

Intimate Partner Sexual Assault: The Impact of Competing Demands on Victims' Decisions to Seek Criminal Justice Solutions

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Acknowledgement: This paper is part of ongoing research into sexual assault and the criminal justice system. The project is funded by the Commonwealth Office of the Status of Women, under the Commonwealth Government's *National Initiative to Combat Sexual Assault*.

Abstract

Despite initiatives to encourage the reporting of sexual assault to police, women who are sexually victimized by intimate partners are least likely to seek legal redress. This leaves them at risk of repeat victimisation and open to victim blaming. This paper demonstrates that reporting decisions are mediated by a number of competing personal, cultural and situational demands, which act as barriers to the criminal justice system. At the same time, non-reporting may be viewed as a rational response to victimisation in some circumstances, as it maintains particular values and achieves desired outcomes. This is not to suggest that women should not be encouraged to report sexual offences, but indicates that victims who do report to police must be enabled to achieve other desired outcomes, such as protection from reprisal.

Sexual assault is a largely hidden crime that occurs within private contexts such as relationships and families. As most sex offences are committed by males and victims are predominantly females, 'family' is narrowly defined in this paper in terms of heterosexual couples that have or have had children living with them. Victims who are sexually assaulted by intimate partners are at risk of repeat victimisation, but despite government and legal strategies to encourage reporting of sex crimes, most do not disclose their experiences to police. At the same time, social and legal images of who is a victim and what constitutes victimisation are subject to cultural notions of worth or deservedness. Women's behaviour, motives and attempts at self-protection are scrutinised to establish whether or not they are 'real' victims. Women who fail to report sexual assault perpetrated by an intimate partner are at risk of being perceived as 'getting what they deserve', because 'real' victims would take steps to end the abuse. However, reporting decisions are partially mediated by competing personal, cultural and situational demands, some of which are outlined in this paper. Under some circumstances, women's decisions not to report intimate partner sexual assault constitute a rational response to victimisation, as non-reporting maintains particular values and achieves desired outcomes. The challenge is to ensure that victims who do report to police achieve other desired outcomes, such as protection from reprisal.

Victim-offender relationships in the Crime and Safety Survey

The popular image of sexual assault centres on the stereotype of the 'real' rape; that is, vaginal penetration and physical injury perpetrated by an armed stranger in a public place. Contrary to this image, women are more likely to be sexually assaulted by men they know. A variety of acts other than rape are legally defined as sexual assault; the key feature is that the victim did not consent freely. Offenders often force compliance through psychological tactics, so physical injury is relatively rare. As victims' accounts often deviate from the stereotype, some are uncertain whether a crime has been committed, or blame themselves for the attack, while others fear that they will not be believed.

The risk of being sexual assaulted is not evenly distributed across the population. Nationally representative crime victim surveys indicate that women who have already been sexually victimised are at high risk of being re-victimised. The Crime and Safety Survey, conducted by the Australian Bureau of Statistics (ABS), asks female respondents aged 18 and over about their experience of sexual assault in the 12 months prior to the survey. The 1998 results showed that an estimated 30,100 women across Australia experienced 47,300 incidents of sexual assault in the previous 12 months. In the most recent incident, more than 80 per cent of victims knew the offender, a large proportion of whom were intimate partners, ex-partners, or other family members (Figure 1).

Figure 1. Distribution of victim-offender relationships in Australia

Note: Figures exceed 100% due to rounding.

Source: ABS 1999

Cohabiting women are more likely to be sexually assaulted by a partner than by strangers or any other known male and victims who have intimate relationships with offenders are at particular risk of repeat victimisation. Of all sexual assault victims responding to the Crime and Safety Survey, 27 per cent had been victimised two or more times, accounting for 54 per cent of all sexual incidents. Women at risk of re-victimisation were likely to be:

- married/de facto and separated/divorced (47% and 27% respectively compared with 18% of never married victims);
- aged 35 years and over (49% of sexual assault victims aged over 35 years compared with 18% of females aged 18–34 years);
- not in the labour force (42% compared with 29% of unemployed sexual assault victims and 21% of employed sexual assault victims) (ABS 1999).

Only 33 per cent of respondents notified police about the most recent incident. There are many commonalities across surveys in relation to reasons for not going to the police. Some women cite negative perceptions of the criminal justice system as a barrier to reporting, but the majority give personal reasons.¹ The odds of a victim reporting sexual assault decrease when she knows the offender. Police are most likely to be notified of sexual assaults committed by strangers, followed by ex-partners and known, non-intimate offenders. Sexual assaults by intimate partners are least likely to be reported. Because attacks by strangers most closely resemble the ‘real’ rape stereotype, victims of these attacks may be more likely to view themselves as victims and believe that police would also do so (Ruch et al. 2000). The reporting decisions of women who are sexually violated by their partners are subject to a number of countervailing personal, cultural and situational influences. Together, these factors

¹ It is not possible to discuss victims’ perceptions of the criminal justice system in this paper. The issue is dealt with more extensively in an international literature review on the non-reporting and hidden recording of sexual assault, which will be published in the near future (Lievore 2002).

determine whether the costs of reporting to police outweigh the benefits (Felson et al. 2002).

Personal factors

The private setting of sexual assault is an influential determinant of reporting behaviour, especially as it impacts on the victim's assessment of the seriousness of an incident. In the Crime and Safety Survey, the main reason victims did not inform police was that it was a personal matter, or that they had dealt with it themselves (23 per cent), while a further 13% did not regard the assault as a serious offence (ABS 1999).

Clearly, women can have difficulty in reconciling intimate partner sex with criminality, especially if they hold feelings of love or fondness for the offender. Substantial numbers of survey respondents whose experiences can be legally categorised as sexual assaults do not classify themselves as victims. Even those who describe an incident as sexual assault hesitate to define it as a crime (Fisher, Cullen & Turner 2000; Myhill & Allen 2002). This may signify that women have difficulty in admitting to the stigma of sexual victimisation for themselves or their partners and that they have concerns for privacy and for protecting the offender. Alternatively, it may indicate that some women who are subject to experiences that are technically criminal simply take it in their stride. For example, sexual assault is more prevalent among women who were sexually victimised during childhood (ABS 1996). Childhood victims may grow up with feelings of shame and responsibility for the abuse, which impacts on their ability as adults to see sexual violence for what it is.

Either explanation is consistent with the societal view that violence between people known to each other is less serious than stranger violence. While there has been a shift in social perceptions of sexual assault, police intervention is not necessarily regarded as an appropriate option for intra-familial matters (Morris 1997; Tjaden & Thoennes 2000). Although victims want the offending behaviour to cease, notifying police may result in undesired outcomes, such as the offender being arrested, jailed, or labelled as a criminal. This may be a particularly important consideration for victims who are emotionally or socially dependent on the perpetrator, as they may be deprived of the minimal emotional and social resources available if he is taken into custody. Women who are economically dependent may also have grave concerns about providing materially for children or other family members should reporting lead to the offender's imprisonment.

Cultural factors

Cultural myths about sexual assault also hinder reporting. These myths take a number of forms, but many centre on cultural constructions of masculinity and femininity. Those that impact on women in families include:

- Sex offenders err because of inadequate wives.
- Men are entitled to unlimited sexual access. It is a woman's duty to acquiesce to unwanted sex with her partner.

- ‘No’ often means ‘yes’; therefore some degree of force is acceptable if a woman seems reluctant.

Combined with the stigma of sexual victimisation, victim-blaming myths impose a silence on victims’ experiences and suppress discussion of offenders’ responsibility for their actions. These effects may be compounded in groups that value patriarchal family traditions and gender roles; prioritise personal and family honour; or in which the boundary between self, family and community is not as clearly defined as it is in individualistic Western societies.

The primacy of the family and the sanctity of marriage are core values for many people. Thus, retributive actions are less desirable than dealing with the incident alone, or with the help of the extended family, community or church. The latter may advise victims to stay in the family and save the marriage, placing them under intense pressure not to bring dishonour upon themselves, their families, or the community.

The concept of sexual assault within relationships is not recognised by all peoples, especially communities in which women are ‘owned’ by their husbands. Victims who disclose sexual assault may be viewed as criticising their husbands and be castigated for betraying community values. Disclosure may be viewed as evidence of victims’ failure to be ‘good’ women and wives.

Situational factors

Victims who have a prior relationship with the offender have to weigh up factors such as the embarrassment and stigma of disclosing that they have a violent partner, against the potential repercussions of reporting, which include reprisal by the assailant. Fear of retribution may figure largely in reporting decisions, contingent on whether or not the assault is an isolated incident and whether they expect sexual violence to occur in the future. On one hand, fear may encourage reporting, as the desire for self-protection increases with the possibility of repeat victimisation. On the other hand, fear of reprisal is an important inhibitory factor, as reporting may exacerbate the problems ensuing from the assault (Apsler, Cummins and Carl 2002; Felson et al. 2002). A woman who reports her partner to police may be subject to further sexual violence as punishment for her actions.

Non-reporting as a rational response

The reporting and non-reporting of sexual offences are driven by different motivations and controlled by different conditions. Many women who report sexual assault are motivated by a desire for retribution and self-protection and to protect others, particularly if the offender is a stranger. At the same time, reporting is a difficult step that involves taking action to make public what most women consider a private matter. Therefore, non-reporting may be viewed as a passive response, which ensures the matter is kept private and is easier for the victim (Dussich 2001). However, given the competing demands faced by women in such situations, non-reporting may also qualify as an active choice and a rational response to sexual victimisation.

Women who do not report sexual violence to police, but are at risk of repeat victimisation by an intimate partner, are likely to be viewed either as passive and lacking agency, or as colluding in and responsible for their own victimisation. Yet they are neither completely victims of circumstance, nor blameworthy for the offences. The very expectation that they will go to police fails to take into account the crippling effects of sexual violence on self-esteem, confidence and will, or the complexity of the social practices, relationships and contexts within which reporting decisions are made. Sexual victimisation can paralyse victims' ability to act and instil reluctance to expose painful personal secrets to others who may blame them for the attacks or not believe the allegations.

Conclusion

Women's silence around sexual victimisation is produced both by the effects of oppression and through their attempts to balance the varying and sometimes conflicting demands of their personal and social situations. Those who believe that they have more to lose than to gain by reporting sexual assault may be viewed as making a rational choice in not doing so, as the decision is oriented towards maintaining particular values and achieving desired outcomes. This does not mean that they undertake a calculated analysis of the situation, because reporting decisions are often made in stressful conditions. Nor is it meant to suggest that women should not be encouraged to report sexual victimisation. It does highlight that policy makers, the criminal justice system and other service agencies are faced with the challenge of maximising the likelihood that victims will achieve other desired outcomes, such as protection, safety, and living without fear, when they do report to police. More victims of intimate partner sexual assault may then be encouraged to come forward. As a small number of victims and offenders are likely to account for a sizeable proportion of sexual assaults, this could have deterrent effects for offenders and go a long way to mitigating the social and personal costs of the problem.

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