

Good case study on responding to rape cases in england and wales

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Responding to Rape Cases in England and Wales

Background to the problem

Sexual offenses cases such as rape are often the cause for debate in many countries especially when it comes to the capacity of the government to prosecute criminals and aid victims involved. For England and Wales, several laws and programs have been proposed to stop the growth of rape crimes and improve response from the government, from the Sexual Offenders Act of 2003 to the reorganization of government agencies such as the Sexual Assault Referral Centres. However, it is still a question on whether or not these actions are enough to improve how the authorities in England and Wales handle rape complaints. The 2010 independent report released by Baroness Vivien Stern CBE known as the Stern Review tackles just how capable the English and Welsh law enforcement agencies are in handling rape cases. The study was done in five months with at least 200 individual participants to aid in the study and analyzed cases and data from the past 10 years upon the report's publication.

Rape can be considered one of the most terrible and common crimes reported in any part of the globe as women, men and children from all age groups and ethnicities are vulnerable to this crime. In England and Wales, reported rape cases have increased dramatically from 2, 855 cases in 1988, 7, 636 cases in 1998 to 13, 093 cases in 2008. However, these figures do not show the complete picture because these statistics vary each year and there is a question on how the police handle these crimes as they have introduced changes in 2002 . Considering this revision on how the police should handle these cases, there have been complaints when it comes to how the

authorities treat rape complaints especially in the cases of John Worboys, a London cab driver, and Kirk Reid, a chef and children's football coach, who are currently both convicted of rape. Both convictions were cited as examples of prosecutions that were done in bad practice as the Independent Police Complaints Commission (IPCC) indicated that the officers did not conduct the standard investigation procedures to cross check victim accounts with the evidences in the scene. In Worboys' case, there was even evidence and crime scene tampering and a delayed response of the officers. In Reid's case, the IPCC cited that complaints were not reviewed and investigated, as well as the evidences were not preserved through DNA and forensic procedures and used for the case .

With the reports of inconsistent and poor enforcement for rape cases reaching the people's ears, it added to the lacking perception of people when it comes rape crimes. In her report, Sara Payne MBE highlighted that the public sees rape crimes are mostly those committed by strangers, who would attack in homes or public place with force. However, this is not the case as a majority of rape cases are actually committed privately and the rapists are people the victim knows . In the survey quoted by BBC, some women in the country believe that some of these rape victims should take the blame for what happened to them. Some of these women or men find it unsure to report their cases because of embarrassment, fear and trauma. Although that some British citizens easily laid the blame for rape at the victims immediately, the attitudes they have regarding the blame on the rape victims had influenced how juries act on convicting rape trials. Amnesty International UK's director Kate Allen cited that the study's results were

alarming and not surprising even if it should be the perpetrator who should be blamed for such incident .

The ‘ politics’ of the theoretical perspectives

Rectifying how law enforcement respond to rape cases and help victims is not as easy as it looks considering the factors that influences how the response can be done. The first factor that influences the reform on rape case response for England and Wales are the situation of the victims from the time of the crime to court trials. The Stern Review cited that many victims opt out on reporting the crime to the police because would feel embarrassed or humiliated due to the sensitivity of the crime. Some would become reluctant to take the medical and forensic exams because that would entail giving their intimate items and discuss their private life that they may opt to be kept in secret. In addition to this, some policemen are incapable on taking into consideration the implication of the crime to the victim and take their cases lightly. Other victims fear that their family and friends would find out about their ordeal. There are also instances that these victims are not aware of the implications and procedures involving legal action, fearing the possible involvement of other agencies such as social services (who may opt to take their children while the case is done).

For victims who report their cases to the authorities, their cooperation is hindered both by the reaction or response of the police, but also with the rate of the proceedings. Victims would find themselves feeling anxious, especially if the police would sound as if they are being implicated of lying about being a rape victim. The Stern Review cited that one respondent had

stressed that in most rape cases, witnesses and forensic evidences are negligible, which is why credibility of the victims must be taken into account. The feeling of anxiety and stress adds on with the feeling that these cases would lead to a possible confrontation with the perpetrator and fear as to the capacity of the case to prosecute the one involved. The lack of protection these victims get also causes some of them to back out of the cases they have filed and others are left untreated and unaware of the implications of leaving these cases or traumas unresolved . In addition to this, victims often find it difficult to cooperate because they find themselves re-victimized by the court rather than the court putting the defendant on trial. In one of the accounts of the victims cited by Wheatcroft, Wagstaff and Moran (2009), she stressed that while she was on the trial and cross-examined, the defense had blatantly tried to break her by openly discussing the intimate details of the rape. It was a feeling of being raped again even if the trial was for her to get the justice she deserved from the rapist. The victims also add that the court process removes the potency of their resistance in withdrawing the case, adding stress to their life and opting them to withdraw the case and avoid the procedures that would produce a second trauma .

The next factor that influences reform for rape case response are the gender imbalances on cases as the female rape cases are mostly given publicity. In the findings of the British Crime Survey, victims of sexual victimization mostly consist of women ages 16 to 59 years old. At least 4. 9% have been raped at least once since they were 16 years old while 9. 7% stressed that they have been sexually victimized since they turned 16, making the total 2000 estimates to 754, 000 victims throughout England and Wales .

However, there are actually male victims that must also be considered by studies and reform. Male rape cases are prominent in England and Wales as 1, 135 male rape cases have been recorded from 2004 to 2005. Similar to women rape, male rape and the needs of its victims is an issue well-documented and considered to be a 'myth' as people often stress that it is 'gay crime' or 'it does not exist.' In contrary to these myths, the Metropolitan Police cited that the allegations of male rape is similar to women rape, but they are mostly reduced to a lesser offense as officers would stress that their allegations may be unwarranted due to a mental condition of the complainant. It is important to consider that male victims of rape experience negative responses and reported cases are also a few due to the negative attitudes of the authorities to male rape cases. The interpretation of the law determines the capacity of the country in how they would answer to rape cases. According to the laws of England and Wales, the definition of rape is written in the Sexual Offenses Act of 2003, which stressed:

"rape occurs when someone 'intentionally penetrates the vagina, anus, or mouth of another person with his penis', that the other person does not consent to the penetration, and the perpetrator 'does not reasonably believe that the other person consents.'"

However, this definition has been criticized for the grounds of "free agreement or consent", which prompted the House of Commons to debate against it after the 2007 Court of Appeal case that argued against the position on consent. The question is what would be the grounds for consent, especially if the participants involved had been drunk or unconscious. The Review had also highlighted that the laws are not easily understood,

especially by the younger generation, making it difficult for them to understand the rights set for them under the Sexual Offences Act of 2003 . Finally, there is a doubt when it comes to the power of the agencies handling these cases and how they help the victims recover from the ordeal. Usually, in the adversarial system of both England and Wales, a victim's interest in trials are always placed second to the public interest protected by the prosecution. However, there is now a question as to the position of the CPS and the public/private divide, which may present a conflict of interest. There is also a concern on the relationship of the victims and the prosecutors, especially on the responsibilities of the prosecutor to aid the victim throughout the proceedings. Criticism is highlighted when it comes to how the prosecutors exercise their power . Victims always prefer it if they can approach areas that are ' safe' to disclose violence and abuse and the staff would be accommodating and would respect their confidentiality. Agencies such as the NHS should be able to provide these safe spaces for the victims; however, some victims often find it difficult to confide to their staffs because of further victimization and how these agencies would hold their information .

Media's fixation on preoccupation/campaign

With the complexity and controversial nature of rape crimes, the Stern Review cited that the media is seen both as an excellent medium for public awareness and at the same time, an unreliable source or medium to discuss the issue of rape. A number of public awareness campaigns such as the " This is not an invitation to rape me" campaign or the Rape Crisis Scotland

Campaign was designed to encourage discussions and change attitudes when it comes to rape. For anti-male rape campaigns, most of them try to prove that the issue is not just solely for women but there are also men who are victimized by these crimes. One example of public awareness campaign targeting the men is the Hampshire Constabulary's ' Don't Cross the Line' campaign that uses a role-playing game called ' Seal the Deal' to educate men what is classed as sex and identify the acts open to them or their friends who have been victimized by rapists. The Transport for London's Cabwise campaign is also a notable example of groups utilizing media to educate people regarding rape; however, it was slightly frowned upon due to the idea it reinforces the idea that women would scream for help .

Although the media is indeed a venue for public awareness campaigns and information, it has also been fixated on reporting false accusations and inconsistent statistics. In the review, Stern stressed that false allegations are illegal under the law, however, the media often utilizes their power to try perverting the proceedings and alter the details in their reports. Tabloids love false allegations and at the time of the review, at least 8 to 10% of the news released today are from false reports. However, since media outfits often sensationalize news to get the public attention, the public's position often is swayed especially if the criminal in question is falsely accused . The media also has the capacity to print articles and videos that establishes rape myths or stereotypes, that adds to the issue on false allegations or false understandings when it comes to rape issues. Some of the rape stereotypes created by the media include " rape is perpetrated only by strangers using violence" and " no woman can be raped against her will". The media also

cited that a “ victim of real rape” is described as a woman who, despite resisting, is beaten to submission and raped by a stranger. However, if one takes into account the statistics, 72% of rapes in the UK are committed by rapists with relationship to the victim and indoors. Since the media’s portrayal often include these stereotypes, the public’s position on rape also matches this belief .

The media also influences how conviction rates are reported and currently, conviction rates are too low. The low rates of convictions in England and Wales points out that the current system is flawed when it comes to how the government can respond to these rape cases. It is uncertain as to how the conviction rate is calculated because they are not usually published and measured. For rape, the conviction rate pertains to the percentage of all reported cases and those who had been convicted of the crime, which reaches 6% to 12%. However, these rates cannot be accurate as some complainants may not try to continue the legal process due to various factors. In this end, the 6% figure cited as the conviction rate for the country may have been the average of the various studies done for the past few years . In a response to the Stern Report, critics such as Chris Grayling, the shadow Home Secretary, cited that “ the one thing none of us in politics must do is to talk about this issue in a way that stops genuine victims feeling unable to come forward and lodge a complaint.” Women Against Rape spokeswoman Lisa Longstaff criticized the Review and stressed that the government should release how many cases are reported and get to conviction .

Evaluation of the policy analysis

With the severity of rape cases and the low rape prosecutions in England and Wales, the Stern Review had been done in order to understand how society responds to crime and how these crimes are resolved while protecting victims. Its proponent, Baroness Vivien Stern, highlighted that the report that the idea of rape and its impacts is profound and there is a necessity to make the country's response better to protect the people. The review has six major objectives. First is to examine the response of the public authorities when it comes to rape complaints and the statistics as to the victims reporting their experiences. The second objective involves the identification of various ways on how the attrition rate is reduced and increase the conviction rate, especially for rape cases. The review also tried to identify how victims and witnesses are encouraged to report and trust the government in the prosecution of rapists. Public and professional attitudes to rape are also an objective for the Review because it is believed to have an impact to how cases are resolved. The review also uses information from two other articles on victims' experience, such as the work of Sara Payne and Sir George Alberti. The review also aims to make recommendations on improving the current policies and procedures for rape cases.

Baroness Stern was encouraged to do the review because of her long concentration on improving policy-making on crimes and criminals. However, while proposals have meant well in organizing society, she believes that society does not understand how they could help in aiding these victims recover. The study, for Stern, was an eye opener because it is revealed just how much problems are in the current system for rape cases and the impact

it has for the victims. Stern had met a variety of participants for the study, highlighting the other side of the issue that is not seen by policy-makers. The Baroness had also stressed that the report aims to introduce as to how the concept of rape and its victims have changed throughout the years, indicating that it has affected on how the authorities react to these cases. Another aim of the report was aid victims and even the authorities on what are the mechanics of rape cases and how it can be handled from the time it is filed to the rights of the victim. The report also aimed to encourage victims who have not reported their ordeals to the police, providing them with a clear idea as to what they can expect as well as empower them to fight for better service. Finally, the review is advantageous in the extent it suggested alternatives on how response is improved for the part of the victims .

Discussion and recommendations

The Stern Review stressed that the English and Welsh policy and program initiative on handling rape cases is in line with the ideal system that would care for the victim's needs, highlight the responsibilities of the authorities, and strengthen the power of the law enforcement body to prosecute rapists. The current system enforced currently has measures that would ensure that the complainant or the victim would not be re-victimized while in session, removing the chances for trauma. Medical centres are also established in every area wherein victims of rape can be assisted without bias and the clearer structure on the responsibilities of the police and the Crown Prosecution Service now indicates effective responses in each rape case reported. It is likely that with more training and awareness campaigns, the

response of authorities to rape cases would improve positively and allow victims to feel safe and confident with the country's legal system. However, while the policies are in the right track, implementation of these policies and a clear understanding of the concept of rape is still far from perfect, which is why it is crucial to introduce reform to remove these faults. The Review highlighted that there are areas where the policies are inconsistently implemented such as the nature of evidence gathering, investigation and the position of the CPS. Prosecutors have also been lax on their responsibility in helping victims in understanding the case and some rape cases are not handled by those who specialize in such issues. Some victims also fail to get the support they can receive from the government. There is also a necessity to revise the policies in order to provide a clear position on how the laws must be interpreted and the obligations the government and its agencies has for rape victims and establish a clear ratio when it comes to the rape crime rate and conviction rate in the country rather than have a variety of sources stressing inconsistent statistics. The review also stressed that policy-makers must now ensure that good practices are enforced within the country, ensuring that the approach is specifically directed to areas where it is needed .

It is undeniable that people have various perceptions on what exactly constitutes to rape and how these cases are treated by the government. However, the threat rape has to the people should be treated seriously because anyone can be at risk either at their home or in public areas. Developed countries such as England and Wales are also at risk to rape and if the results of the Stern Review at to be taken into account, the policies and

programs for these two countries on rape case response and victim treatment can be used as a model by others having problems handling their rape cases. Rape is a terrible crime that has to be stopped because the trauma it can cause to the victims can cause them to lose their will to live and trust those around them.

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