

RAPE: CAUSES, MYTHS, EFFECTS AND PROBLEMATIC ISSUES DURING TRIAL

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ABSTRACT

This paper carries out careful explanations on the causes of rape, the types of rape and rapists, the myths surrounding incidence of rape, the effects of rape to the victims, the family members and the communities and the problematic issues in the trial of rape cases within the criminal justice system. The paper recommends effective media campaigns to sensitize the society on the issues surrounding rape, a well structured school – based interventions, adequate law reforms and guidelines for the prosecution of rape cases, screening of legal personnel involved in the prosecution of rape cases, training of juries and judges prior to hearing rape cases, tougher sentences for the offenders and finally, the admission of rape trauma syndrome as an evidence in prosecution of rape cases. If these are adequately implemented, rising tide of rape cases will subside in our society.

Keywords: Rape; Myths; Offender (s); Victim (s); Criminal Justice System.

INTRODUCTION:

Rape is a world- wide crime that is posing problem for the criminal justice system of every nation of the world. It has been, undoubtedly, acknowledged as one of the war crimes at the international level. Despite decades of feminist advocacy and awareness contributions, targeting at breaking the silence surrounding sexual victimization, the rapes of girls and women persists as a world- wide public health challenge and unfortunately, the public response to sexual violence often seems too pale in comparison to its prevalence (Orchowski, 2010). Hence, this paper takes a bold step to examine some critical issues that surround rape as a crime in our society, especially, rape of girls and women. The causes of rape are examined. The myths surrounding rape, the effects of rape and some problematic issues in criminal justice system, related to rape are equally discussed in this paper.

Rape is a crime that has attracted many definitions throughout the world. Definitions of rape vary from one nation of the world to another, depending on the laws and criminal Justice system of those nations. Rape has been defined, too, at the international level, as one of the commonest war crimes. Rape, therefore, has attracted definitions both at the national level and the

international level. However, for the purpose of this paper, some definitions of rape shall be examined, to justify, exactly what constitute a rape, as a criminal offence.

TYPES OF RAPE AND RAPISTS:

Zanni (2009), in her study of world Health Organization on violence and health, highlighted the types of rape that exist. These includes: stranger rape (in which the offender and the victim do not know each other prior to the incidence); acquaintance rape (both the offender and the victim have a relationship together i.e. boy friend/girl friend or those that are dating each other) it is also called date rape; intimate – partner rape (both the offender and the victim living together i.e. wife and husband or those cohabitating); gang rape (when many people, usually a group of offenders had the carnal knowledge of a victim); the rape of males (when females had the carnal knowledge of males without their consent); war or armed conflict rape (this exists when women or girls were forced into sexual intercourse with the third party, usually the relatives of the victims or directly by the armed soldiers or rebels) and party rape(this usually take place in parties)(Zanni, 2009; Wood, 2006; Porter and Alison, 2006 and Armstrong et al 2006).

Alexis (2009) discussed three categories of rapists: The first category is power rapist: they exert dominance, mastery, violence, authority and control over their victims, displaying violence or force to satisfy their un-checkable sexual fantasies for sexual potency. The second is opportunist rapists: they commit spontaneous sexual assault by stalking their victims and focusing on sudden enjoyment whilst using violence to control their victims. Opportunist rapists disregard planning for locations and strike at their prey with dispatch. They commit impulsive predatory sexual assaults, and violence is used to constrain the victim. This takes place, mostly when the opportunity arises i.e. party rape. The third category of rapists is called entitlement rapists: these rapists either forced their right to have sex whether the victim consented or not, or displayed that they accepted their dominance over and right to control women's behaviour. Rapists often express mistrust of women. Examples are marital rape, acquaintance rape or date rape where offenders insist on their right to have sex regardless of victims' consent.

WHY RAPE IS COMMITTED-THE CAUSES :

Edward and Macleod (1999) argued that the causes and incidence of sexual violence and rape in particular have received a great deal of attention in recent years by the media, law enforcers, politicians, and researchers. The authors argued that the prevalence estimates suggest that rape is a widespread incidence affecting a significant proportion of the female population. People overwhelmingly believe that rapists are mentally deranged (Yung, 2011). Bryden and Grier (2011) have done a commendable work on cause of rape in their article: "The Search for Rapists' "Real" Motives". The following are the summary of the motives for engaging in rape, according to Bryden and Grier (2011):

- (1) Bad parenting is a common explanation: Rapists tend to be very hostile toward women. This may be as a result of lenient, rejecting or inconsistent mothers and sometimes their harsh or remote fathers. They try to overcome anxieties about masculinity. This may be as a result of virtually absent fathers, dominant and overly protective mothers, doubts about their attractiveness to women or repressed homosexual inclinations.
- (2) Castration anxiety is another factor which may prompt rape: Rape can be considered as effort to cloak and negate the castration feelings by overriding them. Rapist places his victim in an inferior, degrading role and so satisfies his need to be sexually dominant.
- (3) Rapists may have a Madonna – Prostitute complex: Men with this complex divide women into two categories: those they sincerely love and consider worthy of being respected (Madonnas), and those they regard as inferior and seek to defile and degrade (Prostitutes). They only enjoy sex with latter. These men cannot be sexually satisfied with their wives or girl friends, which they love and respect. So they rape disreputable women toward whom they feel nothing but hatred but with whom they can find sexual satisfaction.
- (4) Patriarchal tendency is another reason why people rape: Rape is a kind of pervasive patriarchal violence against women. When a man grows up in a culture of patriarchy, he is taught to be assertive, inculcates traditional sex roles, and objectifies women. Rape may be the way of expressing these.

- (5) Rapist does so because he wanted to terrify women: Rape serves the purpose of a conscious process of intimidation by which the offender keeps the victim in a state of fear.
- (6) Rape may be as a result of a poor family or peer environment, lack of moral and prudential inhibitions, and general delinquency.
- (7) Rape may be caused by unsatisfactory sexual achievements and high erotic aspirations may be due to pressure from the peers to sexually succeed.
- (8) Rape may be as a result of unstable, acrimonious relationships with consensual sexual partners. This may cause anger and hostility toward their current partners or women in general.
- (9) Rape may be caused by offender's sexual curiosity. For instance, black men's resultant curiosity about white women's sexuality, or quest for greater sexual liberty or the adoption of the pervasive white culture's concept of feminine beauty.
- (10) Rape can serve as revenge against racial discrimination. Black rapist's goal, for instance, is to obtain revenge against white men for their oppression of blacks, by attacking the white men's most cherished possession – their women.
- (11) Rape can be done because of love for pain. A sadistic rapist obtains sexual pleasure from victim's pain and suffering and often murders her.
- (12) Rape may be caused by resentment, distress, frustration, depression, and anger. The offence itself is an explosive discharge of pent-up fury, in response to some upsetting event, for instance, when the offender felt that he had been wronged, hurt, put down, or treated unjustly by individual, situation, or event by women.

In addition to the above reasons, Fitzgerald (2010) explained that rape may be a war tactic which is far more than just an assault to an intimate and vulnerable aspect of an individual's dignity but a violent attempt to rip apart the social fabric of communities. Political or military leaders sometimes initiate mass rapes against a hated enemy i.e. rapes of Jews by Nazis and Chinese by Japanese (Bryden and Grier, 2011). It may also be a means of revenge against the enemy in war time. For instance in Second World War, Soviet troops engaged in such a

widespread rape in retaliation for sexual violence by German troops (Wood 2006). Rape can also be carried out as a part of ethnic cleansing i.e. Serbian forces during Bosnia – Herzegovina war.

EFFECTS OF RAPE MYTHS:

Rape myths usually create negative ideas which affect the victims, the reporting, the trial of rape cases and the society at large. Rape myths, argued Edward and Macleod (1999) are causally related to rape proclivity; negative attitudes towards rape victims; and reporting of sexual assaults incidents to the police. The following are the highlighted effect of rape myths:

- (1) Rape myths create imbalance between reporting and conviction rates (Eyssel, 2009). When reporting a sexual assault, victims often face formidable tasks of establishing their own credibility and dealing with reactions of others (relatives and acquaintances). Because of myths, the general public may not be wholly sympathetic to the victim's plight (Scheider et al, 2009).
- (2) Eyssel (2009) argued that myths and stereotypes surrounding rape create harmful effects on judgments of assault victims. The impact of rape – supporting attitudes and cognitive fallacies result in biased judgment of assault victims. They create a justice gap and underscores that judgments of guilt and blame in cases of rape are often far from being purely evidence based. Krieg (2007) agreed that rape myths may create a miscarriage of justice .In Zuma rape trial and judgment, Krieg (2007) argued that the judge seems to rely on several rape myths and assumption about women sexuality and rape in delivery of his judgment which acquitted Zuma of the alleged rape case.
- (3) Rape myths create a situation of social distance. Shechory and Idisis (2006) argued that rape myths were positively related to social distance. The people may express a decline in willingness to have social contact with victims and offenders, especially when the relationships were closer and more intimate. This confirms that prejudices and stereotypes concerning rape and rape victims still exist.
- (4) Rape myths create a positive correlation between rape myths and the belief that women's rights and roles should be restricted. Rape myths encourage the social climate, which aims to keep women in their traditional social place. Furthermore, those who advocate

traditional attitudes also tend to believe that women are often to blame for rape (Shechory and Idisis, 2006) .

- (5) The use of rape myths has severe consequences for sexual assault victims (Franiuk et al, 2008). Her reputation may be unjustly damaged, social stigma may be attached and people's orientations about her may change to negative.
- (6) Finally, rape myths may create an environment for supporting sexual assault in our society.

PROBLEMATIC ISSUES IN TRIAL OF RAPE CASES :

Rape is one of the most contentious crimes in every criminal justice system world over. In rape, the opinions of others play a role in understanding culpability and blame, victim's complicity or contributory negligence, and legal adjudication, as explained by Schneider et al (2009). When reporting rape, victims often face formidable tasks of establishing their own credibility and taking care of reactions of others (Schneider et al, 2009). Hence, reporting a rape case is an arduous task.

Police and Rape Investigation and Prosecution

Alexis (2010) agreed that police officers are the first to come into contact with a rape victim soon after the traumatic event. This is a critical stage which requires efficient and professional handling of victims. Such service has been found to be lacking on the part of police investigators, and overall proper rape investigations conducted by police officers leave a lot to be desired which form a problematic issue in criminal Justice system.

The problematic issues on rape as related to police investigations and handling of rape cases can be summarized below, according to the views of Alexis (2010):

- (1) Mismanagement of exhibits which are an integral part of prosecuting rapists has been highly criticized on several occasions.
- (2) The attendance of police officers in court is important for getting rape trials started. Non-attendance of police complainants is a major contributing factor for postponing court cases and hence cases may be dismissed or discharged by the presiding magistrates.

- (3) In other instances, there have been situations where victims fail to appear in court because they were threatened and had become fearful, or because of shame or public humiliation. Prosecution witnesses are sometimes reluctant to appear in court and testify. Some victims attend court and give contrary evidence having been paid to do so by the accused. All these are the factors which create a problematic issues in trial of rape cases

CONCLUSION AND RECOMMENDATIONS:

This paper has defined what rape is, explained the causes of it and the myths surrounding it. The effects of the rape on the victims, the family members and the communities have been discussed and the problematic issues involved in the trial of the rape cases have been thoroughly examined. The issue of rape is usually a very problematic one in any criminal justice system because of the nature of the crime and the demands of the law to prove its perpetration. Rape and other sexual assaults or violence still exist and perverse in our society. The records show that the phenomenon is a widespread one affecting a significant proportion of the female population (Edward and Macleod, 1999). Therefore, providing recommendations in this paper to curb its wide spreading is pertinent.

It is recommended that mass media campaigns against the crime of rape must be intensified in the societies that have started them and those societies that have not started such must start them as soon as possible. Mass media campaigns against rape will sensitize the people on how not to fall the victims of the crime, remove the myths which surround rape, enlighten the victims what to do to get justice and give a follow up to the cases of rape in the society, so that the people would be encouraged to believe that justice can be won in the courts of law. This paper equally recommends school-based interventions. Issues surrounding rape must be taught under the curricula of sex education in schools. The students must be taught these so that they would be prevented from becoming the offenders and the victims. School must make provision for the counseling of the victims, especially, when the offence is committed within the school environment.

It is recommended that every criminal justice system of every nation of the world should have law reforms or guidelines for the prosecution of rape cases. Furthermore, it is advocated that the

legal personnel that would be involved in rape cases be screened and found competent to handle the cases. The Amicus curia briefs would be helpful in handling rape cases. In addition, it is recommended that training of juries and judges prior to hearing rape cases be done. This would eliminate the myths on rape before they enter into trials. This of course, will prevent myths from intervening in their rational verdicts in the course of adjudication of rape cases.

Tougher punishments or sentences are recommended for those found guilty of rape. These will serve the purposes of retribution, incapacitation, deterrence, retribution, and restoration. When this is done, justice would have been done for the victims, the offenders and the entire society.

Finally the paper recommends the acceptance of expert testimony regarding rape trauma syndrome. It should be admissible because it is reliable evidence tending to prove the element of lack of consent in a rape case. It may be helpful to a jury in overcoming certain prevalent misconceptions that can stand in the way of rational decision making as submitted by McCord (1985).

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