



## **Book Review: Sexual Violence on Trial: Local and Comparative Perspectives by RACHEL KILLEAN, EITHNE DOWDS AND ANNE-MARIE MCALINDEN**

TURTLE, KELLIE. (2022). Book Review: Sexual Violence on Trial: Local and Comparative Perspectives by RACHEL KILLEAN, EITHNE DOWDS AND ANNE-MARIE MCALINDEN. *Social and Legal Studies*, 32(1), 165-169. <https://doi.org/10.1177/09646639221124182>

[Link to publication record in Ulster University Research Portal](#)

**Published in:**  
Social and Legal Studies

**Publication Status:**  
Published online: 06/09/2022

**DOI:**  
[10.1177/09646639221124182](https://doi.org/10.1177/09646639221124182)

**Document Version**  
Publisher's PDF, also known as Version of record

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# Book Review

Social &amp; Legal Studies

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DOI: 10.1177/09646639221124182

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RACHEL KILLEAN, EITHNE DOWDS and ANNE-ARIE MCALINDEN (eds), *Sexual Violence on Trial: Local and Comparative Perspectives*. Routledge, 1st edn 2021, pp. 271, ISBN: 978-0-367-40427-7 (hbk), ISBN: 978-0-367-52131-8 (pbk), ISBN: 978-0-429-35608-7 (ebk).

The edited volume *Sexual Violence on Trial: Local and Comparative Perspectives*, is framed by a highly contentious rape trial that took place in Northern Ireland in 2018. Dubbed the ‘Belfast Rugby Rape Trial’, the case involved four rugby players two of whom were Ireland international players, accused of various offences relating to the alleged rape of a 19 year old woman at a house party in June 2016. Coming as it did within a year of the globally resonant #metoo and #timesup movement drawing renewed attention to the social power dynamics around sexual harassment and assault, this case captured the national media attention in both the UK and Ireland, and led to a saturated public discourse within Northern Ireland in particular as discussion of the content of the nine-week trial became virtually inescapable. As the editors of this volume deftly illustrate, while such intense examination of the case at times had a problematic, sensationalist and potentially re-traumatising impact for the public, it also provided a rare window into the reality of the criminal justice system’s handling of serious sexual offence cases that many people might otherwise not have been aware of (McFalone, 2021). The official state response was the commissioning of a comprehensive independent review of the arrangements for delivering justice in cases of serious sexual offences, carried out by retired judge Sir John Gillen between April 2018 and May 2019. The book’s editors are explicit about the significance of the Gillen review and its findings and recommendations for the development of this project. Having contributed to the review through written submissions and hosting a conference at which many of the chapters were first presented, this volume represents an attempt to capture and solidify the rich body of evidence that might otherwise have been lost to the forward momentum of the public policy agenda.

My own positionality in relation to both the case and the issue of sexual violence generally is that of a feminist activist. As co-founder of the Belfast Feminist Network in 2010, my fellow organisers and I have developed a platform over the last decade for articulating important debates and theoretical contestations on sexual and gender-based violence in the public sphere in Northern Ireland. We have attempted to make such ideas accessible in mainstream public discourse through engaging with the media, having a presence in arts and cultural spaces, facilitating workshops and mobilising protest actions. The approach taken has embraced a reciprocal relationship between scholarship and praxis, with each

one leading the other at different times. My desire to inform this public advocacy work in the aftermath of such a significant event meant that I eagerly anticipated the publication of *Sexual Violence on Trial* and it is primarily through this activist lens that I offer this review.

The volume sets out to examine key dilemmas in criminal justice responses to rape and sexual violence rooted in an expansive understanding of the social and cultural contexts within which these dilemmas appear to be so firmly entrenched. The book adopts a progressive structure; located very much within Northern Ireland's criminal justice process in part I; illuminating the social and cultural influences on that process in part II; interrogating the dual state of sexual violence as both a criminal and a social issue through a range of comparative perspectives in part III; and presenting challenging alternative perspectives in part IV that promote an intersectional, structural analysis of sexual violence and provide the necessary context to the editors' closing reflections on future directions. As an eclectic volume made up of contributions from 22 authors from diverse disciplines, the work holds together well. Meticulous cross-referencing enhances the already obvious threads of shared concern, the most consistent of which is the influence of 'rape myths', a phenomenon that occupies its own dedicated chapter by Rosie Cowan, but which almost every author reckons with in some way, whether inside the courtroom (Smyth), in the role played by the police (McKee; Javaid), as a compounding element of victims' experiences of trauma (Jackson; Hanna), and as a source of marginalisation for those who don't fit the stereotype of a 'legitimate' rape victim such as men (Weare) or those raped by an intimate partner (McMullan). The recurrence of this important theme throughout the volume makes Olivia Smith's historicisation of gendered myths and stereotypes a powerful penultimate chapter. Her analysis of the roots of such beliefs and careful demonstration of their persistence today as the 'cultural scaffolding' for potentially prejudicial assumptions, particularly about women and their sexual behaviour, serves as a stark reminder of their robustness.

Taking a closer look at each section of *Sexual Violence on Trial*, the editors begin with an opening chapter that contextualises the project in Northern Ireland's legislative framework, as well as its particular social context as a religiously conservative society emerging from conflict. They go on to propose a set of key challenges to the delivery of justice in the area of sexual violence, all of which should resonate in any context or jurisdiction. The rest of part I charts the complex reality of the criminal justice process, with the authorial reins handed over to practitioners, a demonstration of the partnership approach underpinning the project. The effect created by this section's five remaining chapters is a walkthrough of the journey a victim of sexual crime is faced with; beginning with the first engagement with services through a Sexual Assault Referral Centre (Jackson); followed by a discussion of the challenges facing policing and the need to improve performance in problem areas such as attrition, undertaken by DCI Zoe McKee, senior investigating officer in the Rugby Rape Trial. Moving into the courtroom, the role of defence barristers in protecting the fairness of proceedings for the accused is a necessary if slightly incongruous contribution, perhaps alienated further from the central aims of the volume by the authors' decision to focus on unpopular calls for expanded use of complainants' sexual history evidence in UK law (Marsh & Dein). The complainant experience of the trial process is reflected in the next chapter through the lens of Victim Support NI Director Geraldine Hanna; followed by a fascinating conclusion by

Judge Patricia Smyth who presided over the 2018 Rugby Rape Trial. Her sample address to a jury, with the inclusion of ‘unspoken thoughts’ (p.76) provides an ingenious mechanism for articulating a judge’s experience of applying what can feel like counter-intuitive rules, whilst trying to facilitate a process that can genuinely be described a ‘search for the truth’ (p.80).

Part II showcases scholarship that wrestles with some of the most visibly pressing concerns in sexual violence research, including: Rosie Cowan’s chapter defining and naming rape myths and evidencing their impact in the criminal justice process and Elizabeth Agnew and Anne-Marie McAlinden’s empirically grounded discussion of the dilemmas posed by online harmful sexual behaviour among children and young people. But it also illuminates some of the least visible, such as Siobhan Weare’s chapter on forced to penetrate cases that gives voice to male victims whose violation is ‘not legally recognised as rape in any UK jurisdictions’ and whose experiences are so mired in gendered stereotypes, some report difficulties even acknowledging their own victimisation (p.97). Sonya McMullan, of Women’s Aid, highlights the flaws in a system that has managed to marginalise and undermine one of the most statistically common types of sexual assault: that which takes place within an intimate relationship; whilst Aliraza Javaid’s heavily theoretical discussion of hierarchies of masculinity invites deeper analysis of the experiences of non-heterosexual victims of sexual violence, particularly when interacting with the police.

Having clearly established that sexual violence is both a criminal and a social issue, Part III turns our attention firmly back to the criminal justice process, with a collection of comparative chapters that serve to broaden the vantage points from which the reader might be able to envisage solutions to the obvious failings. Susan Leahy deconstructs the media and social media influence on rape trials; Rachel Killean progresses a confident argument for legal representation for complainants; and Michele Burman and Sandy Brindley’s case study of the Scottish system provides hopeful accounts of victim-led initiatives bringing about change. Marie Keenan and Ailbhe Griffith’s powerful chapter on restorative justice as an accompaniment to the criminal process which can address unmet needs for victims and perpetrators, provides the only chapter authored by someone who identifies as having lived experience. Unsurprisingly, Griffith’s testimony and her argument for restorative practice are extremely compelling. Eithne Dowds’ comprehensive study of the concept and adjudication of consent is for me the standout chapter of the whole volume. Dowds unflinchingly confronts the intimate reality of the ‘complexity of sexual interactions’ (p.166), methodically peels back layers of public discourse, examines the seemingly dead ends of current legal mechanisms, and explores the potential offered by a range of alternatives.


Part IV presents some of the most challenging and innovative content for anyone concerned with reducing the prevalence of sexual violence in society. Tanya Serisier provides a sensitive exploration of the limitations of ‘speaking out’ in terms of victims’ personal wellbeing and the success of collective storytelling as a political strategy. As with a number of other chapters in this volume, her insightful contribution left me keen to seek out her wider body of work on this issue. Gillian McNaul explores anti-carceral approaches to sexual violence through transformative justice work rather than reliance on the punitive mechanisms offered by criminal justice systems that are

often sites of inequality and oppression. Having been personally involved in some of the local activities she cites as examples of preventative measures and community responses for accountability, it is exciting to see grassroots praxis given its place within academic discussion. Both McNaull's structural analysis and Smith's aforementioned historical review of gendered beliefs and stereotypes, invoke expansiveness in the feminist activist imagination beyond the reform agenda promoted by some of the other authors, with echoes of the intersectional social justice declaration 'The system isn't broken, it was built this way' (Jones, 2013).

*Sexual Violence on Trial* accomplishes something that should be the goal of all scholarship of this nature: it empowers practitioners by providing theoretical and empirical grounding to the dilemmas experienced in the field; while at the same time achieving such depth and complexity of analysis that any reader, regardless of their standpoint, will experience discomfort in their existing assumptions or priorities. In his forward, Sir John Gillen commends the book with a claim that 'Anyone who reads it will acquire a stronger resolve, borrowing the words of Einstein, to make our world a less dangerous place and, looking on, strive to do something to achieve it' (p.xxii). Although this volume fully exposes the sheer magnitude of the challenges facing scholars, practitioners, activists and the disturbingly large proportion of society whose lives are impacted by the trauma of sexual violence, its constructive and far-reaching contribution to a holistic vision of justice, makes me inclined to agree with him.

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