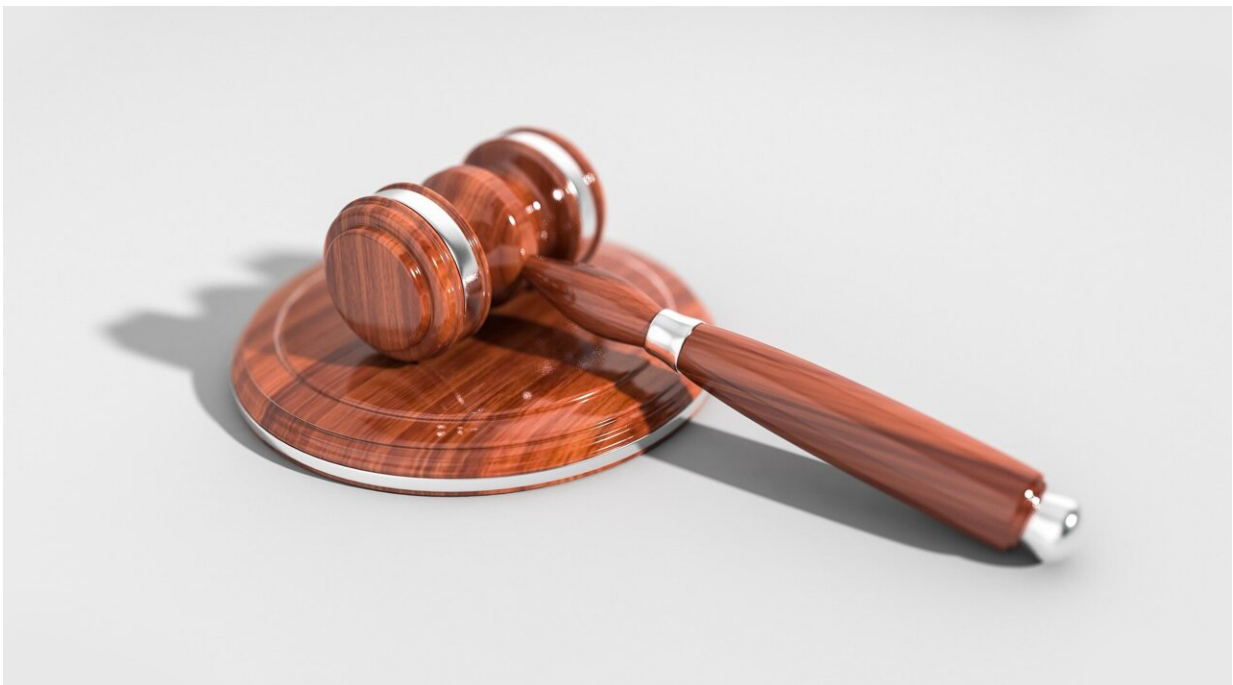


Female judges tend to hand down harsher sentences in cases involving sex offenses, finds study

May 22 2024, by Cristina Sáez



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The Cannes Film Festival began a few days ago with nine women accusing the French producer Alain Sarde of raping or sexually assaulting them when they were minors or young actresses. If it reaches the courts, the sentence in this case will depend on the French penal

code, but also on factors outside the law, such as the sex of the judges.

A study led by researchers from the Empirical and Applied Victimology (VICRIM) group in the Faculty of Law and Political Science at the Universitat Oberta de Catalunya (UOC) concludes that in cases involving sexual offenses in which the victims are mostly women and minors, female judges tend to be more punitive than their male counterparts, especially when deciding upon the length of sentences.

The paper is [published](#) in the journal *Criminology & Criminal Justice*.

"The sex of the judges has an impact on sentences," said Laura Arantegui, a predoctoral researcher at the UOC and the lead author of the study, who pointed out that although "Spanish law is quite strict when it comes to determining penalties by type of crime, there are a number of human factors that can also affect sentencing. And one of them is the judges' sex."

Conditioned by gender roles

Over the last four decades, many more women have entered the judiciary, which was traditionally a male field. This has led to research into the influence that the sex of judges may have on the judicial decisions they make. Although being a man or a woman are not legal factors, they do have some impact on the sentences that are handed down, as a person is inevitably conditioned by the traditionally different roles played by the two sexes in society, which can lead to them having different points of view about vulnerable social groups.

Previous studies focusing on sex offenses committed against minors found that in courts with more than one judge, the length of the sentence increased by about 3.5 months for every additional woman on the bench.

In this recent study, the researchers at the UOC focused on cases involving sexual offenses committed between 2019 and 2020 that came to trial in Spanish provincial courts, which deal with offenses subject to [prison sentences](#) of more than five years, where the sentences are handed down by benches made up of three judges.

They reviewed more than 2,200 cases, which were mostly sex offenses and sexual abuse of women and minors, and they concluded that the sentences were harsher when there were more women on the bench. However, when the bench was composed exclusively of female judges, the sentence imposed also depended on other variables.

"When it comes to the length of sentences, women are tougher than their male counterparts, imposing longer sentences, which is not to say that they are fairer. However, we found no significant results in terms of the number of convictions. In other words, there are no differences between men and women when it comes to determining guilt, but the punishment they impose is heavier," explained Arantegui.

Greater empathy for victims

In view of the results obtained in this study, and based on the conclusions of previous studies, the researchers at the UOC suggest that the reason for this difference between male and female judges could be that female judges identify with more vulnerable groups.

"When dealing with this type of sex offense, women act as representatives of their gender and undoubtedly try to defend these victims, whom they see as more helpless or in a situation of inferiority, and perhaps for this reason they're more punitive," said Arantegui, a member of the UOC's Faculty of Law and Political Science.

As for the composition of benches of judges, the study concludes that

the important factor is not the number of [women](#) (0, 1, 2 or 3), but instead the sex of the presiding judge, and in particular, that of the reporting judge.

According to Arantegui, the next step will be to examine what happens in cases of sexual violence that come before a single [judge](#), and to expand the types of cases studied to determine whether the judges' sex also has an impact on other types of crimes.

More information: Laura Arantegui et al, Does the sex of judges matter? Analysis of sentencing in sex crimes in Spain, *Criminology & Criminal Justice* (2024). [DOI: 10.1177/17488958241239785](https://doi.org/10.1177/17488958241239785)

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