

Abstract

Feminist jurisprudence along with feminist discourse analysis has identified and examined gender bias in the law, especially in the form of rape myths in rape trials. Most of the analyses have revealed the acceptance and articulation of rape myths within rape trials by judges, attorneys, experts and jurors in the United States of America and the United Kingdom. This study investigates the role of rape myths in a rape trial in South Africa, using the Jacob Zuma rape trial as a case study. Informed by feminist jurisprudence and feminist discourse analysis, this study illustrates the ways in which gender norms and the acceptance of rape myths are reflected in the trial proceedings and public discourse, as well as how this results in the construction of the complainant and the defendant in a particular way. This is achieved by revealing underlying beliefs and assumptions that are embedded in justifications, accounts and arguments put forward as evidence by those involved in the Zuma rape trial, as well as those the social commentary by individuals in the public sphere, as reflected in media reports. The current study found that the complainant was constructed as a bad girl, who was deviant and provocative because she seduced a man, had sexual intercourse with him, and then cried rape. The findings indicate how this construction of a rape victim amounts to secondary victimisation as well as the production of a rape-supportive culture. This study implies that the courtrooms, as well as courtroom proceedings, are spaces that require further consideration and reformation by the justice system if we wish to achieve equality as it is envisioned in the South African Constitution.