

Jennifer Temkin and Barbara Krahé, *Sexual Assault and the Justice Gap: A Question of Attitude*

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Sexual Assault and the Justice Gap is an interesting and timely addition to the growing body of research on the reasons for the continuing failure of the law to protect rape victims. Reform of the substantive and evidential law in relation to rape has been high on the political agenda in recent years, leading to changes such as a new definition of rape in s 1 of the Sexual Offences Act 2003 and changes to the admission of sexual history evidence in ss 41–43 of the Youth Justice and Criminal Evidence Act 1999. Both the police and the CPS have altered their policies in order to improve their practices in terms of investigating and prosecuting rape cases (Temkin 2002; HMCPSI 2002). Yet, despite these changes, which have led to an increase in reported rapes, the conviction rates have remained relatively static (Regan and Kelly 2003; Kelly et al. 2005). Temkin and Krahé seek to explore the reasons for this marked discrepancy between reporting and convictions, which has been termed the “justice gap” (Kelly et al. 2005). In particular, the authors focus on the pervasive influence of ‘rape myths’ at each stage of the decision making process in rape cases and offer some recommendations for closing the “justice gap”.

The book is usefully divided into three sections dealing firstly with the existing research; secondly, with new studies to supplement the existing material; and finally, with recommendations for improving decision making in this area through law reform and educational initiatives. The approach is unusual in that it draws on research from the disciplines of law and psychology, whilst seeking to be accessible to readers from both fields. In this aim, it is not always successful, as from the point of view of a legal reader, the statistical material is difficult to follow and evaluate. The authors recognise the difficulties of drawing on two areas of expertise as they comment that “this inevitably means that some of the legal material may be too technical for some readers, while some of the statistical details from the quantitative studies may be hard going for others” (p. 3). However, useful summaries are

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provided at the end of each section, which ensure that the main findings from the studies can be followed by legal readers, if not the more complex detail that led to those conclusions. Despite the difficulties of such an inter-disciplinary approach, bringing together psychological and legal data in this way has the advantage of offering readers from a feminist legal background new perspectives on the perennial problem of how attitudes inform decision making in rape cases and in particular the “influence of psychological processes which operate in a way that is at odds with [a] normative view” (p. 2).

Whilst the studies contained in the book touch on stereotypical attitudes to rape at a number of points in the criminal justice system, a key theme throughout is the attitudes of members of the public (those likely to sit on juries) and legal professionals to rape scenarios. This is followed through in the final part which, whilst touching on areas of further law reform, focuses more closely on the issue of adequately educating members of the public and legal professionals. Particularly valuable chapters are an evaluation of the recent Home Office Consent Campaign (Home Office 2006) in Chapter 5 and a series of qualitative interviews with members of the judiciary in Chapter 6. Research into both the effects of public information campaigns and judicial attitudes to rape cases is relatively hard to find and whilst the studies here are far from comprehensive, they provide an important insight into firstly, how effective recent legal and educational initiatives have (or have not) been and secondly, the influence of judges, who after all, have to interpret and apply any new legal initiatives in this area.

From a feminist legal perspective, many of the findings from the more recent research studies will come as no surprise as in most cases, the authors’ working hypotheses about the incidence and operation of sexual stereotypes and bias at various points in the decision making process are proved to be correct. However, the additional research undertaken by Temkin and Krahe is nevertheless important in that it provides further and much needed empirical support for the oft-contended position of feminists writing in this area that rape myths are one of the root causes of the problem of low conviction rates for rape and need to be addressed. Further, the book brings together a wide body of social, psychological and legal research from a number of jurisdictions in one volume and in that sense it will be a valuable starting point for those wishing to take forward some of these ideas and push for further reform, be it through education or through changes to the existing law. Temkin and Krahe indicate at various points in the book areas where further research would be most welcome and I look forward to reading follow up studies in these areas.

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