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Medico-Legal Examination in Sexual Assault Cases Post the 2013 Criminal Law Amendment: Evidentiary Value and Victim Dignity

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ABSTRACT

The medico-legal examination of sexual assault survivors occupies a uniquely sensitive space at the intersection of criminal law, forensic science, and human rights. In India, the Criminal Law (Amendment) Act, 2013 marked a decisive shift away from archaic, evidence-centric approaches toward a framework that foregrounds dignity, autonomy, and informed consent. This article undertakes an extensive doctrinal and critical analysis of medico-legal practices in the post-2013 landscape. It argues that although medical evidence continues to hold evidentiary relevance, its role must be carefully circumscribed to avoid overshadowing the lived experiences of survivors. By examining constitutional jurisprudence, statutory provisions, judicial trends, and implementation challenges, the article demonstrates that the true transformation of medico-legal processes lies not merely in legislative reform but in institutional culture and ethical practice. It further situates Indian developments within international human rights standards and proposes a comprehensive, trauma-informed model that harmonizes evidentiary rigor with the preservation of human dignity.

I. INTRODUCTION

Sexual violence represents one of the most profound violations of human dignity, transcending the boundaries of physical harm to encompass psychological trauma, social stigma, and systemic marginalization. Unlike many other criminal offences, sexual assault fundamentally implicates issues of bodily autonomy, personal identity, and societal power structures. Consequently, the legal system's response must extend beyond traditional punitive frameworks and engage with broader concerns of justice, healing, and rights protection³.

Within this broader legal and moral landscape, the medico-legal examination emerges as a

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³ Upendra Baxi, *The Crisis of the Indian Legal System* (1982).

critical procedural mechanism. It is not merely a technical exercise in evidence collection but a deeply human interaction that often shapes the survivor's first impression of the justice system. The examination serves a dual function: on one hand, it seeks to collect forensic evidence that may assist in prosecution; on the other, it must ensure that the survivor's dignity, autonomy, and psychological well-being are preserved. The inherent tension between these objectives lies at the heart of medico-legal discourse⁴.

Historically, however, the Indian medico-legal system has struggled to balance these competing concerns. For decades, it operated within a paradigm that privileged physical evidence and treated survivors with suspicion rather than empathy. Practices such as the emphasis on injuries, the insistence on corroboration, and the use of invasive and degrading tests reflected deeply entrenched patriarchal assumptions about sexuality and credibility. These practices not only undermined the evidentiary process but also contributed to secondary victimization, discouraging survivors from seeking justice⁵.

The events leading up to the Criminal Law (Amendment) Act, 2013, particularly the widespread public outrage following brutal instances of sexual violence, marked a turning point in India's legal consciousness. The amendment introduced significant reforms aimed at redefining sexual offences, strengthening procedural safeguards, and embedding dignity-based principles within the justice system. However, the extent to which these reforms have translated into meaningful changes in medico-legal practice remains a subject of critical inquiry⁶.

This article seeks to address this gap by examining the evolution, current framework, and future trajectory of medico-legal examination in sexual assault cases. It interrogates whether the post-2013 regime has successfully reconciled evidentiary imperatives with the protection of survivor dignity, and whether further reforms are necessary to achieve a truly rights-based approach.

II. HISTORICAL EVOLUTION AND CONCEPTUAL SHIFT

The trajectory of medico-legal examination in India reflects a gradual but uneven shift from a rigid, positivist model of evidence to a more nuanced, context-sensitive understanding of sexual violence. Traditionally, the medico-legal process was guided by the assumption that physical evidence—such as injuries, semen traces, or signs of resistance—constituted the most reliable indicators of assault. This approach was rooted in a broader evidentiary culture that equated

⁴ WHO Guidelines for Medico-Legal Care for Victims of Sexual Violence (2003).

⁵ Law Commission of India, 84th Report.

⁶ Justice J.S. Verma Committee Report (2013).

objectivity with physical proof, often at the expense of subjective experience⁷.

However, this framework proved deeply inadequate in the context of sexual violence. Empirical research and forensic science have consistently demonstrated that many instances of sexual assault do not result in visible injuries. The absence of physical evidence may be due to a variety of factors, including delayed reporting, use of coercion rather than force, or the survivor's psychological response to trauma. The earlier insistence on physical corroboration therefore imposed an unrealistic and unjust burden on survivors, effectively privileging certain narratives of violence over others⁸.

The conceptual shift initiated by the 2013 amendment represents a move toward recognizing the complexity of sexual violence. It acknowledges that consent, rather than resistance, is the central determinant of legality, and that the absence of injuries does not negate the occurrence of assault. This shift is not merely doctrinal but epistemological, as it challenges the very foundations of how evidence is understood and evaluated⁹.

A particularly significant aspect of this transformation is the abolition of the "two-finger test." This practice, which purported to assess vaginal laxity, was based on flawed assumptions about sexual history and consent. Its continued use not only lacked scientific validity but also perpetuated harmful stereotypes about women's sexuality. The rejection of this test by the judiciary marked a decisive step toward aligning medico-legal practice with principles of dignity and privacy¹⁰.

III. CONSTITUTIONAL AND LEGAL FRAMEWORK

The contemporary medico-legal framework is deeply influenced by constitutional jurisprudence, particularly the expansive interpretation of Article 21. The right to life and personal liberty has been interpreted to include a wide range of derivative rights, including bodily autonomy, privacy, and dignity. These rights impose positive obligations on the state to ensure that all procedures, including medico-legal examinations, are conducted in a manner that respects individual agency¹¹.

The recognition of privacy as a fundamental right has particularly significant implications for sexual assault cases. It requires that examinations be conducted in a confidential and respectful manner, minimizing unnecessary intrusion and ensuring that sensitive information is protected.

⁷ Ratanlal & Dhirajlal, *Law of Evidence*.

⁸ WHO (2012) Reports.

⁹ Verma Committee Report.

¹⁰ *Lillu v. State of Haryana* (2013).

¹¹ *Maneka Gandhi v. Union of India* (1978).

This constitutional mandate serves as a crucial counterbalance to the evidentiary demands of criminal investigation¹².

Statutory provisions further reinforce this framework. Section 164A of the Criminal Procedure Code mandates prompt medical examination with informed consent, while Section 114A of the Evidence Act shifts the burden of proof regarding consent in certain cases. These provisions collectively aim to reduce the evidentiary burden on survivors and prevent invasive scrutiny¹³.

The 2013 amendment also expanded the definition of sexual offences to include non-penetrative acts and various forms of coercion. This broader definition reflects a more comprehensive understanding of sexual violence and ensures that the medico-legal process is responsive to diverse forms of harm¹⁴.

IV. JUDICIAL TRENDS AND DOCTRINAL CLARIFICATIONS

The judiciary has played a transformative role in reshaping medico-legal discourse. Courts have consistently emphasized that the testimony of the survivor can form the sole basis of conviction, thereby reducing reliance on medical evidence. This principle recognizes the inherent challenges in obtaining forensic proof and affirms the credibility of survivor narratives¹⁵.

Judicial decisions have also rejected the earlier emphasis on injuries and resistance. Courts have clarified that consent cannot be inferred from the absence of resistance and that lack of injuries does not negate assault. These rulings mark a significant departure from earlier evidentiary practices and align the law with contemporary understanding of trauma¹⁶.

Furthermore, the judiciary has elevated dignity to a central legal value. By condemning practices such as the two-finger test, courts have ensured that medico-legal procedures are subject to constitutional scrutiny. This development represents a shift from procedural formalism to substantive justice.

V. THE EVIDENTIARY PARADOX AND SURVIVOR-CENTRIC APPROACH

The medico-legal examination embodies a fundamental paradox: it is essential for evidence collection, yet it risks infringing upon the dignity and autonomy of the survivor. Resolving this paradox requires a reorientation of the medico-legal process from a forensic-dominant model

¹² *Puttaswamy v. Union of India* (2017).

¹³ CrPC & Evidence Act.

¹⁴ Criminal Law Amendment Act (2013).

¹⁵ *State of Punjab v. Gurmit Singh*.

¹⁶ *Bharwada Bhoginbhai*.

¹⁶ *Lillu Case*.

to a survivor-centric one¹⁷.

Secondary victimization remains a major concern. Institutional processes that subject survivors to insensitive questioning, lack of privacy, or coercive procedures can exacerbate trauma and deter reporting. This not only undermines justice but also perpetuates systemic inequalities¹⁸.

Consent must therefore be treated as an ongoing process rather than a one-time formality. Survivors must be fully informed about procedures, allowed to withdraw consent, and treated with respect at all stages. This approach aligns medico-legal practice with ethical medical standards and human rights principles¹⁹.

VI. COMPARATIVE PERSPECTIVES AND GLOBAL STANDARDS

International frameworks emphasize trauma-informed care, minimal intervention, and survivor agency. Countries like the UK and Canada have established integrated centres that provide forensic, psychological, and legal support in a single setting²⁰.

India's one-stop centres represent a similar initiative but face challenges related to accessibility and resource allocation. Strengthening these institutions is essential for achieving a holistic approach to justice²¹.

VII. IMPLEMENTATION CHALLENGES AND STRUCTURAL BARRIERS

Despite progressive reforms, implementation remains uneven. Structural deficiencies, including inadequate infrastructure and shortage of trained personnel, continue to hinder effective medico-legal practice²².

Institutional attitudes also pose significant challenges. Victim-blaming, gender bias, and lack of accountability undermine the intended reforms. Additionally, disparities between urban and rural areas limit access to quality services²³.

Procedural delays further exacerbate these issues, leading to loss of evidence and weakening of cases. These challenges highlight the need for systemic reform beyond legislative change²⁴.

VIII. RECOMMENDATIONS AND WAY FORWARD

A comprehensive reform strategy must focus on institutionalizing trauma-informed care. This

¹⁷ Campbell (2008).

¹⁸ HRW Reports.

¹⁹ Medical Council Regulations.

²⁰ UK SARC Model.

²¹ MWCD Reports.

²² NCRB Reports.

²³ HRW India.

²⁴ Law Commission Updates.

includes mandatory training for practitioners, establishment of independent forensic units, and integration of psychological support services²⁵.

Digital documentation and stronger oversight mechanisms can enhance transparency and accountability. Additionally, public awareness and community engagement are essential for addressing societal attitudes toward sexual violence.

IX. CONCLUSION

The evolution of medico-legal examination in India reflects a broader shift toward dignity-based justice. However, the success of this transformation depends on effective implementation, institutional sensitivity, and continuous reform.

A truly just system must balance evidentiary rigor with compassion, ensuring that survivors are treated not as objects of investigation but as individuals deserving of respect and dignity. Only then can the medico-legal process fulfill its dual role as a tool of justice and a safeguard of human rights.

²⁵ WHO Framework.

²⁶ UN Women Reports.