

Criminal Law News



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Contents -

Criminal Law News
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Analysis of R v H [2014] EWCA Crim 1555
-pp 2-26



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Analysis of *R v H* [2014] EWCA Crim 1555



Picture: *United Kingdom's Supreme Court*. Source: Google

Hasty conviction 'up north'

1. This is an analysis proposing *laissez faire* approach to investigating child sex abuse in the North of England, United Kingdom, without reference to any governance policies; statutes; protocol; disclosure and much more. This is occurring within families, and this paper and this specific case law of a young, well-liked, hard-working, senior General Medical Practitioner, destroyed through hearsay, ignorance about mental illness and officials walking through the law 'as if they owned it', with no care for human rights or dignity, on the say-so of a very mentally ill youth who imagined her good father doing bad things to her and on the hearsay of an alleged confession made by one mentally ill youth allegedly to another mentally ill youth whilst both were incarcerated in a long-stay mental institution.

2. This paper seeks to warn of the consequences of lack of careful and diligent respectful following of the criminal laws in haste to arrive at a conviction. This paper well illustrated government agencies back-footing and using their might to change regulations so as not to be found wanting at some future time when this case returns to haunt them. There is a saying in England, “*You can run, but you cannot hide*”.
3. Expert² evidence is admissible only if it provides the court with scientific information likely to be outside the experience and knowledge of a judge or jury. In other words, expert evidence will be restricted to that which in the opinion of the court is necessary to assist the court to resolve the proceedings.³ The idea that a young girl’s father had sexual intercourse with her and therefore cause her to become psychotic and a diagnosed schizophrenic *must not be tolerated* and is the reason for Dr Stephen Hamilton’s very lengthy imprisonment, a sentence more befitting a convicted murderer.
4. There is abounding evidence of real sex offences caused to youth who do not become psychotic and schizophrenic. As Thomas Szasz stated, the controversy about mental illness still rages, and the nature of controversy is still stubbornly misunderstood because mental health professionals and lay persons alike seem to fail too understand that mental illness is not a disease brought on by someone, something or genetics, but that if mental illness is misbehaviour, then it is behaviour, not disease.¹

¹ See Stasz, T.S., (1961) *The myth of mental illness: foundations of a theory of personal conduct*, New York: Hieber-Harper. See also, Szasz, T. (1989) *Law Liberty and psychiatry*, United States: Syracuse University Press.

This case must be urgently referred to the Criminal Appeals Review Commission

5. It has become apparent that this appeal decision is flawed. This appeal (Case No 2013 03235-B2) against the decision by HH Judge Mansell, QC, at Manchester Crown Court (Case T20127444) goes to criminal court procedure. This case has the background of a bitter divorce case and in the course of time, the child of the family, now no longer under 16 years of age, revealed to a schoolchild who herself allegedly suffered sexual abuse, that her father, Dr Stephen Hamilton, a senior medical General Practitioner at GP Surgery at 2 Lucy Street, Manchester, aged 43 at the time of her revelation, had committed sex offences against her. The friend allegedly told the police. Dr Stephen Hamilton was arrested and charged with 3 counts of cruelty to a person under 16, 6 counts of rape of a child under 13 and 3 counts of sexual assault of a child under 13. He was convicted and sentenced to a total of 18 years imprisonment.

Expert witness evidence in the case of *Stephen Hamilton v The Queen* [2014]¹

6. Expert² evidence is admissible only if it provides the court with scientific information likely to be outside the experience and knowledge of a judge or jury. In other words, expert evidence will be restricted to that which in the opinion of the court is necessary to assist the court to resolve the proceedings.³ This case must be urgently considered by the Criminal Appeals Review Commission as it becomes apparent that this court of appeal decision is flawed, not surprising when one considers the mountain of miscarriages of justice in the United Kingdom criminal justice system.

7. This appeal (Case No 2013 03235-B2) against the decision by HH Judge Mansell, QC, at Manchester Crown Court (Case T20127444) goes to criminal court procedure. This case has the background of a bitter divorce case and a mother, also a medical doctor, who was abusing alcohol use and using anti-depressants whilst herself also practicing as a general medical practitioner. In the course of time, the older of the two children in this dysfunctional family who sought to self-medicate to solve their older child's mental illness, now no longer under 16 years of age, but diagnosed a severely ill schizophrenic, revealed to another mentally ill youth incarcerated at a long-stay mental institution, that her father had allegedly raped her after hearing from the other girl that her father had raped her. The 'friend' allegedly told the police.

8. Dr Stephen Leonard Hamilton, who was a senior partner at Heaton Medical Centre in Lucy Road, appeared in court to face 14 charges of raping a child under the age of 13; administering a poison or noxious substance; three counts of cruelty to a person under 16, six counts of rape of a child under 13 and 3 counts of sexual assault of a child under 13. He was tried in Manchester Crown Court, was convicted and sentenced to a total of 18 years imprisonment, judge Mansell presiding.²

² Editor, 'GP faces 14 child rape charges', *The Bolton News*, 19 June 2012. See also Editor, 'Doctor jailed for sex offences launches bid to clear his name', *Manchester Evening News*, 12 June 2014.



Judge Mansell QC. Source: Google.

The daughter of the Appellant, anonymised as X

9. Although the ‘victim’ was anonymised as X, all the local newspapers revealed Dr Hamilton’s medical practice address, his photograph and his full name. After Dr Stephen Hamilton was convicted and imprisoned for 18 years and his unsuccessful appeal the General Medical Council *struck off* Mrs Hamilton, Stephen Hamilton’s ex-wife, herself also a medical doctor, for bringing shame on the profession, having been charged with the repeated road traffic offence of driving whilst drunk. It is even easier to identify this youth and her family, all lives now in total ruins.



Picture- Heaton Medical Centre where Dr S Hamilton was a senior partner. Source: Google

Timeline to this serious criminal case against Dr Hamilton

1. Dr H is the father of X. Dr H's wife was also a medical doctor. Dr & Mrs H have two daughters X and a younger daughter.
2. 2011; November: X first tells her mother, Mrs H, of sexual abuse by Dr H, her father. X is 15 years old.
3. 2007: X said sexual abuse started.
4. 2007: Mother of X, Dr H's wife, also a doctor, said X became ill.
5. 2007: Mother of X, Mrs H, said she took X to a General Practitioner and then to hospital consultants.
6. 2007: Mother confirmed that X's hospital consultants advised treatment from psychiatrist and appointment followed.
7. 2007: X missed 1st appt. with Psychiatrist.
New appt. made.
X missed 2nd appt.
New appt. made.
X missed 3rd appt.
8. 2007: Dr H tries to convince mother of X, Mrs H, also a medical doctor, to take X to child psychiatrist. Appointment made but X did not attend because neither Mrs H nor daughter X wished to attend a psychiatrist.
9. 2007: Dr H wrote out doctor's prescription for anti-depressants including Citalopram.
10. 2008: February & March: Dr H asked X to take the prescription medicine Escitlopam instead of the prescription Citalopram.
11. 2008, January: Mother of X, a doctor herself, was also using prescription antidepressant medicine Citalopram prescribed by her husband, Dr H.
12. 2008, July: Dr H, X, X's mother, Mrs F and X's sister, Miss H holidayed in Egypt.
13. 2009, January: X said that sexual abuse stopped. X was 13.
14. 2009, February: H leaves the marital home.
15. 2009, March: X's mother and Dr H were divorced.
16. 2010, October: X hospitalized in a psychiatric hospital for nearly one year to October 2011.
17. 2010, October: X was asked by one of the hospital's medics to draw her timeline but included nothing about sexual even though this, is true, would have been a major trauma for four years. Note that X is a daughter of two medical doctors, so is not malnourished, neglected, or lacking any comfort and privileges as would a half-starved child from a poor council estate with inadequate clothes, food, heat or hobbies.
Note that X frequently "TRASHED" HER BEDROOM and all the furniture in her bedroom, which Dr H had to have replaced at much financial cost to him.
Note that X enjoyed holidays abroad.
Note that Dr H's wife left Dr H to cope with X's tantrums.
Note that Dr H's wife at the time was abusing alcohol.
Note that the prosecution could find no other witnesses to call except for the interested party, Dr H's
Note that X was the first patient of a trainee psychiatrist, Dr Lauren McKeown.
18. 2011, January: It is now 2 years since Dr H left the marital home.
19. 2013: At trial, no psychiatrist would tell the court their diagnosis of X (patient confidentiality, judge said). This is a farce. Therefore no real medical evidence was heard at trial at **Manchester Crown Court**. Trial **Judge Mansell** summed up at Manchester Crown Court.
20. 2013: Dr H was convicted and received an 18-year prison sentence.
21. 2014: Dr H appealed on the point of law that judge wrongly *disallowed the Defence Expert Witness' evidence of Dr Janet Boakes (three reports) and by stating that X had recovered her memory during counselling.*
22. 2014: Appeal case heard in London. Louise Blackwell, QC for the Crown, stated that Dr Janet Boakes' reports were mere commentary because she had not interviewed X. She was not allowed to interview X. No other family member ever saw or heard this sexual abuse taking place
The prosecutor called only two witnesses- X's mother and X's sister.
Mother of X, said she noted an odd relationship between X and her father, in conflict.
Mother of X also had violent relationship with X.
X had been violent to her mother and mother, a medical doctor, had in turn been violent to X.
X was "anorexic".
X often screamed at both parents, both medical doctors.
X did not keep her bedroom clean and tidy.
X was aware that her mother, a medical doctor, was abusing alcohol.
It is not known if X also was abusing alcohol in this affluent family, where money was not scarce.
X spent much time in her bedroom of her own volition.
When police arrested Dr H, they did not seize the daughter's computer to see if she was viewing Pornography or buying illegal drugs or if she had a sexual boyfriend. No investigation was made as to whether X was having a sexual relation with another juvenile during this time.
No school reports on X's behaviour were submitted to the court to show that X was not doing homework and failing assignments and perhaps consuming alcohol at school.
X barred mother and Dr H and sister from her bedroom.
No inspection was done to find out if X was abusing drugs or alcohol or what she was doing on the her computer.
Mother of X heard much banging as X trashed her bedroom on occasion and sister of X confirmed X's violent outbursts.

Legal defence team for Dr H called several witnesses to the trial

One defence witness was medically qualified.

A second defence witness who was a long-standing friend;

A third defence witness was a medical patient of the doctor, Dr H.

A fourth witness is the spouse of another of Dr H's medical patients.

The daughter of the family, daughter of the Appellant, anonymised as X

Although the 'victim' was anonymised as X, all the local newspapers revealed his photograph and his medical practice and its address. When the General Medical Council struck off Mrs H, a doctor also, for repeated drunk driving, it was even easier to identify this youth and her family, now in total ruins.

Case illustrates loopholes in English criminal law

This paper uses this caselaw *H v R* as a vehicle to illustrate the loopholes that might have been used by law enforcement and the prosecutor and the court to valiantly strive for a conviction, instead of valiantly striving for the absolute truth, however complex or unpleasant it might have turned out to be.

Youth conduct disorder

Putting aside emotional reactions to this case, as reported officially, we are reminded of youth conduct disorder which this crown court trial and appeal at the Royal Courts of Justice in London was completely and significantly *silent* on, and which the writer contends is the *crux* of this case, and not the technical matters of '*expert witnesses*'. The official view on '*youth conduct disorder*' is as follows:-

'Conduct disorders are characterised by a repetitive and persistent pattern of anti-social, aggressive or defiant behaviour. Young people with conduct disorder may exhibit excessive levels of fighting or bullying, cruelty to other people and to animals, severe destructiveness to property, repeated lying, unusually frequent and violent temper tantrums, and defiant provocative

behaviour. The behaviours that are associated with conduct disorder major violations of age-appropriate social expectations and are more severe than ordinary childish mischief or adolescent rebelliousness. The diagnostic criteria for conduct disorder are similar but not identical to anti-social personality disorder’.

Conduct disorder during childhood and adolescence

According to the International Classification of Diseases (ICD 10) (WHO 1994) and DSM-IV (APA 1994) diagnostic criteria), conduct disorder usually occurs during childhood or adolescence, whereas anti-social personality disorder is not diagnosed in people under the age of 18.

This is early onset conduct disorder

Furthermore, according to ICD-10 and DSM-IV criteria, any diagnosis should distinguish between early-onset (symptoms present at age 10) and late-onset conduct disorder (absence of symptoms before age 10).

The diagnostic criteria are also similar to oppositional defiant disorder (‘ODD’), which according to ICS-10 usually occurs in younger children and ‘does not include delinquent acts or the more extreme forms of aggressive or dissocial behaviour (WHO 1994). ODD is generally seen as milder than, and a risk factor to developing conducts disorder.

***H v R*: Further reading recommended**

A serious and diligent study of the case report of *H v R* immediately brought the 20 texts listed as recommended further reading to mind. This case immediately reminded the writer of a very sad and serious set of events, the Cleveland child abuse scandal of 1987, which occurred in Cleveland, England, UK, almost three decades ago, in which a young female doctor incorrectly diagnosed a baby with child sex abuse which led to all the children in the particular village being examined and diagnosed with having been sexually molested and all the children, like the story of the *Pied Piper*, were wickedly

removed from their parents' homes, fostered and adopted. Those young children who had been put up for adoption, the law has been interpreted, cannot return to their innocent parents because a piece of paper states that they now belong to another couple.

2014-immediate rule changes; Cleveland miscarriages had no such legal changes

Just as the way that the UK brought in immediate change of criminal procedure rules concerning expert evidence after Dr Hamilton's case in 2014, the Cleveland miscarriages of justice cases of wrongful charges of sex abuse could have brought immediate legislation passed right then to enable those Cleveland children to all be reunited with their their genetic families.

How stupid is the law that stops a parent from having a child returned when the fault lay with incompetent social services. Why was no-one sacked or charged for gross negligence, distress, and upheaval and destruction of these families?

It was said that those children who had already been adopted were not reconciled with their families because it was too later as they were now legally children of other people-adopted – and therefore too late to mend the broken vessels that constituted that community when years later, with much zeal, heart-ache and cost, these diagnoses were proved wrong.

Breach of Dr Hamilton's article 6 European Convention on Human Rights

This case can be seen as an abuse of a man's Human Rights as per Article 6 of the European Convention on Human Rights 1948, which, like the abuses of the Cleveland parents' human rights, were it to have happened in the United States of America ('US'), the parents concerned would have litigated in a *class action lawsuit in tort for their distress and children's disrupted lives, and very probably received one billion pounds sterling in compensation for hasty, neurotic, criminal and cruel acts caused by one female doctor who herself should have been at least examined for mental illness and possibly brought before the UK General Medical Council ('GMC') and possibly struck off.*

The Appellant in *H v R* may, if his case is prepared for the CCRC by some courageous and brilliant defence litigator, can also bring a lawsuit against the police of Yorkshire and the relevant CPS. The UK has a statute of limitation of six years for tort as per the Statute of Limitation Act 1980 does not apply as per recent precedent case law when it

was decided that the limitation does not apply if there is crime involved, including abuse of process.

Britain's noted historical child abuse no reason to destroy men today

In a knee-jerk reaction to historical abuse, authorities today are over-eager to imprison people for such abuse, notwithstanding the fact that modern children have access to high technology toys, the Internet where they can view pornography freely available and where they are savvy about their rights, without being taught their responsibilities also.

For centuries child sex abuse has taken place in Britain. Centuries ago the English law was changed to allow children from age 13 to be sexual partners. It was therefore a crime to have sex with a girl under the age of *thirteen*.

In those days, circumstances were of abject poverty for the masses; poor sanitation, and cramped living conditions of a family of ten sleeping together in just one rented room. *Child sex abuse was not a term that was documented and was not a crime.*

It is only in recent years that domestic violence against women by boyfriends, husbands and partners had been given priority in the UK criminal justice system. Prior to this time, it was seen as a private matter and was rarely prosecuted. Similarly domestic murder by women of their partners or husbands was allowed a defence of provocation until recently and now such murders can only have provocation as a partial defence if it occurred immediately prior (in the heat of the moment) to the act or response by the woman of murder of the man.

Similarly, the violence of rape of a wife within a marriage in English law was as per precedent case law of *R v R* [1992] and subsequently by the 1994 Criminal Justice and Public Order Act, s.142, which applied to the case of *R v C* [2005].

Harm to another

A continuation of the examination of a crime and of what constitutes harm to another leads to the consideration of white-collar crimes of insider trading, computer misuse and city frauds which were civil offences until recent years.

***Stop and Search* causes harm to harassed ethnic minorities**

It must be admitted that the police in the UK cause much harm in their *stop and search* tactics, especially targeted to ethnic minorities by using the Vagrancy Act 1924, a very vague offence, and since 2001, anti-terrorism statutes, which allows *carte blanche* behaviour and huge infringements of people's liberties.

Using the media to spread publicity of alleged crimes

In many cases, such harm constitutes the complete destruction of people's lives through irreparable damage to their businesses because of widespread media publicity.

Lip service to the *Rule of Law*

It has been illustrated that lip service is paid to the 'rule of law', which dictates equality before the law. These examples show that some groups continue today to still receive less protection under the criminal law than other groups.

Invasion of human privacy

English law invades human privacy in areas of:

- abortion,
- age of consent,
- drug use,
- prostitution,
- homosexuality,
- incest,
- masochistic homosexual encounters,

- pornography and
- Euthanasia, (to mention but a few areas).

As regards consenting masochistic encounters as listed above, if A wounds or assaults B occasioning him *actual bodily harm* in the course of a *sado-masochistic* encounter, the prosecution must prove *lack of consent* on the part of B before they can establish A's guilt under s. 20 and s. 47 of the 1861 Offences Against the Person Act ('OAPA').

Abuse of process

In his treatise, John Stuart Mill in 1859 gave what, in his opinion, was the traditional rationale, in that era, for criminalising conduct. In English law today, the use of *lethal force by the police* against civilian citizens is largely unpunished and not prosecuted as murder or corporate manslaughter.

Nor are police officers charged with the crime of manslaughter when they cause deaths in police custody. Even in the globally infamous case, when police shot an unarmed stationary man, *John Charles De Menezes* in the year 2003 on an underground train at Stockwell Tube Station in London, the Commissioner of the Metropolitan Police was charged with a low-level *strict liability offence* of '*endangering the public*' under the 1974 Health and Safety at Work Act ('HSA') section 3.

The case was heard in 2007, giving four years for the public's memory to be dulled. Note that by virtue of the European Convention on Human Rights ('ECHR') article 2, the State has a duty to protect the life of the citizen. The State, as per article 8, ECHR, also has a duty to protect the private life of the citizen.

The duty is known as the *Osman duty*.

Sex abuse due to indulgence of Internet Pornography

Sex abuse does occur in the United Kingdom ('UK') especially with acknowledged wide usage of Internet pornography which, over time, seems to have dulled many British men's sense of morals and ethics. Prosecutions over the past 16 years display evidence

that law enforcement is very enthusiastic in efforts to bring alleged sex offenders to justice, since the 1998 report *Speaking up for Justice*, which made 78 proposals to encourage and support vulnerable or intimidated witnesses and to help them give their best evidence in criminal cases.

Extra police funding might motivate enthusiasm to log sex offences

It appears that law enforcement is so enthusiastic that they *suppress evidence*, fail to comply with *criminal disclosure rules*, hone the case to *omit any controversial evidence*, are *silent on real evidence*; ‘*tip off*’ the media to whip up hatred for the defendant, just to bring about a successful conviction.

This unjust manipulation of the criminal justice system

But look at the knitting and weaving together of this case, *H v R*, and discover the unjust manipulation of the criminal justice system.

For the Yorkshire police to charge a *senior professional medical family doctor* with a crime is to attract scrutiny to what is understood as crime. To say that a crime is causing harm to others is a vague statement, for such laws are to protect us from violent aggressors, including the police.

Swamping the defence with impressive low-grade paperwork

It causes huge worries that the UK criminal justice system in the year 2013 and 2014 still resembles the justice system of the eighteenth century, with lots of paperwork provided by the prosecution *to swamp the poorly-paid legal defence team* and lodging such mass of documents in court is often unwarranted, hearsay, and poor quality evidence, illustrating omissions, manipulations, fraud and forgery, machinations and much more.

‘Tip of the iceberg’ in UK criminal justice system

The extremely worrying thing is that this is but the ‘tip of the iceberg’ in the UK criminal justice system, where today, as centuries ago, those with power twist the law to fit their cases.

A miscarriage of justice

One need only examine the myriad of *miscarriages of justice in the UK*, which only come to light if the media favours one, and decides to run the story. The media has too much power.

Maligned father and former family doctor

However, this father and former family doctor, *now cut off from his caring profession in his prime*, has had *no evidence* in court of any pornography on his computers or in his house. It appears that the local police were enthusiastic to see a middle class professional medical doctor brought down. This was evidenced in the new statistics in *Police Professional*, February 2015 Issue. The UK now has one of the highest statistics in convictions for sex abuse. Whether this is all sex abuse or partly motivated by extra funding for constabularies in certain parts of the country has yet to be proved.

Money trumps everything

The picture overall seems somewhat confused. We live in a schizophrenic country where money trumps this matter because the UK Internet servers have license to provide *pornography to adult viewers who pay for the service*; free pornography to others; hundreds of *pole dancing strip clubs* around the UK where businesses, provided they pay the very large licence fee, are free to trade as such; *pornography publications* abound in the United Kingdom; *sex shops* openly advertise sex ‘toys’ on national television in the United Kingdom; there are national television channels which, if a customer pays, can join a *sex channel which reveals naked women* talking sexily and in pornographic poses, etc.

Child violence in the UK- assault on parents

To return to the matter of *child violence*, a BBC programme on Thursday evening, 12 February 2015, revealed the horrendously frequent incidents of children who continuously assault their parents in their violent rages against parental control of bedtimes etc. One child took a cleaver knife to his poor mother. When one considers the positions of the parents of child C in *R v H*, one can understand their reluctance and

feelings of failure and shame as being the cause of not calling in professional help because they themselves were doctors.

One feasible factor- indulgent parents

Some of the children with conduct disorder are simply ones who have grown progressively out-of-control by indulgent parents. The consequence of indulgence and no discipline results in a complex mix of:

- power over the parents by such a child;
- the thrill of wielding such power over adults;
- and the progression to *psychopathy* in such children.
- Bad children become bad adults and this phenomenon stretches across all strata of society.
- Furthermore it has been established that there is a link between age and crime over the life span.
- Bearing in mind that the legal age of criminal liability in England is age 10, we find that since the year 2013, the statistics of the children under age 14 who had been prosecuted and those between ages 14 to 17 were as follows:

Child domestic violence offences prosecuted

<u>Age range</u>	<u>Time period</u>	<u>Prosecutions</u>
Under 14	2010-2011	216
Under 14	2011-2012	148
Under 14	2012-2013	118
14-17 years	2010-2011	3,144
14-17 years	2011-2012	2,643
14-17 years	2012-2013	3,144

Source: Google.

However, no-one has studied the types of children prosecuted or discover how many, if any, are from rich or professional, middle-class families.

Parentline Plus

Between the years 2008 to 2010, the charity *Parentline Plus* reported that it had received 22,537 telephone calls from mothers and fathers who were struggling to cope with their children's extremely violent behaviour. According to research, the violence in children who abuse their parents peak from age 13 to 15. According to *Parentline Plus*, their own research of such child violence occurs every single day; 50 percent of such violent children *destroyed property* and 20 percent were *drinking alcohol*.

R v H- police did not check for child alcohol abuse

Yet, not one police officer checked to see if this child was abusing alcohol and if this is why she locked herself in her bedroom so that she would not be found out. We see teenagers and younger children turn very violent whilst drunk, breaking mirrors, attacking furniture, etc, for no good reason than that they are drunk.

British children today: well fed and heavier

According to an *Independent newspaper* article one of the factors why children beat up their parents is their size. Today, children in the UK are usually very well fed and some of the *assaulted parents* complained that even as young as 11 years old, their daughters were almost impossible to handle *physically*.

Mental illness, alcohol and substance abuse

Other factors for child violence include early signs of mental illness, alcohol and other substance abuses. Some experts say that there is a collapse in social authoritative boundaries today, as children are pampered and given access to the Internet at a young age.

Mimic of alcoholic parent

If a girl sees her mother abusing alcohol, she loses respect for that parent and may also begin practicing alcohol abuse herself, especially in a middle class family where the

problem is not one of lack of finances. The recorded phenomenon of children beating up their parents is most likely the ‘tip of the iceberg’ in the UK.

Hand in Hand and ParentlinePlus

Because sociologists are aware that this explosion of *parent abuse is shameful and largely kept within the family*, several Internet Help Centres have emerged to help parents to cope, *Parentline Plus* and *Hand in Hand* parenting being two such websites. Child disorders that manifest themselves in property damage, parental assault and self-assault are often treated medically as follows:

Drug brand name	usual dosage	comment
Fluoxetine Prozac	1mg/kg of body weight	Can be dissolved in water
Paroxetine Paxil	20-60 mg per day	Dissolved in water. May cause weight gain.
Citalopram Celoxa	20-40 mg per day	Not soluble
Sertraline Zoloft	3mg per 1 kg of body weight	Soluble
Fluvoxamine Luvox	3 mg per 1 kg of body weight	Not soluble
Escitalopram Cipralex	10-20 mg per day	No studies in children
Duloxetine Cymbalta	30-60 mg per day	Few Case Studies

Source: Google

Child sexuality

The trial *R v H* [2014] never questioned whether this youth could possibly have been having sex with another youth. The *dearth* of literature about this subject creates gap in public knowledge about the development of such *sexually assaultive behaviour* and the professional and legal issues accompanying this little spoken-of violent yputh behaviour.

No UK research interest in sexually assaultive behaviour of juveniles

For decades there has been much interest in the juvenile sex offender in the *United States but not at all in the United Kingdom*.

Interest in the sexually assaultive behaviour of juveniles has a long history (Atcheson and Williams, 1954; Cook, 1934; Doshay, 1943; Waggoner and Boyd, 1941). In 1964, a study by Mohr, Turner and Jerry (1964) showed that child sex offenders pose a long-term risk.

Ignorance about child sexual development

Initially child sex was seen not as violence but as innocent behaviour and this misconception was due to a profound lack of knowledge concerning social and psychological aspects of sexual development in adolescence. Available estimates show that juveniles commit 20% of rapes with penetration in 59% of juvenile sex offences.

Glossed-over educational non-progress of X

The caselaw report of *R v H* [2014] glossed over the lack of educational progression of child X. The caselaw report *incorrectly* painted a picture of a good and virtuous child X for whom '*butter would not melt*' which is inconceivable of a strong young girl who could *destroy all the furnishings in her bedroom in one angry outburst*. For this serious prosecution, there was NO mention of any tests for alcohol abuse by X.

Cunning use of rape charges instead of incest charge in order to avoid all evidence

The prosecution decided to bring rape charges against the accused because of recent changes of anti-cross-examination of the accuser 16 year old daughter at trial.

The accuser x displayed prolonged anti-social behaviour over many years. X's alarming and distressing conduct to her father, her mother and her sister could have been brought to a stop by an anti-social behaviour order, had the ex-wife called in social services years before.

Assault and battery of Dr Stephen Hamilton by X

Clearly X had assaulted and battered her father Dr Hamilton on very many occasions in front of Dr Hamilton's ex-wife,

No evidence offered by schoolteachers or friends or other family members

This trial of Dr Hamilton called no teachers to give evidence of X's behaviour at school. Did X's behaviour drive her mother to drink? Did X terrorise her parents to the extent that her father, a very senior medical doctor, returned home in fear of what he would find?

All of this and more is admissible evidence deliberately withheld by the prosecution. Admissibility in the law of evidence is the concept that determines whether or not

evidence can be received by the court. The evidence must be relevant, but even relevant evidence will be tested for its admissibility.

Forced to leave the marital home-after which time X became psychotic

Most tellingly, the caselaw report mentioned that after Dr Hamilton was driven to leaving the marital home and agreeing to a quick divorce, breaking up the family, (an occurrence that is caused by most of such violent child behaviour), *that X behaved even worse after her father left home- to such an extent that she was a full-time patient in a mental hospital for two years.* There was no alleged sexual abuse of X during this time- her behaviour was just a progression of the behaviour she wreaked on her family from the beginning.

Order for assessment of X

A court could have issued orders for the assessment and treatment of X, as also a general medical practitioner ('GP') in an emergency situation could.

This is a very serious criminal case and *inequality of arms* is not allowable

These extremely serious criminal charges by police to this very senior and likeable family doctor *beggars belief* as to the way the defendant was treated. It is for the prosecution to prove their case *beyond reasonable doubt* and yet Dr Stephen Hamilton was treated by the court as though he had no right to his human rights as per the European Convention of Human Rights 1948 and the UK Human Rights Act 1998.

Never forget that *beyond a reasonable doubt is the standard of [roof in criminal cases in the UK. This standard is higher than the civil standard of the 'balance of probabilities'. It is not a matter of weighing up both sides and deciding who has won.*

Ex-wife could be an accomplice

If X's mother has aided and abetted her to hold a steadfast memory that her father abused her, then her mother could eventually be proved to have been an accomplice, participating in X's lies about her father. All that is necessary is for the ex-wife to have some degree of guilty knowledge be charged as an accomplice. An accomplice is a person who participates in a crime, either by accession or as a perpetrator, before or after the fact, by committing, procuring, or aiding and abetting.

A trainee female psychologist destroyed the medical career of this senior GP

So why did it take a *non-experienced female newly qualified psychologist and an allegedly sexually abused female's hearsay* to bring this Senior General Practitioner to his demise and subsequently financially ruining the whole family's future permanently?

Was the alleged sexually abused X other girl at the *special school* where child X was sent to after two years?

Or was she a 'patsy' put there by local police to say those things?

Pre-divorce situation may be reason for this criminal case

Dr Hamilton's wife could be said to have been consuming alcohol to such a regularity and length of years that Dr Stephen Hamilton could himself have filed for divorce as he could not be expected to live with such behaviour. Instead Mrs Hamilton struck first and went 'full hog; with incest accusations also, perhaps hoping to acquire all of Dr Hamilton's then considerable assets.

X –vivid tales

The Appellant, Dr Hamilton, sought to introduce *false memory* as to his daughter's tales of explicit sexual abuse. Nobody, not even Dr Hamilton's now ex-wife found him in flagrante delecto with X. X was suffering from serious psychosis and imagined it. Eventually, X had been removed, after her father was made to leave the marital home, compulsorily from the same family home, into the care of the local authority, into a mental institution, by way of a place of safety order.

The trial court disallowed the false memory syndrome

However, it is established that the evidence of an expert is *admissible if it provides the Court with scientific information likely to be outside the experience and knowledge of a judge or jury: R v Turner* [1975] QB 834; [1974] 60 Cr.App.R. (S) 80.

In addition, the witness must possess the relevant expertise, and the subject matter and nature of the expertise must be of sufficient standing to be reliable as evidence. The Defendant medical doctor, Dr Hamilton should have sought *an extension of time* in order to bring such an expert into the United Kingdom to give evidence.

Other proofs- X's computer; porn; etc

Proof should have been vigorously sought from the girl's computers to see what, if any pornography she was viewing or reading about because it sounds so incredulous. It is noted that the case report spoke of the girl as being *very right, even* though no evidence or proof was forwarded for such a statement.

The seemingly very biased and non-neutral caselaw report noted that X said that *she wanted to kill herself if she felt that no-one would believe her in court.*

Yet it is noted that for two years she told no-one of sexual abuse apart from a mentally disordered girl she met whilst at a *special school*. Why was the other girl not a witness for the prosecution?

The case report had a tone of utter sympathy from the court to X, yet, looking coldly at X's statement, any reasonable person would conclude that X is mentally unstable.

Promises of compensation and own council flat to live in?

By this time, all X's father's finances and pension pot had been spent on legal fees and X's mother was also *struck off* by the General Medical Council for repeated drunk driving road traffic offences- so no income was forthcoming from X's mother or father, meaning that X had caused the total annihilation and destitution of her own family.

It is noted that no psychologist interviewed X regarding her plans for the future unless an unqualified social worker had promised her criminal compensation award of £19,000 pounds of government finances plus her own council flat to live in as she pleased.

It is a fact that social workers often tell young people about the many state resources they will be entitled to, not realising themselves that even if a lump sum compensation was given to X, she would very probably spend it very frivolously and it would have dissipated in a short while, as is usual in these cases.

Meanwhile, X's mother and sister would have no funds available, unless they too, claimed criminal compensation, because the GP's funds have all been used up in legal fees.

Conclusion of analysis

As the English criminal justice system trundles along incrementally improving by *hits and by misses*, it has been announced that expert evidence is subject to a new procedure, as per three primary sources: *Stephen Hamilton v R* [2014] EWCA Crim 1555 (22nd July 2014); the Criminal Procedure Rules 2014 (laid before Parliament on the 25th June 2014 -in force since 6th October 2014); and the Criminal Practice Directions Amendment No. 2 (published 23rd July 2014 -in force since 7th October 2014).

Expert reports will have to contain more detail if admissions are not to be made. Courts are enjoined to achieve as much agreement as possible in advance, this time with

the force of statutory instrument. The Practice Direction *gives a checklist of factors for reliability* and is the first port of call in any argument about admissibility.

At paragraph 26 of the caselaw report, the Court stated that the fact of mental ill health does not mean that the witness cannot accurately be describing what has happened to her or that it would prevent her from (or make her incapable of) being reliable in her account.

These issues of fact are not for resolution by doctors but are to be determined by the jury, the court stated: as Kay LJ put it in *R v Bernard* that evidence is admissible when it is necessary *'to inform the jury of experience of a scientific and medical kind of which they might be unaware, which they ought to take into account when they assess the evidence in the case in order to decide whether they can be sure about the reliability of a particular witness.'*

The Court took the opportunity, however, to herald the forthcoming changes that will be brought about by the Practice Direction and the 2014 Rules. There is noted real concern about the use of unreliable or inappropriate expert evidence, necessitating a new and more rigorous approach on the part of advocates and the courts to the handling of expert evidence and a simple list was constructed that an expert must:

- *make clear which of the facts stated in the report are within the expert's own knowledge;*
- *say who carried out any examination, measurement, test or experiment which the expert has used for the report and*
- * give the qualifications, relevant experience and accreditation of that person, and say whether or not the examination, measurement, test or experiment was carried out under the expert's supervision, and summarise the findings on which the expert relies.*

However, this is a farce because the Defence expert witness was not allowed to examine or interview X and X's medical notes were not made available to the defence. The farce and travesty in this case is the creation of correctness when in fact the case was machinated and manipulated to whatever financial funding reasons.

It is hoped that this doctor can bring his case to the attention of the CCRC. The accused Dr Hamilton did not get a fair trial. A fair trial is a human right to a trial that provides

certain practical protections for the citizen. A fair trial is made up of an impartial judge; effective legal representation; a lack of undue delay and freedom from self-incrimination.

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