Received : 17/11/2018
Revised : 18/12/2018
Accepted : 15/1/2019

วารสารสวนสุนันทาวิชาการและวิจัย

Suan Sunandha Academic & Research Review

Admissible Evidences in Court against Age of Child Trafficking in Court

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ABSTRACT

Human trafficking challenges the world community to find efficient and practical solutions in fighting this serious crime against humanity, especially among children. In practice, it is difficult for a state to prove a child victim's age beyond reasonable doubt. Moreover, the defendant can defend exemption against a Criminal Liability Rule. Consequently, some trafficked children are not protected and remedied by law. This study aims to examine problems related to the admissible evidences about the age of child trafficking in Thai courts. It also gathers findings and key points from a review of significant parts of available literature associated with admissible evidences about the age of child trafficking in Thai courts. This review sets out to identify and evaluate relevant legislations in national and international research and initiatives related to analyze the effective use of admissible evidences about the age of child trafficking in courts regarding criminal justice system, the legal rules as to judge role, what evidences are admissible in courts, liability presumption, and the age of child victim's situation in substantive laws. Findings of this study will depend upon situations on the age of child trafficking in substantive laws, and liability presumption to support evidence about the age of child trafficking in courts.

Key words: admissible evidences**,** age of child trafficking**,** liability presumption

Introduction

Human trafficking is a challenge to the world community to find efficient and practical solutions to fight this serious crime against humanity. The Anti-Human Trafficking Act B.E. 2551 protects children against this crime. If the human trafficking offense is committed against a child below eighteen years, the offender is liable to a severe punishment.

When age is an element of the crime, the state cannot circumvent the age problem by lowering the state's burden of proof. After all, the Due Process Clause in Criminal Procedure Code Article 227 requires the state to prove each element of the crime beyond reasonable doubt. The issue, then, is not whether the state must prove age beyond a reasonable doubt, but how the state can prove age beyond reasonable doubt. Specifically, what evidence may the state use to prove the victim's age?

In practice, it is difficult for the state to prove a victim's age beyond reasonable doubt because most of the trafficking victims do not have birth certificate from their governments. The state may rely on an array of circumstantial evidence to prove the victim's age, including testimony by the victim's parents, testimony by the victim himself/herself, physical appearance, and forensic anthropologists where in this case, report only an estimated age interval.

Moreover, the defendant can argue that he believes in good faith and that the victim is above the children level or appearances mislead or misrepresented. Consequently, some trafficked children are not protected and justified by law.

It is within this background that this study intends to engage in limitations of "The Admissible Evidences about the Age of Child Trafficking in Court", considering the challenges and failures of the admissible evidences about the age of child trafficking in court. It is pertinent to embark on a comprehensive and detailed study on a judge's role and how to support evidence about the age of child trafficking to be admissible in court.

Objectives

1. To study problems related to the admissible evidences about the age of child trafficking in court.
2. To propose guidelines in solving the problems related to the admissible evidences about the age of child trafficking in court.

Methodology

This is qualitative research with the legislation document as the main focus. The documents included the various pieces of legislation in national and international, research and initiatives related to analyze the effective use of the admissible evidences about age of child trafficking in court with regarding to criminal justice system, the legal rules as to judge role, what evidence is admissible in court, liability presumption, and age of child victim situation in substantive law.

Human Trafficking

Human trafficking is condemned as a violation of human rights by international convention. United Nations addressed the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (also referred to the "Trafficking Protocol or the Palermo Protocol) in 2003. The Trafficking Protocol is the first global, legally building instrument on trafficking over half a century, and the only one with an agreed-upon definition of trafficking in persons. One of its purposes is to facilitate international cooperation in investigating and prosecuting such trafficking. Another is to protect and assist human trafficking's victims with full respect for their rights as established in the "Universal Declaration of Human Rights."

Thailand enacted new law "Anti-Trafficking in Persons Act B.E.2551" to revise the law on the measures in Prevention and suppression of Trafficking in Women and Children. According to this act, the President of the Supreme Court and the Minister of Social Development and Human Security shall have charge and control of the execution of this act in relation to their respective authorities. The President of the Supreme Court shall have the power to issue Standardize Orders and the Minister of Social Development and Human Security shall have the power to appoint competent officials and issue Ministerial Regulations and Rules for the execution of this act.

In B.E.2560 Thailand enacted "The Anti-Trafficking in Persons Act (No.3) B.E. 2560 (2017)" which repealed the legal definition of "exploitation" and "forced labor or service" in Section 4 of the Anti-trafficking in Persons Act, B.E. 2551 (2008) and replaced the provisions in Section 6 with a new provision.

"Procedures for Human Trafficking Cases Act, B.E. 2559 (2016)" in chapter 1: General Provisions, section 8 Procedure for human trafficking cores shall be found upon the inquisitorial system and be proceeded speedily as stipulated in accordance with the provisions in this Act and the Regulations of the President of the Supreme Court, enable quicker juridical procedures in human trafficking case.

In chapter 11: Procedure in Courts of First Instance, Section 29. The Court has the competence to summon relevant evidence from any agency or person or summon any person to appear for giving statements or carry out any other act in the interest of the trial and has the competence to order any agency or person to examine and gather additional evidence and report it to the court as well as furnish such evidence to the Court within the period of time fixed by the Court, Section 31. In taking oral evidence, whether abducted by any party or summoned by the Court, the Court shall notify the witness of the issue and facts to which the taking of evidence relates and shall cause the witness to give testimonies as such matter personally or by answering questions as addressed by the Court. The Court shall have the competence to the case even though they are not invoked by any party and, thereafter, permit additional interrogations by the parties. Interrogations of the witness under paragraph one may be made by using leading questions. After the parties have interrogated the witness under paragraph one, no party shall interrogate the witness, except upon permission by the Court, to also enable easier and quicker court procedures.

The Anti-Human Trafficking Act B.E. 2551 protects children, Section 6 which stipulates that: whoever, for the purpose of exploitation, does any of the following acts: (1) procuring, buying, selling, vending, bringing from or sending to, detaining or confining, harboring, or receiving any person, by means of the threat or use of force, abduction, fraud, deception, abuse of power, or of the giving of money or benefits to achieve the consent of a person having control over another person in allowing the offender to exploit the person under his control; or (2) procuring, buying, selling, vending, bringing from or sending to, detaining or confining, harboring, or receiving a child; is guilty of trafficking in persons.

Anti-Human Trafficking Act B.E. 2551 establishes that anyone who procures, buys, sells, vends, brings from or send to, detains or confines, harbors, or receives any person by means of threat or use of force, abduction, fraud, deception, abuse of power, or of the giving money or benefits to achieve the consent of a person having control over another person in allowing the offender to exploit the person under his control is guilty of trafficking. The Act does not require the means of threat or use of force if the trafficked person is a child, defined as anyone less than eighteen years of age.

If the human trafficking offense is committed against a child whose age is below eighteen years, the offender shall be liable to a severe punishment.

Offense	Penalty Ranges
Trafficking in persons	Imprisonment from 4 to 10 years + 80,000 – 200,000 Baht81
Offense of trafficking in persons committed against a child whose age exceeds 15 years, but has not yet reached 18 years	Imprisonment from 6 to 12 years + 120,000 – 240,000 Baht82
Offense of trafficking persons committed against a child not over 15 years of age	Imprisonment from 8 to 15 years +160,000 – 300,000 Baht83

System of Criminal Procedure

The process of adjudication is typically either adversarial (also called accusatorial) or inquisitorial in nature (Na Nakorn, K, 2540, p.55). Both systems have the finding of truth as a fundamental aim, and each is guided by the principle that the guilty should be punished and the innocent left alone. The differences between the two are in their assumptions about the best way to find the truth.

The adversarial system is based on the opposing sides acting as adversaries who compete to convince the judge and jury that their version of the facts is the most convincing. The lawyers are given free choice in terms of which issues are presented, what evidence to adduce in support of their admissions, and what witnesses to call. The judge presides over the trial and rules on disputed issues of procedure and evidence, asking questions of the witness only to clarify evidence. It is not open to the judge in an adversarial system to inquire beyond the facts and evidence that are presented by the opposing lawyers; his role is largely passive.

This differs dramatically to the role of the judge in an inquisitorial system which is based, as the name suggests, on an inquiry into the case, thus, the judge is not limited to hearing the submissions of the parties but can direct the lawyers to address specific points or to call particular witnesses. The title of the presiding judge as '*juge d'instruction*' which translates as 'investigating magistrate' in the French criminal justice system gives in indication of the role of the judge in directing proceedings. Unlike the adversarial system, the role of the inquisitorial system is not to determine guilt or innocence of one particular person but to find the truth. As such, the judge, as investigating magistrate, conducts an inquiry that involves the questioning of witnesses and suspects, the issue of search warrants and an examination of the evidence with the aim of discovering both incriminating and exculpatory evidence. The prosecution and defense lawyers will keep a close eye on the judge's investigation and can request that he considers specific evidence or takes a particular course of action, but the ultimate responsibility

for the line of inquiry remains that of the judge. If, at the conclusion of the investigation, the judge decides that there is a case against a particular suspect, the matter will proceed to trial which will take an adversarial format (Janet Ainsworth, 2015, pp.1-11).

Weight of Evidence

One of the most fundamental theories in criminal cases is that the accused would be deemed to have committed any offense and be convicted only if there is sufficient evidence and the plaintiff can prove such offense beyond reasonable doubt. This standard of proof, outlined in Section 227 of the Criminal Procedure Code, requires two critical elements for the plaintiff to satisfy the court: sufficient weight of evidence, and proof beyond reasonable doubt.

Most criminal offenses must be proven "beyond reasonable doubt". Coupled with the presumption of innocence, this is a very high standard for the prosecution to prove. These criminal law procedures were created intentionally because the legal system is founded on the idea that it is better to let a guilty man go free than convict an innocent man.

The example below is a criminal case that was dismissed on the basis of Section 227.

In Supreme Court Judgment case number 13/2007, the defendant operated a rental service for use of computers and internet at the rate of B20 ($0.60) an hour. The plaintiff's unauthorized computer game Ragnarok Online was found on 13 computers, but no verifiable information existed as to who installed the program. During the proceeding, the plaintiff was not able to prove whether the computer program Ragnarok Online was installed temporarily or permanently, nor could the plaintiff prove the exact date of the program's first installation. In addition, the plaintiff had no evidence to prove that the B20 fee collected by the defendant from his customers was specifically the rate for renting the Ragnarok Online game. The Supreme Court dismissed the case based on the fact that there was insufficient proof that a copyright offence had occurred. The Court also deemed that the B20 fee was merely the rate for using the computer and internet in general. In light of this, reasonable doubt existed as to whether the defendant provided rental service of the computer program Ragnarok Online in the course of trade, which would qualify as an offence under the Copyright Act. The Court therefore ruled that the defendant did not infringe the plaintiff's copyrighted game.

Forensic evidence

"Forensic evidence" has been defined as the application of scientific or technical practices to the recognition, collection, analysis, and interpretation of evidence for criminal and civil law or regulatory issues (National Commission on Forensic Science, 2015). Investigators may use ballistics, blood tests, or DNA testing as forensic evidence. The importance of forensic evidence in court is that science is objective. It doesn't lie.

Historically, forensic science has been used primarily in two phases of the criminal-justice process: (1) investigation, which seeks to identify the likely perpetrator of a crime, and (2) prosecution, which seeks to prove the guilt of a defendant beyond a reasonable doubt. In recent years, forensic science—particularly DNA analysis—has also come into wide use for challenging past convictions (Executive Office of the President President's Council of Advisors on Science and Technology, 2016).

A judge is more likely to find favor with the side that presents compelling forensic evidence to prove a party's guilt or innocence. However, forensic anthropologists report only an estimated age interval.

For example, during the proceeding, there is no evidence or an array of circumstantial evidence to prove the victim's age, so the plaintiff proposes a forensic anthropologist report, attesting that the victim is about 15–18 years old at the time of the examination. In light of this, a reasonable doubt existed as to whether the victim is child (18 years and above) or not. The presumption of innocence refers to the procedural rule that places the burden of proof on the state or plaintiff to prove all elements of the crime beyond reasonable doubt. Here, the state or plaintiff fails to do so, then the presumption of innocence mandates that the defendant be found not guilty on the child victim, so the court dismisses the case, or the defendant shall be liable to mild punishment because of the admissibility that the offense is committed against an adult.

Criminal Liability Presumption

Presumption means a rule of law which permits a court to assume a fact is true until such time as there is a preponderance (greater weight) of evidence which disproves or outweighs (rebuts) the presumption. Each presumption is based upon a particular set of apparent facts paired with established laws, logic, reasoning, or individual rights (legal-dictionary, 2018).

Presumption is one of the methods of the cognition of the objective reality. It is often used when there is a need to act, and draw conclusions about certain facts under scant

conditions, or when the level of cognition (knowledge) is limited, i.e. when there is a need to overcome a particular uncertainty (Mendonca, D., 1998, pp.399-400).

Presumptions can be rebuttable or irrebuttable. A party can disprove a rebuttable presumption. The prosecution can rebut the presumption of innocence with evidence proving beyond reasonable doubt that the defendant is guilty. An irrebuttable presumption is irrefutable and cannot be disproved. In some jurisdictions, it is an irrebuttable presumption that children under the age of seven are incapable of forming criminal intent. Thus, in these jurisdictions children under the age of seven cannot be criminally prosecuted (although they may be subject to a juvenile adjudication proceeding).

Two very basic issues are often discussed under the rubric of who should bear the burdens of production and persuasion and whether the burdens have been satisfied. The first is how decision-making power should be distributed between the judge and the jury, and the second is what the content of the underlying substantive law should be. Understanding the changing constitutional law of presumptions requires understanding how the two burdens of proof work and how two evidentiary devices, presumptions and inferences, may affect them. The party who bears the burden of production must produce enough evidence to satisfy that burden to get to the judge. If the evidence is insufficient, the judge will direct a verdict against that party. The party who bears the burden of persuasion will lose the case if the factfinder is not convinced of the correctness of that party's assertions (Leslie J. Harris, 2018, p.310).

The Situation of Child Victim in Substantive Law

The situation of child victim in Thai substantive law distinguishes in three contexts: age as an element of the offense, age as a sentencing factor, age as an objective element of the offense.

1. Age as an Element of the Crime

The age problem also arises when age is an element of the crime, so the state must prove the victim's or defendant's age beyond reasonable doubt. Minnesota's criminal code, for example, criminalizes statutory rape based on the victim's age: sex with a victim below thirteen-years-old is a criminal sexual conduct, even if the victim consents. Minnesota, however, classifies the degree of criminal sexual conduct based on the defendant's age. If the defendant is three years older than the victim, he commits first degree sexual conduct, and he must serve at least twelve years in jail. If the defendant is less than three years than the victim, he only commits a third degree sexual conduct, which carries no minimum sentence. Therefore, to ensure a minimum jail sentence for the defendant, the state must prove two age-specific

elements: (1) the victim is thirteen or younger; and (2) the defendant is at least three years older than the victim (Tingsapat, J., 2543, p.734).

2 Age as a Sentencing Factor

The age of the victim was an important factor in deciding the punishment. Indeed, this concept recommends higher sentences if aggravating circumstances - such as age of a victim – apply (Rodcheewee P., 2546, p.22).

The age problem arises in pronouncing a sentence when a court must determine whether it can sentence a defendant to severe punishment.

3. Age as an Objective Element of the Offense.

In the late nineteenth century, the relationship between knowledge of the existence of result-circumstances and foresight of results was considered by Oliver Wendell Holmes in The Common Law, which has had a profound effect on the law in England and elsewhere. In this work, Holmes discussed Stephen's well-known definition of "malice aforethought," the mental element in murder, which required "knowledge that the act which causes death will probably cause the death of, or grievous bodily harm to, some person. *..." Holmes pointed out that knowledge that the act will probably cause death is the same thing as foresight of the result of that act. He then observed: What is foresight of consequences? It is a picture of a future state of things called up by knowledge of the present state of things, the future being viewed as standing to the present in the relation of effect to cause. . . . If the known present state of things is such that the act done will very certainly cause death, and the probability is a matter of common knowledge, one who does the act, knowing the present state of things, is guilty of murder, and the law will not inquire whether he did actually foresee the consequences or not. The test of foresight is not what this very criminal foresaw, but what a man of reasonable prudence would have foreseen. The test of foresight of consequences (or results), according to Holmes, is objective (J. F. Stephen, 1950).

The Situation of Child Victim: Foreign Laws

United States

Statutory rape laws were enacted in the middle ages to protect the chastity of young women (M Oberman; R Delgado, 1996, pp.86-87). Some commentators believe they reflected the historical perception of women as property in need of special protection. Statutory rape laws were developed in America through the English common law. The age of consent was first set at age 10 and subsequently raised to 18 or 21(Connerton, 1997, p.252). Statutory rape was a strict liability offense, and it did not matter whether the man thought the girl was of age or not.

The courts have generally held that, in the absence of a statute to the contrary, it is no defense that the defendant believed in good faith that the female was above the age of consent or that he was misled by her appearance or her misrepresentations (65 Am Jur 2d 781).

The first successful use of the mistake-of-fact defense in a statutory rape case appears to have occurred in California in 1964 in *People v. Hernandez*, 393 P2d 673. The California Supreme Court ruled that the defendant's reasonable belief that the girl was 18, which was the age of consent in California at that time, was a defense, since this belief negated any criminal intent. (In fact, the girl in that case was three months less than 18) (Shelton C. Williams, 1964, pp.162-142).

In the aftermath of *Hernandez* several states adopted its ruling as law. Illinois and New Mexico both adopted statutes allowing mistake of age as a defense in statutory rape case, but they subsequently repealed them and today do not appear to allow the defense.

The Model Penal Code contains a specific provision allowing mistake as to age, if the child is older than age 10 (Model Penal Code § 213.6(1)). When the criminal conduct depends on the child being younger than 10, it is not a defense that the actor believed the child to be older than 10. No state has adopted the whole Model Penal Code as is, and we could locate no source that lists the states that have adopted this provision. Our attempts to search by computer were unsuccessful.

An ALR annotation on mistake as to age in statutory rape cases (46 ALR 5th 499 (1997)) says courts in 33 states have ruled that mistake as to the victim's age is not a defense to statutory rape (Alabama, Arizona, California, Colorado, Connecticut, Delaware, Florida, Hawaii, Idaho, Illinois, Indiana, Iowa, Louisiana, Maryland, Massachusetts, Michigan, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, South Dakota, Texas, Utah, Virginia, Washington, and Wisconsin). But this list appears inaccurate. In both California and Washington courts have ruled allowing the mistake-as-to-age defense.

In Indiana the courts ruled that the defendant's good faith belief that a girl was above the age of consent (age 14 in Indiana) based on her appearance and misrepresentation that she was 15 had no weight in the question of his guilt (*Heath v. State*, 173 Ind. 296 (1910). But an Indiana statute makes it "a defense that the accused person reasonably believed that the child was sixteen (16) years of age or older at the time of the conduct" (Ind. Code, § 35-42-4-3) (Washington and Lee Law Review. Volume 22. Issue 1, pp.119-125).

According to the ALR article, courts in Alaska, California, New Mexico, Oregon, and Washington have ruled that at least in some circumstances a mistake as to age can be a defense in a statutory rape charge.

United Kingdom

R v Prince (1875) LR 2 CCR 154

Absolute liability - Mens rea of abduction under the Offences Against the Person Act 1861

Facts: Henry Prince (H) was convicted under to section 55 of the Offences Against the Person Act 1861 of taking an unmarried girl under the age of 16 out of the possession of her father without the father's consent. The girl, Annie Phillips (A), was, in fact, 14 years old, however A had told H that she was 18, and H reasonably believed that was her age. The appellant appealed against his conviction.

Issue: Section 55 of the Offenses against the Person Act 1861 is silent as to the mens rea required for the offense. The issue in question was whether the court is required to read a mens rea requirement into a statute which is silent as to the mens rea for an offence, and therefore if H's reasonable belief was a defence to the offence under Section 55.

Held: Where a statute is silent as to the mens rea for an offense, the court is not bound to read a mens rearequirement into the statute. The offense was one of strict liability as to age, therefore a mens rea of knowledge of the girl's actual age was not required to establish the offense (Bonnie, R.J. e*t* al, 2004, p. 192).

The Situation of Child Victim in Thai Substantive Law

In Thailand, a victimized age is an element of crime and the courts have ruled allowing the mistake-as-to-age defense to statutory offense.

In a Supreme Court Judgement case number 5176/2538 (Supreme Court Judgement case number 5176/2538 Vol.12 p.103), it ruled that when a defense reasonably believed that the child was older than 18 years at the time of conduct was a defense to statutory rape, so the defendant is not guilty.

In Supreme Court Judgement case cumber 6405/2539 (Supreme Court Judgement case number 5176/2538 Vol.10 p.182), the Supreme Court held when defense believed in good faith that the victims were above the children age or that he was misled by their appearances or their misrepresentations.

General Conclusions

In conclusion this study synthesized the results obtained from a general view point taking into consideration the relevant aspects of the literature.

The Procedures for Human Trafficking Cases Act, B.E. 2559 (2016) change the judge's role in adversarial system, holding the balance between the contending parties without himself taking part in their disputations to an inquisitorial system which involves a preliminary investigation conducted as a means of seeking the truth. Thus, the judge should adjust to plays an expanded role in inquisitorial systems; the judge is the chief investigator with the aim to find the 'truth'.

One of the most fundamental theories in criminal cases is that the accused would have committed any offense, and be convicted only if there is sufficient evidence and the plaintiff can prove such offense beyond reasonable doubt. This standard of proof, outlined in Section 227 of the Criminal Procedure Code, requires two critical elements for the plaintiff to satisfy the court: sufficient weight of evidence, and proof beyond reasonable doubt.

In most cases, the trafficked children do not have documents that prove their legal status, and this becomes a primary reason for their vulnerability and statelessness. Without papers they are unable to access justice or demand rights. While the Anti-Human Trafficking Act B.E. 2551 states that if the human trafficking offense is committed against a child whose age is below than eighteen years, the offender shall be liable to a severe punishment.

When age is an element of the crime the state cannot circumvent the age problem by lowering the state's burden of proof. After all, the Due Process Clause in Criminal Procedure Code article 227 requires the state to prove each element of the crime beyond a reasonable doubt. The issue, then, is not whether the state must prove age beyond a reasonable doubt, but how the state can prove age beyond reasonable doubt. Specifically, what evidence may the state use to prove the victim's age?

The courts have not addressed how to determine a proper sentence when they do not know the victim's age. Forensic anthropologists, who use evidences in court, report only an estimated age interval. Moreover, considering the victimized age as an element of crime and allowing the mistake-as-to-age defense to statutory offense result that some trafficked children are not protected and justified by law. Thus, the victimized age should be considered as an objective element of child trafficking which does not depend on knowledge of the defendant.

In practice, it is difficult for the state to prove a victim's age beyond reasonable doubt because most of the trafficking victims do not have birth certificates from their governments. There is no array of circumstantial evidence to prove the victim's age, the victim's parents, and

the victims' identities cannot remember anything about their births. The state may rely on forensic anthropologists who report only an estimated age interval leading to a reasonable doubt. This allows the defendant to escape prosecution or the offender shall be liable to less punishment. Irrebuttable presumption in Anti-Human Trafficking Act B.E. 2551 is a measure which contributes to the advantageous position of state officials and plaintiffs in prosecution in order that the perpetrator can be punished more swiftly.

This study proposes a separate solution for each phase of the criminal justice process where age is relevant: (1) the office of the judiciary should conduct pilot court to demonstrate judge role in an inquisitorial system. (2) Anti-Human Trafficking Act B.E. 2551 should be stated "If the human trafficking offense is committed against a child whose age is below 18 years, the offender's knowledge of the child's actual age is not required to establish the offense."; (3) Adding the presumption to Anti-Human Trafficking Act B.E. 2551 stipulates that "If forensic anthropologists report the victim's age interval and the lowest age is under 18 years, the victim shall be assumed to be a legal child."

References

Thai Books

Anti-Human Trafficking Acts B.E 2551. (2008). Government Gazette 6 February 2551, Book 125 Episode 34 125 A.

Jaiharn, N. (1997). *Mistake of Exemption from Criminal Liability*. Master Degree Thesis. Faculty of Law: Thammasat University

Na Nakorn, K. (1997). *The Criminal Procedure: Principles of Irrelevant Laws and Practices*. Bangkok: Pimaksorn publishing.

Tingsapat, J. (2543). *Criminal Code Explanation Part 2 Section* . Bangkok: Thai Bar.

English Books

Bonnie, R.J. et al. (2004). *Criminal Law, Second Edition*. New York: Foundation Press, p. 192

Connerton. (1997). The Resurgence of the Marital Rape Exception. *Albany Law Review*. 1997(Vol. 61), p.252.

J. F. Stephen. (1950). A Digest of the Criminal Law 212 (L. F. Sturge 9th ed. 1950).

Leslie J. Harris. (1986). Constitutional Limits on Criminal Presumptions as an Expression of Changing Concepts of Fundamental Fairness. *Journal of Criminal Law and Criminology*. Volume 77. Issue 2, p.310.

Mendonca, D(1998). Presumptions. *Ratio Juris*. 1998 Vol.11 No.4, pp.399-412.

M Oberman (1996) R Delgado. Statutory Rape Laws. *ABA Journal*. :August 1996. Volume 82, pp. 86-87.Model Penal Code § 213.6(1)

Shelton C. Williams, 1964, *Montana Law Review*. Fall 1964. Volume 26 Issue 1, pp.162-142.

Washington and Lee Law Review. (1964). Volume 22 Issue 1, pp.119-125.