Sexual assault, criminal justice and policing since the 1880s

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Victorian models: the law

In order to understand cultural attitudes towards rape and sexual assault since the Second World War we need to go back to the Victorian past. It was in the 1880s that legislation was forged that constructed frameworks that are still used today concerning the age of consent for females. The 1875 Offences Against the Person Act had raised female age of consent from 12 to 13. The 1885 Criminal Law Amendment Act raised the female age of consent to 16. In doing so it framed two categories of offence:

- Unlawful sex with females under 13 a 'felony'
- Unlawful sex with females over 13 and under 16 a 'misdemeanour' (offence)

The 1956 Sexual Offences Act maintained this distinction (between 'felony' and 'offence').

This distinction between different age bands of female 'child – and the creation of a different legal and sexual status for those aged over 13 but under 16 is significant because it remains today, enshrining in law the belief that adult sexual activity with younger children is more 'serious' than that with adolescents, and also the idea that an 'abuser' should be protected from girls in a transitional age band who might appear to be older than they actually are.

This is not to say that the sexual abuse of children was not considered wrong before the 1880s. Throughout the C18th and C19th we find court cases in which parents, neighbours and other members of local communities testified against abusers in in court, and were instrumental in prosecution. However the 1880s are significant in that the issue was discussed and debated (albeit through a language of euphemism) in the national press, as a result of concerted campaigns by feminist and evangelical pressure groups. Unsurprisingly prosecutions for sexual assault significantly rose in the 1880s as a result of media attention, and also because of the creation of a new category of offence (the criminalisation of sex with girls aged over 13 but below 16).

Victorian models: cultural attitudes

However, the attitude towards adult women rape victims as well as to girls of 13-15 was 'Janus faced'. Young children were most likely to be believed when cases came to court; the older the victim, the less likely the chance of conviction. In Victorian and Edwardian courtrooms trials involved a weighing up of the 'character' and respectability of the female 'victim' in relation to that of the accused. The defence might try to argue that an adolescent girl was already 'loose' or 'demoralised' and that the defendant was of high standing and reputation in his neighbourhood. In a small number of cases where complaints were made against professional men they were more likely to be acquitted. For example in 1895 a case involving a well-known clergyman was dismissed following an initial hearing at Thames Police court:

> [The defence solicitor], on behalf of the accused, spoke of the improbability of a clergyman committing such an abominable act, especially after coming from a funeral … The prisoner had always taken notice of children and he was connected with the Waifs and Strays Society … Mr Mead [the magistrate] did not think a jury would convict, and therefore the prisoner was discharged (*News of the World* , 19 May 1895, p. 4).

Knowledge of 'who' an abuser was – as of low social class or other social marginality – was disseminated through newspapers as a result of reports of hearings.

Continuities

These cultural attitudes persisted well into the C20th. This included the central paradox that rape and the sexual assault of the innocent was viewed as the most heinous of offences – and yet one of the least likely to end in conviction. The C17th Judge Sir Matthew Hale had commented that rape 'is the most detestable crime' but 'it is an accusation easily made and hard to be proved, and harder to be defended by the party accused, though never so innocent'. This statement was repeated across centuries in English jurisprudence as a warning to judges, lawyers and police to treat rape allegations with caution. In the C20th it was used systematically in police training. The first women police officers were appointed

from the 1920s onwards, largely to take statements from women and child victims of rape and assault, since this was deemed more appropriate. Yet they too cited this belief. Until the mid-1980s most male and female police officers started their enquiries with the initial assumption that a rape complaint was not genuine and that it had to be tested through interview.

The problems of reporting and gaining a conviction in rape cases have been well-charted: for example in the 2005 report prepared for the Home Office, which showed that only 5.6% of reported rape cases had resulted in successful conviction in 2002. This paper finishes therefore with a further examination of attitudes towards the 13-15 age group in the 1940s, 50s and 60s, in which ideas about age add a further layer of complexity.

13-15 Age Group

During the Second World War a 'moral panic' had emerged about 'good time girls' and 'amateur prostitutes' – some as young as 13 – who were hanging around military camps, railway stations and the main sites of urban entertainment, consorting with soldiers including black American GIs. After the war and into the late 1940s, attention continued to focus girls over 13 and under 16 as a 'social problem' whose sexual precocity was presented as leading to a path of moral decline and venereal disease. The 'problem girl', the 'good time girl', and the 'wayward girl' were terms that were widely used across the 1940s-60s to describe the sexually delinquent girl; there was no male equivalent. For example, in June 1947 the solicitor defending a 20-year-old man accused of having sex with an underage girl, described the 15-year-old concerned as 'a little gold digger'. In his summing up speech the trial judge described 'over-sexed' girls of 14 and 15 as 'a tremendous temptation to young men' (*Manchester Evening News*, 3 June 1947, p. 1). 'Respectable' adolescent girls were expected to protect their 'virtue' by controlling and restraining male impulses; this was seen as their responsibility.

Within this framework the adolescent girl was viewed as sexually predatory. Moreover, adolescent girls who ran away from home, approved schools or other residential institutions – rather than the boys or men with whom they had sex – were consistently viewed as the primary vector for venereal disease. Where girls were engaging in underage sex, staying out at night beyond the control of parents and engaging in activities that police, social workers

and courts believed to place them 'in moral danger', they might be brought before the courts as in need of care or protection, and subsequently be sent to approved schools. Indeed the majority of girls in approved schools were in this category by the mid-1960s. In 1964 only 5% of boys in approved schools were 'non offenders' compared to 62 per cent of girls (cited in P. Cox, *Gender, Justice and Welfare*, Palgrave, p. 15). In the early 1960s the authorities in London (including the Metropolitan Police and London County Council) were concerned about teenage girl runaways (described colloquially as the 'Mystery Girls') who made use of unlicensed clubs in Soho and the West End to remain hidden. They were described as 'in moral danger' because of possible drug use on the premises, consorting with members of the black community, known prostitutes, and 'lesbians' and 'homosexuals'. In this context there is little evidence of charges being brought against older men for unlawful sex. Indeed, men under the age of 24 received some protection from the law in this regard, since (under the 1922 Criminal Law Amendment Act) they could mount a legal defence (on a first occasion) that they were unaware of the girl's age. Generally, in cases where girls aged 13-15 were assumed to be 'consenting parties' it was very unlikely that a male sexual partner (especially if under 24) would be prosecuted – unless her parents wished to pursue the matter.

Criminal statistics

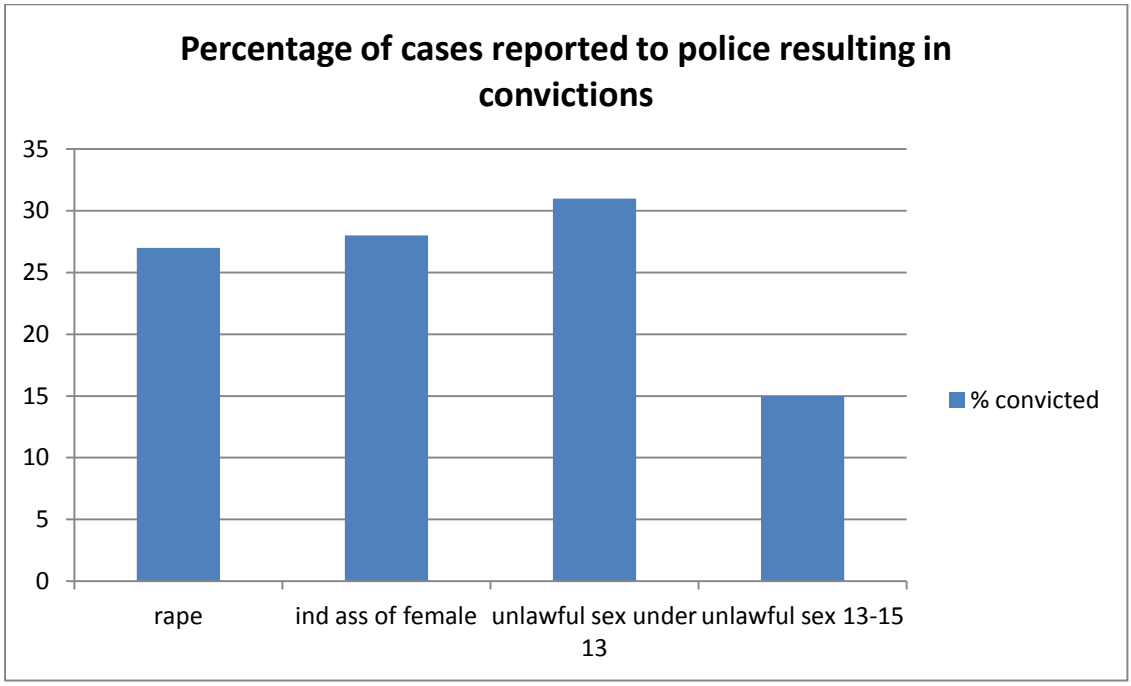
All the points made above have suggested the difficulties that may be inherent in using published criminal justice statistics as an indicator or attitudes, experiences and approaches. However, they can serve to illustrate a point. Fig 1 draws on published criminal justice statistics for England and Wales for 1965 for cases of rape, indecent assault of females, and unlawful sex with females under the age of consent that were reported to the police. These have been compared with data for those that were successfully prosecuted. If a case in any of these categories was brought to court for trial it was quite likely to lead to conviction. 58% of rape trials resulted in conviction in 1965, and 90% of cases involving unlawful sex with girls aged 13-15. However Fig 1 shows that most cases were unlikely to get to trial in the first place. Of cases of unlawful sex with females aged 13-15 the number of successful convictions (581) represented only 15% of the number of cases that were reported to the police in 1965 (3,971); this compared to a conviction rate of 31% where the girl was under 13. The sifting-out started much earlier on and only those considered the most likely to lead

to conviction were brought to trial. It will already be apparent that most 'victims' of rape and abuse did not even report them to the police; anecdotal evidence suggests that many cases even when reported were 'no-crimed' (i.e. not even listed as 'reported'). Whilst it is difficult to compare data for the 1960s with the present day (given that the charges that are used to prosecute have changed) it appears that roughly double the number of sexual assaults on females were logged by police in 2012 compared with 1965 (36,3555 reported cases compared to 15,113). We have to assume that the conviction rates cited in fig 1, therefore, are distortions given that sexual assault cases were still drastically under-reported in the 1960s.

To sum up

- The sexual abuse of women and children was considered to be the most serious of offences across the C19th and C20th.
- In order to be believed female 'victims' had to demonstrate innocence and respectability.
- Younger victims more likely to be believed than older ones.
- Police assumed that rape allegations were false because 'so easily made' into the 1960s.
- The legal status of girls over 13 but under 16 was a grey area and this created space for them to be viewed by some as legitimate sexual targets.

Fig 1. British Parliamentary Papers, Criminal Justice Statistics for England and Wales, 1965: percentage of cases reported to police resulting in conviction.



References and further reading

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