

Are statutory rape  
laws patronizing to  
girls and  
discriminatory to boys



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Name: Course: Lecturer: Date: Are Statutory Rape Laws Patronizing To Girls and Discriminatory To Boys Cover letter The purpose of the essay was to show that there is discrimination in the statutory laws where the boys are the ones who suffer. When there is sex between two teenagers below the age of 16, the girl is protected while the boy is charged. Charging the boy alone while they are both supposed to be protected by the same law is discriminatory. The essay seeks to show this using the case of a 14-year-old boy and three girls. From completing the topic, I learn more about statutory rape and the legal age of consent to sex. I learnt that statutory rape was initially meant for protecting girls from older male advances.

However, with the advocacy of equal rights for both sexes, all children must be protected. During the research, I encountered several problems especially with finding relevant sources for information. Most scholarly articles addressed statutory laws without considering discrimination of boys.

Therefore, finding the relation between statutory rape and discrimination of boys was challenging. Additionally it was hard to find materials relating to young boys since most statutory rape cases focused on older mature offenders with minors. I enjoyed learning about the statutory law and its consideration for boys in the current era. In addition, I enjoyed learning about the arguments posed by both sides, despite supporting the claim that it discriminated boys. The topic was interesting and enjoyable as well.

What made me decide to write about this particular topic is its uniqueness. Despite statutory law being common, the discrimination issue on boys was not very common among college essays. Additionally, it was an enjoyable

topic to learn and new to me. Currently, there is nothing else to learn about the essay before reading it.

Everything there is to learn can be found in the essay. Introduction The law states that statutory rape is having sexual intercourse unlawfully with a child of below sixteen years of age, and it is punishable by imprisonment in a state prison or serving a term in a correction facility. The law further provides that it does not require the defendant to be aware of the age of the victim at that time to amount to statutory rape. For a statutory case to be considered, all that is required is proof that sexual intercourse occurred between the defendant and the victim, as well as the age of the victim to be below the age of sixteen years. The rationale behind this law is the incapability of children below the age of 16 in giving consent on sexual activities. The law does not recognize one gender to the other. Rather, all are equal under the law.

However, from the general public view, many think that there is no problem with young boys of below sixteen having sexual intercourse with older women. In fact, some will congratulate the young man. Therefore, the statutory rape law does not recognize gender of the person, except in the mind of the public. Background The number of people serving for statutory rape within the prisons has quite a big difference between the numbers of male inmates serving under the statutory rape compared to women. There are hardly any women reported or sued for the same crime. The law does hold the same penalty for both sexes for statutory rape (Russell 507).

However, in many cases young male children will find it an act of being a man to have sexual activities with an older woman. In one example of a <https://assignbuster.com/are-statutory-rape-laws-patronizing-to-girls-and-discriminatory-to-boys/>

case, a 14-year-old boy in high school is charged with statutory rape for having sexual activities with three girls, two at the age of 12 and one at the age of 11.

The girls said clearly that they were not frightened of the boy's behavior and were willing to engage in the sexual activities. However, the boy was still charged under the law for having sex with children of below the age of 16. The lawyer placed a defense on the account that all parties were of under age, and none could have been capable of making any legal consent. Otherwise, charging the boy amounts to discrimination bases of sex orientation since all were under the legal age. Charging the boy alone meant that the statutory rape is just there to protect the girls alone without a consideration for the boys. It should be noted that girls too are equal participants in the sexual activities as long as both have agreed to the activity (Fischel, 282).

Support for the Claim In this current age, boys and girls are equally recognized by the law. None should have the rights to more protection than the other. Therefore, in such cases, the law should not only protect the girls, but also the boys who are in the same situation as well. Statutory rape should be neutral, stating that if an older man of about 30 years has sex with a girl of 15 years, statutory rape occurs. The same way, when a woman of 30 years engages in sexual activity with a 15-year-old boy, statutory rape occurs. However, when it comes to sex between two children below the age of legal consent, boys are charged with statutory rape. This turns out to be discrimination to the boys.

Additionally, it is an out-dated law where statutory rape was supposed to protect girls. At the same time, women at this time would not engage themselves with younger men since it was considered wrong. Thus, only young girls needed protection at the time. However, in the modern times when both men and women are regarded equal even in terms of law, they can also engage in sexual activities with younger men. The statutory rape charges men on the account that they initiate sex or are the ones pursuing the girls and they are usually older.

It is true that in most cases men are the ones who initiate sex. Thus, in many courts today, this notion is still held by attorneys that boys should be held responsible and punished for statutory rape. This would be unfair to one gender since children are supposed to be equal. Thus, the law should not be enforced based on this traditional notion of men and boys being considered the initiators. As long as girls give their consent or as long as they are not taken by force but willing, both sexes should be held responsible. Therefore, in the case of the 14-year-old boy, all parties should have been charged the same way.

Charging the boy alone amounted to sex discrimination since all parties should have been deemed equal in terms of law (Russell 523). Girls are equal actors in the same way as boys are, and should all be treated as teenagers. Girls are doing the same thing as boys and both having consent means they both made the decision and none should be held responsible if they are all below the legal consent age (Ferguson and Hayley 87). However, when one of them is above the legal consent age, statutory rape could occur.

Opposing and alternative Views On the other hand, the opposing side to the <https://assignbuster.com/are-statutory-rape-laws-patronizing-to-girls-and-discriminatory-to-boys/>

issues suggests that girls in the elementary schools such as these girls should be protected from the advances of the older boys. The difference is 2 year and three years between the girls and the boy.

Suggesting that they were all involved in the sexual act with consent means to say that girls at elementary school can make a decision to have sex and be sexually active (Eric, 147). The claim is that girls at elementary school are not capable of making sexual decisions and do not know the consequences of their action. The boy in this case is considered to be in high school and more capable. However, it is worth noting that the boy too was below the age of legal consent. Additionally, many people reckon that girls mature earlier than boys do.

Therefore, the girls could have been capable of reconsidering their decision (Fischel, 280). The opposition further makes a claim that the court ignored the age of the girls and the difference with the boy's age. The difference is only 2 and three year for the younger girl.

The boy was charged because he was significantly older than the girls were and in high school. " He was not charged because of repressive ideas about female sexuality, and it is disingenuous at best to make that claim," (Amy, 2009). The claim is that it is about the protection of children and not female sexuality. However, if elementary girls are incapable of making sexual decisions, it does not mean that a 14-year-old at high school can make the decisions.

Thus, all should be protected. Rebuttals The opposing side claims that elementary school girls should be protected from the advances of older boys. <https://assignbuster.com/are-statutory-rape-laws-patronizing-to-girls-and-discriminatory-to-boys/>

It is worth noting that people have a notion that boys should approach younger women from what the society depicts. In most couples, the women are younger than the men are. It is no doubt that boys would do the same. The issues should not be about elementary or high school. This would mean that girls in high school should not be protected.

Therefore, it should be a matter of protecting both. On the other hand, the teenage sex of children at 15 years of age can be implemented, where children at the same age are allowed to have consensual sex, "Romeo and Juliet," (Amy 2009). This means allowing children at the same age from the age of 15 to engage in sexual activities, which could prevent statutory rape (Peters. 56). On the issue of ignoring the age of girls in making the decision, I think that the boy was also below legal consent age and has the same rights.

Thus, suing the boy alone would be discriminatory. Conclusion Statutory rape laws are discriminatory on boys when it is between two people below the legal consent age. When it is between an older mature person and a child below the legal age, this requires protection. However, when it is between two children below the age of 16, there should be a consideration that both did not have the right capability of making sexual decisions.

Thus, when the court is considering such, it should not sue the boy alone while they had consensual sex. Work cited Amy. Does statutory rape discriminate against boys? salon. com, March 9, 2009. Web. August 24, 2012. This article from the internet talks about the case of a 14-year-old boy charged with statutory rape of three girls, two of the 12 and the other one 11. It acts as the base upon which the argument of the essay is based.

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It shows how the boy can be discriminated by the statutory law. Eric, Wursthorn. " Statutory Rape Conviction of Twelve Year Old Boy For Having Sex With Male Peer Overturned by Ohio Supreme Court.

" Lesbian — Gay Law Notes; (2011): 145-146. Print. This article discusses a similar case involving a 12-year-old boy who had sexual activities through force with two other boys. He was found delinquent of five counts out of the nine he was charged with. This serves to illustrate the opposite of the 14-year-old. In this case, statutory rape occurred since there was forceful action.

Ferguson, Olivia, and Hayley M. Haugen. Age of Consent.

Detroit: Greenhaven Press, 2010. Print. This book talks about the age at which one can have legal rights to make decisions about sexual intercourse. It discusses the consequences of the legal consent as well as what it implies to the children. The book provides many bibliographies of professionals and journals to make its claim. Fischel J. Joseph. " Per Se or Power? Age and Sexual Consent.

" Yale Journal of Law and Feminism. 22 (2010): 279-342. Print. This article talks about the issues of age and consent of making sexual decision.

The article makes a claim that it should not only be about the young teenagers, but also teenagers at the legal age of sexual consent and older adults. Peters, Colette S. Consensual Sex and Age of Sexual Consent.

Denver, CO: Colorado Legislative Council, 2002. Print. This book talks about the legal age of consent as well, and provides policies on the issue of

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juvenile cases. It further talks about sex with consent among the juvenile age. Russell L. Christopher and Kathryn H.

Christopher. "The Paradox of Statutory Rape." *Indiana Law Journal* 27. 2 (2012): 505-549. Print. This article talks a bit about the statutory rape that was once meant for girls only. However, with advancing modernity and gender equality, it protects both genders.

It further talks about the failure of the modern statutory law in serving its purpose.