



Disponible en ligne sur

ScienceDirect
www.sciencedirect.com

Elsevier Masson France

EM|consulte
www.em-consulte.com



LITERATURE REVIEW

Comparative sexology: Nonconsensual insemination in the United States and the European Union



C.M. Cusack

Adjunct Faculty, Criminal Justice, Institute for the Study of Human Services, Health, and Justice, Nova Southeastern University, 3301, College Avenue, 33314 Fort Lauderdale, United States

Available online 3 December 2013

KEYWORDS

Comparative;
Nonconsensual
insemination;
Withdrawal method;
Consent;
Condom

Summary Little research exists about nonconsensual insemination or related topics, including reproductive coercion, breach of sexual consent agreements, intentional failure of withdrawal method, and intentional disease transmission. Researchers should incorporate intentional sabotage of withdrawal method into inquiries about reproductive coercion, and further study how sex partners intentionally transmit diseases. Healthcare and sex educators should promote condom-use while screening withdrawal method users for nonconsensual insemination. Healthcare providers should increase the attention given to youth, immigrants, and other vulnerable populations. Because of governments' interests in reducing unintended pregnancy and sexually transmitted diseases, systemic changes ought to be implemented. These changes could include increased criminalization of nonconsensual insemination, inclusion of nonconsensual insemination in domestic violence legislation, and increased sensitivity and training among police and healthcare providers. Police and legislators should especially focus on accepting victims' credibility and identifying males and homosexuals as victims of nonconsensual insemination, sexual assault, and domestic violence.

© 2013 Elsevier Masson SAS. All rights reserved.

Literature review

Understanding about the act and effect of nonconsensual insemination is lacking. Nonconsensual insemination is a broad term that may encompass a variety of violations between sex partners. In general, the term refers to a sexual violation whereby one partner fails to withdraw from sex prior to causing insemination against the other partner's

consent (Cusack, 2013a). It implies that one partner specified his or her wish to conclude sex prior to insemination, but the other partner intentionally failed to comply. Consent for penetration may have been conditioned upon withdrawal prior to insemination, or withdrawal of consent may have occurred during intercourse when one partner asked another to stop intercourse before insemination occurred. Nonconsensual insemination may be involved with or be a form of Intimate Partner Violence (IPV).

For several decades, American understandings of sex have failed to protect victims from sexual violation sufficiently (RAINN, 2009). Sexist attitudes, rape supportive

E-mail address: CarmenMercedesCusack@hotmail.com

attitudes, victim-blamming attitudes, sexual shame, and procreation-driven understandings of sex are some of the problematic components of US society's approach to sexual violations (Istanbul Convention, 2013; Pancake, 2012; Ward et al., 1992). For years, rape was ignored, then the prosecution of date rape was questioned, intimate partner violence was undermined, and only now is reproductive coercion in the US being studied, though it is not directly outlawed (ACOG, 2012; ACOG, 2013). Nonconsensual insemination may be a sexual violation that connects with these other historically ignored violations and remains under-studied and possibly under-reported.

Nonconsensual insemination could result in reproductive consequences for male and female victims. Females could become pregnant and forced to deal with pregnancy or abortions. Reproductive coercion might be common enough in the United States (US), Europe (EU), and around the world, that greater inquiries should be made into the link between unprotected sex and coercion; and whether policies within the US and EU should begin specifically to condemn or outlaw nonconsensual insemination as a form of reproductive coercion (ACOG, 2013). In a preliminary online survey about nonconsensual insemination, males and females tended to report that they had committed nonconsensual insemination and been victimized by partners of the opposite sex (Cusack, 2013a). Neither male nor female victims had reported victimization to law enforcement or healthcare providers (Cusack, 2013a). Respondents reported healthcare providers had never screened them for nonconsensual insemination, even though respondents had also been victims of IPV (Cusack, 2013a). All male respondents and most female respondents stated that they believed that nonconsensual insemination is "wrong" (Cusack, 2013a). It is unknown whether this moral perspective developed as a result of nonconsensual insemination or after it; or whether the men knew that nonconsensual insemination was wrong before they did it. This should be further studied. The reasons men nonconsensually inseminate partners may mirror rationales for committing other crimes, like nonconsensual disease transmission or IPV.

Laws do not sufficiently protect victims of nonconsensual insemination. Reproductive coercion, which consistently correlates with intimate partner violence, is not specifically banned in the US or EU. It is condemned in the EU, but nonconsensual insemination has not been routinely banned throughout Europe as a tactic for reproductive coercion (WHO, 2013). In the US, many criminal statutes discuss the violative nature of unwanted ejaculation and the criminal component of forcing a person to become pregnant (§ 720 ILCS 5/11-1.30, 2013; R.R.S. Neb. § 28-318, 2012). However, these statutes are virtually ignored in discussions about unprotected sex that place the responsibility of avoiding nonconsensual insemination onto the victim.

People might distinguish between intimate partner violence or reproductive coercion and nonconsensual insemination by claiming that victims who voluntarily have unprotected sex assume the risk of insemination; or that partners should automatically be entitled to cause insemination following consent for initial penetration (Cusack, 2013b). However, numerous laws oppose these ideas by providing protection for victims who withdraw consent during intercourse or by specifying that consent for some sexual

activity does not grant unfettered consent for all sexual activity (Cusack, 2013b; *People v. Roundtree*, 2000). If partners specifically agree that penetration and insemination are separate sex acts, then when partners intentionally and non-consensually cause insemination, the additional penetration and insemination should be treated as violative sex acts.

Reproductive coercion of men by female partners is severely under-studied despite limited and anecdotal evidence that it occurs (Cusack, 2013a). Female partners may elicit consent for unprotected sex by agreeing to conclude penetration prior to insemination (Cusack, 2012; Higdon, 2011). When females force men to inseminate them, they may also coerce men into becoming reproductive partners (Cusack, 2012; Higdon, 2011). Men could be forced to participate in child rearing financially, emotionally, and socially, for a number of years (Higdon, 2011).

Victims are not required by law to protect themselves by using prophylactics, and unfortunately, society typically holds men strictly liable for impregnation despite victimization (Higdon, 2011). Attitudes that portray men as unconditionally interested in sex and women as passive recipients of sexual advances could limit reporting of victimization by male victims (Cusack, 2013a; Herbert, 2006). These attitudes could influence victims, healthcare providers, or members of the criminal justice system (Brady et al., 2009). Though reporting may not alleviate men of their legal duties to unintended offspring, it could hold female offenders responsible for violations.

Erroneous correlations between consent, condom-use, and rape seem to be typical of American society (Cusack, 2013b). Condom distribution is prohibited in US prisons (Housing Works, 2011). Twenty-five percent of the HIV-positive population living in the US has been incarcerated, and the rape rate in US prisons among men is 10% (Housing Works, 2011). This figure, which is closer to 16% of all US women who have been sexually assaulted than the 1–3% of US men, demonstrates that men in prison are being raped at higher rates and are at greater risk for HIV (Housing Works, 2011; RAINN, 2009). Yet, men are still not given condoms (Housing Works, 2011; Klopott, 2012). Since prisoners are not permitted to have sex, condom distribution would undermine the prohibition against sex, but these policies disregard prison rape (Housing Works, 2011; RAINN, 2009).

Sexual partners may intentionally transmit diseases in order to control their partners, or may recklessly ignore partners' desires to avoid disease transmission. Numerous laws in nations throughout the EU and jurisdictions within the US prohibit intentional or reckless transmission of HIV or other diseases without informed consent (Cusack, 2013b; Low et al., 2013). In contrast to US laws, which are relatively new and sparse, some regulations of sexually transmitted diseases (STD) in Europe date back to centuries (Giuliani, 2000). These laws stand for the proposition that transmission ought to require knowledge and voluntarism (Cusack, 2013b). STD laws demonstrate society's interest in protecting females and males from nonconsensual insemination because of the harm that can occur, e.g. involuntary STD transmission.

People may mistakenly associate a victim's orgasm with consent. In many US jurisdictions, offenders' ejaculation is not an element of rape (Hawaii Revised Statutes (HRS) § 707-700, 2013; N. Y. Stat. § 130.00, 2013; *State v. Stephen*

Download English Version:

<https://daneshyari.com/en/article/343113>

Download Persian Version:

<https://daneshyari.com/article/343113>

[Daneshyari.com](https://daneshyari.com)