Interdepartmental Conference

Abortion : A Case Report of An Abortion Performed Legally Following a Decision of the Abortion Committee with Reference to Section 305 (2)

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Abstract : **We report a 15-year-old woman who presented with an allegation of having been raped, with subsequent pregnancy due to the failure of postcoital emergency contraception. This case demonstrates a medicolegal perspective of how to approach the raped case and how to be safe for both the patient and the doctor to participate in an abortion legally. The management of sexually transmitted disease and termination of unwanted pregnancy is documented as well as the patient's psychological reactions in coping with the incidents.**

เรื่องย่อ : การทำแท้งอย่างไรให้ปลอดภัยทั้งผู้ป่วยและแพทย์

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รายงานผู้ป่วยหญิง อายุ 15 ปี มีประวัติของการถูกข่มขืนกระทำชำเรา ผู้ป่วยรายนี้ได้รับการตรวจรักษา ได้รับการเก็บตรวจวัตถุพยานที่ใช้เป็นพยานหลักฐานในการดำเนินคดี รวมทั้งได้รับการตรวจสืบค้นทางห้องปฏิบัติการเพื่อตรวจหาภาวะการติดเชื้อจากการมีเพศสัมพันธ์ และต่อมาเกิดภาวะตั้งครรภ์อ่อน จึงได้รับการทำแท้งเพื่อหยุดสภาวะการตั้งครรภ์ที่เป็นผลสืบเนื่องจากการถูกกระทำชำเราอย่างถูกต้องตามมาตรฐานทางการแพทย์และอย่างถูกต้องตามกฎหมาย รายงานนี้จึงเป็นตัวอย่างที่ดีในการนำเสนอแนวทางการปฏิบัติ และแนวทางการรักษาต่อผู้ป่วยอย่างครอบคลุมทั้งทางด้านนิติเวชศาสตร์ ด้านสูติ-นรีเวช และด้านจิตวิทยา ซึ่งเป็นแนวทางการดูแลรักษาผู้ป่วยตั้งแต่แรกภายหลังการถูกข่มขืนกระทำชำเรา การติดตามรักษา และการทำแท้งเมื่อเกิดภาวะการตั้งครรภ์ที่ไม่พึงประสงค์

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INTRODUCTION

Rape is a crime of sexual violence affecting thousands of women each year.[1] The reported incidence of rape has shown a steady increase throughout the last decade.[2] However, it is one of the most underreported crimes in Thailand. The reasons are varied, such as the victim's feelings of guilt, embarrassment, fear of police involvement, fear of retaliation, and the expectation that reporting the incident would be futile. Also, the social stigma traditionally associated with sexual assault makes it difficult for many victims to discuss it. According to the law, women and female children have only been the primary victims of rape or attempted rape and men the primary assailants of the crime.

CASE REPORT

A 15-year-old women was sent to Siriraj Hospital by the police in order to be examined for evidence of sexual assault. She accused a man of kidnapping her, keeping her for 12 days, and forcing her to have vaginal intercourse without her consent, several times a day for 9 days, prior to presentation. The last incident of nonconsensual sexual intercourse was 1 day before presentation. She had never had an underlying disease, a smoking history, a drug use, and a consensual sexual intercourse before this incident. She had never had a boy friend. Her last menstrual period was about three weeks earlier and had lasted for 3 days. Physical examination revealed normal temperature, pulse rate 88/min regular, good consciousness, normal growth and development, no evidence of trauma or marks of injury, normal cardiovascular and respiratory systems and a normal abdominal appearance. Urinary analysis was normal. A urine pregnancy test gave a negative result. Her gynecological examination demonstrated a normal urethra, normal vaginal mucosa, normal vaginal discharge, no lacerated wounds, a closed cervical os with no cervical lesion seen, no tenderness of the adnexae, and a free culdesac. Laboratory investigation showed that a wet smear displayed no sperms, no white blood cells, and a few epithelial cells. Then, she was given some medications for postcoital emergency contraception and prophylactic antibiotics.

During the next three days (the first next official day) she was sent to the Forensic Medicine Department and the Family Planning Section for reevaluation and further investigations. Her blood test showed a negative VDRL, negative HIV antibody status, negative HBs Ag and blood group O. She was scheduled for follow-up her menstrual status at a following month and repeating the blood test at three months. On the a-month follow-up day her urine pregnancy test showed a positive result and gynecological examination showed a curd-like vaginal discharge, a closed cervical os, a congested and soft cervix, and a slightly enlarged and soft uterus, normal adnexae with a free cul-de-sac. Her pregnancy size was confirmed by ultrasound which displayed a 7-week sized pregnant uterus. The abortion committee considered her case during the next 2 weeks noting her intention not to keep the baby. The committee approved the case for performing a legal abortion. She was admitted to hospital for 2 days and was undergone pregnancy termination. She was discharged and followed up two weeks later when gynecological examination showed normal conditions. Sections from the uterine curettage showed trophoblastic villi with decidua. Blood test at 3 months showed a non-reactive VDRL and a negative HIV.

DISCUSSION

In a case of alleged rape, the physician's responsibilities are to provide medical care and evidential recovery for legal purposes. The first concern is always the medical care of the victim, thereafter the retrieval and preservation of forensic evidence is paramount as this material may be critical for the elimination of a suspect, identification of the assailant, and the prosecution of the case. The medical responsibilities include treatment of any immediate medical needs, any trauma involved, prevention and treatment of any possible venereal disease or pregnancy, and adequate follow-up for counseling to reduce emotional trauma.

Forensic Medicine Approach

The phrase "sex crimes" normally encompasses a variety of sexually related or sexually motivated crimes such as rape, incest, sodomy, obscenity, public nudity, child pornography and battery. Different acts constitute different crimes. Also, each country specifically defines the categories of sex crimes. Therefore, the legal requirements may vary somewhat from country to country. In Thailand, the Thai Penal Code Section 276 classifies one type of sex offense as first degree rape as follows ; *whoever has sexual intercourse with a woman, who is not his wife, against her will, by threatening, by any means whatever, by doing any act of violence, by taking advantage of the woman being in the condition of inability to resist, or by causing the woman to mistake him for the other person, shall be punished with imprisonment of four to twenty years and fine of eight thousand to forty thousand baht.* Accordingly, the elements of the crime will be (1) having penile vaginal intercourse, (2) with a woman who is not his wife, (3) against her will and without her consent, and (4) by threatening, by any means, by doing any act of violence, by taking advantage of the woman being unable to resist, or by causing the woman to mistake him for another person. To convict a defendant, each element of the crime must be proven for a judge. However, the individual who is alleged to have committed such crime is innocent until proven guilty and the case against the defendant must be proven beyond a reasonable doubt as well.

To link the suspect to the crime and to develop the prosecution's case, all forensic evidence, including physical evidence, biological evidence, trace evidence and medical evidence has to be collected properly and adequately and examined precisely without any negotiations. Proper collection of evidence provides not only medical care for the victim but also hope for legal recourse against the perpetrator. Thus, the first physician who performs examinations following alleged sexual crimes must know the legal definition of such crimes as well as the time limits for detecting the evidence of sexual assault when conducting an examination. Also, the victim has a right to be examined and investigated by a medical doctor in order to retrieve all the evidence present on her body which will be collected, preserved, tested and released to law enforcement authorities. Therefore, prior to obtaining her consent and proceeding with an evidentiary examination, the victim's rights must be understood and ensured.

If possible, the process of examination should be done by a specialist, forensic physician, due to the need of special skills for examining the body, recovering the evidence, and interpretation of the laboratory reports. However, in case of an initial medical doctor being not a forensic specialist and the chance to get the specialist at that time being impossible, the doctor should do his/her best regarding examining the body, retrieving the evidence, submitting the evidence to the laboratory, and then transferring the victim to a specialist at the earliest opportunity. In addition, they should know the legal definition of rape, especially the definition of penile vaginal intercourse, which is just the penetration between the hymen, not actually the whole penetration into the vagina, and understand the basic principles of the forensic analysis.

In this case, where a forensic specialist was involved, the victim's physical examination showed normal growth and development both physically and mentally, with no evidence of trauma or injury. The genital examination revealed no wound in the genital or surrounding area with normal vaginal mucosa and discharge, and a normal sized uterus but with a recent tear of the hymen at 5 o'clock. The posterior fornix and the vaginal aperture area, which was an area between labia minora and labia majora, were swabbed to detect spermatozoas and acid phosphatase, a component of seminal fluid. All the swabs taken by the first doctor and the specialist were analyzed. The results showed that the tests for spermatozoas were negative and acid phosphatase tests were also negative. Based on the information gathered, the forensic practitioner deduced that there was sufficient evidence to show that the victim had sexual intercourse at the time with in accordance with the period when the alleged offence came about.

There is a limitation of time for successful detecting biological evidences, spermatozoa present in the vagina for up to 7 days and acid phosphatase for 3 days after vaginal intercourse. Moreover there are other factors hindering the detection of their

presence such as oligospermatozoa, infertility, release outside the woman's vagina, thorough cleansing of the inside of the vagina, no ejaculation, or condom use, etc. In this case neither spermatozoa nor acid phosphatase of the assailant were found in the swabs taken from both inside and outside the vagina of the victim. However, for thorough penile penetration of the vagina to take place, the penis must first pass between the labia minora and through the hymenal opening. Partial and complete lacerations of the lower margin of the hymen are considered to provide confirmatory evidence of previous penetration of the hymen[3], which is four times more common in the younger women[4]. Hymenal ruptures do not appear to reunite and thus will always remain apparent as partial or complete lacerations[5], although they may be partially concealed by the effects of estrogenization[6]. Conversely, postpubertal females can experience penile vaginal penetration without any hymenal deficits due to hymenal elasticity[3,7]. Thus, the trace of the body evidence, hymenal tear, in this 15-year-old victim was strong enough to prove the penetration.

As a consequence of being raped, the victim became pregnant and asked for an abortion. The abortion committee of Siriraj Hospital, consisting of the head of the Department of Obstetrics and Gynecology, the head of the Department of Forensic Medicine, the head of the Department of Psychiatry, the physician responsible for the patient reporting the case to the committee, the head of the Family Planning Division, and a social worker of the Division, considered whether the therapeutic abortion would be legal. The decision was made based on the history of the sexual assault, the pregnancy size which was consistent with the history given, the documentation demonstrating that the patient had reported the case to the police, and the law. According to the Thai Penal Code under the mode of offences of abortion, Section 301 says that *"Any woman causes abortion for herself, or allows the other person to procure abortion for her, shall be punished with imprisonment not exceeding three years or fine not exceeding six thousand baht, or both."* Section 302 also says that *"whoever procures abortion for a woman with her consent, shall be punished with imprisonment not exceeding five years or fine not exceeding ten thousand baht, or both. ....."* However, there are exceptions for performing abortion without any guilts. Due to the optional law, Section 305 says that *"if the offence mentioned in Sections 301 and 302 be committed by a medical practitioner, and (1) it is necessary for the sake of the health of such woman: or (2) the woman is pregnant on account of the commission of the offence as provided in Section 276, 277, 282, 283 or 284. The offender is not guilty."* Consequently, the committee decided to allow her to have an abortion in accordance with Section 305 (2). The doctor as well as the patient was legally able to participate in an abortion in this case and the patient was discharged safely without any complications.

Obstetric and Gynecological Management

The short and long term sequelae of rape are complex. Psychologically, rape has been identified as a significant risk factor for post-traumatic stress disorder and physical health problems including non-genital trauma, sexually transmitted disease (STD), and pregnancy. Laboratory samples should be obtained at the initial visit and should include testing for pregnancy, syphilis, hepatitis B and human immunodeficiency virus (HIV) infection.[8,9,10,11] Treatment should address physical injuries, pregnancy prophylaxis, STD prophylaxis and psychosocial sequelae.

The risk of acquiring a sexually transmitted disease is difficult to access. The VDRL test should be taken at the first visit and repeated within 4 weeks. Prophylaxis for STD should be offered to all victims and should cover infections with neisseria gonorrhea, chlamydia trachomatis and syphilis. Current recommendations include ceftriazone (250 mg intramuscularly) followed by doxycycline (100 mg twice daily) or tetracycline (500 mg four times daily) for 7 days. If the patient is allergic to cephalosporins, spectinomycin 2 g intramuscularly may be used.

The potential for rape – related HIV transmission has become an increasingly important concern for rape victims and their care providers. Although, theoretically, the risk of HIV transmission during rape is presumed to be very low, victims are nonetheless fearful. An HIV test should be obtained immediately and repeated at 6 and 12 months.

Approximately 5% of fertile rape survivors will become pregnant.[8] Options include awaiting the next menstruation, repeating the serum pregnancy test in 1-2 weeks and postcoital emergency contraception. Emergency contraception can help reduce unplanned pregnancies, many of which result in unsafe abortion and take a large toll on women's health. A number of oral contraceptive regimens, known as the Yuzpe method, were approved in 1997 by the Food and Drug Administration for use as postcoital emergency contraception. Two tablets of a combination oral contraceptive (each containing 50 µg of ethinyl estradiol and 0.5 mg norgestrel) are administered immediately followed by two more tablets 12 hours later.[12,13] The regimen is effective if it is administered within 72 hours after sexual intercourse with only a 2% failure rate. The major mechanism is inhibition or delay of ovulation. Others include alteration of the endometrium, sperm penetration and tubal motility.[14] Due to the quantity of estrogen in these compounds, nausea and vomiting remain major side effects which are reported in 50% and 20% respectively.[14]

The diagnosis of the victim's pregnancy had been made at follow-up day which was 5 weeks after the patient had had a negative urine pregnancy test result at the first examination. Transabdominal ultrasonography revealed the pregnancy to be consistent with conception during the period of sexual assault. This was most likely an established pregnancy that was too early to detect at the first examination, but it is possible that it was a result of emergency contraception failure.

The patient was counseled concerning termination of pregnancy which was approved by the Abortion Committee of Siriraj Hospital. She was admitted and prepared for termination of pregnancy by dilatation and curettage the next day. 600 µg misoprostol was applied to the posterior fornix for cervical priming and dilatation prior to uterine curettage.[15] Uterine curettage was done without any complications. The tissue obtained was sent for pathological diagnosis and revealed normal trophoblastic villi with decidua. The patient was discharged the next day and provided with appropriate follow-up care.

Psychological Management

Psychological Reaction to Rape

There are several factors affecting the psychological reaction to rape. These include previous personality of the victim, the severity of the assault - both physical and psychological, place of the assault and availability of appropriate help and support afterward.

Rape is an extremely severe physical and psychological attack on a person, resulting in a condition similar to post – traumatic stress syndrome called "rape trauma syndrome". The psychological trauma caused by a sexual assault can be severe and long - lasting. These are some of the most common responses of sexual assault victims.

1. Shock and disbelief. The victim may feel numb and dazed, withdrawn and distant from other people. She may want to forget about what happened and avoid people or situations that remind her of the assault.

2. Remembering what happened and what it felt like. The victim is preoccupied with thoughts and feelings about the assault. There may be unwanted memories or flashbacks and nightmares. She may re - experience sensations and feelings during the assault, such as fear and powerlessness.

3. Intense emotions. Many survivors experience intense emotions in the aftermath of a sexual assault. She may feel very angry, anxious or depressed.

4. Physical symptoms. Some common physical symptoms include sleep disturbances, headaches, stomachaches, difficulty concentrating, changes in sexuality such as loss of desire or avoidance or sexual situations.

5. Feeling fearful. Survivors often become fearful of people, places and situations where remind them of the assault.

6. Self – blame and shame. Because of misconceptions about rape, victims may blame themselves, doubt their own judgement, or wonder if they were in some way responsible for the assault. These feelings are often reinforced by negative reactions of others around them. Some victims feel dirty, devalued and humiliated.

7. Each person is different - it takes time to feel better. Although many victims experience similar reactions, there are individual differences in how they respond to the trauma of rape. They may experience some or all of these symptoms. They may occur immediately, or there may be a delayed reaction weeks or even months later.

Psychological Reactions to Abortion

Researchers investigating post - abortion reactions report only one positive emotion : relief. This is understandable since the majority of aborting women report feeling under intense pressure to "get it over with". Temporary feelings of relief are frequently followed by a period of "numbness" in which the aborted women are unable to express or even feel their own emotions.

On average there is a ten-year period of "denial" during which women who were traumatized by their abortions will repress their feelings.

Women at high risk for "post - abortion syndrome" are those who :

(i) Feel pressured into having the abortion, or

(ii) Feel uncertainty or ambivalence about their choice.

(i) Feeling Pressured into an abortion. This includes women who feel pressured to choose abortion to comply with the needs or wishes of others, by coercion, threat or withholding of love or approval. Lack of emotional support to keep a pregnancy may be experienced as a form of pressure forcing a woman to choose abortion. In addition, pressure from adverse circumstances, such as financial problems, being unmarried, social problems, or health problems may also make a woman feel she is being forced to accept abortion as her only choice.

(ii) Mixed feelings about the abortion. The source of the woman's doubt may result from either conflicting moral views about abortion, or from a conflicting desire to keep the baby.

Post - Abortion Syndrome

Because so many people may be psychologically, emotionally and spiritually scarred by abortion, it is not possible to give a complete list of potential effects of abortion.

These are some psychological reactions of abortion survivors :

- depression, worthlessness, guilt, loss of interest, loss of self-esteem, self-hatred, suicidal thoughts or preoccupation with death.
- insomnia, nightmares
- anger, hostility, physical aggression
- inability to bond with own children, child abuse, over - protectiveness, discomfort around babies, obsession with babies
- despair, helplessness, hopelessness
- drug and alcohol abuse, self destructive behavior
- promiscuity, frigidity, impotence, divorce
- eating disorders such as anorexia/bulimia nervosa
- post - abortion crisis on anniversary of the abortion

CONCLUSION

We have reported a case of rape with its consequence, pregnancy. The patient was given appropriate care and management attending to her medical needs and evidentiary recovery for her prosecution proceeding using combined forensic medical, obstetrical and gynecological, and psychological approach and management in order to get the best results for both the patient and the doctor.

Comment

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Abortion has been a very challenging medical problem for the law, society, cultures, and medical ethics. In many countries, there are no taboos for performing abortion but in some countries, there are strict regulations concerning legal abortions. In Thailand, a legal abortion can be performed under only 2 conditions where are (1) for the sake of the woman's health and (2) for the woman's pregnancy as a consequence of an offence as provided by Section 276, 277, 282, 283 or 284. At the present time there is a demand for amendment the associated law in order to extend the conditions under which a legal abortion may be performed to the woman's mental health and the fetus's health as well. The case demonstrated is a good example of allowing a legal abortion with the approval of the abortion committee.

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