

How do rape myths impact the delivery of Peruvian justice? A qualitative study of judicial opinions in rape cases

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ABSTRACT

Through thematic and critical discourse analysis of 18 judicial opinions in rape cases issued by the Peruvian Judiciary from 2015 to 2020, this study examines if and how rape myths and gender stereotypes influence the delivery of justice in Peru. The work focuses on rape cases involving female victim-survivors over the age of 14. Findings show rape myths and gender stereotypes continue to inform how judges interpret legal provisions, assess the evidence, and construct facts. The main implications include the need to strengthen judges' role not only in avoiding the use of rape myths, but in actively challenging them, to ensure victim-survivors' equal access to justice.

KEYWORDS:

JUDGES, PERU, RAPE MYTHS, GENDER STEREOTYPES, DISCRIMINATION.

RESUMEN

A través de un análisis temático y de discurso crítico de 18 sentencias judiciales en casos de violación sexual del Poder Judicial del Perú entre 2015–2020, este estudio examina si, y cómo, los mitos de violación sexual y los estereotipos de género influyen en la administración de justicia en el Perú. El trabajo se centra en casos de violación sexual que involucran a víctimas mujeres mayores de 14 años. Los hallazgos muestran que los mitos de violación sexual y los estereotipos de género continúan informando cómo los jueces interpretan las leyes, evalúan la evidencia y construyen los hechos. Las principales implicancias incluyen la necesidad de fortalecer el rol de los jueces no solo en evitar el uso de mitos de violación, sino en resistirlos activamente para garantizar un acceso equitativo a la justicia para víctimas-sobrevivientes.

PALABRAS CLAVE :

JUECES, PERÚ, MITOS DE VIOLACIÓN, ESTEREOTIPOS DE GÉNERO, DISCRIMINACIÓN.

Introduction

Peru ranks second in the Americas, after Bolivia, for lifetime rates of physical and/or sexual intimate partner violence (World Health Organization [WHO], 2018). Such levels of gender-based violence grapple with deeply entrenched gender stereotypes. These are beliefs that describe or prescribe how men and women are or should behave (Heilman, 20212). The latest 2019 ENARES national survey revealed alarming attitudes among the population: 52.7% of respondents believed women should prioritize their roles as mothers and wives over personal aspirations; 33.2% justified partner violence as punishment for infidelity; 31.1% believed women that dress in a provocative way seek to be harassed; and 26% consider that women should be available to have sex with their partner if he wishes so (2020).

In November 2020, a case involving a young woman from Ica, Peru, who had been a victim of sexual violence by an acquaintance and saw her aggressor acquitted based on sexist assumptions, triggered national outrage (Hanashiro, 2024). The headline of Perú 21, a national newspaper read: "*Collegiate machismo¹: Two judges and a judge reject a rape complaint because the victim was wearing red panties*". In their judgment, the judges claimed that the victim's choice of underwear indicated her disposition to sexual activity and hence implied consent (Miró Quesada Gayoso, 2022, p.159). The sentencing confirmed a widespread prejudice that, like many others, judges can perpetuate harmful rape myths and gender-based stereotypes. Such bias reflects a broader problem identified in Latin America, where *machista* prejudices among public servants are among the main barriers hindering victim-survivors' access to justice for gender-based violence (Inter-American Commission on Human Rights [IACHR], 2019; Sagot, 2005).

The presence of rape myths and gender stereotypes within the Criminal Justice System (CJS) has long been documented in different jurisdictions (Radačić, 2014; Taylor, 2007; Ehrlich, 2001; Golding et al, 2022). In Peru, there is limited information, however, on this matter. A survey of Peruvian prosecutors revealed that one-third held discriminatory views: 34% partially blamed women for their own victimization, while 22% believed they reported assaults out of vengeance (De Assis, 2019). To date, however, only two studies have shed light on how such beliefs inform judge's decision-making: a 1995 investigation examining gender stereotypes in 30 sexual violence case files (Siles, 1995), and a 2011 Ombudsperson Office report providing descriptive analysis of rape cases (Defensoría del Pueblo, 2011). Given the outdated nature of the first and the limited scope of the second, this research addresses a critical gap. Through thematic and critical discourse analysis (CDA) of judicial opinions, it examines how rape myths and gender stereotypes currently influence judge's decision-making in Peru.

1. Literature Review

Burt defines rape myths as "prejudicial, stereotyped or false beliefs about rape, rape victims, rape offenders that trivialize or justify male sexual violence against women" (1980, p.217). Examples include victim-blaming (i.e., suggesting rape was provoked by her behavior); questioning the credibility of their testimonies (i.e. did not report it immediately); justifying offenders (i.e. men cannot control their sexual urges); or restricting the definition of rape to specific settings (i.e., only in the public space) (Bohner et al., 2009). These myths operate on a cognitive level, shaping how individuals interpret rape and determine if a particular event qualifies as such (Bohner et al., 2009). Those who share it depict very few allegations as 'real rapes' (Temkin et al., 2018, p.206).

Extensive research has been carried out across multiple jurisdictions to analyze how rape myths interfere with the delivery of justice to victims' survivors. In English courts, they are routinely incorporated as 'markers' to judge complainant behavior, casting divergent accounts as irrational and untruthful (Smith & Skinner, 2017). Temkin et al. (2018) found that courts emphasize these myths to reduce defendant culpability in cases that don't match the 'real rape' script. This pattern extends beyond common law systems: in Rwanda, a study of 175 cases revealed that successful convictions typically conform to 'real rape' stereotypes (Bizimungu, 2019, p.205), while in Argentina, legal practitioners commonly use rape myths to validate perpetrators' accounts over victims' testimonies (Zaikosky Biscay, 2015).

¹ 'Machismo' is a Spanish term describing a cultural phenomenon that "carves out a particular form of Latino masculinity and culture based on honor and pride" (Rogers, 2020, p.1473).

Although the judiciary is expected to act as an impartial body, in practice, judges are highly influenced by underlying prejudices and stereotypes (Charalambous, 2015). Solan (1993), cited by Cotterill, suggests that judges, "whilst going to great lengths to appear 'neutral' in their judgments, are in fact often guilty of concealing hidden agendas and ideological positions which inform and, ultimately, bias their decision-making process" (2003, p.7). For this reason, if we are to fully understand the process of judicial decision-making, we need to scrutinize how judges interpret the law and how they construct the facts (Burns, 2005, p.8).

Pásara, who has studied in depth the judicial systems in Peru and Latin America, explains how some of their main features can be traced back to the colonial legacy (2019). Imposing an external legal system divorced from the reality where it was applied led to a wide gap between the law and its efficacy. From the 19th century onwards, the process of codification that inspired legislation in the region deepened this gap, reinforcing the idea that the law was no more than what the codes said and that judges had to be subordinate to it. Such historical heritage still defines Peruvian judges as mechanical enforcers of legal texts. Though article 138² of the Peruvian Constitution recognizes them the power to administer justice, which goes beyond enforcing legal statutes, an important segment of the legal doctrine still reduces this duty to "merely reproducing legal provisions or reiterating the reasoning exposed by others" (Pásara, 2019, p.62).

Part of the mentioned diagnosis was found in the 1995 qualitative analysis of caselaw on sexual violence (Siles, 1995). Despite attempts to reform the Peruvian judiciary, courts in Peru have preserved traditional features such as excessive formalism, strict literalism of statutes, fear and obedience to power, detachment from social conflicts, resistance to adaptation, mediocrity, and corruption that spreads across different instances (Siles, 1995, pp. 28–29). These cultural traits are important to understand the broader context in which the Peruvian judiciary has long operated. Peru's legal system, rooted in civil law tradition, emphasizes strict adherence to written statutes. Unlike Anglo-Saxon common law, where judges create the law through their rulings, Peruvian law primarily flows from Parliamentary legislation, where judges are expected to interpret and apply codified laws (Pásara 2015, p.87). The Peruvian Criminal Code of 1991 stands as the cornerstone of criminal justice, defining offenses like rape and their corresponding penalties. In criminal proceedings, during the trial phase, judges evaluate evidence and legal arguments presented through oral hearings before reaching a verdict on the defendant's guilt or innocence.

Regarding the prosecution and punishment of rape cases, Peru has implemented significant legal and jurisprudential reforms in the past two decades to strengthen it (Rodríguez Vásquez & Valega, 2023; Mujica, 2011). However, such changes alone do not guarantee justice when discriminatory biases continue to influence how legal practitioners apply such laws (Miró Quesada Gayoso, 2022). Pásara affirms that written judicial opinions provide insightful information and evidence on how judges understand crime (2006, p. 2). For this reason, this study analyses such decisions issued by Peruvian judges to examine if, and how, rape myths and gender stereotypes influence their interpretation and application of legal statutes in rape cases.

2. Methodology

This work is grounded on the premise of radical feminism, which identifies sexism as the primary source of oppression and argues that patriarchal social structures, including the CJS, reinforce male dominance and ensure female subordination (Renzetti, 2013, p.134). It is designed under a socio-legal framework that draws on feminist legal theory, which highlights the role gender plays in the CJS, and the power disparities resulting from 'malestream' criminal law (Nicolson, 2000). As such, it questions the objectivity and neutrality claimed in theory by the law (Bodelón, 2008; MacKinnon, 2006; Smart, 1977); specifically, in rape cases, which "epitomizes the core of the problem of law for feminism" (Smart, 1989, p.50). Feminist linguistic approaches that explore how syntactic, phonetic, and semantic encodings culturally dominant notions of gender were also used in the analysis (De Carvalho Figueredo, 1998; Ehrlich, 2001).

² Peruvian Constitution, 1993. Article 38: The power to administer justice emanates from the people and is exercised by the Judiciary through its hierarchical organs in accordance with the Constitution and the laws. In every trial, if there is incompatibility between a constitutional norm and a legal norm, judges shall prefer the constitutional norm. Likewise, they shall prefer the legal norm over all other norms of lower rank.

3. Data Collection

The 18 judicial opinions issued between 2015 and 2020 were obtained through purposive and convenience sampling. While the first is driven by the researcher's specific interest to gain deeper insight into the research objective (Emmel, 2013), the second one is determined by the accessibility of the available sample (Bryman, 2012).

The purposive sample was selected based on five key criteria: (1) cases involving rape, attempted rape, and related offenses under specific circumstances³; (2) cases with female victims aged 14 or older, as this is the legal age of sexual consent in Peru; (3) both convictions and acquittals to ensure broader representation; (4) decisions from both Specialized and Superior Courts, which provide detailed analysis of the assessment of the evidence; and (5) cases issued between 2015 and 2020. This latter was done to explore the prevalence of rape myths in a contemporary period marked by increased national and global attention to gender-based violence (Hernández, 2022).

The 18 sentencing decisions were obtained from three sources: court presidents who responded to email requests (8 cases), criminal law professors and researchers (7 cases), and legal websites serving the legal community (3 cases). The sample comprises 11 convictions and seven acquittals from six of Peru's 34 Superior Courts: Lima (7 cases), Piura (5), Arequipa (2), Lima Sur (2), Ayacucho (1), and Ica (1). Demographic data reveal that all perpetrators were men, and among the 11 cases with available victim information, nine involved young women between 14 and 20 years old. The decisions varied significantly in length, ranging from 5 pages for simple cases to 98 pages for complex ones involving multiple offenses, extensive evidence, or dissenting judicial opinions. Though this convenience sampling approach does not yield a representative sample, it provides "a springboard for further research or allows links to be forged with existing findings in an area" (Bryman, 2012, p.202).

Several factors limited data collection for this study. The Peruvian judiciary lacks a centralized database for lower court decisions, with only Supreme Court rulings systematically archived online. Access typically requires specific case file numbers or the names of the parties involved, making systematic sampling difficult. Additionally, most court records remain in paper format rather than in digital form. This created significant barriers, given that the research was done in England. These challenges were further compounded by restrictions during the COVID-19 pandemic.

4. Data Analysis

Thematic and critical discourse analysis was used to analyze the data. The first is used for "identifying, analyzing and reporting patterns (themes) within the data" (Braun & Clarke, 2006, p. 79), while the second focuses on interdiscursivity, power relations, and assumptions in speech (Fairclough, 1995).

Thematic analysis involves coding words or phrases within the data, which are later reduced into analytic categories. This process should not be seen as a mechanical one in which one reviews the data, tags or labels it, but as an opportunity to reflect in depth on the messages and meanings that emerge from it (Noaks & Wincup, 2004). In this case, the 18 judicial opinions were coded using a list of themes drawn out from the literature review around categories and examples of rape myths in judicial decision-making (Burt, 1980; Gray & Horvath, 2018) (see Appendix 1).

The first step in the analysis was to familiarize with the judicial opinions. After overviewing broad-scale patterns, these were methodically labelled, in accordance with key themes. Using NVivo, themes were categorized into four codes of rape myths: 1) victim-blaming, 2) excusing offenders; 3) minimizing rape; 4) casting doubt on testimonies; and an additional code of 5) other gender stereotypes. Each item included specific examples as subcategories (e.g., 'dressed seductively' for the first code). In screening the documents, themes were used to identify beliefs in the judge's arguments that would reflect or contest rape myths or gender stereotypes.

Since the judicial opinions were in Spanish, after coding the data, selected phrases were then translated into English. Preliminary reflections were then recorded on the meanings, symbols, and representations embedded within each excerpt. At this stage, rape myths emerged in two different areas: the interpretation of the crime, and the evaluation of the evidence and construction of the

³ While Article 170 of the Criminal Code provides the basic definition of rape, there are additional legal provisions that address specific circumstances of the crime. For instance, if a victim is rendered unable to resist due to alcohol or drug consumption, the offense is classified as 'Rape of a person in a state of unconsciousness or inability to resist', as outlined in Article 171. Similarly, when the perpetrator holds a position of authority or supervision over the victim, the crime is defined as 'Rape of a person under authority or supervision', as specified in Article 174.

facts. Thematic analysis was applied to code rape myths and gender stereotypes in both areas. This was done using deductive strategies, in which codes were created following the aforementioned key themes related to rape myths (Bryman, 2012), and an inductive strategy, in which data were later coded in a 'grounded' way after immersion in the text (Varpio et al., 2017).

Finally, CDA was used to explore how rape myths permeate power dynamics in court rulings. Written judicial opinions offer a rich avenue for examining the connections among language, power, and ideology in legal discourse (Othman et al., 2019). Hence, due attention was paid to how propositions were articulated, "on the basis that the linguistic choices writers make are crucial for an analysis of what the text communicates" (Cameron & Panović, 2014, p.67). After coding the judicial opinions according to the analytical framework, they were critically examined to identify "hidden" ideologies that reveal how judges shape their understanding of rape.

5. Ethics

The main ethical concerns in this research relate to ensuring anonymity and confidentiality. Given the intimate nature of sexual violence, the identities of victims tend to be legally protected in court documents. While court rulings typically use only victims' initials, some documents inadvertently revealed their full names when recounting the facts. To uphold strict confidentiality, all quoted excerpts from judgments were carefully reviewed to remove any identifying details. Names were anonymized, and no information that could reasonably lead to the identification of the parties involved was included in this work.

6. Findings & Discussion

Most of the 18 judicial opinions included rape myths and gender stereotypes. The analysis is divided into two main areas. First, it addresses how judges interpret the legal definition of rape, exploring abstract representations of this crime. Second, it analyses how judges assess evidence and construct facts, considering legal and extra-legal factors in their reasoning.

6.1. Part I. Definition matters

Before evaluating the facts, judges typically outline the relevant legal provisions they will use to frame the case, following their obligation to duly motivate their decisions. The sentencing process begins with a summary of key arguments presented by the prosecutor and the defendant—sometimes, it includes an independent lawyer that represents victims—, along with the evidence admitted. Judges then identify the relevant CC articles in effect at the time the alleged crime occurred to establish the applicable law.

In interpreting these statutes, judges either cite exactly the law or provide their own interpretation. While legal concepts may be codified in statutes, they do not have a 'fixed' meaning and can always be interpreted and applied in ways far from their intended purpose (Ehrlich, 2001, p. 28). To demonstrate if and how judges' linguistic framing of rape encodes sexist biases, findings have been divided on three main rape myths present in their definitions: a) rape as a physically violent act; b) rape victims as physically resisting the attack; and c) rape offenders as being driven by sexual appetites.

a) Rape as a physically violent act

Most cases analyzed were governed by Article 170 of the CC, which defined rape as forcing a person, through either 'violence' or 'serious threat', to have 'carnal access through the vagina, anus or mouth, or perform other analogous acts by introducing objects or parts of the body through any of the first two'. While the current law has expanded to recognize additional means of commission—such as taking advantage of a coercive context or any situation that prevents the victim from freely consenting—the original legal definition was never limited to physical force alone. Despite this broader statutory definition, some judges have unnecessarily interpreted the crime in a narrow way, focusing exclusively on perpetrating it through physical force.

"The use of violence in article 170 of the CC (...) is equivalent to the attack or material imposition, to the use of any physical means to bend the will of the victim (...) the force required must be effective and have sufficient objective entity" (Case 1). "[on the definition of rape] ...the active subject⁴ obliges the passive subject to have sexual carnal access, making use of physical force" (Case 15)

In one particular case, the level of physical violence expected to commit the crime required a higher threshold to be considered an "effective" tool to counter the victim's will:

"[the violence] must be physical, effective and be causally connected (...). 2. It must be about the deployment of a certain dose of physical violence capable of breaking the defense mechanisms of the victim, of smoothing the obstacles for the carnal conjunction. 3. It must be about physical, continuous and efficient violence, committed against the victim and capable of overcoming resistance." (Case 1)

When judges define rape as necessarily involving physical force, they perpetuate what Estrich (1987) termed the 'real rape' myth. This narrow interpretation not only raises the standard of proof unreasonably but also fails to account for most crimes that do not meet that stereotype. The WHO reports that at least two-thirds of rape cases do not leave physical injuries, mainly because victims, fearing greater harm, often do not physically resist their attackers (2003, p.11). This misconception about the nature of rape continues to influence the CJS's decisions across jurisdictions: in the U.K police officers dismiss rape allegations when physical injuries are absent (McMillan, 2018); US prosecutors are more likely to pursue cases involving bodily harm, since they think they facilitate convictions (Wentz, 2020); similarly, juries often cite the lack of physical scars to justify acquittals (Munro & Kelly, 2009).

b) Rape victims ought to resist the attack

This second myth stems from the former one: "if rape is only perpetrated through physical force, victim-survivors are expected to actively resist it". Under this flawed logic, the absence of resistance is interpreted as an implicit consent. While this myth has historically influenced Peruvian jurisprudence to dismiss cases lacking physical resistance (Ugaz, 1999), in 2011, the Supreme Court issued binding guidelines recognizing that victims often do not resist for fear of greater harms (Acuerdo Plenario 01-2011/CJ-116, 2011). Despite some judges explicitly rejecting the relevance of this element (case 10, 11, 12), others continue linking rape to the amount of 'force' needed to overcome resistance:

"...it is not necessary that the resistance persist at all times of the abuse, but it is necessary that the force applied to the victim entirely overcomes her resistance" (Case 6) "...the use of violence requires the corresponding expert examination that reliably verifies the physical event. The expertise can be carried out on both the victim and the perpetrator, since generally there are not only traces of the violence of the perpetrator but also of the resistance of the victim" (Case 14)

The analyzed cases reveal that judicial understanding of rape remains fundamentally tied to victims' resistance. Judges assess the 'appropriateness' of force based on whether it successfully overcomes the victim's resistance—a determination that requires visible evidence of such. Case 14 explicitly demonstrates this requirement, with judges demanding physical traces of resistance. This interpretation misses the crucial power dynamics at play, where a victim's passive response may represent not consent but rather a rational survival strategy (Mujica, 2011, p.31), often chosen to minimize harm in threatening circumstances.

Radačić's study on Zagreb's County Court decisions on rape cases demonstrated that underlying gender norms of possessive heterosexuality were behind this myth (2014, p.77). From this perspective, women's explicit rejection of a man's sexual advances, when interpreted through the lens of normative sex, is reframed as an "indirect affirmative" (Gavey, 1999, p. 60). Since women are expected to be "passive recipients of male sexual desire", or at least, should not express their own desire unless being overcome by the "seductive power of men", their resistance or protest is portrayed as an expected reaction of "normal" heterosexual sex, rather than an assertion of non-consent (Ehrlich, 2001, p. 29).

⁴ All crimes in the CC are described in terms of an "active subject" that commits the crime against a "passive subject", that suffers the harm. While the first one refers to the perpetrator, the latter refers to the victim.

This model also reinforces a gendered stereotype that conceives women who enjoy being sexually possessed are likely to "lie about being raped when sex goes bad, for which they also bear the responsibility" (Radačić's, 2014, p.68). Grounded in the Madonna-Whore dichotomy, this view categorizes women as either sexually pure or deviant, expecting them to engage in sex solely for procreation to maintain respectability. Those who deviate from this norm are presumed more likely to make false rape accusations to justify their transgressive behavior. As a result, rape is only recognized if the victim exhibits continuous, visible resistance against overwhelming force. As Radačić (2014, p.68) notes, this framework wrongly interprets a victim's passive response—often rooted in fear or submission—as consent.

c) Rape offenders as being driven by sexual appetites

A third feature identified in the judge's interpretation of rape is the offender's motivation: "to satisfy sexual appetite or desire". From this view, proving the 'mens rea' (the mental element), requires not only evidence showing the perpetrator forced someone to have sex against their will, but also having a subsequent drive:

"[the agent with] the knowledge and willingness to satisfy his sexual desires" (Case3)
"...if the agent does not seek to satisfy any of his sexual appetites with his actions and, on the contrary, only seeks to injure, the commission of the crime of sexual carnal access will be ruled out even if objects have been introduced into the vaginal cavity or parts of the body" (Case 5)
"the purpose of violence or serious threat is to overcome the resistance, opposition or contrary will of the victim (...). That way one satisfies their sexual desires" (Case 8)

According to this representation, rape is driven by sexual attraction rather than power, portraying perpetrators as victims of their own uncontrollable sexual impulses. Lacey (1998) affirms that, paradoxically, the "rational male whose sexuality is so potent" is, simultaneously, "the same poor creature" driven to rape by the urgings of his uncontrollable sexual drives and "whose cognitive capacities are so fragile that he is at times incapable of recognizing between the apparently straightforward dichotomy, yes and no." (p.100). As Ehrlich (2001) argues, this construction of an agentless man serves as a convenient defense strategy in rape trials, diminishing the perpetrator's culpability.

This extra-legal requirement to prove that offenders acted to "satisfy sexual desire" reinforces gender-based assumptions about male sexuality. This perspective has persisted in Peruvian jurisprudence for decades. Siles (1995, p.167) documented judges' references to men as "subjected to uncontrollable lascivious drives, unable to contain themselves". Such narrow framing leads courts to dismiss cases lacking evidence of sexual motivation. This prevalent myth contradicts empirical evidence: the WHO (2003, p.10) finds that sexual offenders are primarily motivated not by sexual desire, but by non-sexual impulses—anger and hostility toward women, coupled with a need to control and dominate them.

d) Final considerations

Judges' interpretation of rape is not only grounded in the legal statute's content, but also in extra-legal prevalent rape myths. This is evident when rape is defined as a physically violent act, when victims are required to resist the attack, or when it is expected to prove men's "sexual appetites or desires". The three features identified combine to reproduce a stereotypical representation of rape that fits the 'real rape' script (Estrich, 1987). The analyzed extracts display a dominant view by which some forms of rape are considered 'real' (if there are physical injuries or the victim actively resisted it), while others are not. These interpretations align with an expected model of normative heterosexuality, in which women are shown as passive victims who are expected to "enjoy" being sexually possessed. At the same time, men assume the role of initiators, driven by their urges and desires. Paradoxically, when it comes to sexual matters, men are no longer represented as "rational"; but instead, as agentless and innocent.

6.2. Part II. In the light of 'extra-legal' evidence

This second part of the analysis includes identifying rape myths and gender stereotypes through the judge's assessment of evidence and construction of facts. Based on definitions offered by multiple studies (Bohner et al., 2009; Radačić, 2014; Suarez & Gadalla, 2010), four types of rape myths were used: a) victim-blaming; b) minimizing rape; c) justifying the offender; and d) casting doubt on the victims' credibility (see Appendix 1). Finally, findings of a judge's active resistance to such myths are exposed.

a) Victim-blaming

'Victim-blaming' myths support the belief that victims, to some extent, cause their own victimization; that is, they "ask for it". This mindset shifts the responsibility of the crime from the offender to the victim. The judicial opinions analyzed included two concrete examples: 1) that women who get voluntarily intoxicated are partly responsible for their rape, and 2) that they look for it by how they behave and/or dress (Eyssel & Bohner, 2011).

The following phrasings related to the victim's alcohol consumption were identified:

"it is clear that they were all drinking large amounts of liquor (yards of beer), by their own decision..." (Case 5)

"...by the rules of logic and maxims of experience, she may well have adopted the same behaviour before drinking the cachina colada, avoiding excessive drinking" (Case 4)

"(...) it is not apparent that the defendant wanted to put the victim or take advantage of a state in which she could not give her free consent to lie with him sexually, since she is a 20-year-old adult who has drunk the amount of liquor she wanted to" (Case 4)

References to alcohol consumption by victims are written in ways that suggest that their willingness to be in a state of intoxication includes accepting everything that follows, including being sexually assaulted. Statements like "it was her decision", "she wanted to drink", or "she could have avoided excessive drinking" shift blame onto victims, portraying them as responsible for placing themselves in a high-risk situation they were expected to prevent. Research shows that substance use by victims remains a significant extra-legal factor influencing the CJS's response to rape, by reducing, for example, the likelihood of law enforcement taking decisive action, such as calling a detective or arresting a suspect (Venema, 2019).

Other victim-blaming myths identified relate to the victim's behavior or dress prior to the aggression:

"35. (...) it is striking that according to psychologists (...), who examined the victim, they agree in pointing out that she is a shy woman, she shows a passive attitude, difficulties to be able to be assertive and being able to say no, in a categorical way (...) however, she usually wears undergarments like the one described by forensic biologist (...), describing it: as a "red female panties with lace in the front area, lace around the leg", being so strange that the supposed personality that she presents (shy) is not related to the intimate garment that she used on the day of the events, because by the maxims of experience, this type of female underwear is usually used on special occasions for moments of intimacy. Therefore, one can infer that the victim had prepared or was willing to have sexual relations with the defendant, hence she consciously decided to stay in the defendant's house..." (Case 4)

The argument of the 'red panties' as a sign of consent echoes the 'mini skirt' narrative often used in rape trials. At its core lies the notion that "women who dress in a way perceived as seductive consciously desire or subconsciously want to be assaulted" (Clarke, 2011, p. 13). Notably, judges reinforce such claims by relying on expert witnesses, whose testimonies lend an air of undeniable objectivity to their reasoning. To counter any perception of arbitrariness, they cite observations from figures whose status grants them authority. As Cotterill explains, "the testimony of an expert witness in court is an illustration of the way in which locally determined discursive practices serve to construct what kinds of talk can and cannot be heard, and who is qualified to present an authoritative version of the truth" (2003, p. 171).

Within this framework, expert testimony is granted greater credibility than that of a victim-survivor, who is often seen as speaking from a 'commonplace' rather than a 'specialized' locus. Cameron & Panovic explain that "a great deal of power and control is exercised not by brute physical force or economic coercion, but by the activities of 'experts' who are licensed to define, describe, and classify things and people" (2014, p. 14). By relying on expert witnesses, judges not only bolster their own statements but also reinforce dominant narratives that marginalize victims' voices.

b) Minimizing rape

The second rape myth identified assumes that rape only occurs under specific, stereotypical circumstances and manifests in certain recognizable ways. This narrow view frames rape through a

limited lens, which leads to dismissing or belittling cases that do not fit this mold. This is seen in two examples: 1) rape that does not leave physical injuries; 2) rape described in terms of consented or affective sex. Regarding the first case, the following excerpts were identified:

"no internal vaginal tears were found as a result of a penetration into a "non-lubricated" vaginal canal, since an unconscious person does not have the excitement prior to the consensual sexual act that leads to the lubrication of his vaginal canal, whose liquidity increases with the female orgasm and that, therefore, does not allow the internal vaginal tears mentioned above." (Case 5)
"the victim does not present an injury compatible with rape because there are no physical injuries compatible with an assault against sexual freedom (...)" (Case 1)
"...if it was a non-consensual act, the female genital area would not be lubricated and forcing the introduction [of a penis] would cause some injury, not properly in the hymen but in the vaginal introitus, be it labia majora, minora, clitoris, border, among others, produced by friction or smear as indicated by the forensic psychologist expert" (Case 4)

On the lack of physical injuries, judges interpret this as evidence that no rape occurred. In Case 5, the lack of "internal tears" in the vaginal cavity is not only seen as an indication of consent but also of desire. The reasoning follows that if there are no injuries, the vagina must have been lubricated, and if lubricated, it signals a 'female orgasm,' supposedly proving that "she liked it." As in previous examples, judges legitimize their conclusions by relying on expert testimony. This masochistic framework reinforces the norm of 'possessive heterosexuality,' which assumes women subconsciously desire or enjoy being raped (Ben-David & Schneider, 2005).

The language used in these judicial decisions further distorts the reality of sexual violence. Phrases such as "lie sexually with her victim" (Cases 1, 4), "copulate her" (Case 18), or "touched her and kissed her breasts" (Case 18) create a misleading impression, as if the acts were mutually consensual. More strikingly, specific descriptions of evidence are written in highly eroticized or sexualized terms that obscure the inherent violence of rape (Bavelas & Coates, 2001). For example, phrases like "he penetrated with his virile member through the anus" (Case 8) or "he did not ejaculate inside her and sprayed semen all over her breasts" (Case 17) minimize the brutality of the assault. Similar to findings by Othman et al. (2019), some judicial decisions contain descriptions that are awkwardly graphic, bordering on pornographic (p. 95). As an example, the use of ambiguous terms such as "the connection," "the act," or "the episode" subtly downplays the gravity of the crime (Othman et al., 2019, p. 93).

c) Justifying the offender

Rape myths not only blame victims for their victimization. They also excuse offenders or diminish their responsibility. For example, by portraying rape as an act driven by a man's sexual impulse or characterizing the defendant in ways that are grounded in biological determinism. Regarding the former, this may be seen in the following excerpt:

"...the malicious and violent action to satisfy his sexual desires has been sufficiently proven, which determines that a conviction is handed down." (Case 18)

Paradoxically, in case 5, the narrative of "desire" previously used in the definition of rape is later distorted to diminish the offender's responsibility. When assessing the evidence, the judge argues that the victim's 'LGBT condition' makes it unlikely that the defendant would have intoxicated her with the intent to rape her. The very notion of "sexual desire" suddenly becomes irrelevant when the victim is homosexual. The judge asserts that, as a heterosexual man, the defendant could not 'feel desire' for a lesbian woman, therefore, could not have raped her. As illustrated:

"nor can we affirm that the fact that the victim "does not remember anything" is due to the fact that the defendant has intentionally given her to drink excess liquor so that, in the end, he bends her will [even more regarding her LGBT condition] and agree to have sexual relations with him..." (Case 5)

As in Part I, this rape myth around the offender stems from the belief that 'most rapists are over-sexed', or that 'rape happens when a man's sex drive gets out of control' (Bohner et al., 2009, p.19). Such assumptions reinforce the construction of hegemonic masculinity associated to power dominance and sexual performance as features of traditional manhood (Fuller, 2018).

Other ways of minimizing the offender's blameworthiness are used, as seen:

"upon waking up in the morning hours and -via WhatsApp- in the immediate successive days, they discussed what happened with absolute normality, being the case that by not having used protection during the sexual act, the defendant gave money to the complainant to buy a "morning after pill", which was accepted by the latter" (Case 5) "...it appears that the defendant presents a borderline personality (...) it cannot be specified whether they may be capable of killing a person and regarding whether or not they can outrage a person, that cannot be determined (Psychiatrist MQ); but he cannot cause harm to a person he loves (Psychologist OM); and when he establishes affective relationships with a man or woman, they can see them as a God or Goddess, (...); furthermore, this person is not capable of raping ... (Psychologist ZM)." (Case 1) "...this exam only allows us to know the personality of the defendant useful to graduate his penalty, but it is not ideal for assessing his responsibility, since a maxim from experience allows us to affirm that people in a state of intoxication, sometimes do not control their actions"(Case 9)

The inclusion of irrelevant factual details in case 5 serves to downplay the severity of the alleged rape. By emphasizing that the accused gave her money to purchase 'a morning after pill', and that she accepted it, the judge introduces a subsequent, unrelated behavior that distracts attention from the criminal act itself. It depicts a regular interaction rather than an assault. Similarly, describing the conversation between the alleged perpetrator and the victim as having occurred with "absolute normality" creates a misleading impression of consent. In case 1, likewise, through expert testimony, the offender is portrayed as lacking agency, framed by deterministic psychiatric or psychological diagnoses that depict him as someone "incapable of raping".

This assumption is also present in case 9 when assessing the offender's intoxication prior to the crime. In this regard, a double standard often exists between men and women. As stated by WHO (2003), if a woman has been drinking or using drugs, she is often blamed for her victimization; but if it's a man who is doing so, he is excused or justified because he is not expected to control his behavior (p.8). Case 9 shows how alcohol consumption is treated as a mitigating factor, framing intoxicated men as less culpable for their crimes.

d) Casting doubt on the victim's credibility

As with victim-blaming myths, this rape myth is also centered on victims. Rather than attributing part her victimization to her, this one discredits her testimony and erodes her credibility. For example, by considering that false allegations are common (driven mainly by revenge or regret), that all victims will be visibly distressed in the aftermath of a rape, or that any delay in her report makes it suspicious (Smith & Skinner, 2012, p.443). The following excerpts were identified:

"...the complainant, though she refers that they were friends [with the defendant], the fact of finding out in such circumstances that he [defendant] was going to be a father would in some way had an impact on her that she determined to declare in the way that she did." (Case 5) "...between one and the other testimony, one can verify relevant omissions of what really happened to her, (...) to the expert witness CA, she said " the next day I woke up at 6:14 am I was in his bed without clothes, he was touching my vagina, rubbing me, then he got on top and tried to penetrate me (...); while in court she ignored that the defendant prior to get on her naked body, had rubbed her vagina; then he told the psychologist DCN "... that at that time he was touching her intimate parts, that is, her vagina and got on top of her wanting to penetrate her, she said no, she got up, she was scared. But "in court she said that "he was inserting [his penis]" (Case 4) "There is no uniform and persistent statement by the complainant regarding the place and time in which events occurred, since in her police report (...) she says that she went with her friend "Leonela" at a party at 10pm, yet this information later varies and says (...) that she went with her friend "Leonela" to a jukebox bar at 11pm." (Case 2)"

Since rape tends to occur in enclosed spaces or without eyewitnesses, a victim's testimony is crucial. Peruvian law allows a conviction to be secured if this testimony meets certain criteria, for example, regarding its consistency and coherence. However, the threshold to determine when an account meets the required level of coherent or consistent can be applied by judges in stark contrast to empirical evidence on how rape victims commonly react to trauma.

This is evident in Cases 2 and 4, where judges consider minor variations in a victim's account

as 'relevant omissions' or 'contradictory statements'. For instance, discrepancies in remembering whether the aggressor 'rubbed' her intimate parts, whether he 'tried' or 'did' penetrate her (Case 4), or the exact sequence and timing of events (Case 2) are treated as indicators of unreliability.

However, research shows that the "shame or embarrassment that rape can elicit, as well as the concern that conduct prior to the attack may be viewed negatively, contribute to making it difficult for them to give a full and candid disclosure" (Munro & Kelly, 2009, p. 293). Trauma can also distort a victim's perception of time and create memory blocks (Taylor, 2004). Despite this, legal practitioners still believe that only women who give a fully coherent and consistent account are "real victims". Juries, for example, often interpret delays in reporting or inconsistencies in a victim's testimony as signs of false allegations (Rose et al., 2006). These myths are grounded in the distorted belief that all victims respond in the same way. If they do not share a highly coherent narrative, they risk being denied the status of victims.

e) Challenging rape myths

Thirty years ago, Sile's research on gender stereotypes in rape cases in Peru considered it "alarming" that Peruvian judges did not make any effort to question stereotypical representations of women and men when presiding over cases (1995, p.72). The present study, however, shows that, while judges can reproduce rape myths, they can also actively challenge them when these are being incorporated into a trial:

"he alleges that the victim lies because (...) she said that all she wanted to do when arriving home was to tell her father what happened; yet, once she got home, it did not happen. What was stated by the defendant's defense is true, but a maxim of the experience allows us to affirm that common people, out of shame, do not always report the facts immediately, sometimes they do not even report it." (case 9)
"The defendant presents six photographs with images of the victim smiling (...) indicating that it is contradictory that the victim appears in that photo smiling and, on the contrary, in interviews presented an anxious behaviour. In this regard, it is not reasonable for a person to remain sad or distressed all the time in the face of a traumatic event, a maxim from experience allows us to affirm that people tend to become or manifest sadness when they remember or relate about the facts." (case 9)

These two excerpts display the defendant's legal strategies to discredit the victim-survivor's credibility. By appealing to rape myths, they shift the focus from the offender's behavior to the victim's reaction, as victim-blaming narratives do, seeking to question the credibility of her testimony ('she is lying'), or downplaying the harm she has gone through ('she is smiling').

To neutralize such assumptions, judges use alternative interpretations to debunk what could be initially perceived as an 'irrational' reaction of rape victims, just because they do not fit the 'ideal victim' paradigm. Studies around attitudes from judges, juries, and prosecutors in rape cases consider this as a way of contesting myths (Smith & Skinner, 2012, p.18). For instance, measurements implemented to thwart untruthful and harmful narratives during trial include special judicial instructions (sometimes called 'myth-busters'), information leaflet or DVDs with realistic dynamics of rape and common reactions of victims (Temkin & Krahe, 2009, p.309).

f) Final considerations

The observations above align with existing literature on how rape myths and gender stereotypes remain deeply embedded in legal proceedings, shaping trials and judicial decisions in ways that blame victims, justify perpetrators, minimize the severity of the crime, and undermine the credibility of victims' testimonies (Hildebrand & Najdowski, 2015; Smith & Skinner, 2012).

These myths interfere in the construction of facts and the assessment of evidence, reinforcing the paradigm of 'real rape'—a framework that, in certain cases, has already been pre-emptively established by judges when defining the crime. As illustrated in previous examples, these beliefs feed from each other. For instance, the expectation that victim-survivors must present physical injuries aligns with the narrow definition of rape as an act committed only through physical force. Likewise, victim-blaming narratives that focus on 'provocative' clothing intersect with the categorization of offenders as 'agentless' men driven by uncontrollable sexual impulses.

In relation to the assessment of evidence, the authoritative voice of an expert-witness, re-

ardless of how accurate its content is, tends to be privileged over that of victim-survivors. The sexist representation of women as 'liars' or 'vengeful' further erodes their credibility. Despite extensive evidence showing that trauma can disrupt memory and affect recall, victim-survivors are expected to give an absolutely accurate and coherent narrative of their experiences. Additionally, in some cases, judges contribute to casting doubt over their testimonies by incorporating irrelevant details that normalize the assault, giving the impression that the interaction was consensual. Moreover, turning to the victim's intoxication, a double standard is evidenced when it is a woman drinking alcohol, leading to victim-blaming narratives. At the same time, in the case of offenders, judges use these references to reduce their agency and, hence, their culpability.

Finally, though judges can reproduce rape myths and gender stereotypes, they can also challenge them. In fulfilling their duty to ensure women's right to access justice on equal terms, judges can and should actively resist these myths when they arise during legal proceedings.

7. Limitations

The first limitation concerns the small sample of judicial opinions. This could be explained given that most rape cases that reach trial are against minors, where consent is not even discussed (Zaikosky Biscay, 2015; Siles, 1995; Wentz, 2020). It is unclear whether future research with a larger sample would yield similar findings. A second limitation of this study concerns the transferability of the findings, as the sample is limited to a small, dispersed area across the country. Notwithstanding this, as shown by the extent of gender stereotypes nationwide, the patterns identified could also be present in other regions in Peru. The third limitation entails the language. Although being a Spanish native speaker was an advantage for data collection and analysis, it was also a challenge. Translating excerpts was not always clear-cut, and some English phrases used were limited in matching culturally specific information.

Finally, it is important to note my position as a feminist activist in analyzing the judicial opinions. Although a researcher's subjectivity is always part of the interpretive process (Varpio et al., 2017, p.43), as Renzetti says, no research is entirely unbiased, and no matter how objective researchers like to believe they are, they are inevitably influenced by values, preferences, and features of the settings and structures in which they live (2013, p.131). Nevertheless, the robustness of the interpretation of findings was maximized through actively searching for evidence that could refute general assumptions on judges' predisposition towards rape myths. For example, careful reading was applied to verify whether a judge's inference was constrained by the literality of the statute; and, whether judges, contrary to what is widely thought, actively challenge rape myths.

Conclusions

This study aimed to explore whether, and to what extent, judicial opinions in rape cases in Peru against female victim-survivors over 14 (2015–2020) are influenced by rape myths and gendered stereotypes. The findings suggest that they continue to shape judicial decision-making, influencing interpretations of the crime, assessments of the evidence, and constructions of the facts. In terms of the judicial definitions of rape, the analysis reveals no consistency. Some judges still perceive rape requires physical force and a victim's active 'resistance' —both features of the 'real rape' myth (Estrich, 1987). Regarding the assessment of evidence and construction of facts, judges frequently invoke rape myths, including a) victim-blaming; b) minimization of rape; c) justifying the offender; and d) casting doubt on victims' testimonies.

Although judges are prone to reproducing rape myths and reinforcing gender ideologies that sustain male dominance, they can also (as shown in case 9) challenge them. According to the Inter-American Court of Human Rights [IACtHR], judges have a duty to critically assess and select evidence to prevent contamination from gender-based insinuations that violate women's right to access justice (2018). This study contributes to the existing body of knowledge that supports judges' role in actively neutralizing and tackling these myths in their court decisions —particularly when the defendant's strategies involve humiliating or discrediting rape victim-survivors (Smith & Skinner, 2017).

Notwithstanding the limited sample, these findings offer valuable insights to unravel how the Peruvian judiciary responds to rape reports that reach trial. Beyond confirming that judges still reproduce sexist dominant beliefs encoded in legal narratives, this research shows they can

also resist them, providing a foundation for targeted interventions to improve judicial responses to rape. Policy implications could include strengthening legal training aimed at reframing sexual violence under a communicative model, which conceives 'consent' as a process of communication and negotiation, not simply as a binary 'yes' or 'no' transaction (Clarke, 2011, p.82). While seeking to enhance the CJS's response to meet victims ' and survivors' needs, these results also contribute to broader academic discussions on alternative ways to seek justice.

References

- Acuerdo Plenario 01-2011/CJ-116 (2011). VII Pleno Jurisdiccional de las Salas Penales Permanentes y Transitoria. *Corte Suprema de Justicia de Lima, Peru*.
- Bavelas, J., & Coates, L. (2001). Is it Sex or Assault? Erotic Versus Violent Language in Sexual Assault Trial Judgments. *Journal of Social Distress and the Homeless, 10(1)*, 29-40. <https://doi.org/10.1023/A:1009477518196>
- Ben-David, S., & Schneider, O. (2005). Rape Perceptions, Gender Role Attitudes, and Victim-Perpetrator Acquaintance. *Sex Roles, 53(5-6)*, 385-399. <https://doi.org/10.1007/s11199-005-6761-4>
- Bieneck, S., & Krahé, B. (2011). Blaming the Victim and Exonerating the Perpetrator in Cases of Rape and Robbery: Is There a Double Standard? *Journal of Interpersonal Violence, 26(9)*, 1785-1797. <https://doi.org/10.1177/0886260510372945>
- Bizimungu, C. (2019). *An examination of the impacts of rape myths and gender bias on the legal process for rape in Rwanda*. University of Sussex. Thesis. <https://hdl.handle.net/10779/uos.23467277.v1>
- Bodelón, E. (2008). La violencia contra las mujeres y el derecho no-androcéntrico: Perdidas en la traducción jurídica del feminismo. P. Lorenzo, M. L. Maqueda, & A. Rubio (Eds.), *Género, violencia y derecho*. Tirant lo blanch.
- Bohner, G., Pina, A., & Viki, T. (2009). Chapter 2 Rape myth acceptance: Cognitive, affective, and behavioral effects of beliefs that blame the victim and exonerate the perpetrator. M. Horvath & J. Brown (Eds.), *Rape* (0 ed.). Willan.
- Braun, V., & Clarke, V. (2006). Using thematic analysis in psychology. *Qualitative Research in Psychology, 3(2)*, 77-101.
- Bryman, A. (2012). *Social research methods* (4th ed). Oxford University Press.
- Burns, C. (2005). *Sexual violence and the law in Japan*. Routledge, Taylor & Francis Group.
- Burt, M. R. (1980). Cultural myths and supports for rape. *Journal of Personality and Social Psychology, 38(2)*, 217-230. <https://doi.org/10.1037/0022-3514.38.2.217>
- Cameron, D., & Panović, I. (2014). *Working with Written Discourse*. SAGE Publications, Ltd. <https://doi.org/10.4135/9781473921917>
- Charalambous, K. (2015). Chapter 9: The judicial performativity of rape myths: A discourse analysis of rape court decisions. M. Koutselini & F. Valanidou (Eds.), *Gender, Law and Institutions*. University of Cyprus.
- Clarke, G. (2011). *'Real' rape revisited: Exploring issues of gender and intoxication in contemporary English and Welsh criminal justice*. University of Cambridge.
- Cotterill, J. (2003). *Language and power in court: A linguistic analysis of the O.J. Simpson trial*. Palgrave Macmillan.
- De Carvalho Figueiredo, D. (1998). Identities and Gender in the Discourse of Rape Trials. *Fragmentos, 85/104*.
- De Assis, C. (2019). *Diagnóstico de Estereotipos de género en las Fiscalías Provinciales Transitorias Especializadas en Violencia contra la Mujer y los Integrantes del Grupo Familiar penales y mixtos del Ministerio Público en la actuación de la investigación de los delitos de violencia de género y feminicidios en el Perú* [Unpublished manuscript].
- Defensoría del Pueblo. (2011). *Violencia sexual en el Perú: Un análisis de casos judiciales. Informe de Adjuntía N.004-2011-DP/ADM*. Defensoría del Pueblo.
- Ehrlich, S. (2001). *Representing rape: Language and sexual consent*. Routledge.
- Emmel, N. (2013). *Sampling and choosing cases in qualitative research: A realist approach*. SAGE.
- ENARES (2020). *Encuesta Nacional sobre Relaciones Sociales 2019. Principales Resultados*. Instituto Nacional de Estadística e Informática (INEI). https://www.inei.gob.pe/media/MenuRecursivo/boletines/presentacion_enares_2019.pdf

- Estrich, S. (1987). *Real rape*. Harvard Univ. Press.
- Eyssel, F., & Bohner, G. (2011). Schema Effects of Rape Myth Acceptance on Judgments of Guilt and Blame in Rape Cases: The Role of Perceived Entitlement to Judge. *Journal of Interpersonal Violence*, 26(8), 1579–1605.
- Fairclough, N. (1995). *Critical discourse analysis: The critical study of language*. Longman.
- Fuller, N. (Ed.). (2018). *Difícil ser hombre: Nuevas masculinidades latinoamericanas (Primera edición)*. Fondo Editorial, Pontificia Universidad Católica del Perú.
- Gavey, N. (1999). «I Wasn't Raped, but...»: Revisiting Definitional Problems in Sexual Victimization. En S. Lamb, *New Versions of Victims: Feminists Struggle With the Concept* (pp. 57–81). New York University Press Address Washington Square. <https://doi.org/10.18574/nyu/9780814752913.003.0008>
- Gray, J. M., & Horvath, M. A. H. (2018). Rape Myths in the Criminal Justice System. E. Milne, K. Brennan, N. South, & J. Turton (Eds.), *Women and the Criminal Justice System* (15–41). Springer International Publishing. https://doi.org/10.1007/978-3-319-76774-1_2
- Golding, J.M., Lynch, K.R., Renzetti, C.M., Pals, A.M. (2022). Beyond the Stranger in the Woods: Investigating the Complexity of Adult Rape Cases in the Courtroom. In: Bornstein, B.H., Miller, M.K., DeMatteo, D. (eds) *Advances in Psychology and Law*, 6, 1–37. https://doi.org/10.1007/978-3-031-13733-4_1
- Hanashiro, N. (2024). #PerúPaísDeVioladores: a hashtag constellation against sexual violence. *Journal of Gender Studies*, 1–14. <https://doi.org/10.1080/09589236.2024.2407999>
- Heilman, M. E. (2012). Gender stereotypes and workplace bias. *Research in organizational Behavior*, 32, 113–135. <https://doi.org/10.1016/j.riob.2012.11.003>
- Hernández, W. (2022). Una mirada crítica a las políticas públicas en materia de violencia de género contra las mujeres. In Balarin, Cueto, Fort (Ed.), *El Perú Pendiente. Ensayos para un desarrollo con bienestar* (pp. 237–259) Lima, Grade.
- Hildebrand, M., M., & Najdowski, C. J. (2015). The potential impact of rape culture on juror decision making: Implications for wrongful acquittals in sexual assault trials. *Psychology Faculty Scholarship*. 43. https://scholarsarchive.library.albany.edu/psychology_fac_scholar/43
- Inter-American Commission on Human Rights. (2019). *Violence and Discrimination against women and girls: Best Practices and Challenges in Latin America and the Caribbean*. (Doc. 233). OAS. <http://www.oas.org/en/iachr/reports/pdfs/ViolenceWomenGirls.pdf>
- Inter-American Court of Human Rights (2018). *López Soto y otros Vs. Venezuela*, Judgement (Serie C. N. 362). https://www.corteidh.or.cr/docs/casos/articulos/seriec_362_esp.pdf
- Lacey, N. (1998). *Unspeakable subjects: Feminist essays in legal and social theory*. Hart Pub; Distributed in the United States by Northwestern University Press.
- MacKinnon, C. (2006). Feminismo, marxismo, método y Estado: Hacia una teoría del Derecho feminista. In M. García Villegas, I. C. Jaramillo Sierra, & E. Restrepo Saldarriaga (Ed.) *Crítica jurídica: Teoría y sociología jurídica en los Estados Unidos* (1. ed). Uniandes.
- McMillan, L. (2018). Police officers' perceptions of false allegations of rape. *Journal of Gender Studies*, 27(1), 9–21. <https://doi.org/10.1080/09589236.2016.1194260>
- Miró Quesada Gayoso, J. (2022). El género en la concepción y aplicación de la justicia penal. *THEMIS Revista De Derecho*, (81), 149–168. <https://doi.org/10.18800/themis.202201.008>
- Mujica, J. (2011). *Violaciones sexuales en el Perú, 2000–2009: Un informe sobre el estado de la situación*. PROMSEX
- Munro, V. E., & Kelly, L. (2009). Chapter 12. A vicious cycle? Attrition and conviction patterns in contemporary rape cases in England and Wales. In M. Horvath & J. Brown (Eds.), *Rape: Challenging contemporary thinking*. Willan Publishing.
- Nicolson, D. (2000). Criminal law and feminism. L. Bibbings & D. Nicolson (Eds.), *Feminist perspectives on criminal law*. Cavendish.

- Noaks, L., & Wincup, E. (2004). 8. Analysing Qualitative Data. *Criminological research: Understanding qualitative methods*. SAGE Publications Ltd.
- Othman, N., Mohd Nor, N. F., & Ibrahim, N. (2019). Linguistic Representation of Violence in Judicial Opinions in Malaysia. *GEMA Online Journal of Language Studies*, 19(2), 82-98. <https://doi.org/10.17576/gema-2019-1902-06>
- Pásara, L. (2006). *Cómo sentencian los jueces del distrito federal en materia penal*. Universidad Nacional Autónoma de México.
- Pásara, L. (2015). *Una reforma imposible: la justicia latinoamericana en el banquillo*. Fondo Editorial de la PUCP.
- Pásara, L. (2019). *De Montesinos a los cuellos blancos: La persistente crisis de la justicia peruana* (Primera edición). Editorial Planeta.
- Radačić, I. (2014). Rape Myths and Gender Stereotypes in Croatian Rape Laws and Judicial Practice. *Fem Legal Studies*, 22(1), 67-87. <https://doi.org/10.1007/s10691-013-9255-8>
- Rodríguez Vásquez, J. A., & Valega Chipoco, C. (2023). Violencia sexual y derecho penal: sobre los problemas contemporáneos en la interpretación del tipo penal de violación sexual en el Código Penal del Perú. *Derecho PUCP*, (91), 301-347. <https://doi.org/10.18800/derechopucp.202302.009>
- Renzetti, C. M. (2013). Feminist Perspectives in Criminology. *Routledge Handbook of Critical Criminology*. Routledge. <https://doi.org/10.4324/9780203864326.ch9>
- Rogers, A. (2020). "But the Law Won't Help Us": Challenges of Mobilizing Law 348 to Address Violence Against Women in Bolivia. *Violence against women*, 26(12-13), 1471-1492. <https://doi.org/10.1177/1077801219870613>
- Rose, M. R., Nadler, J., & Clark, J. (2006). Appropriately Upset? Emotion Norms and Perceptions of Crime Victims. *Law and Human Behavior*, 30(2), 203-219. DOI:10.1007/s10979-006-9030-3
- Sagot, M. (2005). The Critical Path of Women Affected by Family Violence in Latin America: Case Studies From 10 Countries. *Violence Against Women*, 11(10), 1292-1318. <https://doi.org/10.1177/1077801205280189>
- Zaikosky Biscay, D. M. J. (2015). Análisis cualitativo de las sentencias de delitos sexuales. In Salanueva, O. L. (Ed). *Violencia sexual y discurso jurídico: Análisis de sentencias penales en caso de delitos contra la integridad sexual*. Universidad Nacional de La Pampa.
- Siles, A. (1995). *Con el solo dicho de la agraviada: ¿es discriminatoria la justicia en procesos por violación sexual de mujeres?* DEMUS.
- Smart, C. (1977). *Women, crime, and criminology: A feminist critique*. Routledge & K. Paul.
- Smart, C. (1989). *Feminism and the Power of Law* (0 ed.). Routledge.
- Smith, O., & Skinner, T. (2012). Observing Court Responses to Victims of Rape and Sexual Assault. *Feminist Criminology*, 7(4), 298-326. <http://dx.doi.org/10.1177/1557085112437875>
- Smith, O., & Skinner, T. (2017). *How Rape Myths Are Used and Challenged in Rape and Sexual Assault Trials*. *Social & Legal Studies*, 26(4), 441-466. <https://doi.org/10.1177/0964663916680130>
- Suarez, E., & Gadalla, T. M. (2010). *Stop Blaming the Victim: A Meta-Analysis on Rape Myths*. *Journal of Interpersonal Violence*, 25(11), 2010-2035. <https://doi.org/10.1177/0886260509354503>
- Taylor, C. (2004) *Court Licensed Abuse, Patriarchal Love and the Legal Response to Intrafamilial Sexual Abuse of Children*. New York: Peter Lang.
- Taylor, N. (2007). *Juror attitudes and biases in sexual assault cases*. Canberra: Australian Institute of Criminology. <https://www.aic.gov.au/publications/tandi/tandi344>
- Temkin, J., Gray, J. M., & Barrett, J. (2018). Different Functions of Rape Myth Use in Court: Findings from a Trial Observation Study. *Feminist Criminology*, 13(2), 205-226. <https://doi.org/10.1177/1557085116661627>

- Temkin, J., & Krahé, B. (2009). Chapter 13. Addressing the attitude problem in rape trials: Some proposals and methodological considerations. In M. Horvath & J. Brown (Eds.), *Rape: Challenging contemporary thinking*. Willan Publishing.
- Ugaz, J. (1999). *Violación a la libertad sexual desde la perspectiva de género*. *Ius et Veritas*, 19, 194-198. <http://revistas.pucp.edu.pe/index.php/iusetveritas/article/view/15833>
- Varpio, L., Ajjawi, R., Monrouxe, L. V., O'Brien, B. C., & Rees, C. E. (2017). *Shedding the cobra effect: Problematizing thematic emergence, triangulation, saturation and member checking*. *Medical Education*, 51(1), 40-50. <https://doi.org/10.1111/medu.13124>
- Venema, R. M. (2019). *Making Judgments: How Blame Mediates the Influence of Rape Myth Acceptance in Police Response to Sexual Assault*. *Journal of Interpersonal Violence*, 34(13), 2697-2722. <https://doi.org/10.1177/0886260516662437>
- Wentz, E. A. (2020). Funneled Through or Filtered Out: An Examination of Police and Prosecutorial Decision-Making in Adult Sexual Assault Cases. *Violence Against Women*, 26(15-16), 1919-1940. <https://doi.org/10.1177/1077801219890419>
- World Health Organization (2003). Guidelines for medico-legal care for victims of sexual violence. Geneva. https://reliefweb.int/attachments/00e22da2-e564-3f2e-bb3f-b87bb03a207e/5640EF03EB516383C1256FD4004E9583-WHO_Guidelines_2003.pdf
- World Health Organization (2021). *Violence against women prevalence estimates, 2018*. https://prevention-collaborative.org/wp-content/uploads/2021/08/WHO_2021_VAW-Estimates.pdf