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The importance of a specific medico-legal training for health care professionals in the management of sexual assault victims

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ABSTRACT

The World International Organization (WHO) defines sexual violence as "any sexual act, attempt to obtain a sexual act, unwanted sexual comments or advances, or acts to traffic, or otherwise directed, against a person's sexuality using coercion, by any person regardless of their relationship to the victim, in any setting, including but not limited to home and work". This definition includes a very wide range of behaviors. According to the Italian National Statistical Institute (ISTAT), the 31.5% of Italian women are estimated to have been victims of physical or sexual violence during their lifetime. Given the acute nature of sexual assault, emergency medicine providers are the first clinicians to take care of the victim, and care of such patients differs from care of those presenting other kind of trauma and injuries. Healthcare professionals treating victims of sexual assault admitted to Emergency Departments (ED) need to deal not only with clinical priorities, but also with the emotional suffering and anguish characterizing the experience of this type of patients. Furthermore, they can effectively assist the victims in their medico-legal proceedings by documenting injuries and by collecting biological evidence for forensic purposes. In order to avoid discrepancies between the medical report and the reconstruction of the event, it is essential to set up strategies which focus on the technical aspect of evidence collection and on the way the victim's story shall be recorded. Sometimes, indeed, information collected from the victim in the ED are still inadequate or incomplete to determine how the case event should be reconstructed. Such efforts could lead to a better management of sexual assault victims and to a strengthened legal impact of forensic evidence and of the crime reconstruction. For this reason, it is necessary for health structures: to define specific pathways for the victim's management; to adopt homogeneous operational protocols which allow a standardization in the methods of collection and preservation of biological material for forensic-genetic analyses; finally, to provide an adequate forensic training for health personnel in order to ensure that they are competent in the medical reporting and in documenting evidences of the sexual assault. From a forensic point of view this could be crucial, as medical documentation may be used in Court.

Keywords: *Sexual violence, sexual assault, sexual victims, medico-legal training, emergency department*

1. Introduction

The World International Organization (WHO) defines sexual violence as "any sexual act, attempt to obtain a sexual act, unwanted sexual comments or advance, or acts to traffic, or otherwise directed, against a person's sexuality using coercion, by any person regardless of their relationship to the victim, in any setting, including but not limited to home and work" [1]. According to this definition, sexual violence involves a wide range of non-consensual sexual activities, which includes acts with and without vaginal and/or anal and/or oral penetration and acts that involve the use of physical strength or psychological coercion.

According to the Italian National Statistical Institute (ISTAT), the 21% of Italian women, between 16 and 70 years of age, are estimated to have been victims of sexual violence during their lifetime and the 5.4% are estimated to have been victims of more severe forms of sexual violence as rapes or attempted rapes [2]. Sexual assault has important negative consequences on the victim's health, both in the short and long term, representing one of the main causes of morbidity,

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disability and mortality among female subjects. Furthermore, it has negative economic impacts. Despite all this, the phenomenon is still overall underestimated.

Sexual violence is a complex traumatic event that requires a multidisciplinary approach to produce the most efficient evaluation and management of the victim, whose needs are not limited to the clinical and psychological sphere; care should be addressed also to the forensic aspects of sexual assault in order to effectively aid the administration of justice and to guarantee the rights of the woman. Documentation about injuries, medical reports and other problems arising from violence can be used as evidence in Court by the abused woman, should she choose to take a legal action, and lead to an improvement of the prosecution process. Therefore, it is necessary to provide the intervention of different professional figures: clinicians, gynaecologists, psychologists, social workers but also forensic medicine experts.

Given the acute nature of the phenomenon, emergency medicine (ED) providers are the first clinicians to take care of the victim and they have a dual responsibility in the management of this kind of patients. The first one is to provide the victim with the required treatment care, both physical and psychological. The second one is to assist the victim in the management of medico-legal proceedings, through episode's recording, clinical examination, injuries documentation and biological evidence collection for forensic purposes.

2. Undeclared sexual violence

First, the ED staff involved in triage should have the consciousness and the ability to recognize sexual violence even when it is not explicitly declared by the victim. Some studies have shown that women who have experienced violence are more likely than non-abused women to seek health care, even if they do not disclose the violence [3].

There are two different strategies: that of "universal screening", according to which all women accessing ED are routinely asked a question about sexual violence (even if some authors stress the that there is no evidence that routine screening significantly improve the outcomes), and that of "case-finding", according to which this question is asked only to women who present risk factors or symptoms suggestive of violence.

Possible physical indicators that should lead healthcare professionals to suspect sexual violence are for example: skin signs (bruises, scratches, bites, grasping marks) if the abuse was carried out with the help of physical violence; physical symptoms or itching in the genital area; pelvic pain, dysmenorrhoea, sexual disfunction; walking difficulties; torn underwear, sperm or blood traces on clothes or in the vagina and/or rectum; presence of urethral, vaginal and/or rectal foreign bodies; genital and/or anorectal injuries or unjustified bleeding. There are also some behavioural indicators such as: passivity, fear, distrust of people, history of sexual abuse, attention difficulties and anxiety.

In order to recognize these signs and, consequently, to identify undeclared sexual violence, all the ED staff – and especially triage staff –must be adequately trained, but it is just as important to improve their sensitization towards this issue. medical history.

3. Clinical-forensic examination

The competence of ED health personnel in conducting the history taking, the clinical examination and the evidence collection is crucial in order to guarantee a correct management of a victim of sexual assault.

Before collecting the samples for clinical and forensic reasons, it is necessary to subject the patient to a complete clinical examination, that should be performed as soon as possible and anyway within 24 h after the sexual assault. A delay may result in lost therapeutic opportunities (e.g. medical treatment of injuries, prophylactic treatment for pregnancy prevention, empiric treatment for sexually transmitted diseases, vaccination for hepatitis B, preventive treatment for HIV), changes in physical evidence (e.g. healing of injuries), loss of forensic material (e.g. evidence of contact with the assailant including blood and semen).

Healthcare professionals must then record and classify the injuries by photographing or drowning them, because the aim of an objective medical and forensic examination is to describe the health status of the woman and to record the injuries and their consequences.

Several studies suggested that sexual victims benefit from a single health care setting strategy since it results in a lesser psychological and also physical impact: the provision of necessary care (clinical, psychological and forensic) in one location that brings together all the relevant elements would guarantee a minimal mobilization of the victim, the avoidance of unnecessary stress and the minimalization of testimonial mistake and discrepancies [4]. Unfortunately, nowadays the victim often must file a police report on the assault at the police station, seek medical treatment in a hospital ED and, finally, obtain psychological support in an appropriate health care setting.

Different studies [5,6] show that there is sometimes an important discrepancy between the case history (i.e. information derived from the victim's report at the ED) and the laboratory findings (i.e. the detection of the presence of male DNA on collected swabs – vaginal, vulvar and/or rectal). In particular, the study by Tozzo et al. considered processed samples from 122 sexual assault cases: of the 103 cases in which the victim reported penetration and ejaculation, only 67 (55% of all the samples) correlated with a positive feedback match from the laboratory. In the remaining 36 cases (29%) the victim's report was not supported by laboratory data, because no male DNA was found in the samples.

Nowadays the ability to ascertain the presence of male DNA in collected samples is not a problem for forensic

laboratories and it does not depend on the methods of analysis used. It is influenced by other factors, such as the fact that the woman did or did not perform actions that could reduce the probability of finding the aggressor's DNA (like washing her body or changing clothes), and the time elapsing between the sexual assault and the medical examination (as stated before, the victim's clinical examination should be performed as soon as possible, and anyway within 24 h, after the assault in order to avoid the loss of important trace evidence). For the cases in which laboratory results are negative even though the medical examination has been performed within 24 h after the assault, it may be hypothesized that either the victim and/or the physician was inaccurate in reporting the assault. On one hand, the victim's story might be inaccurate or untrue because of the trauma associated with the sexual violence: these victims have suffered a major trauma and an important emotional stress, so it may be that during the interview with the ED staff they fail to mention or alter some details concerning the aggression, either because they are ashamed or because they forgot. It must be considered that the temporary memory loss may also be due to the involvement of rape drugs or to alcohol consumption shortly before the assault. On the other hand, medical reports may be superficial, inadequate or incomplete: despite a large number of international recommendations give indications on these aspects (how to record a complete medical history, how to properly document any injuries, and how to collect evidences), there is still today a lack of consistency in how these guidelines are applied in some hospital. This may be for several reasons, for example healthcare professionals may not be adequately trained or they are often struggle with excessive workload.

These findings suggest that hospital health professional which deal with victims of sexual assault should pay more attention to the method used to interview patients about the episode and also to the method used to record the material collected during the medical examination (i.e. documentation of physical injuries and samples of biological evidences).

In order to avoid discrepancies between the medical reporting and the laboratory findings it is crucial to apply standardized record both for the technical aspects of evidence collection and for the way the victim's story is recorded. Such efforts would lead to a better management of sexual assault victims who entered the ED and have an important legal impact in the crime reconstruction, as they could help to confirm the victim's record about the violence circumstances and sometimes also identify the aggressor. There are two possible strategies to aim this goal: (1) the first one is to involve healthcare professionals specialized in the forensic field, which would be desirable for supporting clinical heath personnel involved in the assistance to the victims in the ED. In case such a specialist cannot be present, especially in smaller and/or peripheric hospitals, (2) it is important that the ED staff components have the competence to respond appropriately to all the victim's need, included the medico-legal aspects. In many countries, health professionals are already adequately trained in collecting medical and forensic evidence to corroborate the victim's report. Unfortunately, in most countries there is still a gap between the needs of the victims and the existing level of health services provided, first the victims are not examined by a forensic expert neither by a specifically trained health care professional. This leads to a misapplication (or non-application) of existing protocols and guidelines and, consequently, to an inappropriate management of the victim in the ED (for example, the victim is subjected to multiple examination by different professionals, instead of one single examination both for medical care and forensic investigation) and to an inadequate or incomplete record of evidence for forensic purpose.

The healthcare personnel's training and increased awareness are therefore essential in order to collect all relevant information to understand what happened and to identify the perpetrator. This specific training needs to be addressed to all the ED staff, including psychiatrists and counsellors.

Once biological samples and clinical documentation have been collected, it is fundamental to establish a chain of custody that guarantees their safety and traceability from the moment they are collected to the moment they are analyzed, protected from any type of manipulation.

Last, but not least, it is also important to improve healthcare staff's sensitization toward the victim's emotional needs, towards the suffering and anguish characterizing this type of patient. To ensure an approach based on empathy, understanding and willingness to listen would maximize the victim's confidence in the healthcare providers and enable to obtain more detailed information, even when the woman is uncooperative.

Unfortunately, the number of publications related to this topic is very low today. Increasing it would improve healthcare professional's sensitization towards these issues and lead to a better management of sexual assault victims and to a strengthened legal impact of forensic evidence and of crime reconstruction. .

4. Concluding Remarks

The management of sexual assault victims in the ED required a multidisciplinary approach that comprises various care providers –clinicians, gynaecologists, psychologists, social workers, forensic medicine experts, police officers.

All ED health care professionals should be provided with a specific training concerning sexual violence, and its medico-legal aspects. Such a training would:

a) give health care workers greater acknowledge and awareness of sexual violence; b) make them more able to detect victims of sexual violence even when undeclared; c)

allow health care operators to provide the most efficient and inclusive evaluation and management of the victim, to produce temporally adequate responses to her needs and to perform intervention and treatments of proven effectiveness; d) guarantee the victims a more gentle and empathic approach.

Heath personnel's training and increased awareness are essential in order to: (1) contribute to the welfare of the victim, significantly improving her future recovery; (2) collect all relevant information required to effectively aid the administration of justice and to guarantee the rights of the woman: documentation about injuries, medical reports and other problems arising from violence may be useful to identify the perpetrator and can be used as evidence in Court by the abused woman, should she choose to take a legal action.

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