

Rape in a comparative perspective with a focus on affirmative consent

Abstract

Rape is considered as one of the worst crimes that can be committed against another person, mainly because of the extreme interference in their intimate area. Changes in the perception of this crime can be seen in recent years both in the Czech Republic and throughout Europe. A large number of states abandoned definition of rape based on coercion and now focus on the lack of consent of the victim.

In the Czech Republic, the model based on the coercion still persists, although the Supreme Court's decisions is slowly approaching those states that have redefined this crime. These days, government and parliamentary bodies are holding seminars to discuss the need for new legislation.

This thesis mainly focuses on the crime of rape from a criminal law perspective. It deals with the definition of this crime and the definition of consent in states that consider rape as sexual intercourse without the victim's consent. Based on the findings, it offers *de lege ferenda* considerations relating to the possible redefinition of rape in the Czech legal system, taking into account the current decisions of the Supreme Court. Its main aim is therefore to take a comprehensive view of the concept of affirmative consent and to provide a draft bill.

Due to the topicality of the topic, the thesis also deals with the issue of fraudulent rape and stealthing and in this context considers the punishments for these acts in the Czech Republic.

In order to provide a more comprehensive approach, the thesis also explores the chosen topic from a victimological point of view, focuses on rape culture, and in the context of this, it tries to dispel the myths associated with the crime of rape and its redefinition; this is its further aim.

For completeness, the thesis also outlines the issue of insufficient education of police, judges and state prosecutors, who, by disrespecting victimological knowledge about the specific characteristics of victims of sexual violence, contribute to their secondary victimization.

Keywords: the crime of rape, consent, stealthing