

Sexual Offences

(A class of sexual conduct prohibited by the law)

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MBBS CURRICULUM : Course content

Laws on Rape/Incest/Unnatural offences/Grave sexual offence **A**

Clinical examination of a victim of rape, ethical aspect & the collection of samples **A**

Interpretation of injuries found on a victim of rape-**A**

Clinical examination & collection of samples of an assailant- **A**

Examination of an assailant in a case of

A: Comprehensive knowledge of specified area and competency in specified medico -legal work

Examination, interpretation of injuries & reporting in a case of child sexual abuse- **A**

To produce a graduate who will be able to conduct a medico-legal examination of an alleged victim or perpetrator of sexual assault adhering ethical principles, write a report and give evidence in a court of law as an expert witness

Knowledge, Skills , Attitude

Sexual violence/ Sexual assault

- Both terms are used interchangeably
- Sexual violence is defined by WHO which covers wide range of behaviors (coercion)
- Sexual assault is a term which is linked with American literature / law addressing consent/ coercion



Sexual violence definition

Any sexual act, attempt to obtain a sexual act,
unwanted sexual comments or
advances, or
acts to traffic, or otherwise directed, against a person's
sexuality using coercion,
by any person regardless of their relationship to the victim,
in any setting, including but not limited to
home and work.

Coercion

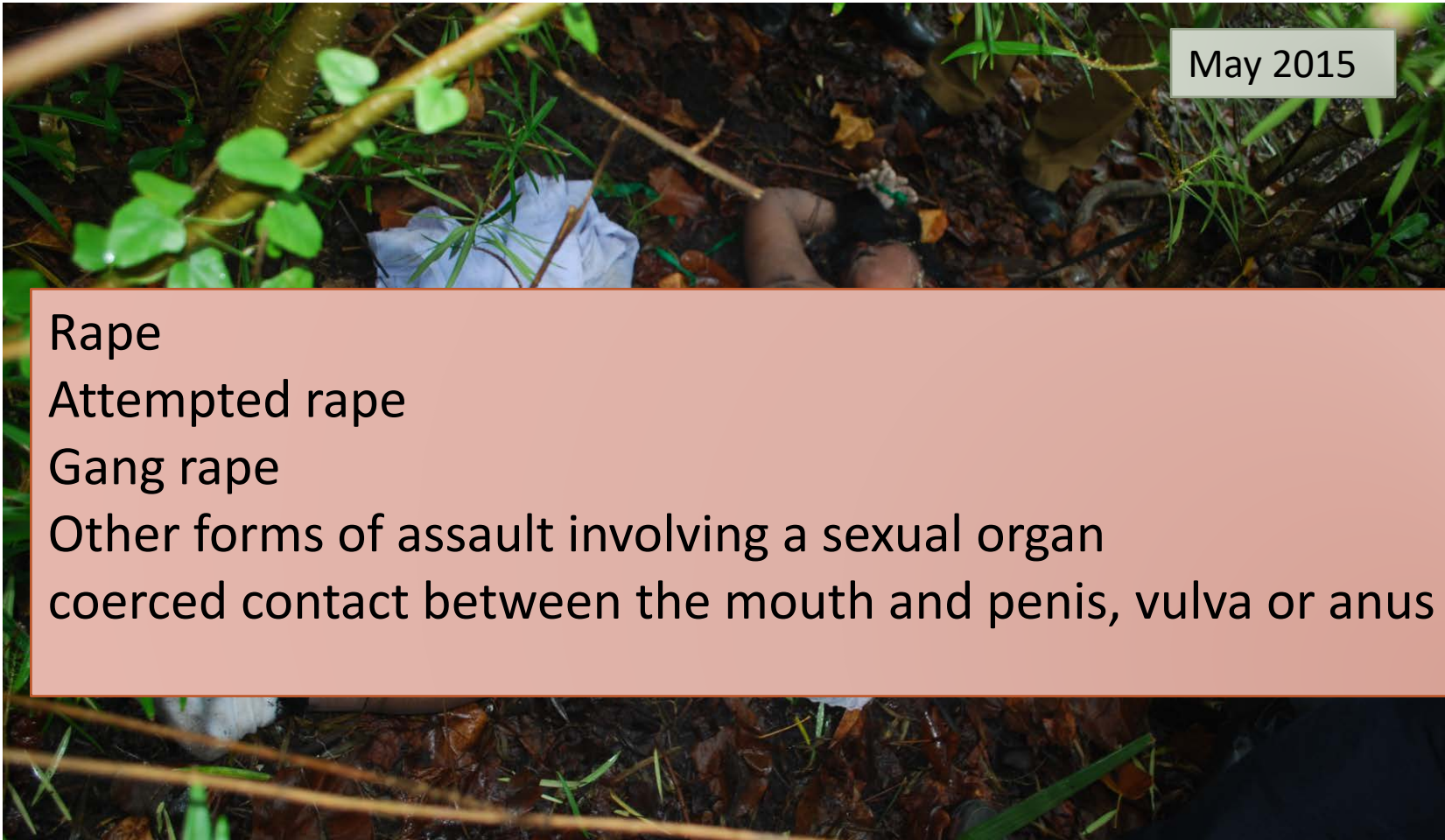
Coercion can cover a whole spectrum of degrees of force.

- physical force
- psychological intimidation
- blackmail or other threats
 - physical harm
 - dismissed from a job or of not obtaining a job
- the person aggressed is unable to give consent –
 - while drunk, drugged, asleep or mentally incapable of understanding the situation.

Forms of sexual violence



Forms of sexual violence



Rape
Attempted rape
Gang rape
Other forms of assault involving a sexual organ
coerced contact between the mouth and penis, vulva or anus



Sexual violence has been criminalized in Sri Lanka from 1883

Rape

- 7-20 RI + Fine
- Section 363 (a-d)

Incest

- 7-10y Rigorous Imprisonment
- Section 364 A

Unnatural sexual offences & Grave Sexual abuse

Acts of gross
indecentcy
between people

- <10 RI + Fine (both >18 years)
- 10-20 RI + fine (> 18 y & <16y)
- Section 365 A

Grave Sexual
abuse

- 5-20 y Rigorous Imprisonment
- Section 365 B

Sexual harassment

- 5 y Imprisonment +/- Fine / both
- Section 345

Trafficking persons or children

- up to 20 y imprisonment
- Child 3-20 years I+ Fine
- Section 360/ 288

Sexual harassment in form of Ragging

- 2-10 years
- Compensation/ No studentship
- Act No 20 of 1998

Digital Violence
child phonography

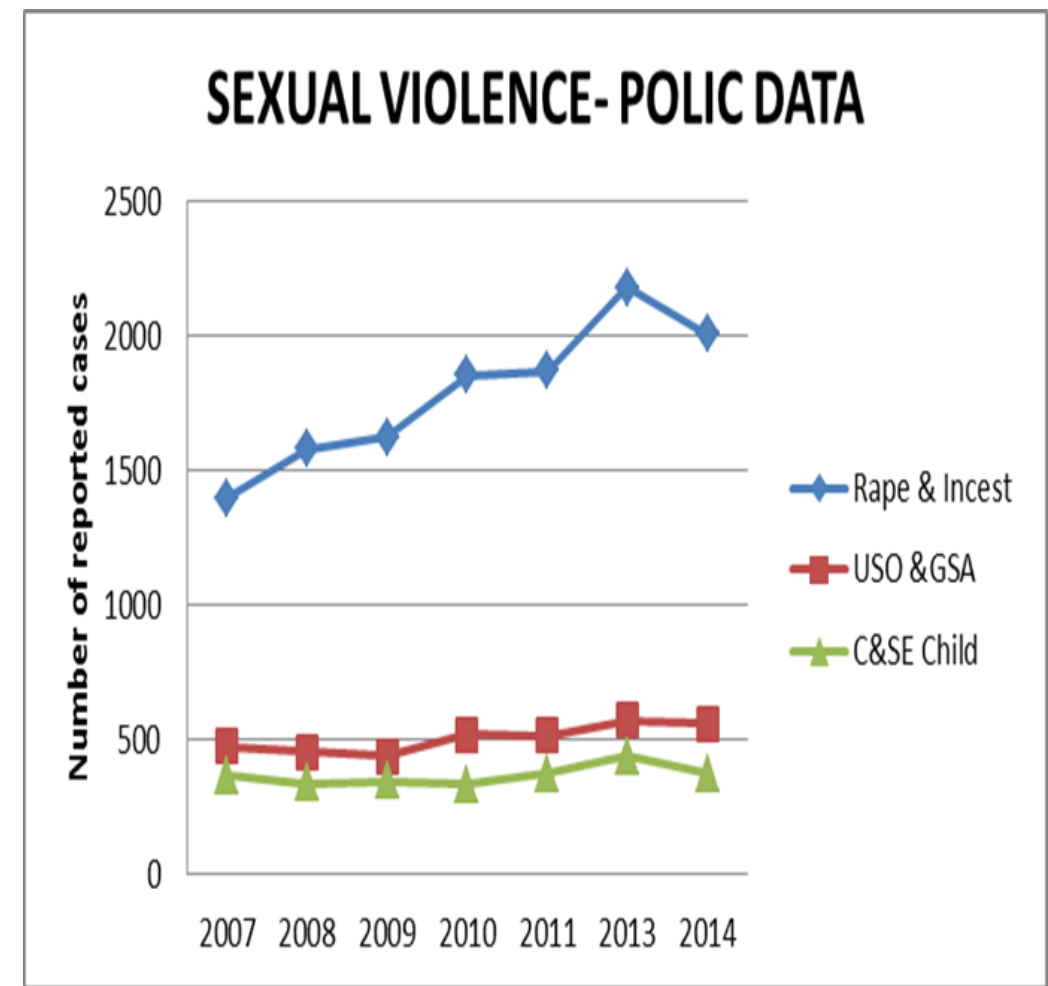
- 2-5 y Imprisonment +/- Fine
- Section 286 A

Digital violence
computer related
child sexual abuse

- 3 up to 20 y imprisonment
- Section 286B & C

Digital violence
Sexual harassment

- 2-10 years
- Compensation/ No studentship
- Act No 20 of 1998



Laws on Rape : Section 363 of Penal Code of Sri Lanka

Rape : 363 (Man commit rape)

[Cap. 19

PENAL CODE

[§ 11,22 of 1995.]

OF RAPE AND INCEST

Rape.

[§ 12,22 of 1995.]

363. A man is said to commit "rape" who has sexual intercourse with a woman under circumstances falling under any of the following descriptions :—

Without consent -Wife judicially separated

(a) without her consent even where such woman is his wife and she is judicially separated from the man;

With consent: while in detention, use force, intimidation, fear of death or hurt

(b) with her consent, while she was in lawful or unlawful detention or when her consent has been obtained, by use of force or intimidation, or by threat of detention or by putting her in fear of death or hurt ;

[§ 6, 29 of 1998.]

With Consent : Unsound mind/ intoxication

(c) with her consent when her consent has been obtained at a time when she was of unsound mind or was in a state of intoxication induced by alcohol or drugs, administered to her by the man or by some other person ;

With consent when she believes that he was her husband

(d) 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 believed herself to be, lawfully married;

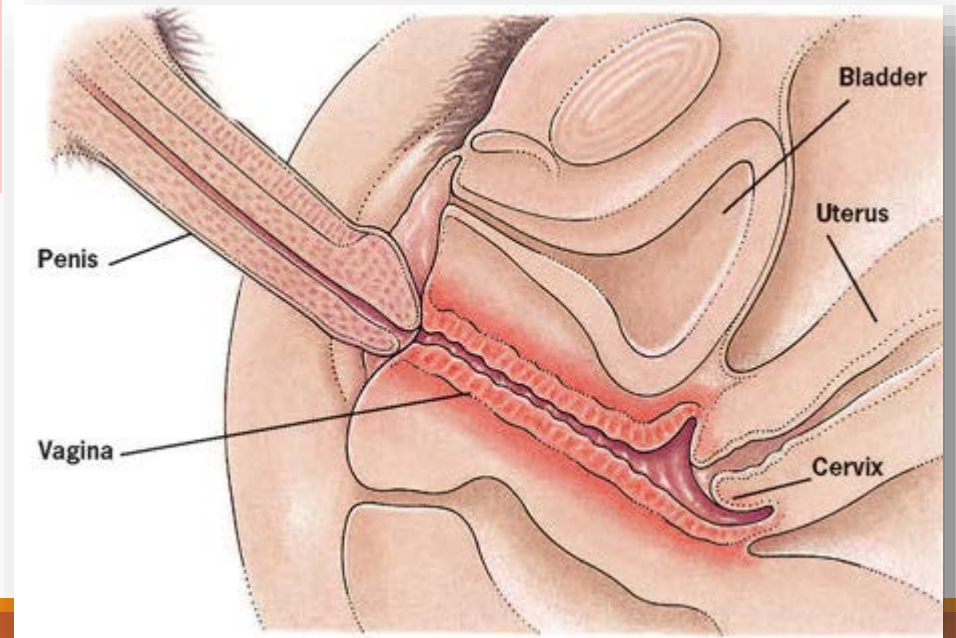
With or without consent under 16 years

(e) with or without her consent when she is under sixteen years of age, unless the woman is his wife who is over twelve years of age and is not judicially separated from the man.



Consent to sexual
intercourse

What is sexual
inter-course ?



Sexual intercourse & consent

Explanation —

- (i) Penetration is sufficient to constitute the sexual intercourse necessary to the offence of rape ;
- (ii) Evidence of resistance such as physical injuries to the body is not essential to prove that sexual intercourse took place without consent.

364: punishment for rape

Rigorous imprisonment not less than 7 years not exceeding 20 years

Fine

Compensation for injuries

Punishment for rape is more (minimum 10-
maximum 20 years, Fine & Compensation)

- ☐ Being a public officer or person in authority
- ☐ Being on the management or in the staff of remand home/
custody
- ☐ Being on the management or staff of a hospital
- ☐ Woman pregnant
- ☐ Woman under 18 years
- ☐ Woman physically or mentally disabled
- ☐ Gang rape

Teenagers having sex



- ❑ offender under 18 years
- ❑ Victim under 16 years
- ❑ Sexual intercourse with consent
- ❑ Imprisonment for < than 10 years
(minimum is 7 years)

? Suspended sentences
? attitudes of judges : underage VS
adult perpetrators
? Guidelines in sentencing



Incest.

[§15,22 of 1995.]

***364A.** (1) Whoever has sexual intercourse with another, who stands towards him in any of the following enumerated degrees of relationship, that is to say—

Incest

Father or Mother & children/ adopted
Grand parent-grand child/ adopted

(a) either party is directly descended from the other or is the adoptive parent, adoptive grand parent, adopted child or adopted grand child of the other; or

Brothers & Sisters, uncles and daughters , step father & step daughter, widows of blood relatives

(b) the female, is the sister of the male, either by the full or the half blood or by adoption, or is the daughter of his brother or of his sister, by the full or the half blood or by adoption, or is a descendant from either of them, or is the daughter of his wife by another father, or is his son's or grandson's or father's or grandfather's widow; or

(c) the male, is the brother of the female either by the full or the half blood or by adoption, or is the son of her brother or sister by the full or the half blood or by adoption or is a descendant from either of them, or is the son of her husband by another mother, or is her deceased daughter's or grand daughter's or mother's or grand mother's husband,

Carnal intercourse against order of nature



Carnal intercourse is for procreation i.e. Vagina & penis / Having sex for fun is wrong “ other forms are against the order of nature”

Carnal intercourse against order of nature

- ❑ Man and woman : oral sex/ anal sex
- ❑ Homosexual relationships (gay/lesbian)
- ❑ Sex with animals



365. Whoever voluntarily has carnal intercourse against the order of nature with any man, woman, or animal, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be punished with fine and where the offence is committed by a person over eighteen years of age in respect of any person under sixteen years of age shall be punished with rigorous imprisonment for a term not less than ten years and not exceeding twenty years and with fine and shall also be ordered to pay compensation of an amount determined by court to the person in respect of whom the offence was committed for injuries caused to such person.

Acts of gross indecency between persons



Acts of gross indecency between persons.

[§ 18,22 of 1995.]

365A. Any person who, in public or private, commits, or is a party to the commission of, or procures or attempts to procure the commission by any person of, any act of gross indecency with another person, shall be guilty of an offence, and shall be punished with imprisonment of either the description for a term which may extend to two years or with fine or with both and where the offence is committed by a person over eighteen years of age in respect of any person under sixteen years of age shall be punished with rigorous imprisonment for a term not less than ten years and not exceeding twenty years and with fine and shall also be ordered to pay compensation of an amount determined by court to the person in respect of whom the offence was committed for the injuries caused to such person.



Grave sexual abuse

365B. (1) Grave sexual abuse is committed by any person who, for sexual gratification, does any act, by the use of his genitals or any other part of the human body or any instrument on any orifice or part of the body of any other person, being an act which does not amount to rape under section 363, in circumstances falling under any of the following descriptions, that is to say—

- [§ 7, 29 of 1998.]
- (a) without the consent of the other person;
 - (aa) with or without the consent of the other person when the other person is under sixteen years of age;
 - (b) with the consent of the other person while on such other person was in lawful or unlawful detention or where that consent has been obtained, by use of force, or intimidation or threat of detention or by putting such other person in fear of death or hurt;
 - (c) with the consent of the other person where such consent has been obtained at a time the other person was of unsound mind or was in a state of intoxication induced by alcohol or drugs.
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Sexual harassment : use of force, use words /actions causing sexual annoyance

345. Whoever, by assault or use of criminal force, sexually harasses another person, or by the use of words or actions, causes sexual annoyance or harassment to such other person commits the offence of sexual harassment and shall on conviction be punished with imprisonment of either description for a term which may extend to five years or with fine or with both and may also be ordered to pay compensation of an amount determined by court to the person in respect of whom the offence was committed for the injuries caused to such person.

Summary

- ❑ Sexual violence ranges from sexual harassment to rape and incest
- ❑ Sexual violence has been criminalized
- ❑ Laws on sexual violence/ assault are
 - ❑ Rape laws : Sexual intercourse/ penetration, consent and injuries
 - ❑ incest
 - ❑ Carnal intercourse against order of nature
 - ❑ Acts of gross indecency between persons (homo sexual)
 - ❑ Grave sexual abuse
 - ❑ Sexual harassment

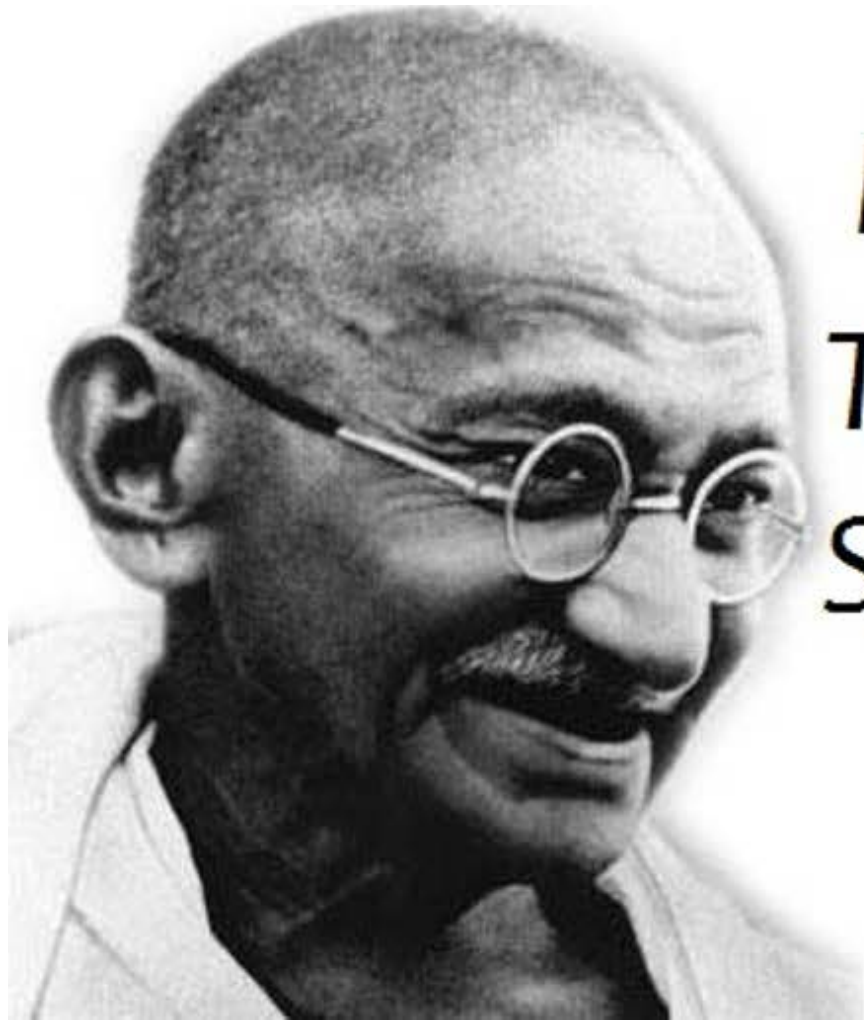
References

- ❑ Student Handbook 2016
- ❑ Penal Code of Sri Lanka Chapter 19



**ZERO
TOLERANCE**





Be The *Change*
That You Want to
See In The World.





Thank
you