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Comparative study about Crimes against the Person's

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Abstract:

In this article I want talk about crimes against person's crimes witch cause objection of people's body and punishment by government in all societies.

Now I trying to have a comparative research of most important crimes in this category in some countries and especially in Islamic criminal law based on Iran Islamic criminal law.

Crimes describe in this article are: assault _ battery _ robbery _ kidnapping _ rape _ mayhem _ manslaughter – murder

I must say must describe about Islamic criminal law will statement in separate articles.

Assault

Assault is a crime of violence against another person. In some jurisdictions, assault is used to refer to the actual violence, while in other jurisdictions (e.g. some in the United States, England and Wales), assault refers only to the threat of violence, while the actual violence is battery. Simple assaults do not involve weapons; aggravated assaults do.

Assault is often defined to include not only violence, but any physical contact with another person without their consent. When assault is defined like this, exceptions are provided to cover such things as normal social intercourse (for example, patting someone on the back).

English law makes distinctions based on the degree of injury, between:

- common assault (which can be even the most minor assault)
- assault with actual bodily harm (ABH)
- assault with grievous bodily harm (GBH)

In some jurisdictions, consent is a defense to assault, while in other jurisdictions (most notably England) it is not. This can have important consequences when dealing with issues such as sadomasochistic sexual activity. In England, several men have been successfully convicted of assault for engaging in sadomasochistic activities, even though the activity was consensual; the most notable case being the Operation Spanner case.

American Jurisprudence

American common law has traditionally defined assault as an attempt to commit a battery.

Assault is typically treated as a misdemeanor and not as a felony. The more serious crime of aggravated assault is treated as a felony.

Four elements were required at common law: 1) The apparent, present ability to carry out; 2) an unlawful attempt; 3) to commit a violent injury; 4) upon another. As the criminal law evolved, element 1 was weakened in most jurisdictions so that a reasonable fear of bodily injury would suffice. These four elements were eventually codified in most States.

Modern American statutes define assault as: 1) an attempt to cause or purposely, knowingly, or recklessly causing bodily injury to another; or, 2) negligently causing bodily injury to another with a deadly weapon.

Some States also define assault as an attempt to menace (or actual menacing) by placing another person in fear of imminent serious bodily injury.

States vary as to whether it is possible to commit an "attempted assault" since it can be considered a double inchoate offense.

In some States, consent is a complete defense to assault. In other jurisdictions, mutual consent is an incomplete defense, with the result that the misdemeanor is treated as a petty misdemeanor.

Hypothetical

Two drunks wave metal pipes cheatingly at each other in an alley. They are ten feet away from each other. When one man advances, the other retreats, maintaining the distance between them. The police come and break up the disturbance. They charge each man with assault.

-Would they be found guilty in an American common law jurisdiction?

(Probably not. Being ten feet away does not make it likely or apparent that he would have the present ability to carry out an unlawful act.)

-In a modern American jurisdiction?

(Probably. Each actor is trying to cause bodily injury to another and the fear of bodily injury is reasonable.)

-Are there any defenses or mitigating circumstances or failures of proof?

(Perhaps. A Defendant could argue that since he was drunk, he could not form the specific intent to commit assault. This defense would most likely fail since only involuntary intoxication is accepted as a defense in most American jurisdictions. They could also argue that they were engaged in mutually consensual behavior.)

Battery (crime)

In many common law jurisdictions, the crime of battery involves an injury or other contact upon the person of another in a manner likely to cause bodily harm.

Battery is often broken down into gradations for the purposes of determining the severity of punishment. For example:

- Simple battery may include any form of non-consensual, harmful or insulting contact, regardless of the injury caused
- Sexual battery may be defined as non-consensual touching of the intimate parts of another
- Family violence battery may be limited in its scope between persons within a certain degree of relationship: statutes with respect to this offense have been enacted in response to increasing awareness of the problem of domestic violence
- Aggravated battery is generally regarded as a serious offense of felony grade, involving the loss of the victim's limb or some other type of permanent disfigurement of the victim. As successor to the common law crime of mayhem, this is sometimes subsumed in the definition of aggravated assault.

In some jurisdictions, battery has recently been constructed to include directing bodily secretions at another person without their permission. In some jurisdictions this automatically is considered aggravated battery.

As a first approximation to the distinction between battery and assault:

- the overt behavior of an assault might be A advancing upon B by chasing after him and swinging a fist at his head, while
- That of an act of battery might be an actually striking B.

Within United States law, in most jurisdictions, the charge of criminal battery requires evidence of a mental state (mens rea).

Robbery

Robbery is the crime of seizing property through violence or intimidation. A perpetrator of a robbery is a robber. Because violence is an ingredient of most robberies, they sometimes result in the harm or murder of their victims. Robbery is generally an urban crime.

The element of force differentiates robbery from embezzlement, larceny, and other types of theft. Piracy is a type of robbery. Armed robbery involves the use of a weapon. Highway robbery takes place outside and in a public place. Carjacking is the act of stealing a car from a victim, usually at gunpoint. Banks are often the target of bank robberies.

In English law, the Theft Act, 1968 sets out when a person would be guilty of a robbery - if he "... steals (see theft in English law - steal is an alternative), and immediately before or at the time of doing so, and in order to do so, he uses force on any person or puts or seeks to put any person in fear of being then and there subjected to force".

In other words a robbery can only occur where there has been a theft but the person suffering the theft need not be the person who is threatened or assaulted. A robbery would be committed where a robber attempts to steal from a jewelers shop but threatens a customer not the jeweler in order to commit the theft. By the same token the threats must be live. For example, if a person was threatened with being assaulted the following day it is likely that no offence of robbery would be committed - although the perpetrator wouldn't get clean away as (in English law) he would have committed the offence of extortion.

Kidnapping

For other uses of related terms, see Abduction, or see Kidnapper the song by American band Blondie.

In criminal law, kidnapping is the taking away (asportation) of a person against the person's will, usually to hold the person in false imprisonment (confinement without legal authority) for ransom or in furtherance of another crime. A majority of jurisdictions in the United States retain the "asportation" element for kidnapping (i.e. the victim must be confined in a bounded area against their will AND moved). Any

amount of movement will do, even if it is just literally "down the street." In the Commonwealth of Massachusetts, however, the asportation element has been abolished. Note that under early English common law, the asportation element required that the victim be moved outside the realm of England (to another country) in order for abduction to be considered "kidnapping."

In the terminology of the common law in many jurisdictions (according to Black's Law Dictionary), the crime of kidnapping is labeled abduction when the victim is a woman. In modern usage, kidnapping or abduction of a child is often called child stealing, particularly when done not to collect a ransom, but rather with the intention of keeping the child permanently (often in a case where the child's parents are divorced or legally separated, whereupon the parent which does not have legal custody will commit the act). The word "kidnapping" was originally "kid nabbing", in other words slang for "child stealing", but is no longer restricted to the case of a child victim.

Kidnapping for ransom is almost nonexistent in the USA today, due in great part to the FBI's aggressive stance toward kidnapping. The Bureau made kidnap for ransom a special priority (and continues to do so today), and pursues kidnap cases ferociously (FBI agents who have rescued kidnap victims have been known to describe the rescue as a personal high point of a career). That deterrent, plus the extreme logistical challenges involved in exchanging the money for the victim, the harsh prison sentences imposed (some states impose the death penalty for kidnapping), and the much better risk/benefit ratio of other crimes, has led kidnap for profit to virtually die out in the US.

Child abduction / child stealing can refer to children being taken away without their parents' consent, but with the child's consent. In England and Wales it is child abduction to take away a child under the age of 16 without parental consent.

In the past (and presently in some parts of the world such as southern Sudan), kidnapping was a common means used to obtain slaves; in more recent times, kidnapping in the form of shanghaiing men was used to supply American merchant ships in the 19th century with sailors, whom the law considered unfree labour. See also impressments.

Bride kidnapping is traditional amongst certain nomadic peoples of Central Asia. It has seen resurgence in Kyrgyzstan since the fall of the Soviet Union and the subsequent erosion of women's rights.

Kidnapping can also take place in the case of deprogramming, a now rare practice to convince someone to give up his commitment to a new religious movement (called a cult by critics) that the deprogrammer considers harmful.

It is also legally kidnap for the police officers or agents (etc.) of one state to capture fugitives in another state and bring them back for trial. International law requires the permission of a country's government for a fugitive to be sent to another country for trial, unless the fugitive voluntarily surrenders. Most countries also have laws requiring extradition proceedings, and often extradition treaties. For example, the capture of Mordechai Vanunu in Italy by Mossad agents was kidnap under Italian law. Similarly, the Mossad capture of Nazi war criminal Adolf Eichmann was kidnap under Argentinean law.

An exception is when two countries are at war. Then enemy soldiers may be captured in another country and detained as prisoners of war, and suspected war criminals and those suspected of genocide or crimes against humanity may be arrested.

Stockholm syndrome is a term used to describe the relationship a hostage can build with their kidnapper.

Rape

Rape is a crime wherein the victim is forced into sexual activity against his or her will, in particular sexual penetration. Some dictionary definitions of the word rape include any serious and destructive assault against a person or community, but this article focuses primarily on sexual assault.

Common law

In the United Kingdom and the United States common law, "rape" traditionally described a man who forces a woman to have sexual intercourse with him. Until the late 20th Century, forced sex by a husband against his wife was not considered rape, since a woman (for certain purposes) was not considered a separate legal person with the right of refusal, or sometimes were deemed to have given implicit informed consent in advance to a lifelong sexual relationship. However, modern criminal law in most Western countries have now legislated against this exception and now include spousal rape and acts of sexual violence other than vaginal intercourse, such as forced anal intercourse, which were traditionally barred under sodomy laws, in their definitions of "rape".

The term "rape" is sometimes considered "loaded" and many jurisdictions recognize, in its stead, broader categories of sexual assault or sexual battery.

United States Uniform Crime Reports

In the United States, the Uniform Crime Reports use the term "forcible rape" only to describe rapes perpetrated by men against women. States, however, often expand the definition. Male-on-male rapes are usually recognized as such, as are (rare) female-perpetrated rapes.

English law

Under the Sexual Offences Act 2003, which came into force in April 2004, rape in England and Wales was redefined from non-consensual vaginal or anal intercourse and is now defined as non-consensual penile penetration of the vagina, anus or mouth of another person. The changes also made rape punishable by a maximum sentence of life imprisonment.

Although a woman who forces a man to have sex cannot be prosecuted for rape under English law, she can be prosecuted for causing a person to engage in sexual activity without consent, a crime which also carries a maximum life sentence if it involves penetration of a mouth, anus or vagina. The statute also includes a new sexual crime called "assault by penetration" which also has the same punishment as rape and is committed when someone sexually penetrates the anus or vagina with a part of his or her body, or anything else, without that person's consent.

Islamic law

Under the Islamic criminal law rape means physically force another person to have sexual intercourse against law and Islamic rules; because in this legal system women's don't have independent identity and they are one of the properties of her husbands and each time he want she must present herself to him.

Because the Islamic lawyer believe woman take money for present herself to her husband and she can't refuse that while this opinion doesn't have any reasonable evidence .

Classification of sex violent rape

Violent rape is when violence beyond the rape itself is a part of the assault. This may include physical force or threat of harm, including death threats or threats against a family member. People who commit violent rapes include strangers and people the

victim already knows. Proportionally, more violent rapes are more likely to be reported. (Bachman and Saltzman, 1995).

Statutory rape

National and/or regional governments, citing an interest in protecting minors, consider people under a certain age to be unable to give informed consent. The age at which individuals are considered competent to give consent is the age of consent. Sexual contact with an individual below the age of consent is considered to be rape even if that person agrees to the sexual activity. The limits set by each state vary in accordance with local standards, and range from 12 to 21. Sex which violates age-of-consent law but is neither violent nor physically coerced is sometimes described as statutory rape, the name of a legally-recognized category in the USA.

Acquaintance ("date") rape

The term acquaintance (or date) rape refers to rape or non-consensual sexual activity between people who are already acquainted, or who know each other socially - friends, acquaintances, people on a date, or even people in an existing romantic relationship, where it is alleged that consent for sexual activity was not given, or was given under duress. In most jurisdictions, there is no legal distinction between rape committed by a stranger, or by an acquaintance, friend or lover.

There is often more difficulty in securing conviction against an assailant who was known at the time. This is due to the "grey" nature of the situation (see "Grey" rape); the standard of proof required for non-consensual sexual activity is often harder to meet (or easier to deny), than when two strangers meet or there has been violence.

In general, some evidence suggests that rapists are far more likely to know their victims than not. Other reports suggest that it can work both ways, not only acquaintance rape is more common than previously thought, but also situations of this kind can give rise to false allegations more often than had been expected (see False reporting).

"Grey rape"

Some cases of date rape are colloquially described as "grey rape" cases because, while the alleged victim expresses displeasure at the encounter, he or she cannot demonstrate any consent. The expression "grey rape" refers to the absence of information - there is nothing actually "grey" in the act itself: if the act was nonconsensual at the time it occurred then it is considered rape, even if not actionably

so. Contributing factors to "grey" rape include poor communication by either party, misleading or (deliberately) misread body language, or the feeling by one party of being unsure or unable to express what one wishes (which may be for many reasons).

Male rape

Males can also be raped (more commonly by other males, but also by females). Males are commonly victims of anal rape. There are also cases of men being forced to penetrate others, in spite of common belief that this is not possible. Men are just as traumatized by rape as female victims. In many countries rape of males is legally classified under a different law or name, however the nature of the incident, and its consequences, are similar. It is said that rape of males is taken less seriously due to the stereotypical views held about males in many societies including modern Western society.

Male victims, like female victims, do not all "want sex", nor does the physiological effect of erection or orgasm mean that sex was "really wanted" or "liked". (A capable assailant can force these physical responses in the majority of males, given appropriate planning for their assault). Also male on male rape doesn't imply homosexuality of either party. Men's' Rights lobbyists are pushing for tougher "male rape" laws, and have gained some success--for example, filleting a man without his permission is grounds for a charge of second degree rape in the United States.

Custodial and prison rape

Research carried out by Cindy Struckman-Johnson and David Struckman-Johnson of the University of South Dakota has found that 22% - 25% of male prisoners in the United States have been the victim of sexual assault, 10% have been the victim of rape, and 6% have been the victim of gang rape. Women prisoners are especially vulnerable to assault by guards and other staff members, and the incidence in the United States has been denounced by Amnesty International and Human Rights Watch.

Rape and sexual torture

In circumstances where torture is being employed as a means of military or governmental policy, rape of both female and male detainees is a common element of that torture. It is used often as a means to "soften" detainees for interrogation or to intimidate them into compliance. In societies with strong social taboos on sexuality,

sexual torture is commonly used to destroy the credibility and influence of politically dissident individuals.

Rape under such circumstances often has even more profoundly negative psychological effects than under circumstances in which sexual assaults usually happen.

See also humiliation, Abu Ghraib prisoner abuse, Nanjing Massacre.

Sex trafficking

Trafficking is a term to define the recruiting, harboring, obtaining, transportation of a person by use of force, fraud, or coercion for the purpose of subjecting them to involuntary acts, the most common being forced commercial sexual exploitation (forced prostitution).

Gang rape

Gang-rape (also known as "pack rape" or "gang bang") occurs when a group of people participates in the rape of a single victim. It is far more damaging for the victim, and in some jurisdictions is punished more severely than rape by one person. "Gang bang" is also a slang term for consensual group sex.

According to Roy Hazelwood, a profiler of sexual crimes, "[Gang rape] involves three or more offenders and you always have a leader and a reluctant participant. Those are extremely violent, and what you find is that they're playing for each other's approval. It gets into a pack mentality and can be horrendous."

Consent

There is considerable debate as to what constitutes proper and complete consent in a sexual relationship. How explicit consent should be, how frequently it needs to be established, and what constitutes diminished capacity (usually due to drugs or alcohol) are all subjects of some disagreement. These debates take place both on moral and ethical grounds, and as a legal issue, since rape can only be convicted as a crime with intent in many jurisdictions, and the erroneous belief of consent is a common defense.

Effects

A proportion of violent sexual assaults end with the death or serious injury of the victim. Other consequences can include pregnancy or sexually transmitted diseases.

The most common effect of rape on victims is psychological. In the past, survivors of rape and sexual assault were often diagnosed with Rape Trauma Syndrome (RTS),

and then considered a psychological disorder. RTS is no longer considered a diagnosis, but rather a set of normal psychological and physiological reactions that a victim is likely to experience. These include, but are not limited to, feelings of guilt and shame, tension, anger, eating disturbances, and sometimes depression. The reactions are very similar to those that would be experienced by a survivor of any other traumatizing experience. The psychological trauma is cited as one of the reasons that rape is usually not reported to the authorities.

Because of the sexual nature of rape crimes, victims often suffer serious psychological trauma. This is especially true in societies with strong sexual customs and taboos. For example, a woman (and especially a virgin) who is raped may be deemed "damaged" by society: she may suffer isolation, may be prohibited to marry, be divorced if she was married or even killed. She may also feel "dirty" or as if the crime was her fault.

The process to denounce and eventually convict an offender is often hindered by similar psychological effects. Victims frequently feel shame when describing what has happened (especially if the victim is male or a female victim must report the incident to a male law officer). Also, the intimate questions and medical examinations required for prosecution can make the victim uncomfortable. In societies that do not accord equal civil rights to women and men, this process is even more difficult for female victims.

Rapists

Rapist profiles

Dr. A. Nicholas Groth, author of *Men Who Rape: the Psychology of the Offender*, described four types of deliberate rapists, based on their motivations and behavior patterns. Forensic scientists, criminologists, and law enforcement agencies often use these profiles to analyze rapists and prevent future rapes.

Since rapes are predominantly perpetrated by men, a male perpetrator is assumed in these profiles.

- The power-assertive rapist: This is argued to be the most common type of rapist, accounting for about 40 percent of all reported rapes. An alpha male, he tends to value machismo and physical aggression. Often, he will commit date rape against victims he meets in places like bars, but he may pose as or be an authority figure.

Power-assertive rapists do not intend to kill their victims, but to traumatize and humiliate them. They rarely target specific people for rape.

- The power-reassurance rapist: This type of individual is usually socially deficient and unable to develop interpersonal or romantic relationships. Usually not physically aggressive, he will select and stalk a victim before committing the crime and this victim is usually a neighbor or work acquaintance. Power-reassurance rapists often force the victim to emulate foreplay and take "trophies" of the rape, and may record the event in a personal journal. Power-reassurance rapists usually have average intelligence, insecurities about their masculinity, and tend to be the least violent type of rapist. They also often fantasize about consensual sexual relationships with women, rather than violent conquest. Law enforcers describe this type of rapist, responsible for about 27.5% of reported rapes, as the "gentleman rapist".

- Anger-retaliatory rapist: Responsible for about 28% of rapes, this type of individual is often a substance abuser with impulsive behavior and anger-related pathologies. This type of rapist does not target specific victims, and often feels animosity toward women in general. The anger-retaliatory rapist's attacks are usually spontaneous and brutal, and, while he does not intend to kill the victim, may beat her to death if she resists. This rapist usually has below-average intelligence and is likely to leave more evidence than other types of rapists.

- The anger-excitation rapist: This type of rapist, considered the most dangerous and elusive, accounts for about 4.5 percent of rapes. The anger-excitation rapist exhibits behavior characteristic of antisocial personality disorder, and is therefore often perceived as charming and intelligent. This makes such rapists difficult to catch. The anger-excitation rapist may or may not choose victims selectively. Often sadistic, he will often torture or murder his victim to prevent her from identifying him, or for his own sexual gratification. Ted Bundy was an example of this type of rapist.

Rape and punishment

Punishment of assailant

Most societies consider rape a grave offense, and punish it accordingly. In the United States punishment for rape is imprisonment, but until the late 20th century some states could apply the death penalty in cases of aggravated rape.

Castration is sometimes a punishment for rape and, controversially, some U.S. jurisdictions allow shorter sentences for sex criminals who agree to voluntary "chemical castration."

In the Southern states of the U.S. the charge of rape was often used to justify vigilante groups (known as "lynch mobs") that would seize and kill men accused of rape without due process or trial. Victims of lynching were typically though not always African American, (See also Leo Frank). Members of the lynch mobs were rarely prosecuted or punished for these mob killings.

In some communities, any sexual interaction between an African-American man and a Caucasian woman was characterized as rape, which resulted in a large number of (presumably) innocent men being unjustly murdered. It was commonly believed that no white woman would ever consent to sexual relations with a black man, and thus any sexual relations must have been nonconsensual.

Prison sentences for rape are not uniformly long or severe. A study by a statistician from the U.S. Department of Justice, involving about 80 percent of the prison population, found that based on prison releases in 1992, the average sentence for convicted rapists was 9.8 years, while the actual time served was 5.4 years. This follows the typical pattern for violent crimes in the US, where those convicted typically serve no more than half of their sentence. In Australia in 2002-2003, more than 1 in 10 convicted rapists served a wholly suspended sentence and the average total effective sentence for rape was seven years.

Punishment of victims

While this practice is condemned as barbaric by many present-day societies, some societies punish the victims of rape as well as the perpetrators. According to such cultures, being raped dishonors the victim and, in some cases, the victim's family. In Middle Eastern societies, rape victims may be killed in honor killings to restore a family's name.

In the Shakespeare drama *Titus Andronicus*, Titus Andronicus kills his raped maimed daughter in what he believes to be a mercy killing.

Rape as punishment

Though modern societies claim to recognize the practice as barbaric, some cultures use rape itself as a form of punishment. Usually, the victim of the rape is a female relative of the person targeted for retaliation.

In June of 2002, a Pakistani woman named Mukhtaran Bibi was sentenced to be gang-raped by a vigilante mob after her brother was (falsely) accused of rape himself. The Pakistani government, along with local religious officials, condemned this action and sentenced the rapists to death. Many such events are reported in Pakistan and other Muslim Countries.

In some dictatorships rape is or was used as a method of retaliation against and intimidation of political enemies. This may have taken place under the former regime of Iraqi dictator Saddam Hussein.

There is suspicion that some rape in prisons is permitted through timely guard absences (at showers for instance). Motivations for this range from punishing troublesome prisoners to providing a deterrent to those considering a criminal act, particularly among those who have little to lose from incarceration (e.g. homeless persons in winter).

Punishment in Islamic law

Under Islamic criminal law based on Iran Islamic criminal law punishment for rape statement in articles 63 – 107.

Whenever solitary person rape with another bachelor one their punishment is scourge if doers are married their punishment is gallows.

It's summery and most describe statement in future articles.

Reporting

Underreporting

According to the 1999 United States National Crime Victimization Survey only 39% of rapes and sexual assaults were reported to law enforcement officials. For male rape, less than 10% are believed to be reported.

The most common reasons given by victims for not reporting rapes are the belief that it is a private or personal matter and that they fear reprisal from the assailant. Fisher "... found that many women do not characterize their sexual victimizations as a crime for a number of reasons (such as embarrassment, not clearly understanding the legal definition of rape, or not wanting to define someone they know who victimized them as a rapist) or because they blame themselves for their sexual assault."

Rape-related advocacy groups have suggested several tactics to increase reporting of sexual assaults, most aimed at lessening the psychological trauma often suffered by rape victims following their assault. Many police departments now assign female

police officers to deal with rape cases. Advocacy groups also argue for preservation of the victim's privacy during the legal process; it is standard practice among mainstream American news media outlets to not divulge the names of alleged rape victims in news reports.

Over reporting and false reporting

A 1997 article in the Columbia Journalism Review deals with the debate surrounding false reporting, and notes that wildly different figures, from 2% to 85% of all rape reports, are widely presented. "...One explanation for such a wide range in the statistics might simply be that they come from different studies of different populations...But there's also a strong political tilt to the debate. A low number would undercut a belief about rape as old as the story of Joseph and Potiphar's wife: that some women, out of shame or vengeance ... claim that their consensual encounters or rebuffed advances were rapes. If the number is high, on the other hand, advocates for women who have been raped worry it may also taint the credibility of the genuine victims of sexual assault."

In 1994, Dr. Eugene J. Kanin of Purdue University investigated the incidences in one small metropolitan community of false rape allegations made to the police between 1978 and 1987. The falseness of the allegations was not decided by the police, or by Dr. Kanin; they were "... declared false only because the complainant admitted they are false." The number of false rape allegations in the studied period was 45; this was 41% of the 109 total complaints filed in this period. In Dr. Kanin's research, the complainants who made false allegations did so (by their own statements during recantation) for three major reasons: providing an alibi, a means of gaining revenge, and/or a platform for seeking attention/sympathy. Dr. Kanin's small study is widely reported and quoted.

Michelle J. Anderson of Villanova University School of Law, in her work "The Legacy of the Prompt Complaint Requirement, Corroboration Requirement, and Cautionary Instructions on Campus Sexual Assault", states: "As a scientific matter, the frequency of false rape complaints to police or other legal authorities remains unknown."

In the 1996 FBI UCR, it is stated that 8% of reports of forcible rape were determined to be unfounded upon investigation.

Victim blaming

"Victim blaming" is holding the victim of a crime to be in whole or in part responsible for what has happened to them. In the context of rape, this concept refers to popular attitudes that certain victim behaviors (such as flirting or wearing sexually provocative clothing) may encourage rape. In extreme cases victims are said to have "asked for it" simply by not behaving demurely. In most Western countries the defense of provocation is not accepted in mitigation of rape.

It has been proposed that one cause of victim blaming is the "Just World" Hypothesis. People who believe the world has to be fair, may find it hard or impossible to accept a situation in which a person is hurt unfairly and badly for no cause or reason. So this leads to a sense that somehow, the victim must have surely done 'something' to deserve their fate.

A global survey of attitudes toward sexual violence by the Global Forum for Health Research shows that victim-blaming concepts are at least partially accepted in many countries.

In some countries victim blaming is more common, and women who have been raped are sometimes deemed to have behaved improperly. Often these are countries where there is a significant social divide between the freedoms and status afforded to men and women.

In terms of responsibility, a more mainstream view is that everybody has the theoretical right to feel safe at all times, but that prevention and minimising the risk of being in a dangerous situation are largely up to the individual. The question of a victim on this basis would never be whether or not they 'deserved' to be raped, because nobody "deserves" to be the victim of crime.

Under cases of alleged date rape the situation is different. Because the question at hand is frequently whether or not the incident was consensual, whether the alleged victim encouraged the accused or gave implied consent becomes the critical consideration. As such, arguments about the accuser's conduct are an accepted element of an affirmative defense.

In the United States, the crime of rape is unique in that it is the only crime in which there are statutory protections designed in favor of the victim (known as rape shield laws). These were enacted in response to the common defense tactic of "putting the victim on trial". Typical rape shield laws prohibit cross-examination of the victim with respect to issues such as her prior sexual history or the manner in which she was dressed at the time of the rape.

Sexual fantasy

Many people assume that people aroused by rape fantasies must be more likely than others to commit the actual act, or those victims with rape fantasies actually want to become victims of sexual assault. This does not correspond with observed scientific evidence, however; while rapists usually fantasize about rape, so do normal psychologically healthy people.

In fact, an inability to use sexual fantasies for gratification is often regarded by law enforcement and other professionals as a more alarming warning sign than the presence of sexual fantasies of rape or sadism. Millions of normal people fantasize about rape, or being raped without wanting it to happen in reality.

Social biological analysis of rape

Some animals appear to show behavior which resembles rape in humans, in particular combining sexual intercourse with violent assault, such as observed in ducks, geese, and certain species of dolphins.

It is difficult to determine to what extent the idea of rape can be extended to intercourse in other animal species, as the defining attribute of rape in humans is the lack of informed consent, which is difficult to determine in other animals.

However, it is clear that sometimes an animal is sexually approached by another animal and penetrated while it is clear that it does not want it, e.g. it tries to run away.

Some social biologists argue that our ability to understand rape and thereby prevent and treat it is severely compromised because its basis in human evolution has been ignored. They argue that rape as a reproductive strategy is encountered in many instances in the animal kingdom, including among the great apes and presumably among early humans. Some studies indicate it is an attempt by the male of the species to increase his reproductive fitness when he is lacking in ability to persuade the female by non-violent means (Thorn hill & Thorn hill, 1983). Such social biological theories regarding rape as adaptive are highly controversial, and not accepted by all mainstream scientists.

Camile Paglia and some social biologists have argued that victim blaming should not be totally dismissed in all cases, since some sociological models suggest it may be genetically inbuilt for a certain proportion of men and women to act in ways which would tend to raise the chances of rape occurring, and that this may be a biological feature of the species. This is a very controversial view.

A contrasting view is given by Lewis Thomas in his "Lives of a Cell: notes of a biology watcher", that rape is not only not an evolutionary benefit to the rapist but that it is strongly maladaptive and therefore selected against.

The role of control and loss of privacy in rape

Rape has been regarded since the 1970's to be a crime of violence and control. One of the key aspects of the definition of privacy according to psychological analysis literature is the following:

Privacy is not the absence of other people from one's presence but the control over the contact one has with them. (Pedersen, D. 1997).

“Selective control of access to the self” (Margulis, 2003)

Some theories suggest that loss of privacy results in loss of control and resulting disorders. (Margulis, 2003) Control is a key feature in most definitions of privacy in current literature. It is also a key aspect of sexual assault and the resulting psychological traumas. Many sexual assault survivors suffer from eating disorders such as anorexia nervosa and bulimia which also center on control issues. Some of the key reasons control is important are that it provides what we need for normal psychological functioning, stable interpersonal relationships and personal development.(Pedersen, D. 1997) Violations of privacy come in many forms. Sexual assault is one of the most explicit forms of invasion of privacy.

In some ways it makes more sense to look at the issue of sexual assault as an invasion of privacy.

“The more comfortable a person is with talking about invasion of privacy and in insisting that he or she has privacy that deserves respect, the clearer that person's understanding of rape will be...” (Mclean, D. 1995) It is important to be aware of the approach of this subject through the concept of privacy because of the historical background and the need to bypass certain stigmas.

Mayhem (crime)

Mayhem, under the common law of crimes, consisted of the intentional and wanton removal of a body part that would handicap a person's ability to defend themselves in combat. Under the strict common law definition, this required damage to an eye or a limb, while cutting off an ear or a nose was deemed not sufficiently disabling. Later the meaning of the crime expanded to encompass any mutilation, disfigurement, or crippling act that was effected through the use of any instrument.

Modernly, the crime of mayhem has been superseded in many jurisdictions by aggravated battery statutes, and the use of the term has also changed, now referring more generally to havoc and disorder (often with humorous overtones). This change arose from public misunderstanding of the journalese phrase "rioting and mayhem". However, the word "maim" is derived from "mayhem".

Manslaughter

Manslaughter, sometimes called criminally negligent homicide, is a kind of homicide wherein a person causes the death of another through negligence or recklessness (not recognized in Australia) or where a person intentionally kills another but is not liable for murder because he is able to avail himself of a defense, such as insanity or diminished capacity.

Voluntary vs. Involuntary

In the United States, manslaughter is often broken into two categories: involuntary manslaughter and voluntary manslaughter. Voluntary manslaughter requires intent, but is mitigated by the fact that the killer was subjected to adequate provocation to drive an ordinary person to kill. Instances of adequate provocation may include things such as unexpectedly finding a spouse in the arms of their lover, or witnessing an attack against one's child.

Involuntary manslaughter (which includes negligent manslaughter) is the crime that results from a death that occurs despite a lack of intent to kill. British and American criminal law differentiates between various crimes based on mens rea (criminal intent), and involuntary manslaughter is generally associated with a level of negligent mens rea. While specifics of negligence may vary from one jurisdiction to another, it is generally defined as failure to exercise a reasonable level of precaution given the circumstances. Recklessness is defined as a wanton disregard for the dangers of a particular situation. An example of this would be dropping a brick off a bridge, which landed on a person's head, killing them. Since the intent was not to kill the victim, but simply to drop the brick, the Mens Rea required for murder does not exist. However, in dropping the brick, there was a good chance of them injuring someone; therefore the person who dropped them was reckless.

Misdemeanor manslaughter

Misdemeanor manslaughter is a category recognized in some jurisdictions, which is like a lesser version of felony murder. In such jurisdictions, a person who causes the

death of another while committing a misdemeanor - a violation of the law that does not rise to the level of a felony - may automatically be criminally liable for the death, if the misdemeanor involved a law designed to protect human life. Many safety laws are strict liability, meaning that a person can be convicted regardless of mens rea. Vehicular manslaughter is a kind of misdemeanor manslaughter, which holds persons liable for any death that occurs because of a violation of traffic safety laws.

Murder

In law, murder is the crime of a human being causing the death of another human being, without lawful excuse, and with intent to kill or with an intent to cause grievous bodily harm. In most countries it is considered the most serious crime, and invokes the highest punishment available under the law.

Murder is both a legal and a moral term, which are not always coincident. A killing may not be legally classified as murder, but still morally considered by some as a murder. For example, critics claim that the death penalty morally counts as a murder.

Murder and other illegal killings

In most countries, if one person kills another person illegally, the killer might be charged with murder, or with some lesser offense, depending upon the circumstances:

- Unintentionally caused deaths due to recklessness or negligence are treated in most countries as the lesser crime of involuntary manslaughter or criminally negligent homicide
- Intentional killings without premeditation are sometimes charged as voluntary manslaughter rather than murder.
- In many common law jurisdictions, a killer is not guilty of murder if the victim lives longer than a year and a day after the attack.
- In some jurisdictions, killings under extreme provocation or duress are legally excused as justifiable homicide; see crime of passion
- In the US, there are key differences between Homicide and Murder. Homicide is death caused by another person. (Such as self-defense, or accidental). Murder is death caused by another person through illegal means. All murders are homicides, but not all homicides are murders.

Legal, non-murder killings

Some cases of premeditated, intentional killing have lawful excuse and thus are not legally murder or even crimes at all. In most countries this includes:

- Killing a person who poses an immediate threat to the lives of oneself or others (i.e., in self-defense)
- Killing a non-surrendered enemy combatant in time of war
- Executing a person in accordance with a legally imposed sentence of death

Mitigating circumstances

Most countries allow conditions that "affect the balance of the mind" to be regarded as mitigating circumstances against murder. This means that a person may be found guilty of "manslaughter on the basis of diminished responsibility" rather than murder, if it can be proved that the killer was suffering from a condition that affected their judgment at the time. Depression, post-traumatic stress disorder and medication side-effects are examples of conditions that may be taken into account when assessing responsibility.

A somewhat different defense is insanity, which are almost exclusively used in cases of psychosis such as that caused by schizophrenia. In some jurisdictions, the verdict "not guilty by reason of insanity" is used in these cases, leading to the odd circumstance that a victim was murdered, but the killer is technically not a murderer under the law. Some countries, such as Canada, Italy, the United Kingdom and Australia, allow post-partum depression, or 'baby-blues', as a defense against murder of a child by a mother, provided that a child is less than a year old. Killers who have successfully argued the insanity defense are usually assigned mandatory clinical treatment for many years, rather than prison.

Country-specific murder law

United Kingdom

About 850 murders per year (reported in 2000) are committed in the United Kingdom. This is low compared to the United States with 12,000. These are only

raw numbers which do not take varying populations into account: a better perspective can be gained by comparing murders per year per hundred thousand populations (1 in the UK, 4 in the USA, and 63 in Colombia - source).

In English law, homicide can be divided into several offences, including:

- Murder - Killing of another person whilst having either the intention to kill (with "malice aforethought") or to cause grievous bodily harm.
- Manslaughter - Unintentional and unlawful killing of another person.

- Infanticide - Intentional killing of an infant under 1-year-old by a mother suffering from post-natal depression or other post-natal disturbance.

The difference between murder and manslaughter is based on intent. English Law also allows for the transfer of intent. For example, in the circumstances where a man fires a shotgun with the intent to kill person A, or at least maim them but the shot misses and kills an otherwise unconnected person B then the intent to kill transfers from person A to person B and a charge of murder would stand.

Most common law jurisdictions, such as British Commonwealth countries, do not allow for the defense of necessity. For example, it is murder to kill another human being for food, even if without doing so one would die of starvation. This originated in a case of four shipwrecked sailors cast adrift off the coast of South Africa in the 1880s; two of the sailors conspired to kill one of the other sailors (a sick cabin boy), and having killed him ate his flesh to survive: *R v Dudley and Stevens* (1884) 14 QBD 273.

Comparatively recent adoptions to the English law of murder include the abolition of the year and a day rule, and the proposed introduction of a less restrictive regime for corporate manslaughter.

- See also Scottish Criminal Law for differences with English Law.

Canada

Canada has about 550 murders per year, a number that is fluctuating. This is equivalent to numbers in most of the western world, except the U.S. which has tripled the number per capita. The main methods of murder in Canada are shootings (30%), stabbings (30%), and beatings (22%).

Canada has four types of crime that can be considered murder:

- first degree murder - the intentional killing of another person with premeditation, in the furtherance of another serious criminal offense (kidnapping, robbery, etc.), or the killing of a peace officer
- second degree murder - the intentional killing of another person without premeditation (i.e. killing in the heat of the moment)
- manslaughter - the killing of another person where there is no intent to kill
- infanticide - the killing of an infant by a mother while still recovering from the birth, and the mother's mind is "disturbed"

(There are exceptions to the above - certain types of murder are always first degree murder, such as the killing of a peace officer, and certain types of killings are murder regardless of intent, such as a death resulting from sexual assault)

The maximum penalties for murder are:

- first degree murder - mandatory life imprisonment without the possibility of parole for 25 years (can be paroled under the "faint hope clause" after 15 years imprisonment, but such a reduction is rarely given and is not available for multiple murders)
- second degree murder - mandatory life imprisonment without the possibility of parole for 10-25 years (parole eligibility determined by the judge at sentencing) (exception: if the person had committed another murder in their past, parole eligibility is 25 years)
- manslaughter - maximum life imprisonment
- infanticide - maximum 5 years imprisonment
- There is a clause where persons convicted of multiple murders, and deemed unable for rehabilitation, to be declared a 'dangerous offender' upon examination of doctors and psychiatrists (usually for sexually related murder). Persons declared as dangerous offenders have an undetermined prison sentence, although it usually means an increase of 10 years (possibly to 35 or more years).

For every murder in Canada there are about 1.5 attempted murders. Attempted murder carries the same consequences as murder itself; it is the intent, not the result, which determines the sentence.

About one in three Canadian murders are committed by a family member. One in eight is gang related. About 80% of murderers in Canada are caught within a year.

(All statistics are from the 2001 census)

The United States

In the United States, murder, or "homicide", is normally a crime only under state law, and a murder suspect will be arrested and held by local officials and tried in a local court on behalf of the state. For murders that are federal crimes (e.g. a killing of a federal official or on federal property), the trial would occur in a federal court. Approximately 16,000 cases of murder or no negligent homicide occur each year in the US according to official FBI crime statistics.

Traditionally, and still in some states, the following terminology is used:

First-degree murder (or murder in the first degree, or colloquially, murder one) refers to Premeditated murder or murder which occurs after some degree of reflection by the murderer. This reflection can be years or less than a second.

Second-degree murder or voluntary manslaughter refers to Murder done without thought in the heat of the moment, or in some states after "adequate provocation".

Third-degree murder, also known as manslaughter, occurs without the specific intent to kill, but usually after an act of criminal negligence or some other act resulting in a person's death. This would in some cases include a death caused by drunk driving or someone dying as the result of an assault in which case the perpetrator didn't have the intent to kill.

In some other states, the definitions have been adjusted to reflect factors like perceived need for greater deterrence, rather than those usual distinctions. For instance, the murder of a police officer, or any murder committed while serving a life sentence, is in some states a first-degree murder regardless of further circumstances.

Felony murder statutes

Many jurisdictions in the United States have also adopted felony murder statutes, according to which anyone who commits a serious crime (a felony), during which a person dies, is guilty of murder. This applies even if one does not personally cause the person's death. For example, a driver for an armed robbery can be convicted of murder if one of the robbers killed someone in the process of the robbery, even though the driver was not present at and did not expect the killing. In a few cases, some robbers have been found guilty of felony murder for the deaths of their accomplices.

Capital murder

Capital murder is murder which is punishable by death. In 38 states and the federal government itself, there are laws allowing capital punishment for this crime. Depending on the state, a murder may qualify as "capital murder" if (a) the person murdered was of a special class, such as a police officer; (b) "special circumstances" occurred in the crime, such as multiple murder, the use of poison, or "lying in wait" in order to murder the victim. Capital murder is quite rare in the United States compared to other murder convictions, but it has generated tremendous public debate. See generally capital punishment and capital punishment in the United States.

Cultural references

In California, 187 is a well-known slang term for murder, and it often appears in music made in that state. The number refers to the relevant section of the California Penal Code.

Germany

In Germany the term Mord (murder) is officially used for the premeditated killing of another person:

1. for pleasure, satisfaction of the sex drive, greed or other "low motives",
2. insidiously (an unsuspecting victim) or cruelly,
3. by means dangerous to the public (for example with a bomb),
4. To cover up or facilitate another criminal offense.

A killing which is not a murder may be either Totschlag (manslaughter) or fahrlässige Tötung (negligent homicide). Also, if the death is not a foreseeable consequence of an intended or not intended act of violence, it might be classified as Körperverletzung mit Todesfolge (injury resulting in death). The penalty for Mord is lifelong imprisonment (i.e. at least fifteen years); the penalty for Totschlag is five to fifteen years imprisonment.

The Netherlands

By Dutch law, murder (moord) is punishable by a prison sentence of up to twenty years, which is the longest prison sentence the law allows. Under special circumstances, such as multiple murders or prior convictions, a life sentence may be imposed. In addition to a prison sentence, the judge may sentence the suspect to TBS, or "terbeschikkingstelling", meaning detention in a psychiatric institution. TBS is imposed for a number of years (most often in relation to the severity of the crime) and thereafter prolonged if deemed necessary by a committee of psychiatrists. This can be done indefinitely, and has therefore been criticised as being a life sentence in disguise.

In 2003, 202 murders were committed in the Netherlands.

Finland

Finnish law calls the crime of causing the death of human being "manslaughter" (tappo). The minimum sentence is eight years of imprisonment. Attempt is punishable. The crime of murder (murha) is defined as manslaughter:

- with a firm intent (i.e. it is planned), or
- done in an especially brutal or cruel way, or
- while endangering public safety severely, or

- Of a government official keeping the law and order.

The only sentence for murder is life in prison. However, the president can and usually will give a pardon (when requested) some time after 12 years. Involuntary confinement to a psychiatric institution may also result. It ends when the psychiatrist decides so, or when a court decrees it no longer necessary in a periodical review.

There is also the crime of "death" (surma), which is "manslaughter" under mitigating circumstances, with the punishment of four to ten years. Involuntary manslaughter (kuolemantuottamus) has a maximum punishment of two years of imprisonment or fine (see day fine).

Israel

Israel had 174 murders in 2004 (up from 135 in 1996 and down from 234 in 2001). Israel is a relatively safe country with a low crime rate even taking into account political crime, i.e. terrorism. 10 women were murdered by their male spouses in 2004 and 19 in 2003. An unknown number of Arab women are murdered by their male Arab relatives in Israel in what is euphemistically known as "honour killings" and which are actually punishments for so called immoral behavior such as traveling alone or talking to men. Gangs are not considered a serious problem in Israel although there is underworld mafia activity. Because of the security situation in Israel many people have gun licenses, own guns and carry them openly. Furthermore soldiers usually carry rifles (including ammunition) on home leave. Notwithstanding this the rate of gun related crime (e.g armed robbery and shootings) is low in Israel. Presumably this is because of the careful screening of gun owners and compulsory military service where all soldiers are educated how to use guns and the dangers from them.

There are 5 relevant types of homicide in Israel: 1. Murder. The premeditated killing of a person or the intentional killing of a person whilst committing, preparing for, or escaping from, any crime is murder. The mandatory punishment for this crime is life imprisonment. Life is usually commuted (clemency from the President) to 30 years from which a third can be deducted by the parole board for good behavior. Terrorists are not usually granted pardons or parole other than as part of deals with terrorist organizations or foreign governments and in exchange for captured Israelis (or their bodies). 2. Reduced sentenced murder. Where the murderer did not fully understand his actions because of mental defect (but not legal insanity or imbecility), or in circumstances close to self-defense, necessity or duress or where the murderer

suffered from serious mental distress because of long-term abuse, the court can give a sentence of less than life. 3. The deliberate killing of a person without premeditation (or the other circumstances of murder) is manslaughter for which the maximum sentence is 20 years. 4. Negligent killing or vehicular killing. Maximum sentence is 3 years (minimum of 6 months for the driver). 5. Infanticide where a woman killed her baby of less than 12 months and could show she was suffering from the effects of the birth or breast-feeding. Maximum sentence is 5 years.

Iran (Islamic republic of)

Statutory Islamic criminal law homicide divided into tern: murder _ Voluntary manslaughter _ Involuntary manslaughter.

Under the Islamic criminal law (articles 205_206) murder is killing person with definite intention to kill and subject doom to death (if subject man and slain woman her warden must pay half of price of blood of man to bane). According this statute (articles295) voluntary manslaughter is unintentional killing of one person by another and bane doom to price of blood. Involuntary manslaughter means killing without intention to act and effect; that's punishment is price of blood.

Most comment's in article about homicide in Islamic law. It's terse about crimes against people