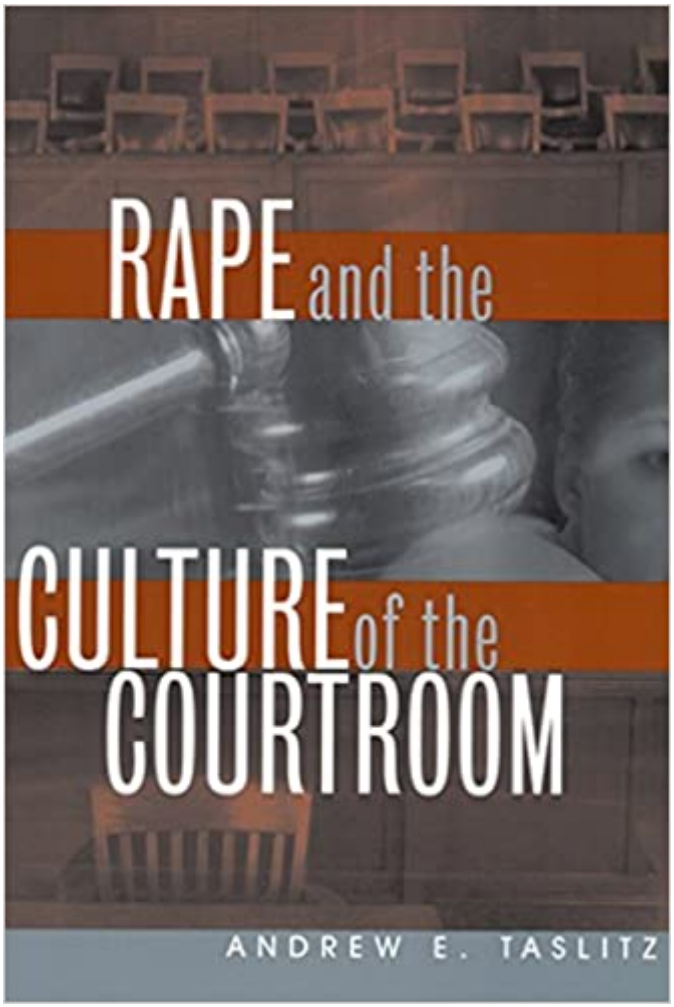
Rape And The Culture Of The Courtroom (Critical America)



Synopsis

Rape law reform has been a stunning failure. Defense lawyers persist in emphasizing victims' characters over defendants' behavior. Reform's goals of increasing rape report and conviction rates have generally not been achieved. In Rape and the Culture of the Courtroom, Andrew Taslitz locates the cause of rape reform failure in the language lawyers use, and the cultural stories upon which they draw to dominate rape victims in the courtroom. Cultural stories about rape, Taslitz argues, such as the provocatively dressed woman "asking for it," are at the root of many unconscious prejudices that determine jury views. He connects these stories with real-life examples, such as the Mike Tyson and Glen Ridge rape trials, to show how rape stereotypes are used by defense lawyers to gain acquittals for their clients. Building on Deborah Tannen's pathbreaking research on the differences between male and female speech, Taslitz also demonstrates how word choice, tone, and other lawyers' linguistic tactics work to undermine the confidence and the credibility of the victim, weakening her voice during the trial. Taslitz provides politically realistic reform proposals, consistent with feminist theories of justice, which promise to improve both the adversary system in general and the way that the system handles rape cases.

Book Information

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Customer Reviews

"In Rape and the Culture of the Courtroom, Taslitz (a former prosecutor) is concerned to show how and why police, prosecutors, judges, and defense attorneys use their discretion to circumvent legal reforms in rape law." -Hypatia

Andrew E. Taslitz is Professor at Howard University School of Law. He is the author of five books, including Constitutional Criminal Procedure and Rape and the Culture of the Courtroom (NYU Press).

This is a very good read for anyone interested in law, gender stereotypes and the ever-present misogyny that impacts all aspects of the legal system.

Rape and the Culture of the Courtroom is both a provocative analysis of why rape prosecutions remain so difficult, despite the rape reform laws of the 1980s, and a blueprint for change. Andrew Taslitz, a law professor and former prosecutor in juvenile sexual assault cases, argues that rape trials are a "sham" that silence rape victims and exclude women as a group from civil society. To make his point, he reviews social science research with a particular focus on linguistics. Through linguistic analyses of actual cases, he shows how cultural narratives about rape are recreated in the courtroom. Although a defense attorney cannot ask about a victim’s sexual background, for example, he may use subtle innuendos, proxies, or other linguistic devices that cue jurors to place the victim into the category of "slut" or "scorned woman" which, in turn, equates with "liar."Taslitz’ linguistic analysis jives with my experiences in court. When I’ve been retained as an expert for the government (prosecution) in rape cases in which the defense was consent, I’ve been amazed at how rarely jurors convict even when the evidence is pretty solid and the woman has no plausible reason to lie. Taslitz emphasizes that even jurors who are consciously pro-feminist may fall prey to appeals to subconscious cultural scripts about virtuous womanhood.Taslitz provocatively argues that the treatment of women in rape trials violates the 14th Amendment (Equal Protection Clause) of the U.S. Constitution because rape victims are retraumatized and women as a class are subordinated and excluded from meaningful participation in public life. He proposes several legislative reforms, including: (1) allowing rape victims to present their stories in an uninterrupted narrative, (2) using "intermediaries" rather than defense attorneys to question the victims, and (3) having linguistic experts explain to jurors the effects of subconscious biases on decision-making.To me, these changes seem unlikely to occur. But it is an intriguing argument, coherently and accessibly presented. No matter who you are, if you read the book, you are guaranteed to learn something.

As a prosecution witness with 35 years of experience, I found this book to be strewn with gaping

defects in logic.The book’s premise is that "due process of law" should not include certain aspects of the law of evidence, or, criminal procedure should be unconstitutional because they efface the "character" of a woman who accuses a man of rape.im.There is, for example, a current legal dominance feminist drive to eliminate the relevance of many aspects of rape. The feminist cry is: "She was not asking for it" (referring to the dress and conduct of the victim).One thing is true, few people "ask" to be raped. However, the idea that it is never pertinent to mention a woman’s dress, or behavior, in a courtroom on a rape case is nothing less than medieval.The vast majority of the public have the misconception that "rape" consists of a stranger jumping from the bushes with a knife or handgun and, under the threat of death, forces himself upon a woman.In fact, the vast majority of rape that is charged involves consensual sexual activity, between people who know each other, and, remorse by the victim on the morning after.For a better understanding of rape, and how it affects both male and female victims, try this concise treatment of the subject.Ã Â Rape Hysteria: Lying With Rape Statistics (Female Sex Predators)