



Managing the legal proceedings: An interpretative phenomenological analysis of sexually abused children's experience with the legal process[☆]

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ABSTRACT

Objective: The aim of this study was to describe how sexually abused children experience the legal process, a process that includes being questioned by the police during the preliminary investigation and by lawyers and the prosecutor in the courtroom, and meeting other professionals from various agencies.

Method: Face-to-face in-depth interviews were conducted with 10 children—9 girls and 1 boy between 9 and 15 years old—who had experienced child sexual abuse (CSA). The interviews were semi structured and carried out and analyzed by interpretative phenomenological analysis (IPA). The aim of IPA is to explore the participants' views of the world and to adopt as far as possible an "insider perspective." IPA draws on a tradition of phenomenology and symbolic interactionism in attempting to understand how people make sense of their experiences.

Results: Five major themes emerged through the analysis: not being believed, making CSA visible, need for support, sanctions for offenders, and lack of respect for the child's integrity. Almost all the children had a feeling of not being believed. They described feelings ranging from anxiety to dread and even terror when they had to describe the CSA they had experienced. Even though the importance of support for such children is already well understood, the children stated that the support they were given was not sufficient. The children said that they wanted support from a single professional who was well informed about both the legal process and CSA. When the children were asked to reflect on sanctions against the abusers, they said that it was important that the perpetrator got treatment/therapy but they also said that imprisonment was desirable. Financial compensation was not as important to them; the damage had been done and money could not compensate for that damage. The children also said that both the lawyers and the media had treated them with disrespect.

Conclusions: It is valuable for children who have been exposed to CSA to learn that they can take part in the legal process as equal partners with the other participants, and it is evident that the quality of psychological care and support needs to be improved. The children want to be participants in the legal process rather than passive objects of that process.

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Introduction

Children of all ages—from infants to teenagers—can become victims of child sexual abuse (CSA). CSA appears in different forms and with different degrees of severity ranging from sexual touching to rape; it occurs in all social groups and classes. The perpetrators are in some cases unknown to the children, but most often the perpetrator is a person known to the child, quite often a family member (Paine & Hansen, 2002). A troublesome dynamic in the trauma of CSA occurs when the child delays disclosing or completely withholds disclosing of the abuse (Paine & Hansen, 2002; Smith et al., 2000). Although some children who experience traumatic events are resilient, many others develop symptoms that can have a profound and long-lasting negative impact on their daily functioning, health and safety (Finkelhor, Hotaling, Lewis, & Smith, 1990). Posttraumatic stress disorder (PTSD), depression, anxiety or behavioral symptoms, including self-injury, substance abuse, impaired interpersonal trust and affective instability are among the reactions to CSA (Cohen, Mannorino, & Deblinger, 2006).

Filing a report about CSA is often not enough in itself to be grounds for legal action to be taken. In Sweden only about 2 out of 10 reports of alleged CSA filed with the police lead to prosecution (Diesen, 2001). The main reason for this is that CSA occurs in most cases where it is not witnessed by any other person. Therefore a problem arises about evidence; word stands against word. As a result, there are difficulties in proving CSA in court since the evidence is often weak. Altogether this means that only a small percentage of cases of alleged CSA reach the courts. Research shows that children who have experienced CSA have difficulty telling adults about it, both when the abuse is ongoing and later in life (DeVoe & Faller, 1999).

Children's long-term memories of sexual abuse are, in all probability, not the same as what the children first describe during forensic interviews. Children who have been sexually abused may remember more than they report in an initial interview. One possible underlying reason for not immediately describing everything is that children experience shame or embarrassment (Leander, Christianson, & Granhag, 2007). Studies show that younger children under the age of 6 are least likely to disclose abuse.

Developmental factors may account for the inability of young children to disclose what happened (Goodman-Brown, Edelstein, Goosman, Jones, & Gordon, 2003). Previous research has confirmed the importance of the interview both as concerns making good contact with the child and as concerns the nature of the questions given to the child (Lamb & Garretson, 2003).

The United Nation Convention on the Rights of the Child (UNCRC), article 12, states the following:

1. *States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.*
2. *For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative with the procedural rules of national law.*

NCRC is considered to be an important guarantee of full human rights for every child (United Nations, 1989) and in all investigations and decision processes, consideration should be taken to aim at providing what is best for the child. Unfortunately, the demand for high reliability that is inherent in the legal process is shaped to fit the adults' way of communicating and children's testimony in court is often viewed as inadequate and not reliable. The child is thereby placed in a disadvantaged position in the legal process and this makes it difficult for the child to get a fair trial.

Children's experiences with the proceedings in Swedish court have not been examined previously but Cederborg and Lamb (2006) tried to understand them by using data from other sources describing how the Swedish legal system perceives and handles mentally handicapped children who may have been victimized. Diesen and Sutorius (1999) have shown that the legal system in Sweden is not well adjusted to the needs of children.

Mudaly and Goddard (2006) have described the cases of 9 Australian children between 9 and 18 years of age who had met professionals during legal proceedings. Their results show that the children's evaluation of their experiences tended to be more negative if the professionals they had to interact with were not well inclined to listen to the children, or even to believe the children's stories. This was especially true if the educational level of the professional was relatively low. Studies recording the children's experiences of encounters with professionals in a context of child sexual abuse are rare.

The aim of this study was to explore how children who have been sexually abused experience the legal process and in particular what they experience when they are questioned by the police and in the courtroom and when they come in contact with professionals from various agencies.

Method

The aim of interpretative phenomenological analysis (IPA) is to explore the informants' views of the world and to adopt as far as possible an "insider perspective" (Smith, 1996), recognizing that the research exercise is a dynamic process (Smith, Jarman, & Osborn, 1999).

IPA draws on the traditions of phenomenology, hermeneutics and symbolic interactionism in attempting to understand how people make sense of their experiences. One important theoretical touchstone for IPA is the phenomenology that originated with Husserl's attempts to construct a philosophical science of consciousness. A second important theoretical current for IPA is recognition that hermeneutics is a theory of interpretation (Smith, 1996). A third significant influence is

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