Jurors fail to understand rape victims

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Rape trial juries need better guidance in the courtroom -- and a better understanding of rape victims -- to help them reach their verdict.

Professor Vanessa Munro of The University of Nottingham and Dr Louise Ellison of the University of Leeds found jurors have a poor understanding of the various ways in which women might react when raped, the levels and types of injuries they might sustain and the different behaviours they might display in the witness box.

The researchers, funded by the Economic and Social Research Council, set up mock court cases to examine how jurors reacted to different pieces of evidence and how these were then discussed in the jury room.

In particular, they found that many jurors expect rape victims to:

- Fight back against their attacker;

- Sustain serious physical injuries;

- Report the offence immediately;

- Appear tearful and distressed when recounting their experiences in court.

In reality, many rape victims offer no physical resistance, many suffer no injury, many delay reporting rapes for significant periods and many

react to rape by exhibiting extreme calm — often as a strategy to help them cope. The research shows that each of these reactions, in challenging the assumptions of jurors, can work against rape complainants when they appear in court — and may be one factor which contributes to the low conviction rate of 6.5 per cent in reported rape cases.

The researchers also examined whether educational guidance given to jurors about these issues by a judge or expert witness would lead to a fairer, less prejudicial assessment of complainant credibility in rape cases. They found jurors who received this guidance were more likely to accept that a woman who had been raped might delay reporting the incident to police, and may appear calm and controlled under cross-examination.

Even so, jurors who received this guidance still expected complainants of rape to have resisted strenuously and be injured as a result.

Professor Munro said: "The research shows that misconceptions about 'normal' responses to rape influence jurors' assessments of credibility — and this is a barrier to securing justice for the victim. Further work needs to be done to identify the most appropriate mechanisms by which to introduce this education. Care will be needed to ensure that the guidance is measured in tone, and avoids any suggestion of unfair prejudice to the accused, but we are optimistic that this can be achieved."

Dr Ellison said: "There is a clear need for educational guidance in rape cases. Defence lawyers often seize upon any delay or lack of resistance to undermine the credibility of a rape complainant in court. Jurors need to be fully informed about the wide range of reactions and emotional responses rape can inspire."

The research "Complainant Credibility & General Expert Witness Testimony in Rape Trials: Exploring and Influencing Mock Juror Perceptions" follows proposals published in 2006 by the Office for Criminal Justice Reform to allow prosecutors in rape cases to use general expert evidence to educate jurors about the impact of rape and the complex, disparate reactions of victims during and post-assault. The fate of these proposals is still being debated, although the Solicitor-General has recently announced plans to develop draft judicial directions that can also be used for this educative purpose in rape cases. Because it is unlawful to conduct research with real juries, the researchers used trial and jury room simulations to explore public understanding of common reactions to sexual victimisation.

Source: University of Nottingham (news : web)

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