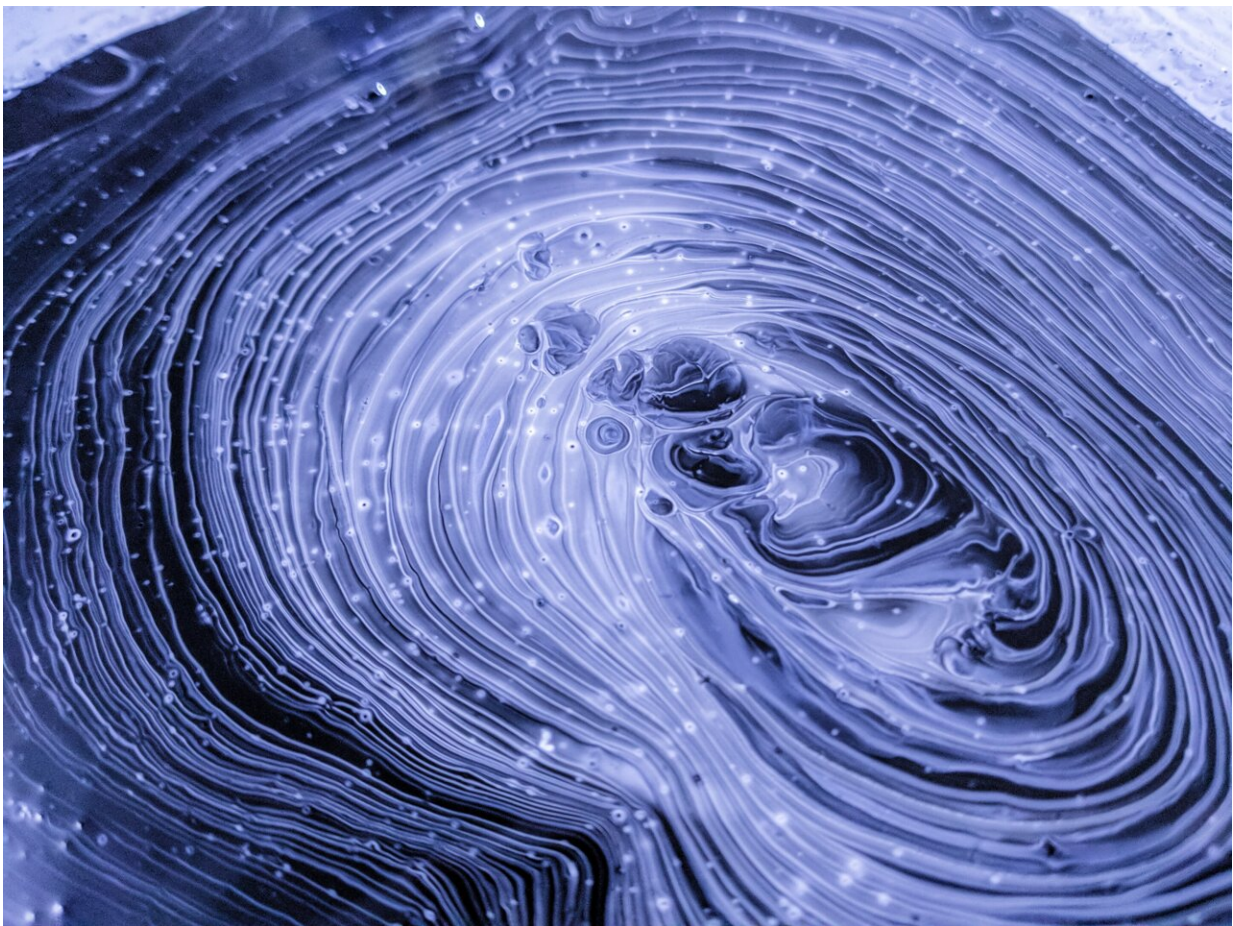


How rape myths, unconscious biases prejudice the judicial system against women, and rape survivors in particular

September 27 2023, by Pragya Agarwal



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It is well documented that women who are sexually assaulted, or raped, rarely report the crime to the police. The US charity, the [Rape, Abuse and Incest National Network](#), has shown that [1 in 6 women](#) in the US has been the victim of rape or attempted rape, yet two in three rapes go unreported. For women under 25, that figure drops to 1 in 5.

In the UK, these figures are similarly bleak. The Victims' Commissioner for England and Wales [notes](#) that, in the year to December 2021, the [police](#) recorded 67,125 [rape](#) offenses. And yet the charity Rape Crisis says [5 in 6 women](#) who are raped don't report it.

Many factors feed into why women do not report such crimes. The primary reason, however, is the lack of trust many express in the policing and legal systems.

[My research](#) looks at how social inequalities and implicit biases impact legal decisions. Even when jury members and [police officers](#) believe they are acting without prejudice, which is more overt and forceful, they cannot avoid their [implicit biases](#).

Why victims of sexual assault do not trust the judicial system

Data from the UK criminal justice system [shows](#) that even when a survivor reports a rape and a person is charged, it is unlikely to see them found guilty. Rape Crisis figures [show](#) that less than two in 100 rapes recorded by the police in 2022 ended in a charge or a conviction.

The End Violence Against Women Coalition, a feminist antiviolence charity, has shown that, since the rape and murder of Sarah Everard by a serving police officer in 2021, [1 in 10 women](#) across the UK were even less likely to report [sexual assault](#) to police than they were before. A poll

by Savanta ComRes in February 2023 found that [26% of women](#) said that they had "no trust in the police at all."

In court, sexual assault cases are defined by legal precedents, in which gender stereotypes and rape myths have been found [to play](#) a significant role. These stereotypes are often rooted in misconceptions and in morality judgements—about what the victim was wearing, whether they had been drinking, whether they knew the rapist or had been flirting with them— affect how a case is prosecuted and how a jury then deliberates it.

My ongoing research shows that there is also a tendency in jury trials, even those with jurors who score low on prejudicial attitudes towards women, that if a woman was intoxicated or did not run away or scream during a rape, then she had ["asked for it."](#)

These biased views are grounded in [gender stereotypes](#) and norms. They are also based on a lack of understanding around psychological reactions to assault and rape, where some people freeze due to fear.

Further enduring rape myths concern domestic rape. There is a persistent assumption that rape and assault does not happen within marriage or long-term relationships. This, along with the idea that men have higher sex drive and that women are a "tease," hinge on mistaken understandings around consent and rooted in masculine/feminine stereotypes.

How rape myths are used to undermine women's credibility in court

A 2018 [report](#) from the fact-checking charity Full Facts showed that proven cases of false allegations are very rare. It is difficult to prove conclusively what a false allegation might be. Even though the

circumstances and definitions of false allegations vary, the report found that only 3%-4% of all rapes reported could be potential false allegations.

Included in this tally were cases where the victim was misremembering, either because they had been under the influence of drugs or alcohol, or because they had misinterpreted the law.

Rape myths have also arisen due to the inconsistency in survivor accounts. However, it is well documented that [trauma](#) can result in disorganized and incomplete sequence of events in memory. Research has also [shown](#) that specificity and accuracy can be [poor indicators](#) of the reliability of a memory.

[Marie Adler's](#) story, which was made into the 2019 Netflix show, "[Unbelievable](#)," showed this unreliability of memory in rape victims and its impact on convictions. Sexual assault survivors have reported experiencing intense cross-examination from the police that are unsympathetic and intense in nature, [resulting in secondary trauma](#).

The fear of this happening and of having to justify—and relive—their testimonies of sexual assault can also put women off from coming forward.

Police officers as well as jurors often presume that women are overreacting or stretching the truth. The assumption is that they are being revengeful, attention-seeking or [regretful](#). [Emotions](#)—or the lack of what are perceived to be the appropriate emotions—are used to undermine women's testimonies.

What's more, some groups of people are perceived to be less reliable and more likely to falsely accuse others. Mental health, alcohol and drugs [all play a role](#) in assumptions being made about the credibility of any

accusations, as do [race and class](#). These prejudicial attitudes not only affect trials but can also prevent cases from reaching the court at all.

[Proper training](#) in rape myths has been shown to have the power to change attitudes toward rape, and toward women survivors. However, until such training is widely rolled out—and until officers and juries alike are made aware of unconscious biases against sexual assault survivors—[women](#) will continue to mistrust the system, and majority of the rapes will go unreported.

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