

Exploring Rape as a Gender-Based Crime

PANDEY, Madhumita

Available from Sheffield Hallam University Research Archive (SHURA) at:

<https://shura.shu.ac.uk/31983/>

This document is the Accepted Version [AM]

Citation:

PANDEY, Madhumita (2023). Exploring Rape as a Gender-Based Crime. In: ALI, Parveen and ROGERS, Michaela M, (eds.) Gender-Based Violence: A Comprehensive Guide. Springer Nature Switzerland, Springer, 181-194. [Book Section]

Copyright and re-use policy

See <http://shura.shu.ac.uk/information.html>

Exploring Rape as a Gender-Based Crime

Madhumita Pandey

Helena Kennedy Centre for International Justice, Department of Law and Criminology,
Sheffield Hallam University, Sheffield, UK

E-mail: M.Pandey@shu.ac.uk

Learning Objectives

Having read this chapter, you should be able to do the following:

- Critically examine the legal definitions of rape and analyze the nature and prevalence of this gender-based crime
- Use a feminist lens to explain the perpetration of rape, understand the stereotypes, and responses
- Apply the knowledge on rape through different real-world cases and contexts.

Introduction

The feminist movement of the 1960s and 1970s not only highlighted the problem of sexual violence against women but brought forward the issue of rape into the main-stream conversation. However, the fear of rape and level of sexual offences continue to have a profound and damaging effect on individuals and communities all around the world. The World Health Organization (2013) defines sexual violence as any sexual act or any attempt for the purpose of obtaining a sexual act through violence or coercion, which can encompass a variety of situations, such as rape (including marital rape), rape by strangers, sexual abuse, sexual or physical abuse of those with disabilities, sexual abuse of children, forced marriage, and child marriage (Krug et al. 2002). About 36% of women around the world have experienced sexual violence, with widely varying prevalence estimates (García-Moreno et al. 2013). Almost all forms of sexual violence are also forms of gender-based violence, but not all gender-based violence (GBV) is sexual in nature.

Defining Rape

What is rape? A simple question yet one possessing such complex depth and existing at the intersection of society, ethics, legality, and morality. It is perhaps the easiest to define rape through the legal framework of society. Most rape definitions around the world use three key components: *penetration, force, and lack of consent* (Decker and Baroni 2011; Remick 1992). In England and Wales, rape is a statutory offence defined under the Criminal Offences Act (2003) as follows:

(1) A person (A) commits an offence if

(a) He intentionally penetrates the vagina, anus, or mouth of another person (B) with

his penis.

(b) B does not consent to the penetration.

(c) A does not reasonably believe that B consents.

(2) Whether a belief is reasonable is to be determined having regard to all the circum-

stances, including any steps A has taken to ascertain whether B consents.

(3) Sections 75 and 76 apply to an offence under this section.

(4) A person guilty of an offence under this section is liable, on conviction on indictment, to imprisonment for life.

Something that instantly stands out in this definition is how it privileges the 'penis'. It is not unusual for rape and sexual assault definitions to be gendered in nature, and the use of language such as, 'his penis', leads to females getting statutorily excluded from being able to commit rape. However, while we can see a clear gender bias in terms of who can perpetrate rape, i.e., a person of male sex, the law is not gender-specific in relation to who can be a victim of rape. Other narrower definitions of forms of assault and sexual activity without consent are also included within the Sexual Offences Act (2003), chapter 'Reflections and Way Forward', and have been listed in Table 1.

Definitions of rape pose challenges even in other parts of the world. For instance, according to the Indian Penal Code (IPC) 375 (2015), a man is said to commit 'rape' if he (a) penetrates his penis, to any extent, into the vagina, mouth, urethra, or anus of a woman or makes her to do so with him or any other person or (b) inserts, to any extent, any object or a part of the body, not being the penis, into the vagina, the urethra, or anus of a woman or makes her to do so with him or any other person or (c) manipulates any part of the body of a woman so as to cause penetration into the vagina, urethra, anus, or any part of body of such woman or makes her to do so with him or any other person or (d) applies his mouth to the vagina, anus, and urethra of a woman or makes her to do so with him or any other person, under the circumstances falling under any of the following seven descriptions:

Table 1 Definitions of assault and sexual activity without consent under the Sexual Offences Act (2003) of England and Wales

Assault

Assault by penetration

1. A person (A) commits an offence if
 - (a) He intentionally penetrates the vagina or anus of another person (B) with a part of his body or anything else.
 - (b) The penetration is sexual.
 - (c) B does not consent to the penetration.
 - (d) A does not reasonably believe that B consents.
2. Whether a belief is reasonable is to be determined having regard to all the circumstances, including any steps A has taken to ascertain whether B consents.
3. Sections 75 and 76 apply to an offence under this section.
4. A person guilty of an offence under this section is liable, on conviction on indictment, to imprisonment for life.

Sexual assault

1. A person (A) commits an offence if
 - (a) He intentionally touches another person (B) (b) The touching is sexual
 - (c) B does not consent to the touching
 - (d) A does not reasonably believe that B consents
2. Whether a belief is reasonable is to be determined having regard to all the circumstances, including any steps A has taken to ascertain whether B consents
3. Sections 75 and 76 apply to an offence under this section
4. A person guilty of an offence under this section is liable on the following:
 - (a) On summary conviction, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum or both
 - (b) On conviction on indictment, to imprisonment for a term not exceeding 10 years

Causing sexual activity without consent

Causing a person to engage in sexual activity without consent

1. A person (A) commits an offence if
 - (a) He intentionally causes another person (B) to engage in an activity (b) The activity is sexual
 - (c) B does not consent to engaging in the activity
 - (d) A does not reasonably believe that B consents
2. Whether a belief is reasonable is to be determined having regard to all the circumstances, including any steps A has taken to ascertain whether B consents
3. Sections 75 and 76 apply to an offence under this section
4. A person guilty of an offence under this section, if the activity caused involved the following:
 - (a) Penetration of B's anus or vagina
 - (b) Penetration of B's mouth with a person's penis
 - (c) Penetration of a person's anus or vagina with a part of B's body or by B with anything else (d) Penetration of a person's mouth with B's penis is liable, on conviction on indictment, to imprisonment for life
5. Unless subsection (4) applies, a person guilty of an offence under this section is liable on the following:
 - (a) On summary conviction, to imprisonment for a term not exceeding 6 months or to a fine not exceeding the statutory maximum or both
 - (b) On conviction on indictment, to imprisonment for a term not exceeding 10 years

Firstly, against her will.

Secondly, without her consent.

Thirdly, with her consent, when her consent has been obtained by putting her or any person in whom she is interested, in fear of death or of hurt.

Fourthly, with her consent, when the man knows that he is not her husband and that her consent is given because she believes that he is another man to whom she is or believes herself to be lawfully married.

Fifthly, with her consent when, at the time of giving such consent, by reason of unsoundness of mind or intoxication or the administration by him personally or through another of any stupefying or unwholesome substance, she is unable to understand the nature and consequences of that to which she gives consent.

Sixthly, with or without her consent, when she is under eighteen years of age. Seventhly, when she is unable to communicate consent.

Explanation 1. For the purposes of this section, 'vagina' shall also include labia majora. Explanation 2. Consent means an unequivocal voluntary agreement when the woman by words, gestures or any form of verbal or nonverbal communication, communicates willingness to participate in the specific sexual act, provided that a woman who does not physically resist to the act of penetration shall not by the reason only of that fact, be regarded as consenting to the sexual activity.

Exceptions. (1) A medical procedure or intervention shall not constitute rape; (2) sexual intercourse or sexual acts by a man with his own wife, the wife not being under 15 years of age, is not rape.

Once again, we see a highly gendered and heteronormative definition of rape and one that does not recognize marital rape as a criminal offence. Rape of a woman or girl by her husband is still not criminalized in many jurisdictions around the world. Along with India, these include Ghana, Indonesia, Jordan, Lesotho, Nigeria, Oman, Singapore, Sri Lanka and Tanzania. In four of these, marital rape is expressly legal even where the 'wife' being raped is a child bride and the 'marriage' is in violation of minimum age of marriage laws (Equality Now Report 2017).

Marital Rape

Victorian ideals of womanhood made way for a long-standing history of women being lauded for keeping families together and withstanding any adversity in their marital life. In fact, marital rape was criminalized in the United Kingdom only in 1991 wherein, in *R v R*, a court judgment delivered in the House of Lords, determined that under the English Criminal Law it is possible for a husband to rape his wife. Until then, there were numerous instances where leading criminal justice professionals had claimed that a husband can never rape his wife. For instance, Sir Mathew Hale, a former Chief Justice of the Court of King's Bench in England famously wrote, 'The husband cannot be guilty of a rape committed by himself upon his lawful wife, for by their mutual consent and contract the wife hath given up herself in this kind unto her husband, which she cannot retract' (History of the Pleas of the Crown 1847).

Consent: 'No Means No' or 'Yes Means Yes'?

Consent poses a major challenge in cases of sexual violence all around the world. According to Coy et al. (2013), it is frequently assumed that non-consensual sex is the result of miscommunication. In their report for the Office of the Children's Commissioner's Inquiry into Child Sexual Exploitation in Gangs and Groups in the United Kingdom, the authors argue that such ideas create expectations that for sex to be refused, there should be a clear verbal 'no', unlike other forms of human interaction where declining can typically be much less direct. Another key point emerging from this report was that while young people understand what it is meant to give consent for sex, they have very limited sense of what getting consent might involve (Coy et al. 2013). Some researchers have noted that the label of 'miscommunication' as applied to rape is also problematic in that it implies a level of victim responsibility, perpetuating a notion that the problem lies with the victim's sexual communication (Henley and Kramarae 1991).

The rape trial of Welsh international footballer Ched Evans also highlighted this predicament. Evans claimed that he had indulged in consensual sex; however, the prosecutors alleged that the victim, a 19-year-old, was too drunk to consent to sexual intercourse. This case witnessed major public outcry as the court allowed the victim's previous sexual history to be used as evidence. While Evans took responsibility for having sex with a drunk girl, he argued that his actions did not constitute as 'rape'. Similarly, another trial of the two Irish professional rugby players and two of their friends also highlighted the toxic male culture in elite sports industry and the contrasting views on sexual consent. During the trial the victim had to answer grueling questions of the defendant's lawyers, while her underwear was passed around the court for the jury to examine. The defense lawyers claimed that the victim did not physically resist or scream for help from anyone at the party. A common misbelief about sexual violence is that victims 'must' fight back to make it clear that they are resisting the act; however, several researchers have found that fighting back is not the most common response of sexual assault (Kozłowska et al. 2015; Gbahabo and Duma 2021). Furthermore, this case highlighted the harmful notion of sexual conquest and masculinity as the alleged players posted messages on a social messenger application saying 'We are all top shaggers' among several other boastful abusive and misogynistic messages after the party (New York Times 2018).

Case Study: Hollywood Horror

The recent #Metoo movement put heavy spotlight on Hollywood with several allegations on both leading actors and top entertainment executives. One key figure that was accused by 87 women was Harvey Weinstein. Weinstein was found guilty in New York and has been sentenced to 23 years in prison for rape and sexual assault. Similarly, the man behind overseeing the hit show 'The Big Bang Theory' and many more, Leslie Moonves, was a prominent voice in the #metoo movement and also helped in creating the Commission on Eliminating Sexual Harassment and Advancing Equality in the Workplace which was chaired by Anita Hill. However, the public statements made by one of the most powerful media executives in America and the CEO of CBS Corporation weren't exactly in sync with his private actions as six women came forward with sexual harassment complaints against him. One can't help but notice his statement, 'But I always understood and respected—and abided by the principle—that "no" means "no", and I have never misused my position to harm or hinder anyone's career.' This language dates back to the anti-rape movement of the late 1960s and early 1970s. There's a reason why feminists have gradually moved away from the 'no means no' to focus instead on affirmative, active, and enthusiastic consent—'yes means yes'.

Consent is key in sexual violence. Sex without consent is rape even if the victim is under the influence of drugs or alcohol or as most argue is wearing revealing clothes. Yet only 12 European countries out of the 31 have laws that define rape as sex without consent: Belgium, Croatia, Cyprus, Denmark, Germany, Greece, Iceland, Ireland, Luxembourg, Malta, Sweden, and the United Kingdom (Amnesty International 2020).

Prevalence

People of all genders and ages experience rape; however, there continues to be a disproportionate number of women and girls who are sexually victimized around the world. According to the UN Women (2020), 15 million adolescent girls world-wide, aged 15–19 years, have experienced forced sex. Borumandnia et al.'s (2020) study shows that sexual violence against women in China, North Korea, and Taiwan has increased the most among countries in the world (average rate of 196.68 per 100,000 persons). This is followed by Lithuania and Namibia (average rate of 81.62 per 100,000).

persons). In the USA, there are 463,634 victims (age 12 or older) of rape and sexual assault each year (National Crime Victimization Survey 2019).

The Crime Survey for England and Wales (CSEW) year ending March 2020 reported that there were 773,000 adults aged 16–74 years who were victims of sexual assault (including attempts) in the previous year, with 618,000 female victims, almost 4 times as many male victims (155,000). Over the past 15 years, the prevalence of rape or assault by penetration over this time has remained around 0.5% (CSEW 2020). While the volume of sexual offences recorded by the police has almost tripled in recent years, the latest figures for the year ending March 2020 show a decrease of 0.7% to 162,936 offences compared with the previous year. In the year ending March 2021, rape offences recorded by the police fell by 6% (55,696 offences). Rape accounts for 38% of all sexual offences recorded by the police. This is the second year-on-year decrease; prior to the year ending March 2019, the number of rape offences had been increasing annually. This trend is likely to reflect the diminishing impact of recording improvements as well as the effects of national lockdown restrictions. The fall in rape this year was driven by large decreases in April to June 2020, with offences 21% lower than in the respective period in 2019.

Latest estimates from the CSEW showed that fewer than one in six female victims aged 16–59 years of sexual assault by rape or penetration (16%) reported it to the police. Changes in police recording practices and victims' willingness to report are likely to result in annual variations in the number of offences recorded by the police; however, police recorded crimes remain well below the number of victims estimated by the survey.

Issues with Under-reporting

Rape and sexual assault are very serious crimes but often go unreported. Back in 2018, when Dr Christine Blasey Ford came forward with sexual assault allegations against Judge Brett Kavanaugh, a supreme court nominee under the Trump era, one of the first questions asked was, 'You were sexually assaulted 36 years ago, why didn't you report it then?' According to the US Department of Justice's (2020) analysis of violent crime, 80% of rapes and sexual assault go unreported. It is common for many sexual assault and rape survivors, who are mostly women, to not report the offense to authorities and the Rape, Abuse and Incest National Network (RAINN, 2020), largest non-profit anti-sexual assault organization in the USA, outlines various reasons behind this including the following:

- Fear of retaliation
- Belief that the police would not/could not do anything to help
- Belief that it was a personal matter
- Reported to a different official
- Belief that it was not important enough to report
- The victim did not want to get the perpetrator in trouble

In England and Wales, for the majority of female victims of rape or assault by penetration (including attempts), the offender is a partner or ex-partner or someone known to them other than as a partner or family member (CSEW 2017). This makes it even more difficult to report the crime.

Legal Loopholes

It is legally possible for a perpetrator of rape or sexual assault to escape punishment if he marries the victim in at least nine jurisdictions. These are Bahrain, Iraq, Jordan, Kuwait, Lebanon, Palestine, the Philippines, Tajikistan, and Tunisia. It is also possible in Greece and Russia, Serbia, and Thailand,

in circumstances where the couple are in a sexual relationship and under the law the girl is otherwise deemed too young to consent to sexual intercourse (Equality Now Report 2017).

False Allegations

Since 1989, when the USA's courts began allowing DNA evidence, 873 cases of wrongful convictions have been documented (Gross and Shaffer 2012), and a substantial number of these have involved men convicted of sexual offenses (Ross et al. 2014). The prevalence of false allegations of rape remains a highly controversial issue. On the one hand, mainstream socio-legal rape research and commentary claims that allegations of rape are rare, or at least no more than false allegations for other crimes. On the other hand, many criminal justice professionals report that false allegations of rape are a common occurrence (Saunders 2012). This disparity has been well documented by researchers (Lees 2002; Kelly et al. 2005; Rumney 2006). Despite several research findings indicating the low prevalence of false rape allegations, many criminal justice professionals stand their ground. In one study from the United Kingdom, while researchers estimated that only 3% of a sample of police rape cases contained 'probable or possible' false allegations, police officers claimed that 'a good half, a lot and even most rape cases are false' (Kelly et al. 2005, p. 50). Such scepticism and stereotypical attitudes in the justice system and society at large adversely affect the treatment of rape victims and the investigation and prosecution of their complaints (Lees 2002; Temkin and Krahé 2008).

Motives for Rape

One of the most common ways to understand how convicted rapists view themselves, their actions, their victims, and to what extent do they take responsibility for their crimes is by studying their motivational accounts (Bryden and Grier 2011). Theories of sexual offending began in early 1950s, with psychiatry dominating the field (e.g., Karpman 1954). With the rise of the feminist movement in the 1970s, feminist scholars stressed on the motivational theories of rape that were governed by sociology and culture (e.g., Brownmiller 1975), and this was later challenged by the evolutionary psychologists who argued that men do not rape as a result of their gender-biased socialization, but rather their chief and most influential motivation is indeed sexual (e.g., Thornhill and Palmer 2000). Blasko's (2016) synthesized classification of adult male rapists' sexual and nonsexual motivation have been presented in Table 2.

Table 2 Adult male rape classification by (Blasko 2016)

Classification	Behavioural description
Compensatory	Expression of sexual fantasies with minimal aggression evident
Sadistic	Expression of aggressive sexual fantasies
Anger	Expression of rage Desire to achieve power and dominance
Power/control Opportunistic/antisocial	Spur of the moment, impulsive, and situational

Risk and Protective Factors for Rape and Sexual Assault

There is no single factor that causes sexual violence, nor is there a single pathway to the perpetration of rape. Heise's (1998) integrated ecological framework, highlighted varying how violence against women is normalized at different levels of social ecology. These levels of layers span from the individual person, to the larger societal actions, and how varying factors affect this. For example, at the individual level, this can be seen in how victims feel (or are made to feel) responsible for their attack, and the indoctrination of rape victims to blame themselves. This leads to the maintenance of 'rape myths', a term coined by Burt (1980) that refers to 'prejudicial, stereotyped, or false beliefs about rape, rape victims, and rapists'. At the social level, interaction of children with other peers or access to holistic sex education.

Rape Myths

Rape myths are dangerous and cause serious harm. They evoke feelings of shame and blame in the victims which prevents them to come forward to report the crime. It also prevents victims from getting support and affects how services respond to such crimes. Some common rape myths are as follows:

Women who drink or take drugs deserve to get raped.

Women who wear revealing clothing or flirt are asking for it.

If women didn't scream, fight back, or run away, then it wasn't rape.

Women often play hard to get or they often say no when they mean yes.

Risk factors are generally linked to a greater likelihood of perpetration of sexual violence. They are contributing factors and might not be direct causes, but it is important to note that everyone who is identified as 'at risk' becomes a perpetrator of violence. Protective factors on the other hand can lessen the likelihood of sexual violence victimization or perpetration. The risk and protective factors for the perpetration of sexual violence as outlined by the Center for Disease Control and Prevention (CDC 2022) are presented in Table 3.

Table 3 Risk and protective factors for the perpetration of sexual violence

Risk factors	
Individual risk factors	• Alcohol and drug use
	• Delinquency
	• Lack of concern for others
	• Aggressive behaviors and acceptance of violent behaviors
	• Early sexual initiation
	• Coercive sexual fantasies
	• Preference for impersonal sex and sexual-risk taking
	• Exposure to sexually explicit media
	• Hostility toward women
	• Adherence to traditional gender role norms
	• Hyper-masculinity
	• Suicidal behavior
Relationship factors	• Prior sexual victimization or perpetration family history of conflict and violence
	• Childhood history of physical, sexual, or emotional abuse
	• Emotionally unsupportive family environment
	• Poor parent-child relationships, particularly with fathers
	• Association with sexually aggressive, hypermasculine, and delinquent peers
	• Involvement in a violent or abusive intimate relationship
Anger	• Family history of conflict and violence
	• Childhood history of physical, sexual, or emotional abuse
	• Emotionally unsupportive family environment
	• Poor parent-child relationships, particularly with fathers
	• Association with sexually aggressive, hypermasculine, and delinquent peers
	• Involvement in a violent or abusive intimate relationship
Community factors	• Poverty
	• Lack of employment opportunities
	• Lack of institutional support from police and judicial system
	• General tolerance of sexual violence within the community
	• Weak community sanctions against sexual violence perpetrators
Societal factors	• Societal norms that support sexual violence
	• Societal norms that support male superiority and sexual entitlement
	• Societal norms that maintain women's inferiority and sexual submissiveness
	• Weak laws and policies related to sexual violence and gender equity
	• High levels of crime and other forms of violence
Protective factors for perpetration	
These factors can also exist at individual, relational, community, and societal levels	• Families where caregivers work through conflicts peacefully
	• Emotional health and connectedness
	• Academic achievement
	• Empathy and concern for how one's actions affect others

Responding to Rape and Sexual Assault

As noted by many researchers, various acts of sexual violence against women are actually connected to commonly occurring aspects of everyday male behavior in the society (Scully and Marolla 1985; Kelly 1988; Stout 1991; McMahon and Baker 2011). Kelly (1988) was one of the first researchers to stress the relevance and use of a 'continuum' to understand the perpetration of sexual violence against women. She argued that 'The concept of a continuum can enable women to make sense of their own experiences by showing how typical and aberrant male behaviour shade into one another' (Kelly 1988, p. 75). At one end of the continuum are behaviors that are generally considered sexually violent in our society, such as rape. These acts are recognized as serious crimes in most cultures and societies and are judged more harshly and carry legal ramifications and punishments (Stout 1991).

At the other end of the continuum are behaviors that are more commonly accepted, traditional gender norms, sexually degrading language against women, molestation, and harassment (McMahon and Baker 2011). The behaviors at this end of the continuum are often normalized as a part of our culture, and their connection to sexual violence is not widely recognized nor judged as harmful (Stout 1991). The behaviors on the less severe side of the continuum are important because they contribute to a culture of violence that supports and tolerates the more severe forms of violence against women (Brownmiller 1975; Sanday 2007; Schwartz and DeKeseredy 1997). Kelly's (1988) continuum included women's experiences ranging from flashing, sexual harassment, obscene phone calls, pressure to have sex, domestic violence, sexual abuse, coercive sex, sexual assault, incest, and rape. Guy (2006, p. 6) presented an integrated continuum of sexual violence in which she stressed the importance of including all forms of oppression as 'by providing a visual conception of the continuum that is more inclusive, of class, race, disability status, sexual orientation and anti-Semitism in addition to gender that it will remind and inspire us to develop a vision of comprehensive sexual violence prevention work which routinely encompasses all forms of oppression'.

Several researchers have adopted and modified this continuum to fit the scope of their work, for instance, the Racist Violence Continuum (e.g., Sanders-Phillips and Kliewer 2020), Disability and Hate Crime Continuum (e.g., Hollomotz 2013), and the Homophobic Violence Continuum (e.g., Faulkner 2006). Feminist theory articulates sexual violence in the context of a rape culture, which is a complex system of beliefs that encourages male sexual aggression and supports violence against women (O'Sullivan et al. 1993). Thus, viewing rape as a cultural phenomenon can have a deep impact on the development of sexual violence prevention strategies.

Education is key, and efforts are being made to educate, inform, and challenge young people about healthy relationships, abuse, and consent. The UK Government (2020) has been involved in collaborating with teachers, academics, and other practitioners. The national campaign, 'This is Abuse', made a strong impact, and there is a further investment of £3.85 million in a new campaign to continue to build young people's awareness around issues of consent, 'sexting', and relationship abuse. Involving men as agents of change can be a powerful tool in prevention. The CPS #ConsentIs campaign, focused on creating a public discussion about consent, and the White Ribbon Campaign are good examples of this practice.

It is important to note that the Covid-19 pandemic further exasperated the issues around sexual violence as many women and girls were forced to live with their perpetrators with limited mobility, increased insecurity over health, jobs, and money. As societies try to find a way out of the global devastation caused by the pandemic, stronger financing, better policies, and better service delivery need to be at the core of driving change. Intersectional feminist discourses have continually

highlighted how norms that support gender inequities, promote hyper-masculinity, and uphold cultural adherence to traditional gender roles do not only perpetuate sexual violence but also breed homophobia and transphobia. By making these connections explicit and intentionally working towards inclusive advocacy, we can create equitable and safe communities for all marginalized groups who are at the risk of experiencing sexual harm.

Summary

Rape and sexual violence continue to plague our societies. Rape culture is pervasive and embedded in various aspects of our social functioning. This chapter highlighted the following:

- Critical examination of rape and sexual assault definitions within different legal contexts
- Role of consent within rape and issues around how to communicate it
- Prevalence of rape around the world with a focus on perpetration and victimization in the United Kingdom
- Understanding of rape myths, victim blaming, under-reporting, and false rape allegations
- Motivations for rape and classification of rapists
- The risk and protective factors for the perpetration of sexual violence
- Recent cases studies, Harvey Weinstein and Ched Evans, to elucidate the complexity of rape and sexual assault
- And finally, responding to rape and sexual assault

References

Amnesty International (2020) Criminalization and prosecution of rape in Europe. Amnesty International, London. <https://www.amnesty.org/en/latest/campaigns/2020/12/consent-based-rape-laws-in-europe/>

Blasko BL (2016) Overview of sexual offender typologies, recidivism, and treatment. In: Sexual violence. Springer, New York, NY, pp 11–29

Borumandnia N, Khadembashi N, Tabatabaei M, Alavi Majd H (2020) The prevalence rate of sexual violence worldwide: a trend analysis. BMC Public Health 20(1):1–7

Brownmiller S (1975) Against our will: men. Women and rape. Simon and Schuster, New York, NY Bryden DP, Grier MM (2011) The search for rapists real motives. J Crim Law Criminol 101:171

Buchwald E, Fletcher PR, Roth M (eds) (1993) Transforming a rape culture. Milkweed Editions, Minneapolis, MN, p 9

Burt MR (1980) Cultural myths and supports for rape. J Pers Soc Psychol 38(2):217
Centers for Disease Control and Prevention (2022) Risk and protective factors. CDC, Atlanta,

GA. <https://www.cdc.gov/violenceprevention/sexualviolence/riskprotectivefactors.html>

Coy M, Kelly L, Elvines F, Garner M, Kanyeredzi A (2013) “Sex without consent, I suppose that is rape”: how young people in England understand sexual consent. Office of the Children’s

Commissioner, London

Crime Survey for England and Wales (2017) Figures on sexual offences from the year ending

March 2017 Crime Survey for England and Wales and crimes recorded by police. Crime Survey for England and Wales, London. <https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/articles/sexualoffencesinenglandandwales/yearendingmarch2017>

Crime Survey for England and Wales (2020) Figures on sexual offences from the year ending March 2020 Crime Survey for England and Wales and crimes recorded by police. Crime Survey for England and Wales, London. <https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/bulletins/sexualoffencesinenglandandwalesoverview/march2020>

Decker JF, Baroni PG (2011) No still means yes: the failure of the non-consent reform movement in American rape and sexual assault law. *J Crim Law Criminol* 101:1081

Equality Now (2017) Impact report. https://d3n8a8pro7vnm.cloudfront.net/equalitynow/pages/334/attachments/original/1527683249/Impact_Report_2017.pdf?1527683249

Faulkner E (2006) Homophobic sexist violence in Canada: trends in the experiences of lesbian and bisexual women in Canada. *Can Woman Stud* 25:154

García-Moreno C, Pallitto C, Devries K, Stöckl H, Watts C, Abrahams N (2013) Global and regional estimates of violence against women: prevalence and health effects of intimate partner violence and non-partner sexual violence. World Health Organization, Geneva

Gbahabo DD, Duma SE (2021) “I just became like a log of wood ... I was paralyzed all over my body”: women’s lived experiences of tonic immobility following rape. *Heliyon* 7(7):e07471

Gross SR, Shaffer M (2012) Exonerations in the United States, 1989 Through 2012: report by the national registry of exonerations. University of Michigan Law School, Ann Arbor, MI

Guy L (2006) Re-visioning the sexual violence continuum. *Partn Soc Change*

Hale M (1847) *Historia placitorum coronae*: the history of the pleas of the crown (No. 61325-61341). RH Small

Heise LL (1998) Violence against women: an integrated, ecological framework. *Viol Against Women* 4(3):262-290

Henley N, Kramarae C (1991) Miscommunication, gender and power. In: *Miscommunication and problematic talk*. Sage, Philadelphia, PA, pp 18–43

Hollomotz A (2013) Disability and the continuum of violence. In: *Disability, hate crime and violence*. Routledge, London, pp 52–63

Indian Penal Code (2015). Section 375. Rape. https://www.indiacode.nic.in/show-data?actid=AC_CEN_5_23_00037_186045_1523266765688&orderno=425

Karpman B (1954) *The sexual offender and his offenses*. Julian Press, New York, NY

Kelly L (1988) *Surviving sexual violence*. Polity Press, New York, NY

Kelly L, Lovett J, Regan L (2005) A gap or a chasm. Attrition in reported rape cases. Home Office Research Study

Kozłowska K, Walker P, McLean L, Carrive P (2015) Fear and the defense cascade: clinical implications and management. *Harvard Rev Psychiatry* 23:263

Krug EG, Mercy JA, Dahlberg LL, Zwi AB (2002) The world report on violence and health. *Lancet* 360(9339):1083–1088

Lees S (2002) *Carnal knowledge: rape on trial*. Women’s Press Ltd., London

McMahon S, Baker K (2011) Changing perceptions of sexual violence over time. National Online Resource

Centre on Violence Against Women, Harrisburg

O'Loughlin E (2018) Acquittal in Irish Rugby rape case deepens debate on sexual consent. The

New York Times. <https://www.nytimes.com/2018/04/15/world/europe/ireland-rugby-paddy-jackson-stuart-olding.html>

O'Sullivan, C. (Ed.). (1993). Transforming a rape culture. Minneapolis: Milkweed Editions. RAINN (2020) Sexual assault statistics. https://rainn.org/get-information/statistics/sexual-assault-victims?_ga=2.89592798.413442361.1649423343-1707902002.1649161158

Rape, Abuse and Incest National Network (2020) Reasons victims choose to report—or not. <https://www.rainn.org/statistics/criminal-justice-system>

Remick LA (1992) Read her lips: an argument for a verbal consent standard in rape. *Univ Pa Law Rev* 141:1103

Rumney PN (2006) False allegations of rape. *Camb Law J* 65(1):128–158

Sanday PR (2007) Introduction to the second edition. In: Fraternity Gang Rape. New York University Press, New York, NY, pp 1–22

Sanders-Phillips K, Kliewer W (2020) Violence and racial discrimination in South African youth: profiles of a continuum of exposure. *J Child Fam Stud* 29(5):1336–1349

Saunders CL (2012) The truth, the half-truth, and nothing like the truth: reconceptualizing false allegations of rape. *Br J Criminol* 52(6):1152–1171

Schwartz MD, DeKeseredy W (1997) Sexual assault on the college campus: the role of male peer support. Sage Publications, Philadelphia, PA

Scully D, Marolla J (1985) “Riding the bull at Gilley’s”: convicted rapists describe the rewards of rape. *Soc Probl* 32(3):251–263

Sexual Offences Act (2003) Chapter 42. Rape. <https://www.legislation.gov.uk/ukpga/2003/42/part/1/crossheading/rape>

Stout KD (1991) A continuum of male controls and violence against women: a teaching model. *J Soc Work Educ* 27(3):305–319

Temkin J, Krahé B (2008) Sexual assault and the justice gap: A question of attitude (Vol. 5). Bloomsbury Publishing

Thornhill R, Palmer CT (2000) A natural history of rape. MIT Press, Cambridge, MA

UK Government (2020) Ending violence against women and girls. Strategy 2016 – 202. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/337608/What-know-need-prevent-E.pdf

US Department of Justice (2020) National crime victimization survey, 2019. Office of Justice Programs, Bureau of Justice Statistics, Washington, DC

World Health Organization (2013) Responding to intimate partner violence and sexual violence against women: WHO clinical and policy guidelines. World Health Organization, Geneva

Author Bio:

Madhumita Pandey, PhD is a Senior Lecturer in Criminology at the Helena Kennedy Centre for International Justice situated within the Department of Law and Criminology at Sheffield Hallam University. She works in the area of sexual offending, sex offenders and violence against women, particularly focusing on rape, in the Global South. She utilises a feminist framework to work with victims and perpetrators of gender-based violence to not only highlight women's vulnerability but also men's responsibility. More recently, she has expanded the scope of her research to include women's rights and menstrual health and hygiene in India.