



Griffith Journal of
LAW & HUMAN DIGNITY

GRIFFITH JOURNAL OF
LAW & HUMAN DIGNITY

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Volume 6 Issue 1

2018

Published in August 2018, Gold Coast, Australia by the *Griffith Journal of Law & Human Dignity*

ISSN: 2203-3114

CONTENTS

THERESE WILSON	<i>THE PRIVATE PROVISION OF ESSENTIAL FINANCIAL SERVICES AND THE CORPORATE SOCIAL RESPONSIBILITIES OF BANKS AND INSURANCE COMPANIES</i>	1
JACOB DEBETS	<i>THE INTERNATIONALISATION OF AUSTRALIA'S HIGHER EDUCATION SYSTEM: TRADING AWAY HUMAN RIGHTS</i>	23
K ABRAHAM THOMAS	<i>AFFIRMATIVE ACTION IN PIERCING THE BAMBOO CEILING WITHIN THE AUSTRALIAN LEGAL PROFESSION — UTOPIAN IDEAL OR DYSTOPIAN NIGHTMARE?</i>	65
Dr ELISE KLEIN	<i>ECONOMIC RIGHTS AND A BASIC INCOME</i>	102
COLLEEN DAVIS	<i>PRE-PLANNED STARVATION AND ADVANCED DEMENTIA — IS THERE A CHOICE?</i>	116
JAKE BUCKINGHAM	<i>A CRITICAL ANALYSIS OF LEGAL REPRESENTATION IN QUEENSLAND'S MENTAL HEALTH REVIEW TRIBUNAL</i>	133
AIRDRE MATTNER	<i>RAPE IN SOUTH KOREA: BREAKING THE SILENCE</i>	161
Dr OLIVERA SIMIĆ & JEAN COLLINGS	<i>DEFINING RAPE IN WAR: CHALLENGES AND DILEMMAS</i>	184
MARK A DRUMBL	<i>THE KAPO ON FILM: TRAGIC PERPETRATORS AND IMPERFECT VICTIMS</i>	229
ELIZABETH ENGLEZOS	<i>AG-GAG LAWS IN AUSTRALIA: ACTIVISTS UNDER FIRE MAY NOT BE OUT OF THE WOODS YET</i>	272

RAPE IN SOUTH KOREA: BREAKING THE SILENCE

AIRDRE MATTNER*

This article is a personal recount of being drugged, abducted, and raped in a foreign country. The expectation after reporting this horrific experience to the police was that justice would be served, following a thorough, effective investigation. However, this was not to be, as this article indicates. Because of the systemic difficulties encountered, I resorted to taking on both the investigation of my case and the police themselves in my pursuit of justice, leading to significant and unprecedented outcomes.

CONTENTS

I	INTRODUCTION.....	162
II	FROM JAPAN TO SOUTH KOREA.....	162
III	DRUGGED, ABDUCTED, AND RAPED.....	164
IV	REPORTING MY RAPE IN SOUTH KOREA.....	166
V	THE CONTEXT OF RAPE IN SOUTH KOREA.....	167
VI	INVESTIGATION OF RAPE IN SOUTH KOREA.....	168
VII	HOPE FOR A PROSECUTION.....	169
VIII	BECOMING MY OWN LEGAL INVESTIGATOR.....	172
IX	THE LEGAL SYSTEM AND RAPE IN SOUTH KOREA.....	175
X	CREATING A PRECEDENT.....	180

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I INTRODUCTION

This article continues the efforts I have been undertaking to break the social silence of rape, especially in South Korea, and to enable women to make informed decisions in a context of respect. Based on first-hand experiences, this article argues for further reform of Chapter 12 of the South Korean Penal Code and the 1994 *Act on the Punishment of Sexual Assault Crimes and Protection of Victims*. I also argue for reform of the South Korean police's approach to rape cases based on my experience of events.

In September 2015, having just turned 25 years of age, I was carefree, adventurous, and independent. An avid traveller and qualified teacher, I had just moved from Adelaide, my home town in Australia, to Nagasaki in Japan to teach English there. I had fallen in love with Japan ever since visiting for the first time with my mother the year before and couldn't wait to explore both Japan and other countries in Asia. Living within a couple of hours of Fukuoka, I had easy access to neighbouring countries like China, Taiwan, and South Korea. It was during my first international holiday, since moving to Japan, that my life changed forever.

II FROM JAPAN TO SOUTH KOREA

Seoul, South Korea, immediately attracted me as a holiday destination. Taking less than ninety minutes from Fukuoka by plane, and costing less than A\$120, it was ideal for a quick, cheap getaway. Many other English teachers in Japan had visited cities like Seoul and Busan, so I had been given lots of recommendations for places to shop, eat, and sightsee. I had visions of a super high-tech metropolis, with K-Pop idols and famous cosmetic stores on every street corner. The reality was not too far off — I saw semi-famous K-Pop idols performing to screaming fans on a small stage near a shopping centre and certainly an abundance of skyscrapers, flashy lights, and cosmetic stores.

Initially, I went sightseeing with my boyfriend and a close friend. We visited Lotte World — one of the various theme parks in Seoul — shopped, took a cruise down the Han River at night, and went out for dinner together with some of my boyfriend's Korean friends. We had a blast, and both my boyfriend and my friend were disappointed to have to leave before I did to go back to work in Japan. Having a few extra days to myself, I had planned a multitude of things to do. I had travelled alone a few times before in other countries, so

the idea certainly did not worry me. On my first day alone, I shopped for make-up, visited quaint cafes, and spent hours wandering the grounds of Gyeongbokgung Palace, watching the guard performances, and taking photos.

I arrived back at my hostel that day (Friday 25 September) in the early evening. I had been told about a pub crawl, supposedly a great event to see some of Seoul's nightlife in a safe group environment and an opportunity to meet many other travellers. Both my friend and boyfriend were a little concerned (safety-wise) about me going out alone but agreed that it seemed like a wise idea to join a group such as this, as opposed to going solo. I was not too worried as I had heard, and assumed, that Seoul was a safe, tourist-friendly city.

On my way to the first bar during the pub crawl, at around 8:30pm, I was looking forward to meeting some other travellers and having a couple of drinks after a long day of exploring the city. After some initial confusion, I found the bar down a side street near a park. I paid the pub-crawl organiser, received my pub-crawl wristband, and was introduced to a couple of other Australians, as well as two female expatriates who lived locally — one from America and one from the United Kingdom ('UK').

By the time we got to the second bar, a slightly larger venue, the number of pub crawlers had easily tripled, and we were certainly filling the space. I was having a great time, talking and laughing with my new friends while enjoying the music.

The third stop was a playground and park space. The pub-crawl organisers passed around what I was told was 'Soju', an extremely strong Korean liquor similar to vodka. Participants were drinking it from cups or in some cases straight from bottles. I had drunk a couple of drinks by that point, purchased at the first two bars we had been at, and was not interested in partaking in this Soju drinking. I had no desire to be intoxicated (though many others were already) and instead decided to wait until the next bar to buy one or two more drinks there. I watched and laughed at my new friends making faces of disgust as they drunk the straight Soju and chatted to other pub crawlers.

After initially lining up for fifteen or so minutes, we finally made it in to the third venue of the night. It was less of a bar and more like a small club. Our pub-crawl group changed from being relatively quiet to just about bursting at the seams. Trying to get to the bar to get a drink was a mission in itself due to the sheer volume of people, so I was quickly

separated from the friends I had made earlier. Instead, I was striking up a conversation with the girls who were lining up to get a drink next to me. There were three or four of them, all Korean, who spoke very good English. We chatted about life in Japan versus life in South Korea, each bought a drink, and then danced for a while. This is the last clear memory that I have of being there.

III DRUGGED, ABDUCTED, AND RAPED

The next thing I remember is being in the back of a taxi. I was violently ill, throwing up everywhere, and could barely hold my head up. I knew immediately that something was very wrong as I had not drunk anywhere near enough to be in that kind of state. There was a man next to me in the back of the taxi, on my left side. He was giving instructions to the taxi driver about where to go. As I was slipping in and out of consciousness, I mustered all the will and energy I had left, managed to get my phone out and find the address of my hostel, then showed it to the taxi driver. I begged him to take me there. The man next to me immediately grabbed my phone, held onto it, and told the taxi driver to go somewhere else.

The next memory I have is of being completely naked, in a hotel room, with the man from the taxi on top of me and trying to force himself inside me. Again, I felt extremely nauseous and dizzy, and struggled to hold my head up and keep my eyes open. I tried to push him away and then blacked out again.

When I finally regained consciousness the next morning, it was around 10:40am. I found myself naked, on the bed in the hotel room. I still felt extremely dizzy and weak. My immediate fear was that there was still someone else in the room somewhere. I managed to crawl off the bed and saw that my white dress was lying in one corner of the room, ripped open, and my blood-stained underwear was in the other corner. The bloody tampon that had been inside me was now discarded on the floor. I pulled my dress on, but it gaped terribly in the front from having all the buttons ripped off. I found my bag on the floor and noticed that my phone was in it. After having had my phone taken from me by the man in the taxi, I had assumed I would never see it again.

I quickly checked the bathroom. Nobody appeared to be in the room. Shaking and in total shock, I managed to pull my shoes on. I opened the door to the room and started

stumbling down the corridor, but after a few steps I realised my dress was on inside out. I stumbled back into the room, corrected it, and again started down the corridor, trying to hold the dress closed. As I was leaving I noted the room number so that I could inform the police.

Walking from the hotel room to the street, I did not encounter a single staff member nor anything that looked like a reception. The only person I saw was a lady out on the street collecting some trash. She looked like a cleaning lady and did not notice me.

The tears started randomly and uncontrollably, in floods, as I ran down the street. The adrenaline of the obvious “flight” response I was experiencing was the only thing propelling my body forward. Two Caucasian men stood a little further down the street on the left, drinking. One called out to me: ‘Are you ok?’ I obviously looked like I was in quite a state. He walked over to me and looked me up and down worriedly. I told him ‘no’ in between sobs and asked him where we were. ‘Itaewon’ was the response. I thanked him and ran off down the road. At the T-junction at the end of the street, I saw a taxi. I waved it down, collapsed inside, and gave the driver the name and address of the hostel where I was staying. I soon realised that I did not have any money to pay for the taxi, as the man had taken it from my bag. I called my friend (the one who I had been travelling with earlier) and managed to stammer an explanation of the situation in between sobs. At this point, the taxi driver passed me some tissues. My friend was understandably shocked and upset. He told me to phone the hostel and tell them what had happened. I did so, and the man who answered the phone told me that the lady who owned the hostel would pay for the taxi for me.

After what felt like hours, we finally arrived at the hostel. I asked the taxi driver to wait a moment and ran in to the reception, collapsing into the arms of the woman who was waiting there. She guided me to a chair and went out to pay for the taxi. When she returned, she took me to one of the private single-person rooms at the hostel, so I could lie down. Despite still feeling extremely weak and dizzy, I could not rest. My mind was still racing as I was still in shock. I phoned my boyfriend and my friend again; my boyfriend called one of his Korean friends to come and see me at the hostel. Both my boyfriend and my friend were extremely distressed and felt terrible for having let me stay on my own. However, I was adamant that it was not their fault whatsoever; it had been

entirely my own decision. I obviously had no clue things would happen in the way that they did.

IV REPORTING MY RAPE IN SOUTH KOREA

The woman from the hostel took me to a hospital. From there, we were re-directed and finally made it to the “One-Stop” hospital that would later “treat me”, “collect evidence”, and take my statement. Despite being a designated unit for sexual assault victims, it seemed quite disorganised. Initially, the hostel owner and my boyfriend’s friend explained the situation, specifying that I believed I had been drugged and raped. None of the staff spoke any English, so a volunteer translator was called to assist. When she eventually arrived, the police officer in charge briefly asked a few further questions via the translator. We were then told to wait for quite some time so that a rape kit could be obtained, as I had made it clear that I wished to formally complete this process and make a report. During an subsequent interview, the officer acknowledged that she was not trained to fulfil the role that she had undertaken during this whole process, as the woman who should have completed this was already busy with another sexual assault victim. This officer then sent me to an adjoining room, where I was told to sit in a chair. My legs were put in stirrups and a curtain shielded my body from my view. The translator was not permitted to enter this room or be present during this process, and neither of the women examining me and collecting evidence said anything to me. From what I could feel, I was very briefly scraped, swabbed, and prodded in and around my genitals and chest area. Despite telling the officer (via the translator) that my anus was very sore and I believed I had also been anally raped, I later discovered that no evidence or photographs were ever taken of this area.

After these procedures, I was taken into a separate room to be interviewed and to give my report to the police officer. My boyfriend’s friend was allowed to sit in the corner of the room for moral support but was not allowed to speak or interact with me. As soon as we began, I gave a detailed description of the man, as well as the full schedule of the pub crawl I had been on (which showed each bar and the times they were visited) and the contact details of the organiser. However, throughout the whole interview I felt like I was the criminal — that I had committed a crime and must be interrogated and was treated accordingly. I was asked numerous times to describe what I was wearing — the length of

my dress, how much skin I had exposed. I was asked numerous times how much alcohol I had drunk and how much alcohol I usually drank — daily, weekly, monthly. In their 2016 paper, Shaw et al support this view of alcohol being an influencing factor for general police mentality, finding that ‘cases in which the victim used drugs or alcohol during or prior to the assault’ were ‘less likely to have their cases classified as rape, a suspect identified or arrested, and be referred to the prosecutor’ and thus ‘more likely to be deemed unfounded’.¹ This serves as a protection for the patriarchy and ideology that men are not to blame for their behaviour in cases of sexual assault, nor are they responsible for their actions; instead the fault lies with the woman for drinking too much, wearing too little, or letting herself get into that kind of situation.

V THE CONTEXT OF RAPE IN SOUTH KOREA

I later found out that this kind of repeated questioning was horrifyingly common in rape cases in South Korea with Fielder, a Professor of Law at Wonkwang University, stating that ‘if a woman was wearing a short skirt or a low cut blouse prior to the attack she will be blamed for having “lit a fire” that a man cannot control and the result of which he cannot be blamed for’.² This observation reinforces the notion of victim blaming which is supported by the societal belief that women, who are believed to be scantily clad, are “asking for it” and deserve any kind of assault they become victims of.

More shocking still in South Korea is the ‘oft cited concept that rape is merely a man’s mistake that should be forgiven’.³ The perception of rape as being both forgivable and commonplace does nothing but trivialise and dismiss this as a crime in South Korea. The combination of these factors results in fewer rapes being reported or prosecuted lightly, if at all, and cases most commonly settled with the victim being pressured by both the legal system and the rapist/their family to accept a ‘monetary settlement ... effectively in return for services rendered’.⁴ One such example is a case in 2013 where, ‘despite the man’s confession, the woman [said] a police officer tried dissuading her from pressing charges’, with the officer stating ‘he would only spend six months in jail ... He was drunk

¹ Jessica Shaw, Rebecca Campbell and Debi Cain, ‘The View from Inside the System: How Police Explain Their Response to Sexual Assault’ (2016) 58 (3–4) *American Journal of Community Psychology* 446, 448.

² Daniel Fielder, ‘Redefining Rape in South Korea’, *Korea Herald* (online), 24 April 2012 <<http://www.koreaherald.com/view.php?ud=20120424001151>>.

³ *Ibid.*

⁴ *Ibid.*

and won't do it again'.⁵ This example provides an insight into South Korean society, which has a history rooted in Confucianism that esteems men and devalues women.⁶

At one point after the physical examination, an officer pointedly asked during interrogation: 'How do you even know you were raped when you don't accurately remember the moment of penetration?' I stared at her in disbelief, before slumping over the interview table in total exhaustion and desperation, an intravenous drip still attached to my arm.

VI INVESTIGATION OF RAPE IN SOUTH KOREA

Around twelve hours later, after multiple trips between the police and hospital sections of the building, I eventually made it back to my hostel. The owner led me back to the private room I had been in earlier, but I told her I was too frightened to sleep alone. I went back to my bed in the female dormitory I had been in previously and collapsed quickly, weak with fatigue now that the adrenaline that had flooded me had well and truly left my body.

The next day, I was awoken by some of the other girls in the room chatting. They were discussing their plans for the evening. One suggested a club she had heard was good. I pulled the privacy curtain on the bunk back and looked out at them. Noticing that I had awoken, one of the girls stared at me with concern. I realised it was Sunday, and I was still wearing the remains of the make-up on from preceding night — now smudged and tear-stained. I still had my hospital band around my wrist. 'Are you okay?' she asked me. 'Not really,' I mumbled truthfully. 'Look out for each other tonight.' I pulled the curtain back across the bed and slipped into sleep again. Sometime later, I awoke again and checked my phone. I immediately realised it was almost evening and I had a number of messages from the friends I had informed about the situation, including my boyfriend, who were all worried sick. I replied to them and then noticed that one of my notifications was a friend request. Despite the fact that the profile picture accompanying this request

⁵ Jason Strother, 'South Korea Struggles to Confront Stigma of Sexual Assaults', *Wall Street Journal* (online), 25 October 2013 <<https://www.wsj.com/articles/south-korea-struggles-to-confront-stigma-of-sexual-assaults-1382601988?tesla=y>>.

⁶ Kyungja Jung, 'Practising Feminism in South Korea: The Issue of Sexual Violence and the Women's Movement' (2003) 29(2) *Hecate* 261; Judy Postmus and Sur Ah Hahn, 'Comparing the Policy Response to Violence against Women in the USA and South Korea' (2007) 50(6) *International Social Work* 770.

was very small, I immediately recognised the face. It was the man who had raped me.

Adrenaline surged through me for the second time in as many days, and I lurched out of bed and down to reception to tell the hostel owner. I was shaking and stammering so much that I could barely get the words out. 'That's *him*', I told her, wide eyed and breathless. She immediately phoned the police and told them what had happened. They instructed her to tell me to email them screenshots of the request and of his profile. I immediately did so, using the email address of the female police officer who had interviewed me — the one point of contact they had given me for all matters concerning my case. I could not believe it. Why would he do this? Who would be so brazen? It made no sense to me. I realised with terror that he had probably found out a lot of information about me when he took my phone off me in the taxi. I wondered if he would try to find me, to come after me again. Later I realised that this tactic — adding the victim on Facebook or contacting them after the offence — was often used for two main reasons: either to send a threatening message to them (I know who you are, do not try anything stupid) or to make it appear as though there was a relationship between the victim and attacker (thus making the act appear consensual).

Despite my shock and disbelief, a tiny sense of relief came over me. Surely this would be enough to identify the man, catch him, prosecute him, and lock him up. Again, my assumption could not have been further from the reality of what was to come.

VII HOPE FOR A PROSECUTION

The next day, I boarded the plane to fly back to Japan. Despite travelling all my life, I have never been a good flier. I always felt a sense of fear whenever I flew, despite how irrational I knew it was. This journey was no exception. The flight was turbulent from start to finish. Any adrenaline my body was able to produce, for a third time, surged through me. I became absolutely convinced that the plane was going to go down. I grabbed the Valium tablets I had been given by the hospital staff to help calm me down and immediately swallowed a few of them. Just as I was considered finishing the rest of them off to try to make myself completely unaware of what I perceived as being my unavoidable death, the lady sitting next to me told me encouragingly in Japanese, 'It's okay, don't worry!' I grabbed her hand and held it tight to try to keep myself from finishing the rest of the tablets. I did not let go until the plane landed. That woman will

never know how much she helped me, in a moment of pure terror.

My boyfriend was waiting for me at the airport, his face ashen. By this stage, I was well and truly feeling the effects of having self-medicated during the flight and was having trouble walking. He led me to his car, without a word, and drove me home. We sat in silence the whole way, his hand on mine. Every so often he would glance over at me. I stared out the window. The normally two-hour drive felt like five minutes, a total blur. For the next week, he only left my side to go to work. Had he not been there, I probably would not have eaten, washed, or even left my bed at all. I survived on a cocktail of medications I had been prescribed by a local psychiatrist — high dosages of anti-depressants, anti-anxiety, and sleeping tablets. The psychiatrist did not speak a word of English, and there was no mental health facility in the city that had English-speaking staff, so my work supervisor had to relay everything to her. It was only recently, nearly two years later, that I found out I had been prescribed, and was taking (for my severe insomnia and night terrors), the very substance I was more than likely drugged with on the night I was raped — Rohypnol. To say this was a horrific shock is an understatement.

On 29 September 2015, I informed the Australian embassy in Seoul about what had happened. I told them I had still not received any of my medical results nor heard from the South Korean police since they had confirmed receiving the screenshots I had sent them. They advised me to wait the period of time suggested by police (two weeks) and if I had not received anything by then, to contact them again. Despite waiting and sending multiple emails to the police officer, I heard nothing. I became convinced that the reason I had still not received my medical records was because they discovered I had contracted AIDS or some other terrible STD. Paranoia took over. I was forced to provide the embassy with Power of Attorney documents in order for them to obtain the results on my behalf. When I finally received my medical results, weeks later on 21 October 2015, I was faced with a number of devastating realisations. The first was that the documentation indicated I had not been treated for any potential Sexually Transmitted Infections ('STIs'). To this day I still do not know why; when I met the hospital staff in person, there was no explanation. Thankfully, I was subsequently able to determine that I did not have any.

The second realisation was that parts of the report had been left blank with no explanation given for this. The third realisation was that some of the report's content was

incorrect. It stated I had told staff that I had drunk too much, became unconscious, and did not remember anything about what had happened. It also stated that I had answered 'no' to multiple questions that staff had not asked me, such as whether I had urinated and whether I had brushed my teeth. Had they asked, I would have been able to accurately answer each and every one of these questions. Finally, I realised they had not attempted to collect any evidence from my mouth, hair, or nails. When I later questioned the officer in person as to why she had not done this, she stated that 'there was no struggle' and 'we decided it wasn't necessary'. This was despite my clear emphasis of the fact that I had fought against the attacker and tried to push him off me.

Further, there was no record of any DNA having been successfully collected. The results of my blood alcohol content conclusively showed that I could not have been drunk enough to have become unconscious — supporting my claim that I had been drugged. Nowhere on this documentation was it stated that staff had done any kind of testing for rape drugs. To this day, I have still not been provided with any proof that this testing took place, despite the South Korean police's claims that it had taken place and that the results were negative.

On 6 October 2015, the police were informed by immigration that the man, who I had identified and sent screenshots of, had been in Korea from 1 to 29 September for a business conference. However, they told me on 11 October, via the embassy, that immigration records showed the man was NOT in the country at the time of the attack. I still do not have any explanation from them as to why they said this, other than that it was a 'mistake' and an 'error in translation'. Despite securing CCTV footage from the motel I told them I was taken to, it seemed as though the police did little to nothing more to investigate my case.

On 18 January 2016, the consulate informed me via email that there had been 'several new developments' in my case. I genuinely believed that these new developments would be the first positive news I had heard in months regarding my case. I naively started to think that perhaps they had even arrested the man. These new developments turned out to be: 'The police have decided, unfortunately, to close the case and marked [sic] as unsolved'. After months of waiting and hoping, I was convinced that the police were definitely not on my side in this case.

My whole life I had been of the belief, and expectation, that police had the victims' interests at heart in prosecuting crime, that they cared and would do everything within their power to "catch the bad guys" and make sure justice was served. However, the realisation that, at least in my case, this did not seem to be the reality was earth-shattering. I felt an immense sense of despair, unlike anything I had felt before in my life.

On 4 February 2016, the embassy confirmed that the South Korean police had never attempted to investigate or obtain any CCTV footage from the last bar I had been at before being abducted. The police's explanation later was that it was not part of my statement and had not been raised by me in the interview. This, of course, was incorrect (as evidenced in my police statement). Due to the time that had passed, that footage was now lost forever. It was then that I realised that nothing was going to change unless I took matters into my own hands.

VIII BECOMING MY OWN LEGAL INVESTIGATOR

I became a super sleuth. I obsessively devoted hours and hours to finding every tiny piece of information I could about the man I knew had raped me. I quickly discovered that he had two Facebook profiles — the one he used to try to add me, consisting of a small number of exclusively female friends (many of whom appeared to be sex workers), and his primary account, where his friends included both males and females as well as members of his family. His secondary account had him listed as living in Qatar, while his primary account stated that he resided in London. One day, I eventually stumbled upon a shocking fact — this man worked for the UK police. He was listed as a Police Community Support Officer for one of the boroughs in London. I believe, to this day, that this may have been an influencing factor in the handling of his case and the discrepant information regarding his immigration dates. This thought spurred me into action.

On 15 March 2016, I made a decision I had considered very seriously: to go public with my case. After encouragement from friends and family, I published a GoFundMe in an attempt to raise money for my medical, legal, and recovery-related expenses. I did not want to burden my family with these costs and knew that, in order for anything to change regarding my case, I was going to need a lawyer. I also wanted to spread awareness of the prevalence of sexual-related crimes in South Korea and the way they were being dealt with. I never anticipated the enormity of the response that would be generated from this

one decision, and I truly believe this completely changed the course of my experience.

My campaign spread incredibly quickly and soon attracted the attention of newspapers, magazines, and television programs. It snowballed and ended up making international news when the BBC published an article about it.⁷ This international attention eventually reached the South Korean police. On 31 March 2016, the South Korean police released a statement through a Korean news source that seemed to be designed to both discredit me and clear them of any wrongdoing. They stated that they had collected DNA evidence (despite never informing me or the embassy of this and not providing any evidence of having done so to this day), that the DNA evidence was not listed in their database, that I did not remember when or where I was raped (incorrect), and that I had only specified that it was a black male (also incorrect). They stated that drug tests were negative (to date, no evidence has been provided of this), that they did not, and could not, have asked any insensitive questions as I had a friend present (which did not even make sense), and that the man I had identified was an entrepreneur from Nigeria who visited South Korea to attend a conference in Busan. This had never been acknowledged to the embassy or me, and in fact, as mentioned earlier, the police previously stated that he was not in the country at the time and therefore did not believe he was a suspect. They said that they had compared the CCTV with this man which confirmed he was not a suspect; however, they have never provided any concrete proof of this claim whatsoever despite repeated requests.

The South Korean police then stated that for a more definite result, they asked for a DNA sample of this man from the Korean embassy in Nigeria. To this day, this has never been communicated or explained to me or the Australian embassy, and despite repeated requests, no evidence or documentation has been provided. The police stated that they were 'investigating the shop owners' in the area and believed they would be able to 'specify the suspect and arrest him soon'. This was a huge and sudden revelation to make.

As news of my case gained further attention internationally, the South Korean police resorted to extreme and bizarre measures. On 1 April 2016, they posted a letter addressed to me on their public Facebook page. This letter contained statements such as:

⁷ Royce Kurlmelovs, 'Public Battle over S Korea Rape Claim', *BBC News* (online), 4 April 2016 <<http://www.bbc.com/news/world-australia-35931431>>.

that they needed to “clarify facts”, that someone took me to a hotel where I got ‘addicted by drug’, that someone ‘got you drugs’ but there was no evidence of ‘drug addiction’, that there was ‘no insulting question’ during the interview, and that ‘we the Korea Police are doing our best’ and ‘we wish your best luck’. I was incredulous. The post was slammed by hundreds of Facebook users — both expatriates and Korean nationals — who were enraged about the police’s behaviour, their willingness to post confidential information about an ongoing case on Facebook, and their suggestion that I was a drug addict. How could a police organisation condone such unprofessionalism?

Through this attempt to minimise the negative publicity they were getting, the police had literally “shot themselves in the foot”. I had never named the specific police agency, and yet in doing this they outed themselves as being the one responsible. Following on from this, the police continually attempted to engage with me publicly, by posting comments on my GoFundMe campaign website and directing me to their Facebook post. When the onslaught of negativity refused to cease, and they realised that I was not going to indulge their desire for a public stand off, they posted again. This time they stated, ‘We do apologize [for] the fact that we caused some unintended troubles [sic]’ and that they had deleted the previous post.

It was at this point that things began to precipitously progress. The pub-crawl organiser informed me that the police had been in contact for the first time, and then suddenly and without warning, on 20 April 2016, the police contacted me personally via email. Despite being ordered to only make contact with me via the Australian embassy, they disregarded this on multiple occasions (twice on Facebook and this time via email). Their email contained photos taken from the CCTV footage in the motel where I was raped, showing me being led by not one but two men. This was the first time I had become aware that there were multiple men involved. Despite the email stating that they had arrested both men, they later acknowledged that this was also a “mistake” and an “error in translation”, as they had only arrested one of them. I was at work when I received the email from the South Korean Police with the photos attached, and my supervisor had to remove me from my work place as I went into shock, instigating a panic attack caused by this shocking revelation.

In May 2016, I flew to Seoul in South Korea with my mother to meet with police, hospital,

and embassy staff. The meetings lasted for more than six hours and it was an intensely draining and traumatic day. The hospital staff seemed to blame the police. The police seemed to blame the hospital staff and me. The police stated that the man they had arrested on 17 April was being charged with 'semi-specialised rape' In South Korean law, this was categorised as "semi-rape" as I was 'unconscious and therefore unable to provide consent' and "specialised" due to the involvement of multiple men, the robbery, and other factors.⁸

Police stated that the arrested man's DNA had been a match to that found on my breast. Despite this, the man was charged with "semi sexual harassment" instead. The police stated that he was an illegal immigrant whom they had discovered when they found a man with a 'similar walk' in Itaewon and followed him. The police stated that he was running away but that they enlisted help from another police department and caught up with him, questioned him, and asked for his ID which he said he did not have. They said he then ran away again, at which point they caught him after a 'physical conflict' wherein one of the officers was 'physically injured'.

During the meetings my mother and I attended, police staff frequently yawned, appeared to be sleeping or disinterested, laughed, took phone calls, and repeatedly left the room with no explanation. It seemed as though they were placing blame not only on me but also on the media, the embassy, the hospital, and their translator. The police refused to accept any responsibility for their actions (or lack thereof) or my consequent suffering. I asked them multiple times if they thought there was anything they needed to apologise for. They stated definitively that they did not want to make any apologies for their actions. Indeed, they clarified the "apology" on Facebook, making sure I understood that it was definitely not addressed or intended for me but instead intended for the public to rectify any "misunderstandings". I was physically triggered again when they showed the CCTV footage during the meetings and had to leave to vomit. In my absence, my mother watched them laugh.

IX THE LEGAL SYSTEM AND RAPE IN SOUTH KOREA

I discovered, contrary to my assumptions, that victims in South Korea needed to have

⁸ Claire Lee, 'Korea's Rape Laws Self-Contradict', *Korea Herald* (online), 27 April 2015 <<http://www.koreaherald.com/view.php?ud=20150427001282>>.

their own legal representation in order to ensure the legal process takes place and occurs appropriately; I had thought only the accused needed a lawyer. We had great trouble even securing a lawyer, trying in Australia and England, as most Korean lawyers did not want to be part of such a highly controversial case.

Months later in 2016, trial proceedings in the prosecution's case against the accused finally came to an end. This was after multiple delays, such as the judge ordering the DNA evidence taken from the accused to be redone (in the final stages of the trial). As the police did not inform the man of his rights before taking this evidence, it was deemed to have been unlawfully collected by the police. Honestly, what hope is there when the police are the ones breaking the law?

The process of the trial involved a number of opinion letters submitted by my lawyer, a young Korean woman, to the Prosecutor. I had to travel to South Korea again to meet with the Prosecutor. The final verdict, as the only evidence that could be used was DNA in the form of saliva found on my breast, was "semi forcible sexual harassment". The accused, a 37-year-old Nigerian, who had been living illegally in South Korea, was sentenced to 2 years and 6 months in prison 'on charges of quasi indecent act by compulsion and negligent injury, among other offenses'.⁹ This result was widely reported as being a very rare and profound victory, and an unprecedented sentence for this type of charge. On a worldwide scale, Shaw et al discuss how 'only a tiny handful of rapists ever serve time for rape, a shocking outcome given that we view rape as close kin to murder in the taxonomy of violent crime'.¹⁰ This is ultimately a lens I used when processing the above result in my case; I was torn between being furious that it had not been given anywhere near the same weight or sentencing as a crime such as murder would have, but at the same time amazed that I had achieved a sentence involving jail time at all, given the refusal to even classify the crime as rape.

This result, however, is something that I hope will enable better recognition and sentencing for both sexual assault and rape in South Korea. I wholeheartedly believe that this result eventuated because of all the media attention that my case generated. Fielder similarly states that currently in South Korea, the only factor that brings justice to cases

⁹ Ock Hyun-ju, 'Man Convicted of Sexual Assault after Australian Victim's Campaign', *Korea Herald* (online), 2 November 2016 <<http://www.koreaherald.com/view.php?ud=20161103000663>>.

¹⁰ Shaw, Campbell and Cain, above n 1, 449.

is the 'minor celebrity status' of victims and a media presence causing public uproar.¹¹ This is also supported by prominent New York attorney, Sean Hayes, who stated that many judges see cases as being 'political statements' and are often swayed and influenced by politics.¹² I believe this concept manifested in my case as the police seemed to be spurred into action by the widespread local and international media attention my case was receiving. Similarly, the prosecutor, when I met with him, informed me that he had "accidentally" seen my story on 60 Minutes,¹³ something that is very unlikely to happen by accident as the story only screened in Australia.

At the end of the day, the horrifying reality is that 'every woman in South Korea who drinks even moderately is at risk of being forced into sexual intercourse with any man she happens to accompany or even meets that evening'.¹⁴ Additionally, it seems that the South Korean police's response and actions in my case are indicative of a common trend — a recent rape and murder case in Suwon, South Korea, is a prime example of this. In that case, 'the lackadaisical response of the police to the victim's call for help during a rape eventually resulted in more than 13 hours passing before her body was found hacked into over 300 pieces and stuffed into 14 trash bags'.¹⁵

Shaw et al state that although 'post assault resources and services are made available to survivors in many communities, there are systemic problems in many formal response systems'.¹⁶ One such systemic problem lies with the mentality of police in South Korea, namely that rape seems to be categorised as either a domestic dispute or a fabrication by women trying to blackmail ex-lovers out of money as retribution rather than as a serious crime. Further to this, they highlight the fact that most sexual assault cases in the United States — 73 to 93 per cent in fact — are dropped during the initial police investigation stage before they are ever referred for prosecution,¹⁷ which is what the South Korean

¹¹ Daniel Fielder 'Redefining Rape in South Korea', *Korea Herald* (online), 24 April 2012 <<http://www.koreaherald.com/view.php?ud=20120424001151>>.

¹² Jon Rabirot, Ashley Rowland and Yoo Kyong Chang, 'Korea Rape Sentences: Each Case Has "Unique Set of Circumstances"', *Stars and Stripes* (online), 3 November 2011 <<https://www.stripes.com/news/pacific/korea/korea-rape-sentences-each-case-has-unique-set-of-circumstances-1.159654#.WXnDUMeFfJ>>.

¹³ Alison Langdon, 9Now, 'Fighting Back: Part 1', *60 Minutes*, 2016 <<https://www.9now.com.au/60-minutes/2016/clip-ciosjh42p002m0knp6tgptr3c>>; Alison Langdon, 9Now, 'Fighting Back: Part 2', *60 Minutes*, 2016 <<https://www.9now.com.au/60-minutes/2016/clip-ciosjl574002n0knp5k0wmx49>>.

¹⁴ Fielder, above n 11.

¹⁵ *Ibid.*

¹⁶ Shaw, Campbell and Cain, above n 1, 446.

¹⁷ *Ibid* 447.

police seemed to try to do with my case. With regard to most jurisdictions in the United States, Shaw et al note that the decision to refer a case to a prosecutor is entirely up to police; this ‘fundamental control’ can commonly manifest in an abuse of power.¹⁸ This concept is evident as police ‘frequently decide independently if the entire criminal justice system will have the opportunity to hold an offender accountable for his or her crime’, which is ‘perhaps too great a burden to place on a single group of professionals in the criminal justice system’, especially as, despite being professionals, each has their own personal and cultural biases.¹⁹

Shaw et al also refer to the existing body of research which fails to shed light on the ‘less-than-thorough response’ commonly used by police:²⁰ why only ‘7–27 [per cent] of reported sexual assaults’ in the United States are referred by them to the prosecutor and why they have a ‘tendency to respond in ways that discount the experiences of specific victims’. This is exactly how I felt throughout the ordeal of reporting my case.²¹ Shockingly, a study undertaken by Shaw et al suggested that ‘police decide on a case outcome prior to conducting a thorough investigation and completing all possible investigative steps’,²² which, again, is what I believe happened to my case before I took matters into my own hands and went to the media. Shaw et al ultimately recommend a worldwide push for the need for sexual assault cases ‘to transition from the investigation stage, overseen by law enforcement, to the prosecution stage, overseen by the prosecutor’s office’.²³

South Korea, specifically, should first change its legislation. There, rape is defined as being ‘specifically limited to penetration of the female genitals by the male sex organ, and other forms of forced sexual penetration are defined as “like-rape” — which carry ‘lighter penalties’.²⁴ At present, the punishment for “rape” in South Korea is a prison term of at least three years, ‘the heaviest among all forms of criminalized sexual activities against able-bodied adults’.²⁵ “Like-rape”, as of 2013, is defined as ‘inserting one’s genitals into

¹⁸ Ibid 446.

¹⁹ Ibid 460.

²⁰ Ibid 447.

²¹ Ibid.

²² Ibid 457.

²³ Ibid 459.

²⁴ Claire Lee, ‘Korea’s Rape Laws Self-Contradict’, *Korea Herald* (online), 27 April 2015

<<http://www.koreaherald.com/view.php?ud=20150427001282>>.

²⁵ Ibid.

the inner part of another person's body such as mouth or anus except genitals, or inserting a part of his or her body other than genitals, such as a finger, or any foreign objects into another person's body', and is punishable by a jail sentence of at least two years.²⁶ The International Criminal Court defines rape as 'penetration, however slight, of any part of the body of the victim or of the perpetrator with a sexual organ, or the anal or genital opening of the victim with any object or any other part of the body'.²⁷ This would be an ideal goal if it were accepted everywhere.

There should be significant change, not only in the attitude South Korean police demonstrated to me in this case and similar documented cases, by acknowledging their prejudice and stereotyping, but also in their process of investigating rape crimes and their trivialisation of rape. Shaw et al highlighted this, stating that 'changes to current system policies regulating sexual assault case investigations could leverage change in the rates of case attrition'.²⁸ Specifically, a change in policy, which I believe would have been immensely beneficial to the outcome in my case, and potentially also beneficial in future like-cases, is the requirement that 'a supervising officer will not sign-off on a case until all possible investigative steps have been completed and/or documented rationale is provided for any steps that have not been completed'.²⁹ As discussed earlier, there was no explanation given for why, in my case, officers left substantial sections of paperwork blank or did not complete what many would view as logical investigative steps. Additionally, "model investigations" or "model policies" 'delineating and detailing the necessary steps for a thorough victim-centered, offender-focused investigation', which have already been implemented in some American states, could have significant advantages in South Korea.³⁰

One potential roadblock to implementing such changes is Korea's 'traditional patriarchal values stemming from Confucianism' which contribute to providing a framework for Korean families, as well as expected family roles such as that of women being firmly subservient.³¹

²⁶ Ibid.

²⁷ Ibid; International Criminal Court, *Elements of Crimes*, Doc No ICC-RC/11 (adopted 31 May–11 June 2010) art 7(1)(g)-1.

²⁸ Shaw, Campbell and Cain, above n 1, 459.

²⁹ Ibid.

³⁰ Ibid 460.

³¹ Kyungja Jung, 'Practising Feminism in South Korea: The Issue of Sexual Violence and the Women's

These values and cultural beliefs heavily influence the willingness of women to report rape or violence, for fear of shaming their families or affecting their families' social statuses.³² Further to this, Postmus and Hahn highlight the reality that '[t]he USA and South Korea are historically patriarchal societies where much of the political, social and economic power remains vested in men' and that at the heart of South Korea specifically, there is a non-interventionist government.³³ It was not until 1997 that the *Prevention of Domestic Violence and Victim Protection Act* was finally legislated in South Korea.³⁴ This *Protection Act* was however strongly opposed by both 'conservative media' and advocates of 'male privilege', who believed that it went against the deeply-held cultural belief that a family should never be broken.³⁵ It appears that these issues are deeply rooted in South Korean society: a society whose Global Gender Gap score is extremely low (proportionate to Gross Domestic Product and development) at 0.649, ranked 116 out of 144 countries worldwide, with equality lower than countries such as Ethiopia and Cambodia, ranked 109 and 112 respectively.³⁶

In my case, I believe that either the men involved were devious enough to use condoms as part of an organised group or, more likely, that a large amount of evidence was lost or never collected properly in the first place by the police. For this reason, though justice was served on one of the men involved, now being in prison, it is unlikely that I will ever be able to get justice against the other man, still residing in London. This is a painful reality to accept, to say the least. However, until that last door closes, I will continue to doggedly pursue justice, both for myself and the countless women worldwide who have endured, and continue to endure, these atrocities.

X CREATING A PRECEDENT

From the horror of this experience, I have learned not to blindly trust authorities; I have

Movement' (2003) 29(2) *Hecate* 261; Postmus, J and Hahn, S.A, "Comparing the policy response to violence against women in the USA and South Korea", (2007) 50(6) *International Social Work* 770.

³² Judy Postmus and Sur Ah Hahn, 'Comparing the Policy Response to Violence against Women in the USA and South Korea' (2007) 50(6) *International Social Work* 770, citing Eunju Lee, 'Marital Conflict and Social Support of Korean Immigrants in the United States' (2005) 48(3) *International Social Work* 313, 320.

³³ *Ibid.*

³⁴ *Ibid.*

³⁵ *Ibid.*

³⁶ World Economic Forum, *Global Gender Gap Report* (2016) World Economic Forum

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learned of the ability of people in power to abuse their positions; I have learned about the selfless generosity and consideration of strangers all over the world whose involvement gave significant voice to my case. I have learned that it is a woman's right merely to decide whether or not to pursue her case of rape as this is an immensely personal, emotional, and potentially harmful path to take which can often come at a far greater cost than the value of any justice achieved. I gained a unique insight into why rates of reporting and convictions for rape are so low globally.

I have learned the immense frustration of having to feel like an outsider in my own case because of my inability to be present for most of the proceedings and my lack of knowledge of South Korean law and process. I could not speak the language and had to rely entirely on others to speak and act on my behalf from beginning to end. South Korean lawyers expect that the victim will have little involvement, so my questions and desire for information were not easily understood or accepted. I had to continually delegate power to others throughout the process and in doing so became further removed from the case. However, this experience has motivated me to pursue a career in law in order to be a strong voice for those unable to speak out for themselves in similar circumstances.

I am now in the final stages of suing the South Korean Police for their negligence, malpractice, and their role in the immense secondary damage I suffered. This action has been partly funded by a feminist organisation in South Korea in the hope that a precedent will be set. For example, a number of women have informed me of their own experiences with the South Korean police that have been very traumatic for them. It is my hope that this case will be a catalyst for the many necessary and critical changes that must occur surrounding rape cases in South Korea.

I also hope that the awareness and international exposure will have repercussions for rape victims in Australia. So many women, both known to me (to my surprise) and previously unknown to me, have personally shared their own shocking experiences as victims of rape and sexual assault, and they have been invisible to the justice system. I would like the attitudes towards rape to change so that women can feel safe and respected in reporting their experiences without fear of judgement, stigmatisation, and backlash. Rape affects all of society, and therefore society must take responsibility for changing endemic prejudice and ingrained social ignorance.

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