

The Crime of Rape and its Redefinition

Abstract

This thesis is focused on the crime of rape and its redefinition in the Czech legal system. As rape is considered the second most serious crime after murder from the victim's perspective and as society's view of what is and is not acceptable in sexual relationships has changed significantly over time, there is currently an intense debate about the need to change the crime of rape in the Czech legal system. This thesis is divided into two main parts, with the first part dealing with theoretical issues and the second part being more practically oriented. The thesis further consists of seven chapters. The first chapter discusses the historical development and presents in detail the elements of the crime of rape since the 1950s. The second chapter analyses the current legislation in Act No. 40/2009 Sb., the Criminal Code, as amended, i.e. it presents a model of coercion. The third chapter deals with the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, whose so far unsuccessful ratification in some way accompanies the debate on the redefinition of the crime of rape. Chapter Four analyses the problematic elements of the current legislation, which have been criticised by interest organisations and the professional community. The fifth chapter discusses consent and its different models and presents the proposals for redefinition published by the Ministry of Justice during the preparation of the redefinition. Chapter Six presents alternative measures that could have the potential to improve the issue of sexual violence, whether or not the amendment is finally adopted. In the last chapter, the differences in the elements of the crime of rape in different European countries, such as Germany, Spain, and Sweden, are identified using a comparative method. Using statistical data, it is observed whether amendment and intense social debate can have an impact on the latency of this crime.

Key words

rape, redefinition, no-means-no model