



# A systematic review of juries' assessment of rape victims: Do rape myths impact on juror decision-making?

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## Abstract

Despite major reforms in rape law and criminal procedure, a number of reports suggest that conviction rates, which are generally low, either remained similar or in some cases they even decreased. Acceptance of rape myths has been identified as one of the main barriers to progress within any law reform and in terms of convictions rates. Studies investigating jurors' decision-making have relied on public attitudes using various methods such as mock trials.

A systematic review was conducted to investigate whether juror decision-making is influenced by rape myths. The review identified 9 studies. Meta-analysis supported the hypothesis that rape myths impact on juror decision-making regardless of study quality. The relationship between rape myths and juror decision-making were significantly different between studies conducted in the USA and Europe. The review provides a coherent evidence base to support recent efforts to highlight rape myths as a problem for prosecutors and discusses findings in the light of recent initiatives to introduce educational guidance for jurors.

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## 1. Introduction

Since the 1970s many countries introduced reforms in rape laws and criminal procedures. By the mid 1980s all states in the United States had seen some reforms with differing focus and extensiveness (Futter and Mebane, 2001). Along with law reforms, definitions of rape and sexual intercourse were also broadened to include a series of sexual aggravated offences such as the expansion of intercourse to include oral and anal penetration in addition to vaginal penetration (Bergen, 2006). In England and Wales, a number of reforms took place with a major shift in 1976, which introduced the principle of “without her consent” as opposed to “against her will” (Temkin, 2010). It was not until 1994 that rape definitions were expanded further in England and Wales to include male and marital rape. Several new offences were further introduced with the launch of the *Sexual Offences Act* (2003) such as “assault by penetration” and the definition of rape was expanded further. The 2003 Act makes some matters very clear. For example, consent (or the absence of it) is a key concept in the definition of rape and the 2003 Act specifies that absence of consent can apply to one form of penetration even if there has been consent for another form of penetration. Despite major reforms in rape law and criminal procedure prior to the *Sexual Offences Act* (2003), a number of reports suggest that conviction rates either remained similar or in some cases they even decreased (e.g. Temkin, 2010; Harris and Grace, 1999).

Attitudes towards rape and rape victims have been identified as a significant barrier to progress in terms of convictions rates (Temkin, 2010). A lot of research has been conducted to investigate such attitudes and the literature has introduced a number of terms including stereotypes, false beliefs, attribution of blame, and rape myth (e.g. Temkin, 2010; Pedersen and Stromwall, 2013). For the present systematic review, the term “rape myths” will be used. Rape myths can be defined as beliefs about sexual aggression, which justify sexual aggressive behaviour (Gerger et al., 2007). Rape myths can encompass a range of beliefs, which according to Bohner et al. (2009) fall into four categories such as 1) beliefs that blame the victim, 2) beliefs that excuse the offender, 3) beliefs that doubt allegations and 4) beliefs that suggest rape is exclusive to specific groups of society. Acceptance of rape myths has been identified as one of the main barriers to progress within any law reform and research has been conducted to assess acceptance of such myths using a number of measures and interventions as well as numerous variables that are believed to be associated with acceptance of rape myths (Temkin, 2010). This systematic review investigates the impact of rape myths on juror decision-making.

### 1.1. Commonly held rape myths and socio-demographic variations

In a recent study using telephone interviews with 3120 members of the public in Ireland McGee et al. (2011) identified the most commonly held rape myths. In particular, they found high levels of inaccurate assumptions relating to the motivation for rape. For example, 40% of participants felt that rape happened as a result of overwhelming sexual desire. Other commonly held rape myths related to the sexuality of the perpetrator with 34% of participants believing that a perpetrator of male rape must be gay and 22.5% believing that the victim must have either been gay or acting ‘in a gay manner’. The victim holding some responsibility for the offence was another commonly held rape myth. In particular, 29.2% of the participants agreed that women wearing tight tops or short skirts are inviting rape. Finally, 40.2% of participants felt that accusations of rape were often false, indicating that a large minority of potential jury members are pre-disposed to a not-guilty verdict in the case of rape. Estimating levels of false reporting is both complex and controversial due to problems defining and proving a false allegation. Data from 2643 cases suggests that the level of

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