



Public Services Challenge – Equality under The Law :False Allegations

Overview

“A woman spurned after a one-night stand tried to ruin her ex-lover’s life by branding him a rapist” (Daily Mail Saturday August 19th.2006).

How often do we read of malicious women who are all too aware that they can cry wolf as often as they wish and get away with it. They do not just destroy the life of a man and his family, they also endanger the possibility of genuine rape cases from coming to court.

In this case the accuser, Jane Taylor, had been running a campaign of harrassment against her victim, Tom Wheeler, for more than a year. He suffered from abusive phone calls and letters as well as accusations of being a paedophile ending up with the accusation of rape.

The police investigated and found that it was a lie. The outcome – a six month suspended sentence and a ban on her contacting him for five years. Taylor was accused of perverting the course of justice for her accusation of rape but prosecutors dropped the charge before it came to trial.

This sends out a clear message to all women that they can harrass and falsely accuse a man of any vile crime including rape and in all likelihood they will be released with nothing more than a suspended sentence. Meanwhile, the man whose identity has been publicised has to try and pick up the pieces and get on with his life.

The Family Courts are another arena of false allegations which tie up a range of specialists investigating malicious claims which lead to nowhere and cause untold distress to a father and his children.

We ask that you give our submission the consideration it deserves.

Footnote – It was not the first time Taylor has been in court facing harrassment charges. In April 2000 she was banned by Cheltenham County Court from going to the home of paraplegic Alec Lee. She was given a six month suspended sentence and ordered to pay £500 costs. Three months later she was fined for attacking Mr.Lee’s carer.

Rape and serious sex offences – the facts

Three decades ago one out of three rape attacks reported to the police in England and Wales ended in conviction. Today, it is little more than one in 20. Three decades ago, a higher proportion of alleged rapes were by strangers. Today, the majority of alleged rapes are by persons known to the complainant. Three decades ago, social mores still generally frowned on sexual promiscuity. Today, sexual morality is far more lax, casual sexual relationships or encounters being more the norm than the exception. It can hardly be surprising that the incidence of alleged non-consensual sex between persons known to each other has increased as societal sexual attitudes have changed.

In the past ten years, there has been a large increase in reported rapes - from 4,900 in 1995 to 14,100 in 2004. The British Crime Survey suggests that another 85% go unreported. Of those that are reported, some two thirds never get to court – one third because victims decide they do not want to go ahead, and one third because the prosecution believes the case will not stand up. Less than one third of those that go to trial end in conviction.

In response to the persisting rise in reported rapes, the Government has introduced during the period successive measures to encourage more women (or men) to report sexual offences against them, and to help ease their trauma during subsequent criminal proceedings. Women (or men) who report alleged rape are now granted life-long anonymity (unless their allegation is later shown to be false), police forces have introduced special rape teams, and there are more rape crisis centres, sexual assault referral centres, and witness care units. The complainant is protected in court from direct confrontation with the defendant, including the use of screens and television links, even when the parties are known to each other. Cross-examination of the complainant directly by the defendant is now legally forbidden, and judges are less likely to allow intrusive or over-aggressive questions by defence teams, including sexual history of the complainant. New definitions of „consent? place more responsibility on the man rather than the woman.

A senior judge has warned that such pressures for change could risk imprisoning innocent men(1). As one columnist observed in 2000 “The Government wants more men convicted [for rape] and doesn?t care how”(2). Some years later following the more recent changes to the law on consent, the same columnist asked “When is a person guilty until proved innocent?” Her answer “When he?s a man who is accused or rape”(3).

It is arguable that some of these procedures are in breach of Human Rights law, under which all persons are equal under the law and before the law, have a right to a fair trial, and are presumed innocent until found guilty. In particular, the lack of any equivalent anonymity for the defendant, the ban on the defendant directly questioning his accuser, and the details of previous trial allegations against him, even if resulting in acquittals, being made available to juries.

Despite all this, the number of reported rapes in the past decade or so has

steadily increased, and the number of allegations rejected by juries has increased correspondingly.

In contrast to the severe penalties meted out to men convicted of rape, women who make false allegations of rape or sexual offences are generally treated leniently, often merely by probation, despite the traumatic consequences for defendants and their families of such allegations. Men wrongly convicted of rape and given an indeterminate life sentence, can forfeit their chances of parole if they continue to maintain their innocence whilst in prison, since such denial is viewed as a continuing „risk? to the public. In 2000, a man originally convicted of rape, but who continuously protested his innocence, was eventually cleared after 15 years in prison(4).

Although the police „weed out? a significant proportion of allegations on the basis of no evidence or a belief that the allegation is false or malicious, some prosecutions for rape are brought on the flimsiest of grounds. In 1993, an eminent woman judge, Baroness Mallalieu QC, asserted that the Crown Prosecution Service (CPS) was afraid to drop sex offence trials because of the actions of women?s pressure groups. She advised the CPS to adopt a more „robust? approach to rape cases to weed out those with no real prospect of conviction.

Despite the publicity given to the issue, juries are increasingly refusing to convict, particularly in so-called „date-rape? cases when the verdict depends on believing the word of one person against another, and severe penalties apply to the man if convicted. As a result, there continue to be well-publicised date-rape trials in which the defendant is acquitted. These cases are not only unjust but should never have been brought to court.

ANONYMITY

Life-long anonymity for the complainant is supposed to encourage more women who have been sexually assaulted to come forward. However, the same anonymity can also encourage false or malicious allegations, particularly when the parties are known to each other, which are difficult to refute, especially if made retrospectively.

The present procedures governing anonymity in sex offence cases are clearly inequitable. Unwanted sexual advances or intercourse in our sexually promiscuous society are usually very different offences from brutal sexual assault by a stranger. In such cases, neither party should be granted anonymity, or alternatively, the defendant (and his family) should be given equal anonymity unless and until convicted. This was indeed the law between 1976 and 1988, but was changed by the Home Office following pressure by the police.

There have calls for more legal protection of men (or women) vulnerable to false allegation of sex offences. A coroner, at the inquest of a man who killed himself hours before he was to stand trial, urged that suspects should also be given anonymity unless convicted(5). A judge has called for a register of women who have made false rape allegations(6).

In 2000, a man who sued his accuser after her allegation of rape was shown to be false, was awarded £400,000 damages by a jury, which included eight women, indicating that at least some juries take the matter of false allegations seriously.

False Allegations

False allegations are easy to make but difficult to refute. The great majority are directed at men, mostly by women, and largely in gender-conflict issues, such as family law proceedings, sex offences, and domestic violence.

Although usually well-intentioned, „protective? legislation aimed primarily at one group of people tends to result in the creation of new types of victims amongst other groups. Thus, legislation relating to gender-conflict issues, can help improve the status or situation of one sex whilst leaving the other sex more vulnerable to disadvantage or even discrimination. The prevalence of false allegations by one sex largely aimed at the other is one manifestation of this. This imbalance is made worse if there is little effective legal protection against such allegations.

False allegations of rape or serious sex offence can be motivated by spite or revenge, feelings of guilt or shame, possible pregnancy, concealment of an affair, test of a partner's love, as well as by mental and emotional disorder.

The results of Home Office Research Study 196 (1999)(7) into rape prosecutions in the 1990s in England and Wales found that, of the cases initially recorded by the police as rape, 31% of suspects were charged, and only 6% of total initial cases resulted in a conviction for rape, viz. about 20% of those charged.

Of the initial total, 25% of cases studied were subsequently 'no-crimes' by the police, and in 31% the police took no further action (NFA) against suspects, in about half of these because the complaint was withdrawn. In 11%, no suspect was identified and in 8% the case was discontinued by the CPS. 7% resulted in an acquittal or the case to lie on file. 7% resulted in a conviction for an offence other than rape.

Of the 25% of cases no-crimes by the police, 43% (64% in the case of strangers and 52% in the case of intimate relationships with the accused) were no-crimes because the complaint was believed to be false or malicious, 36% (42% in intimate relationships) because the complaint was withdrawn, and 15% because there was insufficient evidence (Table 3.3 in Study). Of the 31% of cases NFA-ed, about 52% were NFA-ed because the complaint was withdrawn, and about 37% because of insufficient evidence. About half of the cases in which there was no evidence of any violence or injury were NFA-ed.

Overall, the results of the Study suggested that at least 25% of reported allegations were false. The Study reported that, according to one barrister, “teenage girls have been known to make allegations as a way of attention-

seeking". It was also alleged "that sometimes young girls indulging in sexual activities might claim that it was without consent when they were [later] confronted by a parent". Studies in the USA have similarly indicated a significant proportion of false or malicious allegations of rape. In 1983, a study of false allegations by the FBI Behavioural Science Unit conducted investigations into 556 cases of claimed rape. They found that 220 of these reported rapes turned out to be false, a proportion of 40%. They also found that over 25% of the total 556 cases were hoaxes. In other words, only about 35% of the reported cases had any foundation in fact.

In a 1983 USAF study by Charles McDowell, an experienced Air Force criminal investigator, 1,218 cases were initially investigated as rapes. Of these, 460 (38%) were proven rapes, 212 (17%) were disproved allegations (based on the ultimate admission of the complainant), and 546 cases remained unresolved. His view was that many of the unresolved cases were also false allegations, and thus about half of all cases were false or probably false.

According to McDowell, motivations given by women in the FBI study who acknowledged that they had made a false allegation of rape, included:
FBI %

spite or revenge 20

to compensate for feeling guilt or shame 20

thought she was pregnant 13

to conceal an affair 12

to test husband? s love 9

mental/emotional disorder 9

In another American study reported in 1994 by Eugene Kanin(8), 45 consecutive, disposed false rape allegations covering a 9-year period in a small metropolitan community were studied with the co-operation of the police agency. These false rape allegations constituted 41% of the total forcible rape cases reported during the period. The false allegations appeared to serve three major functions for the complainants: providing an alibi, seeking revenge, and obtaining sympathy and attention.

If such proportions indeed apply in the UK, a substantial number of men are being very unjustly treated, with no anonymity to protect them. In 2001, the prisoners group UK 2000 believed that there were more than 2,000 men in British prisons wrongly convicted (mostly for sex offences) and continuing to protest their innocence. UK 2000 claims that a large number of prisoners are refusing Sex Offenders Treatment Programmes (SOTP), on the grounds that they have to confess to something they have not done, even though such refusal could adversely affect their prospects of parole.

Whilst women tend to see themselves generally as the victims of male sexual aggression, false allegations made by women, particularly of sex offences, result in a new form of victimisation, this time of men.

Newsweek (1 November 1993) reported from FBI sources that up to 33% randomly tested men who were in prison in the USA convicted of rape offences had DNA that failed to match the crime scene [in effect, that one third of convictions were unsafe].

PROPOSALS

The steady increase in reported cases of rape is indeed a matter of concern to everyone, even though it can be argued that it merely reflects the decline in the sexual morals of individuals and society during the past three decades. As some social commentators have observed, however, the successive measures introduced by the Government to try to address the problem have focused on reducing numbers rather than tackling the underlying issues of responsibility of both sexes for their social and sexual behaviours. A survey in 2000 found that four out of ten women had been drunk enough to have sex with a total stranger(9). The measures have given to some the impression that the „end justifies the means? even if the rights and status of men generally suffer in the process. By all means try to improve conviction rates for genuine rapists. But the Home Office, in its zeal to do this, must not pressurise the criminal justice system into doing it unfairly, and should not ignore the other side of the coin, the lack of anonymity for defendants and the plight of victims of false allegations.

ManKind therefore wishes to see in respect of rape and serious sex offences:

no further measures which further dilute a defendants right to a fair trial and the presumption of innocence

withdrawal of existing measures which do this, eg. evidence of previous prosecutions even if no conviction

anonymity and restricted reporting for both complainant and defendant in all rape and serious sex offences cases until resolution of case, when continuing anonymity for either party or both would be subject to court discretion

False allegations in Family Courts and Criminal Courts in cases of rape and serious sex offences :

more effective legal protection against false or malicious allegations of rape or serious sex offences, especially when under the cover of anonymity.

allegations of domestic violence, rape and serious sex offences made in the Family Courts to be tried to a criminal standard on the basis of fact

automatic serious penalties for those found making false allegations

whether in criminal courts or Family Courts

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