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ABSTRACT

Girls and women with learning difficulties have one of the highest risks of being sexually assaulted and raped. This article looks at the sexual abuse of girls and women in Britain between the 1830s and the 1910s. I will be arguing that, during the course of the nineteenth century, attitudes to girls and women with learning disabilities who claimed to have been raped became significantly harsher. Rather than needing to be protected from rapacious men, they were increasingly blamed for their own violation. They came to be viewed as sexually precocious, possessing 'animal instincts' that meant that they needed to be institutionalized (or otherwise constrained) in order to prevent them from seducing the men with whom they came into contact. This concept of 'animal instincts' conflated long-held views about the intellectually impaired: they were closer to 'beasts' and possessed uncontrollable and socially-dangerous impulses.

From the 1980s, health professionals began drawing attention to the sexual abuse of girls and women with learning difficulties. Estimates of the proportion who would be sexually assaulted in their lifetime ranged from 30 to 80%.[1] They observed that girls and women with intellectual disabilities are a particularly vulnerable cohort of people: the lack of sex education means that many are unaware that they are being molested; they are often bribed or told that the abuse makes them 'special'; they are conditioned to be over-compliant; and dependency on offenders for day-to-day care makes complaining risky. Impairments of speech and poor communication skills also prevent many of them from informing others about their experiences.[2] These challenges are multiplied when legal remedies are sought. Justice systems are notoriously unsympathetic to people (of *all* types) who claim to have been sexually assaulted:[3] intellectually impaired victims are some of the most powerless complainants.

In this article, I explore the sexual assault and rape of girls and women with learning difficulties in the period from the 1830s to the 1910s. These are important dates since it was in the 1830s that new attention started to be paid to the sexual lives of girls and women with learning difficulties, both in legal and psychiatric contexts. By the 1910s, the recommendations of the 1908 Royal Commission on the Care and Control of the Feeble-Minded were having an impact, leading to greater institutionalization.

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Despite the fact that this was an important period of change in the treatment of girls and women with learning disabilities, it has been a neglected topic. The only extended historical exploration about the sexual abuse of people with developmental disabilities is an article by Ralph Sandland entitled 'Sex and Capacity: The Management of Monsters?', which is based exclusively on legal sources.[4] Indeed, until recent decades, there has been a paucity of *general* histories about people with learning difficulties. Early texts adopted a 'whiggish' approach, in which the present was the pinnacle towards which history marched.[5] One book was even subtitled *A Quarter of a Century of Promise* (1987).[6] Since the 1990s, however, sophisticated social and cultural histories of the lives of people with developmental difficulties have been emerging. In modern history, there is now a rich literature to draw upon, especially around institutions and institutionalization, policy and law, and the history of medicine.[7] There have been criticisms that much of this literature reinforces ideas that people with learning difficulties are 'objects of care' rather than agents in their own lives. As Dorothy Atkinson and Jan Walmsley have observed, 'the risk of not finding some means of representing' the views of people with intellectual disabilities makes them 'appear as passive subjects in the accounts of others'.[8] It is a critique that has been championed by people with disabilities, most notably in the slogan 'Nothing About Us, Without Us', which became popular in disabilities activism in the 1990s and is often credited to activists Michael Masutha and William Rowland although was used as the title for two books in 1998, by James Charlton and David Werner.[9]

My focus is on sexual abuse in the UK, although American historical examples are cited when they have been influential in British contexts. Although research from the 1990s suggest that boys and men with learning difficulties are also at high risk of sexual abuse,[10] none of the cases I have identified in the period between the 1830s and 1910s involve male victims. My account draws from newspaper reporting and cases that came before the courts. These sources provide limited access to the lived experiences of victims, whose voices are either silenced altogether or appropriated by carers, neighbours, and legal or medical advisers. However, since newspapers and law courts are the main contexts in which accounts of abuse enter the public sphere, they are a valuable way to trace shifts in the legal, medical, and popular meanings attached to marginalized groups within society.

These sources pose difficulties for historians wary of increasing the stigmatization of people today. In the nineteenth century, people with learning difficulties were called 'idiots' or 'imbeciles'. There is a risk that reproducing these concepts will serve to further diminish the complex worlds of people with learning difficulties. As we will see, however, these terms did not necessarily carry the same connotations as they do today. Using the concepts employed in the past conveys a great deal about the history of people who are 'othered'. As Patrick McDonagh, C. F. Goodey, and Tim Stainton explain in their introduction to *Intellectual Disability: A Conceptual History, 1200–1900* (2018): 'language is a critical site of historical inquiry that can tell us much about the nature of the subject and the forces constructing it, as well as the contemporary social responses to it'. They warn against 'assuming a transhistorical subject', insisting that the large number of different words used to label people with learning difficulties does not 'confus[e] the subject' but '*is*, in part, the subject matter'. They add that understanding these different words' 'meaning in context, their roots and implications, and the social

forces which brought them to this association is a critical site for historical inquiry'.[11] Language provides insights into what it means to be human.[12]

In this article, I will be arguing that, during the course of the nineteenth century, and particularly in the last decades, attitudes to 'idiot' girls and women who claimed to have been raped became significantly harsher. Rather than needing to be protected from rapacious men, girls and women with learning difficulties were increasingly blamed for their own violation. They came to be viewed as sexually precocious, possessing 'animal instincts' that meant that they needed to be institutionalized (or otherwise constrained) in order to prevent them from seducing the men with whom they came into contact. This concept of 'animal instincts' conflated long-held views about the intellectually impaired: they were closer to 'beasts' and possessed uncontrollable, socially-dangerous impulses.

Many of the themes that will be discussed in this article appear in a landmark British legal case in 1866. In March that year, 72-year-old Charles Fletcher was indicted at the Warwick Assizes for the rape of 16-year-old Fanny Elizabeth Churchill. The case caused a stir and was reported in local newspapers such as *Aris's Birmingham Gazette* and the *Birmingham Journal*, as well as in legal texts such as the *Law Times* and *The Jurist*. Fletcher was employed as an ostler, looking after the horses of customers at a local inn.[13] Churchill was what people in the nineteenth century called an 'idiot': that is, she had severe learning difficulties. She was partially paralyzed (although she could walk), suffered from epilepsy, and could not read, write, dress, or 'attend to herself'. In court, her mother testified that she was 'not competent to discriminate between right and wrong'.[14] On 9 December 1865, Churchill returned home with three cakes in her hands, one of which she was eating. Her hair was 'in disorder' and her clothes were 'very much tumbled about'.[15] Although Churchill's mother admitted that her tussled appearance was 'not different from her ordinary manner', she was suspicious that something was wrong.[16] After being questioned, Fletcher confessed that Churchill had consented to sexual intercourse with him on this and previous occasions.[17] When he was indicted for rape, he forced the 'poor girl' to give evidence in the witness box. It was reported that 'several revolting questions were put to her by the prisoner with the view of showing that she was a consenting party'. However, the court noted that Churchill 'seemed to be utterly unable to answer with anything like clearness'.[18] When she was asked whether she knew the accused, she replied, 'Yes, the man Richards': that is, she could not remember his name.[19] The doctor who had examined her testified that he was 'inclined' to believe that she might have engaged in sexual intercourse on other occasions, but he was unsure.[20] He observed that, although Churchill was only sixteen years old, she was a 'fully developed woman' and 'strong animal instincts might exist, notwithstanding her imbecile condition'.[21] As we will see, this reference to 'animal instincts' was significant.

In his summing up, Judge Keating began by asserting that 'nothing more shocking or abominable could be conceived than a man taking advantage of an imbecile girl'.[22] Nevertheless, he sternly reminded the jurors that it was his responsibility to 'administer the law', and the law required that the act of rape had to be 'against the will' of the complainant: there had to be evidence of 'real resistance'.[23] Judge Keating also contended that girls and women with learning difficulties 'might not be able to know right from wrong' (as Churchill's mother had testified) but 'in some cases they might be consenting parties, through the force of animal instincts'.[24] In other words, 'although the girl's state of

mind prevented her from assenting or dissenting, yet [by] yielding to an animal instinct she desired what took place'. If Churchill had acted according to her 'animal instincts', the judge informed the jurors that their duty would be to acquit the prisoner.[25] He did not deny that 'it was revolting in the extreme to think of an elderly man taking advantage of a poor idiotic girl', but the prisoner was not being tried for 'his immorality'.[26]

Despite the judge's 'steer', the jurors believed that Churchill had been sexually abused. They found Charles Fletcher guilty. But Judge Keating was clearly unhappy with the verdict, stating that he 'entertained some doubt as to how far he ought to have left the case to the jury'. He declared that he would seek the views of the Court of Criminal Appeal before passing sentence.[27] Judge Keating was vindicated: the appeal judges ruled against the jury's decision, unanimously noting that there was no evidence that the intercourse was either against Churchill's will or without her consent. The original verdict was overturned. As a legal expert writing in *The Jurist* explained, because Churchill showed a 'gleam of intelligence', she was of 'weak intellect, but not an idiot'. In this way, her 'animal instincts' signalled consent.[28]

Fanny Churchill's treatment by the jurors, judge, and appeal court is revealing. It exposes some of the difficulties that girls and women deemed to have learning difficulties faced when seeking to prosecute sexually abusive men. It suggests that these girls and women were at risk of *multiple* instances of sexual abuse. After all, Churchill had been abused by Fletcher on previous occasions, but no-one noticed that anything was wrong because her clothes were often 'tumbled about'. Repeated abuse was reported in many other cases that went to court. For example, in 1841, a young man was convicted of raping a 42-year-old woman who was said to 'know nothing. If meat were placed before her[,] she would starve before she would take it of her own accord'. In court, however, it was revealed that 'she had a child once before, but it never could be found out how it happened'.[29]

In Churchill's case, as well as others involving girls and women with learning difficulties, the need for corroborative evidence also impeded conviction. Of course, corroboration was required for *all* victims of sexual assault, but was more difficult to provide for victims with learning difficulties. The inability to succinctly and consistently communicate what had taken place cast doubt on their veracity. Churchill was not even able to remember the name of her abuser, despite the fact that he was a familiar person in her community.

There were even doubts about whether a girl or woman with learning difficulties was capable of giving evidence in the first place. Legal expert Stewart Rapalje had contended in 1885 that 'idiots' were not capable of 'comprehending either the nature and obligation of an oath'; nor were they aware of 'the temporal or spiritual consequences of its violation'.[30] As a result, girls and women with learning difficulties were dependent upon the testimony of others, who might prove equally unconvincing. As one judge noted in his summing up of a rape trial in 1838, all the jury had to base their verdict on was 'the uncorroborated testimony of the mother, because the child was of unsound mind'.[31]

This judge was unconvinced by the mother's testimony, but some judges *did* allow girls and women with learning difficulties to account for themselves in court, and the responses of jurors was revealing because (at least during the first half of the century) they did not necessarily share the skepticism of judges and other legal experts. The jury in Churchill's case found Fletcher guilty, even though the verdict was overturned on appeal. In another

case in 1857, tried in Manchester, Thomas Ward ('an elderly man with a white head') was accused of raping 22-year-old Jane Crane. It was not the first time 'the brute' had raped her and he was said to have 'tempted the poor girl by giving her copper, she being fond of money'. The jury heard that there were questions over whether Crane was able to give evidence since 'she can scarcely speak so as to be understood except by her family'. Nevertheless, the jurors believed the account that Crane had given to her parents and they passed a guilty verdict.[32] Thirteen years later, another jury sitting in Leeds was willing to believe a complainant with learning difficulties over that of the accused. The Defence argued that there was 'no evidence that the prosecutrix did not consent, and[,] being an idiot[,] she could not give that evidence'. In addition, a physician testified that he had asked the complainant if she had consented and she said 'yes' but when he asked her again, she replied 'no'. In other words, he 'did not think the woman understood the question, and answered yes and no indiscriminately'. Nevertheless, the jurors believed the woman.[33] In Leeds, three years later, there were also questions raised about whether or not the victim should be allowed on the stand. When she was 'placed in the witness-box', the newspapers described a 'melancholy spectacle':

> In one of her hands she held an old metal teaspoon and part of a tin whistle, and in the other hand, a doll, hastily improvised out of an old pocket handkerchief, to induce her to come into the court. She did not pay the least attention to any of the questions put to her. – His lordship endeavored in many ways to attract her attention … . It was useless, however, the questions were only responded to by the same vacant incoherent state while she played with the toys in her hand.[34]

Again, however, the accused was found guilty. The verdicts in such cases suggests that there was a disjuncture between what legal experts thought was convincing testimony and the views of jurors who were more likely to be members of the women's community. These jurors placed greater emphasis on local knowledge of the victims' intellectual disabilities, her defenselessness, and communal as well as familial ties.

These court cases suggest that in the period between the 1830s and the 1870s, jurors tended to believe that girls and women with learning difficulties were vulnerable and so needed to be protected by law. It is important not to exaggerate this point. A revealing exception can be seen in an 1855 report of a rape in Twynyrodyn, South Wales. Thomas Jones (a married man) had been seen engaging in sexual intercourse with Mary Roderick, a 'girl of unsound mind'. Her family alleged rape. The problem was that, although Roderick could not count to twenty and was unable to work, her parents were 'accustomed to reason with, and punish her for misconduct'. This led the magistrates to decide that she must have been 'in some measure, responsible for her conduct', so they declined to take the case further. The *Merthyr Telegraph* reported that when the accused left the courtroom, he was 'received by a large concourse of people with *great cheering*!' The reporter was not impressed, noting that:

> We felt not only sorry, but a considerable degree of shame, at this manifestation of feeling on the part of our countrymen, for a more cowardly, disgraceful, and disgusting offence than that committed, we had never before heard described in a Police Court.[35]

More typically, however, there was considerable public opprobrium against men who took advantage of vulnerable girls and women. Indeed, the Society for the Enforcement of the Laws for the Protection of Women were as active as the parents of girls and

women with learning difficulties in ensuring that abused 'idiots' had their complaints aired in court.[36] In 1837, for example, the *Limerick Chronicle* called one such offender a 'disgusting old man'.[37] In 1846, the rape of Anne Ware, an eighteen-year-old girl with learning difficulties, by a 'stout Irishman' was described in the London Central Court as more 'heinous' than the rape of a non-disabled eleven-year-old girl (at the time, the age of consent was twelve). Journalists reported that the rape of Ware was:

> peculiarly atrocious, inasmuch as the girl was idiotic. The poor creature appeared in court, but no answer could be elicited to any of the questions put by the learned judge. The exhibition was so painful, that Mr. Baron Platt [the judge] almost immediately requested the father to take her away.[38]

The accused was sentenced to transportation for life. When his sentence was read out, the man exclaimed: 'Oh, that is too hard, my lord—that is quite too hard', at which the judge responded: 'No, not too hard, considering the heinous offence you have been guilty of'.[39] In 1857, the accused who 'tempted the poor girl by giving her copper' was labelled a 'brute'.[40] In an 1870 case, after a guilty verdict had been announced, the judge told the prisoner that he 'had been convicted of a cowardly and disgraceful outrage. He could not believe, and did not believe, that the law had been so forgetful of these helpless persons in the position of the prosecutrix'. The judge added that he was convinced that 'the moral inquity [*sic*] of a person who did what the prisoner had done' made him 'guilty not only of a gross outrage, but of a cowardly outrage' as well. Crucially, the judge observed that the accused man 'must have known as well as anybody in the village how helpless the girl was; and she ought to have been under the protection of everybody who had a proper and right feeling'.[41] In other words, while judges in the Appeal Court in London might base their decisions according to a strict understanding of 'against the will and without her consent', local magistrates and jurors retained a contextual approach to abuse within their communities. They tended to be more swayed by the accounts given by complainants and their families, perhaps *especially* when the victim was known to be vulnerable.

As this suggests, the treatment of accusers with learning difficulties in courts problematized notions of both 'will' and 'consent'. This can be illustrated by looking in greater detail at an important American case that was tried in Athens County, Ohio, 1853 and commented on at great length in *The British Medical Journal* a couple of years later. It involved Louisa Dowler who was 'of unsound mind, and had been so from her nativity; though she was not so absolutely destitute of mind that she did not perform the necessary functions and calls of humanity'.[42] The accused was being tried under a statute making it a crime for an adult man to engage in sexual intercourse with a woman whom he knew was insane. The Defense argued that because Dowler was an 'idiot', she 'had no will, and therefore … a rape could not be committed on her person against her will'. He also argued that the statute referred to 'insane' women and, he contended, 'idiots' were not 'insane'.[43]

The two questions for the court, therefore, were: first, did a girl or woman with learning difficulties possess a 'will' that could be overcome and, second, was an intellectually impaired woman 'insane'? Justice Nash, an influential English lawyer, made detailed and precise arguments. He stated that it was imperative that girls and women with learning difficulties as well as those who were insane were not 'left wholly unprotected against

this class of crimes'.[44] The chief issue was the meaning of 'against her will'. Does an 'idiot' possess a 'will', he asked? Nash referred to *A Practical Treatise on Medical Jurisprudence* (1834), written by Joseph Chitty, a prominent English lawyer. Chitty defined an 'idiot' as 'a person who has been *defective* in intellectual powers … while lunacy or madness consists in a *perversion* of intellect'.[45] In other words, Nash explained:

> all these definitions imply either a *weakness* or *perversion* of the mind or its powers, not their *destruction*. The powers are still all present, but in an impaired and weakened state. Hence, an idiot cannot be said to have no *will*, but a *will weakened* and *impaired* – a will acting, but not acting in conformity to those rules and motives and views which control the action of the will in persons of sound mind [emphases in original].[46]

Certain actions (such as breathing) were 'instinctive' and 'independent of will', but 'eating, and numerous other acts, which necessarily imply the exercise of the will, are performed by idiots and insane persons; and their exercise demonstrates the existence of a will'.[47]

The second question Nash addressed was whether girls and women with learning difficulties were to be classified as insane? He pointed out that the Latin origin of the word 'insane' simply meant 'of unsound mind'. If having intercourse with lunatic women was criminal, so too should intercourse with a woman known to be an 'idiot', especially since both might give birth to insane or 'idiotic' offspring.[48] The jury agreed with the Judge and returned a guilty verdict. Nash's pronouncements in the 1850s, therefore, upheld the view that the law was responsible for protecting girls and women with learning disabilities.

Nevertheless, distinctions were made based upon the degree of intellectual impairment as well as the woman's and her family's respectability. For example, in June 1867, a fifty-year-old shepherd named William Pressy was charged with criminally assaulting Charlotte Scovell at the Niton Downs (Isle of Wight), where she was collecting sticks. Scovell was described as an 'inoffensive idiot, aged 37, living with her parents'. The jurors were told that 'the unfortunate woman … had been carefully nurtured, and was very gentle and tractable'. Her mother 'wept bitterly' when giving evidence.[49] But the deciding influence was Charlotte Scovell's own testimony. She was able to tell the court that it was 'very wrong, you know. He hurt me, and that wasn't right, was it?'. The court recorded that:

> she knew it was wrong, but she did not resist, for she liked to be kind to everybody … . She had but a glimmering of reason, but she … told [the] prisoner it was wrong, and that she should tell her mother. This she did do, which was not the conduct of a consenting party.[50]

Pressy was found guilty.

These sympathetic assessments were increasingly being undermined, however. The distinction between a 'carefully nurtured' and 'very gentle' woman like Charlotte Scovell and an 'idiot' possessing 'animal instincts' were decisive in court verdicts. In early and mid-century Britain, 'animal instincts' were usually applied to rapacious men, implying that, like wild animals, they were incapable of controlling their sexual behaviour. In one particularly stark case in 1853, a man accused of rape was described in terms of 'animal instincts'. He had

> dark, uncombed hair, unwashed and unshaven face, a miserable low, shelving forehead, indicative of the vacuum that existed within, and altogether of such filthy person and purely animal appearance that we cannot help feeling there was a lamentable moral and

> physical deficiency, which could not be mistake, and that the prisoner was guided by animal instinct, without the check of the reasoning facilities, so utterly depraved was his manner and appearance.[51]

The physiognomic degeneration of this rapist was depicted as clear for all to see; it was written on his entire body.

However, it was around this same time that 'animal instincts' also began to be applied to girls or women with learning difficulties who had *been* raped (as opposed to men who *acted* rapaciously). As we saw in Churchill's case, the Appeal Court overturned Fletcher's conviction on the grounds that she possessed 'animal instincts', which meant that her lack of active resistance was interpreted as a form of 'consent'. It is important to observe, however, that it was not assumed that *all* female 'idiots' possessed 'animal instincts'. After all, the gentle Charlotte Scovell was not believed to possess 'animal instincts'. Neither was thirteen-year-old Jane Jones, the victim in a rape trial in Liverpool. Jones' mother accused Richard Fletcher (no relative of Charles) of raping her daughter in 1859. Jones was said to be incapable of distinguishing right from wrong; she was not even able to distinguish her own home from those of her neighbours.[52] One day, after leaving home without her mother's knowledge, witnesses testified that they saw her engaging in sexual intercourse with the accused. She was not resisting. Judge Hugh Hill allowed Jones to stand in the witness box but it was obvious that she did not 'possess[] sufficient intelligence' to swear an oath. Hill informed the jury that if the girl 'was incapable of giving consent or of exercising any judgment upon the matter', then they should find the prisoner guilty.[53] The jurors agreed. However, the judge reserved sentencing until the case was adjudicated by the Court of Criminal Appeal. There, Justice Willes argued that in *another* case, he had informed the jury that if the complainant 'had been ravished without her consent, it was rape'. However, 'if she gave her consent, though from an animal instinct, that would prevent the crime of rape from being committed'.[54] However, since there was no evidence that the young Jones possessed 'animal instincts of a strong tendency', the appeal court upheld the verdict.[55]

'Animal instinct' also appeared in the trial of Barratt, who was accused of raping Mary Redman, a fourteen-year-old, blind girl with learning difficulties. In his summing up, the judge maintained that:

> If the prisoner had connection with the prosecutrix by force, and if she was in such an idiotic state that she did not know what the prisoner was doing, and if the prisoner was aware of her being in that state, they might find him guilty of rape. But if, from animal instinct, she yielded to the prisoner without resistance, or if the prisoner from her state and condition had reason to think she was consenting, they ought to acquit him.[56]

In this case, jurors were swayed by the fact that Barratt knew that Redman was 'not right in the mind'. They found him guilty. When the case went to appeal, the conviction was confirmed on the grounds that Redman was extremely incapacitated. In other words, intellectually disabled girls and women like Charlotte Scovell, Jane Jones, and Mary Redman were believed to be innately 'innocent' and therefore deserving the full protection of the law.

Why did some jurors and judges believe that some girls and women with intellectual difficulties were, by definition, incapable of consent while others drew on the concept of 'animal instincts' to argue that they 'willed' sexual intercourse? The main answer to this

question draws on psychiatric ideas about 'degrees' of disability. These were influenced by French physician and legal scholar, E. E. Fodéré's 1792 text of medical jurisprudence. In it, he distinguished between mania, dementia, and 'imbecility'. He divided the latter category into three: 'imbeciles' who were unable to understand the simplest ideas; those who had some comprehension and could carry out basic tasks; and those who understood some ideas but lacked both a sense of morality and judgement. This last group were the ones most dangerous to societal order.[57] In the 1840s, these ideas were spread when *Mental Maladies. A Treatise on Insanity*, written by the French psychiatrist, Jean Étienne Dominique Esquirol, was translated into English. Like Fodéré, one of Esquirol's main arguments was that there was a distinction between 'idiocy' and insanity. He maintained that:

> Idiocy is not a disease, but a condition in which the intellectual faculties are never manifested; or have never been developed sufficiently to enable the idiot to acquire such an amount of knowledge, as persons of his own age, and placed in similar circumstances with himself, are capable of receiving … . We can conceive of no possibility of changing this state. Nothing teaches us how to impart, for a few moments even, to the wretched idiot, an increase of reason or intelligence.[58]

Esquirol's second main message was that 'imbecility' and 'idiocy' took different forms. 'Imbeciles' were the 'higher' category. They were intellectually limited but were capable (to varying degrees) of communicating their thoughts and wishes to others. In contrast, there were three types of 'idiots': people who could utter simple words and phrases; people capable only of monosyllables or 'certain cries'; and people who were 'below the brute'.[59] In 'idiots', 'instinct controls all the facilities' and, at least in the first two kinds of 'idiots', they 'have a very small number of limited ideas, besides their passions for the supply of instinctive wants … Reason does not control their actions; which are few, and repeated, either from habit or the force of imitation'.[60] What this implied was that certain 'idiots' were 'innocent', while others were 'dangerous'. This 'danger' model was applied particularly to 'imbeciles' and Esquirol's higher two levels of 'idiots'. They were the ones with 'animal instincts' that could lure men into immorality.

Writing in *The Jurist* in 1866, an author signing himself 'S. G. G.' seems to have been drawing on such ideas. His main question was: 'Does mental incapacity to consent dispense with the necessity of giving evidence of active expression of the will, or active resistance?'[61] He argued that there were 'degrees of idiocy' and 'where there is a gleam of intelligence, consent must be presumed if active resistance is not established'.[62] In other words, Fanny Churchill was capable of identifying the prisoner and where he lived, so was more capable of both consenting and resisting, than was Jane Jones, whose mind was a 'perfect blank'.[63] Although 'S. G. G.' acknowledged that girls and women with learning difficulties had to be protected by the law, he also argued that a man might be 'ignorant of her state of mind' and 'led to the commission of the act by her importunity'. In such cases, the man 'should not suffer punishment'.[64] But if a woman's mind really was 'an absolute blank', and the man was aware of this fact, then he should be convicted of rape.[65]

'S. G. G.' in fact went much further than this, expanding his theory in a way that placed gender at its centre. He explained that people possessed 'two faculties—the understanding and the will'. The faculty of 'understanding' referred to the part of the mind that was the seat of the intellect. In contrast, when 'S. G. G.' referred to 'will', he did not mean 'willpower' but rather the part of the mind that was the 'seat of the affections, or, as we

commonly express it, the heart'. Understanding or the intellect, was 'masculine'; the will or affection, 'feminine'. When 'the two are united we have a rational being, the degree of union creating the degree of rationality. It is for this reason that God is said to have made *them* male and female at the beginning, and the union of the intellect with the affections is the marriage which is said to be inviolable'. However, he continued, the two faculties were separated in some people: 'the understanding may be a blank, whilst the will may be active, and vice versa'. S.G.G. observed that the religious command not to 'separate what God has joined together' implied that people had the potential to do 'that which is forbidden, viz. separating the will from the intellect'.[66] This was the cause of crime.

What did the separation of these two faculties mean for people with learning difficulties? 'S.G.G'. contended that although 'idiocy' was characterized by an 'absence of intellect', it could also be accompanied by a 'strong will'. After all, 'children illustrate this daily': they often do 'wicked things, because the will predominates over the unexpanded intellect'.[67] Like children, the 'passions of an idiot may be very strong'. These 'animal passions' could be reined in by the intellect, but, *to the degree* that a person's intellect was 'deficient', the 'animal passions' were liable to 'be disproportionately strong'. In other words, an 'idiot' woman's 'animal propensities' induced her to seek out sex. Since rape was defined as 'against her will and without consent', this meant that 'animal instincts' were related to the (feminine) will (or 'inclination or desire') while the intellect was related to consent.[68] 'S.G.G.' concluded by asserting that it was 'notorious that male idiots have a strong desire for sex' so 'why should not female idiots have their desire also for the opposite sex?'[69]

'S.G.G.' was writing in the 1860s. By the turn of the century, such views about 'degrees of idiocy' and 'animal instincts' (sometimes called 'animal passions') were mainstream. Legal scholar Theodore J. Grayson set out the position clearly in a 1903 article. He was worried that 'wretched women' were being 'left defenceless' under the doctrine that defined 'will' so broadly that 'any wild impulse of a disordered mind may be considered the "will" of its unfortunate possessor'.[70] 'Idiot' and insane women risked becoming 'the prey of any beast who may chance across their ways', making them vulnerable to 'unpunishable pollution'.[71] Grayson explained that, when the complainant's mind was 'a blank', then 'unresisted [sexual] connection amounts to rape'. The law had to protect 'total idiots' whose 'bodies yield to the act as unresponsively as paper to pen'.[72]

However, Grayson maintained that there was a 'large class' of girls and women with learning difficulties who were 'enfeebled in intellect as to be incapable of reasoning' but had 'some power of perception' and were 'not insensible to animal passion'. The 'natural passions' of these idiots might be 'unduly excited by some derangement of the mind', causing them to 'morbidly seek physical pleasure, the significance of which they do not know'. Many were 'imbeciles' (that is, the 'higher' class of persons with learning difficulties) whose minds were 'not so utterly blank but that the act of coitus stirs within them responsive bodily desire'. These women had to be held accountable by requiring strong evidence of resistance in order to secure a conviction.[73]

This hardening of responses to 'idiots' who claimed to have been sexually abused was partly due to the increasing popularity of the view that children and adults with learning difficulties were a problem for *society*, as opposed to for their families only. Anxieties about social degeneration, coupled with the spread of eugenic ideas, were extremely popular in late nineteenth century texts. Evolutionary theory provided a frame of meaning with

which to express popular fears about atavism, or a reversion to an undeveloped stage of evolution. It was a theory that was linked to so-called 'primitive' peoples and 'degenerates'.[74] But atavistic fears were also projected onto people with learning disabilities. Henry Maudsley, the most influential psychiatrist of the period, relegated 'idiots' to the level of animals. In *Body and Mind* (1870), he cited pseudo-scientific evidence that the brain of people with learning difficulties were 'even more simple than that of the gibbon, and approach that of the baboon'.[75] Maudsley maintained that it was 'a curious and interesting fact … that, with the appearance of this animal type of brain in idiocy, there do sometimes appear or reappear remarkable animal traits and instincts'.[76] In a particularly egregious passage, he referred to an 'idiot girl, who was seduced by some miscreant'. Ignoring any questions about the distinction between 'seduction' and 'rape', he claimed that after she gave birth, she 'gnawed through the umbilical cord as some of the lower animals do.'[77] In other words, 'idiots' recapitulated to earlier forms of animal evolution.

The most dangerous aspects of degeneration to lower forms of life were sexual. In 1900, psychologist George E. Dawson augmented Maudsley's evolutionary fears concerning 'idiots' with sexual dangerousness. In his influential article entitled, 'Psychic Rudiments and Morality', Dawson contended that 'all classes of idiots illustrate the persistence of qualities found among animals, but usually appearing only in the lowest developmental stages of man.' Footnoting Charles Darwin's *Descent of Man* (1871), he claimed that they were 'fond of gamboling about on all fours, running up stairs, climbing trees, etc.' More worrying, they were

> usually filthy in their habits, and have no sense of decency … . The sexual instincts are uncontrolled when present. Masturbation is exceedingly common among all idiots of both sexes. Onanism, sodomy, and various other sexual psychopathies of a revolting nature are practiced by some in whom there is a strong sexual desire united with an absence of moral perception.[78]

Increasingly, commentators assumed that girls and women with learning difficulties were particularly sexually voracious, and therefore not only unrapeable themselves but also likely to seduce innocent men. In a talk given to the Royal College of Physicians in 1888, J. Matthews Duncan (a physician, accoucheur, and lecturer on midwifery at St. Bartholomew's Hospital) warned that 'imbeciles and idiots', as well as other people who were 'weak and ill-conditioned' and 'animals under confinement', were liable to 'excessive indulgence in sexual pleasure'. He maintained that 'masturbation in females' was 'an unnatural and generally excessive indulgence in artificial sexual pleasure' and was especially common amongst 'young women of weak mind'.[79] The Royal Commission on the Care and Control of the Feeble-Minded was even more committed to this 'danger model'. Evidence before the Commission repeatedly claimed that girls and women with learning difficulties were prone to commit 'various offences of a sexual or perverted sexual nature … They are easily influenced and readily receive suggestions show[ing] how highly dangerous it is to leave such cases without supervision'.[80] Intellectually disabled girls and women were said to 'have a definitely immoral tendency' although 'in a great number of instances their fall is due to their weakness of intellect: they have no power to resist temptation and fall an easy prey to the first evil-minded man they meet'.[81]

Part of the concern was about reproduction. As *The British Medical Journal* reminded its readers in 1894, the

> urgency of the necessity of some care and supervision over this class ['imbeciles'] is most felt in regard to girls. Boys may be troublesome, but feebleminded girls become the prey of men, and return again and again to the lying-in wards of our workhouses to become the mothers of imbeciles.[82]

Similarly, the Royal Commission on the Care and Control of the Feeble-Minded were told that once a 'feeble-minded' woman was 'criminally assaulted', she might even 'set[] herself to teach the others evil', thus 'perpetuating the feeble-minded race'.[83] This was why they needed to be 'reclaimed under forcible detention'.[84] Mathew Thomson has argued that in the years after the 1913 Mental Deficiency Act (which made provisions for the institutional treatment of intellectually disabled people), there was a 'major shift in the anxieties which surrounded female sexuality'. He observed that there had been a shift from women being seen as the 'weaker, purer sex', requiring protection, to being seen as a 'potential danger to the community, a vector for the spread of immorality, disease, and degeneration'. As a result, girls and women with learning difficulties were no longer objects 'for pity and protection' but were 'increasingly thought of as a danger'.[85] The spread of eugenic ideas—especially as promulgated by the growing popularity of 'associations for the feeble-minded', with their calls for wholesale institutionalization—was to have profoundly negative effects on the lives of intellectually disabled girls and women.[86]

Although girls and women with learning difficulties were singled out for the most condemnation in these debates, intellectually disabled boys and men, too, were increasingly seen as sexually dangerous. In 1873, the Medical Superintendent of the Lunatic Asylum in Carmarthen, South Wales advised against the practice of 'boarding out' people with intellectual disabilities with neighbours and friends as opposed to keeping them in institutions. He gave numerous examples of the sexual dangers posed by male 'idiots'. For example, one young man with learning difficulties 'made a most persevering attempt of rape. He cannot see a woman without behaving in a grossly indecent manner'. Another was 'in the habit of chasing and indecently assaulting the girls of the neighbourhood', while others were 'in the habit of wandering about soliciting and indecently exposing themselves'. The Medical Superintendent maintained that:

> The effects on the morals of a community from having persons of such habits wandering about in their midst must be deplorable in the extreme … . The mere fact that such indecency is tolerated indicates a deadening of that natural modesty which is virtue's great safeguard.[87]

John Lobb put it even more strongly in his *Pauper Idiots and Imbeciles* (1895). Speaking to the United Ward's Club of the City of London, he claimed that imbeciles were often 'tortured … by malevolent or brutish passions' which, 'in a private house' makes him 'an intolerable burthen [*sic*], an incubus, a walking night-mare'.[88] Increasingly, people with learning difficulties were portrayed as both precocious and fecund, and this threatened the nation and empire. Institutionalization was the most effective way to protect the community from sexually eager and fecund 'idiots'.

In conclusion, at the beginning of this article I noted that it took until the 1980s for health professionals to begin paying attention to the sexual abuse of intellectually disabled

girls, women, boys, and men. Since that time, there have been major shifts in the way people who have learning disabilities are treated and their sexual lives understood. Much of this has been driven by service users themselves, who insist that their voices are heard and who provide peer-support for those who have been subjected to unwanted sexual attention. In 1991, the charity RESPOND was established by social workers Tamsin Cottis and Steve Morris. It was the first British organization dedicated to supporting people with learning disabilities and/or autism who have experienced sexual abuse, violence, or other traumas. They report that, despite numerous improvements in the treatment of people with learning disabilities who are raped, this community still experiences exceptionally high levels of abuse, the police routinely dismiss their complaints on the grounds that they are sexually voracious or unreliable witnesses, and the courts fail to convict offenders.[89] Although the lives of the girls and women I have looked at in this article were more disadvantaged than that of similarly situated girls and women today, prejudices and dismissive attitudes clearly remain.

This article has argued that there were major shifts in attitudes towards people with learning difficulties in the period from the 1830s to the 1910s. As other historians have argued, from the 1870s onwards, disillusionment with therapeutic approaches to idiocy, the decline of evangelical humanitarianism, and the embrace of hereditary sciences, including eugenics, were radically changing attitudes towards 'idiots'—for the worse.[90] A similar trend is seen in the treatment and attitudes towards intellectually disabled girls and women who were sexually abused. Notions of 'animal instincts' were compatible with the new sciences of the time, including Darwin's *Descent of Man* (1871) and Maudsley's ideas about intellectual disability being a kind of recapitulation to earlier forms of animal evolution. As historian Simon Jarrett observes, Darwin and then comparative psychologists such as George Romanes

> weaved a notion of the semi-evolved idiot human into the wider intellectual shift to a reductive formulation of the human body and mind/brain. The purpose was to narrow the consciousness gap between human and non-human animals, and to demonstrate that evolution was a mental as well as a physical process.[91]

The 1885 Criminal Law Amendment Act categorically stated that it was an offence for any man who 'unlawfully and carnally knows, or attempts to have unlawful carnal knowledge of any female idiot or imbecile woman or girl', so long as the offender knew the girl or woman was an 'idiot' or 'imbecile'. But the 'animal instincts' of girls and women with learning disabilities effectively minimized the chances that their complaints of sexual abuse would be taken seriously, let alone prosecuted.

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12. Joanna Bourke, *What It Means To Be Human: Historical Reflections from 1791 to the Present* (London: Virago, 2011).
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14. 'Rape at Sutton Coldfield on an Idiot Girl', Birmingham Journal, 3 March 1866, 6.

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16. 'Reg. v. Charles Fletcher', *The Law Times Reports Containing all the Cases Argued and Determined in the House of Lords*, xiv 16 June 1866, 573.
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22. 'Warwickshire Summer Assizes', Aris's Birmingham Gazette, 3 March 1866, 5.
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