

“Embodied truths and illusionary realities: navigating hybrid legal knowledge formations and (in)visible realities”

In my thesis, I study the relation between law and society by using sexual violence as a starting point. By combining an analysis of the legal processing of rape with how victims account for their experiences and reflections on the legal system I aim at discussing how the legally constructed reality and knowledge formation relate to the reality and conceptualization of sexual violence as described by the victims. In law these two realities has been characterized by the distinction between formal legal truth and the actual or substantive truth (Summer 1999). The formal legal truth has been perceived as constructed because it is regulated by various legal rules, whereas the actual or substantive truth has been associated with the epistemological position of realism (Fernandez 2009).

By investigating the constitution of evidence and the construction of credibility in legal decisions regarding rape, I discuss how the formal legal truth is constructed. In line with Valverde (2003), I consider legal knowledge formation as a hybrid of scientific, legal and common sense based knowledges. I argue that the formal legal truth is not only constructed because of legal procedural rules, but also because the means of reconstructing the incident in question during a legal trial is based on legal evidence and credibility appraisals which depend upon a visible reality in which the materiality of biology and body are central stage. I further argue that the formal legal truth is a hybrid construction in which scientific knowledges are combined with legal conceptualizations which are rules based and common sense based knowledges which express normalization processes.

The ways in which the legal decision making process is conducted suggest the substantive reality is visible, material and accessible through scientific evidence. However, some victims claim the legal formal reality to be an illusion that does not necessarily mirror what they claim to be the reality of their experiences. By investigating the victims' account of how they experience and interpret law's ability to make judgements in rape trials, I argue that the substantive reality is not only material and visible, but also discursive and invisible. Furthermore, there is not only one truth to discover through legal proceedings, but various truths to navigate in legal proceedings.

Whereas part of the legal system depend heavily upon scientific evidence which privileges the materiality of biology and the body, other parts of the legal system tend to rely more on legal knowledge and common sense based knowledges. By investigating what constitute the formal legal and substantive realities of sexual violence, and how they are intertwined, I also aim at discussing how to (re)define and (re)conceptualize sexual violence and victimhood.

The empirical material consists of legal documents and interview transcripts. The legal documents comprises of written legal decisions regarding rape from the Compensation Authorities and District courts and Courts of Appeal. The interview transcripts consist of interviews with victims of rape.

Theoretically I draw on Mariana Valverde's concepts of legal hybridity, legal chronotopes and forensic gaze.