



OÑATI INTERNATIONAL INSTITUTE
FOR THE SOCIOLOGY OF LAW

—
OÑATIKO LEGE-SOZIOLOGIAKO
NAZIOARTEKO ERAKUNDEA

—
INSTITUTO INTERNACIONAL
DE SOCIOLOGÍA JURÍDICA DE OÑATI

WORKSHOP ON: “Medical, legal and lay thresholds and definitions of rape”

Coordinators:

May-Len Skilbrei (University of Oslo) and **Sharron FitzGerald** (University of Oslo)

15 – 16 September 2022

Final Programme

Meeting room: Karl Renner & Achille Loria (1st floor)

Wednesday 14th September

21.00: **Welcome reception** [Residencia Antia, first floor]

Thursday 15th September

10.00-10.45: Registration

Welcome by IISL staff and presentation of IISL Publication Venues by Leire Kortabarria and Sabine Frerichs (Scientific Director)

Welcome by Sharron and May-Len, with a presentation on the rationale for the event

A round of presentations

10.45: **Coffee Break** [Gurvitch & Galdos room]

11.00-13.00: **Session 1 Defining Rape**

We aim during the workshop to explore the definitions and the thresholds that decide what counts as rape for medical, legal and lay actors. We will begin the session by unpacking and discussing what rape *is* from these different perspectives. Specifically, we want to interrogate how we can best understand medical, legal and lay thresholds for what counts as rape and, more specifically, using this guiding provocation we ask: What kind of problem this makes rape in the contemporary moment?

For the purposes of discussion, we ask that speakers present interventions from different angles, and we hope that this will produce useful and critical discussions. We are mindful that participants come from different disciplinary backgrounds, and that they engage with the topic of rape in different ways. Thus, we see our aim in this session to be to create a context that facilitates a richer and more varied debate on the topic. Importantly, we hope that this discussion will forge a conceptual bridge to the next session because definitions and thresholds of rape are, also, the starting point for the whole trajectory of evidence.

Chair: Sharron

Speakers: Tanya, May-Len and Hildur

Discussion: all participants

Thursday 15th September (continuation)

12.30-14.30: **Lunch Break** [Cantina Zapore]

14.30-16.00: **Session 2: Investigating and evidencing rape**

In cases of rape, the question of whether medical staff and the police can, or should, include certain forms of evidence as 'facts' and proof that a rape has occurred is important to what happens next. It is beyond question that this stage is important to the investigation process. And yet, it remains a less frequent conversation in the academic literature on rape. Instead, research tends to concentrate on 'the act' and 'the experience of rape' or its prosecution in court. We are fortunate to have colleagues present for this workshop whose work focuses on this very issue. In this session, and drawing on colleagues' expertise in this area, we aim to take steps to remedy this. We would like to take the opportunity to delve into the process of gathering/producing evidence, and shine a light on what is actually happening when medical staff and the police harvest and interpret evidence in cases of rape.

Chair: Kari

Speakers: Lesley, Anette and Heidi

Discussion: all

16.00-16.30: Break

16.30-18.00: **Session 3: Assessment of evidence and the production of legal knowledge**

This session will be an in-depth discussion of how the evidence that medical staff harvest and test during medical examinations becomes part of the police investigation. This is a pivotal moment in the investigation because it is at that point that the police decide whether or not to proceed with the case. We are particularly interested in exploring the factors that contribute to the police's assessment of the quality of the evidence. If the police decide that the evidence is strong enough, then this assessment is another step in the transformation cycle of physical evidence. This decision marks the moment in the physical evidences' journey and transformation into legal knowledge that the lawyers will use in court during criminal proceedings.

Chair: Solveig

Speakers: Moa, Linnea and Gethin

Discussion: all

Friday 16th September

09.30-09.45: Welcome to day two by Sharron and May-Len

09.45: **Coffee Break** [Gurvitch & Galdos room]

10.00-12.00: **Session 4: Adjudication before the courts**

It is often noted that few reported cases of rape appear before the courts, and in certain jurisdictions that number continues to decrease. There are many reasons for this. During the course of the workshop as a whole, we will explore the role that evidence plays in driving the case forward, or not. In this session, we will look at those cases that actually come before the courts. In recent years, many jurisdictions have undergone major legislative reform around sexual offences. This has gone some way, in some jurisdictions, to transform gender and sexuality norms. These legal measures attempt to mitigate the negative effects that gendered stereotypes and sexual morality have in criminal proceedings in rape cases. In this session, we will hone in on how lawyers present the evidence, and how their discourse and practices around the evidence serves as the basis for adjudication.

Chair: Sara

Speakers: Wanna and Anna

12.00-14.00: **Lunch Break** [Cantina Zapore]

Friday 16th September (continuation)

14.00-15.30: Session 5: The future of evidence

The absence of reliable or contaminated evidence presents a challenge in the prosecution of rape. In this session, we will discuss how to best deal with this issue, and consider whether definitional revisions and alternative medical and legal procedures and understandings and new knowledge can remedy this.

Chair: May-Len

Speakers: Moa, Heidi and Lesley

Discussion: all

15.30-16.00: Discussion of concrete future opportunities

Concept: We envisage that this event will facilitate intense discussion among all participants. Therefore, rather than adopt a traditional paper presentation format, we prefer to host a series of conversations grounded in participants' specialist expertise and relative to rape and evidence. In order to ground exchange, dialogue will take place via a continuing roundtable format that will progress over the course of the two days. We envisage that participants' papers will serve as a point of departure for discussions, not as *the* point in themselves.

This workshop stems from our work and collaboration around the *Evidently Rape* project. The project examines the meaning, and the consequences of that meaning-making, that physical evidence accrues as it passes through the medio-legal process in cases of rape. Consequently, we have designed this workshop to follow the chronological order of that process.

In Session One, the discussion will focus on how rape is defined, as this serves as a starting point for all efforts to produce evidence of rape. In Session Two, the discussion will turn to the production of medical evidence and the police investigation. In Session Three, the discussion will consider how the police assess evidence and transform it into legal knowledge. And finally, in Session Four the discussion will turn to how legal actors present that evidence in court, and how the evidence matters (or not) in the adjudication process. We will conclude the workshop by assessing whether medical, legal or normative changes will improve the capacity of evidence to contribute to a sound prosecution of rape. Further, discussions during breaks, during walks and during dinners are an important part of the concept that we hope can serve to inspire insights and future collaborations.

Coordinators:

1. Sharron FitzGerald
2. May-Len Skilbrei

Participants:

1. Anette Houge (University of Oslo)
2. Anna Carline (University of Liverpool)
3. Gethin Rees (Newcastle University)
4. Heidi Mork Lomell (University of Oslo)
5. Hildur Fjóra Antonsdottír (University of Iceland)
6. Kari Solbrække (University of Oslo)
7. Lesley McMillan (Glasgow Caledonian University)
8. Linnea Wegerstad (Lund university)
9. Sara Uhnoo (University of Gothenburg)
10. Solveig Laugerud (University of Oslo)
11. Tanya Serisier (School of Law, Birkbeck College)
12. Wanna Svedberg Andersson (University of Gothenburg)