

Gynecological Examinations for Social and Legal Reasons in Turkey: Hospital Data

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Aim. Women in Turkey are subjected to gynecologic examinations not only for legal reasons, such as sexual assault or violence against pregnant women, but also for various social reasons, such as suspicions of premarital intercourse, prostitution, loss of virginity, and pregnancy at the time of entering into a new marriage. The examinations are performed by general practitioners, forensic physicians, and gynecologists. This study presents social reasons for gynecologic examinations of women in Turkey.

Methods. We analyzed the reasons for gynecologic examination of 412 women at the 1st Obstetrics and Gynecology Department, Sisli Etfal Training and Research Hospital, between January 1, 1999 and June 30, 2001.

Results. Out of 27,376 women at the Department, 412 (1.5%) underwent gynecologic examination for social or legal reasons: 82 (19.9%) for entering into a new marriage, 41 (10.1%) for violence against pregnant women, 28 (6.7%) for sexual assault, 53 (12.8%) for suspicion of prostitution, and 208 (50.5%) for the determination of virginity.

Conclusion. Gynecologic examinations for legal or social reasons in Turkey are still rather common. Medicolegal regulation of gynecological examinations should be changed to protect women's human rights.

Key words: forensic medicine; gynecology; human rights; legislation; prostitution; rape; spouses; trauma; Turkey; virginity

General practitioners, forensic physicians, and gynecologists in Turkey are required to perform gynecologic examinations of women for various legal and social reasons, such as alleged sexual assault, suspicion of prostitution, violence against a pregnant woman, pregnancy determination before entering into a new marriage, and proof of virginity (1). The aim of this study was to assess the proportion of gynecologic examinations carried out at a state hospital in Turkey for different legal and social reasons, and specifically to explore legal grounds for virginity examinations.

Methods

Setting

Sisli Etfal Training and Research Hospital, founded in 1847, is located in a very crowded district of Istanbul, a city with a population of 15 million. It is the second greatest state hospital in Turkey, with a capacity of 1,000 beds and three Obstetrics and Gynecology Clinics. Many gynecologic and obstetric examinations at the hospital are performed at the request of state officials for legal and social reasons.

This study was carried out at the 1st Obstetrics and Gynecology Clinic between January 1, 1999, and June 30, 2001. Each woman had given informed consent to undergo gynecologic examination and agreed to be included in the study. A nurse was always present during the examination.

Legal and Social Reasons for Gynecologic Examination

Gynecologic examination of a woman before entering into a new marriage included pregnancy test, gynecologic examina-

tion, and pelvic ultrasonography. Also, a detailed medical history was taken from each woman.

Examination of a pregnant woman victim of violence included gynecologic examination and ultrasonography, after medical history taking. Such women were hospitalized for at least 48 h and received appropriate therapy when indicated.

In cases of suspected sexual assault, a detailed medical history was taken and gynecologic examination performed. The vulva and the perineum were evaluated for signs of any external traumatic lesions, and specimens from the posterior vaginal fornix were taken for the presence of sperm in cases of suspected rape. Psychological and psychiatric support was also provided to these women (2).

In cases of suspected prostitution, specimens were taken from the posterior vaginal fornix and sent immediately to the bacteriological laboratory for sperm detection.

In virginity examinations, the status of the hymen was evaluated for any signs of physical rupture.

Results

During the study period of two and half years, a total of 27,376 women underwent gynecologic examination at the 1st Obstetrics and Gynecology Clinic. Among them, 412 (1.5%) women were examined for legal or social reasons. Of these, 366 (88.8%) women were of Turkish nationality and 46 (11.2%) were non-Turkish.

Among the women examined for the legal or social reasons, 12 (2.9%) were 11 years old or younger, 48 (11.6%) were between 12 and 15, 121 (29.4%)

Table 1. Reasons for legal gynecological examinations in relation to years and nationalities of the examined women

Reason for gynecologic examination	No. of gynecologically examined women according to their nationality						Total
	1999		2000		first half of 2001		
	Turkish	non-Turkish	Turkish	non-Turkish	Turkish	non-Turkish	
New marriage	18	11	23	8	15	7	82
Violence against pregnant women	16	0	19	0	6	0	41
Sexual assault	8	2	10	3	4	1	28
Suspected prostitution	15	4	18	7	6	3	53
Virginitiy	78	0	86	0	44	0	208
Total	135	17	156	18	75	11	412

were between 16 and 18, and 231 (56.1%) were 19 or older. The age range was 6-45 years.

Gynecologic examinations (Table 1) were performed for the following reasons: pregnancy evaluation before entering into a new marriage (82 or 19%), violence against pregnant women (41 or 10%), sexual assault (28 or 7%), suspicion of prostitution (53 or 13%), and virginitiy examination (208 or 51%).

The most common gynecologic examination of Turkish women for social reasons was virginitiy examination (208 or 57% of Turkish women examined).

The most common legal or social reasons for demanding gynecologic examinations for non-Turkish women were sexual assault (6 or 13%), suspicion of prostitution (14 or 30%), and new marriage (26 or 57%).

There were no pregnant women among those examined before entering into a new marriage.

Examinations of 41 pregnant women showed that 34 (82.9%) were beaten by their husbands. In 37 of them (90.2%), there were no maternal or fetal complications found, but four women (9.8%) had spontaneous abortions.

Discussion

Gynecological examination of a woman before entering into a new marriage has no medical grounds whatsoever but only social. According to the Turkish Civil Code (3), the husband is not responsible for the baby born within the first 180 days of marriage or within 180 days since the first sexual intercourse with his wife. Also, if the baby was born 300 days after the divorce or death of the husband, it cannot belong to the ex-husband. Therefore, a divorced or widowed woman cannot remarry before 300 days have passed from the divorce or death of her husband. The women can remarry earlier only if the evidence that she is not pregnant is obtained from a physician and approved by the court. Out of 82 women examined upon this request, 56 were Turkish and 26 were non-Turkish citizens. The reason for such a high number of non-Turkish women is that many women from the Eastern European countries have come to Turkey in the recent years with the intention to marry Turkish men and stay in the country. If these women were recently divorced in their own countries, they have to prove that they are not pregnant before entering a new marriage in Turkey.

The examinations to detect any trauma in a pregnant woman have both medical and judicial grounds. Besides traffic accidents and falls from height, vio-

lence is one of the most frequent causes of trauma in pregnant women (4-7). Turkish Criminal Code (8) states that if a person causes premature birth of a live child due to a trauma, the person will be imprisoned for 2 to 5 years. If a pregnant woman aborts her baby or losses her fertility due to violence against her, the person responsible for the violence will be imprisoned for 5 to 10 years. However, these sentences apply to intentional violence only. If the trauma was unintended, the sentence is lessened.

It is interesting that even though the acts of violence committed against these pregnant women by their husbands were denounced to the juridical authorities by their relatives, friends or neighbors, the women usually gave statements on behalf of their husbands. Domestic violence, especially against women, is a serious social problem in Turkey.

In cases of sexual assault, the Turkish Criminal Code (8) distinguishes between the act of rape, a case where the sexual intercourse was realized, and the attempt of rape, where the sexual intercourse was attempted but the vaginal penetration did not occur. In the case of rape, sperm can be generally found in the vagina, whereas in the case of attempt, no sperm is found. In our practice, we look for the evidence of the sperm in the vagina but we do not examine the clothes of the victim. Because of uncoordinated evidence collection, neither the clothes of the victim and perpetrator nor the crime scene can be examined satisfactorily and synchronally. The technical procedures in our country are well developed, but there is no coordination among the authorities and no well-organized units of policemen, psychiatrists, gynecologists, and forensic physicians, which would comprehensively and appropriately deal with such cases (9,10).

The examination of a woman suspected of prostitution is very important from the view of public health because of sexually transmitted diseases. This reason for gynecological examination is legally grounded. According to the Turkish law system, women are not allowed to have sexual intercourse for money unless they have legal work permissions (11). Therefore, if a woman is suspected of prostitution, authorities can demand a gynecologic examination (12).

After the fall of communism, many women from the Eastern European countries came to Turkey for the reasons of prostitution (13-15). The measures taken by the authorities to prevent it seem to be unsuccessful. Of 53 women suspected of prostitution who were examined in our study, 14 (26.5%) were from the Eastern European countries. From the legal point of

view, if no sperm was found in the specimens taken from the vaginal fornices (83.9% of cases in our study) in gynecological examination because of suspected prostitution, no sexual intercourse occurred. However, the absence of sperm in the examined specimen does not prove that the intercourse never happened (16,17).

Even though Turkey has a special place in the Islamic world, with its secular system, social values, and religion, it has unfortunately restricted women's freedom and especially their sexuality. Virginitiy is still considered a sign of sexual pureness and represents the honor of a woman and her family (18). Premarital female virginitiy is considered such an important social value that it may lead to serious problems, crime or blood feud if a newly married girl is found not to be a virgin (18). This social norm is so strong that it has influenced the law and remained in it for 70 years (3,8).

Virginitiy examinations in Turkey are performed at the request of state officials or individuals in cases of alleged sexual assault, suspected premarital intercourse, prostitution, and behavior considered immoral. Such examinations constitute a significant portion of gynecologic examinations due to legal reasons, as reflected in our study where 208 out of 412 cases evaluated were virginitiy examinations.

Although there are no laws in Turkey that directly regulate or explicitly state the reasons for such examinations, several articles of the Turkish Criminal Code and normative legal interpretations of this code offer legal background for such a practice. Turkish Criminal Code states that, "Where such offences have caused the passing of a disease to the victim, or a serious impairment of the victim's health or physical disability or defect of the victim, the punishment shall be increased by one half" (8). Since rupture of the hymen is considered to be an irreversible "physical defect", this law is used as a legal justification of virginitiy examinations. Another routinely used article No. 423 (8) involving this shameful concept states that whoever removes the virginitiy of a girl younger than age 15 years with a promise of marriage will be sentenced to 6 months to 2 years in prison. The imprisonment of a man convicted for such a crime may be postponed if he marries the woman (1,3,8). However, he will be imprisoned if he deliberately divorces the woman within the 5 years after marriage.

The legal regulations these examinations are based on are heavily criticized. In 1992, the Turkish Medical Association stated: "It is our conviction that virginitiy control, that is defined as an assault to the woman's sexual identity, not only lacks a legal basis but also has no ethical aspects to it" (19). In addition, the Izmir Chamber condemned the virginitiy examinations as "an assault to the bodily and mental integrity of the person" (20). Despite these statements, physicians have continued to perform these examinations for social reasons. It is clear that they have been under social pressure linking the female virginitiy, defined as an intact hymen, with the honor of a woman, her family, and society as a whole. Furthermore, Turkey has signed various documents on international human

rights standards, such as the European Convention on Human Rights (21), the Convention on the Elimination of All Forms of Discrimination Against Women (22), and the International Covenant on Civil and Political Rights (23). Considering these conventions, in January 1999, Ministry of Health, Ministry of Justice, and Ministry of State, which are responsible for the implementation of human rights, banned the practice of virginitiy examinations except in a case of sexual assault (24). According to this decree, no authority has the right to demand virginitiy examinations of girls over the age of 18 since they, by the Turkish Civil Code, have reached the age of discretion. Request for virginitiy examination of a girl younger than 18 has to be approved by a judge. Virginitiy examinations have not been performed since January 1999, which is an important step for Turkey if it wants to have a place in the contemporary world.

In conclusion, although the situation may be improving, there are still many disputable aspects concerning the legally requested gynecologic examinations. Therefore, official authorities are trying to prepare up-to-date legal regulations that would be in accordance with human rights. We hope that our medicolegal practices and investigations will soon be done only and primarily by international and contemporary standards.

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