Sexual assault and women with cognitive disabilities: codifying discrimination in the United States


Abstract: Criminal sexual assault statutes vary across the 50 U.S. states and the District of Columbia. However, most statutes mandate increased restrictions and penalties for crimes committed against victims with cognitive impairments. Current statutes pertaining to victims with cognitive impairments and the standards and methods typically used by courts to determine victims' capacity to consent are evaluated. The authors analyze these policies and demonstrate that the statutes stem from and perpetuate a legacy of systematic oppression including, but not limited to, the sexual exploitation and deprivation of people with cognitive impairments. They argue that current statutes not only fail to diminish but may also enhance the risk of sexual assault to adults with cognitive disabilities. The authors further argue that these statutes deprive adults with cognitive impairments of their civil liberties. They conclude with recommendations for changes in policy and practice.