

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

BY:

MOHD. MARZUKI BIN HAJI IBRAHIM

SUBMITTED IN PARTIAL FULFILMENT
OF THE REQUIREMENT FOR THE
DIPLOMA IN LAW

AT THE

MARA INSTITUTE OF TECHNOLOGY
SHAH ALAM, SELANGOR.
DECEMBER 1985.

PREFACE

The aim of this project paper 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 imprisonment 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.

Sha' Alam

1985

MOHD MARZUKI HJ IBRAHIM.

TABLE OF CONTENTSPAGE

Preface

Acknowledgement

Table of Contents

CHAPTER ONE

I. The Concept of Rape

Introduction 1

a) Rape And Their Classification 6

II. Sociological Study Of Rape 11

i) Race 12

ii) Social Class 14

iii) Prison Rape 18

iv) Forms of Raping 23

III. The Victim

i) Varieties of Victims Behaviour 26

ii) The Ordeal of The Rape Victim 28

CHAPTER TWO

I. Some Etiological Factors Of Rape

Introduction 32

i) Family Background Factors 35

ii) Peers Factor And Their Age Group 38

iii) Social-economic And Cultural Background 42

iv) Personality

a) Personality Traits 47

b) Intelligence 50

v) Psychosis or Insanity. 53

vi) Chemical Influence - The causative factor of rape 55

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 :

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