

# *The Tyranny of “Rape Myths” Dogma*

by Peter Joyce

“No no no!” said my lawyer, as if it would have plain to a five-year-old. My wife and I thought we’d done rather well to dredge up all the facts about where I was more than two decades ago, facts which proved I could not have repeatedly raped “Verity”, the woman (then a girl) who had accused me of this outrage – and whom I had never met. “You don't want the police to see you as a guilty man trying to prove his innocence...or any future jury, if it comes to court.”

Sometimes whatever you say is a waste of breath. In *Monty Python's Life of Brian*, the protagonist is hounded by a dotting rabble convinced he is the Messiah. When he protests, a woman in the crowd shouts, “Only the true Messiah denies his divinity!” Brian's exasperated response is, “What sort of chance does that give me? All right – I *am* the Messiah,” whereupon the crowd chants, “He *is* the Messiah!”

It's less amusing when, in effect, your life is at stake. Unseen and powerful people seemed to be chanting “He *is* a child rapist!” no matter what I did or didn't do, and no matter what I said or didn't say. Facts were irrelevant. If I had no evidence which could prove I didn't do it, I looked guilty. But I now learnt that if I produced such evidence I looked just as guilty. By contrast, Verity was in the box seat: nothing she said or did could strip her of her survivor status. What sort of chance did that give me?

It was only later, when I first heard the term *rape myths*, that I realised I had been struck by a pendulum. It seems hard to believe when the only rape accusation you know about is the false one against you, but there was a time when real rape victims were fobbed off by callous and disbelieving police, judges and many of the general public. In recent years the evidential pendulum has been tilted to give real victims a better chance of obtaining justice. To right these historic wrongs, accusers are now to be believed. Hence the new notion of “rape myths”: allegedly baseless beliefs about rape which allegedly persist and which allegedly prevent rape and other sexual crimes from being successfully prosecuted.

In her article *Rape Myths: Is Elite Opinion Right and Popular Opinion Wrong?* the late Helen Reece, reader in law at the London School of Economics and Political Science, quoted Heike Gerger's definition of rape myths as “descriptive or prescriptive beliefs about rape... that serve to deny, downplay or justify sexual violence that men commit against women.”

Reece also participated in the fascinating LSE debate *Is Rape Different?* (still available here on Youtube: <https://www.youtube.com/watch?v=z7jLzEYMkdw>), in which her main point is that most people hold enlightened attitudes towards rape, but dubious research tends to reinforce the conclusion that the public is “in thrall” to supposed rape myths. She says

If you are in any doubt about this, try typing *rape myths* into Google, and you'll see that [on] every website...the discussion goes along the lines of...“These are the five rape myths to watch out for”...[or] “These are the ten most common rape myths...Don't fall prey to them.” You will not find...an internet forum that debates the question of whether rape myths are widely held.

She adds that when any notion in the broad field of social science archives such wide consensus, there is a danger that any research reinforces what is already accepted. I am sure she is right. Perhaps this article will in some small way help encourage more balanced discussion.

I would like to deal first with one of the most common supposed myths, but one which is an outlier because it does not affect perceptions or decisions in the courtroom, so in that sense it doesn't matter. Nevertheless it is useful because it shows the loose generalisation behind the wider rape myth agenda. Number 0 is the intuitive assumption that rape is about sex rather than power. The reverse – that rape is about power – has become enshrined as unquestionable truth, backed by all the emotion and wishful thinking that underpins any faith. I wrote in some detail about sex and power in my book, *Dry Ice: The True Story of a False Rape Complaint*. I am no psychologist, so my opinion on this subject comes from nothing more than surfing through life with my eyes open, so it may count for little. However, the same can be said of most who so vehemently advocate the opposite view.

Any crime can be about power, so the claim is largely meaningless. Rape can surely have all kinds of motives, including what it looks like – sexual desire. Assigning motives was hard enough when rape was a narrow concept, but its more recent, broader definition has complicated the psychology. Can anyone – and especially any woman – really know enough about why some men rape to ascribe all instances to the same underlying cause? Insofar as power is involved, what role does it play? The claim “rape is about power” implies that sex is a means to an end, but perhaps it is the other way round. Don't influential men often use their power as a means to get sex?

The power which supposedly motivates all rapists is often said to involve control and humiliation. As I write this, American entertainer and comedian Bill Cosby has just been convicted of abusing a woman years ago (technically just one, though others are alleged). He took her to his apartment, gave her Quaalude sedatives and violated her. I cannot pretend to understand the reasons why anyone would derive satisfaction from sexual contact with an incapacitated partner, but surely humiliation can play no part in any explanation. Humiliated in front of whom? These (assuming they were plural) were the most private of crimes. Cosby

appeared to derive some perplexing satisfaction from reducing his victims to biological commodities. It resembles the sexual curiosity of a child.

In short, the victims became meat. Fired CIA director James Comey commented that one of the reasons Donald Trump was morally unfit to be president was that he treated women “like meat”. This is a quaint cliché now, rendered obsolete by the more sophisticated rape myths. Yet like all clichés, it caught on because it was considered true, and perhaps it remains valid for many rapists: their victims are just bodies deprived of a consciousness. If this is so, it seems the very opposite of the power/control/humiliation hypothesis, which requires the victim to remain human in order to be aware of her subjugation. Sometimes things are what they appear, and rape can be just about sex, reduced to its most basic – and base – components.

Now to the alleged rape myths which matter because they have consequences in the courtroom (though the first three only marginally). The canon of myths has almost become standardised, though it does vary a little. Here are ten of its most common articles, placed in what I consider their rough order of validity. The contentious term *victim* has sometimes been used because these statements presuppose rape has occurred. Although they consistently refer to rape, any can be applied to lesser sexual assault. These, then, are beliefs which the dogma insists are 1) false and 2) commonly held.

- 1 Rape is violent.
- 2 Rape is usually committed by a stranger.
- 3 Rape is committed by single rather than repeat offenders.
- 4 Some women ask for rape by what they wear.
- 5 A drunk or otherwise incapacitated victim is fair game.
- 6 Non-consent is always agitated or forceful.
- 7 Consent can be a complicated matter.
- 8 If the complainant's story is inconsistent, she's making it up.
- 9 Any victim is openly hostile towards her violator.
- 10 Women “cry rape” all the time.

They are very different kinds of statements. Numbers 1, 2 and 3 are factual claims which can easily be rejected. However, I doubt they can be called myths, because these days most people probably consider them false.

Another minor objection to number 2 runs as follows. If the kind of “traditional” or “real” rape most people supposedly have in mind when they think of the crime – committed by a violent stranger lurking behind the bushes – is comparatively rare, I wonder about the point of the so-called “slut-walks”, in which placard-waving women dress mock-provocatively in order to “claim back the streets”. If streets are considered safer these days than bedrooms and even living rooms, “slut-walks” are reduced to tacky street theatre.

Numbers 4 and 5 belong together because they are both concerned with personal responsibility or, as rape myth exponents would have it, victim-blaming. Of course no rape victim can be said to have “asked for it” because of what she was wearing. I object to number four not because I agree with the statement – which I find obnoxious – but because I am sure almost everyone agrees with me. Perhaps some dinosaurs still indulge in such real victim-blaming, but I have yet to hear it except from one memorable drunk misogynist. Rape activists are quick to overplay comments anyone makes about a victim's attire. Archaic and insensitive police investigations are said to violate her all over again by asking loaded questions about what she was wearing. Yet surely this is a necessary part of a sexual investigation, because her clothing may provide forensic information essential to the case. As for the general public, many may insist that it is naive or foolish for a woman to dress or to behave too provocatively in certain places among certain people at certain times, but that in itself is not victim-blaming but merely a suggestion to behave responsibly in the real world.

Another question investigators need to ask anyone alleging rape is whether she had been drinking and, if so, how much (number 5). This is not victim-blaming either; rape is partly about intention, and police need to confirm the alleged rape wasn't the result of miscommunication – likely when either party is drunk, and even more likely when both parties are. The more a definition of rape diverges from the “traditional” violent model (and the more alcohol is involved), the more it becomes bound up with mistaken perceptions. Of course, the law now states that an incapacitated person is incapable of consent. However, it is a lot to demand of a man who has himself been drinking that he must assess her capacity to consent. Drunkenness, it hardly needs be said, presents all kinds of dangers. When two people are drunk and abandon all self-control, it seems unjust always to assign total responsibility for any consequences to the man.

The victim-blaming slur is central to the rape myth narrative. In *Is Rape Different?* Helen Reece concentrates on the claim, much repeated through the UK media, that one in three of the public blame women for rape. She says that Amnesty International researchers asked respondents to decide whether an imaginary woman was responsible for being raped in specified situations, for example she had been flirting or drinking. The options were *yes*, *no* or *partly*. Unsurprisingly, a third of the public answered either *yes* or *partly*. However, researchers switched the word “blame” for “responsibility” when analysing the results. Reece points out that responsibility is softer and more nuanced than blame; it “points towards notions of causal attribution, of increase of risk.” However, the media do what they do, and the more accurate headline “Some People Say Some Women Should Take Some Responsibility for Some Rapes” doesn't boost reader numbers.

Number 6 is also factual, but it is murkier than 1, 2 and 3. Rape sceptics, sadly including many judges, have dismissed valid rape accusations because “she didn't protest enough.” Apparently some still do. A genuine victim may just freeze, and it is enlightened to accept this as reasonable. It doesn't matter whether this response is immediate and intuitive – just how the body instinctively reacts – or it is more rational and considered, based on the victim's fear that resisting may make the ordeal even worse.

However, sex is complicated. The very suggestion will outrage many people, but the thicket of sexual communication conceals degrees of consent, so number 6 should be paired with number 7. Circumstances matter here, but it is a complex issue tied in with new definitions of rape and consent. Imagine a woman tells her friend that she didn't really want to sleep with that guy last weekend but she'd had a couple of drinks and went along with it. She said no but, she concedes, not very forcefully. She even dated him the next day but, her vision no longer enhanced by an excess of cheap pinot noir, she cringed at the thought that she'd hooked up with *that*. The assertive and socially aware friend responds with "You were raped!" and next morning the stunned offender finds himself trembling in a dank cell looking through a list of duty solicitors. The law allows allegations to be made using such assisted hindsight, especially since, as Helen Reece points out, "only 60% of those whose experience could legally be classified as rape self-classified it as rape."

If she said *no*, she was indeed raped, according to new and broader definitions. Simple. Yet it is hard to sift out the truth in cases like this. Perhaps his actions were close to traditional rape, because he heard her *no* but just disregarded it. Perhaps he didn't hear or notice. Perhaps he heard but thought his words or actions had won her over, because he noticed no further rejection. However, there is a good chance that the "victim" did not protest vigorously because her attitude towards the sex was equivocal or mildly opposed. The new, broad definition means that a sexual encounter may count as rape even though her sense of violation is so slight that it takes someone else to convince her that the event has irrevocably altered her life.

We are now told many smug truths about consent, as if people in government offices and the researchers they consult have figured out all the myriad ways normal people communicate in the bedroom. Consent must be verbal and "enthusiastic". Above all, consent is simple. In fact, according to the promotional cartoon video released by the UK's Crown Prosecution Service in 2015 as part of their #ConsentIsEverything campaign, sexual consent is as straightforward as asking someone if she wants a cup of tea. Alison Saunders, head of the CPS from 2013 to 2018, supported the video and unequivocally labelled the notion that consent is complex as a rape myth. In *Dry Ice* I wrote that undercurrents and nuances of communication and perception in the primal dance of love and intimacy make sexual consent infinitely more complex than a simple offer of tea. There are grey areas even in those few situations where the silly analogy can be used. For example, what if she enthusiastically drinks the tea but the following morning has bitter regrets and insists she didn't really want it? What if she eyes the teapot provocatively and expects you to read the signs, but doesn't ask for tea and doesn't answer when you ask, because words would be a turn-off?

A year or two ago the TV news showed a street protest against sexual assault. There were the usual placards listing causes of rape, with every one crossed out except *rapists*, implying that only a cretin could miss the simplicity. But the one that interested me was the one that screamed, "Consent doesn't mean *convince me!*" Not her, perhaps, but seduction by definition involves convincing someone who may initially be reluctant. All those *Don Juans* I envied in my youth did a lot of successful convincing because they took an initial *no*

as a challenge to try harder, which it often was. Should I call them rapists now? I don't think so, because I assume they eventually – if not after the third appeal then after the thirteenth – received a *yes*, in unambiguous deed if not in word. Not always, because they acknowledged some failures, which they shrugged off because they were thick-skinned enough not to be concerned if women saw them as sex pests – and there was always next weekend. As for their many successes, to my mind they are innocent until I or anyone can prove that they couldn't take a final and emphatic *no* for an answer.

Numbers 8 and 9 belong together. Denying these statements in every case can imply rape occurred when there is a fair chance it did not. Claire Biggs, in an article on MTV.com, offered examples of tweets featuring the hashtag #TheresNoPerfectVictim. One insisted that “Changing your story or misremembering details is a classic sign of trauma, not an attempt to fool people. #TheresNoPerfectVictim.” If changing your story is a *classic* sign of anything, it is untruthfulness. In any other situation except sexual crime, we accept that the reason some people don't get their stories straight is that they are not telling the truth. This doesn't mean someone who remembers events incorrectly is always lying, but we risk injustice to a defendant if we do not entertain this as a strong possibility. How strong depends on the circumstances of each case, but it is naive to assume that in sexual accusations, discrepancies and lies can never be the same thing. After all, they are assumed to be for another group of people suffering severe trauma: suspects. I'm not aware of a #TheresNoPerfectSuspect hashtag offering *us* any equivalent “get out of jail free” card.

New definitions of rape make it easier to deny number 9, but it is surely nonsense to assume investigators should not start by being sceptical about a complainant who is friendly with her alleged attacker after the event. It is hard to imagine any victim of a “traditional” rape appearing enthusiastic during the ordeal itself or sending playful messages to her rapist after the crime, even if she knew how to contact him. Yet we are now asked to believe that such lingering affection is yet another manifestation of the trauma. If this is the case, why do we never hear of such behaviour from victims of assault, for example? In the *Is Rape Different?* debate Helen Reece said that rape myth thinking omits valid comparisons with other crimes:

There is a fault line that runs through discussions of rape, rape research, rape debates, that the comparison between rape and other crimes is very rarely made...When it is made it leads to some quite interesting results...It's important to make comparisons with other crimes and to do that repeatedly.

Rape trauma certainly could not explain the actions of Iowa student Robin Levitsky, who in 2013 accused a man of abducting her at knifepoint and sexually assaulting her. The accused man had photos of their sexual encounter which showed that it was almost certainly consensual. A friend of Levitski said that she saw the complainant leave the event quite willingly with the accused. Presented with this information by detectives, the complainant eventually came clean: she had made it all up to explain away the indecent photos her grandmother found on her mobile phone. Rape myth advocates may consider them unenlightened, but if these detectives had graduated from Rape Myths 101, an innocent man would still be in jail.

Number 10 is presented as a straw man that exaggerates the number of false accusations in order to have the claim dwarfed by the contrasting number of unprosecuted rapes. Of course, no one can know the real number of wrongful sexual allegations, but they are more than usually revealed. My article *False Rape Allegations: Figuring the Figures* (<https://accused.me.uk/2018/03/false-rape-allegations-figuring-figures/>) looked at the data in some detail. It revealed that the low estimates were consistently based on the numbers of *convictions* for false allegations. Yet prosecutors are even more reluctant to take false accusers to court than they are to take rapists to court. This figure therefore tells us nothing about the numbers of false allegations but everything about charging policies.

Some social commentators tolerate an alarming number of false positives. For example, women's issues writer Jessica Valenti has claimed that known false rape numbers are “rare: somewhere between two and ten percent.” The number excludes the unknown, which may be much higher, but that isn't the point here. What is more disturbing is that she acknowledges the figure may be as high as ten percent and yet dismisses this as “rare”. It means that in the UK alone over two hundred innocent men would have their lives ruined every year. How many would be enough to matter?

In summary, rape myths are debatable but never debated. They are a curate's egg of the true but generally accepted, the questionable, the unknowable, the meaningless and the false. The tyranny comes from their indiscriminate use. Among those who campaign against sexual crime rape myths are self-evident and universal. For example, Rape Crisis England and Wales quotes Rachel Kryss, Co-Director of End Violence against Women (EVAW), as saying: “...conviction and charge rates for rape are still alarmingly low, the causes for which are rooted in sexist stereotypes and rape myths.” To the faithful, the truth is always simple. Yet police do not pursue some rape complaints for many sensible reasons, including lack of evidence.

Dogma is harmless unless powerful people believe it and act upon it. Yet this is exactly what has happened. For police, believing in the prevalence of rape myths has become a defining feature of sex crime specialisation and helped determine policy. The myths seal the “believe the victim” orthodoxy as a necessary truth. They are used as trump cards, to be played any time an accuser is doubted. Is an investigator entitled to call a complainant's story into question because she gave contradictory descriptions of her attacker? No, that's a rape myth, because we cannot expect real victims to get their stories straight. Her account must be seen as true, and doubting it is more offensive than just being mistaken; it is revictimising a survivor and even perpetuating the patriarchy. She says she was raped, but why did witnesses see her arm-in-arm the next night with her alleged attacker? “Rape myth!” The defence no longer has any useful cards to play. All statements or actions that may once have formed part of a legitimate defence are trumped with “rape myth!...rape myth!...rape myth!”

Posting on The Times website in 2018, retired Ulster chief detective Alan Simpson recalled that some years earlier he attended a two-week course designed to offer a deeper understanding of rape. The syllabus centred on a book written by “a non-police female academic who also directed the course.” The attendees were told to accept allegations of rape unquestioningly. He objected to such a biased assumption but “as this went against the grain of what the instructors were saying I was effectively cold-shouldered for the duration.”

The “believe the victim” assumption has become mainstream legal practice in many countries, including the UK. After a case was abandoned in early 2018 when the complainant was shown to be a serial fantasist, the presiding judge glibly said that bringing prosecution was “in line with enlightened modern practice.” New Zealand, where I live, has become similarly enlightened. When I received my police file back under the Freedom of Information Act I learnt that Verity had been interviewed eight times for a total of over seventeen hours. How could she string her interviewers along with her transparent contradictions, featuring tall tales of depraved goings-on in houses I never owned at times when I was provably elsewhere? She could do this because her interviewers had done such a course. I know this because a senior police officer made the mistake of telling me – as if it should make me feel better. If detectives with the commendable sense of Alan Simpson had interviewed the woman who made our lives a misery for over seven months, old-fashioned evidence-based police work would have meant she was shown the door much earlier. Verity could fool “my” detectives because they had been attentive to the rape myth “experts”, asked no tricky questions and received their certificates.

In 2015 the New Zealand Law Commission released a novel-length report which floats ways sexual crimes can be better handled and complainants more compassionately treated. It suggests specialised courts, because all-purpose ones are too alienating. It also recommends more funding to “ensure wraparound care”. Defendants are assumed to be self-reliant, because it offers them nothing at all. Of course, no mention is made of false accusations. The report says every judge presiding over a sexual case should “have a designation to do so.” This is terrifying. In *Dry Ice* I asked where such a designation would come from. If it means that the presiding judge has had “training”, who administers it, and what does that administrator believe about the number of false accusations and the role of corroboration? It also says that defence and prosecution should agree on “a written statement for the jury dealing with myths and misconceptions around sexual violence.” I doubt that rival figures about false rape statistics or rival theories about “recovered” memories ever find their way into a courtroom, but if they ever do, this provision does not convince me that the truth will get a fair hearing. The whole court, from the judge through both lawyers to the jury, is to be schooled in the rape myth gospel as “enlightened modern practice”. Heresy is to be legislated away. Sexual crimes are to be treated as inherently different from others, because victimhood is a given and transcends the traditional presumption of innocence.

The Abby Honold Act, now being considered in the US, would fund the retraining of sexual assault investigators to prevent any procedure that may induce “victim retraumatisation”. By implication this

presumes the complainant is telling the truth. If investigators find that some evidence contradicts the complainant's story, they will not be able to confront her (or him) with any discrepancies because that would retraumatise. No one knows the extent of this, because the wording of the act is vague about what "retraumatisation" might mean.

Canadian judges also need educating. In 2017 The Star quoted professor Elaine Craig at Schulich School of Law in Halifax, Nova Scotia, as saying

The potential harms that occur in sexual assault trials when judges lack proper training, legal knowledge, and the ability to identify and resist rape mythology are greater than in many other types of legal proceedings.

Of course they have legal knowledge; they are judges! What they may lack is a legal perspective acceptable to particular reformers pushing a narrow agenda that bypasses due process in order to deliver what it sees as social justice. Judges who are qualified and experienced in a general sense will therefore be considered unsuitable if they hesitate to adopt a questionable set of criteria specifically in the realm of sexual crime. The outcome will be close to what the anonymous "Theodore the Canadian" has tweeted:

Maintain innocence? *You're a denier. Can prove your innocence? You're manipulating the facts.*  
Proclaim the accusation is false? *You're blaming the victim. Advocate due process? You're re-victimising the victim.*

It may not come to this, but if these changes occur they will of course signal a great victory for the "believe the victim" philosophy. The only remaining step would be to do away with trials altogether. What point can any defence have when every sexual complainant's *X* statement will have the same value as her *not-X*? The despair of a suspect in a sexual crime will then be so complete that he won't even bother to ask the sort of rhetorical question posed by Monty Python's Brian: "What sort of chance does that give me?"