Legal Decision Making Concerning Heterosexual Rape of Males and Females

An Honors Thesis (HONRS 499)

by

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Abstract

This paper explores attitudes and stereotypes towards heterosexual rape of males and females. A survey was administered to a group of undergraduates at Ball State University. It was anticipated that the subjects would find heterosexual rape of males less believable and less likely to occur than heterosexual rape of females. The literature on male rape will also be reviewed.
In the past, there has been numerous publications on the subject of rape. These publications have dealt primarily with the offender, the offense itself, and the female victim. Although there has been increasing recognition of male rape victims, these victims tend to be victims of homosexual assaults (Cotton and Groth, 1982; Seabrook, 1990). Publications of anecdotal reports of men being forced by women to participate in sexual acts occurred as early as 1952 (Lehfeldt). This subject of male heterosexual rape has gotten little serious attention.

Male heterosexual rape is just as it sounds--a man is raped by a woman. Masters has argued that the term "rape" should not be used in a case where a man is forced by a woman to participate in sexual acts. His arguments are that our society associates rape with the female sex and that during rape the victim's body is invaded by the attacker (1986). This researcher will be using the term "rape" as defined by Benedict as any sexual act that is forced upon a person (1985).

Our culture has the belief that a man must be sexually aroused in order to have an erection. Studies are finding that a man can respond sexually during a variety of intense emotions ranging from anger to fear to embarrassment (Calderwood, 1987; Masters, 1986; Sarrel and Masters, 1982). Sarrel, Masters, and The Johnson Institute found in their study of men who were raped by women that all nineteen of the victims had erections and six of them ejaculated (as cited in Benedict, 1985).

Due to the fact that a woman who has raped a man has not been interviewed, researchers can only theorize about the motivation. The basic theory is that of a parallel between male and female offenders. The major motive for the rapist is the need to control, to overpower, to humiliate, and to hurt the victim. The act of rape is a way to achieve such power (Benedict, 1985; Masters, 1986).

There are many influences in the way society judges rape, rapists, and rape victims. These influencing factors are stereotypes and myths about rape. These
myths and stereotypes range from the belief that rape is sex, to the belief that women provoke rape (Benedict, 1985). Myths and stereotypes that affect the way society views male rape are the belief that men are more sexually oriented and the belief that men are more interested in sex for its own sake (Smith, Pine, and Hawley, 1988).

The majority of the research on stereotypes and myths about rape are concerned with the reactions to female victims. A study by Smith, Pine, and Hawley researched the social cognitions about the male victims of female sexual assault. It was found that the male victim of a sexual assault by female offenders was judged more likely to have encouraged the episode, to have derived more pleasure from it, and to have experienced less stress (1988).

The legal system in the U.S. in many ways is affected by these same stereotypes and myths. For years, the Hale Instruction was given to juries warning them that a woman who has accused a man of rape may be doing so because she is jealous, angry, or hurt. Even today, the action of the victim is judged, not the action of the attacker. In order for the act to be considered rape and not consent, the victim must exert earnest resistance against the attacker. The focus is on the victim's conduct not the attacker's (Daane, 1988).

Males may face even worse prejudice in the U.S. legal system. Thirty-nine states have gender neutral laws, but eleven states still have gender specific statutory rape laws. As far as it is known, no male rape victim has won in court. Attorneys may even show prejudices against their male clients. Sarrel was quoted as knowing of two male rape victims who were not believed by their attorneys. This disbelief was due to the myth that men cannot respond sexually unless aroused (Petrucelli, 1982).

Due to these reported prejudices in the U.S. legal system, this researcher decided to investigate the myths and stereotypes as they might affect those who sit as jurors on a rape trial. To study these prejudices about male heterosexual rape, a legal decision survey was administered. It was anticipated that the subjects surveyed would find heterosexual male rape less believable and less likely to occur.
It was hypothesized that this survey would more specifically show heterosexual male rape to be encouraged by the male victim instead of forced by the offender, and sexually pleasurable for the male victim. It was expected that of these afore mentioned factors, female defendants would be found less guilty and would generally be given shorter sentences than male defendants.

Method

Subjects

Ball State University undergraduates were used as the subjects in this research. There were 135 male subjects and 101 female subjects. These undergraduates were enrolled in introductory and upper level criminal justice courses.

Procedure

The subjects were enrolled in three different criminal justice classes at Ball State University and participated on a voluntary basis. This researcher informed the subjects that they would be given a randomly selected court case and it may not be an Indiana case. This instruction was given because the case scenario used in the survey in Indiana law would not be rape, but sexual deviate conduct. The subjects were then instructed to read the case scenario carefully and to answer the legal decision making questions following it. The subjects were asked to make serious judgments as if they were the actual jurors in this case.

This researcher then gave each subject a survey containing one case scenario and a series of questions. The surveys were prearranged in order so that there would be a similar number of both surveys taken and to prevent the subjects from realizing that there were two surveys. The subjects were also instructed to remain quiet so not to influence others taking the survey. It was hoped that this instruction would lower the number of subjects discovering that there were two
surveys circulating.

**Survey**

The survey administered was designed by Smith, Pine, and Hawley for their 1988 research "Social Cognitions About Adult Male Victims of Female Sexual Assault". The survey used was of a 2 (sex of victim) X 2 (sex of respondent) factorial analysis design. The case scenario in the survey was entitled "Barnett/Dandridge v. State of Washington" and was as follows:

On Tuesday, May 10, 1977, John (or Joan) Drucker, a 20 year-old college student, was traveling on U.S. Route 2 west of Leavenworth, Washington.

On a relatively deserted stretch of highway, Mr. (Ms.) Drucker's auto overheated as the result of a broken fan belt. He (she) was offered and accepted a ride to a service station in the next town by the defendants, Mary (Mark) Barnett and Theresa (Thomas) Dandridge. According to Mr. (Ms.) Drucker, the defendants suddenly pulled off the highway onto a deserted dirt road and confronted him (her) with a gun.

Mr. (Ms.) Drucker stated that he (she) was forced to disrobe and the defendants did likewise. Mr. (Ms.) Drucker was then told by Ms. (Mr.) Dandridge that he (she) and the defendants were going to "play a little game called '69". For the next thirty minutes, Mr. (Ms.) Drucker stated that he (she) was forced to engage with the two women (men) in mutual oral-genital sexual activity. He (she) stated that he (she) was left in the deserted field with his (her) clothes as the defendants drove off. He (she) made his (her) way to the highway and was eventually picked up by the State Patrol, to whom he (she) reported the incident.

The defendants were apprehended later that day in Skykomish, Washington. They were positively identified by Mr. (Ms.) Drucker. A gun was found in their possession and identified by Mr. (Ms.) Drucker as the weapon used in the episode.

Mr. (Ms.) Drucker preferred charges, and under Washington law, the defendants were charged with rape, an offense punishable by a prison term of 5 to 20 years.

At the trial held in Wenatchee, Washington, the defendants acknowledged that the alleged sexual acts had occurred, but they denied that they forced Mr. (Ms.) Drucker to engage in them. They claimed, instead, that the sexual incident occurred at the suggestion of Mr. (Ms.) Drucker.

The series of questions were as follows:

1. What is your judgment of the innocence or guilt of the defendants? (Answered on a 7-point Likert format ranging from 1, I am certain they are innocent, to 7, I am certain they are guilty.)
2. The crime of rape is punishable by a term of 5 to 20 years in prison. If you found the defendants guilty, how many years' imprisonment would you recommend? (Subject wrote number.)

3. What is your judgment of the likelihood that Mr. (Ms.) Drucker was forced by the defendants to engage in the sex acts? (Answered on a 6-point scale ranging from extremely likely to extremely unlikely.)

4. What is your judgment of the likelihood that, as the defendants claim, Mr. (Ms.) Drucker encouraged or initiated the sex acts? (6-point scale from extremely likely to extremely unlikely.)

5. How sexually pleasurable do you feel the incident was for the two defendants? (6-point scale from extremely pleasurable to extremely unpleasurable.)

6. How sexually pleasurable do you feel the incident was for Mr. (Ms.) Drucker? (Same scale as item 5.)

7. How stressful do you feel the incident was for Mr. (Ms.) Drucker? (6-point scale ranging from extremely stressful to not at all stressful.)

8. How personally responsible do you feel Mr. (Ms.) Drucker was for the sexual episode that occurred? (6-point scale from completely responsible and not at all responsible.)

**Results**

Using a 2 (sex of victim) x 2 (sex of respondent) design on the SPSS MANOVA, a multivariate analysis of variance was performed on the specific dependent variables. An alpha level of .05 was chosen to be the constant indicator of significant difference between the cell means. For the focus of the research, six dependent variables will be used to discuss verdicts, punishments, and victim responsibility.

The first issue to be discussed is verdicts. The dependent variable associated with this issue is question one on the survey in regards to innocence or guilt of the defendants. The mean for the entire sample was 5.747 showing that as a whole, the group found the defendants guilty. A difference was however found in the degree of certainty of guilt based on the sex of the victim and also based on the gender of the respondent, but an interaction effect between the two was not found. For female victims, male respondents degree of certainty (M=5.638, SD=1.236) was lower than female respondents degree of certainty (M=6.320, SD=.913). For male victims, male respondents degree of certainty (M=5.464, SD=1.206) was also lower than the degree of certainty (M=5.640, SD=1.274) shown by female respondents. A
significant difference was seen between male and female respondents regardless of the victim's sex, $F=7.39$, $p=.007$. The victim's sex ignoring the gender of the respondent was also found to be significant, $F=7.31$, $p=.007$.

The next issue to be discussed is the punishments. The dependent variable associated with this issue is question two in regards to years sentenced. For female victims, female respondents gave a slightly lesser sentence ($M=14.380$, $SD=5.158$) than did male respondents ($M=14.424$, $SD=5.646$). For male victims, female respondents were higher ($M=11.000$, $SD=5.403$) than male respondents ($M=9.962$, $SD=5.481$). The only significant difference seen was in the victim's sex ignoring gender of the respondent, $F=27.61$, $p=.000$.

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The third issue to be discussed is victim responsibility. The dependent variables associated with this issue are questions three, four, six, and eight regarding
force, victim encouragement, victim pleasure, and victim responsibility. Means and standard deviations for these cells are shown in Figure 2. Dependent variable (question three), in regard to force, found a significant difference based on the victim's sex regardless of respondent gender, $F=32.57, p=.000$. For the female victim, female respondents were more likely to judge the victim as being forced ($M=1.820, SD=1.480$) than male respondents ($M=2.191, SD=1.374$). For male victims, female respondents were also more likely to judge the victim as being forced ($M=3.041, SD=1.607$) than male respondents ($M=3.309, SD=1.620$).

Dependent variable (question four), in regard to victim encouragement, found a significant difference based on gender of the respondent, $F=11.58, p=.001$ and also based on victim's sex, $F=27.38, p=.000$. For female victims, female respondents judged the victim less likely to have encouraged the episode ($M=5.608, SD=.802$) than male respondents ($M=4.826, SD=1.328$). For male victims, female respondents also judged the victim less likely to have encouraged the episode ($M=4.520, SD=1.297$) than male respondents ($M=4.164, SD=1.411$). Dependent variable (question six), in regard to victim pleasure, found a significant difference based on gender of the respondent, $F=28.98, p=.000$ and also based on the victim sex, $F=56.13, p=.000$. For female victims, the female respondents judged the episode less sexually pleasurable for the victim ($M=5.765, SD=.619$) than male respondents ($M=4.739, SD=1.668$). For male victims, the female respondents also judged the episode as less sexually pleasurable for the victim ($M=4.327, SD=1.676$) than male respondents ($M=3.246, SD=1.515$). Dependent variable (question eight), in regard to victim responsibility, found a significant difference based on the gender of the respondent, $F=5.76, p=.017$. For female victims, the female respondents judged the victim as less responsible for the episode ($M=5.157, SD=.946$) than male respondents ($M=4.435, SD=1.430$). For male victims, the female respondents also judged the victim as less responsible for the episode ($M=4.600, SD=1.414$) than male respondents ($M=4.482, SD=1.321$).
Discussion

The results of this research demonstrate that stereotypes and myths do affect potential jurors of a rape case. These jurors are especially affected by stereotypes and myths when the victim of that rape case is male. The male victim of rape was judged as more likely to have encouraged the episode, less likely to have been forced, and to have derived more pleasure from the episode. The male respondents were more pronounced in their judgments. It is believed that the judgments were more pronounced due to the disbelief that a woman could overpower and take control of a man. The factor being overlooked is the use of a weapon. In the survey, there were two females and a gun. This is typical of male heterosexual rape. The female rapist usually attacks with a group of women or with a weapon. These factors are great equalizers (Benedict, 1985).

Two women dominating a man sexually is also seen by many men as a fantasy rather than a crime. Smith, Pine, and Hawley quoted one of their male subjects as writing "Some guys have all the luck!" (1988). In response to the survey
given, one male respondent wrote that "Since they raped a guy, he probably enjoyed it." In general, the male respondents are overlooking the trauma suffering by the male victim. The male victim of heterosexual rape is not an active and willing participant as in the case of any rape victim.

The myth that rape is sex was also seen in the surveys completed by the male respondents. The same male respondent in this research also questioned the physical attractiveness of the attackers. He stated that "No guy wants to have sex if she (the attacker) looks like s--..". This shows the acceptance of the myths that males are interested in sex for its own sake and are more sexually oriented (Smith, Pine, and Hawley, 1988).

Women respondents were less pronounced in their judgments of male heterosexual rape victims. It is believed that their judgments were more empathetic due to the conditioning of women to fear attack. One respondent gave constructive criticism by stating "She (the victim) should not have gotten in a car with a strange man.". This statement may have been the result of classroom or parental education. This education is more often directed toward females than males.

There is a need for more awareness of rape as a crime in society. The male victims need to be aware of their own myths and stereotypes that might prevent them from reporting an attack or seeking professional help in recovering from an attack. The victim needs to seek support and treatment parallel to that of female victims.

The myths and stereotypes concerning rape need to be studied and understood in order for them to be eliminated. Until this awareness takes place on society as a whole, professional people (doctors, lawyers, counselors, judges, etc.) need to be aware that heterosexual rape of males occurs and is traumatic and debilitating. "It has taken 20 years for female victims of sexual assault to be taken seriously, we are now at that stage with males. (Nigel O'Mara as cited in Seabrook, 1990).


