

# Rape subject essay sample

[Psychology](#), [Abuse](#)



## RAPE

Rape has been defined and redefined over the years to accommodate the changing needs of various societies. The laws concerning the offense of rape are varied across the globe which may depend on the customs and beliefs of the societies. These laws keep being modified with time with addition of new concepts and neglecting of the old and ineffective law concepts.

In Mexico, Rape can simply be taken to mean sexual intercourse without consent but it has modified to involve the act of a forced penetration of any bodily orifice (vaginally, anally, or orally) or forced cunnilingus, involving violation of the survivor's body and psychological person. Generally, rape is understood as an experience of violation, degradation, and humiliation where one person forces another to have sexual intercourse against that person. Most experts believe that the primary cause rape is an aggressive desire to dominate the victim and destroy their spirit.

In the United States, there is no national rape law and so each state has its own laws concerning sexual aggression. New Mexico in particular has its own laws too which include life imprisonments for the persons guilty of the crime after local legal channels are exhausted. There are statutes of limitation for prosecuting rape and/or sexual assault in New Mexico. The offense of criminal sexual penetration in the first degree may be prosecuted at any time. The offense

of criminal sexual penetration in the second degree must be prosecuted within six years of its commission. The offense of criminal sexual penetration

in the third and fourth degrees must be prosecuted within five years of its commission.

In the historical common law, rape was defined as carnal knowledge of a woman against her will, with no requirement for force. The essence of rape may have been understood as lack of consent, rather than use of force. “ The crime of rape has been punished throughout history, but it was traditionally a crime against the legal interests of fathers and husbands. For example, Mosaic Law codified the rights of a father over his daughter as property. The rape of a daughter, especially a virgin daughter, was viewed as theft from the father because it lowered her monetary value for marriage. Because Biblical law demanded adulterers be stoned to death, a claim of rape by a married woman was frequently viewed as an excuse to avoid execution for adultery” Knies J. S, 2007. This shows that historically, a victim of rape had burden to prove that not only did she resist enough but also enough force was used so as to convince her skeptics that she is telling the truth.

Traditional offense of rape required proof of five elements; penetration, force and resistance, nonconsensual, absence of a spousal relationship and a culpable state of mind (*mens rea*). As far as penetration is concerned, the act of rape as historically described as carnal knowledge requires sexual intercourse which implies some penetration (however slight) of the penis into the vagina and ejaculation is not necessarily required. It therefore means that rape was gender-specific (only a woman could be raped) and was inapplicable to many serious sexual abuses, such as sodomy.

A rape conviction requires proof that the sexual act was committed by force and against the will of the victim. Thus there must be both force and a lack of consent except in cases where the the woman was unconscious, was mentally incompetent, or gave her consent under certain false pretenses for example if a man made false promises of marriage, he could be prosecuted for seduction but not rape. Non consensual intercourse without force was not an offense at all and force requirement could be met only by acts or threats of physical violence of which the victim had to prove. Absence of resistant was assumed that the victim freely chose to acquiesce.

The courts required that the victim resist to the utmost; fight her aggressor even when that response could expose her to great danger.

In regard to nonconsent, it is assumed that even when a defendant has used force, his sexual conduct is not rape if the complainant consented since the act must be against her will. This consent tended to encourage a focus on the complainant's state of mind, and evidence of her prior sexual experience was used to insinuate that she wanted to have sex.

There was the marital exemption where there was nothing as rape in regard to compelled intercourse no matter how much force was used when the victim was the wife of the perpetrator. And in addition to proving force and nonconsent, the prosecution must prove, as with any offense, that the defendant had a culpable state of mind.

In the current stature, the historical common law has been revised in New Mexico to consider situations of a woman and her husband, date rape and

also circumstances of a male by another male in addition to the other elements that constitute the crime of rape such as carnal knowledge, force or intimidation and the commission of the act without the consent, or against the will, of the woman or the man. It also includes penetration by other objects other than the penis and also penetration of other parts of the body like the mouth or anus.

The elements of the crime have greatly changed from historical common law to current state statute. There has been abandonment of the term rape to use the gender-neutral term such as sexual battery to describe the offense since men and women have come under the definition of rape and both sexes can be victims of rape. The traditional penetration of penis into vagina has been expounded to include even other objects penetrated in any other parts of the body. Modern statutes typically punish as rape the forcible penetration, by any object, of a woman's mouth, anus, or vagina, and most rape statutes apply to penetration of a male victim as well unlike in common law where penetration is by penis only and into vagina.

Force is no longer a requirement but merely a factor that aggravates the severity of the offense. A husband forcing sex on his wife or a wife forcing sex on her husband was not considered as rape since the woman or man (for certain purposes) was not considered a separate legal entity with the right of refusal, or sometimes was deemed to have given advanced consent to a life-long sexual relationship through the wedding vows. New Mexico crime laws have legislated against this exception.

Changes have occurred over time as necessity for modification of the law increased. Men have been victims of rape, rapists have used objects to penetrate on some parts of the body of their victims, boys and young children have been molested and women and men have been subjected to rape by their spouses hence the need for laws to accommodate all the cases.

The society needs to be free from any form of sexual harassment hence need for further adjustment of laws concerning sexual abuse. Facial expressions or looking in a manner to suggest sex to someone who does not consent could be included in the laws. Consent can be revoked in the mid-act; this means that a man can be charged with rape if he ignores a woman's calls to stop even if she had previously consented.

In general, rape is defined historically as a crime of forcing somebody into sexual activity, in particular sexual penetration, against his or her will through use of physical force, threat of injury, or other duress. It is also considered rape if the victim is unable to say "no" to intercourse, due to the effects of drugs or alcohol or is under the legal age of consent. It is a very serious criminal offense which is severely punishable to the court of law. Criminal laws are changing with time and all categories of people in New Mexico have fitted in the society's consideration of what constitutes the offense of rape and what does not.

Reference:

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