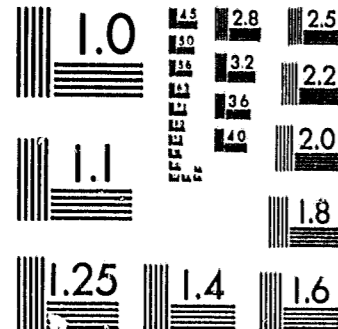


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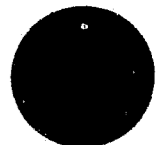
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1982

The extent to which the law relating to rape has reflected contemporary attitudes about the position of women in Society,

by

Det. Chief Inspector T.E. Partridge,
South Yorkshire Constabulary.

U.S. Department of Justice
National Institute of Justice

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Introduction.

When considering the extent to which the law relating to rape reflects contemporary attitudes towards the position of women in society there are a number of important factors worthy of consideration.

For centuries, since Biblical times, the laws relating to rape in various cultures did not change. It is no coincidence that the role and status of the female in those cultures also did not change during that period.

In early recorded history the tribal woman was a possession of a man. She was literally owned by her father or her husband. Any wrong done to her was treated as an insult to her owner and the wrongdoer was punished accordingly. Her feelings were of no consequence and were regarded as immaterial.

Until the last century little was done to change that position and it is only in the last 100 years that significant changes have occurred which have so dramatically changed the position of women in society. The freedom and social status of today's woman would seem almost beyond belief to their great grand mothers, such have been the advances in the liberalisation of women.

The law relating to rape therefore is a reflection of woman's current position in society. The two are inextricably linked.

Any law is invariably outdated from the moment it comes into force. Laws tend to reflect views, needs and sentiments which prevailed when they were first suggested. By the time laws become effective public requirements may have changed, therefore the law must constantly be changed and updated.

Although it takes time, sometimes a long time, law is adaptable and susceptible to change. In a democracy law is the servant of society and can not change it, it is for society to change the law.

Thus it is with the law of rape, which has adapted and will continue to adapt to meet the needs of those it seeks to protect.

Chapter I

Historical aspects on the law of rape.

The word 'rape' is derived from the Latin verb rapere, which means to steal, seize or carry away. It is the oldest means by which a man seized or stole a wife. In reality in ancient times it constituted enforced marriage since a man simply took whatever woman he wanted, raped her and brought her into his tribe. Rape was actually conducted under the guise of respectable behaviour rewarding the rapist by giving him a wife as a result of abusing her.

Attitudes to rape eventually changed. The respectability of the rapist became less important, and any blame for the rape was shifted to the victim, (a condition which is still regularly reported in English courts today).

As early as 500 BC Herodotus, a historian, noted that the abduction of a young woman was not a lawful act. He felt however that there was little to be achieved after the event and the only sensible thing to do was to take no notice, for it was obvious that no woman would be abducted, if she did not allow herself to be.

When marriage evolved into a respectful tribal function forcible rape became a crime. Women were property and if a man wanted a wife he had to buy one. Women were owned by fathers or husbands and any wrong done to the woman was regarded as offending her male owner and not her, she had no personal rights.

The Babylonians and Assyrians believed in the magical and supernatural powers of virgins and the raping of a virgin was considered to be a mortal sin as it would incur the wrath of the Gods and also because it lessened her market price. The rapist in such a case, if married would be put to death. If unmarried the economic factor became the chief concern. The rapist was forced to marry his victim and pay her father three times her original marriage price and could never divorce her. In essence the penalty was really placed on the victim. With no regard for her feelings she was forced to marry her rapist and stay with him the rest of her life.

"Thou shalt not covet thy neighbour's house. Thou shalt not covet thy neighbour's wife nor his ox nor his maidservant nor anything that is thy neighbour's."

Exodus 20:17

"When a man comes upon a virgin who is not pledged in marriage and forces her to lie with him and they are discovered then the man who lies with her shall give the girl's father 50 pieces of silver and she shall be his wife because he has dishonoured her."

Deuteronomy 22:29

The Biblical female no matter what her age was a property and a man's wife was categorised with his house and oxen. As such she was stripped of all human attributes, and because she was a sexual property all heterosexual relationships were defined as financial transactions. Marriage was the purchase of a daughter from her father, prostitution was a selling and reselling of a female by her master for sexual service, and rape was the theft of a girl's virginity which could be compensated for by payment to her father.

Once married the daughter became her husband's property and was under his total control. She had none of the moral value that we place on modern human life.

In Biblical times from which the Jewish law was derived rape was often indistinguishable from marriage. If a man took an unbetrothed daughter's virginity without her father's permission the culprit had infringed upon another man's property and had committed a civil crime which could be erased by a payment to the father. If the father insisted, the rapist had to marry his dishonoured daughter. Rape was a crime of theft and was legitimised by a payment and/or marriage.

The word dishonour did not refer to personal insult but to the female's lost virginity which was an economic asset. If the rapist paid the bride price, acknowledged possession and added her to his household the rape was transformed into

marriage and the female was then no longer dishonoured.

In her book "Sex Laws and Customs in Judaism", Louise Epstein contends that whether the daughter was taken by force or not the father could demand compensation and give or keep his daughter as he wished. There were several reasons why such a father may simply take the money and not insist upon marriage:-

- (1) He may care for the child and wish to protect her from the slave status of a wife,
- (2) She may be an efficient labourer and he may wish to keep those services for himself,
- (3) He could sell her again as a slave or concubine,
- (4) She could provide a source of income for him as a prostitute.

If the crime of rape could be erased by payment and marriage was not obligatory, which it was not, there was no crime if a man with the father's permission paid a price for repeated sex with an unbetrothed daughter. Biblical prostitution therefore was rape which was paid for and permitted without any obligation to marry. Therefore just as rape and marriage were barely discernible, so were rape and prostitution. Since a father was not compelled to give his daughter in marriage he could keep both money and daughter and hire her out time and time again.

The Old Testament definition of prostitution is not the woman who sold herself but the daughter who deprived her father of his fee. Just as a man who stole a child's virginity was a thief, so was the woman who gave herself without a father's permission a harlot.

No disgrace was attached to the father who prostituted his daughter, neither was she disgraced. Social approval depended upon whether she had accepted her status as property of her father and submitted to being bought and sold. If she disregarded her father's 'rights' and gave herself to a man of her own free will she had violated her father's rights and had committed a capital crime, and could be stoned to death.

It can be argued therefore that if a man had genuinely raped a woman and would not pay the father, the man could say she had consented and was therefore wilful. If believed this could lead to the death of the rape victim.

There is a contemporary parallel here with the defence of consent often used by the rapist in criminal proceedings. His consent defence is often wrongly believed by the Courts perhaps as it was often believed by a Biblical father. Fortunately the victim today is no longer dealt with in the same way, but she still feels as if she has been on trial and punished instead of the rapist.

Another aspect concerning the ancient laws of rape applied to the location of the rape. If a woman was raped in the city it presented her with real problems. The law of the time assumed that if the offence was not discovered by witnesses then it could not have been forcible rape, otherwise the woman would have cried out and the rapist would have been apprehended. According to the law rape could not occur undetected in a city if the woman objected. The assumption therefore was that if no one heard her cries, she had therefore not cried, and obviously had wished to be raped.

If the woman was genuinely raped, therefore, but her protestations had not been heard she would not report the crime as she would be punished by death for neglecting to fight. The rapist would be stoned to death along with the victim in these circumstances, although the rapist's crime was against the husband or father of his victim. The bizarre thinking of the time was that if she was raped in an open field she could not be punished because no one could have heard her cries for help. It is hardly surprising that most rapes of the period appear to have occurred in open fields.

The Romans protected and revered their women and believed them incapable of willingly having sex with other men outside the marriage. This quite mistaken belief in the chastity of their women made a mockery of their law on rape. When a man seduced a married woman even though she was as much a party to the liaison as he was, the act being mutually agreeable to them both, he alone would be punished, often by death, as the woman

was thought to have been incapable of voluntarily having intercourse with a man who was not her husband. Thus seduction to the Romans was synonymous with rape and the male partner was punished most unjustly. This situation represents a clear indication of the law on rape reflecting the position of women in that society.

The English lawyer Blackstone traces the progress of the English law on rape from which our current law is derived.

In 892 in the reign of Alfred the Great the offence of rape was well known to the law. "If a man seizes by the breast a young woman belonging to the common, throws her down and lies with her, he shall pay 60 shillings. If the woman has lain before compensation to be halved."

It can be seen that the essence of the offence of rape here is force, i.e. "seizes," and "throws her down,". The law distinguished however a difference between raping a virgin, and raping a non virgin in the compensation which was to be paid.

Saxon law punished the crime of rape with death, though the Normans under William the Conqueror thought this too harsh and substituted the death penalty with castration and blinding which was hardly a more humane penalty but prevented repetition of the offence without the offender losing his life.

Norman law introduced the concept that a woman may make a malicious allegation of rape. In an effort to prevent such accusations it was the law that the woman should immediately after the rape go to the next town and there report to some credible person the injury she had suffered and afterwards she must acquaint the High Constable, the Coroner, and the Sheriff of the offence. The complaint to the authorities should be made within 24 hours. In this law the Normans identified two important factors that have remained so to this day:- (1) The doctrine of recent complaint
(2) The possibility of malicious accusation.

Under Norman law it was held

execution by accepting him for her husband, if he, the rapist were willing. Otherwise sentence would be executed.

It is not known how many rapists became husbands in this way but it is an indication of the way in which a male dominated society was thinking to suggest such a thing. Obviously women were still regarded as little more than the property of men.

In 1275 the Statute of Westminster identified in writing the offences of rape. The punishments were much reduced and rape ceased to be a felony and attracted a punishment of 2 years and a fine to be determined at the discretion of the King. The Statute laid down two offences of rape:-

- (1) Ravishing a damsel under age of 12 years with or without consent.
- (2) Ravishing any other woman against her will.

The offence shown at (1) above has been replaced in modern legislation as defilement or unlawful sexual intercourse with a girl under 13 years and is no longer referred to as rape. It is interesting to note however that this form of statutory rape has survived in the United States of America where sexual intercourse with a minor with or without consent is still classified as statutory rape.

The leniency of sentence led to a dramatic increase in the numbers of offences of rape committed and in the Statute of Westminster of 1285 the offence reverted to felony and again became a capital offence but with the benefit of clergy. This meant that any priest or monk or other cleric was dealt with by the Ecclesiastical Courts and was not subject to civil jurisdiction. This remained the law until 1575 when the benefit of clergy was removed.

Rape remained a capital offence in England for the next 300 years until it was formally regulated together with many other offences in the Offences against the Person Act of 1861, when the death penalty was replaced with imprisonment for life.

Chapter 2.

Social changes.

We have seen in the last chapter how the laws on rape reflected social attitudes towards women throughout the ages. In tribal times the woman was integrated into a man's tribe by the act of sexual intercourse, and it mattered not whether the intercourse was forcible or otherwise. She had absolutely no choice and rape was a socially acceptable method of gaining a mate or wife. Women in those times were regarded as no more than labourers and bearers of children.

As social attitudes changed somewhat, marriage became respectable as a tribal institution. To forcibly rape a woman became an offence, but not against her. The person offended in the case of an unmarried woman was her father, and in the case of a married woman, the husband, who owned her. She had no rights and no one was concerned about her feelings. Their owners - men - had been dishonoured, and the method of righting that wrong was to compensate the owner, either by payment or marrying the woman.

It was only in Saxon times and later in Norman England that it became conceivable that the woman was in any way offended by forcible rape upon her, but even then it was apparent that the laws were still made by men in a completely male dominated society in which women were very much second class citizens. In providing punishment for the offence of rape the second Statute of Westminster in 1285 stated, "It is provided that if a man from henceforth do ravish a woman married, maid, or other, where she did not consent before nor after he shall have judgement of life." That a woman could conceivably be raped and then consent to it afterwards shows the regard with which the male lawmakers viewed women in their society. It was obviously a society where men had decided that they knew what was good for their women, whether their women liked it or not.

The position and status of women in society showed no major change until there occurred in England the most massive change in social attitudes that the country had ever been subjected to - the Industrial Revolution.

It is generally accepted that the Industrial Revolution started in England, the first industrial nation, around 1750 and was generally completed by about 1850.

Prior to this a woman's place had been firmly in her home and was concerned totally with home production e.g. cottage industry, agriculture, general housekeeping and raising children. With the coming of the Industrial Revolution which was a time of great social upheaval, women for the first time worked outside their homes in large numbers in factories and mines. For the first time women left their traditional role of child bearers and housekeepers dominated by a male bread winner and actually contributed economically to the household. Their position in society was thus slightly changed. They were ready to take on new roles but were prevented from doing so by the society in which they lived. There were no votes for women, there were no women in Parliament, there were few women in the professions.

Many women (mostly middle class women) suddenly found that they had more time on their hands having been released from domestic production by the new prosperity of their husbands. From them with the background of the Industrial Revolution began the Women's Revolution which completely destroyed the barriers which had held them back for so long. The struggle for equality was a long one, and one which some would say is not yet completed. Nevertheless it has brought women a new status in society which could not have been imagined 250 years ago.

Although Protestantism in the later 18th century generally accepted the view that women were subservient to their husbands, it was the Evangelical movement in Britain and America which first showed the emergence of feminism. The period after 1800 saw a phenomenal rise in the number of female missionary societies, the main aim of these groups being religious conversion and the distribution of bibles.

In addition many women became involved in the work of charitable organisations, distribution of relief and fund raising efforts. Women and particularly single women turned to religious and charitable organisations in large numbers as a way of filling time with purposeful activities. This emancipation of middle class women from their previous household duties provided religious and charitable organisers with an army of part time helpers eager to help in any useful way they could.

Another group of women rose to prominence in the early 1800's namely the women of temperance. They saw the drinking places as masculine preserves denied to respectable women, frequented by prostitutes. Drink was seen as being hostile to the family environment, as drunkenness could quickly lead a family into poverty. Women's legal position left them almost completely within their husband's power which led the feminist movement to support the aims of the temperance movements.

Women also became involved in the anti slavery campaigns being waged in the early 19th century which provided links between the evangelical and feminist movements as it was both a religious and a moral issue. Women became accustomed to participating in political campaigns and learned the tactical lessons that they were able to turn to good account later in pursuit of specifically feminist goals.

The Quaker church allowed women to become ministers. Elizabeth Fry began her career as a Quaker minister. Although never a feminist as such her work for prison reform forced her into public life and in 1818 she became the first woman to be called to give evidence before a House of Commons committee.

The Offences against the Person Act 1861 reaffirmed the offence of rape, and the Criminal Law Amendment Act 1885 widened the offence in as much as the offence was deemed to be complete if consent was extorted by means of threats of death or immediate bodily harm, by fraud or by false pretences such as the impersonation of a woman's husband.

Whilst the new awareness of women must have had an effect on the legislators, this can not be measured, but suffice to say women were becoming noticed and effective.

Despite the advances of the Acts of 1861 and 1885 it is interesting to note that so far as the admissibility of evidence was concerned the following three general points were to be considered by the jury:-

- (1) As to the general credibility of the witness and how far her story is to be believed, evidence therefore may be given to show that she is of immoral character.
- (2) As to whether she has made complaint immediately after the alleged outrage and to whom.
- (3) As to the place where the outrage was alleged to have been committed and the possibility of her being heard is she cried out.

These points were typically Victorian and male dominated, being considered by male juries, and made it rather difficult for any charge of rape to stick. The principles involved above are little different to those adopted in the laws of Biblical times. However the situation had been reached where the woman although still dominated by her husband was no longer his property and the law began to recognise this.

After a long campaign women finally obtained the vote, women entered parliament, the professions and other walks of life which had formerly been closed to them. During World Wars I and II women in vast numbers worked on the war effort in factories and on the land. After the second World War it was generally accepted, although not totally, that women were an essential part of the life and economy of the Country, and yet still they were not dealt with as equals with men.

An interesting viewpoint is that of the Redstocking group of New York who in 1967 set out their perceptions from a radical feminist view of their place in society:-

- (1) After centuries of individual and preliminary political struggle women are uniting to achieve their final liberation from male supremacy. We are dedicated to building the unity of women and winning our freedom.
- (2) Women are an oppressed class. Our oppression is total affecting every facet of our lives. We are exploited as sex objects, breeders, domestic servants and cheap labour. We are considered inferior beings whose only purpose is to

enhance men's lives. Our humanity is denied. Our prescribed behaviour is enforced by the threat of physical violence. Because we have lived so intimately with our oppressors in isolation from each other we have been kept from seeing our personal suffering as a political condition.

- (3) We identify the agents of our oppression as men. Male supremacy is the oldest most basic form of domination.

Many other radical groups expressed similar sentiments, and as a result of their efforts, the efforts of others and the rise of natural justice a great deal has been achieved.

Women have achieved and are still achieving knowledge and feelings about their rights and increased awareness of themselves. This awareness can diminish the respect for authority and given values. Although this means advancement and opportunity for some, for others it is also a loss and a threat. The more independence and freedom gained by women is offset by the loss of protection by family and the law. There is loss of certainty and support, two things that were important in women's traditional role. Many women felt more secure in the certainty that they were the weaker sex than they do in being aware that they are not.

They are still gaining opportunities for individual achievement and choice is perhaps the greatest achievement of women so far. There is choice in education and training, as they are no longer restricted to their traditional roles due to the Equal Opportunities Commission and the Equal Pay Acts. There is choice in sexual matters and even choice of the sex of a sexual partner which can be made public. A lesbian association does not attract the same penalties in law as can be attracted by a homosexual partnership. There is a choice in marriage, or whether to marry, cohabit or share their lives with whom they like for as long as they like or remain single. Women can choose to have children married or not. They may choose a traditional life of wife and mother which many still do. In fact women have a positive choice in everything they do.

It is the position that they have achieved in society that has caused the attitudes of society to change. This social change and acceptance of women's position in society has brought about

equality to be recognised.

I believe that women have achieved equality although some men fail to accept this concept. It is the non acceptance of equality by certain still largely male dominated sections of society that continues to cause dissatisfaction to women. They therefore still perceive their own position in society as unequal.

If one accepts that drastic social change has taken place in the past two centuries as I have tried to indicate in this Chapter, then this change read in conjunction with the historical chapter leads one to the question, "Has the law kept pace with social change ?"

To answer this question it is necessary to examine in some detail the current legislation concerning rape, and attempt to predict future changes in the law, which is covered in the following chapter.

Chapter III

The current law on rape.

The commentaries on the laws of England by the lawyer Sir William Blackstone provide the very foundations for the interpretation of the laws of England. His great work published in 1811 is still the basis for the construction and interpretation of the law and his views on the evidential necessities are as follows:-

"And first the party ravished may give evidence upon oath and is in law a competent witness, but the credibility of her testimony and how far forth she is to be believed must be left to the jury upon the circumstances of fact that concur in the testimony. For instance, if the witness be of good fame, if she made search for the offender, if the accused fled, all these give greater probability to her evidence. But on the other side if she be of evil fame and stand unsupported by others, if she concealed the injury for any considerable time after she had opportunity to complain, if the place where the fact was alleged to be committed was where it was possibly she might have been heard but she made no outcry, these and the like circumstances carry a strong but not conclusive presumption that her testimony is false or feigned."

Sir William Blackstone 1811

The current legislation concerning rape along with other sexual offences is the Sexual Offences Act, 1956 as amended by the Sexual Offences (Amendment) Act, 1976.

As in all statutory legislation, cases occur where the precise meaning of the law is either not clear in the statute or is challenged whereby a decision must be made on interpretation of a particular section of the law and in most cases these decisions are made by the Court of Appeal or the House of Lords. Their decisions are binding thereafter and either clarify the law or indicate that to preserve justice, amendment to the law is required.

Since the Offences against the Person Act of 1861 where the offence of rape was contained in Section 48(now repealed) there have been many decided cases which have affected the law on rape. I have itemised a number of them with their more important decisions:-

R v Marsden,1891

Sexual intercourse is complete on proof of penetration.

R v Lillyman,1896

The complaint of the woman shortly after the occurrence and its particulars may be given in evidence for the prosecution not as evidence of the facts complained of but of the consistency of the conduct of the woman with the story told by her in the witness box, and as negating consent on her part.

R v Osborne,1905.

It is the universal practice to require corroboration of the woman's accusation.

R v Bashir,1969.

Evidence that the complainant is of notoriously bad character for chastity, or is a common prostitute is admissible.

All these cases echo the thoughts of Blackstone, and certainly in Bashir's case reflect society's perception of women in 1969.

Sexual Offences Act,1956.

Section 1(1) : It is an offence for a man to rape a woman.

Section 1(2) :A man who induces a married woman to have sexual intercourse with him by impersonating her husband commits rape.

Rape was the unlawful sexual intercourse with a woman against her will be this by force, fear or fraud.

It was acknowledged by precedent that the character of the complainant woman in a rape trial was an issue,and it became

in many trials the central issue. That, together with constant claims by accused persons that the woman had consented to the act caused many cases to be dismissed and rapists walking free from the Courts.

During this period women ^{were} losing out on justice as far as rape was concerned. Because of the acquittal rate and the feelings of the complainants that something must be done as they felt they were being put on trial instead of the rapist, there was an overwhelming need for change.

The change came following the case of the Director of Public Prosecutions v Morgan and others,1975 which was to prove to be a watershed in the law on rape.

The facts of the case were as follows:-

Morgan and his three co-defendants had spent the evening of 15 August,1973 together. They were all members of the RAF but Morgan was older than the other three and senior in rank to them. Morgan was a married man and he invited the three men, all strangers to his wife, to come home with him and have intercourse with her. The three men asserted that he told them that his wife might struggle a bit, because she was 'kinky' but she would welcome intercourse with them. When the four men arrived at the house Mrs Morgan was asleep in a bedroom with one of her sons aged 11 years.

She was awakened and her husband seized her and pulled her out of bed. She struggled violently and screamed to her sons to call the Police, but one of the men put a hand over her mouth. She was dragged to another room and held on the bed by her arms and legs whilst each of the three men had intercourse with her in turn by force and without her consent. They then left the room and her husband forced her to have intercourse with him. When it was all over she grabbed her coat, ran out of the house, drove straight to the hospital and made an immediate complaint of rape.

At their trial they all pleaded not guilty and asserted that Mrs Morgan actively co-operated and consented to the intercourse. The defence was that Mrs Morgan consented, or if she did not

The jury rejected the defence and all four were convicted of rape and sentenced to substantial terms of imprisonment. They appealed to the Court of Appeal, on the grounds that the Judge had wrongly directed the jury that they were only entitled to acquit the accused if (1) the accused honestly held the belief that Mrs Morgan had consented and (2) that such belief was held by them on reasonable grounds.

The Court of Appeal rejected the appeals but gave leave for the men to appeal to the House of Lords as a point of law of general public importance was involved i.e. "whether in rape the defendant can properly be convicted notwithstanding that he in fact believed that the woman consented if such belief was not based on reasonable grounds."

The House of Lords decided that there should be no conviction in those circumstances and reached the conclusion that a man ought not to be convicted of rape unless the prosecution proved that he intended to do what the law forbids i.e. have intercourse with a woman against her consent or being reckless as to whether she consented or not. In short the House of Lords decided that the reasonableness or otherwise of the belief was one of the factors which the jury should take into account in deciding whether or not the belief was genuine. The jury should be directed that in considering what the defendant did intend, they should take into account and draw all relevant inferences from the totality of the evidence.

The appeals therefore were upheld which left the law in a most unsatisfactory state and it was apparent that the whole question of the law of rape should be closely examined. As a result of the widespread concern expressed by the public, the media and in Parliament, the Home Secretary appointed an Advisory Group on the law on rape with the following terms of reference:-

"To give urgent consideration to the law of rape in the light of recent public concern and to advise the Home Secretary whether early changes in the law are desirable."

Report of the Advisory Group on the Law of Rape.

The setting up of this group was not in itself an unusual step; groups have been set up in the past to examine aspects of various laws. What was important about this one was that it was of vital concern to women. The constitution of the group indicated in itself the progress of women and their status in society - the Chairman appointed by the Home Secretary was the Honourable Mrs Justice Rose Heilbron DBE.

The Advisory Group received written information and evidence from a wide cross section of sources including the following:-

Medical Women's Federation

Mother's Union

National Council of Women of Great Britain

National Joint Committee of Working Womens' Organisations

Rape Counselling and Research Group

Women in Media

Women's National Commission

As a result of their deliberations they recommended the following:-

- (1) Statutory definition of rape required to include the importance of recklessness as a mental element of the crime.
- (2) In cases where the question of belief in consent is raised the questions of interpreting the defendant's belief should be a matter for consideration by the jury.
- (3) Previous sexual history of the complainant with men other than the accused should be inadmissible.
- (4) An attack on the credibility of the complainant would allow the bad character of the accused to be introduced.
- (5) Complainants who allege rape should be and remain anonymous, with reservations.
- (6) Breach of anonymity should be a criminal offence.
- (7) There should be a minimum of four men and four women on a jury even after challenges.

The report of the advisory group was presented to the Home Secretary in November, 1975 having taken less than five months to complete.

Sexual Offences (Amendment) Act, 1976.

With some slight modification the whole of the recommendations of the Heilbron Advisory Group on rape was given effect in the Sexual Offences (Amendment) Act, 1976 which effectively states the law of rape as follow:-

Definition.

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
- (2) at that time he knows that she does not consent to the intercourse or he is reckless as to whether she consents to it.

A rape offence which is referred to throughout the Act includes rape, attempt rape, aiding or abetting counselling or procuring rape or attempt rape and incitement to rape.

Section 1(2)

If at a trial for a rape offence the jury has to consider whether a man believed a woman was consenting to sexual intercourse the presence or absence of reasonable grounds for such a belief is a matter to which the jury is to have regard.

Section 2 - Restrictions on evidence.

If at a trial any persons for the time being charged with a rape offence to which he pleads not guilty then except with the leave of the Judge no evidence and no question in cross examination shall be adduced or asked at the trial by or on behalf of any defendant at the trial about any sexual experience of a complainant with a person other than the defendant.

In this section the Judge can use his discretion to prevent unfairness to the accused.

This section clearly reflects women's rights in Society. She has the right to choose sexual partners without criticism and without her morals being attacked. Thus the law has recognised her changed position in society.

Section 4 - Anonymity of complainants in rape cases.

4(1)

After a person is accused of a rape offence no matter likely to lead members of the public to identify a woman as the complainant in relation to that prosecution shall be published in any written publication available to the public or be broadcast except as authorised by Sub Section (2).

4(2)

If before the commencement of a trial at which a person charged with a rape offence, he or another person against whom the complainant may be expected to give evidence at the trial apply to a Judge of the Crown Court for a direction in pursuance of the Sub Section and satisfies the Judge (a) that the direction is required for the purpose of inducing persons to come forward who are likely to be needed as witnesses at the trial AND (b) that the conduct of the applicant's defence at the trial is likely to be substantially prejudiced if the direction is not given, the Judge shall direct that the preceding subsection shall not apply to the complainant.

4(3)

Judge may relax restrictions if it imposes a substantial and unreasonable restriction on reporting proceedings at the trial and that it is in the public interest to remove or relax the restriction.

Section 6 - Anonymity of defendant.

This section deals with anonymity of the defendant in a similar way to that of the complainant.

No publication must be made until after conviction.

In my opinion the introduction of the Sexual Offences (Amendment) Act of 1976 is the most visible sign yet seen in the English legal system of the manifestation of society's concern for women's rights.

Chapter IV

Case studies. How does it feel to be raped ?

Although equality has enabled women to enter the profession of their choice, there are two very important fields that as yet, and for whatever reason, are still relatively inaccessible to them. They are the top levels in the Judiciary and Politics. Whilst there are many women sitting in the Magistrates Courts and Council chambers, there are very few in the positions that count i.e. Parliament and the High Courts. Laws are produced by the former, and interpreted and imposed by the latter. So far as the law on rape is concerned this is dealt with exclusively in the High Courts where women have little or no interpretation influence. Their presence on juries is only concerned with consideration of the facts of a case, and they can make no comment on the cases they hear.

This essay is concerned with the advancements of the law in reflecting the position of the female in today's society. Law is constantly being improved as a result of cases heard by the Courts and it is necessary therefore to examine a number of cases which have not necessarily changed the law but which show quite clearly the female position in society as perceived by their attackers and by the women themselves at the time of their rape.

"The fear of sexual assault is a special fear ;
its intensity in women can best be likened to
the male fear of castration."

Germaine Greer, "Seduction is a four letter word."

The victim's perspective.

Case 1.

Ms X was a 55 year old white woman school teacher in the United States of America, who was divorced, and lived alone, her children having left home. In her own words she describes her ordeal:-

"I opened the door to the bathroom from my bedroom and he was standing there with a gun. I just froze I went into shock. He kept me prisoner for two nights and two days. I tried to get out of the bathroom window once but he caught me. . . he was very sadistic. His sexual assaults went on constantly and I was forced into perverse activities - the whole ugly mess -, gagging choking, vomiting. . . I found that if I fought him very hard he came to organism more quickly. . . I found it infuriated him if I submitted without fighting him. Up until this time I had believed that rape was impossible if a woman didn't want to be raped, that it could only happen to a woman who submits. . . I felt that I was outside my body watching this whole thing, that it wasn't happening to me, it was happening to somebody else. It was a strange feeling absolutely unreal. I was terrorised but it's hard to describe the shock of what was happening. At first I went into a state of shock where I just shook and shook. And I was freezing cold. Just freezing cold. And he kept the gun on me all the time. He showed me the bullets in case I should think it unloaded. Then after two days he was gone, I didn't even know he was gone, he disappeared as quickly as he came. When I realised he had gone I wanted to pour Lysol all over me. I wanted to be cleansed. I took a bath and then thought about calling the Police. And I thought no I can't do it. It's too much of a horror story. People would look at me differently. If it's so horrible to me, it must be horrible to other people. I don't want anybody to know what happened to me. . . I thought that other people thought the way I had thought, that this couldn't happen to a woman who didn't want it or allow it."

This case indicates the fear and the hopelessness of the situation in which the victim found herself, abused over a long period. She felt totally degraded, dirtied and ashamed to report it.

Case 2

In this case a 22 year old woman was raped by a man whom she had met at college. Having been out with him on a number of occasions without sex she decided to end the association as she felt they were incompatible. He had asked for sex

which she had refused. On their final meeting he had lured her to a flat where he lived after they had both consumed alcohol. He then tried to force himself upon her which she resisted. Having tried persuasion which at first failed, he continued in such a way which convinced the woman that she would be hurt if she continued to refuse. She finally submitted and was raped. Afterwards her assailant kept saying, "Well why don't you just stay here tonight." and "After tonight can we continue to have this kind of relationship."

The woman was eventually able to escape from the room and reported the matter to the Police.

In this case it occurred to the woman later that she may have been at fault although she does not accept it when she says- "I couldn't see any reason for him to rape me because I didn't think I had led him on in any way. I had made it very clear to him that I wasn't in love with him."

This type of rape case is a difficult one to successfully prosecute, the central issue normally being consent. Although the Police were sympathetic she was given the impression that it was very difficult to win a rape case which is true. She was also told that the background to the incident was not in her favour. She had gone to his apartment before on two occasions for dinner, so in the jury's eyes it would appear that a relationship was developing. It was pointed out to her that she had been naive in thinking she and her attacker could be friends without being lovers and that she should have been more careful.

It is for precisely these reasons that this type of rape by a 'friend' is seldom reported.

This victim was not hurt physically but suffered from hysterical outbursts for some days afterwards. When asked why she thought men raped, she said, "I think a lot of rape has to do with the man's image of himself. He has to go out and win his battles make his conquests. I think a lot of it has to do with society's conditioning about how sexual a man should be and what it means

to be able to make it with a woman . . . It's bound to lead to some kind of frustration."

The offender's perspective.

The attitudes, and reasoning of rapists are both many and varied as are their backgrounds and their perceptions of both their status and the status of their victim. Quoted below are selected extracts from interviews with convicted rapists who attempt to set out the reasons why they committed rape.

Case 1.

"I kept on raping because at home I wasn't getting enough sex regularly and instead of going without I went out and took it."

"Although I didn't think about it before. . . I've had a lot of time to think, and even though they don't show it, now I think there is a psychological effect on the girls about being raped. I think it's like carrying a scar for a long time before they'll forget about it. . . it could have bad effects on them for a long time to come, both psychologically and it could do something to them physically too."

In this case the rapist although he expressed regret for his acts after his conviction, at the time of the offence he had no concern whatsoever about his victims feelings. She was a sex object and he used her.

Case 2.

"The fact of rape is that I'm taking it by force, because she's not giving anything. At no point during a rape does a woman end up giving you anything of herself. She's simply submitting to it and you're forcing it upon her. . . The fantasy does not become a reality during the rape it's not fulfilling at all.."

"We got into these paper back novels which had all kinds of very elaborately described sexual happenings in them, and I remember that one aspect of these novels was that there always

seemed to be a rape scene in them, and at some point during the rape, the women always seemed to get turned on. That just fixed in my head: if I were to have sex with a woman, at some point she'd really get turned on by it and I'd have a tremendous orgasm . . . I wasn't assertive with girls, so it just seemed kind of natural to act out this fantasy that was in my head because I kind of regarded it as a reality - that's what would happen."

This rapist living in a fantasy world has absolutely no conception of what is reality being convinced in his own mind that rape can achieve love and sexual respect from the victim. He believes his victim will ultimately enjoy herself if he is insistent enough and however much she may resist she actually wants him to carry on with the rape.

Case 3.

"I felt very adventurous or free while I was doing this. It was a way of forgetting all my frustrations of the day. It was almost like I was living in a fantasy, like I was a commando, sneaking around at night. I was doing something nobody else wanted me to do."

"I imagine if she had struggled more violently I could have come close to killing her or actually killing her. Not because I wanted to but by accident. My control in that situation was very little and I was amazed at what I did do. And I was very afraid afterwards of what I could have done, the fact that I did cut her with the knife shocked me. . . I tried to rape her, I never did rape her and this went on for about three to four hours. I was upset that I couldn't rape her, that I couldn't maintain an erection, that I was impotent, and none of my fantasies were coming true. That really upset me."

I have attempted to show in the cases from both the victim's and the assailant's point of view that so far as the victim is concerned her trauma is not only physical, but she also suffers great emotional damage. Feelings of guilt, fear, distrust, shame, anger and frustration are all present during and in the

aftermath of rape. It appears that the perception of the feelings of the victim by the rapist is either unnoticed due to the mental state or the excitement of the rapist, or probably in the majority of cases that he does know his victim's wishes and completely disregards them thinking only of his own gratification.

Chapter IV

Conclusions.

In this study I have attempted to show that the law relating to rape reflects contemporary attitudes about the position of women in society. In recent years there has grown a new awareness of the improved rights and status of women in society.

The law has been amended, it has been improved in favour of women, whereas in the past the law gave a distinct advantage to the accused persons in rape trials.

The anonymity clauses in the Sexual Offences (Amendment) Act 1976 in order to prevent harmful distress which a rape trial inevitably causes the complainant. At least the anonymity rule lessens the chance of public identification of a rape victim for whom a trial is in any event likely to be a humiliating procedure. Also if the accused is acquitted the distress and harm to a complainant can be further aggravated and the danger of publicity in such circumstances can be a risk which a victim understandably may not wish to take. It is hoped therefore that anonymity will act as a safeguard and also as an inducement for rape victims to come forward and prosecute their attackers.

We have seen therefore the transition of women from tribal property to emancipated equality, so what of the future?

Working paper on sexual offences October, 1980.

The Criminal Law Revision Committee was set up in 1959 by the then Home Secretary Lord Butler "To be a standing committee to examine such aspects of the criminal law of England and Wales as the Home Secretary may from time to time refer to the committee to consider whether the law requires revision and to make recommendations.

In 1975 the Home Secretary asked the committee to examine the

law relating to sexual offences which includes rape together with the Advisory Group on the law of rape which was then sitting.

In their Working Paper the Criminal Law Revision Committee makes recommendations for the future law on rape which removes anomalies and again emphasises the rights of women:-

- (1) The irrebuttable presumption that a boy under the age of 14 years can not commit an act of penetration, therefore can not commit rape should be dispensed with. (Considering that this presumption existed in 1809 it is hardly surprising that the law should now be changed.)
- (2) That consideration should be given to the amendment of the law so far as marital rape is concerned, although they were of the opinion that many difficulties existed in the prosecution of a husband by his wife for raping her. Any proceedings for this type of offence would have to be with the consent of the Director of Public Prosecutions.

To be compatible with the over view of women in society it is essential that marital rape should be in some way punishable. In the society of today social attitudes permit a man to live with a woman without the requirement of marriage. Is it right therefore that a female cohabitee can successfully prosecute her male cohabitee for rape whereas a wife can not prosecute her husband?

- (3) Increased penalties recommended for offences of indecent assault as an alternative suggested widening of the concept of rape.

We can see therefore that the constant revision of the law on rape is an ongoing thing. Laws governing rape like the laws and regulations of all institutions at any given point in time are nothing more than manifestations of the prevailing social norms and values. This being so one only need look at contemporary social values to understand the nature of the progress which

has been made and the task that lies ahead. To achieve a society committed to equal rights and equal protection for all citizens we must re-examine the values that underlie all social interactions and approach the future with renewed vigour and determination.

Author's note

Received too late to be included in the main body of the essay is a newspaper report concerning a case of rape in Sweden which highlights many of the problems involved. The report has been included for information purposes and is to be found after the bibliography.

Table 8.3.1 Serious⁽¹⁾ offences recorded by the police by offence and police force area
England and Wales 1980

Offence	Number of offences													
	England and Wales	England	Arms and Ammunition	Bedfordshire	Cambridgeshire	Ceshire	Cleveland	Cumbria	Derbyshire	Devon and Cornwall	Dorset	Durham	Essex	Gloucestershire
Violence against the person														
1 Murder														
4 Manslaughter														
4A Infanticide														
Homicide	620	593	7	4	3	2	4	3	11	9	5	3	14	1
2 Attempted murder	155	147	2	9	1	3	-	-	-	5	2	-	5	-
3 Threat or conspiracy to murder	528	515	22	13	10	-	1	-	2	11	-	-	38	3
4B Child destruction	2	2	-	-	-	-	-	-	-	-	-	-	-	-
4C Causing death by reckless driving	235	216	3	1	7	11	2	4	1	9	-	-	4	-
5 Wounding or other act endangering life	4,390	4,185	101	99	110	57	35	10	82	48	14	19	69	13
6 Endangering railway passenger	38	35	-	3	1	1	-	-	1	-	-	-	2	-
7 Endangering life at sea	-	-	-	-	-	-	-	-	-	-	-	-	-	-
8 Other wounding, etc.	90,654	65,872	1,977	1,348	1,017	1,425	1,452	765	1,767	1,809	730	1,257	2,042	614
9 Assault	557	546	22	6	8	-	-	8	-	67	36	-	43	-
12 Abandoning child aged under two years	8	8	-	-	-	-	-	-	1	-	-	-	-	-
13 Child stealing	48	48	-	3	-	-	-	1	-	1	-	-	2	1
14 Procuring illegal abortion	2	2	-	-	-	-	-	-	-	-	-	-	-	-
15 Concealment of birth	9	8	-	-	-	1	-	-	-	-	-	-	-	-
Sub-total	97,246	92,177	2,136	1,486	1,157	1,500	1,494	791	1,865	1,959	787	1,279	2,219	632
Sexual offences														
16 Buggery	657	618	11	4	22	9	5	7	6	14	4	15	23	3
17 Indecent assault on a male	2,288	2,164	47	21	24	40	35	18	35	83	28	21	49	23
18 Indecency between males	1,421	1,364	35	22	22	15	7	2	15	26	6	9	19	8
19 Rape	1,225	1,168	22	19	10	7	14	15	24	33	20	22	29	12
20 Inducement assault on a female	11,498	11,002	194	117	156	155	167	96	275	289	109	120	245	55
21 Unlawful sexual intercourse with girl under 13	254	239	3	-	3	3	2	1	4	2	4	3	6	2
22 Unlawful sexual intercourse with girl under 16	3,109	2,918	61	72	37	49	39	19	65	110	32	71	71	26
23 Incest	312	278	1	6	1	14	-	4	1	17	-	9	9	-
24 Prostitution	104	102	-	-	-	1	-	2	-	1	1	-	4	-
25 Abduction	95	87	2	1	-	1	-	-	-	1	3	-	-	-
26 Bigamy	144	140	6	2	2	2	1	1	2	1	3	-	6	1
Sub-total	21,107	20,080	382	264	277	296	270	165	427	577	210	270	461	130

(1)
Table B.3.1 Serious offences recorded by the police by offence and police force area (continued)
England and Wales 1980

Offence	Number of offences													
	Greater Manchester	Merseyside	Hertfordshire	Humber	Kent	Lancashire	Leicestershire	Lincolnshire	London, City of	Merseyside	Metropolitan Police District	Norfolk	Northamptonshire	Northumbria
Violence against the person														
1 Murder)														
4 Manslaughter) Homicide	26	6	7	31	8	19	5	3	1	24	204	8	13	13
4A Infanticide)														
2 Attempted murder	6	21	3	1	4	3	2	-	-	10	27	-	3	2
3 Threat or conspiracy to murder	3	7	3	8	9	3	3	3	3	5	200	27	3	10
4B Child destruction	-	-	-	-	-	-	-	-	-	-	1	-	-	-
4C Causing death by reckless driving	10	21	1	2	-	2	3	3	-	8	17	-	3	8
5 Wounding or other act endangering life	462	85	34	56	75	60	57	29	17	337	774	28	39	165
6 Endangering railway passenger	1	3	1	5	-	-	-	-	-	-	3	-	2	-
7 Endangering life at sea	-	-	-	-	-	-	-	-	-	-	-	-	-	-
8 Other wounding, etc	4,808	2,258	1,130	2,311	1,843	1,810	1,424	868	138	3,956	14,461	783	987	3,330
9 Assault	-	8	-	-	8	-	132	4	1	1	2	11	15	-
12 Abandoning child aged under two years	-	-	-	-	-	-	-	1	-	-	2	-	-	-
13 Child stealing	3	2	-	1	-	-	-	-	-	3	17	-	3	1
14 Procuring illegal abortion	-	-	1	-	-	-	-	-	-	-	-	-	-	-
15 Concealment of birth	-	-	1	-	-	1	1	-	1	-	1	-	-	-
Sub-total	5,319	2,411	1,181	2,615	1,947	1,898	1,627	913	163	4,344	15,709	857	1,068	3,529
Sexual offences														
16 Buggery	34	23	4	27	30	18	2	10	-	11	70	16	9	14
17 Indecent assault on a male	120	81	31	70	104	82	23	28	1	67	244	42	21	40
18 Indecency between males	173	81	2	47	18	55	19	11	21	30	246	12	7	75
19 Rape	52	55	16	17	17	15	23	12	1	31	269	11	13	16
20 Indecent assault on a female	798	380	192	301	262	234	176	178	21	312	1,744	98	81	369
21 Unlawful sexual intercourse with girl under 13	12	9	5	3	-	3	5	3	-	6	15	4	10	4
22 Unlawful sexual intercourse with girl under 16	146	92	35	100	72	59	38	91	-	46	140	38	46	84
23 Incest	16	13	4	10	3	6	5	1	-	3	15	7	6	6
24 Procuration	3	32	1	1	1	4	-	-	-	-	9	-	2	8
25 Abduction	-	1	2	4	5	6	1	1	-	1	13	-	4	1
26 Bigamy	9	6	3	2	2	4	3	-	-	9	25	2	2	8
Sub-total	1,363	773	295	582	514	486	295	335	44	518	2,792	230	201	625

Table 6.3.1 Serious⁽¹⁾ offences recorded by the police by offence and police force area (continued)
England and Wales 1980

Offence	Number of offences												
	North Yorkshire	Nottinghamshire	South Yorkshire	Staffordshire	Suffolk	Surry	Sussex	Thames Valley	Warrickshire	West Mercia	West Midlands	West Yorkshire	Wiltshire
Violence against the person													
1 Murder	4	10	15	4	2	4	11	15	5	3	39	43	2
4 Manslaughter } Homicide	-	2	4	3	2	4	2	4	-	6	7	4	-
4A Infanticide }	-	-	-	-	-	-	-	-	-	-	1	-	-
2 Attempted murder	-	-	-	-	-	-	-	-	-	-	-	-	-
3 Threat or conspiracy to murder	2	7	4	8	7	9	5	18	-	7	8	40	11
4B Child destruction	-	-	-	-	-	-	-	-	-	-	-	-	-
4C Causing death by reckless driving	2	4	17	4	4	4	4	14	5	6	8	19	3
5 Wounding or other act endangering life	21	59	93	32	37	24	27	65	54	50	576	255	17
6 Endangering railway passenger	1	-	1	5	-	1	-	3	-	-	-	-	1
7 Endangering life at sea	-	-	-	-	-	-	-	-	-	-	-	-	-
8 Other wounding, etc	859	4,182	2,948	2,646	895	875	1,724	2,032	528	1,671	5,441	4,771	790
9 Assault	29	4	-	49	64	12	2	7	1	-	-	5	1
12 Abandoning child aged under two years	1	-	-	-	-	-	-	2	-	-	-	1	-
13 Child stealing	-	-	-	-	-	3	2	3	-	-	1	1	-
14 Procuring illegal abortion	-	-	1	-	-	-	-	-	-	-	-	-	-
15 Concealment of birth	-	-	-	-	-	-	-	1	-	-	-	1	-
Sub-total	919	4,268	3,083	2,751	1,011	936	1,777	2,164	593	1,743	6,081	5,140	825
Sexual offences													
16 Buggery	2	16	18	20	7	3	26	32	6	9	33	50	5
17 Indecent assault on a male	25	174	28	29	22	40	70	86	9	51	94	130	28
18 Indecency between males	1	30	28	14	18	3	41	47	4	6	115	54	20
19 Rape	17	22	31	16	9	19	10	58	7	23	95	72	14
20 Indecent assault on a female	125	551	334	223	100	152	223	341	82	185	814	609	137
21 Unlawful sexual intercourse with girl under 13	-	18	6	5	4	2	4	38	3	2	19	24	2
22 Unlawful sexual intercourse with girl under 16	25	188	140	88	53	26	65	79	27	80	248	210	50
23 Incest	2	15	11	11	4	6	4	16	2	5	14	25	4
24 Procuration	1	6	1	1	1	1	3	4	-	1	4	5	4
25 Abduction	-	5	1	3	-	5	3	4	1	1	8	5	2
26 Bigamy	1	2	2	2	-	1	5	9	-	-	11	3	2
Sub-total	199	1,027	600	414	218	258	454	714	141	363	1,455	1,187	268

Table A.3.1 Serious⁽¹⁾ offences recorded by the police by offence and police force area (continued)
England and Wales 1980

Offence	Number of offences				
	Wales	Dyfed-Powys	Grant	North Wales	South Wales
Violence against the person					
1 Murder					
4 Manslaughter) Homicide	27	2	7	7	11
4A Infanticide)					
2 Attempted murder	8	2	4	-	2
3 Threat or conspiracy to murder	13	-	-	4	9
4B Child destruction	-	-	-	-	-
4C Causing death by reckless driving	19	7	3	3	6
5 Wounding or other act endangering life	205	13	29	28	135
5 Endangering railway passenger	3	-	1	-	2
7 Endangering life at sea	-	-	-	-	-
8 Other wounding, etc.	4,782	537	987	1,079	2,179
9 Assault	11	-	-	11	-
12 Abandoning child aged under two years	-	-	-	-	-
13 Child stealing	-	-	-	-	-
14 Procuring illegal abortion	-	-	-	-	-
15 Concealment of birth	1	-	-	-	1
Sub-total	5,069	561	1,031	1,132	2,345
Sexual offences					
16 Buggery	39	5	5	7	22
17 Indecent assault on a male	124	13	6	30	75
18 Indecency between males	57	2	10	25	20
19 Rape	57	4	6	15	32
20 Indecent assault on a female	496	52	79	131	234
21 Unlawful sexual intercourse with girl under 13	15	-	1	3	11
22 Unlawful sexual intercourse with girl under 16	191	38	37	49	67
23 Incest	34	6	4	7	17
24 Procuration	2	-	2	-	-
25 Abduction	8	-	1	1	6
26 Bigamy	4	1	-	1	2
Sub-total	1,027	121	151	269	486

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Table 2.5 Serious offences of violence between spouses⁽¹⁾ recorded by the police

England and Wales

Offence	Number of offences						Col (1) as a percentage of all offences recorded by the police in these classification numbers ⁽⁴⁾	
	Total		Victim				1979	1980
	(1)	1979	1980	Wife (2)		Husband (3)		
				1979	1980	1979	1980	
1-4 Murder, manslaughter, attempted murder and threats etc. to murder	200	172	163	144	37	28	17	13
5 Wounding and other acts endangering life	274	252	168	152	106	100	6	5
8-9 Other wounding and serious assault	5,447	5,398	3,068	3,202	379	396	6	6

⁽¹⁾ Includes cohabitants living as spouses

Table 2.6 Serious⁽¹⁾ sexual offences recorded by the police by offence

England and Wales

Offence	Offences recorded										Number of offences		
	Offences recorded										Offences cleared up 1980 ⁽²⁾		Percentage
	1970	1971	1972	1973	1974	1975	1976	1977	1978	1979	1980 ⁽³⁾	Number	
16 Buggery ⁽⁴⁾	553	593	532	667	587	720	662	594	697	632	657	609	93
17 Indecent assault on a male ⁽⁵⁾	3,354	2,887	2,985	3,052	3,096	2,885	2,689	2,633	2,455	2,385	2,288	1,936	85
18 Indecency between males	874	1,029	1,069	1,567	1,796	1,699	1,569	1,465	1,706	1,333	1,421	1,393	98
19 Rape	884	784	893	998	1,052	1,040	1,094	1,015	1,243	1,170	1,225	896	73
20 Indecent assault on a female	12,609	12,400	11,977	13,294	12,417	11,809	10,901	11,048	11,814	11,834	11,498	7,055	61
21 Unlawful sexual intercourse with girl under 13	243	222	256	323	304	327	295	243	214	248	254	212	83
22 Unlawful sexual intercourse with girl under 16	4,973	5,060	5,129	5,180	4,746	4,533	4,313	3,681	3,491	3,558	3,109	2,882	93
23 Incest	277	307	323	288	337	349	338	295	329	334	312	288	92
24 Procuration	121	94	70	87	67	126	84	93	143	107	104	97	93
25 Abduction	67	65	63	97	97	88	68	94	123	91	95	73	(77)
26 Bigamy	208	180	208	183	199	155	190	132	152	151	144	128	89
Total sexual offences	24,163	23,621	23,505	25,736	24,698	23,731	22,203	21,313	22,367	21,843	21,107	15,569	74

⁽¹⁾ In 1978 and earlier years were 'indictable'

⁽²⁾ Figures for 1980 are not comparable with those for previous years because of changes made by new counting rules which were introduced at the beginning of 1980 to improve the consistency by the police of the recording of multiple, continuous and repeated offences

⁽³⁾ Before 1978, 'indecent assault on a male' included attempt to commit buggery. From 1978 attempt to commit buggery was included with 'buggery'

⁽⁴⁾ Previously known as 'attempt to commit buggery, etc'

⁽⁵⁾ Percentages in parentheses are based on totals of less than 100

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Indictable/triable-either-way offences—Persons found guilty
Table 10(a) Persons⁽¹⁾ found guilty of indictable/triable-age (continued)

England and Wales 1979

Offence (1)		Total all Courts (2)	Found guilty at magistrates'				
			Total (3)	10 and under 14 (4)	14 and under 17 (5)	17 and under 21 (6)	21 and under 25 (7)
Sexual offences							
16 Buggery	M	206	7	—	7	—	—
	F	—	—	—	—	—	—
17 Indecent assault on a male	M	620	475	7	43	53	38
	F	17	14	1	—	3	—
18 Indecency between males	M	1,434	1,335	—	7	58	138
19 Rape	M	375	7	—	6	—	—
	F	3	—	—	1	—	—
20 Indecent assault on a female	M	2,466	2,042	69	415	393	200
	F	14	8	—	—	3	2
21 Unlawful sexual intercourse with girl under 13	M	85	6	—	6	—	—
	F	—	—	—	—	—	—
22 Unlawful sexual intercourse with girl under 16	M	663	476	—	42	200	89
	F	—	—	—	—	—	—
23 Incest	M	140	7	—	2	2	1
	F	11	—	—	—	—	—
24 Procuration	M	198	110	—	2	4	17
	F	14	3	—	—	—	1
25 Abduction	M	26	—	—	—	—	—
	F	1	—	—	—	—	—
26 Bigamy	M	24	18	—	—	1	3
	F	10	10	—	—	2	3
27 Soliciting by a man	M	824	793	—	4	71	90
	F	1	1	—	—	—	1
74 Gross indecency with child	M	252	204	—	16	18	17
	F	3	1	—	—	—	—
Sub-total	M	7,313	5,480	76	550	891	593
	F	74	37	1	—	8	7
Burglary							
28 Burglary in a dwelling	M	18,043	13,871	1,620	5,092	3,468	1,337
	F	1,149	983	115	367	283	85
29 Aggravated burglary in a dwelling	M	114	7	1	6	—	—
	F	4	—	—	—	—	—
30 Burglary in a building other than a dwelling	M	36,498	31,023	3,885	10,271	8,492	3,248
	F	1,022	906	153	272	259	83
31 Aggravated burglary in a building other than a dwelling	M	49	2	—	2	—	—
	F	2	—	—	—	—	—
33 Going equipped for stealing, etc.	M	2,206	1,932	75	483	776	245
	F	43	41	3	3	12	4
Sub-total	M	56,911	48,835	5,524	15,647	12,736	4,830
	F	2,220	1,930	271	642	554	177

Indictable/triable-either-way offences—Persons found guilty
either-way offences by offence, type of court, sex and

Number of persons

courts	Found guilty at the Crown Court														
	25 and under 30 (8)	30 and under 40 (9)	40 and under 50 (10)	50 and under 60 (11)	60 and over (12)	Total (13)	10 and under 14 (14)	14 and under 17 (15)	17 and under 21 (16)	21 and under 25 (17)	25 and under 30 (18)	30 and under 40 (19)	40 and under 50 (20)	50 and under 60 (21)	60 and over (22)
	—	—	1	—	—	199	—	—	19	16	21	75	36	20	12
	48	107	80	58	41	145	—	—	7	9	26	40	34	13	16
	2	7	1	—	—	3	—	—	—	2	—	—	1	—	—
	181	368	281	179	123	99	—	1	8	5	13	27	21	15	9
	—	—	—	—	—	368	—	26	90	117	57	60	16	2	—
	190	309	185	150	131	424	—	4	68	43	59	110	65	52	23
	2	1	—	—	—	6	—	1	1	1	3	3	1	1	—
	—	—	—	—	—	79	—	2	29	11	7	8	9	8	5
	66	52	20	5	2	187	—	1	26	30	34	65	22	4	5
	1	1	—	—	—	133	—	—	12	4	2	36	62	14	3
	—	—	—	—	—	11	—	2	2	4	2	3	—	—	—
	21	31	15	17	3	88	—	—	6	13	22	26	19	1	1
	—	—	—	2	—	11	—	—	1	1	1	5	2	1	—
	—	—	—	—	—	26	—	—	3	9	5	5	2	2	—
	5	4	3	2	—	1	—	—	—	1	1	3	1	1	—
	2	1	2	—	—	6	—	—	—	—	—	—	—	—	—
	140	209	160	92	27	31	—	1	4	3	4	14	4	1	—
	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
	21	42	35	27	28	48	—	—	6	1	10	14	11	5	1
	—	1	—	—	—	2	—	—	2	—	—	—	—	—	—
	673	1,123	779	530	355	1,833	—	35	278	261	261	483	302	138	75
	6	10	3	2	—	37	—	—	7	5	12	4	4	2	—
	866	813	475	165	35	4,172	—	151	1,537	876	691	618	213	78	8
	52	54	18	7	2	166	—	5	64	35	22	35	4	1	—
	—	—	—	—	—	107	—	3	35	14	22	21	10	2	—
	—	—	—	—	—	4	—	—	3	—	—	—	1	—	—
	2,052	1,955	728	331	61	5,475	—	145	1,887	1,368	926	872	209	58	10
	50	53	28	7	1	116	—	3	44	33	12	19	5	—	—
	—	—	—	—	—	47	—	4	14	13	8	7	1	—	—
	—	—	—	—	—	2	—	—	1	—	—	—	—	—	—
	168	115	54	14	2	274	—	1	83	71	46	48	19	4	2
	3	7	4	2	3	2	—	—	—	—	1	—	1	—	—
	3,000	2,883	1,150	516	8	10,670	—	150	3,556	2,042	1,054	2,366	302	142	142
	105	111	50	16	6	200	—	8	112	68	35	51	11	2	—

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