

CALLING

WOMEN

'WHORES'

LETS

RAPISTS

GO FREE

Calling Women 'Whores' Lets Rapists Go Free

by Caroline Coon and Amber Marks

WITH AS MANY as 75 women a week being punished for offences of prostitution, we shouldn't be surprised that the rape conviction rate has fallen to its lowest ever (7.5% of reported rapes). The use of the word 'whore' for moral condemnation creates a fatal link between rape and prostitution.

Most men when accused of rape will rely on the 'whore-like' behaviour of their victims to bolster their courtroom defence. Most rapists are able to convince prosecutors, judges and juries that the immorally 'whore-like' women dragging them to court are liars who readily consented to sex.

What is 'whore-like' behaviour? In law a prostitute is a woman willing 'to engage in acts of lewdness with all and sundry'. The police and courts determine this willingness by looking at how available a woman makes herself to men, how 'well behaved' she is, her 'attractiveness' and how she is dressed.

Pre the 1960s it could be argued that only prostitutes dressed to advertise their sexual 'availability'. But since the 1960s when the iconic mini-skirt became the staple of 21c fashion, most women can be accused of 'dressing like prostitutes'.

Prostitute fashion reigns from plebeian street to posh drawing room. As a result, prostitute words like 'whore' 'slag' 'slapper' and 'tart' are publicly pinned on modern girls and women more frequently than ever before. Today, every woman will be called 'whore' at least once in her life.

The downside of sexual liberation is that it gives violent sexual abusers ample opportunity to plead in court that women who complain about rape are lying whores.

Paradoxically the social justice of equality with men has exposed women to the injustice of sexual violence by stripping women of a defence to sex crime in court. The hard won right to birth control, to be out of the home, to work, to enjoy public leisure, to drink, to look 'sexy', makes modern women easy targets for those who claim that women are 'asking for it'.

Before women's liberation, 'respectable' women were obliged to say 'no' to sexual advances. Putting pressure on young women to have sex was lauded as natural and normal male behaviour. Male and female sexual interaction was a model of dominance-submission. Since the 1960s, women have won the right to say 'yes' to sex, and even to ask for it.

We might have expected sexual liberation to relegate misogynistic sexual degradation to the dustbin of history. Instead many men insist on their right to dominance-submission, the right to sexually insult women, the right to rape and sexual assault; behaviour that can be disguised as 'bedroom play' and fantasy.

Sexual liberation gives women the wonderful freedom to have dates and make friends with many men, but women are still warned against

such freedom. We are told 'never be alone with men or you risk being raped'. To most modern women this caution seems a vile libel against men. So old fashioned! Why wouldn't men want to be platonic, collegiate, even flirtatious friends? Acquaintance rape or date rape comes as a nasty, demoralising shock. Being raped by a friend can be worse than stranger rape because it is accompanied by a breach of trust. Date and acquaintance rapists are rarely convicted and this compounds feelings of self-blame and helplessness in the victim.

By freeing ourselves to revel in male company and enjoy adult sexuality women are exposed to the certainty of being branded 'whores'. Being sexually active like whores gives men permission to rape modern women, since men are rarely convicted of raping women who are willing to 'engage in acts of lewdness with all and sundry'.

The opposite of a permissive prostitute is the chaste nun. While covering up our bodies helps in the courtroom it is useless for women to imagine that being as sober and veiled as a nun is a way to avoid sexual violence. Men fantasise about and do rape nuns.

No, the solution is to continue to revel in sexual freedom 'like whores' while posing this question: Why is it considered moral, ethical and justifiable to pillory, humiliate, denigrate, hate, imprison, rape and even to kill prostitutes?

Every time we call a woman a prostitute-name as a means of disapproval or moralistic character assassination we collude with the sexist culture of denying women freedom from sexual violence. Sexist name-calling gives men permission to rape with impunity. Next time the 'whore' in court could be you!

To dispense with the absurdity of being sexually liberated but unable to defend ourselves from rape, some feminists have proposed that women should no longer consider rape to be a shameful, damaging or serious offence. But this would amount to submission to the new brutalised culture of sexual violence.

The only way out of the sexual liberation paradox is to elevate the status of whores. Only when we refuse everyone permission to denigrate, insult, criminalise and imprison prostitutes, will we refuse men the permission to rape sexually liberated sex-enjoying whore-like women that most of us are. Only by respecting prostitutes will all women who want sex be respected. Only when the law recognises prostitution as a respectable profession will all sexually liberated women be respected in court and only then will more rapists be convicted.

Is it safe to legalise prostitution? With 50-plus new laws in the Sexual Offences Act 2003 children and adults have never been better protected from potential dangers and side-effects of prostitution.

We have laws to protect us from violence, assault, threats, murder, rape, sexual abuse, grooming, kidnapping, theft, robbery, abduction, exploitation, coercion, trafficking, smuggling, immigration, fraud, tax evasion, public order, nuisance, noise and litter. It is now a crime to buy sex from children under the age of 18. All trafficking of people of any age for sexual exploitation anywhere in the world is illegal. We have protection in employment law and protection from breaches of health and safety regulations.

So long as adults obey these laws and so long as they trade according to standard business codes why should they be prosecuted for selling sex?

The European Court of Human Rights requires that 'the law should not intrude on consensual sexual behaviour between those over the age of consent without good cause.'¹ Armed with the array of offences created by the Sexual Offences Act 2003, what good cause remains to prohibit adults providing and using sexual services?

Isn't it time to agree that 'moral condemnation cannot in itself be regarded as sufficient ground for making consensual adult behaviour a criminal offence'² and repeal all the legislation that prevents consenting adults from buying and selling sex? Is prostitution so shockingly 'immoral' that we need laws to protect society from it?

We are waiting for the Home Office to publish a response to the 2004 review of the law on prostitution *Paying the Price*³. New Labour is unlikely to be other than punitive and authoritarian.

What we want is for Government to acknowledge that the only protection women now require is from the inferences against us embedded in prostitution law. Repealing the Street Offences Act 1959 law against soliciting and loitering would also end the abhorrent criminalisation of abused and sexually exploited children. Female children under the age of 16 are still being convicted for prostitution and labelled 'common prostitutes' despite not being old enough in law to give consent to sexual intercourse.

If adult women who consent to sell sex continue to be stigmatised as 'immoral' in law and punished then the legally unprotected and punished status of whores is perpetuated and exposes any woman whose

reputation can be impugned as 'whore-like' to the sexual violence of rapists.

Other prostitution laws that could be safely swept away are: criminal offences of causing or inciting prostitution, controlling prostitutes for gain, advertising the services of prostitutes, kerb-crawling and soliciting, keeping a brothel, keeping a disorderly house, the 'immoral' clause in Leaseholds which prevents sex workers working from flats or their own homes and the offence of living off immoral earnings which prevents prostitutes from having a family life.

If Government decides that prostitution between consenting adults must remain against the law it will be a tragedy. Children and women prostitutes will remain unprotected, beyond the law, used and abused and men will continue to borrow the law's moral condemnation of 'whore-like' women to sexually assault us with impunity.

Men will continue to use prostitutes, the illegal sex trade will continue to flourish, and the rest of us, titillated and intrigued will continue to tolerate and collude.

Respecting prostitutes, and all whores, is the only way that all women will be respected. Only when adults are free to work in a lawful, respected sexual service trade and free to use sex trade services within the law will we be able to protect all women from sexual violence.

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1. Article 8

2. Criminal law Revision Committee, Working Paper On Sexual Offences, HMSO October 1980. p4, line 7.

3. Paying the Price: a consultation paper on prostitution. Home Office Communication Directorate 2004.

'Whore-like' Behaviour In Rape Cases

FOUR RECENT CASES of rape where the matter turned on whether the complainant's behaviour could lead a jury to decide she was whore-like and might therefore have consented to the sexual attack she complained of.

1. The case of R v Mukadi 2003 Court of Appeal Criminal Division

The defendant and complainant struck up conversation in a supermarket, went for a picnic in the park and later to his house where consensual kissing took place. The defendant claimed that the subsequent sexual intercourse was consensual. She said it was rape. The jury was told that when the two met she was wearing 'a tight skirt, which in parts could be seen through, and a black vest top'. The judge did not allow the defence to allege to the jury that shortly before going to the supermarket she had been on the pavement in Oxford Street when a 'large expensive looking car' had pulled up alongside her. The driver was alleged to have been a man 'a good deal older' than her and they were alleged to have exchanged telephone numbers. The Court of Appeal quashed his conviction for rape on the basis that this evidence should have been admitted.

2. The case of Ian Huntley

After Ian Huntley's conviction in 2005 for murder it was revealed that his serial sexual offending had been reported to the police. One

such occasion was a teenager who left a nightclub and was raped. She ran home and told her father who went to the police. Ian Huntley was arrested and charged with rape. He said the sex was consensual. On examining the nightclub's video, footage was found of Huntley and the young woman 'dancing together in an intimate way'. The young woman identified herself as dancing with Huntley but said she could not remember doing so. She did not withdraw her complaint but the police and the Crown Prosecution Service decided to discontinue the prosecution.

3. The case of R v Bahador 2005 Court of Appeal Criminal Court Division

Prior to the complainant being indecently assaulted, the defendant alleged that he had seen her on stage at a night club taking part in a competition which involved exposing her breasts and simulating oral sex. The court was asked to accept her behavior as relevant to the defendant's 'honest belief' that she would consent to having sex with him. The trial judge refused the defendant permission to mention the complainant's alleged behavior or to cross-examine her about it and the appellant was convicted. In the Court of Appeal, defence counsel argued that the conviction was unsafe as a result of this evidence not being admitted. The prosecution submitted that pushed to its logical conclusion the argument of the appellant would mean that every stripper who performed at a club would convey the message that by conducting herself in that way she was indicating that she was consenting to sexual attention by someone such as the appellant and consenting in particular to be touched in a sexual manner by a complete stranger. The Court of Appeal dismissed the appeal, but said in looking purely at the question of relevance, 'we feel compelled to conclude that as the appellant's defence was one based on his honest belief, it is difficult to say what he contended to have taken place on the stage could not be relevant.'

4. The case of R v Witcher and Lang 2005 (second trial) Winchester Crown Court.

Prior to the 23 year old woman being raped, which the two police officer defendants denied, they had been called in their squad car to an incident where the complainant was being harassed by men outside a nightclub. The officers drove her around looking for the men, to no avail. They then gave her a lift home and because she was still drunk the pair helped her into her house where, she alleged, they raped her. In their defence the police officers said that in the squad car the woman had bantered 'flirtatiously'. They alleged that she teased she had 'never had sex with two policemen before' and they called her a 'lusty, busty, northerner'. They were cleared of indecent assault and rape.



Time Line

OVER THE LAST 30 years feminists have campaigned to keep women's whore-like behaviour, their sexual history, out of rape trials. Every legal reform has been ineffective. Legal attempts to define the relevance of women's sexual behaviour continue to proscribe it as immoral.

1975 Heilbron Committee criticises the extent to which female rape victims are cross-examined about their private lives, personal habits and sexual history.

1976 *R v Morgan*. The House of Lords rules that there is no requirement that the defendant's belief in a woman's consent be based on reasonable grounds.

Section 2 of the Sexual Offences (Amendment) Act 1976 seeks to limit the circumstances in which evidence of a woman's sexual history is adduced to the bare minimum by requiring leave to be obtained from the trial judge. It requires the judge to refuse leave except where it would be unfair to the defendant to refuse it.

1982 *R v Viola*. The Court of Appeal rules that Section 2 was designed to curtail sexual history adduced to undermine the

credit of the complainant and not to curtail the use made of it to show that she consented to sex or that the defendant honestly believed she had consented.

- 1994 Sexual Offences (Amendment) Act is amended to clarify that the presence or absence of reasonable grounds for the defendant's belief in consent is evidence that can be taken into account by the jury in considering whether he held an honest belief in consent.
- 1996 Council of Europe criticises excessive reliance on cross-examination about a woman's sexual reputation in the English trial process.
- 1998 'Speaking up for Justice', a government consultation paper, finds that sexual history evidence is allowed in 75% of applications and that Section 2 is not serving its purpose.
- 1998 Youth Justice and Criminal Evidence Act 1999 seeks to rectify the situation by providing that the Judge can only give leave to admit a woman's sexual history if satisfied that it is relevant to an issue in the case and that a refusal of leave might render the jury's conclusion unsafe.
- 2004 Sexual Offences Act 2003 attempts to curtail the reliance on sexual history evidence by providing that the defendant's belief in consent must be reasonable.

Dedicated to

ANDREA DWORKIN

The great Medusa whose brave activism and
feminist philosophy will forever arm and
shield us from the hydraheaded evils of misogyny

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