

The Politics of Statutory Rape Laws on a Global Level

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Abstract

Rape is the most horrible and barbaric act that violates a woman's physical integrity and dignity. Human Rights Law and Standards has stated that the investigation and prosecution of rape and sexual violence crimes should be carefully focused on the work of challenging conservatism, which undermines equality before the law. The integrity of investigations and prosecutions should not be tainted by conservative bystanders, beliefs about sexual violence against men and boys, and women and girls. The new focus on legal rape laws that have been on the books of every state for decades, but largely ignored, has sparked public debate on the effectiveness of this policy, and the possible solution to the current problem of teenage pregnancy and childbirth. Rape law is being rewritten. Domestically and internationally, there are major efforts to reform rape laws that have failed to fulfill promises of justice for victims and prevent future sexual violence. The fringe of international criminal law on rape avoids questioning with consent and instead is a test of force or aggressive environment. Almost all the international laws are successful in meeting these goals. However, the politicians who practically respond to the empirical realities of adolescent sexuality do not provide any coherent framework. Neither federal nor state legislatures provide a coherent, well-articulated approach to action on harsh criminal penalties demanded by statutory rape provisions. On the other hand, some scholars have wrestled with the widespread contemporary application of statutory rape law, despite the absurd results of recent decades, and violated harsh penalties against juvenile delinquency.

Keywords: *Legal Provisions, Statutory Rape, Sexual Assault, Criminal Justice System Global Scale, India, Recommendations.*

Introduction

Rape is the most horrible and barbaric act that violates a woman's physical integrity and dignity. It destroys physically and mentally and pushes the victim into a deep psychological crisis and turns him into a living corpse¹. This is a crime against fundamental human rights and is clearly a violation of Article 21 of our constitutional right to life².

For all the recent controversies about rape³, its legal⁴ and political⁵ definitions, the strict application of statutory rape laws on minors who reject minors ignores the unequal and punitive penalties of politics. In fact, a politician who practically responds to the empirical realities of adolescent sexuality does not provide a consistent framework. Neither federal nor state legislatures provide a coherent, well-articulated policy against morals against stringent criminal penalties against statutory rape provisions.⁶ Judges understand and apply legal rape cases in ways that extend stereotypes and biases. On the other hand, some scholars have wrestled with the widespread contemporary application of statutory rape law, despite the absurd results of recent decades, and violated harsh penalties against juvenile delinquency.

The problem is that statutory rape codes create violations of every rule for all sexes, and in some states, even consensual sexual violations associated with minors violate the law of whether the "victim" is pregnant. Passes or. In other words, consent to a person or romance that is less than the majority (based on specific state law) is an offense. Such inequities can be legitimized as the latest legislative and contemporary outlaws of the prosecution with a rigid and uniform view of rape. However, this "difficult" policy undermines judicial power and discretion, and formalism, which fails to prescribe. , Age, capacity, injury, compliance and social costs.

Perceptions of Statutory Rape

¹ Jennifer SW. Rape, Racism and the law. Harv J Law Gend 1983;6:103

² Binion G. Human rights: A feminist perspective. Hum Rights Q 1995; 17.3:509-26.

³ John Eligon & Michael Schwartz, Senate Candidate Provokes Ire with 'Legitimate Rape' Comment, N.Y. TIMES (2012), http://www.nytimes.com/2012/08/20/us/politics/todd-akin-provokes-ire-with-legitimaterape-comment.html?_r=0

⁴ Am. Prosecutors Research Inst., State Rape Statutes, http://www.arte-sana.com/articles/rape_statutes.pdf

⁵ John Eligon and Michael Schwartz, 'Senate Candidate Provokes Ire With 'Legitimate Rape' Comment.' New York Times, Aug. 20, 2012.

⁶ LoBianco, Tom. Indiana Gay Marriage Ruling Put On Hold By Federal Appeals Court. Huffington Post Politics. 2015.

Although sexual activity and social exploration are common features of developing adulthood⁷, there are cultural expectations that minors should not engage in unprotected and risky sexual relationships^{8, 9}. This includes having non-forcible sexual relationships with adults who are illegal due to the age of consent issue. The age of the victim and perpetrator and the gender of both are important factors when discussing legal rape cases. Although some studies do not show the offender's gender to be an important factor¹⁰, other research has found male offenders to be more vulnerable and harmful than female offenders^{11, 12}. Although it is not appropriate to blame the victim's role in sexual harassment, statutory rape is different in that young participants agree to engage in behavior with older participants. However, when the victim discusses the perpetrator, the question arises whether the minor is responsible for establishing sexual relations¹³. This indicates that the minor succeeded in seducing the old party, betraying the old party about his age, or somehow blackmailing the old party. Research shows that victims are most likely to be blamed for situations where they believe they can resist an attack¹⁴, or after parents decide to pursue a relationship with adolescents, law enforcement, or school officials. Additionally, male participants were found to be guiltier of their role in crime than female participants¹⁵. The age of the victim also plays a role in his conviction; late adolescents are more responsible for the crime than those who are early adolescents, who are not capable of confronting the offender or understanding the events that occur.

Violence against women as a violation of women's human rights

⁷ Douglas J. Besharov & Karen N. Gardiner, Trends in Teen Sexual Behavior, 19 CHILD. & YOUTH SERV. REV. 341, 345 chart 2 (1997)

⁸ Cocca, C. E. Jailbait: The politics of statutory rape laws in the United States. Albany, NY: State University of New York Press. (2004).

⁹ Sahl, D. & Keene, J.R. The sexual double standard and gender differences in predictors of perceptions of adult-teen sexual relationships. Sex Roles, 62, 264-277. (2010).

¹⁰ Broussard, S. D., & Wagner, W. G. Child sexual abuse: Who is to blame? Child Abuse and Neglect, 12, 563-569. (1988).

¹¹ Fromouth, M. E. & Holt, A. R. Perception of teacher sexual misconduct by age of student. Child Sexual Abuse, 17, 163-179. (2008).

¹² Fromouth, M. E., Mackey, A. L., & Wilson, A. (2010). Effect of student vulnerability on perceptions of teacher-student involvement. Child Sexual Abuse, 19, 419-433.

¹³ Font, S. A. Perceptions of juvenile sexual abuse victims: A meta-analysis on vignette-based studies on the effects of victims' age and respondents' gender. Journal of Child Sexual Abuse, 22, 593-611. (2013).

¹⁴ Waterman, C. K. & Foss-Goodman, D. (1984). Child molesting: Variables related to attribution of fault to victims, offenders, and nonparticipating parents. Sex Research, 20, 329-349.

¹⁵ Font, S. A. Perceptions of juvenile sexual abuse victims: A meta-analysis on vignette-based studies on the effects of victims' age and respondents' gender. Journal of Child Sexual Abuse, 22, 593-611. (2013).

The United Nations Universal Declaration of Human Rights describes the legal principle that rape is a violation of human rights. It states that ‘all human beings are born free and with equal dignity and rights’, which continues in Article 2, where everyone is entitled to the rights and freedoms set forth in the [UDHR], including sex. In 1993, the United Nations General Assembly adopted Resolution 48/104, which exposes violence against women, including rape, as a violation of human rights and gender inequality.

It affirms that violence against women violates women's rights and fundamental freedoms and undermines or diminishes the enjoyment of those rights and freedoms, and concerns about the long-term failure to protect and promote those rights and freedoms in the face of violence. Women,

Admitting that violence against women is an expression of historically unequal power relations between men and women, it has led to discrimination against women and prevented the full progress of women, and violence against women is one important social system in which women are forced into subordinate positions with men.

Resolution 1 and 2 define violence against women:

For the purposes of this Statement of Article 1, the term "violence against women" means any act of gender-based violence, which may cause physical or sexual harm, such as threats to the public, or to cause harm to women. Article 2 considers violence against women not limited to:

- physical, sexual and psychological violence in the family, beatings of women, sexual exploitation of girls at home, dowry-related violence, marital rape, genital mutilation and other traditional methods of harm to women, non-verbal violence and exploitation;
- Physical, sexual and psychological violence, rape, sexual exploitation, sexual assault and bullying at work, trafficking and forced prostitution in educational institutions and elsewhere in the general community;
- Wherever physical, sexual, and psychological violence occurs.

Rape as a war crime

The prohibition of rape under the International Humanitarian Law (IHL) has already been identified in the Libre Code of April 24, 1863, also known as the command of the United States

forces in this field (Art. 44). . Although there is no explicit reference to rape or other forms of sexual violence in Article 3 of the Geneva Convention, it does prohibit 'violence and injury to life and to the cruel conduct and personal dignity that accompanies it'. The Third Geneva Convention provides that prisoners of war are under all circumstances to honor and respect their people (Art. 14, first paragraph.). The prohibition of 'tyranny on personal honor' is recognized as a fundamental guarantee to citizens and individuals in Additional Protocols I and II, which runs against De Contra (Additional Protocol I, Art. 75) (2). Article 75 of Additional Protocol I sets out this prohibition. Particularly involved in 'abusive and degrading treatment, coercive adultery, and indecent assault of any kind', Article 4 of Additional Protocol II specifically adds 'rape' to this list (Additional Protocol I, Art. 75 (2)). The Convention and Additional Protocols require that women and children be protected against rape, adultery or any other form of indecent assault (Art. 27, second paragraph). Rape, forced prostitution and indecent assault of any kind are war crimes under the law as per International Criminal Tribunal for Rwanda and Special Court for Sierra Leone (ICTR Statute, Article 4 (e)). The expressions are 'tyranny over personal dignity' and 'how vulgar an attack.' Indication of any sexual violence'

Rome Statute of the International Criminal Court¹⁶ recognizes rape as a crime under international criminal law. Article 7 (1) G classifies crimes against humanity:

As part of a widespread or systematic assault on any civilian population, such as rape, sexual slavery, forced prostitution, coerced pregnancies, forced sterilization, or any form of sexual violence of comparable gravity [committed] as part of a widespread or systematic attack directed against any civilian population.

And Article 8 (2) (b) (xxii) classifies these offenses as war crimes.

The United Nations Security Council has cooperated with the United Nations Security Council to establish rape in conflict areas as a violation of international human rights law. In addition to the Statute of the International Criminal Tribunal for the Former Yugoslavia (ICTY / R) created by the United Nations Security Council resolutions, it has issued several resolutions condemning acts of rape and sexual violence. The Haiti Resolution In 1743, the Security Council condemned

¹⁶ International Criminal Court, Rome Statute of the International Criminal Court (2011a). <http://www.icc-cpi.int/NR/rdonlyres/ADD16852-AEE9-4757-ABE7-9CDC7CF02886/283503/RomeStatutEng1.pdf>

serious violations of children with armed violence, as well as mass rapes and other sexual assault on girls. Resolution 1034 relating to Bosnia expresses the Council's concern for evidence. 'Stable models of rape'. Similar condemnations can be found in the 1493 resolution, which refers to "systematic acts of violence against civilians," including sexual violence against women and girls in the Democratic Republic of Congo; The 1539 resolution on the Council on Children and Armed Conflicts condemns 'sexual violence against 15 mostly girls'.

Sexual violence against women is recognized as a violation of human rights within customary law, treaty law and international human rights courts. Since the 1990s, there have been significant new actors in the development of the United Nations' International Criminal Tribunal legislation designed to deal with war crimes during times of conflict. Thus, since the creation of ICTY in 1993, it has become a major component of international law. The International Criminal Tribunals of the United Nations, particularly the International Criminal Tribunal for Rwanda (ICTR), established in 1994, reflected and sustained one. In addition, uniformed men should be brought under the Common Criminal Law¹⁷ in conflict areas committed by the Sexual Offenses and Armed Forces.

The legal competence of the EU on rape law and policy

The European Union has the legal capacity to develop legislation and policy on rape and other forms of violence against women and is currently under discussion. Issues include: identifying relevant legal principles and judgments, which are capable of functioning at the state level rather than at the state level.

In contrast to the European Union's human rights principles and its agreements on the one hand, equality between men and women and rape in some member states on the other is quite different from the standards of law and policy. For example, some member states have failed to meet the standard agreed by the European Court of Justice to implement the European Convention on Human Rights¹⁸.

¹⁷ United Nations Office for the High Commissioner of Human Rights, UN rights chief praises groundbreaking report on violence against women in India. (2013). Available at: <http://www.un.org/apps/news/story.asp?NewsID=44000&Cr=India&Cr1=rights#.UQZX ovImTp8>

¹⁸ European Court of Human Rights Factsheet – Violence against Women. (2013). Available at: http://www.echr.coe.int/Documents/FS_Violence_Woman_ENG.pdf

Although the development of legislative and non-legislative policy in the region has been recognized at European level in recent years, it is a case of European legislative action to assist Member States in closing the gap between national and international standards.

Laws against Rape in India

The history of rape laws in India begins with the implementation of the Indian Penal Code (IPC) in 1860 (45 of 1860)¹⁹ under sections 375 and 376. According to the original clause of section 375, a man is said to have raped her, except in the latter case, under any circumstances, any one of the six men who undergoes intercourse with a woman:

1. against his will
2. without his permission
3. When consent is obtained by placing him or her in the interest of fearing death or injury, by his consent;
4. When the male learns that she is not her husband, she consents, and her consent is granted because she believes that he is another man who is married, or that she is married under the law.
5. By his consent, at the time of giving such consent, he does not understand the nature and consequences of the mind or intoxication or the administration of any other idiotic or unpleasant substance caused by the dysfunction of the administration. From that he agrees
6. under the age of 16 with or without her permission.

The legacy of the IPC 1860 (45) is the troubling history of identifying the rapes that have left most survivors. The problem is not sex; it is sexual abuse, in which sex is transformed into a weapon.

¹⁹ Tandon MP, Tandon R. The Indian Penal Code. 15th ed. Allahabad: Allahbad Law Agency; 1982. p. 300 4.

The following attacks were not counted in the IPC 1860.

1. Definition of rape with the penetration of the penis of the vagina excludes victim survivors. Some criminals may not have sex with sticks, baseball bats, or other objects, but hate. Anyone can use their finger to enter
2. Indian Penal Code provides immunity for rape in marriage by prosecution
3. The prevalence of child sexual abuse is underestimated and most perpetrators are not followed
4. Only potential offenders are caught and only women are legally hurt
5. The definition of rape that penetrates the vaginal penis has allowed all male victims to have pornography or other sexual abuse.

Under the IPC, the rape law has gone through several amendments. In 1983, section 376 (2), i.e. custodial rape, section 376 (a), i.e. marital rape, and section 376 (b to d), did not include the amount of rape. Under the Criminal Law Amendment Act (1983), it is a crime to expose the identity of a rape victim. Although the law has the same definition of rape, it introduces many new categories of crimes committed by people in custody with women, such as detained hospitals, remand homes, prisons and police officers. . In custody rape cases, the burden of proof rests on men and if a woman victim makes a statement that she does not agree, the court believes that she will not accept it.

Law prohibiting sexual offences against children sparks controversy over age of consent

The Child Protection Act against Sexual Offenses Act, 2012 was passed by Parliament on 22 May 2012. The law defines a variety of sexual offenses against children and provides penalties for such acts. The act is considered a welcome move by many activists because it is gender neutral (both male and female children are covered), it defines crime and has some child-friendly reporting systems, recording evidence, investigating and prosecuting crimes. However, the issue of compliance age has created some controversy. Age of consent refers to the age at which a person considers the ability to legally report sexual activity with another person. Prior to the passage of the law, consent was considered to be 16 (except in case the woman married the accused, in which case she may be less). Under Section 375 of the Indian Penal Code, 1860, any sexual intercourse with a woman under the age of 16 is considered "rape". The person's consent

is irrelevant. This post provides a snapshot of the main provisions of the law, discussion of the conflict clause and comparison of relevant laws in other countries.

Key provisions of the Act

- The Act defines any child under the age of 18 and protects all children from crimes such as sexual assault, sexual assault and sexual assault. It punishes a person for using a child for pornographic purposes.
- Act If a person touches a child's vagina, penis, anus or breast for sexual intent without penetrating, he is "sexually abused."
- The law is considered "aggravating" the offense if committed by a person with authority or trust, such as a member of the security forces, a police officer or a civil servant.
- It sets out penalties for crimes and provides a mechanism for reporting and prosecuting such crimes.

After its introduction, the bill was referred to the Standing Committee on Human Resource Development. The Committee submitted its report on 21 December 2011. In view of the Standing Committee's recommendations, Parliament has decided to amend some of the provisions before passing the bill. If a person is accused of "molesting" or "molesting" a child between the ages of 16 and 18, the child's consent may be taken. This provision has been removed from the bill passed. The bill (as approved) states that anyone under the age of 18 is considered a child. It prevents any sexual activity with a child. However, the implications of this law are not clear in cases where both parties are under 18 years of age. The rise of the 18-year compliance age has led to a debate among experts and activists. Proponents of raising the age of consent say that if the victim is between the ages of 16 and 18, the sexual assault case will depend on whether he agrees to the action. The entire investigation process, including the victim's cross-examination, focuses on the victim's behavior rather than the blame. Opponents of increasing the age of consent because the law criminalizes any sexual activity with persons under the age of 18 (including consent), the police may abuse it to harass young couples, or parents may use the law to restrict the sexual behavior of older children.

International comparison

In most countries, the age of consent varies between 13 and 18 years. The table below lists the age of consent and the corresponding law in some selected countries.

Countries	Age of consent	Law
US	Varies from state to state between 16 and 18 years. In some states, the difference in age between the two parties is taken into account. This can vary between 2-4 years.	Different state laws
Uk	16 years	Sexual Offences Act, 2003
Germany	14 years (16 years if the accused is a person responsible for the child's upbringing, education or care).	German Criminal Code
France	15 years	French Criminal Code
Sweden	15 years (18 years if the child is the accused person's offspring or he is responsible for upbringing of the child).	Swedish Penal Code
Malaysia	16 years for both males and females.	Malaysian Penal Code; Child Act 2001
China	No information about consent. Sex with a girl below 14 years is considered rape. Sodomy of a child (male or female) below 14 years is an offence.	Criminal Law of China, 1997
Canada	16 years	Criminal Code of Canada
Brazil	14 years	Brazilian Penal Code 2009
Australia	Varies between 16 and 17 years among different states and territorial jurisdictions. In two states, a person may engage in sexual activity with a minor if he is two years older than the child. In such cases the child has to be at least 10 years old.	Australian Criminal laws

India	18 years.	Protection of Children Against Sexual Offences Act, 2012
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Recommendations

In this study, Criminal Justice System derives best practices for rape prevention and rape victims from a review of international literature on research findings, evaluation studies, expert recommendations and policy documents. Criminal Justice System has best practices for increasing the rate of conviction of rape offenders, while preventing victim-survivor secondary injury.

Best Practices:

- need a favorable context, they are drawn by the rule of law; Performance and democratic Criminal Justice System; A clear political desire to prevent rape and help victims of rape; And civil society that can include governmental and legal agencies; Evidence-based; Develop and implement best practice interventions to work and to achieve results and / or to prevent those that may jeopardize a goal of intervention as a whole;
- Standardized data collection and quality monitoring tools should be used in full-scale Criminal Justice System interventions designed to assist rape women and survivors to prevent rape and initiate stronger comparisons;
- Contribute to continuous improvement by providing lessons learned and highlighting what is best to add to the evidence-base so that future development is evidence-based;
- Treat victim-survivor respect and sensitivity to prevent secondary insurgency and remain victim-centered, while practicing the needs of victim-survivor health, safety, dignity, privacy and autonomy;
- Support them in the Criminal Justice System process with their own attorneys of victim-survivors, including legal attorneys who can speak to rape victim-survivors during trial;
- Providing expert departments, including courts, that have gathered expertise and best practices;
- Properly driven inter-agency work, which must be embedded in practice and include agencies across and outside the Criminal Justice System;

- adequately funded; It is not enough to fund the establishment of interventions, and ongoing and operating costs are sufficient to ensure that other best practice standards are consistently distributed, and that interventions continue to evolve, and that those contributing to prevention assist rape and rape victims;
- Experts are experts; This is an intermediate-term recommendation, in which Criminal Justice System-led interventions can help rape victims and survivors develop expertise and knowledge on rape prevention by training all concerned practitioners;

Conclusions

The measures proposed here are reactive, mainly in the international and non-armed conflicts that require positive measures to implement international humanitarian law. More urgently, commitment is needed to prevent armed conflict and destroy the conducive environment for such crimes to occur. European Union member states and other states do not meet international standards on rape laws. Some states do not use the admission of consent, but the more restrictive limits of force in the law. Most countries around the world have not yet met the law on rape in the United Nations Handbook, although there have been significant moves towards them in recent years.

Unlike judicial awakening; mainly requires understanding. "It is important to take legal action to protect women's human rights by educating the public to see women as valuable partners in community development and life." Men have an economic, moral, political, religious and social responsibility to deal with all forms of gender discrimination²⁰. In a country with rape myths, globalization is rapidly changing the letter of the law, intensifying cultural and religious stereotypes, and changing social values.

²⁰ Courtois CA. Healing the Incest Wound: Adult Survivors in Therapy. New York: W. W. Norton and Company; 1988. p. 208.