

RAPE AND THE NEED FOR LEGAL REFORM

- Dr Lannes Johnson

As the only medical person on the panel, it appears that my responsibility is to speak more to the victim and the effects of sexual assault on **her**, rather than to speak **against** the rapist or male chauvinists generally. Thus I wish to confine my comments to sexual violence only - not get drawn into discussion of women's rights, sexist attitudes in New Zealand, male chauvinism, etc. They are other issues and should not cloud this issue.

Rape as I see it, is a major crime because its effects on the victim can be permanent, or at least long-lasting. It is also a crime which offends deeply the sensitivities of a civilised society. Murder, by definition, has a permanent effect on the victim. Kidnapping, an invasion of family with physical and psychological violence, can scar the victim permanently. Rape, a sort of sexual kidnapping, is a profound invasion of person, and family too, which demonstrates the rapist's inability or inadequacy, or care or respect to fellow members of his society.

ROLE OF THE POLICE DOCTOR:

This is simple. There is no confusion as to our role:
 (1) to act for the police as an objective examiner and provide unemotional forensic evidence;
 (2) to act as a doctor and help the victim.

In Auckland, before the establishment of the HELP CENTRE (which Julie Pettit will explain in more detail), the police doctor functioned only in the former role. The latter, the care of the victim, was impossible except by referral back to the family G.P. - not ideal as :

- the G.P. often not trained;
- the family too embarrassed;
- inevitable delays;
- sometimes no G.P., etc.

There are agencies available to help victims but these seemed unco-ordinated and not available to police cases (often the most brutal rapes). Thus the police doctors, mostly Dr Bill Daniells, initiated a committee to establish a rape crisis centre where:

immediate care, medical and psychological
 long term care and follow-up
 statistics, collection and dissemination of information
 family help and advice
 education and training of personnel

are co-ordinated in one official centre and patient help is available 24 hours a day to any victim of any sexual assault.

One disadvantage of our centre, is that it is not located in a suitable part of the National Women's Hospital - where more facilities are available, both for care and for better collection of evidence (sperm motility etc.). Our Auckland Hospital Board, in their extreme wisdom, and after many approaches by the Committee, refused to assist HELP in any way. My advice to other areas is to insist that the local hospital be involved, both with premises and with nursing staff. We need to get more professional in the treatment of sexual assault victims - and HELP goes a long way towards that.

SOME POINTS TO MAKE:

Care of the victim and apprehension of the offender, are not mutually exclusive. The better the **immediate** care (sympathetic environment, no pressures, washing and clean clothes after examination, etc.) the more reliable the history and testimony. It has been shown overseas that apprehension rates go up when a comprehensive rape crisis centre opens, and that a delay of one hour before the definitive police interview, makes no difference to apprehension.

ADVANTAGES OF AN OFFICIAL CO-ORDINATED CENTRE:

1. Advantages to the doctor:

Forensic police doctor work is extended to caring for the victim - facilities away from the cells.

2. Advantages to the police:

Better evidence in individual cases, allows retraining and forming new attitudes to rape. Long term statistics.

3. Advantages to the victim:

Obvious care, etc. Costs met by Accident Compensation Commission, etc. Protection from secondary mental rape by defence lawyers, etc. by "protection" with the counsellors.

4. Advantages to society:

Centre for education and information, to encourage changing attitudes, e.g. that the victim is not on trial.

QUESTIONS:

Warren Young asked "Would written evidence suffice? Would psychological testing of the victim (e.g. Trauma scale) and lie detector information be acceptable evidence to prove credibility prior to Court appearance?"

It seems to me that in a post Freudian so-called sophisticated society, we could be far more intellectual and scientific in our approach to collection of evidence.

It seems that there is a tendency by police and lawyers to indulge in concrete thinking and to decide major issues on minor points, which brings me to -

The Question of Penetration:

It is always annoying to be cross-examined on this; to me its not so much the penetration of the vagina that is important, but the degree of penetration of cerebal cortex. How much scarring up there rather than the lacerations down below. I believe our definition of 'rape' must be changed to include any penetration of the genitalia and body orifices by any object used by the offender. Why do we consider the hymen important at all ?

REGARDING THE NEW SOUTH WALES LAW REFORM:

Where the degree of violence used determines the category of sexual assault and thus the degree of penalty. This worries me; how can one objectify "violence". e.g. What is more violent -

A young girl raped after a Sunday school outing, who faints and suffers no physical damage but who requires years of psychiatric help later; or an Upper Queen Street lass who stoutly resists and gets thumped up with lots of bruising etc. but who says later, as she lights a fag, "Its all in a day's work" ?

Who is going to measure the violence, and **what sort** are we going to measure ? Is the onus on the doctor to state the degree of violence used ?

I was once asked by a defence lawyer "You stated small lacerations around the vagina, doctor. Do you mean little violence was used ?" I answered that to bring about even small lacerations with a blunt object such as most men have, indicates considerable use of violence. Again, black and white thinking "objectifies" the victim" rather than sees her as a person.

In the case where extreme violence is used, and this is not uncommon, and the victim is lucky to escape with her life, then surely it is rape plus attempted murder. My point is

that rape (proven) is rape and that violent rape is rape plus added violence. It is not a different entity from rape without violence. All rape is violent !

Rather than changing the law now, although I've indicated I believe in some major changes, I would rather see money available for major research into:

1. the statistics of rape;
2. the psychopathology for the rapist;
3. a comparison of methods of victim treatment;
4. a treatment programme for the rapist;
5. a comparison of long term effects of rape, between the two major groups :-
those that make a complaint and see it through the court appearance; and
those that don't but still seek help from trained counsellors.
6. an analysis of the effects of rape between the different ethnic (social) groups - this means different things to different societies, and in New Zealand we have to deal with different societies.