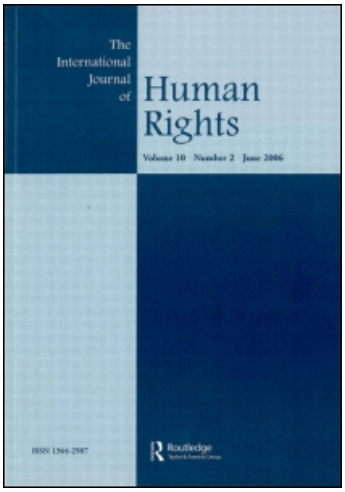

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Gay male rape victims: law enforcement, social attitudes and barriers to recognition

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Gay male rape victims: law enforcement, social attitudes and barriers to recognition

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This paper examines the experiences of gay male rape victims. It discusses findings from empirical studies of police attitudes along with an increasing number of studies that have examined the experiences of these victims. It also considers social attitudes to this group of victims and the way in which those attitudes impact legal responses to the problem of male rape. Further, this paper identifies three barriers to the recognition of male rape: denial of the problem, hierarchies of suffering, and victim-blaming. Finally, it concludes by considering two possible strategies for improving the treatment of male sexual victimisation within the criminal justice system in England and Wales.

Keywords: male rape; sexuality; police; criminal justice; victims; social attitudes

Introduction

In the last two decades there has been a significant growth in research examining the problem of adult male rape, on such issues as the problem of male sexual victimisation within institutional settings,[1] within the general population[2] and during wartime,[3] and also the nature, dynamics and impact of male victimisation.[4] More recently, there has been a growth in research examining male victims' experiences of the criminal justice system. Such research has challenged many societal myths regarding adult male sexual victimisation and has also highlighted the extent to which misunderstandings regarding male rape influence the attitudes of criminal justice professionals and of the wider community.[5]

Despite claims to the contrary,[6] there exists a significant body of work that examines adult male sexual victimisation. There are, however, specific areas that have received little sustained attention. One of these areas concerns the treatment of gay male rape victims within the criminal justice system. This is a particular problem because a significant number of male rape and sexual assault victims are gay and epidemiological research suggests that homosexuality is a particular risk factor in cases of adult sexual victimisation.[7] Gay men also face physical and sexual assault as part of homophobic attacks[8] and are also targeted for rape within prisons where they tend to appear to receive little protection from authorities.[9] The combination of sexual victimisation and negative societal attitudes towards homosexuality does raise the question of whether gay male rape victims are subjected to a form of double victimisation. After being sexually victimised, do they also face particular difficulties in securing appropriate treatment by the criminal justice system? An examination of social and legal responses to gay male rape victims gives us an

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insight into the extent to which progress has been made in addressing sexuality-based discrimination, while recognising the difficulties facing male rape victims irrespective of their sexuality.

This paper seeks to draw together existing evidence that examines rapes of gay men as well as the policing of such sexual violence. Further, it will analyse the ways in which negative social attitudes may hinder the reporting of male rape to the police and the enforcement of the criminal law when it is reported.

Social attitudes and rape law enforcement

There is compelling evidence that social attitudes have a negative impact on the enforcement of the criminal law on rape and sexual assault. Temkin and Kraché have recently engaged in a detailed analysis of the impact of social attitudes on rape law enforcement in cases involving female victims. They argue that the treatment of rape cases by the criminal justice system relies upon

> stereotypical beliefs about rape which contain a restrictive and inaccurate understanding of what 'real rape' is. By reducing the range of what is considered a genuine rape complaint, these stereotypes are a contributory factor in the justice gap. Rape stereotypes affect the judgments made by individuals dealing with rape cases, for example as police officers, judges or members of a jury, and thereby shape the understanding of rape as it is represented and dealt with in the criminal justice system.[10]

Myths, stereotypes and negative attributions can be seen as a thread running through social and legal constructions of what constitutes a 'genuine' rape deserving of criminal sanction. It is evident that myths and stereotypes regarding rape that exist within general society are also in evidence in legal responses to rape. This occurs in cases involving both female and male sexual victimisation. However, some negative attitudes may differ in their nature and effect. It seems likely that one of the most distinctive points of departure between female and male rape concerns the issue of sexuality. The issue that arises is the extent to which negative attributions towards homosexuality impact attitudes to male rape and the treatment of such cases by the criminal justice system.

Another aspect of this problem is how negative attitudes are shaped and influenced. Recently, some commentators have linked gay pornography to rape-supportive attitudes in the context of male rape. Kendall has argued that pornography featuring male rape and sexual assault causes real harms to men and promotes a model of sexuality that is 'depicted as hierarchical and rarely compassionate, mutual, or equal'.[11] The author borrows from feminist theory in arguing that gay pornography

> relies on the inequality found between those with power and those without it; between those who are dominant and those who are submissive; between those who are top and those who are bottom; between straight men and gay men; between men and women. From these and other materials, we are told to glorify masculinity and men who meet a hyper-masculine, muscular ideal. The result is such that men who are more feminine are degraded as 'queer' and 'faggots' and subjected to degrading and dehumanizing epithets usually invoked against women, such as 'bitch', 'cunt', and 'whore'. These men are in turn presented as enjoying this degradation . . . Insofar as sex equality is concerned, the result is the promotion and maintenance of those gendered power inequalities that reject a non-assimilated gay male sexuality and that ensure that homophobia and sexism remain intact.[12]

Kendall argues that such imagery supports a view of sexuality that encourages rape by a variety of means, including the promotion of myths, for example that men enjoy being

raped.[13] In reality, it is difficult to determine what impact, if any, such imagery has in reinforcing the myths to which Kendall refers. What is much clearer, however, is that societal conceptions of male rape are shaped by myths and stereotypes. This paper proceeds by examining the various ways in which these myths and stereotypes impinge on societal and police attitudes towards male rape.

Reporting by gay male rape victims

Since it became first legally recognised in 1994, there has been a significant increase in offences of male rape recorded by the police in England and Wales. In 1995 there were 150 offences of male rape recorded by the police;[14] for 2004–05 the figure was 1135.[15] The most recent figure shows 1150 recorded offences of male rape.[16] This, however, is likely to be a gross underestimate of the actual prevalence of male rape given the level of under-reporting. Early small-scale domestic studies of male rape and sexual assault suggested that between 12%[17] and 20%[18] of victims reported to the police. In an epidemiological study of 2474 males Coxell et al. found that '[d]ata from 37 of the 40 men who reported having had non-consensual sex with men showed that . . . only two men reported their experiences to the police'.[19] Abdullah-Khan recently found a reporting rate of between 8% and 44%.[20] Men give many reasons for not reporting to the police. The 2002 Her Majesty's Crown Prosecution Service Inspectorate/Her Majesty's Inspectorate of Constabulary (HMCPSI/HMIC) joint inspection report noted that in the year 2000, of the 586 callers to the support group for victims of male rape, Survivors UK, only 11% had reported to the police.[21] Based on research from Survivors UK, the report suggested various reasons for non-reporting by males, including 'not knowing that it is a crime', 'fear of not being believed' and 'concerns that sexuality may become an issue'.[22] Sivakumaran explains the link between sexuality and why some male victims fail to report: 'The fact that survivors of male/male rape question their sexuality and that society considers them homosexual would not be a reason for non-reporting were it not for society's treatment of homosexuals.'[23] There is also some British evidence that gay male rape victims are less likely to report to the police than heterosexual male victims.[24] Finally, in the most recently published research on the subject, Abdullah-Khan surveyed those who counsel male victims. Counsellors provided a number of reasons for male rape victims' non-reporting to the police: 'Challenges to sexuality and homophobia were frequently mentioned, along with the macho-type organisation that the police service is, which suggests that the police would challenge survivors' masculinity, be unsympathetic and uncaring.'[25]

Interestingly, Abdullah-Khan also found in her study that a minority of police officers suggested that gay men may be *more* willing to report rape than heterosexual males. Some of the reasons given, however, are revealing in that they include negative attributions towards gay male rape victims:

> Homosexuals are promiscuous by nature and are more likely to report. Heterosexuals are less likely as they may be thought of as homosexual.[26]

> Homosexuals would report more rapes as they (a) more likely to be raped (b) enjoy the attention and drama (c) may be antipolice regarding police as homophobic.[27]

Other officers identified problems facing heterosexual male victims, including their fear that they might be deemed as gay. One officer argued that men may be less willing to report rape than female victims because of '[s]ocial stigma – feeling of perhaps being labelled homosexual when heterosexual'.[28] It is evident from victims and those who counsel

victims that what has been termed the 'taint of homosexuality'[29] impacts perceptions of male rape and may therefore influence men's willingness to report.

A further factor that may impact reporting is the reluctance of men to view their experience of non-consensual sex as rape. In her interviews with male rape victims, Allen found that 'homosexual men generally had more fluid definitions of their experiences of sexual violence and the processes by which they came to define their experiences as rape were more complicated than for heterosexual men'.[30] This resulted from a range of factors that made it less likely that gay male rape victims would, initially at least, name their experiences as rape. For example, some gay men found it difficult to distinguish between situations 'where they had been "forced" or "persuaded" to have intercourse'.[31] A previous sexual relationship between victim and offender resulted in men not tending to initially regard their experiences as rape. For others there was a belief that sex with partners was obligatory, which again hindered the recognition of non-consensual sex as rape.[32]

Given concerns that some male victims have in disclosing their victimisation to the police it is likely that similar concerns may well apply to disclosures to friends and family. In her study, Abdullah-Khan found that two of the 16 men did not disclose their rapes to anyone. Part of the reason for their non-disclosure was that 'they feared that they would be labelled as homosexual or that they "asked for it"'.[33] There is also potentially another problem that impacts specifically gay male rape victims. That is, the reactions of other gay men to their experiences of rape. Funk argues that

> [a]lthough there does seem to be some room for men to discuss their experiences and obtain support from certain aspects of the queer community when discussing being raped as part of a gay bashing, these resources are, in fact, limited and 'ghettoized'. Men who are raped by a date or spouse often do not receive support from within the community, but often are explicitly told not to talk about the incident or are threatened with being removed from the community. The queer male community seems both extremely reticent to discuss the issues and all but unwilling to offer supports [*sic*] to gay and bi men who are sexually assaulted.[34]

Such negative responses suggest that victims may not risk further disclosures to anyone, including the police. Isely has noted that

> [male victims] often feel safer suffering in silence and are reluctant to be revictimized by an unsympathetic legal system or disbelieving treatment professionals … Those who do report a sexual attack often experience hostile and isolating reactions from the very service providers that are available to provide help. Too often, seeking assistance in dealing with the trauma that can follow a rape too often becomes a humiliating experience in which feelings of depression, anger, guilt, sexual confusion, and anxiety are reinforced in survivors as they become revictimized by the police, community agencies, and bewildered friends.[35]

The experience of men who report

For those men who do decide to report to the police, the existing literature indicates that there are significant differences in men's individual experiences. Some measures of their experiences have been somewhat crude and limited. Early research conducted by support group Survivors UK found that, of the 62 men seen at the Wharfside Clinic at St Mary's Hospital Paddington in 1993, seven reported to the police, with three reporting a positive response and four a negative response. In 1992, 70 men were seen at the clinic, eight reported to the police, with six indicating a positive response and two reporting a 'very negative' response.[36] In a study involving 115 male victims of rape and sexual assault, King and Woollett found that only 17 of them reported to the police: 'In 8 cases the police's reaction was reported as

helpful, whereas in 5 it was perceived as negative. Seven men were glad (for 3 of whom the assailant had been apprehended) that they had reported to police.'[37] Hillman et al. found that only two out of the 12 males were satisfied with their contact with the police.[38] A feature of the current literature indicates that sexuality and negative attitudes towards homosexuality characterise the experiences of some men who reported. In a study of 40 British male rape victims, Walker and colleagues found that five reported to the police. The authors noted that

> [o]f those who did report, only one man said that the police were responsive and helpful. The other four found the police to be unsympathetic, disinterested, and homophobic. They felt that their complaint was not taken seriously and all four regretted their decision to tell the police.[39]

Some caution must be had when considering whether these specific findings prove a continuing problem in police responses to male rape. According to Walker et al., the 'mean time between the assault and participation in the study was 10 years'.[40] Consequently, we do not know when the five men reported. Clearly, a male reporting rape[41] that occurred 10 or 15 years ago might have received very different treatment from one who reported a recent rape. This point is also made in recent research on men and women's experiences of reporting same-sex domestic abuse to the police. Researchers found that victims 'got a mixed response': 'Some had a sympathetic response but no follow through in terms of applying the law to the abusive partner … A small number had very unhelpful responses from the police though these said this had happened a long time ago.'[42] Indeed, in the most recently published research, Abdullah-Khan found that of the seven men who reported to the police six were satisfied with their treatment.[43]

Research from the United States suggests that negative police reactions are reported as common. Scarce notes that

> [o]f those survivors I interviewed who reported their rape to authorities, all but one had an intensely negative experience. The one survivor who was the exception had only a neutral interaction – neither helpful nor overtly detrimental. The most common complaints I have heard from male survivors who I interviewed and have worked with professionally have been disbelief, mockery, homophobia, or a combination of all three from police officers.[44]

There is evidence to suggest that negative reactions may be a particular problem with respect to male rape victims who are gay or who are presumed to be gay. Such men appear to have their experience of rape taken less seriously. For example, in a British study of prison sexual violence, Banbury cites the experience of one male victim thus: 'When I tried to report [a sexual assault], one of the [prison] officers laughed and just said "come on mate, you're gay, hows [*sic*] that gonna sound?" I had basically been told to forget the incident because I was gay and hence "I wanted it" and the incident was not reported.'[45] Similarly, a study of prison sexual assault in the United States found that 'gay inmates, or those perceived as gay, often face great difficulties in securing relief from abuse. Unless they show obvious physical injury, their complaints tend to be ignored and their requests for protection denied.'[46] Likewise, on the basis of research involving the completion of questionnaires by police officers and by male rape victims, Lees found that

> [v]ictim feedback suggested that gay men are treated less sensitively and sympathetically by the police than heterosexual men. Some police officers seem to believe that rape is less traumatic for gay men. Analysis of both police and victim questionnaires shows that police officers

> are more likely to regard the testimony of homosexual victims as 'unreliable' – ether to assume that the sex was consensual or that the complaint was malicious.[47]

Isely found that their disclosures of being victims of sexual assault had been met with negativity: 'Members shared personal stories about the negative responses of significant others when the rape was disclosed. Frequently, the men had encountered reactions such as hysterical laughter and assumptions about how "gay men would want to be raped".'[48] Similarly, Jim, who had been sexually assaulted while homeless, told *The Big Issue*, 'I was kipping on the Strand one night and woke up to find a man with his hand inside my sleeping bag. He had his hand between my legs. It really shook me up. But when I confided in my friends they were just embarrassed and laughed.'[49]

Collectively, these findings are troubling. While some men do report a positive response, some police officers and other criminal justice professionals appear to attach to gay men or those they perceive as gay highly questionable assumptions regarding credibility, trauma and truthfulness. This suggests some degree of crossover in police attitudes towards female rape, where some officers make similar assumptions regarding credibility based on highly suspect criteria.[50]

One of the male complainants interviewed by the author for previous research suggests that issues of sexuality and other problems exist in police attitudes to male rape complainants. 'Steve' recollected that he was disappointed by the treatment he received when he reported to the police. He stated: 'One of the officers told me that in these types of cases it was virtually impossible to get a conviction. I thought he was trying to put me off. Do the police only prosecute [*sic*] if you're attacked by a stranger?' Despite being heterosexual, Steve felt that homosexuality was an issue as he was asked questions about his sexuality. In addition, he described himself as being upset by one officer's reaction to other disclosures, which he interpreted as disbelieving:

> I had to tell them that he'd tried to masturbate me during the attack and that I'd got a bit of an erection. One of the officers just went, hang on, how was that? You know, what he meant was how was that possible if you're saying you didn't want it?[51]

Steve's experience was also characterised by a classic example of a police officer second-guessing the reactions to a complaint at later stages of the criminal justice process, by suggesting the difficulty of securing a conviction. Studies involving female victims have shown that officers do sometimes warn complainants of such difficulties. Harris and Grace note that '[i]n warning complainants about the difficulty of securing a conviction, the police might put complainants off pursuing their case without meaning to'.[52] This was clearly Steve's reaction and contributed to his negative experience in reporting. The apparent reaction to the disclosure that Steve had experienced an erection is particularly serious given that we know significant numbers of male victims experience erections during rape and sexual assault.[53]

Some victims of male rape and sexual assault have reported aggressive questioning by the police. In the United States, the experience of Christopher Smith, who was raped at gunpoint by a stranger, gives an indication of the sense of despair that some male victims experience and the way in which unskilled questioning can have a negative impact on a victim's ability to accurately recall a traumatic event. He recounts his experience with the police:

> Then I told the story again. Then again. They asked questions. They interrupted. They told the story back to me, but changed things. They inserted information that I did not provide. Questions sprayed at me from every direction like bullets from a machine gun. Everything became so cloudy and confused.

The officers also asked a series of questions that he found distressing. In addition, the issue of sexuality also arose, but in a context that made little sense:

> Do you have any friends who are gay? . . . Why didn't you just run? He wouldn't have shot at you, it's hard to hit a moving target. I would have just started running. Why didn't you run? . . . After being degraded and humiliated in so many different ways, I had reached the lowest point ever, I was convinced I was a terrible person. I didn't even feel recognized as a human being.[54]

Finally, an interesting perspective on the treatment of male victims comes from Abdullah-Khan's survey of police officers. She asked participating officers how the treatment of male victims compared with that of female victims, and found that 58 officers suggested that the treatment was similar, four claimed that men received better treatment and 17 that men received worse treatment than female victims.[55] Some officers in the latter group pointed to a lack of training and awareness of male victimisation[56] and Abdullah-Khan describes their view of police responses thus: 'many officers are unsympathetic and do not take male rape seriously'.[57] While such statements reflect obvious concerns in the treatment of male rape by the police, one should show caution about suggesting that men or women receive preferential treatment within the English legal system.[58] On the current evidence, it is simply not possible to make a resilient argument in favour of preferential treatment of either male or female complainants.[59]

Barriers to recognition and law enforcement

Negative social attitudes towards male rape manifest themselves in the denial of male victimisation, victim-blaming and a range of other negative attributions. Collectively, these negative social attitudes operate as barriers to recognition of the problem and have the potential to influence decision-making by the police and the wider criminal justice system. This section analyses several examples of barriers to recognition.

Minimising the problem and denying the possibility of male sexual victimisation

The minimising or denial of male rape as a problem takes many forms. At its worst such attitudes suggest that male rape is physically impossible. Recent research by Anderson and Doherty involving focus group discussions found one participant who expressed such a view when discussing a scenario involving an alleged male rape. The participant 'Mike' stated:

> I was a bit suspicious when it was the one man who raped him because I think that unless this chap who was allegedly raped, and he was enormously weaker than the other guy, there's no go considering the muscularness of like where he was raped, there's no-one going in there like unless he wants it, like.[60]

Scepticism regarding the possibility of men being raped has a long history. In his study of law and sex in late imperial China, Sommer notes that

> the judiciary was highly skeptical that a man could be raped at all: if sodomy had been consummated with an adult male, then it must have been consensual. Only a powerless male could be penetrated against his will – and the most unambiguous form of male powerlessness was youth . . . We should not conclude that older males were never in fact raped, but rather that there existed a strong judicial bias against accepting an older male as a rape victim.[61]

Within the scholarly community there is evidence of a tendency to dismiss the importance of male rape as an issue worthy of analysis by criticising any attention it receives. This has included responding to a large-scale study of male rape as a 'matter for concern' because a similar study was not being conducted of female victims.[62] More recently, Novotny has argued that media coverage of the sexual abuse of boys by a number of Roman Catholic clergymen was 'hardly newsworthy'.[63] In some sources, the dismissive treatment is less forthright, and surely unintended. In his study of the Auschwitz concentration camp, Rees discusses the rape and sexual exploitation of women by SS guards at Auschwitz, as well as the experiences of women working in a brothel within the camp.[64] His characterisation of most of these experiences is unsurprisingly negative – he discusses the rape of these women, as well as the 'suffering' of those working in the brothel 'who were forced to have sex'.[65] Yet by contrast, on the basis of the testimony of one inmate, who refers to adolescent boys working for 'prominent' inmates and a 'sexual relationship [that] would often develop between them'.[66] There is no suggestion by Rees that these 'relationships' might have involved coercion. We know, however, from other sources that unsurprisingly such 'relationships' could involve sexual victimisation.[67]

In the context of police attitudes, a particular method of denial is to suggest that the problem of male rape is exaggerated. In her survey of attitudes to male rape held by London Metropolitan Police officers, Abdullah-Khan found two respondents who questioned the extent of male rape as a social and legal problem:

> I think the homosexual lobby in this country is increasingly vociferous and my perception that male rape is growing problem might just be an indication of the success of this lobby.[68]

> I think there may be a perception that it has been overblown by the gay lobby, to get attention and resources.[69]

Within the police service another means of potentially denying the problem of male rape is through the recording of rape allegations. The London Metropolitan Police recently published statistics on the recording of allegations of male and female rape: of the 677 allegations of rape reported in London between April and June 2005, 511 (75.5%) were recorded as crimes, with 32 (4.7%) being 'no crimes' and 134 (19.8%) recorded as 'not crime'.[70] This study also found that '[w]hilst only 23% (143) of female complainants' allegations were recorded as "No Crime"/"Not Crime", 41% (24) in cases of male complainant allegations [were] recorded as "No Crime"/"Not Crime".' In cases involving male victims, charges were more likely to be reduced from rape to a lesser offence and 'a higher number of false complaints linked to mental health issues were recorded with male complainants'.[71] The linkage of mental illness to 'no crime' is also a striking feature of studies involving female complainants.[72] One of the questions raised by these findings is the extent to which the use of the 'no crime'/'not crime' designation is generally appropriate. For example, are men and women with mental health problems more likely to make false allegations or are the police inappropriately labelling reports by these persons as false?[73] A further question that arises is what other factors may influence police treatment and recording of male rape allegations. Abdullah-Khan's survey of police officers found a range of views on the level of false reporting of male rape. Among some officers who thought the false reporting rate was high, the following were described as being sources of false complaints: 'Rent boys, blackmail, vagrant on vagrant revenge' and 'Again promiscuous homosexuals'.[74]

Hierarchies of suffering

It is a well-established finding within the research literature that, in social and legal attitudes to female rape, distinctions are made between the seriousness with which differing types of rape are viewed.[75] It is also becoming increasingly apparent that distinctions are made between male victims based, in part at least, on their sexuality. In a survey of victims and police officers Lees found that '[s]ome police officers seem to believe that rape is less traumatic for gay men [and are] more likely to regard the testimony of homosexual victims as "unreliable"'.[76] In attitude surveys it has been found that students attribute more blame to heterosexual female and gay male victims of rape than to lesbian and heterosexual male victims.[77] White and Kurpius found that students attributed *inter alia* more blame to male than to female rape victims and more blame to gay and lesbian victims than to heterosexual victims.[78] Similarly, Mitchell and Hirschman found that students were prepared to attribute more blame and pleasure and less trauma to a male rape victim who is gay than one who is heterosexual.[79] More recent empirical research provides further evidence of such hierarchies. In their focus group research, Anderson and Doherty found that in discussions involving male rape a 'hierarchy of suffering is established whereby rape is judged to be worse (more "horrible", "disgusting", "shocking", … "destructive", … "traumatic") … for heterosexual men than it is for women or gay men'.[80] Similar findings have been found by Abdullah-Khan in her research involving police officers.[81]

It is worth noting, however, that there is evidence of other 'hierarchies of suffering' within the literature. Bourke has found evidence of nineteenth-century feminists denigrating the trauma of male sexual victimisation. She notes that in the context of young males coerced into prostitution, those feminists suggested that the harm suffered by young women was greater than that suffered by their male counterparts.[82] Similarly, Hite, writing in 1981, suggested that certain forms of sexual assault could not be humiliating to a male victim.[83] Recourse to hierarchies of suffering has also been evident within the parliamentary process. During the parliamentary debates over the legal recognition of male rape in England and Wales, Lord Swinfen stated:

> Non-consensual buggery for a homosexual man would be an extremely traumatic experience. For a heterosexual man it would be an even greater trauma. However, if it happens to a woman it could be more distressing still because not only is she being violated, but her total femininity is being destroyed at the same time as she would not be used in a natural manner that one might expect.[84]

Here again, the trauma suffered by gay male rape victims is seen as less serious than that by heterosexual males. However, unlike some of the other hierarchies, female rape is seen as the most traumatic. Another trauma hierarchy in evidence within the literature is the suggestion that no trauma should result from male rape. Pelka, who has written about his experience of being raped, recounts being told the following by a police officer: 'The good cop told me how upset he'd seen "girls" become after being raped. "But you're a man, this shouldn't bother you."'[85] This is an assertion that appears to be based on a notion of masculine strength and invulnerability to physical and psychological harm. This is a recurrent theme in the literature and will be discussed in the later section in the context of physical resistance to rape.

What is the reasoning behind the assertion that rape of gay men is less traumatic than of heterosexual men? Anderson and Doherty argue that 'victims constructed as "heterosexual" are likely to be judged to have genuinely suffered, principally on the grounds that they are assumed to have experienced a sexual act that is foreign to them'.[86] Such views are

problematic for two reasons. First, it is based on the mistaken assumption that all gay men have anal sex. Second, this reasoning is akin to that contained in judicial decisions that suggest that a woman who is raped by her husband is less traumatised than if she were raped by a stranger, because of the previous consensual sexual contact with her assailant. Such a view confuses the crucial distinction between consensual and non-consensual penetrative sex acts and shows little understanding of the impact of sexual victimisation.[87]

Victim-blaming, negative attributions and expectations of resistance

Since the 1970s we have seen the development of a vast literature that illustrates the ways in which female victims of rape may be blamed for their own victimisation. Negative social judgments are made regarding such things as 'inappropriate' behaviour prior to a rape[88] as well as complainants failing to react as expected during and following rape.[89] Collectively, these and other attitudes serve to excuse, minimise, justify or deny rape in cases involving female victims. It is becoming increasingly apparent that similar attitudes are in evidence in the context of male rape.

In their focus group research, Anderson and Doherty asked students to consider a vignette featuring a male, previously a victim of rape, who was walking in an area where previous rapes had occurred when he was allegedly attacked again.[90] The response of some students was to 'project "subconscious" homosexual desires onto the alleged victim as a way of making sense of and dismissing the rape claim in the vignette'.[91] Further, participants described the victim as 'extremely stupid' and referred to him as 'very stupid or more probably he was asking for it, or hoping it would happen'.[92] Repeated references were made to the victim 'wanting' to be raped:

> Tony: Yes, it is, it is very odd, I mean either he's very naïve or he's making something up or he wants to be raped, or hoping that it would happen.[93]
>
> Fiona: Maybe he was sub-consciously, he wanted it . . .[94]
>
> Tony: Maybe he's homosexual and he's really embarrassed about his sexuality and er, hoping that some guy comes on to him at 9.30 on the campus, no, I'm serious, maybe he actually was hoping it happened, maybe he's really interested and curious and excited by it.[95]

Blaming victims of male rape who are gay is a consistent feature of the literature on attitudes to male rape. In her study of correctional officers, Eigenberg found that, of the 166 correctional officers surveyed, 46.4% 'believe that inmates deserve rape if they have consented to participate in consensual acts with other inmates'.[96] In a recent review of the existing literature on attitudes towards male rape, Davies and Rogers observe that

> [a]ll, without exception, and regardless of the assault situation, have found that gay victims are judged to be more at fault or to blame than heterosexual victims are. It is reasoned that the homosexual (albeit non-consensual) nature of male rape inspires homophobic attributions that result in victim blame and other negative attributions towards male victims.[97]

A further belief that impacts the recognition of male rape concerns an expectation of victim resistance. Sommer notes that in late imperial China the penetrated male suffered great social stigma.[98] While legal codes recognised that young males could be victims of rape perpetrated by older males, outside of this situation '[m]ales were not expected to be weak . . . They were not supposed to be penetrable at all, but rather penetrators, subjects

rather than objects of action. Even so, Qing law acknowledged that males could be raped, and that they might consent to sodomy. But for this penetrability to make sense, the male had to be somehow less than male.'[99] He observes that in 'late imperial China, common sense held that to be penetrated would profoundly compromise a male's masculinity; for this reason, powerful stigma attached to a penetrated male'.[100] Indeed, Sommer found that the stigma of being penetrated was also shared by family members and that sometimes 'such shame provoked family members to violent acts against the penetrated male himself'.[101] The shared sense of shame created by male rape is also in evidence in more recent literature. In his prison memoir *A Sense of Freedom*, Jimmy Boyle recounts that young or young-looking prisoners were gang-raped by a particular group of prisoners led by an inmate who became known as 'The Poof'. Boyle notes that some prisoners would 'have a go at him', but says 'I felt deeply humiliated that another prisoner could allow himself to be "used" in this way by [the gang].'[102] Boyle's sense of shame is clearly based on an assumption that an inmate should resist gang rape and anything short of physical resistance constitutes a prisoner allowing himself to be raped.

Assumptions regarding the ability of men to protect themselves and prevent sexual victimisation are also in evidence among some police officers, as the following quotes indicate:

> It is difficult for officers to see how an adult male can let himself get into a situation where he can get raped and be unable to physically protect himself.[103]

> There is a definite problem with this male issue. A man is a man and should be able to look after himself. This is how I feel policemen see it. Therefore little sympathy.[104]

In the United States, a civil case was brought against prison officials who allegedly failed to adequately protect an inmate, Roderick Johnson. He claimed to have been repeatedly raped by a prison gang, but prison officials disputed his claims of victimisation on questionable grounds:

> In pretrial testimony, Jimmy Bowman, another defendant, explained that Mr. Johnson's account was not credible because he had failed to resist the men he said raped him. 'Sometimes an inmate has to defend himself', Mr. Bowman said. 'We don't expect him not to do anything.'[105]

This quote illustrates the strength of the belief that men should resist their attackers. Roderick Johnson claimed to have been the victim of repeated acts of rape and the trial testimony indicated he was, in effect, owned by a prison gang and subjected to threats and violence.[106] In such circumstances, it is difficult to see how someone could resist. The problem with the expectation of resistance is that it fails to show an understanding of the way in which male victims react to rape. Some men verbally and physically resist their attackers. But there is also a consistent finding within the literature that 'men are either too afraid to resist or fight back, or [freeze] with fear' and that 'contrary to widely held beliefs that "real men fight back", men often do not or cannot fight back'.[107]

The question of course for this paper is whether such beliefs relating to victim resistance pose a particular problem for gay men. As already noted, Anderson and Doherty's focus group discussions appeared to centre on the issue of homosexuality and there was also a suggestion that 'victimisation only happens to effeminate individuals who are, necessarily, less than "real men"'.[108] It may be the case that in some instances an association is made between lack of resistance and consent and if there is consent then the victim is, by definition, gay. This might be a particular problem in the case of so-called 'effeminate' men who may be seen as unmanly and therefore more likely to be gay.

Themes and possible explanations

Many of the attitudes discussed in this paper represent a view of masculinity as strong and invulnerable. The result is a reluctance to acknowledge the existence of male sexual victimisation and to treat the penetrated male as in some way devalued, as less of a man, for allowing 'himself to be used in this way', as suggested by Boyle. The difficulty some people have in acknowledging male rape is reflected by comments in which criminal justice professionals and others have trouble understanding why a man cannot resist an attack by a rapist, the suggestion that a man cannot be physically penetrated against his will or that a man should not be traumatised by rape. Challenging such views requires acknowledgment that 'each and every body is permeable and appropriable'.[109]

A further issue is why homophobic attitudes arise in the context of male rape. One of the reasons may be the equation of men being anally penetrable with being gay and therefore less masculine. In their interviews with gay men who engaged in anal intercourse, Kippax and Smith noted that for some of the participants there was an 'incompatibility between being masculine *and* receptive' and for some '[r]eceptivity is automatically associated here with being gay and feminine, suggesting one is more or less gay according to whether or not one engaged in "feminine" sexual practices'.[110] A similar point is made by McGhee: 'male homosexuality and female sexuality are presented in legal discourse and practices in terms of passivity and receptivity to an active and penetrating "heterosexualised" male anatomy and sexuality'.[111]

The association of anal intercourse with homosexuality can also be linked to attitudes that blame gay male rape victims for their own victimisation, but, of course, it goes further. This linkage also reinforces the assumption that, by being anally penetrable (and therefore less masculine), male rape victims *must* be gay. Anderson and Doherty note that 'the projection of a gay identity onto an alleged victim (and this may happen to any victim, regardless of his sexual identity) results in reframing the depicted rape as a consensual sexual encounter'.[112] Thus, it cannot be assumed that the issue of homosexuality only arises in the context of gay male rape victims. Another explanation for the linkage of male rape and homosexuality is that it serves as a form of 'distancing'; as Anderson observes, 'close association between male rape and homosexuality/homophobia may be one way for participants to express their disgust at this act . . . for male participants, male rape perception may be linked to a combination of hegemonic masculinity . . . and emotionally defensive/distancing factors'.[113]

Conclusion: future directions in law and policy

This paper has shown that one of the emerging features of societal and legal attitudes to male rape is the influence of negative perceptions of the crime and its victims. These views, to varying degrees, are held by members of the public and criminal justice professionals. Negative judgments regarding homosexuality seemingly impact not only men who are gay but also heterosexual men. Attitudes towards homosexuality are combined with other beliefs regarding trauma, victim resistance and victim blame. Consequently, some male victims face significant difficulties when seeking help following rape.

A crucial question, therefore, is how such problems should be addressed so as to afford gay male rape victims equal protection under the law without discriminatory treatment. From a human rights perspective, one possible strategy relates to positive obligations of the state to secure the rights of its citizens. It has recently been argued that the incorporation

of Article 3 of the European Convention on Human Rights[114] into UK law, through the enactment of the Human Rights Act 1998, places on the state a number of positive obligations concerning the treatment of rape complainants, including the existence of effective laws against rape and effective investigation of rape allegations.[115] Allegations of male rape that are incompetently investigated[116] or influenced by myths and victim-blaming might fall within such a legal framework. Furthermore, in conjunction with Article 3, it might also be the case that Article 14 of the Convention that has for long been accepted as prohibiting sexual orientation discrimination may be invoked where ineffective investigations result from such factors as homophobia.[117]

A further strategy to address the problem of male rape is to challenge ignorance, myths and stereotypes that impact criminal justice responses to male sexual victimisation. This requires the training of criminal justice professionals. In the context of the police, Abdullah-Khan notes that some officers are well informed about male rape, but also observes that for other officers there is a 'huge gap in information about male rape, a gap which respondents themselves readily acknowledge'.[118] In a recent British study involving interviews with gay and lesbian victims of domestic sexual and physical abuse, researchers found that the response of agencies was mixed. The study found that voluntary and statutory agencies have no

> coordinated responses for responding to domestic abuse in same sex relationships . . . Many of the problems lie in agencies being governed by a domestic abuse model that is heterosexual and it is this that often prevents an appropriate response because of assumptions made about who might be the survivor/perpetrator.[119]

Clearly, raising awareness of rape outside of the male/female paradigm is crucial in improving service responses. But improving criminal justice responses to male rape requires a wider response than just the training of professionals. Negative social attitudes inform legal responses and there is, thus, a need to address myths and stereotypes within wider society. Recognition of the need for greater education has resulted in a number of projects that are currently being run to educate schoolchildren regarding the law of rape and related issues.[120] In addition, there have also been education campaigns involving the media.[121] Given the ingrained nature of negative beliefs towards gay men and ignorance regarding male rape, inclusion of this form of sexual victimisation in educational programmes would be helpful. But these programmes cannot be seen as a quick fix and it is only through sustained education in society and within the criminal justice system that myths and stereotypes can be properly challenged.

Acknowledgements

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Notes

1. S. Banbury, 'Coercive Sexual Behaviour in British Prisons as Reported by Adult Ex-prisoners', *Howard Journal* 43 (2004): 113; I. O'Donnell, 'Prison Rape in Context', *British Journal of Criminology* 44 (2004): 24.
2. A. Coxell, M. King, G. Mezey, and D. Gordon, 'Lifetime Prevalence, Characteristics and Associated Problems of Non-consensual Sex in Men: Cross Sectional Survey', *British Medical Journal* 318 (1999): 846.

3. S. Sivakumaran, 'Sexual Violence against Men in Armed Conflict', *European Journal of International Law* 18 (2007): 253.
4. See, e.g., G.C. Mezey and M.B. King, *Male Victims of Sexual Assault*, 2nd edn (Oxford: Oxford University Press, 2000); S. Allen, 'Male Victims of Rape: Responses to a Perceived Threat to Masculinity', in *New Visions of Crime Victims*, ed. C. Hoyle and R. Young (Oxford: Hart, 2002), 23; J. Walker, J. Archer, and M. Davies, 'Effects of Rape on Men: A Descriptive Analysis', *Archives of Sexual Behavior* 34 (2005): 69; J. Walker, J. Archer, and M. Davies, 'Effects of Male Rape on Psychological Functioning', *British Journal of Clinical Psychology* 44 (2005): 225.
5. See most recently N. Abdullah-Khan, *Male Rape: The Emergence of a Social and Legal Issue* (Basingstoke: Palgrave Macmillan, 2008).
6. It has recently been claimed that there is 'a small amount of research literature on male victimization': R. Graham, 'Male Rape and the Careful Construction of the Male Victim', *Social & Legal Studies* 15 (2006): 187, 188. Graham's analysis of our current understanding of male rape and its representation in the scholarly literature is poorly researched and ignores work in the fields of law, history, psychology, and medicine. As a result, many of her observations and conclusions rest on outdated research and are either open to doubt or plainly wrong. For analysis of some of her claims, see P.N.S. Rumney, 'Policing Male Rape and Sexual Assault', *Journal of Criminal Law* 71 (2008): 67, 81–2.
7. In a national British study of 2474 males Coxell et al., 'Lifetime Prevalence', found that men who had experience of consensual sex with other men were six times more likely to have been raped or sexually assaulted as adults than males who had not. In an earlier British study of 930 gay men, F.C.I. Hickson, P.M. Davies, A.J. Hunt, P. Weatherburn, T.J. McManus, and A.P.M. Coxon found that a significant number were victims of non-consensual sex. Of those surveyed it was found that 257 (27.6%) men reported that they had been 'subjected to nonconsensual sex at some point in their lives'. Of these, it was found that 45.2% (99) had been anally penetrated, and in another 11 cases (5%) there had been an unsuccessful attempt at anal penetration; 'Gay Men as Victims of Nonconsensual Sex', *Archives of Sexual Behavior* 23 (1994): 281. In a survey of 287 gay men in Vancouver one-third 'had been forced to have sex against their will at least once in their lives'. However, it is not clear from this study whether all these instances of victimisation occurred during adulthood: D.V. Janoff, *Pink Blood: Homophobic Violence in Canada* (Toronto: University of Toronto Press: 2005), 25.
8. See, e.g., Human Rights Watch and International Gay and Lesbian Human Rights Commission, *More than a Name: State-Sponsored Homophobia and its Consequences in Southern Africa* (New York: Human Rights Watch, 2003); Janoff, *Pink Blood*; S. Hodge and D. Cantor, 'Victims and Perpetrators of Male Sexual Assault', *Journal of Interpersonal Violence* 13 (1998): 222, 234.
9. See, e.g., Human Rights Watch, *No Escape: Male Rape in U.S. Prisons* (New York: Human Rights Watch, 2001); Banbury, 'Coercive Sexual Behaviour'.
10. J. Temkin and B. Krahé, *Sexual Assault and the Justice Gap: A Question of Attitude* (Oxford: Hart, 2007), 209.
11. C.N. Kendall, 'Gay Male Pornography and Sexual Violence: A Sex Equality Perspective on Gay Male Rape and Partner Abuse', *McGill Law Journal* 49 (2004): 877, 905.
12. Ibid., 902.
13. Ibid., 908, 915.
14. Home Office, *Crime in England and Wales 2001/2002* (London: Home Office, 2002).
15. S. Nicholas et al., *Crime in England and Wales 2004/2005* (London: Home Office, 2005), Table 7.01.
16. S. Nicholas et al., *Crime in England and Wales 2006/07* (London: Home Office, 2007), 36. Of these offences, 413 involved males aged 16 and over. Additional forms of male sexual victimisation are covered by a range of other sexual offences: ibid., 37.
17. R.J. Hillman, N. O'Mara, D. Taylor-Robinson, and J.R. Harris, 'Medical and Social Aspects of Sexual Assault of Males: A Survey of 100 Victims', *British Journal of General Practice* 40 (1990): 502, 503.
18. G. Mezey and M. King, 'The Effects of Sexual Assault on Men: A Survey of 22 Victims', *Psychological Medicine* 19 (1989): 205, 207.
19. Coxell et al., 'Lifetime Prevalence'.
20. Abdullah-Khan, *Male Rape*, 189.

21. HMCPSI/HMIC, *A Report on the Joint Inspection into the Investigation and Prosecution of Cases Involving Allegations of Rape* (London: HMCPSI/HMIC, 2002), para. 6.20. In a survey by M. King and E. Woollett, men 'found it difficult to give reasons why they had not reported to police. Six were too ashamed, 2 were trying to forget the assault, 2 were too frightened, 1 could not talk about it, and 1 saw no point in reporting', 'Sexually Assaulted Males: 115 Men Consulting a Counselling Service', *Archives of Sexual Behavior* 26 (1997): 579, 585.
22. *HMCPSI/HMIC Report*, ibid. See also P.L. Huckle, 'Male Rape Victims Referred to a Forensic Psychiatric Service', *Medicine, Science, Law* 35 (1995): 187, 190; M. Scarce, *Male on Male Rape: The Hidden Toll of Stigma and Shame* (New York: Insight Books, 1997).
23. S. Sivakumaran, 'Male/Male Rape and the "Taint" of Homosexuality', *Human Rights Quarterly* 27 (2005): 1274, 1291.
24. Hodge and Cantor, 'Victims and Perpetrators of Male Sexual Assault', 231.
25. Abdullah-Khan, *Male Rape*, 189. It was suggested, ibid., 190, by one counsellor that some gay male rape victims may not report their rapes because they feared being arrested 'for the activity that led to the rape as outdoor sex in groups and toilets is illegal for men.'
26. Ibid., 148. While the suggestion that male rape is less reported than female rape is made elsewhere (see Sivakumaran, 'Male/Male Rape', 1289–90), there is no compelling statistical evidence to support such a claim.
27. Abdullah-Khan, *Male Rape*, 150.
28. Ibid., 147.
29. Sivakumaran, 'Male/Male Rape'.
30. Allen, 'Male Victims of Rape', 35.
31. Ibid., 32.
32. Ibid., 32–4.
33. Abdullah-Khan, *Male Rape*, 215.
34. R.E. Funk, 'Queer Men and Sexual Assault: What Being Raped Says about Being a Man', in *Gendered Outcasts and Sexual Outlaws: Sexual Oppression and Gender Hierarchies in Queer Men's Lives*, ed. C. Kendall and W. Martino (New York: Routledge, 2006), 131, 138.
35. P.J. Isely, 'Adult Male Sexual Assault in the Community: A Literature Review and Group Treatment Model', in *Rape and Sexual Assault III: A Research Handbook*, ed. A.W. Burgess (New York: Garland, 1991), 161, 164.
36. Private correspondence from Survivors UK, 8 November 1994 (on file with author).
37. King and Woollett, 'Sexually Assaulted Males, 584.
38. Hillman et al., 'Medical and Social Aspects', 503.
39. Walker et al., 'Effects of Rape on Men', 74.
40. Ibid., 72.
41. Prior to the enactment of section 142 of the Criminal Justice and Public Order Act 1994 (c. 33), non-consensual penile–anal intercourse was classed as buggery, not rape.
42. C. Donovan, M. Hester, J. Holmes, and M. McCarry, *Comparing Domestic Abuse in Same Sex and Heterosexual Relationships* (Bristol: University of Bristol, 2006), 21. The passage of time is clearly an important factor, and in recent years there have been attempts made by the police to improve responses to male rape and sexual assault.
43. Abdullah-Khan, *Male Rape*, 211. This was a positive finding although, as with many other studies, the small numbers make it difficult to draw general conclusions.
44. Scarce, *Male on Male Rape*, 216.
45. Banbury, 'Coercive Sexual Behaviour', 126.
46. Human Rights Watch, *No Escape*, 152.
47. S. Lees, *Ruling Passions: Sexual Violence, Reputation and the Law* (Buckingham: Open University Press, 1997), 94. J. Gregory and S. Lees note the following reason given by a police officer for regarding a male rape victim as unreliable: 'He is described by his friends as very promiscuous', *Policing Sexual Assault* (London: Routledge, 1999), 126.
48. P.J. Isely, 'Adult Male Sexual Assault', 171–2.
49. L. Johnston, 'Homeless Sex Scandal', *Big Issue*, 11–17 September 1995, 11, 15.
50. See, e.g., L. Kelly et al., *A Gap or a Chasm? Attrition in Reported Rape Cases* (London: Home Office, 2005), 293; J. Temkin, 'Reporting Rape in London: A Qualitative Study', *Howard Journal of Criminal Justice* 38 (1999): 17; J. Temkin, 'Plus Ça Change: Reporting Rape in the 1990s', *British Journal of Criminology* 37 (1997): 507.

51. It is not clear from Steve's disclosures why the officer stated that 'in these types of cases it was virtually impossible to get a conviction'.
52. J. Harris and S. Grace, *A Question of Evidence? Reporting Rape in the 1990s* (London: Home Office, 1999), 20–2.
53. There is research showing that males can experience an erection and even ejaculation during sexual assaults by male or female assailants. In their study of 11 males sexually assaulted by women either as children or adults, P.M. Sarrel and W.H. Masters found that 'men or boys have responded sexually to female assault or abuse even though the males' emotional state during the molestations has been overwhelmingly negative – embarrassment, humiliation, anxiety, fear, anger, or even terror', 'Sexual Molestation of Men by Women', *Archives of Sexual Behavior* 11 (1982): 117, 118. See also King and Woollett, 'Sexually Assaulted Males', 587: 'Just under 20% of the men were stimulated by their assailants until they ejaculated.' In a small-scale study of male rape victims and offenders, A.N. Groth and A.W. Burgess found that '[a] major strategy used by some offenders in the assault of males is to get the victim to ejaculate. This effort may have several purposes. In misidentifying ejaculation with orgasm, the victim may be bewildered by his physiological response to the offense and thus discouraged from reporting the assault for fear his sexuality may become suspect. Such a reaction may serve to impeach his credibility in trial testimony and discredit his allegation of nonconsent. To the offender, such a reaction may symbolize his ultimate and complete sexual control over his victim's body and confirm his fantasy that the victim really wanted and enjoyed the rape. This fantasy is also prominent in the rape of females', 'Male Rape Offenders and Victims', *American Journal of Psychiatry* 137 (1980): 806, 809.
54. Scarce, *Male on Male Rape*, 191–2.
55. Abdullah-Khan, *Male Rape*, 133–7.
56. Ibid., 135.
57. Ibid., 134.
58. See Rumney, 'Policing Male Rape and Sexual Assault', 80–5.
59. On a related matter, an examination of arrest patterns in 19 US states found *inter alia* differing arrest rates for male and female same-sex domestic violence, noting that '[t]he offense need not be very serious for an arrest to be made in cases of female same-sex violence', but 'it appears that the commission of a serious offense is needed to make some police officers treat an incident involving a male same-sex couple as a serious criminal matter': A. Pattavina, D. Hirschel, E. Buzawa, D. Faggiani, and H. Bentley, 'A Comparison of the Police Response to Heterosexual Versus Same-Sex Intimate Partner Violence', *Violence against Women* 13 (2007): 374, 388.
60. I. Anderson and K. Doherty, *Accounting for Rape Psychology: Feminism and Discourse Analysis in the Study of Sexual Violence* (London: Routledge, 2008), 97.
61. M.H. Sommer, *Law, Sex, and Society in Late Imperial China* (Palo Alto, CA: Stanford University Press, 2000), 133–4.
62. T. Gillespie, 'Rape Crisis Centres and "Male Rape": A Face of the Backlash', in *Women, Violence and Male Power: Feminist Activism, Research and Practice*, ed. M. Hester, L. Kelly, and J. Radford (Buckingham: Open University Press, 1996), 161.
63. P. Novotny, 'Rape Victims in the (Gender) Neutral Zone: The Assimilation of Resistance?', *Seattle Journal for Social Justice* 1 (2003): 743, 745. For a critical review of this and other claims made by Novotny, see P.N.S. Rumney, 'In Defence of Gender Neutrality within Rape', *Seattle Journal for Social Justice* 6 (2007): 481.
64. L. Rees, *Auschwitz: The Nazis and the Final Solution* (New York: Knopf, 2005), 236–53.
65. Ibid.
66. Ibid., 252.
67. See, e.g., L. Smith, *Forgotten Voices of the Holocaust* (London: Ebury Press, 2005), 178.
68. Abdullah-Khan, *Male Rape*, 123.
69. Ibid., 131.
70. Deputy Commissioner's Command, Directorate of Strategic Development and Territorial Policing, Project Sapphire, *A Review of Rape Investigations in the MPS* (London: Metropolitan Police Service, 2005), para. 4.3. For definitions of 'no crime' and 'not crime', see ibid., 40.
71. Ibid., para. 4.6.
72. See P.N.S. Rumney, 'False Allegations of Rape', *Cambridge Law Journal* 65 (2006): 128, 156.

73. There are a number of questions that arise in the interpretation of these data. It is not possible to know whether the cases that are classified as 'no crime/not crime' are appropriately labelled. Research that examines the 'no crime' of rape complaints suggests that police officers often apply the criteria inappropriately; see Rumney, ibid.
74. Abdullah-Khan, *Male Rape*, 68.
75. See, e.g., D. Finkelhor and K. Yllo, *License to Rape: Sexual Abuse of Wives* (New York: Free Press, 1985), ch. 8; P.N.S. Rumney, 'Progress at a Price: The Construction of Non-Stranger Rape in the *Millberry* Sentencing Guidelines', *Modern Law Review* 66 (2003): 870.
76. Lees, *Ruling Passions*, 94.
77. A. Wakelin and K.M. Long, 'Effects of Victim Gender and Sexuality on Attributions of Blame to Rape Victims', *Sex Roles* 49 (2003): 477, 483.
78. B.H. White and S.E.R. Kurpius, 'Effects of Victim Sex and Sexual Orientation in Perceptions of Rape', *Sex Roles* 46 (2002): 191.
79. D. Mitchell and R. Hirschman, 'Attributions of Victim Responsibility, Pleasure and Trauma in Male Rape' *Journal of Sex Research* 36 (1999): 369. See also K. Doherty and I. Anderson, 'Making Sense of Male Rape: Constructions of Gender, Sexuality and Experience of Rape Victims', *Journal of Community and Applied Social Psychology* 14 (2004): 85.
80. Anderson and Doherty, *Accounting for Rape Psychology*, 95.
81. Abdullah-Khan, *Male Rape*, 143–5. The author found that '[s]eventeen officers felt that male victims suffer greater trauma than female victims, 2 believed males suffer less trauma, 52 believed the trauma levels are the same . . . 18 officers were undecided': ibid., 143.
82. J. Bourke, *Rape: A History from 1860 to the Present* (London: Virago, 2007), 240–1.
83. S. Hite, *The Hite Report on Male Sexuality* (London: Optima, 1981), 749.
84. *Hansard* (HL), 20 June 1994, col. 66.
85. F. Pelka, 'Raped: A Male Survivor Breaks His Silence', in *Rape and Society: Readings on the Problem of Sexual Assault*, ed. P. Searles and R.J. Berger (Boulder, CO: Westview Press, 1995), 252.
86. Anderson and Doherty, *Accounting for Rape Psychology*, 103.
87. See Rumney, 'Progress at a Price'.
88. For discussions of the impact of intoxication on judgments made by mock jurors, see E. Finch and V.E. Munro, 'Breaking Boundaries? Sexual Consent in the Jury Room', *Legal Studies* 26 (2006): 303; P.N.S. Rumney and R.A. Fenton, 'Intoxicated Consent in Rape: *Bree* and Juror Decision-Making', *Modern Law Review* 71 (2008): 279.
89. Negative judgments regarding victim credibility are sometimes a result of the complainant not resisting her attacker or showing little emotion when recounting her victimisation; see Rumney, 'False Allegations of Rape'; Temkin and Kraché, *Sexual Assault and the Justice Gap*.
90. Anderson and Doherty, *Accounting for Rape Psychology*, 62.
91. Ibid., 100.
92. Ibid.
93. Ibid.
94. Ibid., 101.
95. Ibid.
96. H. Eigenberg, 'Male Rape: An Empirical Examination of Correctional Officers' Attitudes toward Rape in Prison', *Prison Journal* 69 (1989): 39, 48–50.
97. M. Davies and P. Rogers, 'Perceptions of Male Victims in Depicted Sexual Assaults: A Review of the Literature', *Aggression and Violent Behaviour* 11 (2006): 367, 371. Recent research suggests evidence of 'erroneous and mythical thinking' about male rape, along with 'some evidence' of homophobia: I. Anderson, 'What is a Typical Rape? Effects of Victim and Participant Gender in Female and Male Rape Perception', *British Journal of Social Psychology* 46 (2007): 225.
98. Sommer, *Law, Sex, and Society in Late Imperial China*, 148–51.
99. Ibid., 132.
100. Ibid., 117–8.
101. Ibid., 150.
102. J. Boyle, *A Sense of Freedom* (London: Pan Books, 1977), 196.
103. Abdullah-Khan, *Male Rape*, 131.
104. Ibid., 135.

105. A. Liptak, 'Inmate was Considered "Property" of Gang, Witness Tells Jury in Prison Rape Lawsuit', *New York Times*, 25 September 2005, http://www.njbullying.org/InmateWasConsideredPropertyofGangWitnessTellsJuryinPrisonRapeLawsuit-NewYorkTimes.htm (accessed 11 March 2009).
106. A former gang member testified that if Johnson refused to comply 'You'll be beaten until you say yes . . . He'd be beaten, stabbed, whatever.'
107. Abdullah-Khan, *Male Rape*, 208.
108. Anderson and Doherty, *Accounting for Rape Psychology*, 100.
109. Bourke, *Rape*, 247.
110. S. Kippax and G. Smith, 'Anal Intercourse and Power in Sex between Men', *Sexualities* 4 (2001), 413, 420, 418 (emphasis in original).
111. D. McGhee, *Homosexuality, Law and Resistance* (London: Routledge, 2001), 75.
112. Anderson and Doherty, *Accounting for Rape Psychology*, 104.
113. Anderson, 'What is a Typical Rape?', 241–2.
114. Article 3 prohibits *inter alia* the infliction of inhuman and degrading treatment.
115. P. Londono, 'Positive Obligations, Criminal Procedure and Rape Cases', *European Human Rights Law Review* (2007): 158.
116. For an example, see Independent Police Complaints Commission, *Report into a Complaint by Geoffrey Vincent Cole against South Wales Police Regarding the Initial Police Actions Following His Alleged Rape and Serious Sexual Assault on 18 October 2005*, Executive Summary, 3–5, 10, http://www.ipcc.gov.uk/coleexecutive_summary_3_7_07.pdf (accessed 17 November 2008).
117. For a discussion of Article 14 as a freestanding right (which, however, requires ratification by the United Kingdom of Protocol 12 to the European Convention on Human Rights), see P.C.W. Chan, 'Same-Sex Marriage/Constitutionalism and their Centrality to Equality Rights in Hong Kong: A Comparative–Socio-Legal Appraisal', *International Journal of Human Rights* 11, nos 1–2 (2007): 33, n. 62.
118. Abdullah-Khan, *Male Rape*, 226.
119. Donovan et al., *Comparing Domestic Abuse*, 20–1.
120. Carol Withey, Senior Lecturer in Law at the University of Greenwich, has created a 'School Project' in which university students go into school classes to explain the law of rape and help pupils better understand the legal consequences of sexual violence.
121. Temkin and Krahé, *Sexual Assault and the Justice Gap*, ch. 5.