

Stereotypes about Rape in the Slovenian Courts

Lora Briški, Junior Researcher, Institute of Criminology at the Faculty of Law Ljubljana, Slovenia. E-mail: lora.briski@pf.uni-lj

Legal decision-making operates under an illusion of neutrality and objectivity. However, the fact that legal professionals are influenced, not only by legal education, but also by a psychological framework that determines them as humans, suggests that courtrooms are not immune to mistakes in judgment that arise from the psychological characteristics of the decision-makers. The purpose of the paper is to discuss the stereotypes about rape found in legal judgments in Slovenian courts. Such ideas can greatly influence judicial decision-making: stereotypical beliefs about perpetrators, victims, and rape itself may affect the identification and labelling of the historical event as a criminal offense and may impact the sentencing stage as well. Stereotypes pose a great threat to fundamental legal principles, such as impartiality of the court and equality before the law. Furthermore, stereotypes are generally held at the subconscious level, and, therefore, their negative effects often remain unnoticed. The author analyses Slovenian criminal case files from 2016 to 2018 for two selected criminal offences: rape, sexual violence, and sexual abuse of defenceless person. The first part offers an overview of the types of stereotypes found in the dataset. Rarely, the stereotypes were invoked by the court; more often, such stereotyping was set forth by the defence, which at times courts recognized and denounced. The second part of the paper is concentrated on legal mechanisms capable of fostering a (successful) challenging of stereotypical narratives.

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