

Continuing professional development

Rape

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What is rape?

Every society and culture has a view of rape. In many instances it is classified as a particular form of assault on the person, and conviction will lead to a prison sentence. The intimate nature of rape, and the risks associated with it, in terms of unwanted pregnancy, infection and the spread of disease, mean that it is usually treated in law in a different way to other forms of assault (Scottish Law Commission, 2007). Traditionally, rape has been defined as an act perpetrated by a man against a woman. For example, in the UK the Sexual Offences Act 2003 defines rape as using the penis to penetrate the vagina, anus or mouth of another person without that person's consent (www.legislation.gov.uk). However, more recent legislation has moved to gender-neutral definitions in recognition that same-sex rape may also occur. In the USA, the Uniform Crime Reporting Program now defines rape as 'penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim' (Federal Bureau of Investigation, 2011; www.fbi.gov).

Social attitudes also influence views about rape. Historically, rape was regarded less as a crime against a woman than as a crime against her father, husband or son, depending on which of these had authority over her. Such attitudes persist in societies in which the rape of a woman is deemed to dishonour her family; she herself is then regarded as having lost her reputation and marriage prospects and broken the rules of her religion. The concept of family honour (*Izzat*) may also lead to other criminal actions and violence (Uddin, 2006). Women who are raped may therefore be imprisoned or punished for having sex outside marriage (Howden, 2007). Nevertheless, in some circumstances, a particular rape attracts such opprobrium that normal social mores are overridden. One example is the public outrage that followed the rape of a young woman in New Delhi in December 2012. Rape, molestation and harassment, which are often referred to as 'Eve teasing', are very common in the

Indian subcontinent, but this particular incident caused unprecedented revulsion. As a result, the Indian legislation known as the Criminal Law Amendment Act 2013 Section 375 was passed. This contextualised rape within a detailed definition of 'sexual assault' as using the penis to penetrate 'to any extent, into the vagina, mouth, urethra or anus of a woman' or to make her do so, or to insert any other object, to manipulate a woman's body so that penetration occurs or to apply the mouth to a woman's vagina, mouth, urethra or anus without her consent (mha.nic.in/pdfs/criminalLawAmndmt-040213.pdf).

Attitudes to rape

No one knows how many rapes take place each year, because victims often do not report what has happened to them or tell anyone at all. A survey of 349 men and 712 women in London revealed that 62% of them would not tell their partner if they were raped, and only 13% would report the incident to the police. Their principal reasons for this were shame (55%), wanting to forget about it (41%), wishing to avoid a court case (38%), and fear of repercussions from their family (25%) or the rapist (31%). In total, 20% of the respondents reported that they had been made to have sex against their will (Opinion Matters, 2010).

Rape raises several issues that can be difficult to address. First there is the matter of consent, which is predicated on the concept of individual autonomy; the individual must be free and have the capacity to decide whether to participate in a sexual act (www.rapecrisis.org.uk). Children, people with learning disabilities and members of some other social groups may lack capacity to make such decisions, while others may experience coercion because the perpetrator is more senior, powerful or stronger than they are. A person is therefore deemed to have been raped when she or he has not consented or could not

consent to whatever sexual act has taken place. However, what constitutes consent or the lack of it is not always clear. An individual may initially agree to an action and then change her or his mind right up to the moment at which penetration occurs. Consequently, the victim may find her- or himself trying to defend that decision, and the burden of proof of rape may then lie with the victim rather than with the guilt of the perpetrator.

Secondly, there is the issue of rape by a partner. Most rape victims are women who know their attacker, which may complicate determining whether rape has taken place (Crown Prosecution Service, 2012; www.cps.gov.uk). Rape within marriage was only relatively recently recognised as a crime in countries such as the UK. Prior to that, a woman was deemed to have given her consent to intercourse, once and for all, at her wedding, and so rape could not be said to have taken place. This view may still persist in some societies. Rape within marriage was criminalised as recently as 1982 in Scotland and 1991 in England.

The third issue is the belief that, even if the victim does report being raped by their partner, nothing will happen and no one will believe them. Conviction rates for rape in England and Wales have risen from 58% in 2007–2008 to 63% in 2012–2013 (Crown Prosecution Service for England and Wales; www.cps.gov.uk). Nevertheless, victims may fear that their family, friends, the police and/or the courts will not believe them. In some instances such fears may be justified; 18% of those surveyed in London thought that ‘most rape claims were probably not true’ (Opinion Matters, 2010, p. 8). Others may be terrified of retribution, and comments such as those made by a lawyer defending the men convicted of the rape of the woman in New Delhi that he would have ‘burned my daughter alive’ if she was having ‘premarital sex and went out late at night with her boyfriend’ do little to reassure victims (BBC News, 2013). Even if the incident reaches a courtroom, perpetrators may not be convicted. Mukhtaran Bibi was gang raped in Pakistan in 2002. Her rapists were never convicted, but Ms Bibi took them to court and won international acclaim for her campaign for women’s rights, which has resulted in changes to the law in Pakistan. Despite all her efforts, and serious threats to her life, the case has still not been resolved.

Perpetrators of rape

Very little is known about the views and experiences of rapists. A survey of 10 178 men across nine sites in Bangladesh, China, Cambodia, Indonesia, Papua New Guinea and Sri Lanka reveals some useful insights into why they raped people. Most of the men were more educated than their counterparts in their respective

societies, and nearly 25% had served a prison sentence for rape. The survey showed that ‘men mostly raped because they wanted to and felt entitled to, found it entertaining and at times viewed it as “deserved” punishment of women’ (Jewkes *et al*, 2013, p. e8). Rapes of partners outnumbered rapes of non-partners, although a substantial number of men raped both. Non-partners included other men.

More than half of the men first raped when they were teenagers. Cultural ideas about masculinity that promoted male power, physical strength and violence, gang behaviours and marked gender inequalities were closely associated with rape. Additional factors included a history of childhood abuse, a lack of empathy and, in some cases, a lack of power (Jewkes *et al*, 2013).

Management of rape victims

Caring for victims of rape requires a high level of compassionate interpersonal skill alongside clinical and professional expertise. Building trust, explaining what needs to happen, and gaining free consent for procedures must take precedence over collecting the history and performing the physical examination. To do otherwise may add to the trauma that has already been experienced by the victim. Nevertheless, the application of agreed protocols at every stage and the competence of the healthcare professionals can go some way towards helping the victim; the nature of helping lies as much in the way in which it is delivered as it does in the help that is actually provided. The physical examination leads into the collection of forensic evidence and treatment. The victim will need counselling support and follow-up care to enable them to progress towards recovery (World Health Organization/United Nations High Commissioner for Refugees, 2004; Nare, 2013).

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