

Idaho rape law not a problem

Friday, February 9, 2007

Moscow-Pullman Daily News

Editorial board member Doug Bauer urges that "Idaho's rape laws must be fixed" (Our View, Jan. 30). He states that the crime of rape applies to "penile penetration of women only." Actually, in 1994 our Legislature added Idaho Code Section 18-6108, titled "Male Rapes," which outlaws the unlawful penetration of one male by another.

In addition, Bauer contends that Idaho's rape statutes should be changed because "[t]here must be evidence of actual physical resistance to prove rape." He is mistaken again. Rape can be proven in different ways. Section 18-1601 (7) outlines one way. It provides that a rape is committed if the victim "submits under the belief, installed by the actor, that if she does not submit, the actor will cause physical harm to some person." In other words, if the circumstances show that a perpetrator causes a victim to submit, for example, by brandishing a closed fist, saying "don't you dare resist," or "I'll kill your grandmother," a rape has been committed.

As I see it, the problem is not with the law but with the complexities of human behavior, which often manifest in brutal, ambiguous, sexist and Victorian ways. Some cases are close calls. When we hold competing virtuous values, like the presumption of innocence and the punishment of wrongdoers, the cases in the middle will always be difficult to decide, even if Moses himself were to come back and draft for us a model rape statute. Blame the lawyers, judges and law if you want, but claiming that all rape allegations are true is just as misguided as saying all allegations are false. Juries, by and large, do well at sorting it out.

Tim Gresback

Moscow