Current Practice

FORENSIC MEDICINE AND TOXICOLOGY

Rape and Other Sexual Offences

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Rape may be defined as unlawful sexual intercourse with a woman by force and against her will. The essence of the offence is that it should be committed without the woman's consent. Thus intercourse gained by force, by threats, or by false pretences, or when the woman is stupefied or unconscious from drink or drugs, is rape. In Scotland intercourse with a woman who is drunk or asleep is not rape but a lesser offence. Also in Scottish law a boy under the age of 14 is deemed physically capable of rape, whereas in England he is held incapable.

There are two degrees of sexual assault on a female defined in the Sexual Offences Act, 1956—sexual intercourse and indecent assault. The passage of the penis between the labia minora is sufficient to constitute sexual intercourse. Neither complete penetration nor emission of semen need occur. Indecent assault is something that stops short of intercourse.

The law does not recognize that a woman under the age of 16 can give her consent to intercourse or to an indecent assault, but a man who is under the age of 24 and has committed either of these offences for the first time on a girl under the age of 16 and over the age of 12 may put forward in his defence that he believed the girl was aged 16 or over and thus able to consent.

It is an offence for a man to have unlawful sexual intercourse with a mental defective or with a woman who is in an institution "within the meaning of the Mental Health Act, 1959, or placed out on licence therefrom or under guardianship under the Act." In relation to consent the person with a mental defect is the same as that of a woman under the age of 16.

Rape

It is easy for a woman to allege that she has been raped, and frequently the story of the circumstances is fabricated by a "victim" in order to account for facts which would otherwise be awkward to explain. For this reason, and because of the gravity of the charge, it is most important in cases of rape to obtain evidence that will corroborate the woman's statement and will help to establish the responsibility, if any, of the man she may be accusing of the crime.

Medical Examination

A doctor asked to examine a woman alleged to have been raped may insist that the examination should be made in a hospital outpatient department or in his own consulting-room if the facilities in the woman's home or in the police station

are inadequate. Consent to examination must be obtained from the patient or her legal guardian, though this may be dispensed with when there has been brutal assault and examination is urgent. A third person should be present as chaperon, preferably a woman police officer if one is available.

First, the date and exact time of the examination and by whom it was requested should be noted. Next the girl's story in her own words should be recorded and carefully kept, because the doctor may be asked to recount it in giving evidence in court. Listening to the story provides an opportunity for observing the girl's character and behaviour and for judging her veracity. A history also gives a line on where to look for bruises and other evidence of trauma.

In the general examination the age and apparent age, the general appearance, and any evidence of obvious external injury or of damaged or deranged clothing should be noted. Blood-stains or damp patches on clothes should be looked for, and relevant portions carefully removed and packed in plastic bags for transmission to the police laboratory.

A special examination should be made of the vulva, vagina, and adjacent parts of the abdomen or thighs. A sketch plan should be made of the distribution of any bruises or marks of nails. Soiling by blood or semen should be noted. Dried thigh stains should be moistened with saline and smeared on a slide. Any contaminated hairs should be clipped off and preserved for forensic examination. A swab should always be taken from the vagina, or material aspirated with a pipette, for examination for spermatozoa.

A vaginal examination should be carried out. The size of the orifice should be carefully estimated, and inspection made for recent tearing or bruising of the hymen or laceration or bruising of the vaginal walls and the cervix. A speculum should be passed when possible. In cases of violence a rectal examination should include examination of the anus and the recto-vaginal septum. A rectal swab should also be taken.

All specimens should be carefully packed and labelled and handed to a police officer. If the woman alleges that she was raped under the influence of alcohol or drugs samples of blood, urine, and faeces should be collected and put in a sealed container for analysis.

Medical Report

After further inquiry, which may include asking about previous sexual experience, the doctor should write a report of his findings immediately. Points to be noted are whether the story told by the complainant is confirmed by the examination. Injuries should be reported, and also whether penetration could have occurred without obvious trauma.

The report should be in two parts. The first should be purely factual for use if needed when giving evidence in

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court. The second should be for the use of the police officer investigating the case, and may include general or special impressions.

Penetration may be said to have occurred if the male organ has merely touched the inside of the vulva. In children and in cases of gross violence there is no difficulty in diagnosis, but in a woman who has had children it may be possible only to say that penetration could or could not have occurred. The orifice may have been dilated by foreign bodies or by the fingers of the attacker and not the penis. The presence of semen on the vaginal swab or in material aspirated from the vagina may be conclusive.

The report may be given in the following form:

On [date] at [time] at [place]
I examined [full name] identified to me by
[name of person] in the presence of [witnesses]
.....

At my examination I found her to be developed and
of the apparent age of years. Externally I noted on the
clothing I also found the following
injuries On examination of
the private parts I found I collected the
following specimens and handed them
to

From my examination I came to the following conclusions:

- (1) A well-nourished girl who looked her age.
- (2) External marks on the clothing consistent with
- (3) External marks of injury consistent with
- (4) Evidence of dilatation of the passages consistent with
- (5) In my opinion there is/is not evidence consistent with dilatation
by some object such as a male organ.

Signed

Qualifications and appointments

Examination of Accused

The accused man may be examined only with his written consent. A history cannot be taken as in the case of the woman, because the man must be officially cautioned before making a statement.

First a general survey should be made of the man's appearance and clothing. Any damp patches should be noted and appropriate parts of the clothing removed for laboratory examination. Physical examination may reveal scratches, bruises, reddening of the knees, blood stains, or traces of lipstick. Nail scratchings may show fibres or blood. The genital organs may show evidence of recent emission of semen or there may be bruises or other injury. Contaminated or foreign hairs should be carefully collected for laboratory examination. A sample of blood may be taken for grouping against blood stains.

A report should be prepared along the lines suggested for examination of the female.

Incest

Since 1903 incest has been a statutory offence and occurs when a male over the age of 14 or a female over the age of 16 has sexual intercourse with a person of the opposite sex within prohibited degrees of relationship. Thus a male should not cohabit with his grandmother, mother, sister, or daughter. Incest most commonly occurs between a father and his daughter or daughters, and may sometimes amount to rape.

Medical examination in alleged cases of incest may show that the vagina is dilated and that the dilatation has resulted from intercourse over a long period. Examination of vaginal secretions for spermatozoa will show evidence of recent intercourse. There may be venereal infection or pregnancy and both should be excluded.

Indecent Assault

Indecent assault is some act that stops short of sexual intercourse. It is an offence when made on a girl under the age of 16 or on one who has a mental defect, and when made on a woman aged 16 or over without her consent. Any touching of the body, such as the breasts or the thigh above the skirt, may constitute an indecent assault.

There is also the offence of indecent assault on a man and the same provisos about age and defective mentality apply as in indecent assault in females.

Medical examination is usually of little help in cases of indecent assault, though abrasions and bruises may sometimes be found.

It is not uncommon for a doctor or dentist to be accused of indecent assault by a woman who has dreamed it during anaesthesia. This is a reminder of the advisability of always having a chaperon present on such occasions.

Unnatural Offences

Buggery (or sodomy) consists of penetration of the anus in the male or female by the penis, and its commission is a felony. An attempt to commit buggery is an offence. Committing or permitting gross indecency with another male person, whether in public or in private, is also an offence. Consent is no defence, since it is then assumed that both parties are equally guilty, but a male under the age of 14 is presumed to be incapable of committing such an offence.

Unnatural practices between consenting adults may appear to be less serious, and indeed there are those who wish to reform the law so that such practices are no longer an offence. In the case of children, however, the practice is always serious as there is a risk of a boy being perverted. There are also risks of contracting venereal disease, common in male homosexuals, and of the disruption of family life and of psychological disturbance.

Examination

A doctor may be called upon to examine a boy (or rarely a girl) who is alleged to have been the victim of sodomy. The examination should follow closely that in the case of rape, though the object is to determine whether penetration of the anus has taken place. Thus the examination must be made in the presence of a third person and consent obtained in writing beforehand.

The history taken should include the victim's description of what happened, including whether penetration of the anus was complete, what force was exerted, and whether any lubricant was used. The general appearance and demeanour of the victim should be noted, including eccentricity of dress or use of cosmetics. Buttocks and anus must be examined for bruises or scratches. The buttocks should be pulled apart, because in habitual sodomists the anus gapes and the mucous membrane is exposed when the buttocks are separated.

Swabs should be taken from the anus and the surrounding area for examination for spermatozoa, venereal infection, and the presence of a lubricant. All damp patches on clothing and also stains should be sent for examination. It must be remembered that the only proof of sodomy is the presence of semen. Dilatation of the anus may exist from other causes.

Examination of the accused may also be carried out with his consent. There may be evidence of trauma to the penis, or of recent emission of semen, or traces of lubricant. Clothing may be contaminated with semen or faeces. A suspect may be the active or passive collaborator. There may be signs of drugs or alcohol having been taken, and when necessary blood and urine samples should be collected.

Conclusion

In the years since the second world war there has been a steady increase in sexual crimes of all kinds. Sexual assaults on children are frequent, though in many cases they amount to little more than fondling or handling the victim. Violent assaults on small girls and small boys are often by people with disordered minds.

It is not within the scope of this article to discuss the nature of sexual offenders or their treatment, but deeper study of the type of people who commit sexual offences and of the best way of dealing with them is undoubtedly needed.

For further reading I would refer readers to the following sources of information which were of assistance to me in preparing this article:

- ¹ Camps, F. E., and Purchase, W. B., *Practical Forensic Medicine*, 1956. Hutchinson's Medical Publications Ltd., London.
- ² — *Sexual Assault (Male or Female) in the Encyclopaedia of Medical Practice*, 1964, 5, 308, ed. G. F. Abercrombie and R. M. S. McConaghey. Butterworths, London.
- ³ — *Sexual Perversion*, *ibid.*, 1964, 312.
- ⁴ Radzinowicz, L., *Sexual Offences*, 1967. Macmillan and Co. Ltd., London.
- ⁵ Simpson, K., *Forensic Medicine*, 1964. Edward Arnold (Publishers) Ltd., London.

MEDICINE TODAY

Treatment of Osteoporosis

"*Medicine Today*" is the television series for doctors produced by the B.B.C. Advice in the preparation of the programme is given by the Association for the Study of Medical Education.

The programme on B.B.C. 2 on 25 April was on the subject of osteoporosis. Printed below is an article prepared with the help of expert contributors to complement the television programme, which will be repeated on B.B.C. 1 on 2 May at about 11.30 p.m.

Causes of Osteoporosis

The treatment of osteoporosis is essentially unsatisfactory. Only occasionally can the basic cause be corrected, as in Cushing's syndrome due to adrenocortical overactivity, but conditions such as idiopathic osteoporosis in elderly females usually remain unaffected by any therapeutic attack.

In *Medicine Today* Dr. B. E. C. Nordin defined osteoporosis as "a reduction in the amount of bony tissue per unit volume of anatomical bone." The degree of osteoporosis increases with age, and women are much more often affected than men, but the older the individual of either sex the more likely is osteoporosis to be present. Rose¹ concluded from the evidence now available that in most cases osteoporosis is not a disease which suddenly develops at the menopause or in old age, but is a

condition towards which all people progress gradually, beginning soon after the age of 20 years. The terms "menopausal" and "senile" osteoporosis are therefore not particularly helpful, a point made by Dent and Watson² in a recent review, though Dr. M. M. Young showed in the television programme that in studies of bone density and calcium metabolism in women there is a sharp fall in bone content after the menopause associated with a rise in serum and urine calcium levels, more marked after an artificial menopause than a natural one.

Effective Measures

The therapeutic attack should primarily be in terms of known aetiological factors. The first of these is immobility. A disused bone becomes more porotic, and it is essential to restore the metabolic stimulus of mobility as soon as possible. Bartter³ states that all types of osteoporosis tend to heal faster with activity than with bed rest. An elderly lady confined to bed with extreme pain can be mobilized only gradually, but mobility must be the aim as soon as acutely painful symptoms subside. Painful exacerbations are frequently due to a crush fracture of a vertebra: such pain lessens with time whatever is done or is not done, and many claims have been made for agents which probably only had placebo value. Early mobilization is mandatory whether the patient be postmenopausal, elderly ("senile"), or crippled with advanced rheumatoid arthritis treated with corticosteroids. Patients should be given first the freedom of the bed, then of the ward, and then of the corridor and physiotherapy department. A programme of exercises is essential, and the static bicycle, for instance, or the pool are useful in this graded programme of mobility. A brace worn temporarily in the early phase of mobilization may help by easing discomfort—or perhaps more by restoring confidence—but the patient should give it up as soon as possible or she may become psychologically dependent on it.

Relief of pain is less easy to achieve, particularly in the acute phase of crush fracture, but salicylates and other simple analgesics may help in the less acute phases. D.D.A. drugs, such as morphine, are in general best avoided.

Calcium Supplements

The use of calcium salts is indicated where there is evidence of deficiency due to a long-continued negative calcium balance,⁴ as in certain postmenopausal and elderly patients, and in other patients with calcium deficiency, such as those with advanced

Standard (R) and osteoporotic (L) spines filmed for x-ray densitometry, as shown by Dr. Nordin on "Medicine Today."