

Sex offenders found not guilty by reason of insanity: clinical and legal characteristics

Sex offenders dichiarati non imputabili per infermità mentale: caratteristiche cliniche e legali

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Abstract

Sexual offenders constitute a diversified group with mixed specifics, motive and criminal acts. Significant evidences in research suggest that these offenders suffer from large proportions of psychiatric disorders, along with psychotic disorders, mood disorders, paraphilic disorders and Substance Use Disorders. It has been recently ascertained considerable percentages of personality disorders among sex offenders as well: borderline/narcissistic/antisocial. This is a cross-sectional study in which we included all the patients admitted in the 8 REMS in Castiglione delle Stiviere from January 2009 to December 2018 sentenced for sexual offenses. The result of this study is that most of individuals found NGRI for a sexual offense have a psychotic disorder as a primary diagnosis. The majority of our sample was known by the local mental health services, even if the proportion of whom were not known was high.

Keywords: Sex offenders, NGRI, psychiatric comorbidity, sexual risk management.

Riassunto

I sex offender rappresentano un gruppo eterogeneo di autori di reato con motivazioni varie. Le evidenze scientifiche suggeriscono che questi autori di reato, in larga parte sono affetti da disturbi mentali. Fra di essi disturbi psicotici, disturbi dell'umore, disturbi parafilici e disturbi da uso di sostanze e, del tutto recentemente, disturbi di personalità, fra cui in particolare, disturbo borderline, narcisistico ed antisociale di personalità. Il presente studio è trasversale: abbiamo incluso tutti i pazienti ammessi nelle 8 REMS di Castiglione delle Stiviere da gennaio 2009 a dicembre 2018 per aver commesso reati sessuali. Lo studio ha dimostrato che la grande maggioranza dei sex offender con vizio totale di mente erano affetti da un disturbo psicotico. Per lo più si trattava di pazienti già noti ai servizi psichiatrici, sebbene fosse alta anche la percentuali di quelli sconosciuti.

Parole chiave: Sex offenders, NGRI, comorbidità psichiatrica, gestione del rischio.

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Sex offenders found not guilty by reason of insanity: clinical and legal characteristics

1. Introduction

Sexual offenders constitute a diversified group with mixed specifics, motive and criminal acts. Significant evidences in research suggest that these offenders suffer from large proportions of psychiatric disorders, along with psychotic disorders, mood disorders, paraphilic disorders (Scarpazza, Camperio Ciani, Ferracuti, 2020) and Substance Use Disorders (SUD) (Abracen et al., 2000; Peugh et al., 2001; Looman et al., 2004; Dunsieath, et al., 2004).

It has been recently ascertained considerable percentages of personality disorders among sex offenders as well, with a predominance of borderline, narcissistic and antisocial (Carabellese et al., 2008; Carabellese, Vinci & Catanesi, 2008; Campobasso et al., 2009; Schroeder et al., 2013; Chan et al., 2015).

Studies that evaluated the relationship between serious mental disorders and sexual offending in men and in women showed that male sexual offenders compared to male general population have higher probability to have a psychotic or a bipolar disorder (Fazel et al., 2007) and that female sexual offenders had higher probability to have a psychotic disorder or a SUD (Fazel et al., 2010). Subjects with a psychotic disorder were four times as likely to be arrested compared to general population for any sexual offence and the risk of arrest increased when psychosis was in comorbidity with personality disorders or with SUD (Alden et al., 2007).

The influence of comorbid schizophrenia and antisocial personality disorder (ASPD) on sexual violence has been described as a display of antisocial personality rather than psychosis or aberrant sexual attraction per se (Brennan et al., 2000; Hodgins, 2008). Other than psychotic acute symptoms, negative symptoms and secondary features can be relevant to the risk of sexual offending. For example, individuals with psychosis frequently face avolition, cognitive and emotional disfunctions (Scardaccione, Fontanella, Gravelli, 2018), isolation, stigmatization, unfulfilled intimacy needs, impediments with housing and inactivity (Moulden and Marshall, 2017).

Few studies have explored historical, diagnostic and legal characteristics in sex offenders found not guilty by reason of insanity (NGRI). Novak et al (2007) found that sex offenders NGRI had an high percentage of psychotic disorders (57%) or paraphilia (21%) as a primary diagnosis, a very high proportion of SUD (74%) as a comorbidity and that those who offended against children were older at the time of perpetrating the offense, less likely to have a diagnosis of schizophrenia or schizoaffective disorders and more likely to be Caucasian compared to who offended against adults.

Recently Holoyda et al. (2018) compared a group of sex offenders found NGRI for a sexual crime with one of sex offenders NGRI convicted for a non-sexual crime. The two groups did not diverge in their demographics, clinical, victim specifics or risk recidivism, but those found NGRI for a sexual offense were older at the time of first offense and had fewer prior sentences (in total and sexual offences). The authors assumed that sexual offenders found NGRI are less antisocial than those found NGRI for a non-sexual offense. Finally, Looman et al. (2013) evaluated recidivism among a group of sex offenders and discovered that having a story of psychiatric disorders resulted as the solely main indicator of reoffending, after controlling for actuarially assessed risk.

In Italy we were not able to find data on NGRI sex offenders, thus the objective of this study is to evaluate demographic, clinical and legal characteristics of a group of NGRI sex offenders admitted in forensic psychiatric facilities (REMSs, Residences for the Execution of Security Measures).

In fact within the past decade in Italy a series of decrees has resulted in transferring the responsibility for treating NGRI acquittees and “dangerous” mentally ill inmates from the Department of Justice to the Department of Health, and their treatment from Italy’s high security forensic psychiatric hospitals (OPGs) to community regional facilities (REMSs – Residences for the Execution of Security Measures), community mental health facilities, located in each region of Italy.

Today the REMSs provide the treatment and management of socially dangerous offenders (Carabellese et al., 2016; Gualtieri et al, 2020; Mandarelli et al, 2019).

Consistent with the international literature we hypothesized that sexual offenders found NGRI would have a high rate of psychotic disorders (schizophrenia and schizoaffective disorder), given that would be particularly hard for a person committed for sexual offences to prove in tribunal that he/she was totally or partially “incapable of understanding and wanting” (incapace di intendere e di volere).

2. Method

2.1 Sample and study setting

This is a cross-sectional study; we included all patients (males and females) admitted in the 8 REMSs in Castiglione delle Stiviere from January 2009 to December 2018 sentenced for any sexual offense.

This group consists of individuals found NGRI and

deemed dangerous to society. The REMSs' catchment area includes the population of Lombardy Region, approximately 10 million inhabitants. We investigated a database of electronic clinical files of all patients, data were anonymized. Demographic, clinical and legal information are gained as a routine at admission and during the stay. Given the scarcity of data on the phenomenon of sexual offending in women we have included the few cases found.

2.2 Variables

We considered for all NGRI sex offenders these variables: Primary diagnosis at first assessment; Presence of SUD; Types of offenses; Victim characteristics; Mean age at first admission. For those who have been discharged at the collection census date we examined also the type of Discharge and the Median Length of Stay.

2.3 Data sources

All patients were given clinical diagnosis on first discharge according to Diagnostic and Statistical Manual of Mental Disorders IV Version Text Revision (DSM-IV-TR). The following psychiatric diagnoses at first assessment were investigated: Schizophrenia Spectrum Disorders (SSD) (DSM-IV-TR: F20-F29); Mood Disorders (MD) (DSM-IV-TR: F30-F39); SUD (DSM-IV-TR: F10-F19), Personality Disorders (PD) (DSM-IV-TR: F60), Learning Disability (LD) (DSM-IV-TR: F70-F79), Organic disorder (OD) (DSM-IV-TR: F00-F09). SUD was defined as a primary diagnosis or as a comorbidity because of the findings in literature and because of SUD are the most important risk factors of interpersonal violence in general population (Fazel et al., 2018).

The offense types at admission were divided in Lewd and Lascivious Offense; Rape or Attempted rape; Murder. The victim characteristics were individuals under 18, adults or both, further differentiated in Familial Status: intra-familial, extra-familial or both.

2.4 Results

Participants

Between 2009 and 2018, 48 males and 6 females were admitted at the REMSs of Castiglione delle Stiviere for any sexual offence. In this sample, compared to studies on forensic populations (independently from type of offences) in other western countries (Tully, et al., 2019) there is a lower but significant percentage of ethnic minorities (19% Not-Caucasian ethnicity). The demographic, clinical and legal characteristics of the sample (52 individuals) are shown respectively in **Table 1**, **Table 2** and **Table 3**.

		Sex Offenders n (%)
Gender	Male	46 (88%)
	Female	6 (12%)
	Total	52 (100%)
Ethnicity	Caucasian	42 (81%)
	Non-Caucasian	10 (19%)
	Total	52 (100%)
Education	Primary education	8 (15%)
	Secondary education	21 (40%)
	Terziary education	4 (8%)
	Data not available	19 (37%)
	Total	52 (100%)

Table 1. Demographic characteristics of 52 sex offenders admitted in the REMSs of Castiglione delle Stiviere between January 2009 and December 2018

Primary diagnosis and Substance Use Disorders

The primary diagnosis was SSD in 50% of cases, PD in 33%, LD in 7%, MD in 6%, OD in 4% and in one case (a female) were not found mental disorders. SUD was present (as a primary diagnosis or as a comorbidity) in 37% of cases.

In 46% of cases there was no previous history of psychiatric disorders, thus the individual was not known by the local mental health services (**Table 2**).

		Sex Offenders n (%)
Gender	Male	46 (88%)
	Female	6 (12%)
	Total	52 (100%)
Primary diagnosis	Schizophrenia Spectrum Disorders	26 (50%)
	Mood Disorders	3 (6%)
	Substance Use Disorders	0 (0%)
	Personality Disorders	16 (31%)
	Learning Disability	4 (7%)
	Organic Disorder	2 (4%)
	Non-mental disorders	1 (2%)
	Total	52 (100%)
Substance Use Disorders	Yes	19 (37%)
	No	33 (63%)
	Total	52 (100%)
Previous psychiatric history	Yes	28 (54%)
	No	24 (46%)
	Total	52 (100%)

Table 1. Demographic characteristics of 52 sex offenders admitted in the REMSs of Castiglione delle Stiviere between January 2009 and December 2018

Types of offences

In 85% of cases was committed a Rape (art. 609 bis c.p. – Italian penal code) or Attempted rape (art. 609 bis c.p.), in 13% Lewd and Lascivious acts (art. 527 c.p.), while 1 male (2%) committed serial rapes and murders (art. 609 bis c.p. and art. 575 c.p.) (Table 3).

		Sex Offenders n (%)
Types of offences	Rape or Attempted rape	44 (85%)
	Lewd and lascivious	7 (13%)
	Murder	1 (2%)
	Total	52 (100%)
Discharge (44 individuals)	Conditional discharge in psychiatric facilities	21 (48%)
	Conditional discharge at home	1 (2%)
	Transfer to other REMS	4 (9%)
	Absconding	2 (5%)
	Transfer to prison	9 (20%)
	Repatriation	3 (7%)
	Release	3 (7%)
	Home detention agreement	1 (2%)
	Total	44 (100%)

Table 3. Legal characteristics of 52 sex offenders admitted in the REMSs of Castiglione delle Stiviere between January 2009 and December 2018

Discharge

85% (44) of this sample of sex offenders were not in REMS anymore at the collection census date. Of those 48% was discharged on probation in psychiatric facilities and 2% at home monitored by the local mental health service, 20% was transferred to prison and 9% to other REMS of competence (other Italian Regions), 5% escaped from the REMS, 7% was repatriated, 7% was released for revocation of the security measure because the risk of re-offending was deemed not anymore present, 2% obtained a home detention agreement (Table 3). Nobody who was discharged was readmitted for having committed a new crime at the collection census date.

Length of stay and age at admission

Since the average age at admission was 41,5 years, this group of NGRI sex offenders was younger compared to other studies (Holoyda, et al., 2018). The median length of stay in REMS was 14,4 months, and even if we considered more properly only individuals who were discharged after a treatment (excluding transfer to prison, to other REMS and absconding) the median length of stay was 25,4 months.

Victim characteristics

In 17% of cases the victims were under 18 years old and in 15% of cases were relative of the offender (Table 4).

Victim characteristics		Committed for sexual Offense n (%)
Age	Under 18 years old	9 (17%)
	Adult	43 (83%)
	Both	0 (0%)
	Total	52 (100%)
Familiar Status	Extrafamilial	44 (85%)
	Intrafamilial	8 (15%)
	Both	0 (0%)
	Total	52 (100%)

Table 4. Victim characteristics of 52 sex offenders admitted in the REMSs of Castiglione delle Stiviere between January 2009 and December 2018

Discussion

This study had the primary aim to highlight demographic, clinical and legal characteristics of an Italian sample of NGRI sex offenders. We did not find other studies on this topic in Italy.

Key results and Interpretation

The key result of this study is that most of individuals found NGRI for a sexual offense have a psychotic disorder as a primary diagnosis. According to the international findings the majority of persons found NGRI have a primary psychotic disorder diagnosis without regard to sexual offender status and no matter the individual was found NGRI for a sexual or non-sexual offense (Stinson and Becker, 2011; Holoyda et al., 2018).

The majority of our sample was known by the local mental health services before the sexual offense, even if the proportion of whom were not known was high (46%).

A specific risk factor for sexual offending is the presence of paraphilic disorders, whose prevalence rates differ significantly throughout studies because of divergences in proportion among populations, as well as varying diagnostic criteria and research approaches. We were unfortunately not able to evaluate for all the offenders the presence of paraphilic disorders due to the difficulty of exploring sexuality in this group of patients and the lack of an authorized sexual offender assessment tool in the REMSs. So we managed to recover the expert reports. We obtained 55% of the all expert reports, of which about 40% had a diagnosis of paraphilic disorders, most (70%) along with a primary diagnosis of SSD and other 30% with a PD.

Previous research suggests that paraphilic disorders are common among sexual offenders who have serious mental disorders in forensic facilities. Holoyda et al. (2018) in

their sample found that the sex offenders who had a primary paraphilic disorder diagnosis were either found NGRI because of the symptoms of a paraphilic disorders or that progressively the paraphilic disorders evolved into the main center of the treatment. Even if the paraphilic disorders might not completely explain the perpetrated crime, in the long run it usually turned in the fundamental core of the therapy. In addition the interaction between paraphilic disorders and serious mental disorders (SSD, MD, LD, OD) have been scarcely investigated and should be thoroughly evaluated the effects that psychotic symptoms (primary and substance-induced) had on paraphilic symptoms. Significant comorbidity between psychotic disorders and paraphilic disorders in sex offenders NGRI suggested that both the disorders need treatment (Holoyda et al., 2018). Hence one of the main issues regarding the sex offenders in the REMSs of Castiglione delle Stivere is that the treatment of those patients is focused on the severe psychiatric disorder rather than the paraphilia, when they both coexist. It is important to point out that in Italy an offender convicted for a sexual crime and diagnosed primarily with paraphilic disorders is more likely to be deemed “capable of understanding and wanting” (capace di intendere e di volere) thus detained in prison and treated as part of special programmes for sexual offenders (Carabellese et al, 2020) rather than being considered NGRI and interned in a REMS.

We also detected high proportion of PD as a primary diagnosis and the presence of SUD as a comorbidity, coherently with previous research showing the same results in groups of sex offenders in forensic facilities and in prisons (Alish et al., 2007; Van der Kraan et al., 2014). It is likely that both PD and SUD are risk factors for sexual offenders who are admitted as NGRI.

Finally, we found that the median length of stay of sex offenders discharged after the reduction of the risk of recidivism from these REMSs was inferior compared to the generic forensic population, according to the international data (Fazel et al. 2016). No one of the discharged patient was readmitted in the REMS for a new crime at the collection census date, however it would be critical to monitor the clinical and legal situation of this group of patients in the long term.

Limitations

This study has some important limitations. First, the data were obtained retrospectively from an historical cohort, so we were unable to assess for all of them important clinical factors such as: diagnosis of paraphilias (according to DSM-IV-TR: F65), secondary diagnosis, personality traits, different types of illegal substance use, adherence with medication, re-hospitalization in psychiatric wards, social support which might be considerably relevant to offenders with mental disorders (Grann et al., 2008).

Conclusion

Sex offenders NGRI in forensic facilities are a diversified group of persons with different unlawful records and diagnoses. The majority have a primary diagnosis of a psychotic disorders, high proportion of personality disorders and comorbid substance use disorders, all of whom are risk factors for reoffending. Use of internationally validated instruments for sexual offender risk assessment and management should be adopted routinely as an important support to form a structured professional judgment. Recognition of the individual's motive for brutality is critical to better focus risk management and treatment to the individual sexual violence risk factors.

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