SEXUAL VIOLENCE AGAINST INTELLECTUALLY DISABLED VICTIMS

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The past two decades have witnessed important changes in the living, working and social environments of intellectually disabled people. Negative stereotypes of eternal children, or sub-human beings with little or no quality of life, have been replaced by positive developmental perspectives which emphasise the individual's ability to grow, learn and to take risks. A major concept underpinning the changes in philosophy of care-giving has been normalisation, a principle which advocates providing intellectually disabled persons with conditions which are as much like normal conditions as possible to foster culturally normative behaviour. Occurring along with the concept of normalisation has been integration into community life, and the closing down of many large institutions.

While in general the consequences for intellectually disabled people have been positive, the move from 'whole of life' institutions into community-based residential environments with lower levels of supervision has meant, in some cases, an increase in the day-to-day risks experienced by the disabled person—including the risk of being a victim of sexual violence. It is, of course, a moot point as to whether or not levels of sexual victimisation have increased or decreased, or stayed stable with de-institutionalisation. There is evidence—anecdotal, legal and empirical—which demonstrates that intellectually disabled people in institutions were often victims of sexual assault from other residents, or from staff members. Involuntary sterilisation of intellectually disabled women occurred in institutions and was considered to be normal, sensible and wise. It was only in the 1970s that the individual's right to be able to bear children became an issue (Macklin & Gaylin 1981). At that stage,
the emphasis was on the prevention of unwanted pregnancies and the attendant social and medical complications, rather than upon expression of sexuality.

Now that many intellectually disabled people are living in the community, the problem of sexual violence against them has been recognised, and the emphasis has shifted towards providing them with the opportunity to choose their sexual partners and to engage in appropriate sexual activity, but also to protect their rights if they are the victims of sexual assault.

A common scenario has been described in a report by the Public Advocate in Victoria:

An intellectually disabled woman taking part in an independent living skills program who 'alleged' [sic] assault by a non-disabled individual. Case notes comment:

There is little doubt that an incident of a sexual nature occurred between A and (the non-disabled individual). . . it seems (the non-disabled individual) has taken advantage of A's passivity and lack of sexual experience and skills in defending herself . . . still though the committee feels strongly that A's contact with (the non-disabled individual) be terminated and other residents be discouraged from having contact with him.

No charges were brought against the non-disabled individual involved, in spite of the acceptance that some kind of sexual advantage had been taken by him. (Bodna 1987).

**Incidence of Sexual Assault**

A benchmark study of sexual assault against people with an intellectual disability was prepared for the Women's Coordination Unit in New South Wales (Carmody 1990). The report acknowledges that accurate statistics concerning the prevalence and incidence of sexual assault amongst people with an intellectual disability are difficult to obtain, particularly since disability services rarely collect data on this issue. On the other hand, those agencies which do collect data on crime statistics rarely note whether or not the victim is intellectually disabled.

A study of 855 adults referred to the sexual assault services of the New South Wales Department of Health in the first six months of 1989 revealed that 6.4 per cent of victims had an intellectual disability.

In Victoria, nineteen agencies agreed to monitor their cases of alleged crimes against people with an intellectual disability during the last quarter of 1987. During that time, 144 alleged crimes were reported to agencies with 130 involving sexual offences. The researchers indicated that there was strong evidence of under-reporting of crimes by people with intellectual disabilities themselves and by workers. The data suggested strongly that sexual offences and physical assault were the most frequently recorded crimes against intellectually disabled people, and that the recording of these figures is particularly significant in view of the low reporting rates for these crimes in the general population (Johnson, Andrew & Topp 1988).

Overall, there seems to be an alarmingly high incidence of sexual assault against people with an intellectual disability. But even more alarming is the apparent lack of action and resources to address the problem.
Sexual Violence Against Intellectually Disabled Victims

Vulnerability to Sexual Assault

People with intellectual disabilities are likely to have increased vulnerability to criminal victimisation as a consequence of many factors, such as:

- their impaired judgement and intellectual disabilities;
- deficits in adaptive behaviour, including lack of interpersonal skills and sex education;
- accompanying physical disabilities, including limited speech, which may inhibit the person from conveying the fact of sexual victimisation;
- the high risk environments in which they often live and work, accompanied by a lack of outside and independent contacts;
- their frequent contact with unscrupulous care-givers, friends, or family members;
- their lack of knowledge about their rights, and their abilities to protect themselves; and
- the attraction of some abusers to environments in which they will encounter vulnerable victims (Carmody 1990; Luckasson 1992a).

It is of great significance in reducing vulnerability to sexual assault to note the research finding that sex education for people with an intellectual disability is negatively correlated with the incidence of sexual abuse (McCabe 1992). That is, those with more knowledge about sexual behaviour are less likely to be victimised.

Victim or Offender?

The generational perpetuation of child abuse is well recognised. Children who have experienced abuse are likely to grow up to be abusing parents, unless there are specific interventions which enable them to learn other forms of parenting behaviour (Oates 1990). Although as yet no empirical study has been conducted on the link between being sexually abused and becoming a perpetrator amongst the intellectually disabled population, it is noteworthy that amongst the client population of this author and Luckasson (1992, Department of Special Education, University of New Mexico, pers. comm.), there has been no case in which the intellectually disabled sex offender was not sexually abused him or herself. Luckasson states that in her experience with intellectually disabled offenders on 'Death Row' in the USA, she has never encountered one offender who was not sexually abused.

The important point to emerge from this finding is not that professionals or courts should be lenient with intellectually disabled sex offenders or murderers because they themselves have been the victim of abuse. Rather, the lesson to be learned is that, if sexual abuse of the intellectually disabled population were reduced, it is likely that there would be a reduction in violent crimes by intellectually disabled offenders. Intellectually disabled people who are the victims of sexual abuse themselves learn aberrant patterns of sexuality which
may never be contradicted because they are not exposed to more normal patterns of interpersonal behaviour. One client of this author had no idea that sexual activity could be conducted between a man and a woman, or between people who consented to the sexual activity. His only learning experience involved older boys and staff members in the institution inflicting violent and painful sex upon him and he grew to adulthood believing that this was the only form of sexual expression. The lack of appropriate sexual learning programs for intellectually disabled people exacerbates the perpetuation of such gross misinformation, and the consequent behaviour.

**Indicators of Sexual Assault**

Carmody (1990) gives an excellent and brief summary of indicators of sexual assault amongst people with an intellectual disability (based on a New South Wales Department of Health document 1989). She states that there are four main ways that sexual assault may come to the attention of another person:

- the person with a disability tells someone they have been sexually assaulted;
- the sexual assault or exploitative behaviour is observed by a third party;
- the behaviour of the person with a disability changes significantly; and
- the person complains of physical symptoms or they are observed by another person.

Carmody also gives a list of behavioural and physical indicators of sexual assault, but sounds the warning that the presence of any of these indicators alone does not clearly confirm sexual assault and that there may be other reasons to explain these factors.

**Behavioural indicators of sexual assault**

- Self-destructive behaviour;
- sleep disturbances and nightmares;
- acting-out behaviours;
- lack of interest in usual activities;
- persistent and inappropriate sexual play;
- sexually aggressive behaviour;
- sexual themes in artwork;
- irritability, short-tempered behaviour, weeping;
- withdrawal;
• eating and elimination disturbances;
• increase or decrease in hygiene;
• unexplained accumulation of money, gifts or toys;
• fear of particular people or situations; and
• saying, 'I've got a secret'.

**Physical indicators of sexual assault**

• Semen stains on clothing, particularly on women's clothing;
• pregnancy;
• bruises, bleeding or trauma in the genital or rectal area;
• foreign objects in genital, rectal or urethral openings;
• sexually transmitted disease;
• itching, inflammation or infection in urethral, vaginal or anal areas;
• trauma to breasts, buttocks, lower abdomen or thighs;
• abdominal pain, migraines; and
• psychosomatic illness.

Added to these indicators are the more serious behaviours of assault or murder. It is not unknown for intellectually disabled victims of sexual assault, particularly males, to lash out violently against the perpetrator, and the incident may result in homicide.

**Outcomes of Sexual Assault on a Person with Intellectual Disability**

There are two areas of outcome which need to be explored—the first is the personal outcome for the intellectually disabled victim of sexual assault (which includes the effect upon their family, friends and caregivers), and the second outcome is the official outcome, that is, possible notification, police questioning, and charges. Also included under the official outcome may be disciplinary procedures brought against the perpetrator by government departments, but stopping short of the criminal justice system.

**Personal outcomes**

It is well-accepted that victims of sexual assault are often blamed, not only by the criminal justice system but also by hospital personnel, police, and friends. The victim is often blamed for the attack on the basis of such fallacious arguments as 'he or she was dressed too
provocatively' or 'he or she was out on the street alone'. These fallacious excuses are expanded in the case of the intellectually disabled victim to include 'he or she came on strongly' (usually a comment on inappropriate overly friendly social behaviour) or 'he or she did not say no'. The latter comment becomes—at its kindest interpretation—breathtakingly naive in view of the lack of knowledge amongst intellectually disabled people of their rights, their frequent inability to assert their rights even if they know what they are, their subservience to authority figures, and the fact that to say 'no' has often been in the past interpreted as their being stubborn or defiant.

This paper will not dwell upon the feelings of shock, fear and physical and emotional violation which follow sexual assault. Nevertheless, it should be emphasised that all of the feelings experienced by non-disabled victims are also experienced by victims with an intellectual disability, except that they are at a further disadvantage because of their feelings of helplessness and powerlessness in most other areas of their life, and their poor verbal skills which may inhibit attempts at counselling.

Official responses

It is with a sense of dismay that a statistic such as the following one is discovered; of some ninety cases of sexual assault against intellectually disabled women referred to a sexual assault clinic at the Royal North Shore Hospital in Sydney, not one has resulted in charges being laid by police against the perpetrator (Kendall, S. 1992, social worker in the Sexual Assault Clinic at the Royal North Shore Hospital, pers. comm.). Reasons for this which may be put forward by criminal justice personnel include the difficulty of ensuring a conviction when the main witness is a person with an intellectual disability, or the difficulties of obtaining evidence from other witnesses who are also intellectually disabled. Nevertheless, it is difficult to imagine a situation where repeated acts of sexual violence against a child who could not speak, for example, would go unremarked by police and others involved in the criminal justice system.

Clearly, the issue of official responses to sexual assault against a person with an intellectual disability is one which needs to be addressed strongly by many government departments.

Issues for Discussion

A number of issues arise from the foregoing summary, and include the following:

- The prevention of sexual abuse against victims with an intellectual disability, including training in sexuality, and removal of perpetrators from the environment of the intellectually disabled person (be it their working or living environment).

- The establishment of comprehensive and well-resourced units for addressing the problem of sexual violence amongst people with an intellectual disability, particularly the perpetrators, but also offering behavioural management to the victims whose behaviour may have deteriorated as a result of the assault.

- The training of criminal justice personnel, particularly police officers, in the obtaining of evidence from intellectually disabled witnesses and victims of crime.
Training of sexual assault workers and provision of guidelines and resources for addressing the needs of intellectually disabled victims of sexual assault.

Increasing awareness amongst the community, families and caregivers about the high incidence of sexual assault against intellectually disabled people and the fact that this is simply not acceptable.

To what extent the issue of power in relationships is relevant to sexual assault when both victim and perpetrator are intellectually disabled.

The differential diagnosis between paraphilia and functional age related behaviour.

It is a fine line to tread between over-protection of people with an intellectual disability, and abandoning them to the risks, and perhaps increased risks for them, of living and working in the community. A past president of the American Association on Mental Retardation has referred to the new realism in the field of intellectual disability (Ellis 1990). Ellis describes the successes which have been achieved for people with an intellectual disability under the banner of normalisation. He states that he is not calling for a resiling from the principle of normalisation, but that this catch phrase has led to some incorrect and counter productive approaches to people with disabilities and the services they receive.

In particular, if ‘normalization’ is misperceived as invariably treating a person as if he or she did not have a disability, people with handicaps may be badly disserved . . . In its most dangerous form, this approach argues that no public policy should ever take disability into account. From this point of view, any law or policy that treats people with disability differently from those who have no handicapping condition is a violation of normalization . . . We have seen this approach most recently in the debate over the death penalty as it relates to people with mental retardation . . . Some have argued that no matter how distasteful or repugnant the result, we must acquiesce in the execution of people with mental retardation because this is a ‘normalizing’ experience . . . This approach is wrong in assuming that every law that treats people differently because they have a disability is harmful or wrong-headed. In fact, all of the principal victories we have won in the last two decades have involved differential treatment in some way or another (Ellis 1990, p. 265).

The presence of intellectual disability is real. The limitations of people who have intellectual disabilities are significant. These limitations may make them particularly vulnerable in certain circumstances, including the circumstance of sexual assault. People with an intellectual disability are different in some respects from non-disabled people, and as such they may need differential treatment to protect them from sexual victimisation, to treat them and counsel them when they have been sexually victimised, to make sure that their evidence gets to court in the best possible way, and to ensure that all of the services and resources which they need to receive following a sexual assault are appropriate to their needs.

References


