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Rape

CAN THE LAW CURB RAPE CASES?

By: Cik Rashidah Abd Ghani

KUALA LUMPUR: "You have been found guilty. Therefore, the court sentences you to 19 years' imprisonment and 12 strokes of the rotan for

raping your daughter who was 15 years old then."

Kota Baharu Sessions Court judge Mohamad Yazid Mustafa made the decision on Feb 8 after a 43-year-old ex-soldier was found guilty of raping

his own daughter at his house in Tanah Merah, Kelantan, at about 4am on Dec 25, 2001.

Mohamad Yazid said, as a father, the accused should protect his daughter and not take advantage by raping her after fetching the girl home from an elderly relative's house.

Is such punishment enough to deter rapists from committing the condemned act? Or, should severe penalties, such as the death sentence,

life imprisonment or public caning be considered to curb the crime?

Whatever it is, rape and murder have been on the rise of late and parents are worried about letting their daughters out or to stay at home alone.

ARE THE AMENDED PENALTIES SUFFICIENT?

Solicitor General Datuk Zaiton Zawiah Puteh said prior to Aug 1, 2002,

the charge of rape under Section 375 of the Penal Code did not specify cases involving family members or incest.

She said the maximum punishment for rape is 20 years' jail and minimum is five years, and caning may also be meted out but it is not mandatory.

After Aug 1, 2002, the Penal Code was amended to introduced new provisions -- Section 376A and Section 376B.

Section 376A defines "incest" as sexual intercourse with another person

whose relationship to him or her is such that he or she is not permitted,

under the law, religion, custom or usage applicable to him or her, to marry that other person.

Section 376B provides the punishment -- a minimum of six years' jail, up to 20 years and liable to caning.

Later, Act A1210 amended the Penal Code to include a penalty of not more than 30 years' jail and not less than 15 years as well as mandatory caning of not less than 10 strokes if whoever commits rape on a woman whose relationship to him is such that he is not permitted under the law, religion, custom or usage, to marry her.

It also provides the death penalty for whoever causes death while committing rape or attempting to do so.

Zaiton is of the opinion that prevention is much more vital in curbing rape and murder, but must be balanced with suitable punishment.

She feels that existing laws on rape are sufficient.

ENFORCEMENT OF THE LAWS

Meanwhile, several quarters feel that imposing the heavier punishment is important to curb such crime.

Malaysian Parents Consensus Council president Prof Madya Mohamad Ali

Hasan suggests immediate amendment be made to existing laws by taking into account the appropriate punishment to match the crime as it will also serve as a "scare and deterrent" in keeping with the Islamic religion.

He recommends that a convicted rapist who caused death to the victim be caned publicly and given the mandatory death sentence while those guilty of similar offence but not causing death be sentenced to life imprisonment and given the rotan.

"It is time for public stoning and caning to be implemented to make the public, particularly Muslims, realise that such punishment has been used for ages and Muslims should not dispute it," he said.

Agreeing with Mohamad Ali's proposal is Mufti for the Federal Territory

Prof Dr Mohammed Yusoff Hussin who is of the opinion that such punishment

would educate society against committing such crime.

"If society feels that public caning will cause embarrassment to the family of the offender, that it is cruel and against human rights, why must we be more concerned about the rapist and not the victim?" he asked.

"How do you think the family of the victim would feel... don't they too suffer from embarrassment throughout the life. Whoever has committed

the
crime must face the consequences," he added.

Dr Mohammed Yusoff, however, is against castration, mainly due to
humanity.

"Just maximise the existing punishment and that will be
enough," he
said.

FITTING PUNISHMENT

Mohammed Yusoff also suggests that rapist be given fitting
punishment
based on the provisions and if the crime involves death then it must
be
punishable with death.

"This punishment must be adhered to by all, no matter what
faiths they
are and should not be disputed if society wants to see this cruel
crime is
curbed," he stressed.

Meanwhile, Federal Territory Women Lawyers' Association deputy
president Yasmin Shariff disagrees on the implementation of public
caning
as she feels that counselling the rapist will be the best solution
to
address the problem.

She is also of the opinion that education on family health
should begin
at primary school with the purpose of, among other things, exposing
the
children to knowledge on the human physiology, potential risks and
the need
to report when something happens to them.

Religious independent lecturer Ridhuan Tee Abdullah, on the
other hand,
said that parents play an important role in moulding and educating
children
with good morals and behaviour from young.

Based on his experience through dialogues with the police, the
root
cause for rape is that they mix freely, he said.

"If children are allowed to mix freely to the extent that boys
and
girls stay in the same room, unwarranted incidents can certainly
occur. No
religion allows its followers to socialise freely or to commit sin.

"Go back to your own religion and God willing, rape can be
curbed," he
said.

IMPORTANCE TO CHECK BEHAVIOUR

Dr Mohammed Yusoff agrees. He said: "If we want to prevent rape,

parents must make an effort to teach and check the behaviour of their children, such as to stop their daughter from wearing revealing clothes as this is one factor that leads to rape and if this occurs then we can say that it is fated to happen."

He also mentioned that in the old days, when a father or grandfather were to enter a child's room, it was to tell tales or legends purely for education purposes.

"But now, if a father or grandfather were to enter his daughter's or granddaughter's room, we have to question because they might want to satisfy their lust," he said.

Statistics from the Royal Malaysian Police (PDRM) show a rise in the number of rape cases. There were 1,217 cases in 2000, 1,386 in 2001, 1,431 cases in 2002 and 1,479 in 2003. On average, the number of rape cases increased at about 5 percent in the period between 2000 and 2003.

CAUSES OF SEXUAL VIOLENCE

Women, Family and Community Development Minister Datuk Seri Shahrizat Abdul Jalil said that violence against women stems from tradition, social structure and values that put men as head of the family and decision maker as well as having the power to dictate the economic and social aspects.

Citing research conducted by commonwealth bodies, she said the basic cause of the problem is the imbalance of power between women and men.

The patriarchy system and the notion that men are the champions are traditions that are deeply embedded in our society and, hence, difficult to erase, said Shahrizat.

She said that among the mental disorders experienced by victims of sexual violence are fear, low self-esteem, lack of appetite and the feeling that they have lost their dignity and frowned upon by the society.

Under her ministry, an OMBAK Volunteers Training Programme has been established as a follow-up to the OMBAK campaign launched by former Prime Minister Tun Dr Mahathir Mohamad on July 23, 2001. There are now

1,857

OMBAK volunteers throughout the country.

Shahrizat said to educate the public on this problem, the ministry is also organising development seminars on gender perspectives, touching on issues of violence against women, campaigns through the electronic media and taking the necessary action based on one's capabilities.

-- BERNAMA

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