

Rape and Justice in Ireland: One
year on.

Why this report was needed:

- Regan and Kelly's 2003 study indicated that the rate of conviction for reported rapes in Ireland had fallen to 1% in 1998-2000 period.
 - Decrease of 8% since the 1977-1981 period
 - Lowest conviction rate and thus the highest rate of attrition among European countries in the study.
- Not all attrition is bad. Attrition also accounts for cases that are false, seriously insufficient in evidence and where the prosecution of the case would not be in the victim's interest.
- However, attrition due to fear, prejudice, poor investigation, frustration or weariness of delays and other such reasons are a serious concern for the legal system and for all of society.

Irish Statistics on Attrition: a failure of the justice system?

- In RAJI, the majority of those surveyed had reported their rape to Garda
 - This statistic is almost certainly skewed. Other evidence suggests that very few women make an official complaint if they have been raped.
- Of the cases that were reported, the DPP prosecuted less than one third.
- Of the third that went to trial, 60% resulted in a conviction for *some* offence;
- Only 4% of those who were officially accused of rape received a conviction for rape, with a further 10% entering a guilty plea.

Profile: Irish victims of rape

- The 'average' victim of rape in Ireland is:
 - Irish
 - Young (majority < 35, largest group 18-24)
 - Has been drinking alcohol
 - 79% had consumed alcohol; 45% were extremely intoxicated
 - Knows their attacker
 - Does not suffer violence above that required to commit the rape
 - Will not report the crime to police.

Profile: Perpetrators of Rape in Ireland

- The 'average' rapist in Ireland is:
 - Slightly older than their victim (25-34)
 - Irish
 - Has been drinking
 - 76% drinking; > 40% severely intoxicated
 - Claims sex was consensual if questioned by Gardai

The Decision to Report

- Influence of others indicated in decision to report
 - Influence of psychological factors, eg. Shock, fear, embarrassment, uncertainty.
- Wanting justice as motivation for reporting
- Fear of others reaction, including upsetting loved ones, and fear of legal system motivation for not reporting
- Other reasons for not reporting included perception that there was no supporting evidence, that the victim was under the influence of alcohol or drugs and the existence of a relationship between victim and offender.
 - Victims anticipate the reactions of the legal system.

The Decision to Prosecute

- The decision not to prosecute a rape complaint was the single greatest cause of attrition of rape cases in this study.
- 70% of rape complaints that were not later withdrawn were discontinued by the DPP
- Primary reasons given for discontinued cases were lack of evidence
 - Inherent limits of the justice system in prosecuting this type of case

Factors implicated in the decision to prosecute

- DPP appear to be primarily motivated by evidential factors and witness and credibility issues.
- Victim characteristics not found to be influential
 - Two exceptions: mental illness and alcoholism
- Rape characteristics: a number of characteristics do appear to influence DPP decisions
 - Location of rape, stranger vs. known assailant, time-lapse between rape and reporting, presence of physical evidence (forensic/DNA).
 - Real rape stereotype at work? Implication of these factors on evidence collection.

Withdrawal and False Reports

- 27% of rape complaints filed were later withdrawn.
 - Complainants who made allegations against intimate partners and ex-intimate partners more likely to withdraw
 - Protect children, resume or continue in relationship
 - Complainants suffering from mental illness and alcoholism more likely to withdraw
 - Significant delays in prosecution of cases also implicated in withdrawals – wanting to move on with one's life a common stated reason for withdrawing complaint.
- False Reports
 - Approx. 6% of reports of rape were suspected by Gardai or DPP of being false.
 - Only 1% were deemed malicious ; 5% effect of mental illness, or confusion due to alcohol or drug use.

In the courtroom

- Juries:
 - Irish juries are dominated by men.
 - However, of those juries that were majority female no convictions for rape were entered during the period of study
 - Juries also dominated by those in unskilled or manual labour (>50%) and by housewives, students, retirees and the unemployed (10%)
 - Juries not representative of society as a whole.
 - Juries as a whole are reluctant to convict in rape cases and tend to convict only on downgraded charges, wherever possible.
 - Less than 1 in 5 juries convicted the defendant of at least one rape charge.

- Sexual history evidence is commonly admitted to the courtroom, often by the prosecution.
- Complainant questioned about her appearance in about half of the sample; behaviour even more commonly questioned.
- From reporting to conclusion of trial, time-scales varied from 24 months to 7 years.
Average of 33 months
- Sentences given for rape range from 84-114 months, most fall between 5 and 10 years
- Where multiple sentences are given, they almost invariably run concurrently

Our Conclusions

- Number of areas within the criminal justice system that require improvement
 - Investigation and contact with victim by Gardai
 - More regular contact after initial report
 - Ensuring victims adequately aware of their rights under the Victim's Charter
 - Sensitivity training and awareness
 - Further training for Gardai who take statements from those with mental illness.
 - Victim supports
 - Increased numbers of SATU's
 - Ensure access to help and information for all victim's, whether they report or not.
 - Office of the DPP
 - Conduct internal examination into handling of complaints by those with mental illness and the over-representation of non-nationals as defendants.

Recommendations cont'd.

- Need to investigate jury deliberation process
- Reconsideration of the use of consecutive sentencing
- defendant in rape cases should be forbidden from conducting a personal cross-examination of the complainant (consider Jane Doe vs. UK)
- Reducing delays in trial process wherever possible
- Consider specialist training for lawyers involved in rape cases.
- Address continuing vitality of real rape stereotype.

But... overall, the law is not the answer to the problem of rape.

- “We do not say that prosecuting and convicting in rape cases is in any way unimportant. Far from it. It is important, and necessary. But in dealing with rape there is a range of priorities that needs to be balanced. Support and care for victims should be a higher priority. The obligations the State has to those who have suffered a violent crime, and a crime that strikes at the whole concept of human dignity and bodily integrity, are much wider than working for the conviction of a perpetrator.” (Stern Review, 2010)

Final recommendation: rape prevention.

- Cannot rely on criminal justice system to deter the commission of rapes – need to take active prevention measures
- This study not designed to examine the causes of rape in Ireland – yet, RAJI did reveal issues that appear to be contributory to levels of rape in Ireland.



• Priority = deal with Ireland's drink culture



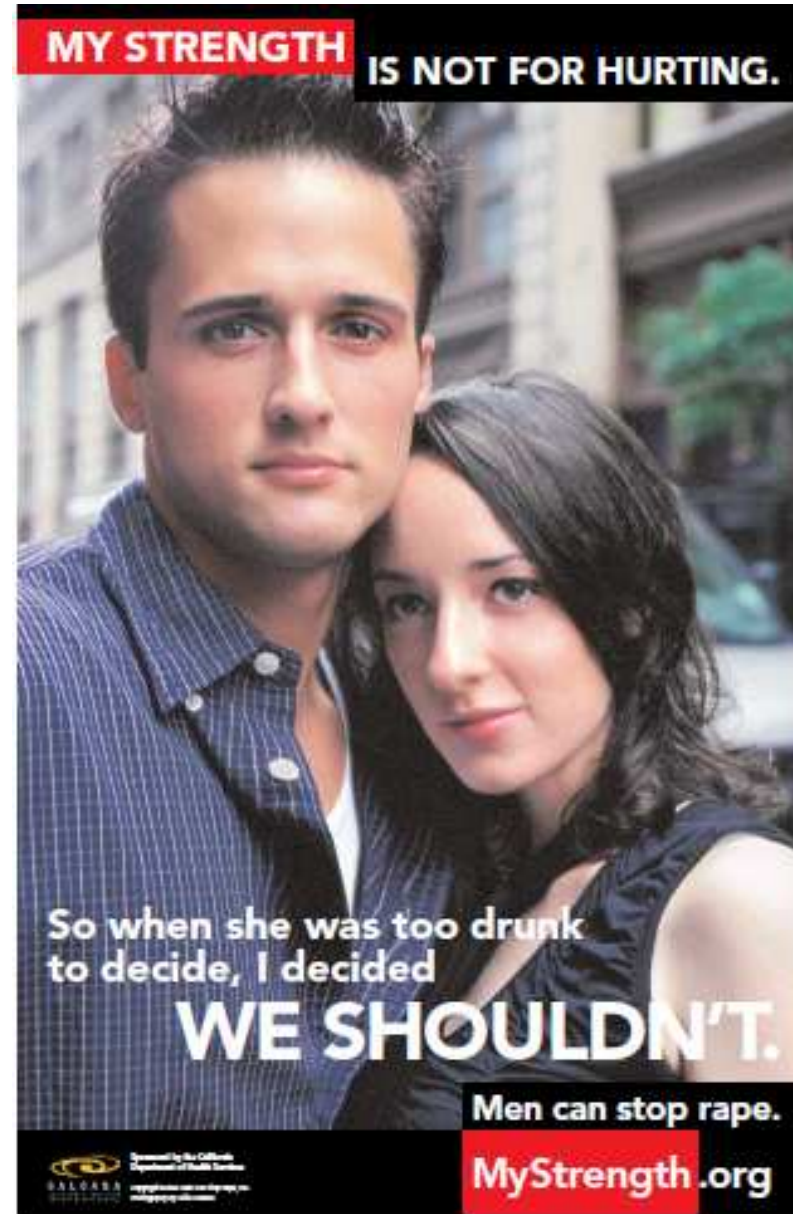
- Great care needed – only a short step to blaming the victim
- Need to examine inter-related issues of masculinity, violence, alcohol use, attitudes towards sex, and sexual violence
- How?
 - One option: educational campaign addressing the issue of youth, alcohol and rape.
 - Need state support to do this but considerable social and economic benefits of reducing the rate of rape in Ireland.
 - Cost of investigation and prosecution, housing prisoners, medical and psychological care for victims, women's decreased productivity following such a traumatic event.

Rape is a human rights violation

- European states have obligations in regard to protecting human rights, e.g. establishment and enforcement of laws.
- But more than this to be leaders in human rights.
- e.g. The Council of Europe Committee of Ministers Recommendation Rec(2002)5 on the protection of women against violence recommends that:

*“3 - Member states should introduce, develop and/or improve where necessary, national policies against violence based on ... d) **raising of public awareness** and **education of children and young persons** e) ensuring **special training for professionals confronted with violence against women**; f) **prevention in all respective fields.**”*

Example: My Strength Campaign. California coalition against sexual assault



MY STRENGTH IS NOT FOR HURTING.

So when she was too drunk
to decide, I decided
WE SHOULDN'T.

Men can stop rape.

MyStrength.org

SALGASO
California Coalition Against Sexual Assault
www.salgaso.org
mystrength.org