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Aretha Franklin Was Right: Respect, We Need It

Sophia Franzak

Background:

“Honesty, pride, and self-esteem are crucial to the personal freedom of a woman. Social progress depends on the progress of everyone.”¹ The more gender equality a country has, the more likely it is that women will feel comfortable coming to the authorities to report sexual assault. Countries have taken years to amend their sexual assault laws in order to make them more reasonable and applicable to real life situations.² Recent changes have been lengthening the statute of limitations when victims are required to report a crime, increasing the severity of punishments when offenders are convicted of committing these crimes, and even expanding the definition of sexual assault itself.³ These steps will most likely persuade sexual assault victims to feel more comfortable coming forward and allow for the act of sexual assault to be taken more seriously throughout the globe.⁴ Changes in the law may be a good faith effort in order for more sexual assault crimes to be prosecuted, but more still needs to be done in order to make the victim feel more comfortable coming forward.⁵ This article will portray the conclusion that countries who have less police reported sexual assault crimes and lower conviction rates are generally countries who do not have strong gender equality.

In the beginning of August 2017, the Illinois governor signed SB 189, which removed the statute of limitation on sex abuse crimes.⁶ The

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1. Bill Chappell, *India's Supreme Court Upholds Death Sentences Over 2012 Gang Sexual assault*, NPR (MAY 5, 2017, 8:34AM), <http://www.npr.org/sections/thetwo-way/2017/05/05/527031503/indias-supreme-court-upholds-death-sentences-over-2012-gang-sexual-assault>.
 2. CATHARINE A. MACKINNON, *Sexual Assault Redefined*, 10 Harv. L. & Pol'y Rev. 431, 433 (2016).
 3. Lindsay Offutt, *Illinois Governor signs legislation removing statutes of limitations on sexual abuse crimes*, JURIST (AUG. 13, 2017, 1:00 PM), <http://www.jurist.org/paperchase/2017/08/illinois-governor-signed-legislation-to-remove-the-statutes-of-limitations-for-sexual-abuse-crimes-.php>.
 4. *Id.*
 5. *Id.*
 6. *Id.*

previous statute of limitations for sex crimes was within 20 years of the victim reaching 18.⁷ By signing SB 189, the time period to prosecute the crime is now prolonged and the requirements needed to prosecute the crime are lessened.⁸ Under this bill, when the victim is under 18 at the time of the offense, the prosecution could be commenced at any time when there is corroborating physical evidence or when someone who is required to report the crime fails to do so.⁹ SB 189 takes out these requirements, making it easier to prosecute sex crimes.¹⁰ This is a small step that should be an example to other states to examine their current sexual assault laws and make efforts towards making proactive changes. One of the proactive changes that need to be made is dealing with the number of crimes actually reported to the police.

Analysis

The Supreme Court of the United States ruled that sexual harassment is a form of sex- based discrimination in 1986.¹¹ The United Nations “declared that violence against women, including sexual assault, is a ‘manifestation of historically unequal power relations between men and women, which has led to domination over and discrimination against women by men.’”¹² Sexual assault is more common in countries where there are power imbalances and inequality between men and women.¹³

In order to fully examine the issue at hand, one must have a constant measurement for Gender inequality. Gender inequality will be measured by the labor force participation rate, the ratio of female to male earned income, and whether that country has a law that addresses sexual harassment. Labor force participation is a beneficial measure to display the amount of respect women receive when they are in the

7. *Id.*

8. *Id.*

9. 720 Ill. Comp. Stat. Ann. 5/3-6 (LexisNexis, Lexis Advance through P.A. 100-538, except for portions of P.A. 100-201, 100-286, 100-303, 100-315, 100-320, 100-363, 100-390, 100-403, 100-417, 100-433, 100-437, 100-459, 100-469, 100-471, 100-481, 100-499, 100-530, 100-534 and 100-537 of the 2017 Regular Legislative Session).

10. *Id.*

11. *Meritor Sav. Bank, FSB v. Vinson*, 477 U.S. 57, 59 (1986).

12. MacKinnon, *supra* note 2.

13. U.N. Secretary-General, *In Depth Study on All Forms of Violence Against Women*, ¶ 30, U.N. Doc. A/61/122/dd. 14 (July 6, 2006), <https://documents-dd -ny.un.org/doc /UNDOC/GEN/N06/419/74/PDF/N0641974.pdf?Open Element>.

workforce because of the amount they are paid compared to men.¹⁴ This measurement can also indicate the amount of respect women receive outside of the workforce; logically a woman would not get hired into the workforce if she was not generally respected by society in the first place. It should also be recognized that many women choose not to work, this does not take into account those women, but can still be used as a good measurement for gender equality. Another measurement that will be used is the percentage of female legislators, senior officials and managers.¹⁵ This measurement is helpful illustrating gender equality because it illustrates that women are respected enough in the workplace to be considered for and hold high positions.¹⁶

Germany

In Germany, hundreds of women were attacked on New Years Eve in 2016. These women reported that they had been groped and robbed outside of a train station.¹⁷ There were 497 reported attacks on these women, which provoked many women's rights activists to launch campaigns increasing awareness of sexual assault.¹⁸ After this mass attack, German parliament passed a law in that made any form of nonconsensual sexual contact a crime.¹⁹ This new law protects victims who do not physically resist the attack.²⁰ A positive change from the old law where the victim had to physically resist the attack in order to charge the aggressor.²¹

14. UNITED NATIONS DEVELOPMENT PROGRAMME, TABLE 5: GENDER INEQUALITY INDEX (2015) <http://hdr.undp.org/en/content/gender-inequality-index-gii> [Hereinafter Gender Inequality Index].

15. HUMAN DEVELOPMENT REPORT: GENDER EMPOWERMENT MEASURE (2007-2008), <http://rojasdatabank.info/hdr20072008tab29.pdf> [hereinafter Gender Empowerment Measure]

16. *Id.*

17. Joseph Nasr, *German court issues first convictions in Cologne mob sex attacks*, REUTERS (JULY 7, 2016, 7:12AM), <http://www.reuters.com/article/us-germany-women-law/german-court-issues-first-convictions-in-cologne-mob-sex-attacks-idUSKCN0ZN135>.

18. *Id.*

19. Kasey Tuttle, *Germany adopts law expanding the definition of sex crimes*, JURIST (JULY 8, 2016, 9:27AM), <http://www.jurist.org/paperchase/2016/07/germany-adopts-law-expanding-the-definition-of-sex-crimes.php>.

20. *Id.*

21. *Id.*

Germany's ratio of female to male earned income is .58, meaning that a female only makes about fifty eight percent of what a male makes.²² The labor force participation rate for females fifteen years of age and older is fifty-four point five percent.²³ The percentage of female legislature, managers, and senior officials in Germany is thirty seven percent.²⁴ When comparing all of these numbers to multiple countries, it shows that Germany is fairly high on the scale for each gender equality ranking. Although Germany is considered high on the scale, it still has horrendous statistics for its sexual assault reports and convictions which displays how much of a change is needed. Ten percent of sexual assault crimes are reported each year, and of those ten percent, only eight percent of those trials end in conviction in Germany.²⁵ The official number of police recorded offences according to the United Nations Office on Drugs and Crime is 7,292.²⁶ This means that about 73,000 sexual assault crimes happen each year in Germany.²⁷

Japan

Japan's lower legislative house recently approved changes to Japan's sexual assault laws.²⁸ This has been the first major change to the laws in nearly a century.²⁹ The amendments to the laws make the definition of sexual assault to include more forms of forced sexual penetration, eliminate the requirement for "violence or intimidation" in cases of minors who are sexually abused and increase the minimum sentence from three years to five.³⁰

22. Gender Empowerment Measure

23. Gender Inequality Index

24. Gender Empowerment Measure

25. Tuttle, *supra* note 19.

26. Gender Inequality Index

27. *Id.*

28. Elizabeth Lowman, *Japan lawmakers approve changes to century-old sexual assault law*, JURIST (JUNE 9, 2017, 10:27AM), <http://www.jurist.org/paperchase/2017/06/japan-lawmakers-approve-changes-to-century-old-sexual-assault-law.php>.

29. Linda Sieg & Ami Miyazaki, *Japan moves towards first major sexual assault law changes in a century*, REUTERS (JUNE 8, 2017, 3:52 AM), <http://www.reuters.com/article/us-japan-sexual-assault/japan-moves-towards-first-major-sexual-assault-law-changes-in-a-century-idUSKBN18Z0V5?il=0>.

30. *Id.*

Females in Japan make forty-five percent of what males in Japan make.³¹ The labor force participation rate in Japan is forty-five percent, which is lower than in Germany.³² The percentage of female legislatures, managers, and officials is ten percent.³³ These numbers are lower than Germany's numbers, showing that Japan has less gender equality than in Germany. This makes sense because the percentage of reported rapes is less than in Germany.³⁴ Japan has 1582 police reported sexual assault offences and only five percent of rapes are reported.³⁵ According to those statistics, about 31,640 sexual assault incidents happen each year.³⁶ The conviction rates in Japan are significantly high therefore they should not be compared to Germany's conviction rates.³⁷ The reason the rates in Japan are so high is because of the value the court system puts on confessions, which are obtained from ninety-five percent of the people arrested.³⁸ This is a significant abnormality in any legal system.³⁹

United States

Many states in the U.S. are proactive about changing their sexual assault laws, but there are also many that have yet to do so. States like New York, Mississippi, Georgia, Colorado and Ohio still have sexual assault laws that are outdated.⁴⁰

In New York, it is considered a defense to sex offenses if “the defendant was married to the victim as defined in subdivision four of section 130.00 of this article” this only applies to victims who are married to their aggressors.⁴¹ The Official Annotated Code of Georgia defines sexual assault as, “A person commits the offense of sexual assault when he has carnal knowledge of: (1) A female forcibly and

31. Gender Empowerment Measure

32. Gender Inequality Index

33. Gender Empowerment Measure

34. *Id.*

35. Gender Inequality Index; Lowman, *supra* note 28.

36. Countries in the world by population, WORLDOMETERS (2017), <http://www.worldometers.info/world-population/population-by-country/>.

37. *Confess and be done with it*, THE ECONOMIST (Feb. 8, 2007), <http://www.economist.com/node/8680941>.

38. *Id.*

39. *Id.*

40. N.Y. Penal Law § 130.10 (Consol., Lexis Advance through 2017 released chapters 1-280 except chapter 176).

41. *Id.*

against her will; or (2) A female who is less than ten years of age.”⁴² This limits the definition of sexual assault when it specifically occurs between a man and a woman and only between two specific organs.⁴³ The United States has a tremendous amount of work to do when dealing with sexual assault laws in each state.⁴⁴ The lack of change in the law can explain why the US has such a low conviction rate and why they have a low rate of presorting sexual assaults.⁴⁵

In the US the women’s labor force participation is fifty-six percent and the ratio of female to male earned income is sixty-three percent.⁴⁶ The percentage of women that are legislators, senior officials, and managers is forty two percent.⁴⁷ All of these numbers are very high when compared to Japan and Germany, showing a higher rate of gender equality in the US which explains why there is a higher percentage of police reported sexual assault instances.⁴⁸ Women evidently feel more comfortable coming forward to report sexual assault.⁴⁹ The conviction rate for sexual assaults that are reported is between twelve and twenty five percent, this is higher than both Japan and Germany but still needs to be vastly improved.⁵⁰ The amount of police recorded offences in the US is 89,000.⁵¹

Conclusion:

When women are not respected by their society, their ideas are not valued, which makes it even more difficult for women to start change.⁵² Women will feel comfortable coming forward to report sexual assault crimes when they are respected as equals and when people finally listen to their voice.⁵³ The Illinois governor extended the statute of limitation on certain sex abuse crimes and took out some of the

42. Ga. Code Ann. § 16-6-1 (Lexis Advance through the 2017 Regular Session of the General Assembly).

43. *Id.*

44. MacKinnon, *supra* note 2.

45. *Id.*

46. Gender Empowerment Measure

47. *Id.*

48. Gender Inequality Index

49. *Id.*

50. MacKinnon, *supra* note 2.

51. Gender Inequality Index

52. MacKinnon, *supra* note 2.

53. *Id.*

requirements needed to prosecute a sexual assault crime.⁵⁴ These steps are very beneficial for victims in Illinois, but a lot needs to be done to transform sexual assault laws across the United States and to improve the amount of reported sexual assault cases.⁵⁵

Gender equality can be shown by looking at the ratio of female to male earned income, the labor force participation rate, and the percentage of women who are legislators, managers, and senior officials. Japan ranks the lowest when looking at gender equality, then Germany and the US ranks the highest.⁵⁶ This scale may not show all the different types of gender equality, but it gives a general representation of how women are treated and respected in different countries.⁵⁷ Japan also had the lowest percentage of reported sexual assault cases.⁵⁸ This displays a clear correlation between reported sexual assault cases and gender equality.

Japan is in the process of getting approved changes to its sexual assault laws that include expanding the definition of sexual assault, lengthening prison sentences and allowing prosecutions to happen in instances where a victim did not press charges.⁵⁹ These changes should reflect positively on the conviction rate and the rate at which sexual assault crimes are reported.⁶⁰ Overall Japan is the lowest on the gender equality scale, which explains why it has been over 100 years since changes to their sexual assault laws have been created and changed.⁶¹ Germany also made changes to its laws making any nonconsensual sexual contact a crime.⁶² These changes are great for helping conviction rates increase, but much more still needs to be done in order to make victims feel more comfortable coming forward.⁶³ Germany has a generally high gender equality, therefore it makes sense that they are advancing their laws in such a way to include any form of nonconsensual sexual contact.⁶⁴ The United States has the highest gender equality

54. Offutt, *supra* note 3.

55. *Id.*

56. Gender Inequality Index

57. *Id.*

58. Sieg & Miyazaki, *supra* note 29.

59. Lowman, *supra* note 28.

60. *Id.*

61. Sieg & Miyazaki, *supra* note 29.

62. Tuttle, *supra* note 19.

63. *Id.*

64. *Id.*

but still has very outdated sexual assault laws in some states, including the defense that you cannot sexually abuse your spouse and limiting different types of sexual assault that can be prosecuted.⁶⁵ These outdated laws show that even countries that value women more than others still have a lot of work to do.⁶⁶ Every country could benefit from increasing their gender equality and bettering their sexual assault laws.⁶⁷ Hopefully as countries grow and progress, their sexual assault laws can do the same.⁶⁸

65. N.Y. Penal Law, *supra* note 40; Ga. Code Ann, *supra* note 42.

66. *Id.*

67. MacKinnon, *supra* note 2.

68. *Id.*