

## Judicial sentencing remarks and the re-victimisation of victims of sex offences

According to critics (Wykes & Welsh, 2009), the law perpetuates gendered stereotypes about female and male sexuality and their roles in relation to both sex and violence. Furthermore, criminal justice practitioners, including judges and magistrates, redefine and reconceptualise victims' experiences to fit that law.

Studies and commentaries reveal that courts focus on the victim's state of mind; her or his behaviour and so on that suggests the victim is on trial rather than the defendant. Jurors are asked to decide whether the victim deserves protection under law, rather than whether the victim was sexually assaulted (Clark 2008). Then judges – influenced by the myths that permeate case law and sentencing manuals – impose sentences that rarely, if ever, equate with the statutory maximums. Their sentencing remarks show too often the factors that judges take into account reflect classical understandings of sexual assault, for instance, offender-excusing; victim-blaming; acquaintance-justifying; and, that real rape is stranger-rape (Kennedy, Eastaugh and Taylor 2009, see also Bouhours & Daly 2008; Taylor 2004). Contrary, judges in some countries can instruct juries to ignore myths surrounding rape (eg *The Times* 2009).

Less, however, is known about the impact of judges' sentencing remarks on victims, so this paper (although not ignoring the legal re-victimisation of victims of sexual assault) will report the views of social workers who assist victims of sexual assault during criminal proceedings. These workers have learnt that victims who have been prepared for the 'worst' court experience cope better than those who have not been prepared. Victims are frequently so relieved to hear a guilty verdict that sentencing remarks are a secondary but still a very important concern. This paper presents the findings and suggests lessons for judges and magistrates.