

SPECIFIC CRIMES – CRW2602

UNIT 7 CRIMES AGAINST DIGNITY, REPUTATION AND FREEDOM OF MOVEMENT

CRIMINAL DEFAMATION

ELEMENTS OF THE CRIME:

- THE PUBLICATION
- OF DEFAMATORY MATTER
- WHICH TAKES PLACE UNLAWFULLY
- INTENTIONALLY

PUBLICATION

- DOES NOT MEAN THAT THE ALLEGATIONS SHOULD BE MADE PUBLIC OR IN PRINTED FORM
- **IT ONLY MEANS THAT THE ALLEGATIONS MUST COME TO THE ATTENTION OF PEOPLE OTHER THAN Y**
- THE PUBLICATION CAN TAKE PLACE ORALLY OR WRITTEN
- IF IT ONLY COMES TO THE ATTENTION OF Y – IT CAN AT MOST CONSTITUTE *CRIMEN INIARIA* (IF HIS DIGNITY IS INJURED)

CRIMINAL DEFAMATION

READ THE HOHO CASE ON PAGE 142 AND SUMMARISE THE FACTS,
LEGAL QUESTION AND DECISION OF THE COURT

ABDUCTION

- ABDUCTION IS REGULATED BY **COMMON LAW**

DEFINTION

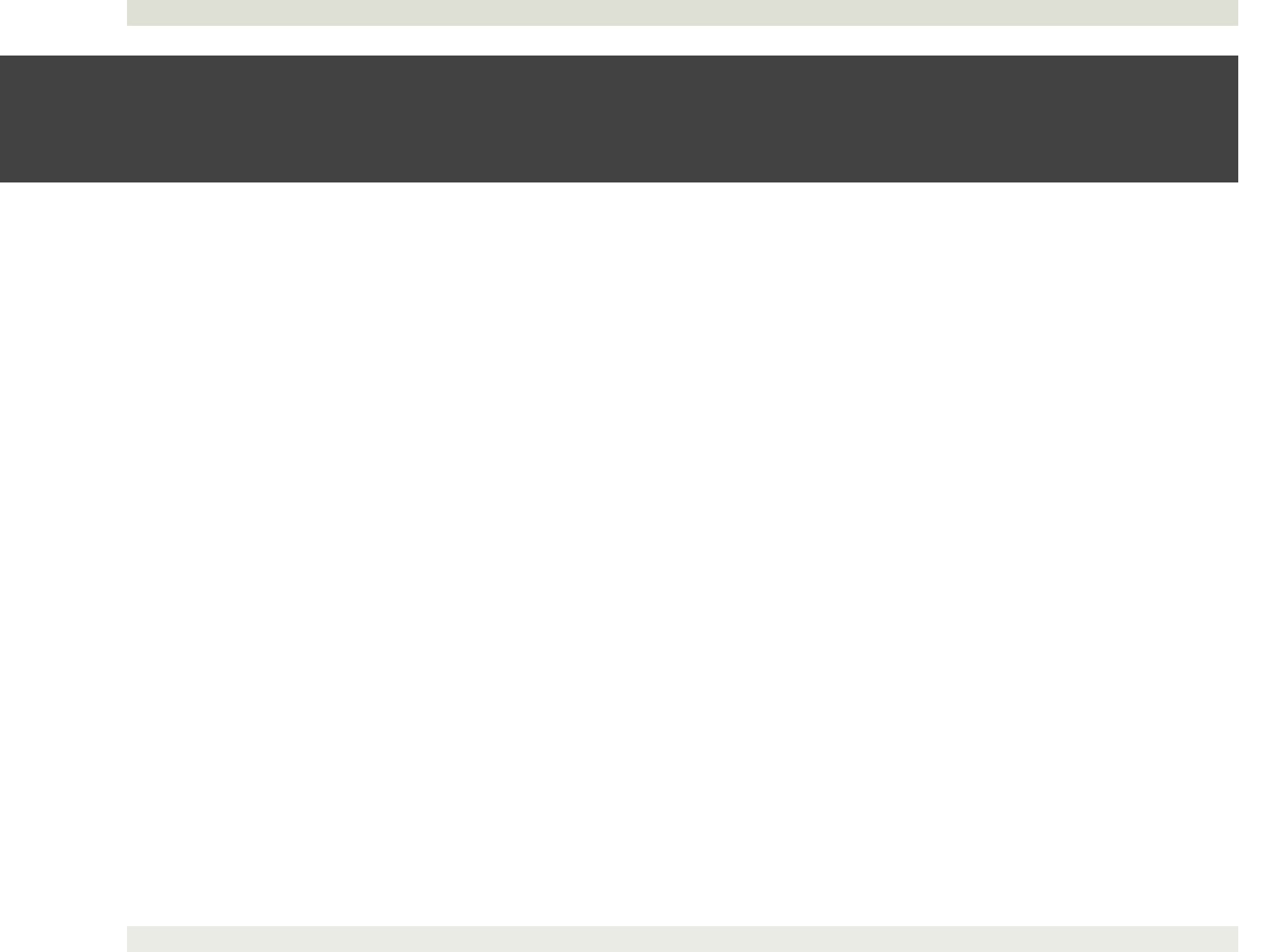
A PERSON COMMITS ABDUCTION IF HE **UNLAWFULLY** AND **INTENTIONALLY** REMOVES AN UNMARRIED MINOR FROM THE CONTROL OF HIS PARENTS/ GUARDIAN WITHOUT THEIR CONSENT INTENDING THAT HE OR SOMEBODY ELSE MARRY OR HAVE SEXUAL INTERCOURSE WITH THE MINOR

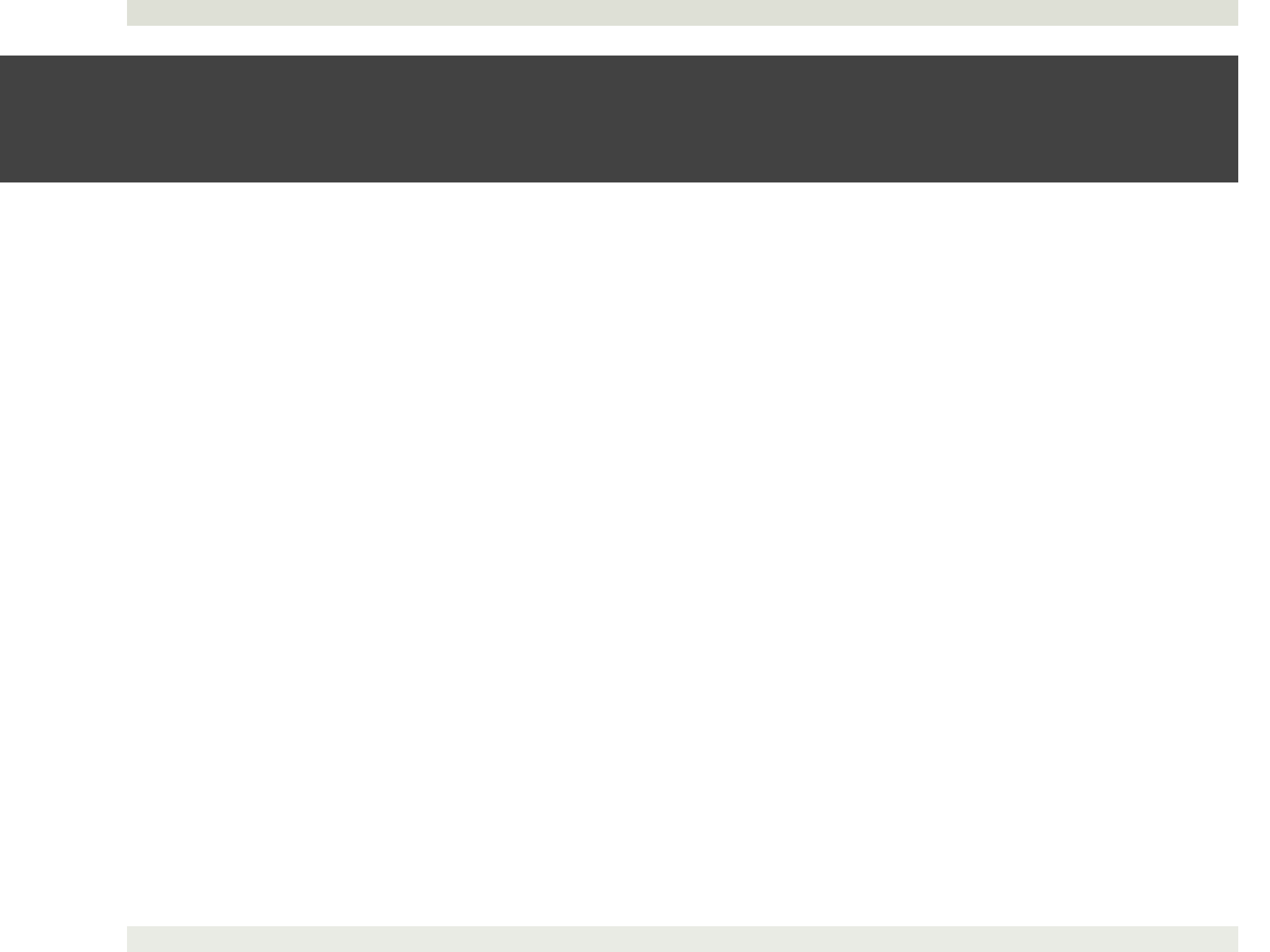
- **LEGAL INTEREST PROTECTED:**

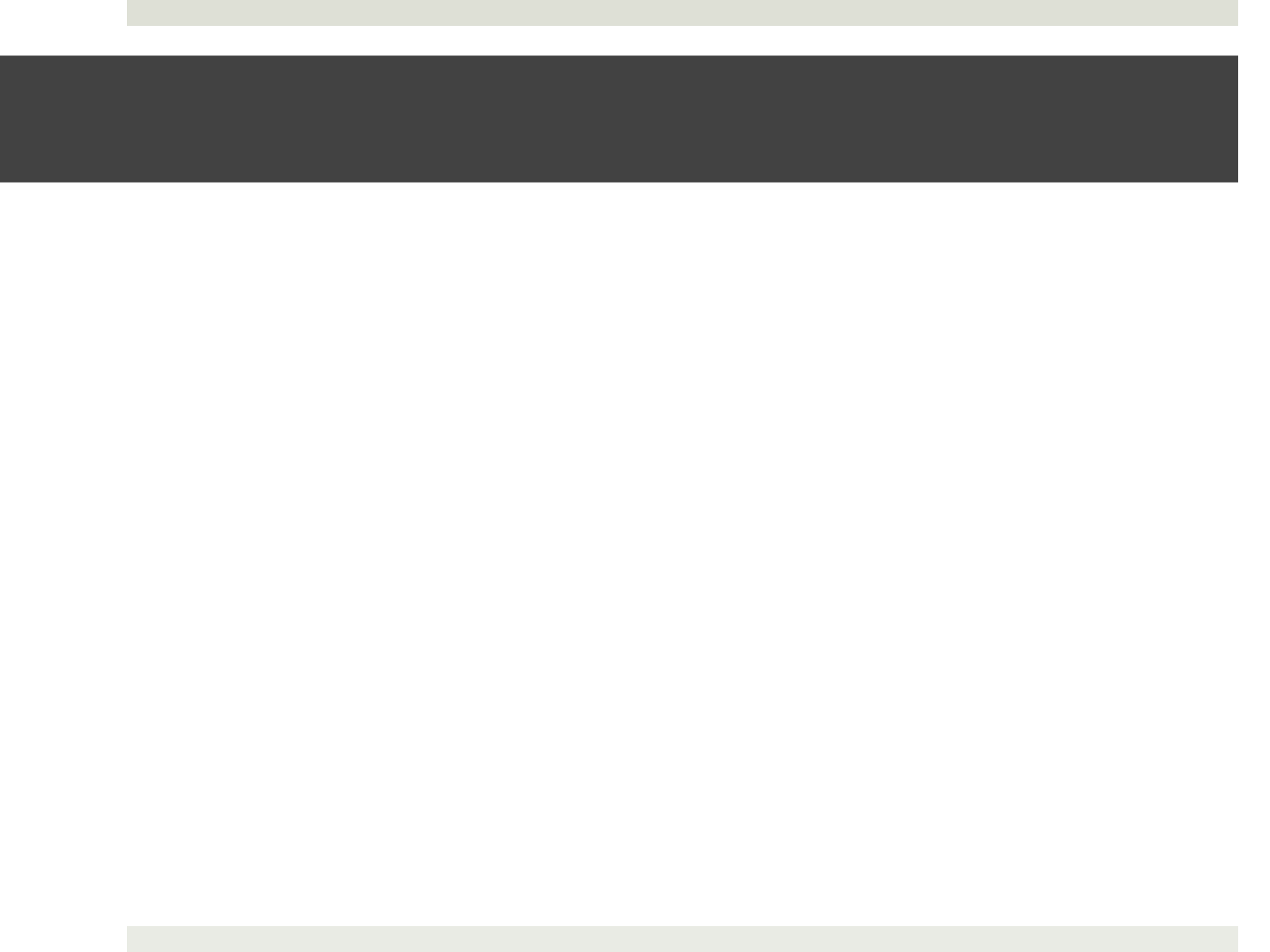
- THE INTEREST PROTECTED ARE THOSE OF THE PARENTS OR GUARDIAN OF THE MINOR SINCE THE MINOR'S CONSENT TO REMOVAL IS NOT A DEFENCE

ORIGIN OF THE CRIME

- COMES FROM A PERIOD OF IN HISTORY WHEN WOMAN (ECSP MINORS) PLAYED A VERY SUBORDINATE ROLE IN SOCIETY
- THEIR PARENTS / GUARDIANS EXERCISED CONSIDERABLE AUTHORITY OVER THEM – LITTLE FREEDOM OF MOVEMENT AND WAS REGARDED AS ECONOMIC ASSETS TO THEIR PARENTS
- PURPOSE OF CRIME: PREVENT OUTSIDERS FROM REMOVING THE MINOR FROM THE AUTHORITY OF THE PARENTS AND DEPRIVING THE PARENTS OF THEIR RIGHTS (ECONOMIC AND OTHERWISE) OVER THE MINOR







ABDUCTION

ELEMENTS OF THE CRIME:

- THE REMOVAL
- OF AN UNMARRIED MINOR
- FROM THE CONTROL OF HER PARENTS OR GUARDIAN
- WITH THE INTENTION TO MARRY OR HAVE SEXUAL INTERCOURSE WITH THE MINOR
- WITHOUT THE CONSENT OF THE PARENTS / GUARDIAN
- UNLAWFULNESS
- INTENTION

REMOVAL

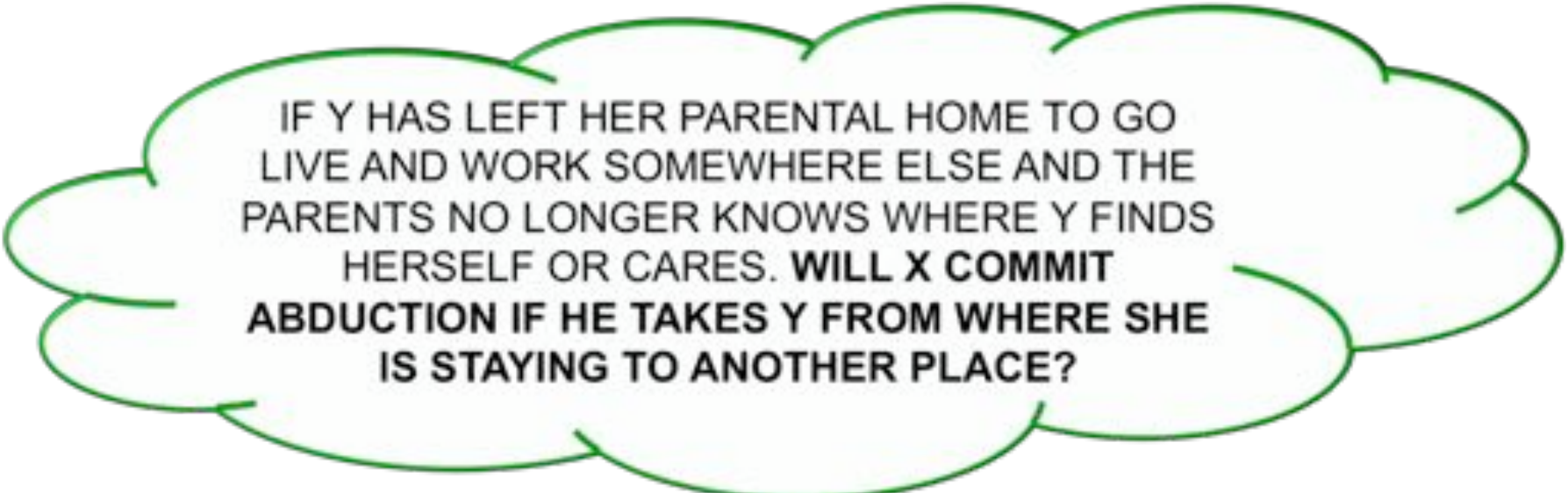
- X MUST REMOVE Y FROM ONE PLACE TO ANOTHER
- X = MALE / FEMALE
- MAJORITY OF CASES – X=MAN AND Y=FEMALE
- **THE REMOVAL DOES NOT NEED TO BE FORCIBLE** – MOST CASES Y CONSENTS TO THE REMOVAL
- NOT REQUIRED THAT X SHOULD BE PRESENT AT THE TIME OF ARRIVAL
 - SUFFICIENT IF X ARRANGED TO MEET Y AT A PLACE AWAY FROM HER PARENTS

PERSON REMOVED

- PERSON REMOVED MUST BE AN UNMARRIED AND A MINOR
- CAN BE A MALE OR FEMALE
- A PERSON IS A MINOR IF HE IS BELOW THE AGE OF 18 YEARS

REMOVAL FROM THE CONTROL OF THE PARENTS

- Y MUST BE REMOVED FROM THE CONTROL OF HER PARENTS / GUARDIANS
- **ABDUCTION IS COMMITTED AGAINST THE PARENTS / GUARDIANS AND NOT AGAINST THE MINOR (Y'S CONSENT IS NOT A VALID DEFENCE)**

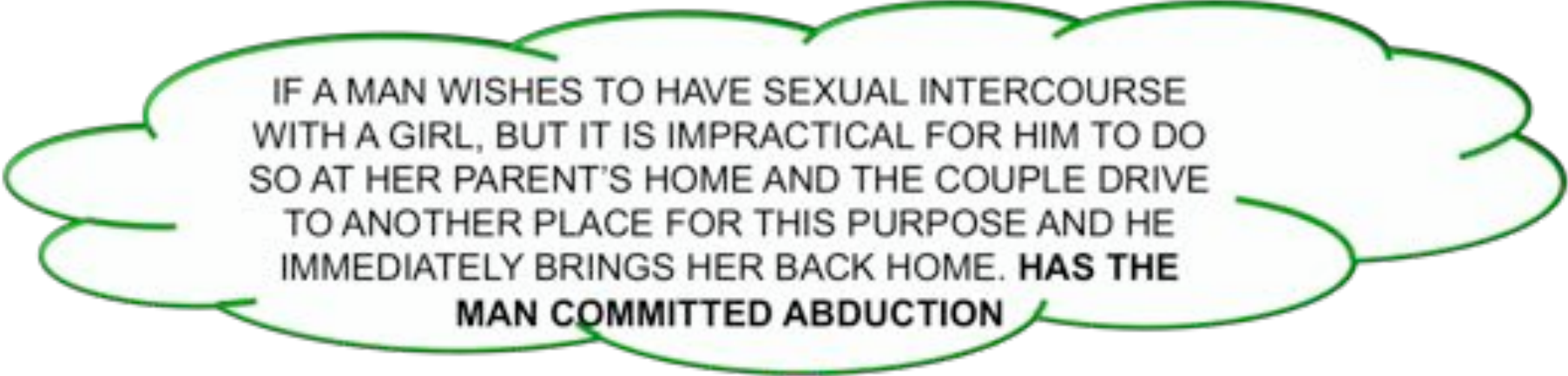


IF Y HAS LEFT HER PARENTAL HOME TO GO LIVE AND WORK SOMEWHERE ELSE AND THE PARENTS NO LONGER KNOWS WHERE Y FINDS HERSELF OR CARES. **WILL X COMMIT ABDUCTION IF HE TAKES Y FROM WHERE SHE IS STAYING TO ANOTHER PLACE?**

INTENTION TO MARRY OR HAVE SEXUAL INTERCOURSE WITH THE MINOR

- THE CRIME IS ONLY COMMITTED IF X REMOVES Y WITH A CERTAIN AIM IN MIND
- AIM: MARRIES Y / HAS SEXUAL INTERCOURSE WITH Y
- FOR THE CRIME TO BE COMPLETE IT IS NOT REQUIRED THAT THE MARRIAGE OR SEXUAL INTERCOURSE SHOULD ACTUALLY HAVE TAKEN PLACE
- ALL THAT IS REQUIRED IS AN **INTENTION** OR THE PART OF X TO ACHIEVE ONE OF THESE AIMS
- THE REMOVAL SHOULD NOT BE TEMPORARILY – THEN IT WILL NOT BE ABDUCTION – **X MUST INTEND TO REMOVE Y FROM HER HOME EITHER PERMANENTLY OR FOR SUBSTANTIAL PERIOD**

INTENTION TO MARRY OR HAVE SEXUAL INTERCOURSE WITH THE MINOR



IF A MAN WISHES TO HAVE SEXUAL INTERCOURSE WITH A GIRL, BUT IT IS IMPRACTICAL FOR HIM TO DO SO AT HER PARENT'S HOME AND THE COUPLE DRIVE TO ANOTHER PLACE FOR THIS PURPOSE AND HE IMMEDIATELY BRINGS HER BACK HOME. **HAS THE MAN COMMITTED ABDUCTION**

- THE INTENTION TO MARRY / HAVE SEXUAL INTERCOURSE WITH Y MUST EXIST **AT THE TIME OF THE REMOVAL**
- IF THE REMOVAL IS FOR INNOCENT PURPOSE AND X ONLY DECIDES THEREAFTER TO HAVE SEXUAL INTERCOURSE – **THE CRIME IS NOT COMMITTED**
- CAN ALSO BE COMMITTED IF X REMOVES THE MINOR FOR ANOTHER PERSON

WITHOUT THE CONSENT OF THE PARENTS OR GUARDIANS

- THE REMOVAL MUST BE WITHOUT THE CONSENT OF THE PARENTS OR GUARDIANS
- WHETHER Y HAS CONSENTED IS IMMATERIAL
- USUALLY Y WILL CONSENT OR EVEN ASK X TO TAKE HER AWAY
- **IF Y DOES NOT CONSENT X CAN BE GUILTY OF A MORE SERIOUS CRIME – KIDNAPPING**
- THE CONSENT OF THE PARENTS SHOULD NOT BE PRESENT

UNLAWFULNESS

- FOR THE ACT TO BE UNLAWFUL THERE MUST BE NO GROUND OF JUSTIFICATION
- REMOVAL MAY BE JUSTIFIED UNDER COMPULSION

INTENTION

- X'S INTENTION MUST RELATE TO ALL THE ELEMENTS OF THE CRIME
- X MUST KNOW THAT Y IS AN UNMARRIED MINOR AND THAT Y'S PARENTS DID NOT CONSENT TO REMOVAL

ACTIVITY

X, A 40 YEAR OLD FEMALE, ENTICES Y, A 17 YEAR OLD UNMARRIED GIRL TO LEAVE HER PARENTS' HOME AND WORK AS A PROSTITUTE FOR X AND HER HUSBAND. Y LEAVES HER HOME VOLUNTARILY, BUT WITHOUT HER PARENTS' CONSENT.

WHAT CRIME HAS X COMMITTED?

KIDNAPPING

THE ELEMENTS OF THE OFFENCE:

- **THE DEPRIVATION**
- **OF FREEDOM OF MOVEMENT (OR PARENTAL CONTROL)**
- **WHICH TAKES PLACE UNLAWFULLY AND**
- **INTENTIONALLY**

THE CRIME IS A CRIME AGAINST A PERSON'S FREEDOM OF MOVEMENT OR AGAINST A PARENT'S OR CUSTODIAN'S CONTROL OVER A CHILD

KIDNAPPING

TAKE NOTE OF THE FOLLOWING IMPORTANT FEATURES OF THE CRIME:

- A PARENT CANNOT COMMIT THE CRIME IN RESPECT OF HIS OWN CHILD
- FORCIBLE REMOVAL IS NOT A REQUIREMENT
- THE LENGTH OF TIME OF REMOVAL IS IMMATERIAL
- MOTIVE IS IMMATERIAL (WILL ONLY BE CONSIDERED FOR SENTENCE)
- UNLAWFULNESS MAY BE EXCLUDED:
 - IF A PERSON ACTS IN OFFICIAL CAPACITY (POLICE OFFICER)
 - PERSON AGED 18 CONSENTS TO BE REMOVED
- INTENTION ALWAYS REQUIRES THAT X HAD KNOWLEDGE OF UNLAWFULNESS