RAPE: SOME ETIOLOGICAL FACTORS AND THE NEED TO REFORM THE LAW

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The aim of this project paper is to link between the rape offenders and their environment. There are other factors which influenced them either from their own personality or other circumstantial factors.

It is unfair to look on the sentenced and punishment passed by the courts on the offenders, in accordance with the existing laws, but to look on the causal factors of such crime and take into consideration such reasoning behind the committance of such crime.

The court will also required to give judgement to the offenders accordingly. Either they should be imprisoned or send for medical attention as the offenders can be regarded as 'patient' who needs psychiatric treatment.

This project paper will highlight on the new reform rape law originated from the Michigan Legislature and the application of it after Morgan's Case, in United Kingdom.

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CHAPTER ONE

I. The Concept of Rape.

Introduction.

To a woman the definition of rape is a fairly simple one. It is meant by a sexual invasion of the body by force, an incursion into the private, personal inner space without consent — in short, an internal assault from one of several avenues and by one of several methods — constitutes a deliberate violation of emotional, physical and rational integrity and is a hostile, degrading act of violence.

And yet by tracing man's concept of rape as he defined it in his earliest laws, we now know with certainty that the criminal act he viewed with horror, and the deadly punishments he saw fit to apply, had little to do with an actual act of sexual violence that a woman's body might sustain. But the law has come some distance from such meaning, since the beginning of that earliest laws.

When rape is placed where it truly belongs, within the context of modern criminal violence and not within the
purview of ancient masculine codes, the crime retains its
unique dimensions, falling midway between robbery and
assault. It is in one act, both a blow to the body and
a blow to the mind, and a 'taking' of sex through the use
of threat of force. Yet the differences between rape
and an assault or a robbery are as distinctive as the
obvious similarities. In a prosecutable case of assault,
bodily damage to the victim is clearly evident. In a case
of rape, the threat of force does not secure a tangible
commodity as we understand the term, although sex
traditionally has been viewed by men as "the female
treasure", more precisely, in rape the threat of force
obtains a highly valued sexual service through temporary
access to the victim's intimate parts, and the intent is
not merely to 'take', but to humiliate and degrade.¹
Thus, in modern law rape must be 'forcible penetration of the
vagina by the penis, however slight.' Therefore, rape as
defined by law as a heterosexual offence that is characterized
by genital copulation.

Smith & Hogan² has laid down characteristics of rape where
a man commits rape if:

1) he has unlawful sexual intercourse with a woman who
   at the time of the intercourse does not consent to it; and