

ABSTRACT
The Nordic Law and Gender Conference 2019

Gendered narrative and characterization in judicial opinions

In this presentation I discuss the role of narrative and characterization in legal discourse, primarily by analysing relevant aspects of a judicial opinion wherein a woman was convicted of double murder and sentenced to 21 years in prison.¹ The focal point for the discussion is Linda L. Berger and Kathryn M. Stanichi's article «Gender Justice: The Role of Stories and Images» where they reflect upon how narrative (and metaphor) can produce shifts in perspective that make us notice how notions of gender is present (but often disguised) in judicial opinions that seemingly do not encompass gender-related aspects/issues.²

As evident within narrative theory, narrative is often used to establish a common ground that constitute the mutual understanding necessary to persuade an audience. Characterizations within the narrative also have crucial significance; if the audience accepts the narrative, they also buy the characterizations, and vice versa. When aiming to convince an audience of something new or strange, we usually place the less known phenomenon in recognizable and familiar cultural stories/narratives. Thus, the presentation explores the way characterization and narrative in judicial opinions can reveal the courts (hidden) conceptions of gender. I examine if and how narrative and characterization is used to create and reinforce traditional assumptions about gender roles and the relationship between both men and women, parents and children.

What significance and implications do characterizations that is grounded on and underpins traditional gender roles have? And what is legally relevant in the specific case? According to Berger and Stanichi, judicial opinions often exclude elements regarding race, gender and sexuality, since aspects like these is considered legally irrelevant for the "official story". Simultaneously, aspects that contribute to the stereotypical image of a group or a gender will be included and underlined without further reflection or qualification.

How, then, should we understand the fact that gender isn't given any direct role in the judicial opinion that convicted and sentenced a woman, except from the fact that it emphasises how many children she has and even that she wanted more of them? If stereotypical notions of

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² In *Narrative and Metaphor in Law*, edited by Michael Hanne and Robert Weisberg, Cambridge University Press, 2018.

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gender influence how defendants are comprehended and presented in legal judgements, can it be regarded as a sort of discrimination? Questions like these is reviewed in the presentation.