

Weekly Copy Ps. 5

Annual Subscription Rs. 2

OPINION

Vol. XXII

February 9, 1982

No. 40

RAPE

TAYA ZINKIN

HERE has suddenly arisen in Britain a widespread concern for the state of two cherished institutions: the police and the judiciary. What has most upset public opinion are two recent rape cases and a televised police cross-examination of an alleged rape victim. First, there was a Crown Court Judge who fined a rapist who pleaded guilty £2,000 instead of imprisoning him on the irrelevant and legally unacceptable ground that there had been 'contributory negligence' on the part of the victim, a 17-year-old hitch-hiking a lift late at night to get home. The girl, who was engaged to a soldier, had gone to a dance in the barracks and it appears that, her fiancé being summoned to go back on duty, she had nobody to take her home so that she hitch-hiked a lift. The car she stopped belonged to a 'respectable' businessman. The allegation the girl eventually made to the police was that, against her protest, he stopped the car in a wood and raped her.

The outcry in the media was immediate and there has been a great deal of concern, not only because the rapist was not given a jail sentence but because of the judge's mention of 'contributory negligence'. Contributory negligence cannot apply in a criminal case as it only applies in civil cases. Is it 'contributory negligence' mitigating the offence, if you leave your window open and a thief helps himself to the contents of your house? Is it 'contributory negligence' if you happen to carry money in your wallet so that when you get mugged the miscreant is rewarded for his misdeed whereas had you not had a penny on you there would have been no 'contributory negligence' and he would have been guilty without extenuating circumstances?

The concept of contributory negligence would appear to arise from a not fully thought out idea that it is the duty of a woman never to put herself in a position which might arouse male sexual desires. She should not go out late alone, hitch-hike, wear suggestive clothes and make-up, flirt or sunbathe, or cuddle of course. This is nonsense. Carried to its logical conclusion this means that women can never see any but the males against whom they are protected by the taboo of blood and that, as far as the rest of the male world is concerned they must live in purdah. If women are to be free they must be able to behave like men. Nobody alleges that male hitch-hikers are asking to be raped—even by gay motorists, or that wearing skin tight jeans with an open necked shirt is sexual provocation. And in the cases where boys have been raped by sex maniacs nobody has even thought of contributory negligence.

In the case of women being raped, unfortunately, the reaction that there may have been contributory negligence is not confined to male chauvinist pigs, policemen or judges. It underlines the attitudes of many virtuously respectable matrons probably because rape fantasies are a frequent and pleasurable experience of the more strait-laced. Freed by fantasy to enjoy without any sense of guilt what their background denies them, these virtuous women fail to distinguish between fact and fiction. No matter how delicious the dream, the fact is always degrading and traumatic.

Shortly after the judgment referring to contributory negligence the public watched a 40-minute television documentary showing the police interrogating an alleged victim of rape. I myself did not see this programme which has created an uproar. For one thing there were three policemen and no policewoman, for another, instead of beginning by arranging a medical examination the police kept dissuading the woman from having one, making it quite clear that they did not take her story seriously, and the inspector asked for details of the woman's sexual history. The interview was conducted in an unsympathetic and unprofessional manner and went a long way to explain why women are so reluctant to go to the police in cases of rape. The police defence against the fanfare of public criticism was that the Equal Opportunities Act made it impossible for them to allocate policewomen to rape interrogations and that the woman they interviewed had once before pretended to have been raped because she was mentally unstable. Nevertheless, as a result of the programme being shown and the public outcry, steps are being taken to alter the procedure to bring it in line with the kind of procedure adopted in the United States where the police are specially trained to deal with rape.

Rape is very frequent, how frequent nobody knows because most of the victims do not come forward. For a respectable woman to complain about rape is a very traumatic experience even if she is treated with understanding and sympathy because it makes her plight public. However, the attitude of the judiciary and the police that when a woman of doubtful morals complains of rape she should not be believed is stupid. The Messalinas of this world who have no virtue to lose have nothing to gain when they complain of being raped. By the same token, for the nice girl whose parents are very strict and who lives in a world, if it still exists, where she is expected to enter matrimony as pure as a snowdrop, to claim that she has been raped can sometimes be one way of camouflaging a sexuality to which her upbringing does not entitle her.

Hot on the heels of the injudicious judgment about 'contributory negligence' and the televised cross-examination of an alleged rape victim, has exploded the shockingly horrendous case of the Scottish mother of two who was raped by three youths who amused themselves by slashing her naked body with razor blades so that they could play noughts and crosses on it, with the result that she had to have 168 stitches to repair that damage alone. The three youths had a friend with them who turned the police evidence and signed a statement describing what happened. The

woman recognised one of the culprits at an identification parade, yet no case has been brought against the boys as the Crown Counsel decided that no case should be brought because the woman was not fit to give evidence so that a conviction would not be forthcoming. The psychiatrist who saw the victim at the time had said that being cross-examined in open court might lead the unfortunate victim to commit suicide. However, that same psychiatrist has now stated in public that the opinion he gave was confined to the time at which he saw the victim and that he did not in any way prejudge what her mental state would be later. Indeed, the victim is now taking out a private prosecution against her attackers who would have been tried had they killed her or merely raped her. But by raping her and inflicting horrendous wounds upon their victim they very nearly spared themselves the ordeal of a prosecution. But for their victim's courageous determination to take them to court on her own account they would have gone unpunished and forever free. There has been such an outcry in Parliament that if it is deemed necessary for justice to be done the law will be changed. Already the Solicitor General for Scotland has been sacked by Mrs. Thatcher for giving one explanation to the press and another to Parliament for the prosecution being dropped.

But it is not only rape which is exercising public indignation. A woman teacher who complained that she had been attacked by the mother of one of her pupils was told by the stipendiary magistrate who dismissed her case that she could expect to be attacked half a dozen times more in the course of her teaching career.

Then too, there are disturbing personal experiences with the police. When I was booked by a young copper for a traffic offence he was abominably rude and told as many lies in Court as if he had been a constable from Punjab. Police are no longer properly trained. I know of a case where the constable who was recording a traffic offence was so illiterate that the charge-sheet had to be filled in by the motorist, and last week a friend of mine who was burgled found the police totally incompetent. No fingerprints were taken, footprints left in the snow were ignored despite my friend's drawing attention to them and the general attitude of the police investigators was that they could not care less. What has happened to the famous Bobby who used to be the envy of the whole of Europe? Trust in the police and the judiciary is fundamental to orderly society. Fortunately much hope has been placed in the measures suggested by Lord Scarman to improve the police and Mrs. Thatcher has left judges in no doubt about the way they are expected to treat rapists.

KINDNESS OR CRUELTY ?

JAI NIMBKAR

A good friend of mine died the other day of hydrophobia. He had been bitten by a stray dog several months ago, and had not bothered to take a course of anti-rabies injections. Technically, therefore, one

can say that he was the architect of his own destiny. Several facts need to be considered before such a conclusion is drawn, however. One, that it is a tedious and painful business getting the injections. Two, that many people are allergic to the anti-rabies serum and die after being injected with it—and since it is rarely a hundred per cent certain that the dog that bit one was rabid, it is a debatable point which of the two risks one should opt for. And three, and perhaps most important, there has been a shortage of this vaccine for a number of years and it is not available especially in the rural areas.

However the apportioning of the blame is done, the cause of the death is undisputable—a stray animal of a species that is known to carry rabies and cause thousands of deaths all over the country every year. Because in my circumscribed life my friend's sudden and horrible and unnecessary death was a traumatic experience, I was amazed to discover that almost everyone else associated with him had personally known someone who had died of rabies, and took the whole thing not with insensitivity but with equanimity. Philosophical acceptance of the inevitable may be a virtue, but philosophical acceptance of an avoidable death seems to me equivalent to cruelty.

Deaths due to rabies spread by dogs can be effectively reduced by killing stray dogs. This simple-sounding course of action is thwarted by people in every way. They protect stray dogs by claiming ownership, by sheltering and hiding them. If there is a campaign afoot to poison stray dogs, they try to spare the pups. This sentimental loyalty to an animal would be touching if it were not at the cost of humans. The surprising thing is that very few of the people who would protect dogs from a municipally ordained death have any real love for the animals. It is just an unthinking response to the situation, something like a motorist endangering the lives of the occupants of his car—including himself—in trying to avoid a jackrabbit that dashes in front of his car.

Someone might of course question my right to place a greater value on human life than on canine life. They might say that a life is equivalent to a life, no matter whose. To which my only reply is that I have not achieved that level of stoicism, and I hope I never will. I shall always continue shedding angry tears for the avoidable death of a friend.

• Shri B. Venkatappiah,
B3/59, Safdayang Endow,
New Delhi-110 016.

Posted at Central Packet Sorting Office, Bombay on 9-2-1982
Regd. No. BYW 69
Licence No. 14. Licensed to post without pre-payment

Edited and published by A. D. Gorwala at 40C Ridge Road, Bombay 400 006 and
printed by him at the Mouj Printing Bureau, Khatau Wadi, Bombay 400 004.
Proprietor: A. D. Gorwala.