

INSTITUTIONAL CHALLENGES : THE VICTIM EXPERIENCE OF REPORTING

I'm going to talk about these institutional challenges from the perspective of a prosecutor. Victims of sexual abuse be it a child or adult have same thing in common in reference to the abuse although the behavioral responses vary. One basic concept in understanding a child's competence and behavior towards abuse is the impact of the victimization at different stages of the child's development. Our jurisdiction recognize the concept of CHILD SEXUAL ABUSE ACCOMODATION SYNDROME (CSAAS).¹

It refers to or is a description of a set of behaviors that can explain how or sexually abused child views the abuse and attempts to cope with it. It describes the child's fears of disclosing the abuse and how the child responds to the reactions and pressures from adults after the disclosure.

Proper USE OF CSAAS:

¹ (Arthur H. Garrison, " Child Sexual Abuse Accommodation Syndrome: Issues of Admissibility in Criminal Trials, IPT Journal Vol. 10 - 1998)

The proper use of the CSAAS is for the expert to explain to the court that a sexually abused child may not disclose immediately, or not at all, because;

1. SHE FEELS SHAME AND CONFUSION OR FEARS THAT SHE WILL NOT BE BELIEVED.
2. IF THE ABUSER HAS THREATENED HER/HIM THE CHILD MAY FEAR REPERCUSSIONS OR FEAR THE ABUSER WILL HURT OTHER FAMILY MEMBERS.
3. SHE MAY BE TOO YOUNG TO UNDERSTAND THE WRONGFULNESS OF THE ABUSER'S ACTS, OR SHE MAY SUPPRESS THE WHOLE EXPERIENCE.

Five Reactions that Sexually Abused Children Exhibit in CSAAS²

The typical reactions of sexually abused children are classified into five (5) categories that comprise the syndrome, to wit:

1. Secrecy
2. Helplessness
3. Entrapment and accommodation
4. Delayed, unconvincing disclosure and
5. Retraction

² (Prosecutors' Manual on Handling Child Related Cases p114)

Secrecy - If the abuse is committed in secret and the child is told to keep the abuse their "little secret". This request for secrecy usually includes threats of negative consequences if the secret is disclosed. Due to the relationship between the trusted family member and the child, and the power imbalance of that relationship, the child is entirely dependent on the intruder for whatever reality is assigned to the experience.

Helplessness - Coupled to the fear is the fact that the child is not in a position to stop the abuse, due to the imbalance of power between the perpetrator and the victim. Thus the child may play possum, that is, to feign sleep, to shift position and to pull up the covers.

Entrapment and Accommodation - If the abuse continues because of the feeling of helplessness, the child feels trapped by the situation because of the threatened consequences of the disclosure. Abuser will tell the victim that if she tells the secret the family will collapse. Thus the child has the burden to choose between keeping it secret or risk destroying the family. As a result, the child feels that by maintaining a lie to keep the secret is the ultimate virtue, while telling the truth would be the greatest sin.

Delayed and Unconvincing Disclosure - If the sexual abuse has been taking place for a long time, the child may develop rage and anger towards her parents and this anger, not the abuse can produce the disclosure of such abuse. The authorities, however, may assume she has invented the story of abuse.

Retraction - After the disclosure, it's possible the child is in turmoil and conflicted, especially if she becomes the center of attention of the family and the source of stress. The disclosure may cause economic problems thus she will be prompted to retract her statement and lie about the abuse to preserve the peace. If the child is not supported, if they are hostile to her due to her disclosure, recantation can be seen as the only option for peace and the return of love and support of her family. A recantation that places blame on herself will fulfill the expectations of adults. The family can pressure the child to recant her story so the family can return to normal.

1. Legitimate Reasons for Delay

- Expected hesitation of daughter-victim

The resulting delay in bringing up the matter to the authorities did not, in the least diminish her credibility³ If at all, it is indicative of the expected hesitation any daughter would entertain in charging her own father. At all events, there is no standard form, this Court has observed many times before of the human behavioral response to a startling or frightful experience such as and most particularly, like here, when the crime of rape is perpetrated by the victim's own loved one.⁴

- Threats made against victims.

³ (People vs. Catoltol, Sr., 265 SCRA 109)

⁴ (People vs. Miranda, 262 SCRA 351, People vs. Lopez GR No. 129397 February 8, 1999)

Delay in reporting rape incidents in the face of threats of physical violence cannot be taken against the victim. A rape victim's action is oftentimes overwhelmed by fear rather than by reason. It is this fear springing from the initial rape, that the perpetrator hopes to build up a climate of extreme psychological terror which would, he hopes, numb his victim into silence and submissiveness.⁵ The threat on her life generated fear in her mind which for a period of more than a month cowed her into silence.

Fear of reprisal, social humiliation, familial considerations and economic reasons has been considered as sufficient explanations.

It was also understandable for the victim not to immediately report the rape as Filipino women are known to be affectedly shy and coy, and rape stigmatizes the victim, not the perpetrator.⁶

- Moral authority over the victim.

Indeed, a survey conducted by the University of the Philippines Center for Women's studies showed that victims of rape committed by their fathers took much longer in reporting the incidents to the authorities than did other victims.⁷ One of the explanations for such a scenario is the fact that the father lives with the victim and constantly exerts moral authority over her. Besides, settled is the principle that it is not uncommon for young girls to conceal for some time the assaults on their

⁵ (People vs. Melive 253 SCRA 347 p 356)

⁶ (People vs. Accion G.R. Nos. 122550 - 51 August 11, 1999)

⁷ (People vs. bugarin, 273 SCRA 384, 398)

virtues especially when their very own rapist is living with them.⁸

DURATION OF DELAY

The Supreme Court ruled even a delay of 8 years is not a sign of fabrication. The delay will not destroy the credibility of the victim if such delay is satisfactorily explained.

There is no standard form of behavior when one is confronted by a shocking incident. The workings of the human mind when placed under emotional stress are unpredictable. This Court indeed has not down any rule on how a rape victim experience is relative and may be dealt with in any way by the victim depending on the circumstances, but her credibility should not be tainted with modicum of doubt.

AFTER THE INCIDENT

The behavior and reaction of every person cannot be predicted with accuracy. It is a time honored precept that different people react differently to a given situation or type of situation and there is no standard form of behavioral response when one is confronted with a strange or startling or frightful experience. Not every rape victim can be expected to act conformably to the usual expectations of every one. Neither is it proper for us to measure the actions of children who have undergone a traumatic experience by the norms of behavior expected under the circumstances from mature people.

⁸ (People vs. Lucanan and People vs. Narido)

Jurisprudence

The resulting delay in bringing up the matter to the authorities did not, in the least diminish her credibility. If at all, it is indicative of the expected hesitation any daughter would entertain in charging her own father. At all events, there is no standard form, this Court has observed, many times before, of the human behavioral response to a startling or frightful experience such as and most particularly, like here, when the crime of rape is perpetrated by the victim's own loved one.⁹

The Supreme Court stated that the child's initial reluctance to narrate the sexual assault upon her person does not detract from her credibility, her hesitation being attributable to her age, the moral ascendancy of accused-appellant and his threats against her and other members of her family.

The court has ruled that it is not proper to judge the actions of children who have undergone traumatic experiences by the norms of behavior expected under the circumstances from mature persons. The range of emotions shown by rape victims is yet to be captured by calculus. It is thus unrealistic to expect uniform reactions from rape victims. The workings of the human mind, placed under a great deal of emotional and psychological stress, are unpredictable and different people react differently.¹⁰

Reasons why the victims did not immediately report abuse:

1. Fear of Life
2. Fear of Economic Loss
3. Fear that the family will be embarrassed

⁹ (People v Miranda SCRA 262, People vs. Lopez)

¹⁰ (People vs. Puerta)

4. Victim is young, trusting and vulnerable
5. Because of indecision/ambivalence
6. The feeling of guilt and blame
7. Fear of shame and being blamed
8. Fear and worries of not being believed because of embarrassment or humiliation.
9. They may love the abuser and think it is something normal
10. Afraid of the consequences that may happen
11. They may not have the ability to speak out. Younger children, or those who have a disability, may not have the words to describe what is happening to them, let alone the ability to understand what is going on. Children are vulnerable at any age but particularly so if they don't have the skills to recognize the abuse. This can easily lead to cases of abuse going undetected.
12. Sometimes a child is so young or afraid that they don't know or can't find the words to explain what is happening to them, or sometimes they are so confused by the person that has abused them, that they might not know that what is happening is wrong.
13. They may not be aware that it is abuse. A child may not understand that what is happening to them is abuse. It may be that the abuser has always behaved this way and this is the only environment or relationship that the child has ever known. With victims of sexual abuse, it may be that the child has never been taught about this topic and is too young to understand what is happening to them is abuse. It may be that the abuser has always behaved this way and that this is the only environment or relationship that the child has ever known. With victims of sexual abuse, it may be that the child has never been taught about this topic and too young to understand what is happening to them. The abuser may also tell them that the abuse is normal and happens in all families. By the time the child realizes they are being abused, they may feel it is too late to disclose the abuse.

14. They may be hoping that the abuse may stop.

15. They have never been asked about the abuse or know what abuse is. A child may be more likely to disclose abuse if they are asked about it. They may be waiting for someone to notice the abuse is happening, as they do not have the courage to approach an adult directly. Some abused children will not try to hide the abuse and may drop subtle hints to adults, such as saying they are scared to go home, or they never want to see a particular individual again. If an adult asks them if something is wrong or provides an opportunity for the child to open up, they may be more likely to disclose abuse.

16. Fear that something may happen to their loved ones if they are threatened that something bad will happen to their loved ones.

17. Confused emotions especially if the one who abused them is someone they love and trusted. If a child is abused by someone they know or love, such as a family member or friend, they may not want this person to get into trouble. Having an emotional connection to their abuser can make reporting the abuse much more difficult. The child may believe that the consequence of reporting the abuse and having this person removed from their life is worse than allowing the abuse to continue. This may be especially true if the abuser is a parent or sibling.

18. They may not know who to tell. Disclosing abuse requires a huge amount of trust. An abused child may have feelings of guilt, shame and embarrassment and may only feel able to disclose the abuse to a trusted adult. However, they may not feel that there is anyone in their life that they can reveal this information to. An abused child may not have any trusted family members or friends. They may also not feel ready to reveal the abuse to an authority figure, such as a teacher, a doctor or a police officer. In

this situation, it is likely that the abuse will not come to light until years later.

19. The understanding and comprehension that nothing will happen as the one who abused them represents authority.

20. The victim does not trust the system and is uncertain of the outcome of the process.

WHO CAN REPORT A CASE OF CHILD ABUSE?

Philippine laws make it clear that ANYONE can report an alleged case of child abuse. The law specifies certain categories of people who are categorically mandated to report situations to appropriate offices. “ The head of any public or private hospital, medical clinic and similar institutions, as well as the attending physician and nurse, shall report, either orally or in writing, to the Department of Social Welfare and Development the examination and or treatment of a child who appears to have suffered abuse within 48 hours from knowledge of the same. (Implementing Rules and Regulations of R.A. 7610). Furthermore the law enumerates those government workers duty bound to report incidents of child abuse such as:

1. Teachers and administrators in public schools
2. Probation officers
3. Government Lawyers
4. Law enforcement officers
5. Barangay Officials and other government officials and employees whose work involves dealing with children.

(To end the discussion, I will be sharing an actual experience of a victim of clergy abuse in the Philippines. I will share the challenges that he encountered when he reported the abuse to the authorities.)

DIFFICULTIES ENCOUNTERED IN REPORTING CLERICAL ABUSE:

1. I was prevented from going to the church (the Basilica del Sto. Niño). When I reported this to the media, I was allowed but was always followed by security guards wherever I go. Even my friends or those sympathetic to me were not spared.
2. Since the perpetrator is a priest, the complaining victim is subjected to scrutiny particularly on motive. In my case, even my lifestyle, choice of clothes and appearance was not spared. (mahiligsamamahalin)

<https://www.poynter.org/reporting-editing/2003/fr-jing-cleared-of-sex-rap-%EF%BF%BDmoney-hunt%EF%BF%BD/>

3. Other clergymen paid me off in an effort to silence the issue. The payoff was without the knowledge of our parents or any person who could have counseled us on the matter.

<https://www.philstar.com/nation/2002/07/28/169849/cebu-priest-faces-new-sex-abuse-rape>

4. The mechanism from within the church is run by clergymen whose objectivity is questionable. In my case, the church investigation included a “therapy/counseling’ component that focuses heavily on “forgiveness” and “moving forward”. When I shared that I am open to such but that this openness does not include withdrawing my complaint, I was told, “bahala ka. Gahi ka ug ulo!” (and therapy session was stopped).

<https://www.philstar.com/headlines/2003/01/16/191695/2-boys-sue-priest-sex-abuse>

5. In school, ReEd(religious education) teachers, and even others, would try to talk to me and dissuade me from continuing with my complaint. One time in ReEd class, the teacher scolded me when she saw that I did not join in singing the song in class. She then approached me and lectured me about “doing something in my life rather than spending time ruining people”.

6. Distant relatives suddenly expressed concern started paying me a visit to get first-hand information on my case. It turned out that some of them were approached by influential members of their parish either rebuking them for their association with me or asking them to convince me to stop.

7. When I landed my first job out of college, the business owner forced me to tender my resignation when he discovered that I was the one who complained about a priest.

8. Other church organizations would not let me (and those associated with me) to join them when they discovered about my complaint.

9. On the legal aspect, I encountered setbacks after setbacks as, even if the perpetrator has already admitted to the acts I complained of, the case was still dismissed. For example, in my complaint for child abuse (R.A 7610), the fact of my minority was already established, and the lascivious conduct of the respondent was admitted but the chief prosecutor sided with the findings of the reviewing prosecutor that my actions (after the fact) were not acts of a minor and therefore, in his words, I should no longer be afforded the protection of the law.

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