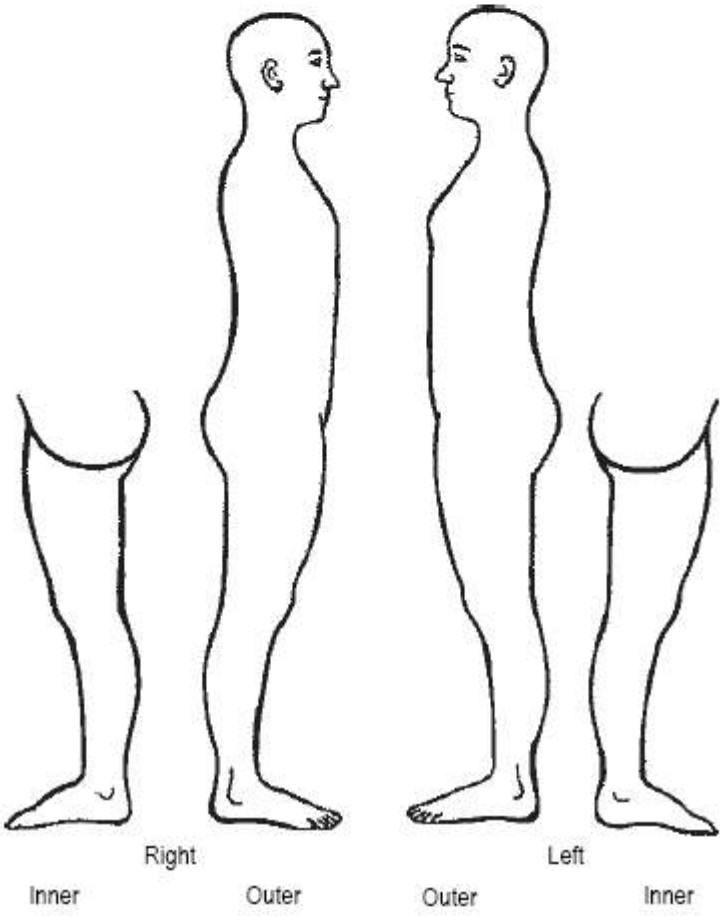


CONFIDENTIAL RECORD **Diagram 2 of ORIGINAL**

Ref. ML./SSO/No : ...…….. **Date : ……..…**

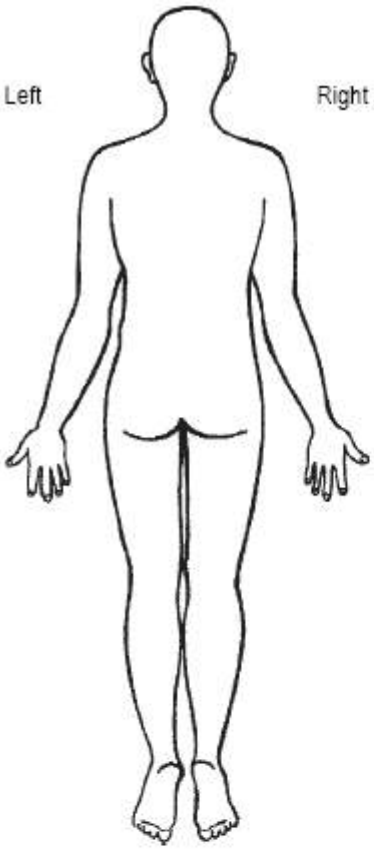


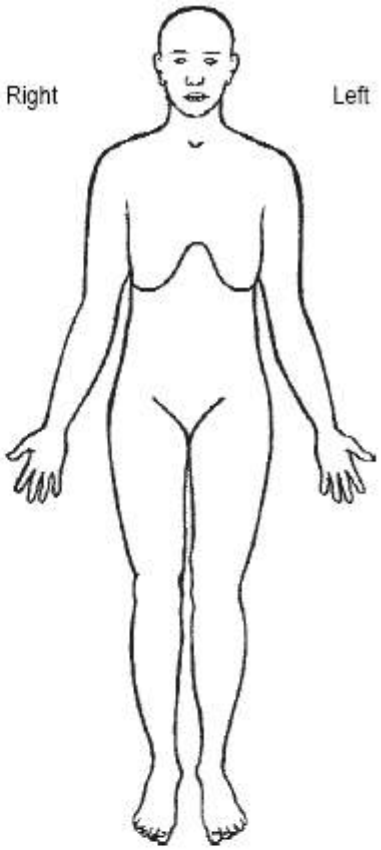


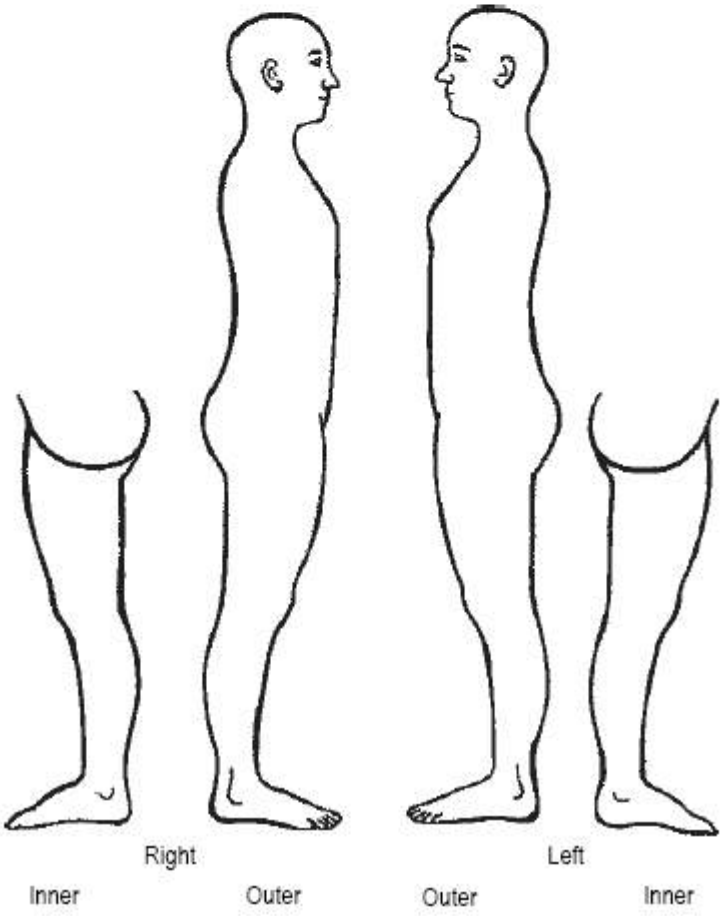


CONFIDENTIAL RECORD **Diagram 2 of DUPLICATE**

Ref. ML./SSO/No : ...…….. **Date : ……..…**

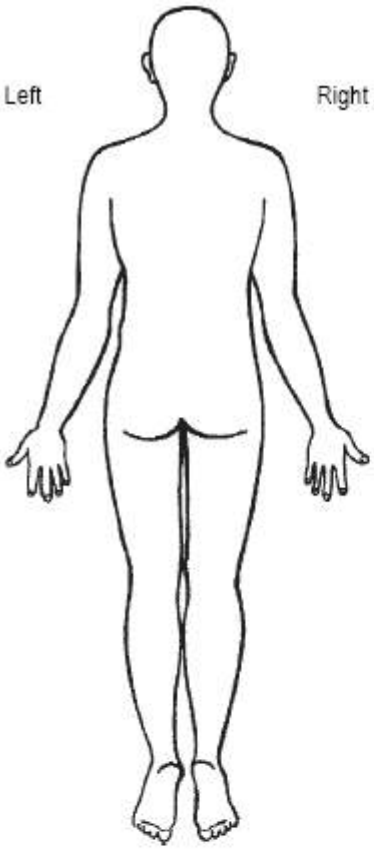


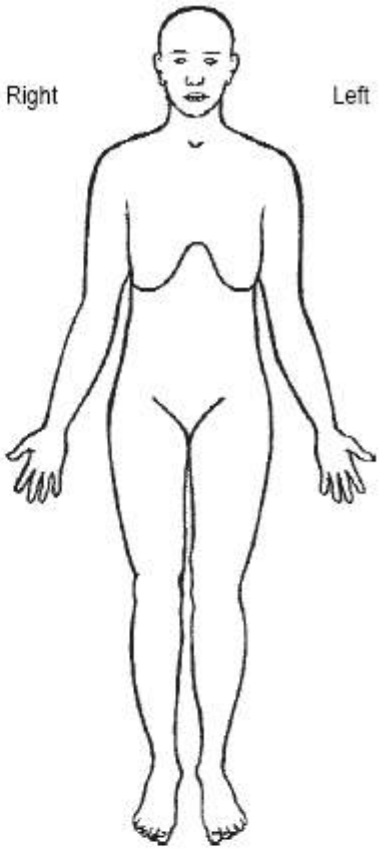


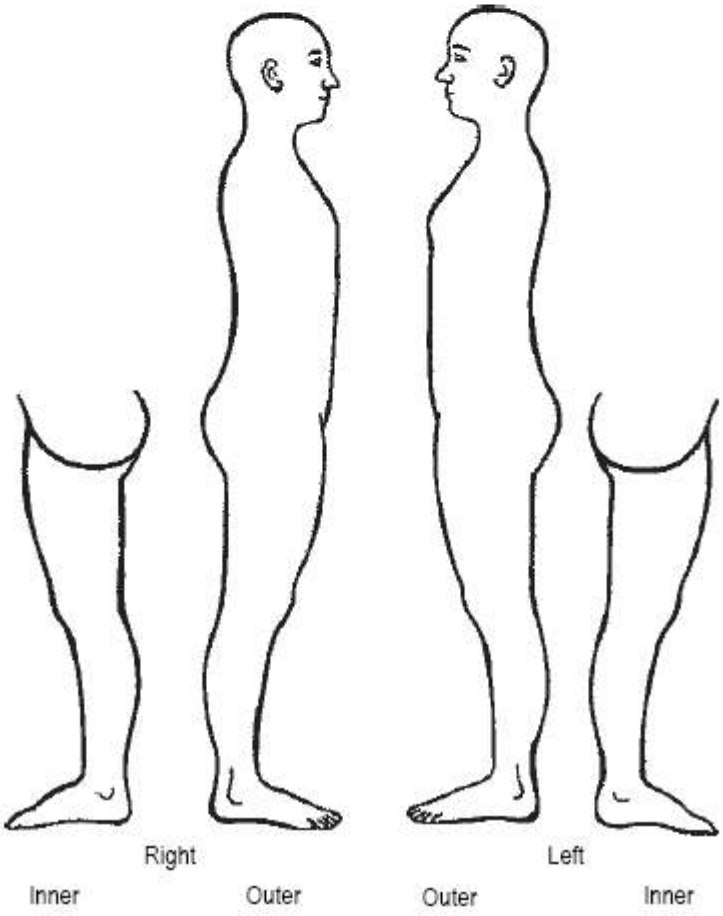


CONFIDENTIAL RECORD **Diagram 2 of TRIPLICATE**

Ref. ML./SSO/No : ...…….. **Date : ……..…**



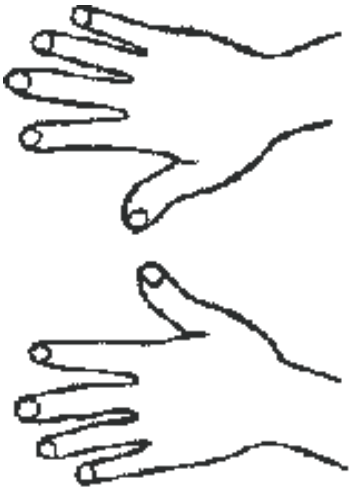




CONFIDENTIAL RECORD **Diagram 3 of ORIGINAL**

Ref. ML./SSO/No : ...…….. **Date : ……..…**

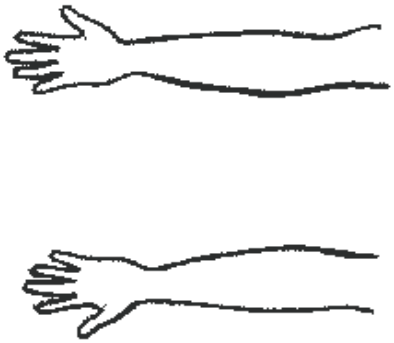
Dorsum of right hand above, Left below.



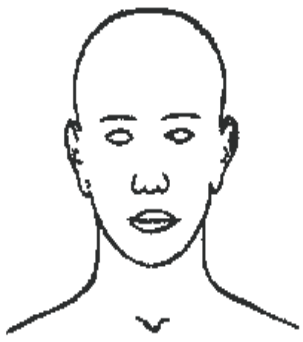
Palm of right hand above, left below.

Back of hand and forearm, right above left below

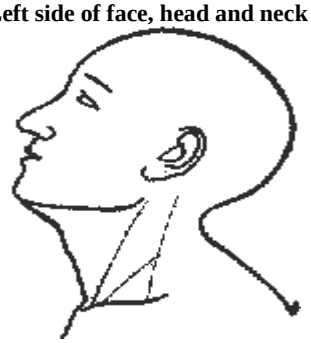
Front of forearm and hand, right above and left below

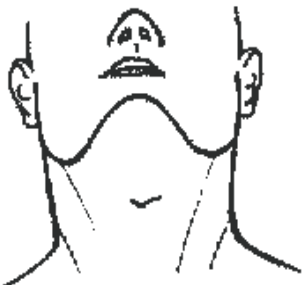


Right side of face, head and neck



Left side of face, head and neck

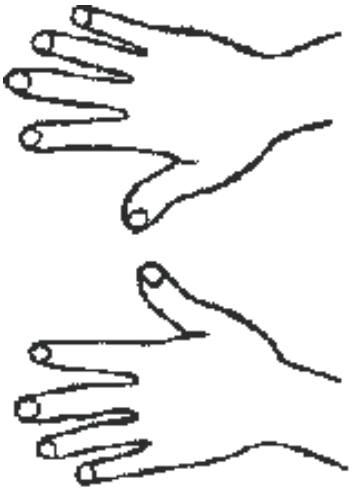




CONFIDENTIAL RECORD **Diagram 3 of DUPLICATE**

Ref. ML./SSO/No : ...…….. **Date : ……..…**

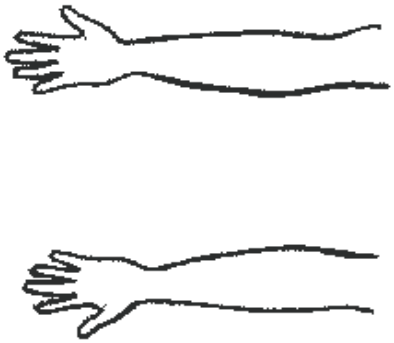
Dorsum of right hand above, Left below.



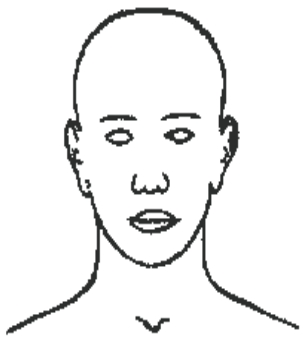
Palm of right hand above, left below.

Back of hand and forearm, right above left below

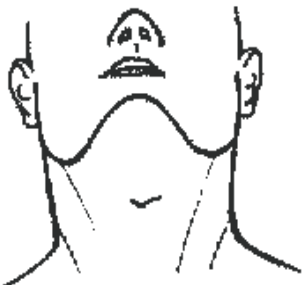
Front of forearm and hand, right above and left below



Right side of face, head and neck



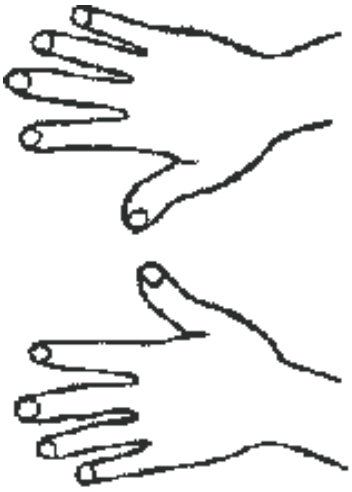
Left side of face, head and neck



CONFIDENTIAL RECORD **Diagram 3 of TRIPLICATE**

Ref. ML./SSO/No : ...…….. **Date : ……..…**

Dorsum of right hand above, Left below.



Palm of right hand above, left below.

Back of hand and forearm, right above left below

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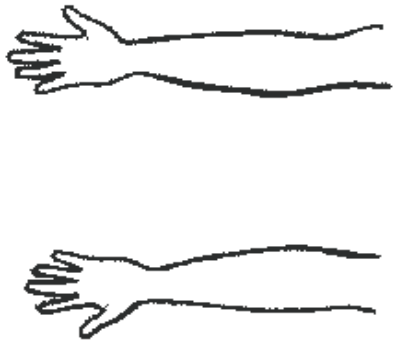
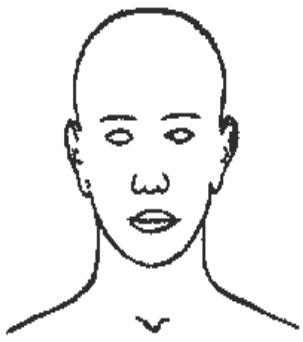
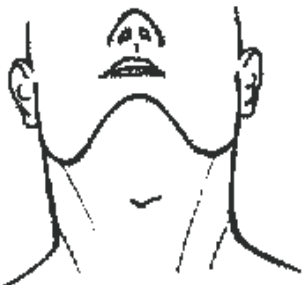


Right side of face, head and neck



Left side of face, head and neck



CONFIDENTIAL RECORD **ORIGINAL**

Ref. ML./SSO/No : ...……../(Dated : ……..…) Date:……

FINAL OPINION
(MEDICO-LEGAL EXAMINATION OF SURVIVOR OF SEXUAL OFFENCE)

Medico-legal examination of the survivor of sexual offence by name ……. W/D/S/o……, aged…….years was done on ……..…… and material objects were preserved for Chemical/Forensic/…….…… analysis, as recorded in the report of examination with Ref. ML/VSO/No…….…… dated…….. issued from this institution. Material objects preserved were the following: …… ……..
……
……

Opinion(s) regarding the following were reserved pending the results of analysis of the material objects……..…….
……..
..……..

The Certificate of Chemical/Forensic/……. analysis No..…… ……. dated…….…… of the above said material objects was received on……..……..

Laboratory Findings :…….

……
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……
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……
……

Final Opinion(s):

Based on the history, findings of examination and results of analysis of material objects and in addition to/modification of the opinions already given, final opinion(s) is/are furnished as follows:

……
……
……
……

Reasons for conclusion(s):……
……
……

Signature :
Place :…….. Name :
Date : ……. Designation :

Original issued to:……..
Duplicate issued to:……..
(** Strike off if not applicable)

CONFIDENTIAL RECORD **DUPLICATE**

Ref. ML./SSO/No : ...……../(Dated : ……..…) Date:……

FINAL OPINION

(MEDICO-LEGAL EXAMINATION OF SURVIVOR OF SEXUAL OFFENCE)

Medico-legal examination of the survivor of sexual offence by name ……. W/D/S/o……, aged…….years was done on ……..…… and material objects were preserved for Chemical/Forensic/…….…… analysis, as recorded in the report of examination with Ref. ML/VSO/No…….…… dated…….. issued from this institution. Material objects preserved were the following: …… ……..
……
……

Opinion(s) regarding the following were reserved pending the results of analysis of the material objects……..…….
……..
..……..

The Certificate of Chemical/Forensic/……. analysis No..…… ……. dated…….…… of the above said material objects was received on……..……..

Laboratory Findings :…….

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……

Final Opinion(s):

Based on the history, findings of examination and results of analysis of material objects and in addition to/modification of the opinions already given, final opinion(s) is/are furnished as follows:

……
……
……
……

Reasons for conclusion(s):……
……
……

Signature :
Place :…….. Name :
Date : ……. Designation :

Original issued to:……..
Duplicate issued to:……..
(** Strike off if not applicable)

CONFIDENTIAL RECORD **TRIPLICATE**

Ref. ML./SSO/No : ...……../(Dated : ……..…) Date:……

FINAL OPINION

(MEDICO-LEGAL EXAMINATION OF SURVIVOR OF SEXUAL OFFENCE)

Medico-legal examination of the survivor of sexual offence by name …… W/D/S/o……, aged…….years was done on ……..…… and material objects were preserved for Chemical/Forensic/…….…… analysis, as recorded in the report of examination with Ref. ML/VSO/No……..…… dated…….. issued from this institution. Material objects preserved were the following: …… ……..
……
……

Opinion(s) regarding the following were reserved pending the results of analysis of the material objects……..…….
……..
..……..

The Certificate of Chemical/Forensic/……. analysis No..…… ……. dated…….…… of the above said material objects was received on……..……..

Laboratory Findings :…….

……
……
……
……
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……

Final Opinion(s):

Based on the history, findings of examination and results of analysis of material objects and in addition to/modification of the opinions already given, final opinion(s) is/are furnished as follows:

……
……
……
……

Reasons for conclusion(s):……
……
……

Signature :
Place :…….. Name :
Date : ……. Designation :

Original issued to:……..
Duplicate issued to:……..
(** Strike off if not applicable

SAFE (SEXUAL ASSAULT FORENSIC EVIDENCE) KIT - KERALA

General	1. Gloves - powder-less (6, 6.5 and 7 x 2 pairs each) 2. Distilled water 10 ml x 2 in plastic containers 3. Scissors (4 inches) 4. Collection papers – A 4 size: 5 nos	All items in a sealed cover labeled **GENERAL**
Step 1	Consent	
Step 2	Documentation	
Step 3	1. Large sheet of paper to undress over 2. Self sealing cover for outer dress (labeled outer dress) 3. Self sealing cover for under garments (labeled under garments)	All items in a sealed cover labeled **STEP 3: CLOTHING**
Step 4	1. Self sealing covers (labeled Debris from ……) x 5 nos 2. Collection stick for finger nail scraping 3. Collection paper – A 4 size – 1 no 4. Self sealing cover labeled nail scraping for putting the scrapings 5. Collection swabs with sealable tubes (labeled Swab from ……..) – 5 nos 6. Self sealing cover labeled swab from …… - 5 nos	All items in a sealed cover labeled **STEP 4: DEBRIS**
Step 5	1. Collection swabs with sealable tubes (labeled Breast Swab) – 2 nos 2. Self sealing cover labeled Breast swab	All items in a sealed cover labeled **STEP 5: BREAST SWAB**
Step 6	1. Plastic comb 2. Self sealing cover labeled Combed pubic hair 3. Collection paper – A 4 size – 1 no	All items in a sealed cover labeled **STEP 6: COMBED PUBIC HAIR**
Step 7	1. Self sealing cover labeled Clipped pubic hair 2. Collection paper – A 4 size – 1 no	All items in a sealed cover labeled **STEP 7: CLIPPED PUBIC HAIR**
Step 8	1. Self sealing cover labeled matted clipped pubic hair 2. Collection paper – A 4 size – 1 no	All items in a sealed cover labeled **STEP 8: MATTED CLIPPED PUBIC HAIR**
Step 9	1. Slides that can be closed shut – 2 nos (one marked C and other V) 2. Self sealing cover labeled Cervical slide 3. Self sealing cover labeled Vaginal slide 4. Cotton swabs in sealable tubes 2 nos – one labeled C & other V 5. Self sealing cover labeled Cervical smear 6. Self sealing cover labeled Vaginal smear 7. Cover slip – 2 nos	All items in a sealed cover labeled **STEP 9: VAGINAL AND CERVICAL SMEARS**
Step 10	No materials required	

Step 11	1. Pre-loaded syringe with catheter 2. Sealable tube for collecting washed fluid	All items in a sealed cover labeled **STEP 11: VAGINAL WASHINGS**
Step 12	1. Disposable proctoscope with gap in wall and obturator 2. Cotton swab in sealable tube –labeled A 3. Self sealing cover labeled Anal smear 4. Slides that can be closed shut labeled A 5. Self sealing cover labeled Anal slide	All items in a sealed cover labeled **STEP 12: ANAL SWABS**
Step 13	6. Cotton swab in sealable tube –labeled O – 2 nos 7. Self sealing cover labeled Oral smear 8. Slides that can be closed shut labeled O 1. Self sealing cover labeled Oral slide	All items in a sealed cover labeled **STEP 13: ORAL SWABS**

സമ്മതപത്രം

ലൈംഗിക അതിക്രമത്തിന് വിധേയവരായവരെ പരിശോധന നടത്തുന്നത് സംബന്ധിച്ച പൂർണ്ണ വിവരങ്ങൾ ഡോക്ടർ എനിക്ക് പറഞ്ഞ് മനസ്സിലാക്കി തന്നിട്ടുണ്ട്. പരിശോധനയ്ക്ക് സമ്മതം നൽകാനും നൽകാതിരിക്കാനും ഒരിക്കൽ നൽകിയ സമ്മതം പരിശോധനയുടെ ഏത് ഘട്ടത്തിലും പിൻവലിക്കാനും എനിക്കുള്ള സ്വാതന്ത്ര്യം ഡോക്ടർ എനിക്ക് മനസ്സിലാക്കി തന്നിട്ടുണ്ട്. പരിശോധനയ്ക്ക് ഞാൻ സമ്മതിക്കാതിരുന്നാൽ കേസ് അന്വേഷണവുമായും നിയമനടപടികളുമായും ബന്ധപ്പെട്ട് ഉണ്ടാകാവുന്ന ദോഷവശങ്ങളെ സംബന്ധിച്ചും പരിശോധനക്ക് സമ്മതിച്ചാൽ ഉണ്ടാകുന്ന ഗുണങ്ങളെപറ്റിയും എന്നോട് വിശദമാക്കിയിട്ടുണ്ട്. പരിശോധനയ്ക്ക് ഞാൻ സമ്മതിച്ചാലും ഇല്ലെങ്കിലും ഈ കുറ്റകൃത്യം സംബന്ധിച്ച വിവരം ബന്ധപ്പെട്ട പോലീസ് ഉദ്യോഗസ്ഥനെ അറിയിക്കാൻ ഡോക്ടർക്കും ആശുപത്രിക്കുമുള്ള ഉത്തരവാദിത്തം ഡോക്ടർ എന്നെ ബോധ്യപ്പെടുത്തിയിട്ടുണ്ട്. ഞാൻ പരിശോധനയ്ക്ക് സമ്മതം നൽകിയില്ലെങ്കിലും വേണ്ട ചികിത്സയും കൗൺസിലിങ്ങും സൗജന്യമായി എനിക്ക് നൽകുമെന്നതും എന്നെ ബോധ്യപ്പെടുത്തിയിട്ടുണ്ട്. ഈ കാര്യങ്ങളെല്ലാം പൂർണ്ണമായും ബോധ്യപ്പെട്ടതിന്റെ അടിസ്ഥാനത്തിൽ ..... എന്ന ഞാൻ എന്റെ..... ആയ .....ന്റെ ശരീരത്തിൽ ലൈംഗികാതിക്രമം നടന്നിട്ടുണ്ടോ എന്ന് പരിശോധിക്കുന്നതിനും ആവശ്യമായ തെളിവുകൾ ശേഖരിക്കുന്നതിനും സ്വമനസ്സാലെ എന്റെ പൂർണ്ണമായ സമ്മതം/ വിസമ്മതം ഇതിനാൽ രേഖപ്പെടുത്തുന്നു.

അതിജീവിതയുടെ ഒപ്പും പേരും (18 വയസ്സിനു മുകളിലാണെങ്കിൽ)	അതിജീവിതയുടെ/ മാതാപിതാക്കളുടെ/ ശിശുക്ഷേമ സമിതി അധികാരപ്പെടുത്തിയ രക്ഷിതാവിന്റെ ഒപ്പും പേരും (അതിജീവിത 18 വയസ്സിനു താഴെയോ സമ്മതം നൽകാൻ പറ്റാത്ത അവസ്ഥയിലോ ആണെങ്കിൽ)	അതിജീവിതയുടെ മാതാപിതാക്കളുടെ ഇടത് പെരുവിരൽ അടയാളം

SAFE (SEXUAL ASSAULT FORENSIC EVIDENCE) KIT – KERALA 2019

<table>
<tr><td colspan="4">A complete SAFE Kit should contain the following articles in a hard paper box of size 32x22x24cm.</td></tr>
<tr><td colspan="4">Step 1. Consent followed by recording of history in the reporting format.</td></tr>
<tr><td>General</td><td>1. One black plastic bag of circumference 100cm and height 50cm, labeled “BIOHAZARD” to be used for collecting waste.
2. One white plastic bag 100x50cm, labeled “Collecting Bag for Unused items”.
3. Gloves - powder-less (of size 6, 6.5 and 7, 1 pair each)
4. Normal saline 10 ml x 2 in plastic containers
5. Scissors (4 inches) 1no.
6. Cotton roll – as a filler for packing purpose.</td><td>All items in a sealed cover of size 40x30cm labeled

GENERAL</td><td>Instructions: Collecting bags for waste materials and unused items to be opened and kept ready.

Sterile glove covers and all other such waste materials should be put in the collecting bag for wastes and disposed after the examination.

Unused items should be kept in “Collecting bag for unused items”. This shall not be sent for examination and can be used for other cases where it may become necessary.</td></tr>
<tr><td colspan="4">Step 2. General physical examination, recording of findings and simultaneous evidence collection.</td></tr>
<tr><td colspan="4">Step 3. Collection of clothing: Need to be performed only in cases where the survivor has come or is brought without changing the clothes which she was wearing at the time of incident. If the survivor is unable to stand due to any reason or if she wishes to be examined in the lying down position, the large sheet of paper should spread on the examination couch on which she will be examined.</td></tr>
<tr><td>Step 3</td><td>a. Large sheet of paper size 150x150cm to undress over.
b. Self sealing cover, of size 40x30cm, labeled 3b. Large sheet of paper.
c. Self sealing cover of size 40x30cm for outer dress labeled 3c. outer dress
d. Self sealing cover of size 40x30cm for under garments labeled 3d. under garments</td><td>All items in a sealed cover of size 50x40cm labeled

<u>STEP 3 OF</u>

<u>SAFE KIT:</u>

<u>CLOTHING</u>

Ref. ML No.:..

Date:……...

Name:…….

Age:……</td><td>Instructions: The large sheet of paper should be spread on the floor to stand on while undressing in the standing position or should be spread on the examining table when removing clothes in the lying down position so that any loose hair, fiber or free particles present on the body will fall on the paper. The paper should be folded carefully and placed in self sealing envelope labeled 3b Large sheet of paper.

Outer clothes should be completely air dried before packing in self sealing envelope labeled 3c Outer dress.

Undergarments should be completely air dried before packing and packed in self sealing envelope labeled 3d under garments.</td></tr>
<tr><td colspan="4">Step 4. Collection of debris on the body: Need to be performed only in cases where the survivor has not taken bath before the examination.</td></tr>
</table>

Step 4	a. Self sealing covers, each of size 15x10cm, labeled **4a. Debris from…… …….** x 5 nos b. Sterile collection swabs (ear buds type) – 5 nos. c. Collection paper – A4 size – 5nos	All items in a sealed cover of size 30x15cm labeled **STEP 4 OF** **SAFE KIT:** **DEBRIS** **Ref. ML No.:..** **Date:……...** **Name:…….** **Age:……**	**Instructions:** Envelop should be opened and the buds should be used to brush or swab the injured/smeared area to collect debris in the A4 size paper. The paper should be folded and put in the covers labeled 4a Debris from ……. along with the cotton buds used. Debris from different parts of the body should be collected using separate buds and put in separate envelops, specifying the area from where debris is collected.
Step 5. Collection of swabs from stained or grimy areas on the body. Need to be performed only in cases where the survivor has not taken bath before the examination. Special attention should be given to areas like breasts, perineum, inner and back aspects of thighs, buttocks, neck, face etc.			
Step 5.	a. Collection swabs with sealable tubes (labeled **Swab from …….**) – 5 nos. (length of the tube with cap shall not be more than 20cm)	All items in a sealed cover of size 30x15cm labeled **STEP 5 OF** **SAFE KIT:** **SWABS FROM STAINED OR GRIMY AREAS** **Ref. ML No.:..** **Date:……...** **Name:…….** **Age:……**	**Instructions:** Swabs should be collected from any stained or grimy area on the body. The swab should be air dried and then capped and all the sealed tubes should be placed in the sealed envelope labeled **"STEP 5: SWABS FROM STAINED OR GRIMY AREAS"**. When swabs are collected from dried stains, the swabs should first be made wet with normal saline, the stains should be collected with this wet swab and then the swabs should be air dried completely before packing. The area from where the swab was collected should be specified on the tube.
Step 6. Collection of nail scrapings and nail clippings: Need to be collected in cases where the collection is relevant as per history and the survivor reported for examination within 96hours of the assault.			
Step 6	a. Self sealing cover of size 15x10cm, labeled **6a Nail scrapings** – 1 no. for putting the scrapings b. Collection stick (scraper) for finger	All items in a sealed cover of 30x15cm and labeled	**Instructions:** Using scraper, carefully collect any debris from under the nails into the A4 size paper, carefully fold the paper with the collected debris and place in envelope labeled 6a nail scrapings along with the scraper. Using the nail cutter,

	nail scrapings c. Collection paper – A 4 size – 2 d. Self sealing cover of size 15x10cm, labeled **6d nail clippings** – 1 no. for putting all the clippings e. Nail cutter for taking the nail clippings	**STEP 6 OF** **SAFE KIT:** **NAIL SCRAPINGS AND NAIL CLIPPINGS** **Ref. ML No.:..** **Date:……...** **Name:…….** **Age:……**	carefully clip the nail tips without causing any injury, collect the nails into the A4 size paper, carefully fold the paper with the collected nail clippings and place in envelope labeled 6d nail clippings along with the nail cutter.
Step 7. Collection of Matted clipped pubic hairs and Pubic hair combings: Need to be collected only if the survivor has not washed the area or bathed before the examination and in cases where the collection is relevant as per history.			
Step 7	a. Self sealing cover of size 15x10cm and labeled **7a Matted clipped pubic hair** b. Collection paper – A 4 size – 2 no c. Self sealing cover of size 15x10cm and labeled **7c Pubic hair combings** d. Plastic comb - 1	All items in a sealed cover of size 30x15cm and labeled **STEP 7 OF** **SAFE KIT:** **MATTED CLIPPED PUBIC HAIRS AND PUBIC HAIR COMBINGS** **Ref. ML No.:..** **Date:……...** **Name:…….** **Age:……**	**Instructions:** Dried secretions will leave behind matted hair unless washed. Pubic hair from such areas should be clipped/cut and collected into A4 paper. Fold the paper to make a packet and place in the envelope labeled 7a Matted clipped pubic hairs. c & d: Comb the pubic hairs, holding the A4 paper below to collect the loose hairs from the pubic region, fold the paper and place in sealed envelope labeled 7c Pubic hair combings along with the comb.
Step 8. Collection of pubic hairs and scalp hairs: Should be collected in cases where it is relevant as per history. Hairs should be cut close to root. Do not pluck hairs on any account.			
Step 8.	a. Self sealing cover of size 15x10cm labeled **8a Cut pubic hairs.** b. Collection paper – A 4 size – 2 nos c. Self sealing cover of size 15x10cm labeled **8c Cut scalp hairs.**	All items in a sealed cover of size 30x15cm labeled **STEP 8 OF** **SAFE KIT:** **CUT PUBIC**	**Instructions:** Cut (at least 20 if possible) pubic hairs close to root and collect in the A4 paper, fold the paper to make a packing and place in sealed envelope labeled 8a Cut pubic hairs. Cut (at least 30) scalp hairs close to root from at least 10 different sites on scalp and collect in the A4 paper, fold the paper to

		HAIRS AND SCALP HAIRS **Ref. ML No.:..** **Date:……...** **Name:…….** **Age:……**	make a packing and place in the envelope labeled 8c Cut scalp hairs.
Step 9. Collection of vaginal swabs and smears: Should be collected in cases the preservation is relevant as per history and in accordance to the guidelines in the Protocol. It is important to note that moisture should be removed completely from smears and swabs by air drying to prevent fungal growth which may destroy the spermatozoa present in the smears and swabs.			
Step 9	a. Glass slides for preparing smears – 4 nos b. Clean A4 paper for covering the slides – 1 no c. Self sealing cover of size 15x10cm and labeled **9c. Vaginal smears** to accommodate four slides tightly packed in the A4 size paper. d. Cotton swabs in sealable tubes labeled **9d. Vaginal swabs** – 4 nos. (length of the tube with cap shall not be more than 20cm)	All items in a hard paper box, size 24x6x6cm and labeled **STEP 9 OF** **SAFE KIT:** **VAGINAL SMEARS AND SWABS** **Ref. ML No.:..** **Date:……** **Name:…….** **Age:……**	**Instructions:** Vaginal smears should be prepared by using the vaginal swabs and thinly smearing on one side of the slide. The Vaginal smear slides should be air dried completely and packed tightly by folding the A4 size paper. The smeared surface of each pair of slides should be approximated each other and the packet with the pair of slides should be placed in the self sealing cover labeled 9c Vaginal smears. Whenever possible, one cervical smear and swab should be preserved using one slide and swab and in such case, they should be marked as Cervical swab and smear. Vaginal swabs should be taken and air dried completely before placing them in the tubes and the tubes should be capped.
Step 10. Collection of vaginal washings: Need to be collected in cases where the preservation is relevant as per history and in accordance to the guidelines in the Protocol. Collection should be done under adequate facilities with the survivor in the lithotomy position.			
Step 10	a. 5ml syringe with catheter – 1no b. Saline 10ml – 1 no c. Sealable (10ml) tube for collecting washed fluid labeled **10c. Vaginal washings.**	All items in a sealed cover of size 30x15cm and labeled **STEP 10 OF** **SAFE KIT:** **VAGINAL WASHINGS**	**Instructions:** Draw the saline in to the syringe, wash the vagina with the saline in the syringe and draw out the washings in to the syringe. Transfer the washings in to the sealable tube and freeze the contents. The frozen washings along with the syringe and catheter should be placed in the sealed cover labeled "VAGINAL WASHINGS". Investigating officers should be advised to arrange the transportation of the frozen washings, to Forensic Science Laboratory without delay so as to prevent

		Ref. ML No.: **Ref. ML No.:..** **Date:……...** **Name:…….** **Age:……**	decomposition.
Step 11. Collection of anal swabs: Need to be done only in cases where the collection is relevant as per history. Collection of swabs and smears is useless and can be avoided if the survivor has defecated after the anal penetration.			
Step 11	a. Disposable proctoscope with gap in wall and obturator – 1 no b. Glass slides for preparing anal smears – 4 nos c. Clean paper for covering the slides – A4 size – 1 no. d. Self sealing cover labeled **11d Anal smears** – 1 no e. Cotton swabs in sealable tube labeled **11e. Anal swabs** – 4 nos. (length of the tube with cap shall not be more than 20cm)	All items in a hard paper box, size 24x6x6cm and labeled **STEP 11 OF** **SAFE KIT:** **ANAL SMEARS AND SWABS** **Ref. ML No.:..** **Date:……...** **Name:…….** **Age:……**	**Instructions:** Smears should be prepared by using the swabs and thinly smearing on one side of the slide. First swab and smear should be from the peri-anal region, second one from the anal orifice and the third and fourth from the anal canal. The anal smear slides should be air dried completely and packed tightly by folding the A4 size paper. The smeared surface of each pair of slides should be approximated each other and the packet with both pairs should be placed in the self sealing cover labeled 11d Anal smears. d & e: Anal swabs should be air dried completely before placing it in the tubes and the tubes should be capped.
Step 12. Collection of oral swabs: Need to be done only in cases where the collection is relevant as per history. Collection of swabs and smears is useless and can be avoided if the survivor has had solid food after the assault and washed mouth.			
Step 12	a. Glass slides for preparing oral smears – 4 nos. b. Clean paper for covering the slides – A4 size – 1 no. c. Self sealing cover of size 15x10cm and labeled **12c Oral smears** – 1 no d. Cotton swabs in sealable tube labeled **12d Oral swabs** – 4 nos.	All items in a hard paper box, size 24x6x6cm and labeled **STEP 12 OF** **SAFE KIT:** **ORAL SMEARS AND SWABS** **Ref. ML No.:..** **Date:……...** **Name:…….**	**Instructions:** Smears should be prepared by using the swabs and thinly smearing on one side of the slide. Swabs and smears should be collected from all areas of the oral cavity. The oral smear slides should be air dried completely and packed tightly by folding the A4 size paper. The smeared surface of each pair of slides should be approximated each other and the packet with both pairs should be placed in the self sealing cover labeled 12c Oral smears. d & e: Oral swabs should be air dried completely before placing it in the tubes and the tubes should be capped.

		Age:……	
Step 13. Collection of blood for DNA profiling: In all cases where swabs and smears or other materials for DNA profiling are collected, blood should be collected for DNA profiling. In order to ensure the availability of suitable sample, blood should be collected in EDTA bottle and also in cotton gauze.			
Step 13	a. Disposable sterile 5ml syringe with needle – 1 no b. Sealable tube preloaded with EDTA for preserving 2ml of blood and labeled **13b Blood for grouping and DNA profiling** – 1no. (length of the tube with cap shall not be more than 10cm) c. A piece of plain gauze (bandage cloth) of size 20x15cm – 1no d. Clean paper A4 size, for covering the gauze smeared with blood – 1no e. Self sealing cover of size 15x10cm and labeled **13e Blood in gauze (dried)**	All items in a hard paper box, size 12x4x4cm and labeled **STEP 13 OF SAFE KIT:** **BLOOD AND BLOOD IN COTTON GAUZE FOR GROUPING AND DNA PROFILING** **Ref. ML No.:..** **Date:……...** **Name:…….** **Age:……**	**Instructions:** 2ml of blood should be collected in the sealable tube preloaded with EDTA and placed in self sealing cover labeled 13b Blood for Grouping and DNA profiling. 5 to 6 drops of blood should be smeared on the plain gauze (bandage cloth) of size 20x15cm and air dried completely. The dried gauze should be spread on the A4 paper and the paper with gauze should be folded and put in self sealing cover labeled 13e Blood in Gauze (dried).
Step14. Packing			
Step 14	a. Self sealing, cloth lined cover of size 40x30cm – 1 b. Sealing wax (Arakku) for affixing the metallic seal on packets/boxes – 1no. c. Candle – 1 no. d. Match box – 1 no e. Thick cotton thread for tying the packet / box containing the samples – 3meters f. Gum for affixing the label – one small tube/stick g. Label cum receipt in triplicate (printed in a book form – model given) h. Carbon paper – 2sheets	(Label cum receipt annexed below)	**Instructions:** Up to six envelops or boxes from different steps in one case can be placed in the cover 14a and the original of the label signed by the M.O. and recipient should be pasted on it and then the cover should be sealed. Tie the packet with the cotton thread and affix the metallic seal on points where the thread crosses including one on the knot and hand over the packet and the duplicate copy to the recipient. The triplicate copy should be retained as office copy. When more than six envelops/are to be forwarded, use the box of SAFE Kit and follow the same procedure. Padding with cotton or clean paper should be provided in the box containing slides to prevent the glass slides from breaking.

Label cum receipt for the material objects preserved (To be printed in triplicate).

This packet should be taken over by the investigating officer on a seizure mahassar and should be forwarded to the Forensic Science Laboratory, through the concerned Court, without any delay.

SAFE (SEXUAL ASSAULT FORENSIC EVIDENCE) KIT - KERALA

(Original to be pasted on the packet, duplicate to be issued to investigating officer and triplicate office copy)

Ref. ML/SSO/ No.:…….. Dated:……

Name of the survivor……. …. Age:……yrs. Sex: Male/Female

Crime No.(If available) :…… of ……..……..….police station

Contents of the packet:

(1) Step 3 – Clothing
(2) Step 4 – Debris
(3) Step 5 – Swabs from stained or grimy areas
(4) Step 6 – Nail Scrapings and Nail Clippings
(5) Step 7 – Matted clipped pubic hairs and pubic hair combings
(6) Step 8 – Cut pubic hairs and scalp hairs
(7) Step 9 – Vaginal smears and swabs
(8) Step 10 – Vaginal washings
(9) Step 11 – Anal smears and swabs
(10) Step 12 – Oral smears and swabs
(11) Step 13 – Blood for grouping and DNA profiling

(Strike off whichever are not preserved)

( )

Sample seal affixed on packets
(Need not be affixed on triplicate office copy)

Signature:

Received the packet

Name:

Signature:

Designation of the M.O.:

Name:

Name of institution:

Number/Designation:

Office of the
State Mission Director (NHM)
State Programme Monitoring & Support Unit
General Hospital Jn. Thiruvananthapuram
Phone: 0471 2301181, email: arogyakeralam@gmail.com