

Prevention of Child Sexual Abuse

Lecture: Hong Kong Against Child Abuse Ltd.
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Abstract

In the Lecture, the following aspects will be presented and discussed:

- the pros and cons of the sex offender's registry
- the identification and management of CSA (Child Sexual Abuse)
- the treatment and counselling of CSA
- trends and characteristics of the problem
- the pros and cons of mandatory treatment and rehabilitation

Participants include professionals from:

- Department of Justice
- Police
- International Social Service
- Caritas
- End Sexual Abuse Foundation
- HK Federation of Youth Groups
- Harmony House Ltd. (Spouse Abuse Shelter)
- HK Against Child Abuse
- Macau Against Child Abuse

Introduction

Talking about CSA is not easy. I see many of it's victims in my office – who often only begin to disclose what has happened to them when they get older. It takes considerable courage for them, to elicit their pain and suffering and to address their accuses. Dealing with CSA is a minefield – nobody will support you, you may feel isolated, frustrated, and unable to talk to your colleagues. This is exactly how survivors feel. Without “thinking victim” CSA cannot be understood. Their perspective is based on their real life experiences – which challenges the view of society fundamentally. This workshop aims to share and discuss experiences when working in the field of CSA.

CSA is embedded within sexual violence, ranging from sexual harassment to sexual rape and sexual killings; and includes:

- sexual harassment, workplace violence
- domestic violence, stalking, bullying
- trafficking, prostitution, internet pornography
- genital mutilation
- forced marriages
- sexual slavery
- sexual deviancy, paraphilias, sexual killing
- sexual violence by juvenile offenders
- PSM (Professional Sexual Misconduct)
- ritual and satanic abuse
- sexual crimes in war

In the majority of all cases, a close relationship exists between victims and offenders. Sexual violence must therefore be regarded as a relational crime [1]. Even in cases where rape is committed by a stranger, relationship problems play a key role – the crime is committed by another human being, and ones protective figures have failed, both of these undermine trust in human relationships. This understanding is crucial for identifying most victim's reactions, as provided by psychotraumatology [2], Attachment Theory [3] and Affective Neuroscience [4].

According to existing data only a minority of all sexual crimes are reported to law enforcement authorities [5], ranging from a few percent in incest cases, to slightly more when the perpetrator is an extra familial person, and probably highest in cases of rape committed by a stranger. If you take into further account the number of convicted sexual offenders in relation to all allegations then it must be estimated that only one in a hundred sexual offenders are currently sentenced by the justice system. Victims' willingness to come forward with allegations depends on how they are treated by the justice system, whether they are believed, and whether their reporting of the event leads to substantial consequences.

Due to its interpersonal nature, sexual violence will always be accompanied by debates, questioning whether the allegations are true at all, whether you can believe victims' reports, whether the measures are adequate or not, etc. Since the first scientific reports on sexual violence by French researchers, starting with Ambroise Tardieu in 1857 [6], this debate has never stopped. It may be assumed, that even among professionals there may be a significant proportion of sexual offenders, as the research on PSM clearly indicates [7].

1. The pros and cons of the sex offender's registry

Implementing a sex offender's registry will not prevent sexual violence occurring. This is comparable to the penal codex, which only through its legal enforcement has a general preventive aspect, but in fact does not prevent the high number of current victims from being sexually exploited. Nobody will give up the criminal codex because of it having no effect on preventing CSA.

Sex offender's registry helps to identify the perpetrators. The criminal record is often not a sufficient means, because it often takes years for legal procedures to come to an end; and in many cases judges cannot pass sentence due to limitation of time, or insufficient evidence (burden of proof).

When creating a sex offender's registry a variety of aspects have to be clarified:

- What is the aim of the sex offender's registry?

- Who comes at which level of evidence into this registry?
- Who is responsible for imputing and collecting data?
- Who has access to the data?
- Individuals in the registry should have permission to get their records (though with an adequate fee).
- For how long should someone remain on the registry?
- Who is responsible for deleting the data?

The pros and cons are mainly focussed on two aspects; one is the balance of rights between personal freedom and the security aspects of potential victims. The other one is the question, whether a sex offender's registry helps at all, or whether it makes things even worse. Both raise serious concerns. It is without question that giving priority to the security aspects of potential victims (notably children!), that this will lead to a shift in reducing the rights of those who have committed sexual crimes. It is crucial therefore, who will be registered at all.

I suggest creating three levels of evidence: (1) serious concern which leads to further investigation, (2) clear evidence without legal sanctions, and (3) legally sanctioned. I also suggest registering whether someone has undergone or successfully terminated an offence-focused treatment. Then I suggest different time frames for the duration of registered subjects: 15 years for group one and two, and lifelong for group three. This framework is based on follow-up data on re-offending. To illustrate which data should be collected I'd like to mention one example: A victim of a serious sexual abuse contacts a NGO. For understandable reason the victim refuses to report the case to the police. What shall the professional of the NGO do? Lets assume further that the accused person is a schoolteacher. In such cases a sex offender's registry could be a challenge of today's silence and could help identifying offenders and therefore preventing further children to be victimized.

This data should be used for scientific research.

Among the pros the following aspects are crucial:

- Identifying potential offenders
- Control over their activities
- Crossing borders to escape national jurisdiction would no longer be possible, if the data is disseminated to other nations (having comparable sex offender's registry); the UN should coordinate this program
- Improving personal security based on CRC (Child Rights Convention, United Nations, 1989)

Among the cons:

- It will remain difficult to measure the impact (lower rate of sex offenders may have various reasons)
- Considerable cost and man power
- Human rights
- Fear of witch-hunting (e.g. through media reports)

One of the arguments to defeat the human rights aspect is that nobody will be entered into this registry without having already raised serious concerns of having committed sexual crimes. When discussing who should have access to the data then the question of maximum transparency can only be achieved through public access. Then again the questions remain to be clarified whether all available data (the entire record protocol, or just part of it) are free for public access.

A special question is whether juvenile sexual offenders should be included in the registry. The answer is a clear yes, because otherwise it will lead to complicated issues. Lets take the hypothesis, that only after two clear occurrences someone is admitted to the registry, than one will argue, that the second victimisation could have been prevented through adequate records. We face a similar question when

considering the criminal records, where someone is registered no matter how old the offender was at the time of committing the crime. In effect this policy could be addressed as a zero tolerance policy.

2. The identification and management of CSA

The complex nature of sexual violence requires an interdisciplinary approach with close co-operation between the various disciplines involved. Health care providers are the first address for victims of sexual crimes, in most cases before they report it to the police. Schoolteachers and NGOs such as victim support services play another key role:

- Health care professionals
- Police including crime investigative authorities
- Victim supporting services
- School teachers
- Relatives, friends

In their search for help and support victims often disclose to trusted persons what they have experienced. It is then crucial, that victims are in control over the following steps, which requires a cooperative procedure. If victims are not ready to testify to what has happened to them, reporting does not make sense. Nevertheless, mandatory reporting for professionals should be the rule, due to the nature of these crimes

Guidelines recently published by the WHO stipulate: "Appropriate good quality care should be available to all individuals who have been victims of sexual assault" [8]. Without specific training this goal cannot be achieved. Professionals require an understanding on how disclosing may trigger memories of abuse and thereby activating the fear network and creating psychological and physical symptoms. This understanding is also crucial for other disciplines when offering victim support. Law enforcement authorities, including judges need a basic understanding about these processes.

The management of CSA cases requires an interdisciplinary co-operation between all the involved disciplines. Treatment and management often go hand in hand.

3. The treatment and counselling of CSA

Victims often don't understand their own reactions. One of the first steps therefore must be to provide a clear framework. Let me suggest an analogy to outline the problem. When a man, who has lost his right leg during war-time, comes to a physician complaining about cold toes, he will be accused of talking rubbish, rather the doctor will explain to him what is called phantom pain. The same is true in sexual victim cases, where survivors complain about bizarre and for them not understandable symptoms. I will use an illustrative case example, which I have gathered from a workshop by David Clark at the time when I learned to understand the aftermath of sexual violence. On a Sunday afternoon a woman was washing the dishes, her family present in the kitchen, playing and having fun. When the woman turned in order to take a towel for drying the plates, she froze and panicked – without any notable threats. She felt incapable of coping with her panic and needed emergency psychiatric intervention to calm her down. It then turned out that she had been raped around a year ago, and that she often experienced similar attacks since then, obviously caused through body movements – similar to the traumatic experience when she was forced by her arm by the offender. After explaining to her the trigger mechanism the woman felt released, and disclosed, that she nearly went crazy, and that she has blamed herself for being so stupid.

This basic understanding of traumatic experiences was provided by Pierre Janet in his 1889 doctoral dissertation on “l’automatisme psychologique” (The psychological automatism), where he delivered an understanding of the effects on body and mind [9]. Several decades later, PaulLean coined the term “limbic system” to describe the neuronal network responsible for processing alarm reactions [10]. John Bowlby finally enlarged the picture by providing a theory of human bonding and attachment, which now enables us to understand the complex reactions after traumatic events caused by human beings. In 1980 the terms PTSD (posttraumatic stress disorder) and DID (dissociative identity disorder) were introduced in the DSM III as new diagnostic labels, producing a flood of research on trauma processing within the last two decades [11]. Based on this research we now are able to provide specific trauma-focused therapy for survivors of CSA and other forms of sexual violence.

Beside this rather optimistic view we should not forget, that society does not pay much attention to victims of sexual abuse. Worldwide there is almost no existing monument, which awards the suffering of all the many victims of sexual crimes; still today it seems to be an invisible phenomenon. When we compare this to other classes of victims, e.g. victims of natural disasters such as the «Asia Tsunami» of 2004, then we may understand what most victims complain about that they feel as though their suffering is a burden for society – whereas the offenders are nowhere. Society does not consider the huge human and financial implications that sexual violence causes.

And here the circle closes: this raises again the question whether society should implement a sex offender’s registry – it certainly will help to create a better awareness of the problem. This will result in a shift from the victim to the offender: Who are they? What do they do? And what price do they pay for their wrongdoing? Implementing a sex offender’s registry will help to take away much of victim’s burden which they carry today. Through the individualisation of criminal justice proceedings the burden of reporting lies only with the victims, instead of society feeling responsible for what happens with offenders. Implementing a sex offender’s registry will therefore help survivors and should no longer be debated but implemented.

4. Trends and characteristics of the problem

Worldwide there is a trend in legislation to expand the time of limitation up to a lifelong possibility of prosecution similar to crimes against humanity. For example, some recent cases on PSM (e.g. clergy abuse) in New Zealand illustrate the importance of prosecuting “historical” cases – much abuse went back to the 1960s and 1970s. Without the legal investigation of these cases we would not know about it. As victims of CSA often suffer for the rest of their life this approach certainly is worth being considered. Furthermore, the burden of proof should shift to the offender’s side, at least in cases of institutional abuse. All of these attempts are only in the interest of victims – they help overcoming today’s barriers and challenge the silence by society.

In the Justice System a new paradigm is necessary – similar to the assumption of innocence we need a dogma where the victim is respected: as long as there is no clear evidence against the accusation, victims must be regarded as survivors of sexual abuse. This new approach can only be achieved through a proactive process: to believe a survivor is an act of humanity and respect. The constant reminder of the assumption of innocence is often a cruel act towards victims – as long as there is no substantial support on victim’s side court proceedings are unfair. Those who already suffer through the victimisation experience a new trauma caused by the justice system – this cannot be in the interest of the existing law.

The preventive approach to reduce sexual violence is based on three pillars: (1) education and training of professionals, (2) consequences (legal sanctions, mandatory reporting, sex offender registry,

mandatory treatment, etc.) and (3) help (treatment facilities for victims and offenders). An interesting approach is provided by the Berlin University program to offer treatment facilities for people who realise that they are getting into a danger of sexually abusing children [12], which challenges current treatment approaches – as long as there are no such facilities, nobody will be able use them. Society must provide certain efforts in offering such opportunities. Again, this will not stop CSA completely, but it may help to significantly reduce the number of victims.

5. The pros and cons of mandatory treatment and rehabilitation

Psychotherapists often claim, that without one's own motivation, treatment is not possible. They are not aware of 25 years of mandatory offence focussed treatment results that have provided evidence-based results, which clearly question this view. Building motivation is part of the treatment process, and cannot be regarded as a precondition for successful treatment. This erroneous attitude is based on a professional bias. Mandatory treatment is the only way, which brings or at least keeps sexual offenders in treatment.

Most legislation requires a psychiatric disease for mandatory treatment as part of conditional sentencing. This is based on an erroneous perception; only a minority of sexual offenders suffer from a psychiatric disease. The mandatory treatment must therefore be based on the committed offence, and not on an underlying disease. Just incarcerating sexual offenders will not change their sexual deviancy.

On the other side, treatment is not a punishment; rather it is help for the future. During treatment sexual offenders begin to realise their problems and can then begin to see the treatment as help for them. But we must also consider, that a number of sexual offender either are not willing or not capable for treatment. Often in these cases only lifelong detention rests.

Conclusion

Reducing sexual violence is not related to a single factor; rather several approaches go hand in hand. Implementing a sex offender's registry contributes in reducing sexual violence, but it will not really stop it. Before implementing a sex offenders' registry a variety of questions have to be clarified, such as at which level of evidence is someone admitted to the registry, who will have access to the data, and what aims are connected with the implementation of such a registry. Despite controversies among sex offender's registry, Hong Kong is well advised to proceed in this direction in a pragmatic way. In the implementation process all disciplines involved in preventing sexual violence should be invited to participate. The aim must be to create a unique doctrine on how to proceed. However, it should not be forgotten that the sex offender's registry is only one part in a greater puzzle.

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I'd like to thank Priscilla Lui and the whole team of HK ACA for the kind invitation to give this lecture. It is both a pleasure and an honour to share and discuss the experiences. The present, which was given to me, will have a visible place in my office, where I treat survivors of sexual violence. They will then see, that they are not alone. I also appreciate the work of native English speaking Clare Kenny, who improved the style of this paper.

References

- [1] Rich P: Attachment and Sexual Offending. Chichester, John Wiley, 2006.
- [2] Glaser D: Child abuse and neglect and the brain – A review. *J Child Psychol Psychiatry* 2000;5:38-103.
- [3] Bowlby J: A Secure Base. London, Routledge, 1988.
- [4] Panksepp J: Affective Neuroscience. The Foundation of Human and Animal Emotions. Oxford, Oxford University Press, 1998.
- [5] McGee H, Garavan R, de Barr M, Byrne J, Conroy R: SAVI Report, Sexual Abuse and Violence in Ireland. Dublin, Liffey Press, 2002.
- [6] Tardieu A: Etude medico-légale sur les attentats aux mœurs. Paris, Baillière, 1857.
- [7] Tschan W: Preventing institutional Abuse. Basel, Karger, in print (Orig.: Missbrauchtes Vertrauen. Sexuelle Grenzverletzungen in professionellen Beziehungen, 2005, 2nd. Ed.)
- [8] World Health Organisation: Guidelines for medico-legal care for victims of sexual violence. Geneva, WHO, 2003.
- [9] Van der Hart O, Nijenhuis E, Steele K: The haunted self. Structural dissociation and the treatment of chronic traumatisation. New York, W.W. Norton, 2006.
- [10] LeDoux J: The emotional Brain. The Mysterious Underpinnings of Emotional Life. New York, Simon and Schuster, 1996.
- [11] Herman J: Trauma and Revocery. New York, Basic Books, 1992.
- [12] Beier KM, et al.: The Berlin Primary Prevention Approach: A Treatment Program for Paedophiles. Paper presented to the 9th Conference of the International Association for the Treatment of Sexual Offenders (IATSO), Hamburg, Sept. 6-9, 2006.