

## **Gov't needs to expand definition of rape**

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Wanita MCA is alarmed with the decision by the Appeal Court on a case in Sibul which ruled that the four charges of rape on a then-fourteen year old girl by a man more than 40 years older, which is unsound.

The judiciary has to mature itself and not narrow the definition of rape to penile penetration, as in this case, sexual assault occurred when the perpetrator allegedly inserted his sperm-smearcd fingers into the victim's vagina. The DNA result links him as the father of the girl's child, and thus, implicates him as the rapist.

We have clear legislations in the Penal Code supported by the Child Act to protect minors against such violations.

Section 377CA of the Penal Code reads, "Any person who has sexual connection with another person by the introduction of any object into the vagina or anus of the other person without the other person's consent..."

Meanwhile, Section 17 (2) of the Child Act 2001 reads, "a child is [...] sexually abused if he has taken part whether as a participant or an observer, in any activity which is sexual in nature for the purposes of :

(i) any pornographic, obscene or indecent material, photograph, recording, film, videotape or performance; or

(ii) sexual exploitation by any person for that person's or any person's sexual gratification."

Even if the teenager is question had consented to the vile act, the Child Act clearly outlines that child sex abuse has occurred. She is considered a minor, and incapable of making any decision on sexual intercourse. She is victim of statutory rape.

### **Offering refuge for paedophiles?**

Although comments by Mara top officials regarding Mara scholar Nur Fitri, whom the British court had jailed for possession of child pornography, may have been said to have been made in a personal capacity, for example comments such as, "Mara to appeal for a lighter sentence", "give him a second chance", "let him continue his studies in Mara institutes locally", "he is an asset to the country", the furore has yet to subside.

Public outrage erupted when the Appeal Court in Putrajaya in 2012 allowed a national bowler's appeal against statutory rape on a 13-year-old on grounds that the intercourse was "consensual" and that "public interest is not served as he has a bright future ahead of him".

Certain developing countries, in particular their beaches, are reportedly notorious for paedophile networks preying on pre-pubescent boy and girl victims owing to the latter's destitution and lack of education.

Malaysia does not need the infamy of being in the same league as a destination point for paedophilia, given the perceptions that Mara office bearers do not recognise the serious harm paedophilia wreaks or that our judiciary sets paedophiles free.

What recourse can a minor then have when the system itself, or the authorities in power whom the common layperson expects protection, do not offer protection, but paradoxically, cite idiotic reasons favouring paedophiles?

Therefore, I urge the government to enact legislation which reinforce that statutory rape by either a man or woman on any minor girl or boy is an offence, even if the minor had consented.

Also necessary is that the law must state that any form of penetration (be it forced or consensual) besides penile, for example by a foreign object in an orifice of a minor child is unlawful and punishable.

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