The Rhetoric of Rape Justice

Unveiling the Cultural Meanings of Rape Narratives in Spanish Judicial Sentences

Author: María Rodríguez Rodríguez

Master's Thesis SOCM04 30 credits

Spring Semester 2023

Supervisor: Sébastien Tutenges

Author: María Rodríguez Rodríguez

Title: The Rhetoric of Rape Justice: Unveiling the Cultural Meanings of Rape Narratives in Spanish Judicial Sentences

Abstract

Narratives play a crucial role both in people's lives and in various areas of the social, cultural and political realms. This thesis, drawing from an understanding of judicial sentences as a type of narrative, explores the complex domain of rape justice within the Spanish legal system. The aim is to discover the underpinning cultural meanings and constructions of rape in court sentences, by conducting a comprehensive narrative analysis that explores the characteristics of stories about rape evoked during rape cases in Spain; as well as how judges construct and use narratives around rape in their sentencing. The findings show that courts use different stereotypes and elements of master narratives related to rape and combine them as a narrative glue (Brooks, 1996: 18; 2005: 417) to produce different types of stories that validate or negate rape. This thesis contributes to the exploration of social and narrative constructions of rape in Spain, highlighting not only the use of harmful discourses about rape in judicial sentences, but how they are used narratively to construct the assessment narratives in the courts.

Keywords

Popular Science Summary

Stories are part of our daily lives. They are one of the main ways in which we communicate, and through which we learn from the moment we are born. Thus, narratives teach us about the world around us, about what emotions to feel in different situations, and above all, they teach us moral lessons. In doing so, narratives not only describe, but also shape our reality. The power of stories to engage and captivate, however, depends on what we are told being familiar to us. The most successful stories –in the sense that they are told and retold countless times across time and space (Loseke, 2019: 7)– are those that include interpretations of objects, events and people that the audience can relate to.

In this thesis, I approach court sentences about rape as yet another type of narrative, and analyze their components (i.e., scenes, characters, events, and plot) to see what lessons judges convey about what constitutes rape, who is a rape victim and who is a perpetrator, and what morals can be drawn from the way they tell these stories. The goal is to look at both the characteristics of these rape stories, as well as at how judges construct and use them in the sentences. Looking at this brings us closer to understanding the complexity of how society understands rape, and the factors that go into this understanding.

The results show that there are 3 main types of narratives that judges construct: those of "stereotypical" rape; those of "less conventional" rape, in the sense that they do not entirely match the notions and preconceptions that we culturally have about what rape is; and finally, those in which rape is denied. These stories differ in the way present their contents. For example, regarding the setting, in rape stories courts tend to emphasize aspects that frame it as dangerous in order to contribute to the image of the vulnerable victim. However, when courts want to deny that a rape took place, they present it in a different way, giving the sense that it is a safe environment for the victim, so she was not exposed to any hazard.

Vulnerability is the main trait of rape victims, and all their characterization will revolve around presenting them as such. On the contrary, the plaintiffs who are not considered victims are portrayed as women with agency and autonomy, who made their own decisions and are therefore (partially or totally) guilty and complicit in what happened. In this sense, they are portrayed either as mentally fragile women who are unable to discern what has happened, or as vengeful women

with ulterior motives to falsely accuse in order to taint their testimony and strip it of credibility. Perpetrators are barely discussed in these stories, only when their traits match those of a clichéd rapist, i.e., a dangerous man lurking in the shadows waiting to sneak up on his victims.

Ultimately, to construct these stories the courts draw on various hegemonic discourses and narratives regarding rape, perpetuating and legitimizing them. In doing so, the courts create a moral message about what is rape, who is a legitimate victim, who is a rapist, and under what conditions we can consider rape to have occurred.

Acknowledgements

First of all, I would like to thank my professors Erik and Sébastien. Their dedication and closeness in teaching and advising us throughout these two years have been invaluable. In particular, I wish to express my deep gratitude to my supervisor Sébastien for his patience and constant support during the writing process of this thesis. His guidance and wise advice have been essential for the realization of this project.

I would also like to thank my Cultural Criminology friends for the long discussions and even longer hours of work together. Your friendship, company and support have made this master's degree an enriching and motivating experience.

To my dear friends in Lund, my second family far from home, I thank you for making me feel welcomed and cared for despite the distance. Your presence has helped me through difficult times, and your support and understanding have been invaluable during this semester.

Last but not least, I want to thank my parents for their tireless encouragement every step of the way. Without their support and sacrifice, this opportunity would not have been possible. Thank you for believing in me and for being my greatest inspiration.

I would not have made it this far without your support and collaboration. I am deeply grateful to have shared this journey with such exceptional people.

Table of contents

1. Introduction

Stories are a critical meaning-making resource, they are the scaffolding of social structure which produces and maintains injustices and inequalities of all types.

Loseke (2019: 5)

The current social climate is shaped by two major interrelated phenomena: firstly, an increasing visibility of sexual violence in the public realm, which in turn translates into social demands that have led to significant changes in the regulation of sexual crimes (Andersson *et al.*, 2019: 2). In Spain, a decisive landmark that triggered profound social and legal changes was the case popularly known as *'La Manada'*.

One early morning in July 2016, during the well-known 'San Fermines' festivities in Spain, an 18-year-old woman was sexually assaulted by a group of 5 men who called themselves *'La Manada'* ('*The Pack*', my translation) in a Whatsapp group, hence the name that the case popularly acquired. This case triggered social alarms 2 years later when the court sentence was published, since it ruled out rape and qualified what happened as sexual abuse. The #metoo movement had recently erupted in the United States after the sexual harassment allegations about film producer Harvey Weinstein. Following this trend, the trial of *'La Manda'* sparked massive demonstrations in support of the victim, which became the cornerstone of feminist demands to revisit and question the judicial system and its treatment of sexual offenses. The societal impact of this case underscored the need to understand how judicial narratives can impact public perceptions of rape crimes and the pursuit of justice.

Until then, all attention regarding violence against women had been focused on intimate partner violence. As a result of this wake-up call, the focus on other manifestations of gender-based violence, such as sexual violence, began to grow (Tardón, 2018). Nonetheless, the Spanish literature on social perceptions of sexual violence, especially that which examines the link between these perceptions and justice, is still scarce. That is why with this thesis I aim to contribute to the understanding of how certain cultural and social patterns around sexual violence are established and maintained, by conducting narrative analysis of judicial sentences on rape cases. By examining

how judges and courts interpret and enforce existing legislation in rape cases, I seek to shed light on possible biases and prejudices that may be present in the criminal justice system. Therefore, I will focus on the ways in which rape is narrated in these court sentences, and the cultural meanings and values that are embedded in these narratives. To do so, there are two broad research questions I want to explore:

- What characterizes the narratives about rape evoked during rape cases in Spain? In other words, I want to explore the different contents of these narratives: scene, characters, etc.
- How do judges in Spain craft and use narratives around rape in their sentencing? In this sense, I want to see how these elements are constructed and combined with each other to form these stories; and the meanings embedded in these narratives.

This thesis is divided into 9 chapters. Chapter 2 presents a general background of the topic, examining the historical and cultural aspects that have influenced the views on sexual assault in the country; as well as some preliminary considerations about terms that are used in the thesis. In Chapter 3, I explore previous literature on rape narratives and judicial rape narratives. Chapter 4 introduces the theoretical framework that will guide my research, exploring the concept of narrative, as well as the meaning-making power of narratives. In Chapter 5 I discuss the methodology of analysis employed. This is followed by the results section. Chapter 6 addresses the pivotal role that the setting plays in rape court stories, framing characters and events –thereby strongly shaping the meanings and morals they take on. Chapter 7, on the other hand, discusses how courts craft rape stories, paying particular attention to the characterization of victim and perpetrator. Finally, Chapter 9 discusses the different types of stories that courts construct when they do not consider that rape has occurred. Namely, here I have identified two main story types that pivot on the defendant's character: stories of a mentally fragile woman and stories of a woman scorned. Finally, in the last chapter I present some end remarks, specifically the conclusions drawn from my results, and some reflections on possible future research.

2. Background

In order to comprehend the complex nature of legal narratives about rape in Spain, it is necessary to first set the stage by examining the historical and cultural aspects that have impacted views toward sexual assault in the country. Presenting a broader context is essential, since, as I argue throughout this thesis, the legal sphere is no different from social imaginaries. In other words, both the laws and the legal operators who enforce them reflect the attitudes, beliefs and values of the society in which they are applied. Riessman (2008: 8), in this regard, states: "…stories must always be considered in context, for storytelling occurs at a historical moment with its circulating discourses and power relations." I will start this section by providing the social backdrop for the current narratives around rape in Spain and discuss the legal treatment of rape in the country; and then present some conceptualizations that are fundamental for approaching the topics developed in the remainder of this thesis.

2.1. The history of rape law and culture in Spain

Sexual violence is far from being an "ahistorical" phenomenon (Tardón, 2022: 2). This violence, as yet another manifestation of structural violence against women, has been taking place for centuries in different groups and societies. In the case of Spain, this issue stems chiefly from the patriarchal structure of Spanish society, which has consistently entrenched gender inequalities and normalized violence against women. In this sense, it is systemic, in that it arises from and is sustained by a sociocultural system that generates its material conditions of opportunity, gives it meaning and masks it (Martínez & Cabezas, 2022: 6). We find ourselves, therefore, in what has been termed a "rape culture" that condones, fuels, legitimates, and normalizes the existence of sexual violence (Tardón & Pérez, 2016). The underlying factors that have led to such a structuring of our society are complex and intertwined. Nevertheless, I will try to provide an overview of some of the events that have contributed to the current configuration of Spanish society.

First, Spain has a deep-rooted Catholic tradition, with the Church exerting a significant influence over Spanish social, political and cultural formations. One of the most prominent areas in which the Church exercised control was the regulation of morality, bolstering patriarchal structures like gender roles and strongly condemning women's sexual freedom (Jonsson, 2008: 8-

10). The Catholic Church wielded great power in the country until well into the 20th century, with the end of the Francoist dictatorship; at which time, even though still present, it began to decline.

Coupled with the Catholic clout is the fact that Spain has long been a predominantly agrarian country (Casado & Ruiz, 2019). Consequently, men have been associated with farm work and family protection, while women have been confined to the household, their role being reduced to reproduction and domestic care –a structure that is still in place today in much of rural Spain (Ministerio de Agricultura, Alimentación y Medio Ambiente, 2013: 23).

Despite this long sexist tradition, the 20th century ushered in profound transformations. During the II Republic the country advanced in women's civil and political rights. Not only were women granted the right to vote, but also the right to divorce, abortion, access to the labor market, and so on (Ortiz, 2006: 1). However, the Civil War began, and with it, the Francoist regime –which ruled Spain from 1939 to 1975. During this time, highly conservative values were reinstated (Ortiz, 2006: 1). This era was especially hard on women, as those who deviated from social conventions were chastised and often ostracized by their communities[1]. Sex education and contraception became taboo, and rape was considered a crime against honor and virtue, yet victims were often held to blame for their own victimization (Ortiz, 2006: 4).

With the end of the dictatorship and the establishment of democracy, major social changes were once again promoted. The feminist movement allowed women to regain the rights they had been deprived of, and to obtain new ones. Yet, as Tardón (2022: 2) noted, the issue of sexual violence had not generated special attention in the country until 2016-18, with the well-known rape case of '*La Manada*'. Nevertheless, with the publication of this case's sentence, which triggered the Spanish *#metoo* movement, a new feminist struggle for the recognition of sexual violence as another problem endemic to our patriarchal society began (Tardón, 2018). One of the most significant recent milestones has been the enactment of the popularly known "*solo sí es sí*"[2] law ("*only yes means yes,*" my translation). Prior to this law, a sexual assault was only recognized if it involved the use of force or intimidation as a necessary condition. Moreover, to be qualified as

---

[1] For instance, the "uxoricide for cause of honor" was reintroduced as a crime and remained in force until 1963, whereby a man could murder his wife in case of adultery and remain free of imprisonment (Cantín, 2017: 47)

[2] Ley Orgánica 10/2022, de 6 de septiembre, de garantía integral de la libertad sexual, BOE núm. 215, de 7/09/2022 [Organic Law 10/2022, of September 6, on comprehensive guarantee of sexual freedom, Official State Gazette no. 215, of 7/09/2022]

rape this assault had to consist of penetration. Cases in which sexual freedom was also violated, but without the use of violence, were regarded as abuse and sanctioned more leniently. The passing of this law marks a paradigm shift in the understanding of sexual violence, as it redirects the focus from force or intimidation to consent.

That social demands drive legislative changes is a fact that no one questions, and this law is a clear proof of that. Law and culture are intimately related. Yet one thing we tend to forget is that their relationship is not one-sided, and that laws and the legal approach to certain matters also impact social views on the problem in question. This is why the study of judicial narratives is as important as that of any other kind of narrative when it comes to understanding how the phenomenon of rape is socially constructed.

2.2. Conceptualizations

Before proceeding with the next one, I would like to end this chapter with some clarifications on terms that will emerge throughout this thesis. To begin with, I should point out that I my own view and understanding of rape draws from a feminist perspective that understands sexual violence as a gender crime. It is a known fact that men are more likely than women to commit sexual offenses, and women and girls are at a much higher risk of being their victims (MacKinnon, 2016); nevertheless, this does not mean that men and boys do not also suffer sexual assaults as well, albeit most often at the hands of other men. Therefore, I understand sexual violence as gendered in a twofold sense: on the one hand, as a crime in which women and/or men are victimized due precisely to their gender or sex (MacKinnon, 2016); and on the other hand, as a gendered expression of the perpetrators, linked to issues of dominance and power (Boyle, 2019: 29). However, as MacKinnon (2016: 435) criticizes, this is not the approach adopted by states and legal actors. The author observes how, notwithstanding the recognition of this theoretical stance by national and international organizations, in practice sexual violence is legally stratified.

In Spain, the law differentiates between different expressions of sexual violence according to their "seriousness," including a distinction between sexual assault and rape. In this line, the Spanish Criminal Code defines sexual assault as "any act that infringes on the sexual freedom of another person without their consent" (article 178); while if this assault consists of "carnal knowledge by vaginal, anal or oral means, or the introduction of bodily members or objects by any

of the first two means" (article 179), it is considered rape. Therefore, sexual assault and rape are two very distinct terms in Spanish law, being penetration the distinctive element of rape. It is from this understanding that the courts undertake when judging and evaluating rape claims.

Regarding consent, the law states: "Consent shall only be understood to exist when it has been freely manifested through acts that, in view of the circumstances of the case, clearly express the will of the person" (article 178). The Ministry of Equality clarifies that "with regard to the definition of consent, the advantages of opting for a positive model or "yes model" include ensuring that passive silence, without acts that clearly manifest the will to participate in the sexual encounter, is not sufficient to consider consent" (Ministerio de Igualdad, 2021). Understanding how these terms are legally defined is crucial to grasp how judges narratively construct rape when applying these concepts.

Throughout the analysis I often refer to a casuistic category as stranger rape. This term emerged within the field of criminology to describe a specific type of rape in which the victim is sexually assaulted by someone she does not know beforehand, and thus differentiate it from instances in which the victim has some kind of prior relationship with her assailant. Although it is not an ideal term, as it can sometimes simplify the complexity of situations that can occur in cases of sexual violence, in this thesis I have decided to use it because there are great differences among courts' rape narratives depending on whether the victim and the perpetrator are strangers or acquaintances.

Finally, regarding the way of addressing the parties involved in the process –i.e., the characters in the narratives, there is some debate as to the possible terms. For instance, there is a wide discussion about the appropriateness of the terms victim and survivor (Serisier, 2018: 15). The label 'victim' is rejected by many as it is considered paternalistic and reductive of victims' agency and power; whereas 'survivor' empowers the individual and recognizes their capacity to heal and recover (van Dijk, 2009). On the other hand, authors such as Presser (2022) caution how oppressive and stigmatizing the use of terms such as 'offender' can be, reducing the person to their criminal actions. For this reason, I will simply use the terms victim and perpetrator when the sentences use them and construct them as such; using the legal terms (plaintiff and defendant) in all other instances.

3. Previous Literature

In this section I will present the main studies that have been conducted on judicial narratives of rape and that are of relevance to my own work. I must say at the outset that most of this research has been carried out in countries such as the United States, Canada, Australia or the United Kingdom, where the adversarial nature of the common law system gives room for argumentation and dialogue during the trial. In this legal tradition, the veracity of the facts and the fair application of the law are determined by a rhetorical battle between prosecution and defense (UNODC, 2018). On this account, the methodologies used in these settings consist mainly of courtroom observations and/or transcript analysis.

3.1. International approaches to rape in the courtroom

Some authors, like Coates *et al.*, (1994), Sanday (1997), Ehrlich (2012) or Comack (2020) have focused on the adjudication narratives of legal decision-makers –judges and juries–, and/or the use of specific myths within their narratives. Others have examined the exchange between the different parties, and the narrative resources they use to build their case. Namely, they examine the barristers' use of myths and master narratives of rape to depict the facts and/or the parties in a particular manner in the eyes of the judge or jury, and therefore influence their decision. On this basis, studies such as those carried out by Estrich (1987), Taslitz (1996), Gavey (2005), Daly (2022), or Smith (2019, 2021) highlight the structural injustices of this judicial system. They condemn how these court narratives serve as representations of structures of power, and reflect and conform to dominant discourses of gender, sexuality and rape.

Albeit grounded in legal setting different from the Spanish, where such judicial narratives are produced mainly orally, and chiefly by litigators to attack and undermine the opposing story, the themes found in these studies are of value in the European context. In particular, Susan Estrich's book *'Real Rape'* (1987) has served as a precedent in research on rape judicial narratives around the globe and has laid the groundwork for much of the investigation in Europe. In this book, the author examined the institutional response to different rape cases from the 19th century to 1985 in the United States, and found that the authorities were only really willing to act in cases that they considered to be 'real rape'. This scenario, also called the 'Hollywood rape' (McKenzie-Mohr, 2014), is comprised of a series of "prejudicial, stereotyped and false beliefs about rape, rape victims

and rapists" (Burt, 1980: 217) commonly known as rape myths, that are supported and influenced by broader cultural narratives. In this sense, a 'real rape' entails: (i) a surprise and violent attack; (ii) an unwavering defense by the victim, usually leaving wounds and injuries on her body; (iii) an unidentified attacker (a stranger) (iv) who frequently uses force or even a weapon (v) in a dangerous setting (a secluded, dark place, etc.), and typically at night; (vi) and the victim's reaction is to immediately report what happened to the authorities or, at least, her inner circle (Daly, 2022: 71-73; Estrich, 1987; Rubio-Martín *et al.*, 2022: 4). On the other hand, there are the rapes that Estrich has termed 'simple,' and which she noticed did not attract as much attention or concern from the authorities. In these cases, the victim and her assailant knew each other previously, the assailant acted alone or was unarmed or used 'little' physical force to subdue the victim.

On the other hand, McKenzie-Mohr's (2014), in her research about women's counter-stories of rape, identified two prevalent narratives that inform western rape accounts. The first one, that she called 'negate or blame,' draws on the 'real rape' narrative described above. In this sense, whenever rape stories did not fit the 'real rape' parameters, the 'negate or blame' narrative emerged; and rape accounts were either dismissed (under the premise that it actually was 'just sex'), or the onus for its occurrence was put on the victim. Both narratives, as the author observed, are influenced by 'heterosex' discourses, namely a combination of the 'male sexual drive' and 'have/hold' discourses. The former exonerates males of blame and agency for sexual violence, by blaming it on their irrepressible sexual urges (Gavey, 2005: 99; Holloway, 1984, 1989; in McKenzie-Mohr, 2014: 66-67). Moreover, discourses of neo-liberalism and individualism translate this accountability to women, by compelling them and making them responsible of protecting themselves from unwanted sex (Anderson & Doherty, 2008; in McKenzie-Mohr, 2014: 67-68). That said, in the 'have/hold' discourses men are presented as active individuals with sexual desires, while women are portrayed as passive objects with no sexual drive who simply give in to the man's needs (Gavey, 2005: 99). In other words, "males are the subject of pleasure; females the object of desire" (Brandariz, 2021: 577). These discourses imply that rape is 'just sex,' since it constructs a scenario where a man seeking sex, and a woman rejecting him, are both usual and likely elements of foreplay. Female sexuality is seen as "automatically at the man's disposal" (Sagar, 2019: 52), and this barely laves place for women's sexual agency and men's responsibility to gain women's active consent.

In relation to this, Burgin & Flynn (2021) note the still persistent presence of 'reasonable belief' and 'implied consent' narratives in Australian courtrooms. These narratives also deny the occurrence of rape, by arguing that the victim's behavior led the offender to (reasonably) believe that consent had been given. They are based on two presumptions: firstly, the interpretation of the victim's behaviors as flirtation, and secondly, the victim's prior relationship with the defendant – both understood as inducing consent. Another means of denying the incidence of rape was found by Smith (2019: 84, 2021) in her research on defense lawyers' use of master narratives of rape to discredit plaintiffs' accounts of sexual victimization in different areas of the United Kingdom. The author noted how, by presenting the narrative of victims as 'scorned' women who had been rejected by the defendant, they were believed to be falsely accusing their assailants.

In Europe, besides the British literature, the vast majority of research on rape judicial narratives has been carried out in the Scandinavian countries (Andersson, 2019, 2021; Andersson, *et al*., 2019, Edgren, 2019). These studies take court judgments and documents as their main source, and pay more attention to how different elements of the stories are judicially constructed (such as violence, consent, victims' sexual agency, and so on). The results in general confirm what has already been found in the studies carried out in the Anglophone countries described above. For instance, in her research on rape narratives in Swedish court judgements, Edgren (2019) looked at how two specific elements of rape –victim agency and vulnerability– are shaped. She identified an almost mutually exclusive relationship between victims' vulnerability and their (sexual) agency in these texts. In this regard, she observed a portrayal of 'ideal' (Christie, 1986) rape victims –whose vulnerability is recognized and legitimized– as weak, fragile and sufferers of severe psychological distress. On the other hand, she found that when considered liberal subjects with agency, victims were no longer seen as helpless, and what is more, their vulnerability in relation to the aggressor's position was left aside. Furthermore, she also noted how, when the judicial narratives recognized the power of the victims, as women, to decide whether or not to have sexual relations, they were expected to be cautious and accountable for their own acts and safety – backing up the findings reported by Estrich (1987) and McKenzie-Mohr (2014). In relation to the above, some studies have looked at the role of place in legal narratives of rape, concluding that it is either absent in these narratives (Andersson 2019, 2021) or is used ambivalently to construct the vulnerability and/or agency of victims (Andersson & Edgren, 2018).

Lastly, Edgren (2019) found elements of both of the 'negate or blame', and 'scorned women' (that she calls the 'bitter woman', pg. 58) narratives in the Swedish court rulings she examined. For instance, she observed the influence of the 'heterosex' discourse, mainly through the use of sexualized and eroticized vocabulary to describe these acts of violence (p. 52, 64). In addition, in some cases, the victim's vulnerability was constructed on the basis of the 'male sex drive' discourse: thus, the focus of this shifted from the fear, violence or intimidation suffered by the victim to the assailant's irrepressible desire, which the victim simply could not resist (p. 52). Coates *et al*., (1994) observed a similar rhetorical repertoire among Canadian judges. They noted how, when talking about 'stranger rape', judges used language pertinent to sexual violence. Nonetheless, when there was a previous relationship between the victim and her assailant, the vocabulary used to describe the assault resembled that of consensual sex.

To contest and resist all these narratives negating women's experience of rape, or putting the blame on them, a third narrative arose in the 1970s: the 'trauma of rape' narrative (McKenzie-Mohr, 2014). This narrative was developed by both feminist activists and scholars and mental health practitioners, and swiftly gained popularity (McKenzie-Mohr, 2014: 65, 68-69). It asserts that rape is a prevalent, violent act that *always* causes severe and persistent psychological harm to the victims (Gavey & Schmidt, 2011: 439, my emphasis). This damage, moreover, is considered to be particularly severe in contrast to other traumatic events; and enduring in time, causing permanent 'scars' to the victims. On this basis, this narrative entailed "a swing from a universalizing presumption of 'no harm is done' to an equally universalizing presumption of 'severe harm is done'" (Gavey & Smichdt 2011: 449). Edgren (2019: 50) observed that, based on this premise, notions of agency and vulnerability are constructed in Swedish judicial decisions. In this sense, the victims considered as 'real' or 'legitimate' are those who have been severely psychologically affected by their victimization. In fact, as McKenzie-Mohr provocatively critiques, whilst this narrative successfully restored credibility to the victims, it did so by putting the spotlight on the degree of the victim's affliction and distress, rather than on the severity of the abuse.

Nevertheless, this narrative can be a double-edged sword (Gavey & Schmidt, 2011: 449). Just as it can make stories more reliable, it can also take away from them. As such, the 'negate' narrative may be grounded in a psychologically 'damaged' victim narrative. Victims can be thus

portrayed as incapable of understanding what occurred to them due to a psychological record, or past trauma or abuse (Smith, 2019: 79).

3.2. Rape narratives in the Spanish judicial system

In Spain, the literature on rape narratives, particularly those produced in the judicial context, is very scarce. Most of the studies are quantitative, and focus on the acceptance and use of rape myths and how these affect perceptions of sexual violence and the attribution of blame to victims and perpetrators (see, for example, Trujano & Raich, 2000; Camplá *et al*., 2017; or Gancedo *et al*., 2021). Other more recent studies have examined the presence of elements of the 'real rape' narrative in Spanish court sentences (Álvarez, 2021; Rubio-Martín *et al*., 2022). All of this literature suggests that rape myths and master narratives are pervasive in Spanish society, which still continues to regard rape as an extraordinary act committed by an outsider using force and violence; despite the fact that data suggests that these are rare instances (Tardón, 2018; Ballesteros & Blanco, 2021;). Consequently, there is still a propensity to blame the victim in situations where there was a past relationship between the parties, the assault occurred at a public location, and/or the victim had consumed alcohol or drugs (Rubio-Martín *et al*., 2022: 15).

Qualitative studies on narratives and master narratives on rape in Spain are historical in scope. Works such as Koulianou and Fernández (2008) or Brandariz (2021) illustrate how our conceptions of sexuality date back to the Classical era and have echoed in current culture from mythology, fairy tales or even biblical stories. On the other hand, Alario (2020) discusses how 'heterosex' discourses have been constructed from various fields, ranging from medicine to philosophy, conceptualizing male sexual desire as a need and asserting the right of men to satisfy their sexual urges by accessing women's bodies regardless of their desire and consent. As Tardón (2022: 2) noted, the issue of sexual violence had not generated special attention in the country until 2016/18, and this has resulted in a lack of research on the subject. For this reason, with the present thesis I seek to contribute to the existing literature on social constructions of rape in Spain, and specifically on how it is built through legal narratives.

4. Theoretical Framework

In this section, I will introduce the theoretical framework that will guide my analysis. I will first discuss narratives in a rather general way, outlining their nature, characteristics and intent. I will then address the symbiotic relationship between narratives and culture through the creation of meaning. In this sense, I take a social constructivist lens to explore narratives as a pervasive component of social interaction that mold our notions and understandings of the world around us; while at the same time, being constrained by social canons and conventions. Beyond anchoring perspectives on social constructivism, and following Presser and Sandberg (2015), theoretical inspirations for this framework also incorporate notions from narrative, cultural and critical criminology. In this way, I develop a vision of narratives as constructs subject to power structures that limit their form and content; but also as a means by which these structures in turn acquire power, expand and perpetuate themselves. This theoretical foundation provides a dynamic way of theorizing the link among narrative, meaning and culture; and how all of these come into play in courtroom rape narratives –which will conclude this section.

4.1. What is a narrative?

Despite the fact that this topic has been extensively written about, there is still no agreed-upon definition of narratives. As Riessman (2008: 5-6) notes, it may be anything from a single discourse unit to entire life stories, depending on the field of study. Some authors go even further, conceding that narratives do not need to be merely textual (as commonly assumed), but may also be produced visually – through gestures, images, and so on (Barthes, 1977; Onega & Landa, 1996; in Presser, 2009: 178). In light of this, I consider it essential to provide a conceptualization of narratives before embarking on narrative analysis (Presser, 2010: 435; Presser & Sandberg, 2015: 14). As Gubrium & Holstein (2009: xvi) observe, "how one conceptualizes things actually affects what comes into view, as much as empirical material shapes our understanding." Therefore, I will next develop a theoretical scaffolding to draw upon in subsequent chapters of this thesis. In this sense, I will adopt the definition proposed by Hinchman & Hinchman (1997: xvi; in Elliott, 2005: 3), who understand narratives as "discourses with a clear sequential order that connect events in a meaningful way for a definite audience and thus offer insights about the world and/or people's experiences of it." Some authors, like Riessman (2008: 6) or Elliott (2005: 7), differentiate between

narrative and story; the latter being understood as a type of narrative in which an unexpected 'disruption' (what Labov & Waletzky, 1967 call 'complicating action') occurs in the course of events that provokes some kind of reaction. Given that the narratives I will analyze include this component –which is the very act of rape itself– however, I will use the terms interchangeably.

From the definition above we can infer several characteristics that distinguish narratives from other discursive forms. As Riessman (2008: 4) points out, "narrative is everywhere, but not everything is narrative." So how can one determine if what they are dealing with is indeed a narrative? Firstly, Labov & Waletzky (1967: 20) regard the temporal sequencing of narratives as one of their core elements. That is to say, the story includes only significant events, and subsequent facts are assumed to explain previous ones. Through this consequential linking of events –which constitutes the 'plot'– the teller selects, organizes and relates otherwise disconnected events so that they acquire meaning. This "emplotment" of experiences and actions—what they mean as a whole— constitutes the structure of the story (Presser, 2009: 178). The plot and its meaning is also shaped through the unsaid: storytellers emplot events "when they select some events for inclusion in the story and ignore others" (van Hulst, 2019:2, in Presser, 2022: 27). Nonetheless, the meaning of events does not only stem from their structuring and causal arrangement in the story, but also largely depends on their contextualization in the story (Loseke, 2022: 4). Thus, as Loseke (2019: 6) cleverly illustrates, an act as simple and ordinary as a woman applying makeup can take on very different meanings depending upon whether she is covering bruises, she is a sex worker getting ready for work, or is a bride about to be married.

With the previous example we can see that narratives not only create cognitive significance, but they can also convey emotional messages when plots and characters promote feelings (Loseke, 2019: 4). Additionally, they can instill moral values when characters and events prompt the audience to reflect on what is right or wrong (Loseke, 2019: 4). This leads to the second key feature of narratives, which Labov & Waletzky (1967: 33) call "evaluation": narratives are told to make a "morally transcendent point" (Bruner 1990; Mishler 1986; Polkinghorne 1988; Polletta *et al.* 2011; in Presser & Sandberg, 2015: 2). While in other discursive forms the weight of assessing the narrative content and determining what lesson to learn from it falls on the receiver, narrative plots allow the narrator to shape the final message to be conveyed –which must then be interpreted by the listener (Riessman, 2008: 3; Elliott, 2005: 4; Polleta *et al.*, 2011: 111).

Another pivotal element that contributes to the formation of meaning is the orientation of the stories (Labov & Waletzky, 1967), which provide information about the who, when and where the story happens. Hence, it encompasses the 'scenes' in which events take place –that is, the particular context (physical and social) in which the events occur, and that greatly influences the meaning that events take on (Loseke, 2019: 6; 2022: 4); and 'characters' who are involved in the events being told, and to whom the listeners can relate (Polleta *et al*., 2011: 111, 2013: 314). The construction of the characters is based on the ascription of physical and mental traits, which create an image of their inner world (Margolin, 1987 & Garvey, 1978). As Loseke (2022: 4) points out, characters can be unique and embodied, or disembodied categories of people; such as the 'victim', the 'villain' or the 'hero'. These stock characters have specific characteristics and fulfill preset roles, so they are evaluated by the audiences based on these expectations about them (Loseke, 2009: 503-511; Polleta *et al*., 2013: 314). Tilly (1970: 70; in Frank, 2012: 41) observes how "actors' dispositions (rather than, say, pure accident or fate) will cause most or all of their actions". In short, in the words of Loseke (2019: 6), "…stories are recognizable because of story contents: somewhere (scene) something happens (events) to someone/something (characters), and this conveys a lesson about something (moral)." Every story can be told in a number of ways; and it will change greatly depending on and to the extent to which they focus on "characteristics of the physical/social/cultural environment (…) (scene focused); on "what happened" (event focused); or on particular people such as victims, villains, or witnesses (character focused)" (Loseke, 2022: 4).

4.2. Narratives, meaning and culture

Narratives, being cultural forms, unavoidably have an impact on society. As Presser (2013: 25) observes, it has been widely held in several areas that "social life is narrated or storied." Narratives, as meaning-making tools, have the power to frame subjective perceptions and objective realities (Loseke, 2019: 1). They can serve as cultural resources to help us decipher the world and where we stand within it (McKenzie-Mohr & Lafrance, 2011: 50); and can teach us how to feel and behave in different circumstances (Loseke, 2019: 4). And it is, in fact, through storytelling, that we learn about the world and the rules that govern it (McKenzie-Mohr & Lafrance, 2011: 50; Presser, 2009: 178).

In this sense, narratives not only depict, but also conform our social realities (Presser, 2013: 25). Yet the relationship between narratives as a tool for meaning-making and culture is a two-way

street. Stories are reflexive (Loseke, 2022: 5-6): that is, they not only give meaning to particular events, which then permeate social understandings about them; they also are shaped by existing cultural conventions and normative standards (Presser, 2009: 180). The narrative form's meaning-making powers, then, arise from how stories include "socially circulating systems of meaning" (Loseke, 2019: 15). In this regard, for narratives to be accepted and believed, they must reflect social canons and interpretations of objects, events and people that the audience can relate to (Riessman, 2008; Presser, 2018; Loseke, 2019: 12), what Loseke (2015: 253; 2022: 9) calls symbolic and emotion codes. Symbolic codes are "are systems of ideas about how the world does work, how the world should work, and about the rights and responsibilities among people in this world" (Loseke, 2015: 253). On the other hand, emotion codes are "sets of socially circulating ideas about which emotions are appropriate to feel when, where, and toward whom or what, as well as how emotions should be outwardly expressed" (Loseke, 2009: 497).

Lastly, narratives are co-constructed. In other words, although narratives are personal in that they recount the experiences of the teller, they are not entirely unique. Personal narratives also have an external component, since they are made up of bits and pieces borrowed from past stories that have been combined to create the new one (Frank, 2012: 34, 36). One way to achieve this is through what McLean *et al*. (2017) call 'master narratives'. Master narratives are defined as 'transhistorical' (Halverson *et al*., 2011: 14), broadly shared stories about cultural aspects that are deeply ingrained in society and serve individuals to identify and depict their own experiences (McLean, *et al*., 2017: 633). As noted by Hammack & Toolis (2015: 353) these stories are often universally shared among people who belong to the same culture and are mostly unconsciously internalized –thereby many people are oblivious to the fact that they might be complying to them. Moreover, they are value-laden: they include a "moral component" that dictates how we should think, feel and/or behave (McLean & Syed, 2015: 326-328). Hammack and Toolis (2015: 353, emphasis in original) further add that master narratives not only determine what content is relevant in people's individual stories, but also the *form* these stories should ultimately take.

In short, narratives, as a social construct, must be studied within the cultures in which they are produced – since fruitful narratives are tailored to the specific audience, purpose and setting in which they are presented (Presser & Sandberg, 2015: 3); reflecting cultural beliefs and values that resonate with the recipients. Master narratives are those stories that have succeeded in this regard,

to the extent that they have taken root in a given culture and permeated people's belief systems, shaping the evaluations they make of their experiences and/or those of others. As Andersson *et al*. (2019: 7) observe, "the concept of master narratives is a way to combine a structural, discursive understanding of the preconditions for the idividual narrative."

4.3. Narratives, rape and the courtroom

Law and culture are deeply intertwined (Mezey, 2001), and legal texts and codes are thus overflowing with narratives. Following Edgren (2019), I see legal documents –such as laws, regulations and court sentences– as more than just technical texts with predetermined meanings; rather, I perceive them as cultural products (Hayward and Young, 2004: 259) that are part of a larger social practice and encompass the norms guiding a specific community. They express the values, beliefs and social representations of "those who formulate them and, ultimately, of the social agents who have the power to reach consensus and establish texts and discourses" (Koulianou-Manolopoulou & Fernández, 2008: 1). Thus, without taking into account the social and cultural context of these texts, they cannot be properly comprehended. The language, organization, and substance of these legal writings captures the culture's different values and beliefs (Agüero, 2014: 9). By creating jurisprudence, court decisions not only dictate the outcome of a particular case, but also provide specific interpretations of a crime, like what rape entails (Brandariz, 2021: 576). Taking all the above into account, rape trials not only reflect but also uphold societal norms by establishing a social as well as a legal definition of what constitutes rape (Orenstein, 2007:1590). They determine what information is legally relevant in a thoughtful process of crafting narratives (Edgren, 2019).

Following Edgren (2019) I identify several voices which shape different fragmented narratives that comprise the sentence. Thus, I distinguish between background narratives, and assessment narratives. Background narratives are based on the evidence brought before the court: plaintiffs, defendants, and other witnesses are (re)presented and give their testimonies, which serve as the foundation for the assessment narratives. The latter, in turn, are comprised of the opinions, explanations, or justifications provided by judges in their court decisions (p. 38), and are the object of my present research.

5. Methods

The aim of this thesis is to contribute to the unraveling of the social definition and understandings of rape, by exploring how rape and stories of rape are narratively constructed in court sentences. To do so, I want to delve into what characterizes the narratives about rape evoked during rape cases in Spain, by observing how courts construct and use narratives of rape in their sentencing. In this section, I discuss the methodological tools employed to conduct my analysis. In this vein, I start by reflecting on my own position as a researcher, and then move on to describing the data and the process of data collection. I next explain how I read and analyzed this data. Then, I present some reflections on the methods used, namely about the limitations they pose; and I conclude by putting forward some reflections on issues of confidentiality.

5.1. Positionality and reflexivity

In the previous chapter I outlined the theoretical tenets that inform my research. This is followed by a discussion of my position as a researcher and its implications for the present study. In this regard, I reflect on the perspectives, experiences, and personal biases I hold in relation to the topic. Providing a thorough reflection on these aspects is essential in any kind of investigation, regardless of its scope (Elliott, 2005: 153). Nonetheless, due to the subjective nature of narrative inquiry and even more so when it is concerned with meaning production (Loseke, 2019, 2022; Presser, 2022; Presser & Sandberg, 2015), I will begin this chapter discussing my positionality. In doing so, I hope to bring transparency to my research, providing a context for the methodological decisions I have made, as well as for the results and interpretations of my analysis.

Firstly, I am Spanish and this is where I have lived all my life, so I fully understand the language, customs and culture, which makes the analysis and placing it in its broader context easier. Moreover, as a woman aware of the social inequalities in my country, it is natural for me to be able to better empathize with the victims and their experiences. At the same time, nevertheless, I am also mindful that my stance may carry with it an emotional bias against perpetrators and judges, potentially affecting my ability to analyze objectively. It is a fact that these narratives are extremely tough; they deal with very sensitive issues about which it is very hard to remain neutral. While it is true that the more I progressed in the analysis and the more I read, I became a little "immune" to them, in the end this was clearly a complex task and I could not help the feelings of anger, disgust

and sadness that flooded me at times. In turn, since these narratives deal with evaluations of two opposing versions of the same story, it became inevitable to form an impression and fall into blame-attribution biases. To overcome this, I decided to become aware of my own impressions. In the first few readings, I would reflect on what I thought, what I believed, and what emotions reading it generated in me. Once I had all this identified and on the table, it was easier for me to put it aside and simply focus on the analysis at hand, as well as to recognize at later points in the analysis if these biases were coming back to me. Therefore, I have tried to approach the research in a fair and sensitive manner, avoiding prejudices and stereotypes that may cloud my vision. My goal has been to use my empathy as a tool to gain a deeper understanding of the stories, while maintaining the required objectivity and rigor to draw valid and informed conclusions from the narratives.

My background in law has been an advantage in conducting this analysis. In the past I have had the opportunity to witness firsthand trial proceedings as well as the drafting of court sentences. This has provided me with an understanding of the criminal process and the context in which these legal documents are written. In addition, knowing the legal jargon has eased the reading of these documents; as well as aided in a more neutral interpretation of the texts. Being familiar with the specific rules of the setting in which these narratives are produced, as well as the legal terminology, has allowed for a more comprehensive analysis. Nevertheless, it has simultaneously also been a challenge; as I am more used to reading these texts from a legal perspective, which bears no resemblance to the sociological and cultural lens. Notwithstanding, my studies in criminology, and especially in cultural criminology, have afforded me a theoretical and methodological framework for examining and understanding the social, cultural, and structural forces that impact on rape cases and the judicial process. I believe that, in this sense, I have had the opportunity to combine my education in different fields to conduct a more exhaustive and contextualized analysis of the rape narratives present in the court judgments.

I do not wish to end this section without briefly reflecting on my position as a storyteller. As a researcher, I am also a narrator, which comes with a status of power. Like any narrator, I must make my text appealing in order to convince and persuade my audience (Elliott, 2005: 152). In this sense, I have control over what I include and do not include in my analysis, as well as how I portray it. Thus, while researching I also create meaning, a fact that I have tried to keep in mind at all times while writing this thesis.

5.2.   Data collection: selection of cases

To answer my research question, I have analyzed a total of 67 court rulings on rape cases in Spain, issued by various Provincial Courts in the country. Narrative analysis of court sentences makes it possible to identify the elements, meanings and discourses used to describe, justify or question acts of rape in the legal context. Through this approach, the perspectives and beliefs of judges and courts about rape can be explored, which allows to better understand how cultural ideas and values influence the social definition of the crime. Ultimately, a narrative approach to the analysis of court rulings can yield new insights on the social constructions of rape. By providing a deeper and more contextualized view, this research can enrich the academic debate on this topic. Generally, when we want to explore social phenomena, we look at conventional sources such as the general population, the media, etc. However, when it comes to rape, and more specifically its social construction, justice is a major factor. After all, it is judges and courts that determine whether a case is (legally) considered rape or not. What we understand as rape, and how we understand it, is largely driven by how judges construct rape in their narratives.

In order to select which sentences to analyze I considered the following criteria: judicial body, type of crime, law applied, temporality, and profile of the victims and perpetrator. The gender of the judges and the outcome of the ruling (except in the case of plea agreement) were indifferent for the selection of the sentences. Provincial Courts were chosen for procedural reasons, since they are the competent organ to prosecute this type of offenses due to their severity. Although other researchers have conducted similar studies (e.g., Edgren, 2019 or Andersson, 2019; 2021) with a very interesting approach, in which they analyze several sentences on the same case (trial court and appellate sentences), I have decided to focus only on trial court sentences. This is mainly due to the fact that the new law has only recently come into force (October 2022), so there has not yet been time for cases prosecuted under this new law to reach higher courts. In addition, the sentences were retrieved from Provincial Courts from all over Spain to ensure a big, diverse and varied sample.

All the sentences deal with cases in which the victim is female, and has reached the legal age of consent (16 or older) and the assailant is male and of legal age (18 or older). These gender choices are not coincidental. In Spain, about 97% of convicted sex offenders are men, and their victims are mainly young girls and women (about 86%, Ministerio de Igualdad, 2019). In addition,

as Echeburúa & Redondo (2010: 133) note, "most women convicted of sexual assault are convicted for having been cooperators in assaults carried out by men." This phenomenological issue was also reflected in the sentences, since only in two of all of the cases retrieved the victim was male. Moreover, male rape suffers from a completely different social valuation, as the victims are subjected to different prejudices and stigmas than female victims (Anderson, 2004). Thus, considering gender as a restrictive variable ensured homogeneity in the data, limiting the number of factors that could induce differences among the stories.

Age of the victim was also an important criterion when selecting what type of rape stories I wanted to examine. Albeit cases of child sexual abuse constitute almost a 46% of the total sexual offenses in Spain (Ministerio de Igualdad, 2019), I decided not to explore them because they differ greatly from those in which the victim is an adult (or at least old enough to consent), with the defendant being more likely to be negatively appraised and convicted in the former (Spohn, 1994). The defendant's age is also to be considered, since minors are prosecuted under a different jurisdiction. As for the number of perpetrators, all cases deal with a single perpetrator, since again this just happened to be the case in this sample. There are, nonetheless, some cases in which there were multiple victims. Lastly, cases involving more than one offense were excluded to guarantee that the assessment narratives were not influenced by events not related to rape.

The sentences were obtained from the online search engine for court cases from the Spanish Judicial Documentation Center [Centro de Documentación Judicial, CENDOJ]. This organ is the technical body of the General Council of the Judiciary (the governing body of the judiciary in Spain) in charge of the official publication of case law, among other responsibilities (Poder Judicial España, n.d.). The parameters set to perform the search for sentences were: i) free text search: 178 O 179; ii) type of jurisdiction: penal; iii) type of court decision: sentencia [sentence]; iv) organ: Audiencia Provincial [Provincial Court]; v) location: todas [all]; vi) language: español [Spanish]; vii) date: 10/07/2022 to 03/20/2023. The remaining fields were intentionally left blank, as they are not related to the selection criteria.

The type of crime is, due to the object of study, the crime of rape, included in articles 178 and 179 of the Spanish Penal Code. The reason why I have not entered the word "rape" in the free text search, and only the number of the articles, is that these crimes are rarely qualified as "rape" in the sentences. Instead, judges prefer to label it as "sexual assault with penetration," "sexual

assault under articles 178 and 179" or "sexual assault with force or intimidation," among others. For this reason, the inclusion of the term "rape" in the search would not only not help refine the search, but would result in the inclusion of additional sentences not valid for this analysis[3].

CENDOJ retrieved 561 documents, but a large part had to be discarded as they were cases that prosecuted other types of crimes (mostly cases adjudicated as sexual abuse under the previous wording of the law, inducement to prostitution or sexual assault on underage victims) but still appeared in the results. After this sifting, a total of 67 sentences which met all the selection criteria remained. From over 500 sentences to 67 is a big drop, so a detailed explanation as to why is in order. Of those more than 400 sentences, about 90% were dismissed due to being prosecuted under the previous law. As I have discussed in the background provided in Chapter 2, a new law has recently been passed that modified the Spanish Criminal Code. In the previous wording, what is now called sexual assault was previously divided into two crimes: one of abuse (when there was no violence or intimidation, carrying a less severe penalty) and sexual assault. The new law unifies these two crimes, since the determining factor is no longer violence but the lack of consent of the victim. Because of a series of legal principles (see Raitio, 2008 or Gómez, 2023 for a detailed explanation and discussion) aimed at ensuring legal certainty for defendants, we are now in a period in which, in order to prosecute each specific case, the law that is most favorable to the defendant will be applied. For this reason, to ensure consistency in the sample of sentences, I decided to analyze only those cases prosecuted under the new law, on the premise that by substantially changing the way in which this crime is understood, the way in which it is discussed and narrated will also shift. Moreover, those cases that resulted in a plea agreement were also dismissed, as they did not give grounds for judicial argumentation. Although the purpose of my analysis is not to generalize the results; with this whole process of story selection I am looking to ensure a minimum homogeneity in the type of stories to be examined.

To determine the final number of sentences to be analyzed, I followed the 'saturation' criterion established by Bertaux and Bertaux-Wiame's (1981; in Elliott, 2005: 40). In this sense, I gathered data from as wide a variety of cases as possible and started analyzing until each sentence seemed to support the key points of the previous one. As the authors explain, this method allows

---

[3] It should be noted that in Spanish, the word rape (*violación*) also means violation; therefore, by entering this term any sentence containing this word would automatically be included in the search.

to distinguish between what pertains to a specific court sentence and what is of more general sociological importance. The search process consisted of the following: in February I did an initial search by entering the period between October 7 (the date the law came into force) and February 7, which yielded a total of 393 results. I did an initial quick scan of all those rulings, discarding all those that did not meet the criteria already explained, obtaining a total of 62 'useful' sentences. From that search I began my analysis and started to see a pattern in the stories about stranger rape, but I did not have enough of these sentences to be able to draw firm conclusions. For this reason, at the end of March I decided to do a second search covering February 8 through March 20, which returned 121 results of which I only got 5 new sentences. Even though 67 is a large number, there is a reason why I chose to analyze that many sentences. By no means did I attempt to obtain a representative sample of all the rulings of the Spanish courts, but simply an illustrative sample of the stories that have been told in the Spanish case law on sexual offenses. The length of the sentences is very varied, ranging from 3 to 50 pages in my sample. However, most of them are rather short, and not all of their content constitutes the assessment narrative (since there are very specific parts in which only laws and case law are cited, without any kind of discussion). Court sentences, because of the environment and the purpose for which they are written, are very restricted in terms of structure, content and language. That is why I felt that I needed to analyze more to be confident of the results I am presenting.

5.3. Analyzing the narratives

For the analysis of the cases, I followed the two steps proposed by Loseke (2022: 53-56) to examine narrative meaning productions: close reading and data categorization. In this sense, the first step of the process consisted of a series of initial slow and through readings of the sentences, in order to become familiar with the stories. These readings were more "surface-level" (Riessman, 2008: 64), taking note of what was readily apparent, but without digging too deep yet to look for patterns or meanings (Elliott, 2005: 159). Once I got an understanding of the sentences, the readings became more exhaustive, this time paying attention to emerging structures and themes in the narrative contents: scene, characters, plot, etc. During these two stages of reading, the goal was to be attentive to any particular details that could impact the meaning of the narratives –both the content, in terms of *what* is told; as well as *how* the stories are told: the use of certain words over others to describe realities, and what these choices entail in creating meaning, how certain narrative

elements are presented in relation to the others, and so on. My expectations as to what results I would find were especially marked by previous literature, which is quite critical of power structures and judges; as well as by stereotypes that portray judges as elitist and conservative (Bladini & Bergman, 2022: 232).

Once several readings were done and different nuances in the story contents were located, they were categorized. I focused on the similarities, differences and variations in the narrative elements. I then examined those themes in depth, interpreting their significance and meaning in relation to previous literature and theory, and supporting my reasoning with quotes from the sentences that illustrate my points. In short, during the analysis I observed the most relevant features of the scene and the main cultural codes that framed the stories. In addition, concerning victim and assailant, I paid attention to how they were presented, examining the extent to which they were portrayed as fully fleshed out individuals with their own emotions and complexities; or whether they were depicted as generalized representations of certain groups or stereotypes. This also led me to discover the plot of the stories, as well as the moral evaluations that both the characters and the story itself convey. As my research interest lies in meanings, much of the focus is also on the "unsaid" (Presser, 2022).

Notwithstanding these distinct phases, the process did not follow a rigid and orderly structure, as it required a significant amount of revisiting and reshaping and going back to the narratives and rereading them until reaching a refined result and the final writing stage.

I deem it necessary to clarify that with this analysis I am not trying to seek or determine a narrative 'truth' (Presser, 2009: 190). My interest is not in the surface of the narrative, evaluating the cases to decide which version of the events is true; that task belongs to the courts. Hence, my aim is not to discuss the court's decision, but the story they construct (and how they construct it) to justify that decision. I am rather concerned with the underlying messages and meanings that we do not see at first glance in judges' evaluations of rape cases. It is also important to mention that these stories have been passed down, starting with the protagonists themselves who have experienced them (background narratives); then retold by the judges once they have made their own evaluations of them, in their assessment narrative; and finally summarized by me to provide the necessary context for my analysis. As the narratives I am actually analyzing are those of the court, I have strived to portray these stories in the most neutral and accurate way, as the court tells them. These

stories, as can be seen, are constructed from the one told by the victim. The language used in the sentences, however, sometimes contains gender and sexuality stereotypes and other misconceptions that could influence the way victims and perpetrators are perceived and treated. I have tried to avoid using language that perpetuates stigmatization or prejudice about rape and its social implications. Nevertheless, I must issue a caveat that there are instances throughout this thesis in which I use terms that I do not consider politically correct and with which I do not agree, but which I reproduce since they are included as such in the sentences. Moreover, this analysis has also required the examination of highly sensitive and traumatic details and testimonies. I have therefore tried to handle this information with extreme sensitivity and empathy towards the victims, avoiding any re-victimization or additional harm.

5.4. Limitations

Narrative analysis is extremely broad and there are infinite possible interpretations of the same story (Loseke, 2022: 38). Nevertheless, as in all research work, the time, space and scope limit has been a difficulty encountered and the reason why I have not been able to delve into ambiguities; but to focus on a single perspective which is how I –with my own characteristics, values and experiences– have interpreted the meanings behind these narratives (Elliott, 2005: 163). My own subjectivity could lead to biases in the analysis and interpretation of the data. In this sense, as Loseke (2022: 39) cleverly states, "there can be no 'objectivity' in apprehending the social world." Nevertheless, I have been very mindful of this fact throughout the whole research process and for this reason I have tried to take every precaution and be open about my position and methodological choices to ensure sound results.

It should also be mentioned that the sentences were retrieved and analyzed in the original language, i.e., Spanish, and then translated into English while writing the results, as well as the excerpts used for exemplification. Everything was translated by me seeking the utmost literalness possible. Despite this, the translation of narratives from one language to another may entail the risk of losing cultural nuances and meanings.

As a final note, I would like to briefly address the 'validity' of my results. In this regard, I share the view of Loseke (2022) and many other narrative analysts who agree that sound research in this field is achieved through transparency and reasoned decisions. As for the generalizability of

the results, as already noted, this has never been the goal of this research. In this sense, I believe that it is up to the reader, after weighing all the methodological considerations presented in this chapter, to decide to what extent they deem my results to be 'generalizable'.

5.5.   Confidentiality

These sentences have been retrieved, as previously mentioned, from the search tool for court sentences CENDOJ of the Spanish General Council of the Judiciary. This tool is open access, provided by the Spanish Ministry of Justice to guarantee public access to information and promote transparency in the judicial system. The anonymity and privacy of all those involved are nevertheless respected, since before publishing the sentences, the Council removes all data of a personal nature. This means that all names, addresses and other information reflected in these publicly available documents are fictitious. Accordingly, all published sentences include the following clause at the end:

> The dissemination of the text of this resolution to parties not interested in the process in which it has been issued may only be carried out after dissociation of the personal data contained therein and with full respect for the right to privacy, the rights of persons requiring a special duty of protection or the guarantee of anonymity of the victims or injured parties, where appropriate.

Consejo General del Poder Judicial, n.d.

Even so, due to the delicate nature of these cases and in order to guarantee maximum anonymity, I have decided not to indicate the specific reference of the sentences, but to number them in the order of their appearance in the analysis, i.e., case 1, case 2, and so on. Moreover, to avoid the possibility of a case being identifiable by its details, the names and any other personal data of those involved have been modified again and any information not relevant to the analysis itself has been omitted. Furthermore, since this thesis deals with such a delicate and sensitive subject, in addition to eliminating information that could lead to the identification of those involved in each case, I have also made every effort to omit lurid details to prevent causing discomfort to the reader. Therefore, no specifics are provided about the acts of violence in general, or the act of rape itself unless needed to support a claim.

Results

In the following results chapters, I conduct a comprehensive narrative analysis of rape stories recorded in Spanish criminal sentences. I have divided this section into 3 chapters. In the first one, called 'Setting the scene', I discuss how the courts present the context in which the stories unfold, and the importance this has on the meanings that events and characters subsequently take on. In the second chapter, 'Narratives of real rape', I examine how the courts present victims who fulfill the stereotypes of the ideal rape victim (Christie, Estrich); as well as those who, albeit not conforming to this classic stranger rape schema, are also portrayed as such. To conclude this chapter, I make a brief note on how perpetrators are depicted. Lastly, the final results chapter, 'Narratives of disbelief', deals with alternative narratives that the courts use to deny the occurrence of rape.

6. Setting the scene

The scene is the framework in which a narrative unfolds, providing details about the place, time, and circumstances in which the story took place (Loseke, 2019: 6). All court sentences begin their assessment narrative in the proven facts by providing this context: introducing the characters [i.e., victim(s), aggressor(s), and others involved in the story] and the place and time in which the events occurred. This contextualization, given as part of the orientation of the story (Labov and Waletzky, 1967), helps to situate the rest of its elements. In this chapter I will start by looking at how the courts depict street danger scenarios in cases of rape committed by unknown perpetrators, in a way that fits with those described in the master narrative of real rape. Next, I will discuss how in cases that do not conform to this stranger rape scenario, but which they still want to present as legitimate rape stories, courts try to emphasize elements that frame the space as dangerous and threatening. To conclude, I will analyze how those same elements that can be used to depict a dangerous setting that legitimizes the vulnerability of victims, can also be used to paint a contrasting picture that discredits the victim and her story.

6.1. The street danger scenario

When sexual assaults take place in open and/or public spaces courts tend to pay special attention to place, describing in detail the darkness, loneliness and secluded settings where the assault occurred. By emphasizing a scenario of 'street danger', they give a sense of insecurity that hints the power disparity between the victim and the assailant, rendering the former vulnerable (Andersson, 2021). For instance, in case 1, the court describes the site where the events occurred as follows: "...he took her to a vacant lot under a bridge (...) taking advantage of the fact that there was no one around, that it was an open and lonely area and that it was still dark." Another example may be found in the following case: "[The facts have been carried out] without the presence of witnesses, at the back of a block in [a] street (...) with little lighting and little traffic and hidden from the view of possible witnesses" (case 2).

Places are endowed with meanings (Andersson & Edgren, 2018: 199). In this sense, vacant lots and alleyways are spaces that are inherently associated with potential harm and illegal activities. Yet, as we can observe in the previous quotes, to describe these settings the courts underscore aspects that are culturally regarded as hazardous. Even in locations that at first glance do not at all seem unsafe, one can see how judges stress these aspects. For instance, in case 3, which took place one early morning in a hotel, it is noted that Laura –the victim– had to make "use of her cell phone to illuminate the place, as there was no light in the building." Therefore, courts draw from the symbolic codes (Loseke, 2015, 2019) of darkness, loneliness and seclusion in order to construct these as dangerous spaces. Darkness evokes fear and risk (Anderson & Doherty, 2008: 76), since absence of visibility causes a sense of the unknown that leads to a feeling of lacking control and vulnerability. In addition, loneliness and secluded settings indicate the absence of immediate help or assistance in a situation of distress. Thus, this way of presenting the spatial context helps to construct the *situational* vulnerability of the victim, by tapping into –and thus bolstering– cultural beliefs about public spaces as dangerous environments (Riessman, 2008; Presser, 2018), especially in regards to sexual violence (Pain, 1997: 298-299). This vulnerability is further reinforced by depicting the settings as places to which the victim 'does not belong' (Moran & Skeggs, 2004; in Andersson, 2021), but to which she is "moved" (case 4), "taken by force" (case 5) or "dragged" (cases 2 & 6). Overall, these stories, therefore, are scene-focused (Loseke, 2022: 4), as they revolve around the the setting and its characteristics.

6.2. Redefining spaces: from trust to threat

The setting can also be employed to assess vulnerability in situations in which the victim was not subjected to such an apparent hazard. A clear illustration can be found in case 7. The assessment narrative begins by situating the audience in the story (Labov & Waletzky, 1967), providing the background of the meeting between Isabel and Martín. Isabel and Martín knew each other from working at the same bar, although they had never spoken until Martín sent Christmas greetings to several co-workers, including Isabel. After these messages they began to text, and Martín suggested to Isabel that they go out together, to which she agreed. The court, that had access to these conversations, emphasizes in the sentence how Isabel from the beginning "had told him that the place of the date that he proposed seemed *very far away*, but he insisted that she go to the area of his home." Isabel agreed to meet in that area "on the condition, as he said by text message, that he would then accompany her to her home."

Court sentences, like any kind of narrative, present only the information that is relevant to the case, as it would be impossible to include everything that can be told (Loseke, 2022: 4; Presser, 2018). If we take into account that this is a story –summing up its plot to the barest elements– about two young people who go out partying, whereupon she ends up going to his house where he rapes her, one could quibble about the relevance of details such as her feeling that the area where they are going is too distant, or wanting to be escorted on the way back. These details, at first glance, are striking as they have no bearing on the plot of the story (Presser, 2022: 48). Nonetheless, including this information, and delving into it as the court does, makes sense if the intention is to convey that Isabel does not feel comfortable in the proposed location from the outset and seeks a safe way out. This insinuation that Isabel is 'out of place' is then made evident in her actions. The court goes on to stress the forcefulness of this scenario by noting that Isabel tried to leave the house the first time, but finding herself feeling so dizzy, she was left with no choice but to return to Martín's home. Once back there she fell asleep and Martín assaulted her, after which she tried to leave immediately, but the door was locked, so she had to wait for Martín to open it to run to the subway.

To frame, according to Entman (1993: 52, in Presser, 2022: 100-101), "is to select some aspects of a perceived reality and make them more salient in a communicating text, in such a way as to promote a particular problem definition, causal interpretation, moral evaluation and/or

treatment recommendation." Initially, and given the existing literature on rape myths and victims (see Daly, 2022; Estrich, 1987; or Rubio-Martín *et al*., 2022), one might think that the court would reject Isabel's story, and subsequently build one in which no rape occurred, or puts the blame of its occurrence on her (McKenzie-Mohr, 2014). Isabel not only knew her assailant, but decided to go out with him. She consumed large amounts of alcohol, and then voluntarily went to his house. Nevertheless, with all these seemingly tangential details about Isabel's position with regard to the site, the focus is diverted from elements that could be used to place blame on Isabel, so as to frame the story in scenario reminiscent of the 'real' rape one (Estrich, 1987) that situates her as a victim.

The sentence notes that the main controversy raised is whether or not whatever happened in that house was consented to by Isabel. As Loseke (2019; 2022) points out, events are scene-dependent, since the meaning they acquire (the evaluation made of them) will depend greatly on the context in which they occur. Martín, on the one hand, wants to pose a situation of normality and mutuality, in which after dining and drinking together, partying and having a good time, Isabel returns home with him with the intention of having consensual sex. However, the court deftly manages to turn Martín's scenario on its head. As a storyteller, it has the power to decide which facts are relevant to the story, and to communicate them in a way that gives them the meaning they desire (Loseke, 2019: 7). Therefore, by overstating (Presser, 2022: 48) facts that frame this setting as rather imposed on the victim, where she neither wants to be nor should be, the events that transpire are perceived as unwelcome by the victim and carried out against her will.

6.3.   Context as a powerful narrative glue

As we saw with all the above examples, the setting is a central element that shapes the meaning of the events that take place in it. That is, the way in which it is constructed and how it is evaluated will impact the outcome of the story. Looking at Ana and Leo's case (case 8), one can see how the story elements, which could well be used to craft a narrative that benefits the victim – as in Isabel's case– are nevertheless plotted to create a safe setting.

As in the previous case, the events take place in his house. Like Isabel, Ana found herself in a house that was not her own, well into the night. Moreover, in her case, getting away was an issue since, as the court explains,

the defendant's bedroom, (…) was small, and (…) there was only one bed, although he took out a mattress, placing it next to the bed, for which he had to move some furniture, which made it difficult to reach the door.

Nevertheless, this is not used to frame the place as undesired as in the previous case, but rather the opposite. The inimical characteristics of the setting layout are downplayed by the court, which provided its own evaluation of this environment as not dangerous or intimidating:

> …neither do the circumstances allow us to assess what are known as "diffuse intimidating contexts" or "environmental coercion" [since] this hindrance to the arrival at the bedroom door is not equivalent to the impossibility of leaving, since the door was not locked or bolted.

The hostility of the environment in which she found herself was further denied by emphasizing the fact that she had gone on her own free will, even though –and as the court acknowledges– Ana did not initially wish to go to his house, "but since the defendant insisted, she finally agreed, warning him that she did not want sex," thus giving in as she felt pressured. However, the court has already made it clear that he location was neither dangerous nor risky, so Ana was not without agency, quite the contrary. As the court notes, Ana could not have gone. Besides, once there, she could have left the place, so her failure to do so implies that it was her own decision to stay.

To recapitulate, in cases that take place in public places, features such as the darkness, loneliness and seclusion of these spaces are highlighted and emphasized, generating notions of danger and risk. On the other hand, places that do not have these qualities inherent to them are also presented in a way that evokes threat. One might ask, why does the court place so much emphasis on depicting places in this way? The insistence on these aspects, which borders on redundancy, is what Presser (2022: 48) calls overstatement. Overstatement refers to anything that is included in a story but adds nothing new to it. It is a narrative tool that conceals or disguises certain facts or ideas by highlighting others. In these cases, all these elements are strategically brought out to demonstrate the power imbalance that the spatial context creates, in a way that strips the victims of their agency. This leaves no room for their vulnerability to be questioned (Edgren, 2019). In this way, rape is understood and explained from a *situational* power imbalance, marked by the concrete

and individual circumstances of the case; masking other structural inequalities that come into play (Presser, 2022).

This is made evident by the comparison that has closed this chapter, between the stories of Isabel and Ana. In the latter case, the difference lies in the fact that the court does not consider that a rape has been committed, and hence that Ana is not a victim. Therefore, the way in which the setting is presented does not seek to illustrate how Ana was a passive victim of her circumstances, rendering her completely vulnerable, but quite the opposite. She insists at all times that she went to Leo's house because she felt pressured, and once there she stayed out of fear. But this is completely dismissed by the court on the grounds that such pressure and fear are unfounded, since Ana is an autonomous woman, capable of making her own decisions and acting consciously: "...it is impossible to determine what would justify such fear, while Ana was a 32-year-old woman who voluntarily went to the defendant's home...." Based on a liberal understanding of individuals, the courts construct the plaintiffs in terms of a vulnerability-agency binomial (Edgren, 2019). They understand these qualities as mutually exclusive, so that subjects can only be one or the other. The focus is placed on each individual case, with no consideration of structural vulnerabilities, related, for example, to gender inequality, in assessing Ana's position or that of any of the other victims. In the following chapters I will return to this discussion of vulnerability and agency.

To sum up, in courts' narration of stories of stranger rape, the setting (time and place, and how they are presented and used within the story) plays a critical role (Loseke, 2019, 2022: 4). It is not just a passive background against which the events unfold, but is used as a "narrative glue" (Brooks, 2005: 417) to frame the story (Entman, 1993: 52; in Presser, 2022: 100-101) and thus impact the way both assailant and victim are understood, and the evaluation of the events and the meanings and morals the story conveys (Loseke, 2019). By underscoring specific elements of context to inform perceptions of (un)safety, danger and vulnerability, moreover, the judges create narratives that draw from and reinforce certain social assumptions and beliefs about rape.

7. Narratives of 'real rape'

In the previous chapter I examined how courts frame the setting and the role it plays in the unfolding of the story. In the following pages, I will look at how another narrative element is constructed, namely the characters. I will begin by exploring how victims who meet the stereotype of rape victim are characterized. I will then look at how these stereotypes are stretched and used to confer legitimacy to women who at first glance would not qualify as 'ideal' victims. Lastly, I will discuss the role of the perpetrator and how he is portrayed in these stories.

7.1. 'Real' victims

As just discussed, in cases of rape committed by unknown perpetrators context is one element that judges rely on to frame the victim's situational vulnerability. Vulnerability is a very powerful trait in victims, since it generates empathy and enables the audience to connect with them, making them believable (Edgren, 2019, Loseke, 2009: 505). As Polleta *et al.* (2013: 314) observe, believable and empathetic characters are important in all narratives since they make the story more relatable and engaging. They do so by reflecting what Loseke (2009; 2015; 2022) calls symbolic and emotion codes, that is, widespread notions about how individuals in particular situations should act and feel. In this sense, when narrating stories of stranger rape, courts not only use the setting, but also other elements of the story to depict compelling victims that reflect cultural notions and beliefs about what being a victim of rape entails (Estrich, 1987).

According to Christie (1986: 18), being a victim cannot be objectively defined. It depends on individual perceptions, and not all people who claim to have been harmed are evaluated as victims. Loseke (2009: 503, emphasis in original) observes that common understandings of victimhood –its symbolic meaning– imply that "*moral* people have been *greatly* harmed through *no fault* of their own." This notion is reflected in the courts' assessment narratives, such as in case 2. Marta left her home one night shortly after midnight looking for her dog that had run away, when suddenly someone grabbed her firmly by the hair and dragged her into a dark, secluded alley where she was beaten and raped. Her rapist then fled the scene. She immediately began to scream, and a neighbor and the police came to her aid. A similar situation was experienced by 5 young women (case 4) who were also attacked by surprise in the doorway of their home on different nights. Like Marta, they were also brutally beaten and restrained, but in spite of this, they tried to resist.

The stories of these victims are recounted several times throughout the assessment narratives to stress their innocence and the harm suffered (Loseke, 2009: 504): both Marta and the 5 women are depicted as pure, passive victims who were performing a "respectable project" (Christie, 1986: 19) at the time they were attacked, and therefore do not bear any responsibility for their assault. In the case of Marta, she was desperately looking for her lost dog. The five women in case 4, on the other hand, had simply made the mistake of being polite and neighborly, holding the door and letting in who they thought was another neighbor from their building. As in the real rape myth (Daly, 2022; Estrich, 1987; Rubio-Martín *et al.*, 2022) and the characterization of the ideal victim (Christie, 1986), these harmless situations ended, however, in a surprise and very violent attack. Marta was unexpectedly grabbed by the hair from behind and dragged into an alley. She had no time to react, as she was quickly beaten and immobilized by her attacker, thus preventing her from resisting in any way. Furthermore, the 5 women were grabbed from behind and strangled until they could barely breathe, and then knocked to the ground and pinned down by their aggressor, who stood on top of them with his full weight to prevent them from escaping or fighting back. With the focus on all these aspects, the courts continue to weave an intricate image of vulnerable victims stripped from agency (Edgren, 2019).

According to Tilly (1970: 70; in Frank, 2012: 41), characters are not only constructed by their actions, but also by their reactions to others' deeds (Margolin, 1986: 217). In this sense, not only their circumstances, but also both their emotional reaction as well as their behaviors and attitudes following the assault are crucial when evaluating a potential victim, especially in cases of rape (Estrich, 1987; McKenzie-Mohr, 2014). As these authors observed, victims considered as such are expected to try to defend themselves against their assailant, and once the assault is over, immediately report it. In case 6 Andrea was walking home early one morning along a road when, as she passed through a dark, unlit area, Hugo accosted her and violently dragged her to a more secluded zone. The sentence describes how Andrea "screamed and struggled with the defendant, scratched him and put up resistance," despite which she was unable to overcome her assailant. Case 3, on the other hand, notes how "Laura was trying to get away, suffering injuries in the knee area when she tried to crawl away..."

Emotional reactions, on the other hand, are especially relevant too. As previous research has pointed out, there are also emotion codes (Loseke, 2009, 2015: 553) dictating what a victim

should feel. As such, a widespread master narrative (Halverson *et al.*, 2011) about rape trauma asserts that rape is a prevalent, violent act that always causes severe and persistent psychological harm to the victims, so enduring in time that it produces permanent 'scars' in the victims (Gavey & Schmidt, 2011: 439). In this sense, in regards to Laura, the court states: "Laura is receiving therapeutic/psychological treatment to help her sleep, treat (...) [her] anxiety and fear of the dark, not going to work...." (case 3). In addition, they say the following about Carla (one of the five victims):

> She was asked about the repercussions of these events on her life. She indicated that during the first months she could not leave the house, she was "afraid that they would follow me because he told me that there were other people besides him, my family did not want me to go out. That he would do something to my family. Running everywhere. Unless I went out to meet with my psychologist, I continue to this day." All summer at home, working and not going out. She changed her whole routine. She no longer lives at the same address. "The next day we found another one." Therapy with a psychologist, that continues to this day.

In both cases the courts discuss the victims' emotional impact describing their fears in detail, which match those socially expected for a rape victim (Loseke, 2009, 2015: 553); emphasizing those aspects that prove the enormous suffering and serious after-effects endured by the victims. The description of both behavioral and emotional reactions of the victims fulfill a clear goal, which is to bridge the gap between objective, external manifestations and something as highly subjective and personal as the victim's will (Margolin, 1986: 217; Garvey, 1978: 68 & MacKinnon, 2016: 452).

In conclusion, victims of stranger rape cases are described in a way that ticks all the "real rape" victim boxes. This characterization, nevertheless, is not based on explicit moral evaluations made by the court. At no time are there any adjectives or qualifiers referring to the victims. Rather, this depiction is made tacitly by the way in which the events are presented and the story is structured (Presser, 2009: 178). As such, emphasis is placed on all those aspects that conform to socially held beliefs about how a victim is, behaves, and feels, creating sympathetic victim characters that give robustness to the story (Polleta *et al*., 2013: 314).

7.2. Broadening the ideal victim paradigm

In other cases, there may be victims also portrayed as ideal despite the fact that the elements of their story do not fit the stereotypical case of rape. This can be achieved through alternative constructions of their vulnerability that also culminate in a story about an innocent victim stripped of agency. One way to do this is by depicting her as weak and fragile. This fragility, in turn, can be physical or emotional –or both. For instance, in case 7, in addition to portraying Isabel as vulnerable due to the setting in which she found herself, her physical frailty is also emphasized by stressing her intoxicated state. The mention of her being inebriated highlights her diminished physical capability or ability to protect herself from an unwanted situation.

In addition, throughout the sentence the court keeps referring to Isabel as "the young woman," or "the young Isabel." The reference to the age of victims and perpetrators is a rather interesting aspect of the sentences as it is not always mentioned, but strategically used (Presser, 2022). For instance, in case 9, it is stated that the victim is 19 years old, while it is also implied that she is 19 years younger than her assailant. In addition, in case 4, the age of all the victims (which ranges between 17 and 27 years) is given, although nothing is specified regarding the age of the defendant. Yet, throughout these sentences, no further allusion or point is made in this regard. That said, this reference to age is not a trivial matter. This information is included in the story as another tool to construct the victim's vulnerability based on the power difference between the victim and her assailant (Andersson, 2021: 7). Albeit it does not explicitly develop the argument (Presser, 2022: 20), the court seeks to evoke the common assumption that people of certain ages (such as children, young people or the elderly) are more susceptible to being victims of certain types of harm, abuse or risky situations (Christie, 1986). The opposite effect can be seen in case 8 (already introduced in the previous chapter), where it is stated that Ana is 10 years older than the defendant to refute her claims of fear and vulnerability: "...it is impossible to determine what would justify this fear, since Ana was a 32-year-old woman…"

On the other hand, an illustration of emotional fragility can be found in the case 10. Cristina and Daniel had known each other for months, exchanging messages in which the two made clear their mutual attraction: they flirted and on occasion talked about having sex. However, on the day of the events Cristina had opened up to Daniel and told him via texts how sad and vulnerable she felt, as she felt used by men for sex. The court used this circumstance as the basis for how they

would present Cristina in this story. To demonstrate the fragile state she was in at the time, the court transcribed these messages verbatim in the sentence:

> Today I've had a really bad day / I do not know if I told you / But lately I don't feel good about myself, I have no self-worth at all right now and I feel used by guys / Because at the slightest sign of affection I get carried away because I miss comfort and support and it always ends up the same / A hookup and goodbye until the guy gets horny again / And today I've hit an emotional low of having no self-worth, not feeling good about myself, that they do with me what they want and I've spent the whole afternoon alone on a bench crying because I don't know what to do

The assessment narrative is the final account of the facts, which the court arrives at after the trial has been held and all the evidence (including the parties' testimonies) has been appraised. In this sense, the court sometimes rescues fragments of these testimonies to construct the story. As Presser & Sandberg (2017: 89) note, there are different ways in which narrators indicate their evaluation, one of them being reported speech. As these authors observe, this allows to replay what happened, making it more credible as it conveys the sense that we can "hear" what was actually said. In addition, it offers a direct window into the victim's mind, making it possible to gain an insight into her perspective and how she feels, generating more empathy towards her in the reader. In this case, reproducing Cristina's exact words is a key tool in validating her emotional distress. With this sound evidence, the court can construct an emotionally fragile victim with whom the audience is able to relate, and therefore, whose story they will believe more readily (Loseke, 2019). The court itself makes this assessment: "From these conversations, especially from those closest in time to the event being prosecuted, it is difficult to think that she went to the defendant's house with the intention of having sexual intercourse with penetration."

Finally, we find victims who are legitimized through an emphasis on their personal circumstances, as in case 11. Lucía is a Latin American woman who arrived in Spain the previous year and was in the country undocumented and in economic need, as she lacked a job. She posted an advertisement on a website, offering her services as a caregiver for children, elderly and sick people, to which Alejandro replied falsely presenting a job opportunity to care for a supposedly sick aunt. With this promise of work and of handling the paperwork for her residence and work permit, Lucía went to the place Alejandro indicated, where he picked her up and took her to the

house where she would theoretically live and work. Once there, during the early morning hours, Alejandro made sexual advances towards her and even attempted to kiss her. She rejected him, telling him "that it could not happen, that she only wanted to work," but Alejandro pushed her to the point that Lucía, overcome by pressure and fear, could not react when he proceeded to force himself on her. A few hours later, in the morning, they left the apartment and again, in a vacant lot, he raped her in the car.

The court provides some background on the victim, it tells us who Lucía is. Thus, it recounts that Lucía had her own business in her home country. However, she had to flee for political reasons, leaving her mother and children behind, first spending a few months in a neighboring country until she was able to travel to Spain. When assessing the events, Lucía's unfortunate circumstances are stressed to underscore her lack of agency when everything happened:

> Alejandro acted at all times against Lucía's will, without caring that she did not want to have sexual relations and taking advantage of *her situation of vulnerability*, due to her irregular situation in Spain, the lack of a social support network and family ties, circumstances that Alejandro knew, and using the pretext of a non-existent job offer to care for a relative.

Overall, in cases where victims do not fit conventional stereotypes of rape victims, courts are careful to explore and reflect on the victims' circumstances in order to understand their individual perspectives and experiences. In doing so, they seek to cast these women as complex beings whose vulnerability and agency cannot be reduced to simplifying rape myths. In this way, it attempts to widen the preconceptions and social stereotypes associated with rape victims and to recognize the diversity of situations in which these terrible experiences can occur; but always at the expense and with the purpose of portraying the women as fragile and vulnerable, lacking autonomy and agency. Therefore, even if the discourse is broadened, its message remains the same.

7.3.   The absent perpetrator

In the realm of storytelling, the presence of a villain is what gives rise to a victim, and vice versa. These are mutually constituent characters that develop simultaneously, since "victims are those evaluated as experiencing great harm and villains are those evaluated as creating this harm" (Loseke, 2009: 506). In this regard, as Christie (1986: 25) states, there is no ideal victim without an ideal perpetrator, and the more ideal a victim is, the more ideal her offender will be. Thus, the ideal offender is someone unknown to the victim who is evil, violent and dangerous, and certainly, guilty. As will be discussed below, this is precisely the way in which the courts portray perpetrators in cases of 'stranger rape,' albeit not so much the rest of the defendants.

Overall, in all sentences, little attention is paid to the perpetrator as compared to the victim. Some find an explanation in the way trials are conducted, as the defendant is considered innocent until proven guilty, and it is the plaintiff's job to prove his culpability. As Brooks (2005) observes, in rape cases it is the victims, and not the perpetrators, who are put on trial. Nevertheless, it is in the cases of stranger rape where we can find some details that help to characterize this type of offender. As Garvey (1978: 68) notes, character building is produced both by the description of physical or external features (appearance, clothing, etc.) and internal attributes (mental and personality traits). As for the physical appearance, only two references to the aggressor's clothing can be found out of all the sentences analyzed. For instance, in case 6 the victim states: "He was wearing a dark sweatshirt and hoodie on, I didn't see his face." In addition, in case 2 the assailant is said to be "dressed in dark clothes." These references to clothing might be coincidental, yet it is striking that in the only two instances in which the attacker's attire is alluded to, the clothing is dark, and even covers the face. Here, again, the court deploys the trope of darkness since it adds to the intended portrayal of the perpetrator.

As for the characters' internal states, as Garvey (1978: 68) observes, they cannot be explicitly revealed in the story. That is why one must look at their actions, since characters' deeds show their traits, motivations, and intentions Margolin (1986: 205), "what they are inclined to do and what they are not inclined to do" (Presser, 2022: 55). With the depiction of the clothes, we are already introduced to a dangerous character who seeks to mask himself and go unnoticed. Notwithstanding, by also considering the account of their actions during and prior to the assault,

stranger perpetrators are further portrayed in the sentences in a style reminiscent of the 'bogeyman'– lurking in the shadows and searching for potential victims to assault (Anderson & Doherty, 2008):

> ...I believe that the defendant knew the places because in two of them the location is repeated (...) they were lonely, secluded places (...) he chose holidays, Sundays, New Year, I think he waited for the return of lonely women, who arrived by bus and he followed them; he had it premeditated without a doubt... (case 6)

> "He had a tape in his hand; I think he was on the hunt, waiting to see who he could catch." (case 6)

This effect is also achieved by the verbs used to describe how the victims are approached: "the defendant *pounced on* Sara..." (case 6); "…in a very dark and unlit area, the defendant *accosted* her…" (case 6); as well as the narration of the violence that follows. Such verbs carry a connotation of unexpectedness and aggressiveness that strengthen this given image of the perpetrator. As such, the plot of the story is framed in a dangerous scenario that emphasizes the victim's innocence, involuntariness and lack of agency; and the dark, lurking and premeditating nature of the assailant, weaving a story that leaves no other possible resolution than the occurrence of rape.

> ...she was dragged to a more hidden place away from passers-by, she was beaten in various parts of her body (...) all of this taken together, *leads to the conclusion* that she did not consent to sexual relations with the defendant Marcos; on the contrary, *it can be categorically stated* that she was forced and coerced... (case 2, my emphasis).

All of the above indicates that in the sentences, perpetrators are only characterized to the extent that they comply with the ideal rapist canon. In other words, only those traits or behaviors that are considered typical or stereotypical of a sexual offender (Estrich, 1987) are stressed, while other features that do not conform to this stereotypical image may be ignored or not granted relevance. Moreover, if we leave this 'ideal rape' scenario the perpetrator virtually fades out of the story. Despite the relevance of his presence and actions for the development of the narrative, he goes completely unnoticed before our eyes. That is to say, insofar as the assailant is no longer a shady, dark man lurking in the shadows, the courts do not delve into details about him (Presser, 2022: 28). In stark contrast to the victims, whose attitudes and emotions are scrutinized throughout; regarding the perpetrator, it is only of interest to portray, in a more objective and detached manner

–as if it were a chronicle– the actions he carries out. His role in the story is reduced to disrupting the ordinary flow of events, being the cause and the actor of the "complicating action," to use the language of the Labovian story model (Labov & Waletzky, 1967). The 'not ideal' perpetrator is a flat, dimensionless character (Loseke, 2022). He is depersonalized to the point that his name is barely mentioned, as he is mostly referred to as the "accused," "indicted," "prosecuted" or "investigated." Thus, there is an asymmetry of representation in these stories, which, as Presser (2022: 28) points out, tend to be in line with "culturally approved economies of attention and designations of moral value."

The only reference to his motivations is found in recurring clauses in all the sentences that follow the description of his actions, such as "with a libidinous intent," "in order to satisfy his sexual desires," etc. Thus, perpetrators are simplified and reduced to their sexual instinct. This puts the focus of sexual violence exclusively on sexual urges, thereby reinforcing the 'male sexual drive' discourse (Gavey, 2005: 99; Holloway, 1984, 1989; in McKenzie-Mohr, 2014: 66-67) and conveying that the motivations behind sexual violence are solely the satisfaction of a sexual need. This issue is heatedly debated, even among feminist sectors (Tardón, 2018). Some feminists reject the sexual component and understand rape as being solely violent, precisely because "rape is too often written off as 'just sex' or as an act primarily motivated by sexual desire" (Anderson & Doherty, 2008: 7). However, it is well known (and has been established in numerous investigations, e.g., Toates *et al.,* 2017) that in addition to sexual gratification, there are many other motives and factors that lead to this type of violence (feelings of power, control, domination, etc.).

Power dynamics, as previously noted, are something that the court never overtly discusses, but are tacitly brought out in a strategic manner by emphasizing certain elements of the story. It is a common feature of this type of stories, yet the courts only bring it up when it serves their purposes to present the story and its moral as desired. Silence, as Presser (2022) points out, is a powerful tool. In meaning-making, what is said is just as important as what is unsaid. Keeping the perpetrator absent makes it possible for the courts to avoid addressing certain issues, such as the fact that rapists may be ordinary individuals as well as mysterious strangers lurking in the shadows to premeditatedly attack; or the diverse underlying factors that can drive rape beyond sexual gratification. By doing so, they are consciously wielding their power as storytellers and reinforcing dominant discourses about rape, sexuality and power relations. Keeping these issues silent

perpetuates a narrative that bolsters certain power structures and entrenched social norms. Ultimately, silence becomes a tool that preserves certain hegemonic discourses and limits the possibility of open and transformative dialogue around these crucial issues.

In conclusion, in the stranger rape cases, i.e. those that fit the rape master narrative, the characters are barely developed. They are mostly shaped by the scene and the plot (Presser, 2009: 178) through the description of specific attributes and actions, so that by resorting to tropes (Loseke, 2015: 253) of darkness, (un)safety and vulnerability they are displayed as stock characters that fit their role expectations (Polleta *et al*., 2013). In cases that do not comply with this script, however, the court probes into the victim's circumstances to learn about her own perspectives and experiences, and express their vulnerability and lack of agency in a more complex manner, moving beyond the context in which they are found; yet putting aside the figure of the perpetrator. To outline briefly, only those traits that reinforce characters' adherence to archetypes such as the victim or the villain are thoroughly discussed and emphasized.

8. Narratives of disbelief

In this chapter, I will explore two different narratives that the courts craft in order to defend that a rape has not been committed, denying its occurrence or blaming the plaintiff for it (McKenzie-Mohr, 2014). The first one, which I have named the 'mentally frail woman' narrative, revolves around a mentally unstable woman who, victim of her delusions, falsely believes she has been raped. The second, the 'scorned woman' narrative, has been previously identified in the literature and centers on a woman crying rape out of revenge after being abandoned by her partner. These narratives emanate from hegemonic beliefs about gender and sexuality, especially from one of the major gender beliefs in Western culture, wherein women lie because they are emotional beings (Brescoll, 2016 & Shields, 2002; in Smith, 2019: 78).

8.1. The mentally frail woman

The emotional fragility, such as that presented by Cristina in case 10, does not always play a role in favor of the victims. As already observed by Gavey & Schmidt (2011: 449), the emotional is a complex realm that can serve as a double-edged sword in rape stories. Such is the case of Ana (case 8), already introduced in chapter 6. Ana knew Leo through mutual friends, having met him several times both alone and in a group. In these encounters Leo made advances to Ana (such as trying to kiss her), which at first she rejected but, at his insistence, she ended up consenting (sic). One night, after hanging out, he invited her to sleep at his house. Ana initially declined the invitation, but due to Leo's persistence she decided to go, making it clear from the beginning that she did not want to have sex with him. Once in Leo's room, while they were each on a different mattress, Leo tried to kiss her again, but Ana told him to stop and he desisted. However, hours later, Ana woke up to someone whispering her name in her ear while touching her intimate area. She immediately reacted by insulting him and demanding that he stop, but he turned her around, got on top of her grabbing her wrists and said that he wanted to sleep with her. She told him no at first, but eventually let him (sic) asking him to put on a condom.

Like Cristina, Ana was going through a rough time when this happened. Her mother had been hospitalized in a very critical state and on the verge of death, so she sought to surround herself with people. She was feeling bad both mentally and emotionally, she was not eating well and in fact, on the day of the events she had not eaten at all and was feeling very weak. She assured that

she acceded to sleep with Leo (sic) out of fear, since after struggling for a while, she could not overcome him due to the weakness she felt.

On the other hand, Antonia and Manuel (case 12) had dated for approximately three years, during which they only lived together for the last five months. In her court-mediated account, she describes this relationship as complicated and abusive, with frequent disagreements regarding sex, in particular on the issue of frequency and sexual tastes or preferences. She recounts that at first these relations were consensual, but over time they developed into a "toxic" relationship in which Manuel did not care what she thought or wanted: whether she said yes or no or cried, he did not take no for an answer. She identifies incidents in which, although she did not want to sleep with Manuel, she consented (sic) and others in which she openly refused but was forced against her express will. Nevertheless, Antonia, due to the abusive nature of the relationship (which left her with psychological trauma), normalized the assaults and remained in the relationship until, through counseling, she decided to put an end to it.

In the assessments made by the courts, these 2 women are assigned a contradictory vulnerability in which the harm suffered is acknowledged, although they are considered responsible for this harm; and thus they are not granted victim status (Loseke, 2009; Christie, 1986). On the contrary, their agency is described in terms of responsibility and blame (McKenzie-Mohr, 2014). For instance, Antonia is held accountable for the violence and harm she has suffered, as she was not able to protect herself from harm (Anderson & Doherty, 2008; McKenzie-Mohr, 2014: 67-68):

> ...the acceptance by the victim of situations (...) or sexual relations with which she did not agree but justified in various ways, so that without there being clear elements of violence or abuse –as we have seen– the victim, for some reason, was unable to prevent the defendant from harming her. (case 12)

In Ana's case, they also acknowledge her emotional distress but ascribe it to the victim's own circumstances, thus denying the rape.

> [Her circumstances and actions] prevent this Court from considering it proven that Leo was successful in having sexual relations with Ana using violence or intimidation even though she, due to her physical and emotional weakness, *could feel* fear and ultimately *consider*

herself the victim of a sexual aggression that would have even led her to develop symptoms compatible with it (...) and to file a complaint... (case 8, my emphasis)

This quote reflects another important aspect of the characterization of these victims, and that is that their suffering and distress are not only not used to construct their vulnerability, but are employed to discredit their testimonies. The court does not consider Ana's condition as placing her in a particularly delicate and vulnerable situation, so much as the cause that prevents her from seeing objective reality. To the court, Ana is not a victim, but considers herself one. Her fragile emotional state has led her to delusion (Crawford, 1995; in Anderson & Doherty, 2007: 7; Gavey, 2022) to the point of developing symptoms for something that never occurred; and her account of events can thus not be believed (Gilmore, 2017).

In turn, Antonia's psychological issues are also brought into play to question her interpretation of reality, discrediting her account.

> On the other hand, the victim's story is believable but fragile in terms of its content, as it is conditioned by the victim's experience of her relationship, to the extent that she has needed a professional to find an explanation for the dysfunctional dynamics that occurred in her relationship...

> This psychological complexity obviously affects the quality of the testimony, since it is evident that the situations reported admit different interpretations, which are incompatible with the certainty that must guide the criminal prosecution.

Her psychological situation –albeit acknowledged by the court to have been caused by her partner– is used to Antonia's detriment, to draw her testimony as tainted (Gilmore, 2017; Smith, 2019: 78-84: 2021: 9-11). This image that "previously damaged" women (Smith, 2019) are not trustworthy is reinforced in a contrary way, for instance, in case 7 when it is said of Isabel:

> The forensic conclusions on her psychological situation portray her as a correct, lucid, and well oriented person, with a coherent speech free of fragmentation, in which symptoms of anxiety and hypervigilance, fear and emotional tension persist, which lead the expert to conclude that she presents a post-traumatic stress disorder (...) without any other circumstances that explain this situation, other than those we analyzed, being on record or having been accredited in the case file.

In conclusion, the trauma discourse that in other instances is used as a way to validate the experiences of rape victims can also be used against them. This demonstrates how courts make use of the different myths and elements of the hegemonic narratives surrounding rape to craft their stories.

8.2.　The 'scorned' woman

Another narrative present in the sentences, and already found in previous research, is that of the scorned woman (Smith, 2019: 84; 2021). This type of story depicts a woman who, in retaliation for having been abandoned by her partner, decides to file a false accusation of rape against him. A very illustrative example can be found in the case of Francisca (case 13), a 23-year-old Romani girl who reported that Lucas, who was then her partner, had raped her in the country house owned by Lucas' parents. The assessment narrative describes from the outset a story of consensual sex desired by both parties, which takes a twist a few months later when he decides to end the relationship with her. To portray Francisca as a "scorned woman" who made false accusations, the court makes use of clichés and preconceptions (Loseke, 2015, 2022; Presser, 2018: 8) about the Roma people.

The sentence begins by contextualizing their relationship in detail, clarifying that "she is Romani and the defendant is payo[4]" and that both were engaged and had "celebrated the 'pedimiento'[5] or 'handfasting'," proceeding to describe what this ceremony entails. After that, he moved in with her at her parents' house. The court specifies that they did not have sexual relations of any kind until the day of the events; and that the relationship continued normally until, two months later, a disagreement occurred between the two that culminated in their breakup. Lucas left the house, and the next day, a fight took place between their two families. This background, and most specially the quarrel and Francisca's ethnicity and culture, are central to her construction as a woman scorned, and that of this story as one of revenge:

> The foregoing leads us to question the credibility of the victim, not excluding that behind Francisca's complaint there may be spurious motives of spite towards Lucas because he did

---

[4] Term used in the Roma culture to refer to people who are not of Roma ethnicity. The equivalent in English would be 'non-Roma'.

[5] Tradition in Roma culture where a man formally asks for a woman's hand in marriage to her family.

not want to go back with her (...) to continue living together despite being engaged and "handfasted" as a couple (case 13).

This quote has several elements to unpack. First, the expression "not excluding," in this case, constitutes what Presser (2022: 49) would define as "excess text" or "filler" that camouflages harmful positions. The court *believes* that there are ulterior motives behind Francisca's complaint, but disguises this idea with a less direct utterance such as "not excluding," that suggests that they weigh several possibilities of what may be the reason, yet they do not discuss any of them. The real reason why they deem that Francisca filed a false accusation is subtly presented with an emphasis on the handfasting. This is meant to remind us that their engagement was celebrated under the Romani ceremony, appealing to stereotypes about the consequences for Francisca as a member of her community if it is broken. This sentence, therefore, has a clear encoded meaning Presser (2022: 38) that draws on stereotypes about the Roma community to present Francisca as a woman who had no choice but to lie.

With this conviction, the rest of the assessment narrative strives to expose Francisca in this light. Firstly, Francisca is referred to as a "victim-witness." While this may seem an insignificant detail, it has major connotations. By using this simple expression, there is much that is not being explicitly stated, but is nevertheless being communicated (Presser, 2022). The court is reminding us that victims of rape not only act as victims at trial, but also as witnesses, and therefore have the legal obligation to tell the truth. With this seemingly innocent legal term, the court hints that Francisca is lying without taking any real risk. Indeed, as Presser (2022: 38) points out, "[m]eanings packaged in coded fashion also insulate communicators from accountability: they cannot be sanctioned for what they did not precisely say." The court cannot state outright that a defendant is lying due to the backlash that would ensue, so it is through the unsaid that it is able to convey this message.

This subtle point the court tries to make is made evident in the way in which both her testimony and that of her mother Blanca are presented. Contradictions in testimonies are an element frequently used by the courts when constructing the assessment narratives (MacKinnon, 2016). Nevertheless, in this particular case, the court not only states such discrepancies, but also evaluates and speculates on the reasons for them. As such, they draw from empathy (Bladini & Bergman, 2022: 231) and emotion codes associated with victims' feelings and expected reactions (Loseke,

2009: 503) when examining the motives Francisca gave to explain why she called Lucas after the breakup: "It does not seem consistent to us that a person who claims to have been raped should nevertheless have feelings of concern about the whereabouts or condition of the alleged perpetrator." Here, as narrators, the judges place themselves in the story in the first person, directly evaluating Francisca's deed in terms of consistency and rationality to assess her credibility. Moreover, a few lines later, it is again suggested that she is lying with the help of her lawyer: "…now at trial, conveniently assisted and in order not to contradict her mother's statement," she changes her story.

The court builds its argument to arrive at its final assessment of the ulterior motives of the complaint, which are introduced when discussing the inconsistencies in Raquel's testimony: "...Raquel, a mere reference witness with an interest in her daughter's benefit and in *preserving the family's 'honor'*…" (my emphasis). Francisca is alienated from the very first moment when the difference in ethnicity between her and her ex-partner is pointed out. But this alienation continues by introducing harmful stereotypes such as 'honor culture'. The reference to ethnic matters here and there creates a framework (Entman, 1993: 52; in Presser, 2022: 100-101) for a meticulously crafted assessment story: Francisca, a Romani girl who had gotten engaged and introduced her fiancé to her community, is later abandoned by him. Having unsuccessfully attempted to convince him to go back to her, and in order to restore her family's "honor" (sic) that she had lost by having sex with him, she decides to falsely accuse him of rape. Although not expressly discussed, the roles are reversed and Lucas comes to be a victim of Romani traditions and culture. This story is a great example of how, through the unsaid (Presser, 2022), courts can build an entire story with a very marked meaning and moral.

A similar case is that of Dolores (case 14), a Moroccan woman that reported that one night her fiancé Iván attempted to rape her at her house. Her court-mediated testimony recounts that the evening was going along normally until, at one point, she went to the bathroom and when she returned she found Iván naked. She reproached him for this attitude and he told her that he wanted to sleep with her. When she refused, he grabbed her and threw her on the bed, trying to pull down her pants. She began to scream and managed to get away from Iván.

The assessment narrative begins after a full page of cited case law, with an abstract (Labov & Waletzky, 1967) that indicates what to expect from the court's story: "And in this case, we

47

observe in the testimony of Mrs. Dolores, throughout the proceedings, fissures and contradictions that reduce its consistency to constitute sufficient evidence to support a conviction." It recounts why, in the eyes of the judges, Dolores is lying; by stopping to analyze the variations and nuances in the different accounts she gave in several instances (with the police officers who came to her house, again at police headquarters, before the Court...).

However, the real significance of this story does not lie in the contradictions. The narrative itself starts as follows: "Mrs. Dolores always begins her testimony with the incident..." that occurred months before the events on trial. Dolores was informed by an acquaintance that her fiancé was in a relationship with another woman and that he had changed his census registration when they were due to marry. She was two weeks pregnant at the time, and this episode upset her so much that she fainted when she confronted Iván. This episode is crucial to the case, for although it is Dolores herself who brings it up and recounts it on trial, there is no connection with the rape that occurred months later and is being prosecuted. Nevertheless, the court begins its assessment narrative by describing this episode in detail. It can therefore be considered another instance of overstatement (Presser, 2022) that is apparently unrelated and contributes nothing to the story; but which analyzing in detail shows that it actually conveys a crucial message for the development of the narrative. The key to decoding it can be found a few paragraphs later, when the court returns to this account stating: "An episode that seems to be enormously important to her as it means that the life she had envisioned with Iván, *in all aspects*, was up in the air..." (my emphasis). The expression "in all aspects" is ambiguous to say the least. What aspects is the court alluding to? Between the lines it can be appreciated that for the court life with Iván does not mean a family and a future together; but rather the formalization of her legal status in Spain. Again, through subtlety and silence, Dolores is portrayed as a woman scorned by the consequences of her relationship's breakup.

This chapter presented two types of stories centered around the character construction (Loseke, 2022: 4) of the plaintiff, more specifically her internal states and her motivations behind her rape claims. Thus, based on discourses and stereotypes about mental health, women's emotionality and lying, as well as other types of misconceptions, the courts build alternative stories to support their appraisal that no rape has taken place.

9. Discussion

In this thesis I have used narrative theory to examine stories about rape in Spanish court sentences, looking at the characteristics of these stories (scenes, characters, plots, etc.); as well as how the judges craft and use these narratives in the sentences, and the meanings embedded in them. In this sense, I have identified 3 main types of narratives: firstly, stories of rape that fit the 'script' or master narrative of rape. These narratives meet all or several of the popular rape myths (Daly, 2022: 71-73; Rubio-Martín *et al.*, 2022: 4), which judges use in these cases in a positive way to validate the victims' experience. These stories are scene-focused (Loseke, 2022: 4), since they revolve –to the point of sheer repetitiveness and redundancy– around the description of the environment and its features, overstating (Presser, 2022: 48) the risky and dangerous nature of public spaces to emphasize the power disparity that this context creates between victim and perpetrator, so that a sense of *situational* vulnerability of the former is established. In focusing so much on the setting, the characters are barely explored, although even so, much more attention is paid to the victim than to the perpetrator. Nevertheless, emphasis is placed only on those aspects that confirm their adherence to the archetypal victim and rapist roles.

Second are those stories also acknowledging rape, but where the elements do not quite fit into this rape schema. This poses the risk that the judicial evaluation lacks plausibility (Bruner, 1991) or coherence (Edgren, 2019), since it is no longer based on culturally established notions about rape. That is, the victim and the perpetrator are not 'ideal' (Christie, 1986; Estrich, 1987), and the scene and/or the unfolding of events are not those stereotypical of rape. Thus, to withstand appeal, the courts again emphasize those aspects that frame (Entman, 1993: 52, in Presser, 2022: 100-101) the story and its characters in a way that is reminiscent of and associated with this master narrative of rape, complete with a dicey setting and a vulnerable victim bereft of agency; but once more, without much regard to the defendant.

Finally, there are those cases in which the court has ruled out rape, so it must present an alternative story to justify this decision. As such, if the rape has not taken place, it is because the complainant has somehow failed to tell the truth. That is why these stories revolve around her, exploring the flaws in her testimony and the reasons why she has come forward. Courts have created two types of narrative (or character) in this respect: the mentally frail woman and the woman scorned. These stories rely on rape myths that serve to discredit the plaintiff, as well as all

sorts of negative stereotypes to build these characters. Contrary to the previous cases, here all the elements of the story are framed and presented in a way that portrays the plaintiffs as autonomous, self-governing individuals who have made their own decisions; and therefore, have facilitated and agreed to everything that has happened.

Overall, the setting plays a crucial role in framing the stories and their characters, determining the interpretation and moral evaluation to be made of them. Regarding the characters, we see a representational imbalance (Presser, 2022): the victims are examined at all times, while the perpetrators are only portrayed insofar as they fit the ideal rapist canon. There is no interest in depicting the rapist when he is a "normal" man. This silence is bridged by the scrutiny of victims –what Presser (2022: 56) calls "intricate characterization"– which seeks to divert the attention, while depicting the characters in a certain way, thus making moral points in the process.

As noted by Loseke (2009), vulnerability is a core element in the symbolic meaning of victim. In other words, to be considered a victim one must be evaluated as vulnerable. Courts, in practice, understand and construct consent on the basis of agency; thus, lack of consent (and thus rape) requires that the victim be vulnerable. Hence this (and its opposite, agency) is the primary trait around which complainants are characterized and depicted as victims (or, on the contrary, as can be seen in the last chapter, as women crying rape). With these portrayals, the courts establish who are righteous and not righteous victims of rape, while silence about the perpetrators perpetuates the hegemonic understanding of rapists as being deviant, dark, sketchy men, lurking in the shadows; and ultimately allows structural factors at play in rape to be overlooked.

In short, with these different kinds of stories, a conditional definition the rape is afforded. With the varying depictions of scenes, characters and events, a picture is gradually being shaped as to what does and does not constitute rape in the eyes of the courts. The following quote from Presser (2022: 106) sums it up brilliantly: "The sexual assault is "not rape" or "not bad" under certain conditions, involving certain victims, who are "not victims," and certain perpetrators, who are "not perpetrators.""

The study of judicial sentences in Spain is mainly of a discursive and statistical nature, paying attention to and accounting for the use of myths and stereotypes about rape. This thesis contributes to these studies not only by identifying the presence of these stereotypes, but also by delving into how they are used to narratively construct the assessment stories in the sentences; as well as the messages and meanings embedded in them.

The methodology employed in this thesis is what narrative criminologists call "traditional narrative analysis," (Tutenges, 2019) which focuses on the internal structure and meaning of stories. This is because the stories I analyze are the assessment narratives of the courts included in the judgments, which are only produced in written form and in these documents. In this study, in addition to stereotypes about rape, I have also identified clichés linked to ethnicity and nationality. This is why to continue the focus on the use of harmful messages, one research that could be conducted in the future is an intersectional narrative ethnography that explores how different stories emerge in the courtroom based on the social positions of the victims and/or defendants. The observation of trials combined with the analysis of sentences can shed further light, among other issues, on how the social identities of different agents influence rape narratives by studying not only how these narratives are constructed, but also how they are performed in the courtroom (Tutenges, 2019). It could also be interesting to broaden the focus, looking at male rape, or cases in which the perpetrator is a woman.

10. References

Agüero, C. (2014). ¿Conforman las sentencias penales un género discursivo? [Are criminal sentences a discursive genre?]. *Estudios Filológicos, 53*, 7-26.

Alario, M. (2020). *La reproducción de la violencia sexual en las sociedades formalmente igualitarias: Un análisis filosófico de la cultura de la violación actual a través de los discursos y el imaginario de la pornografía.* Delegación del Gobierno contra la Violencia de Género, Ministerio de Igualdad. Retrieved from https://violenciagenero.igualdad.gob.es/violenciaEnCifras/estudios/Tesis/estudios/Tesis_1 0_Reproduccion_violencia_pornografia.htm

Álvarez, N. (2021). *Los mitos sobre la violación: un estudio de las sentencias de la Audiencia Provincial de Barcelona [Rape myths: judicial sentences analysis of Barcelona's Provincial Court].* Madrid: Universidad Complutense de Madrid. Retrieved from https://www.ucm.es/master-psicologia-social/file/tfm-noelia-%C3%81lvarez-gonzalez-seguridad

Anderson, D., & Doherty, K. (2008). *Accounting for Rape: Psychology, Feminism and Discourse Analysis in the Study of Sexual Violence.* London & New York: Routledge.

Anderson, I. (2004). Explaining negative rape victim perception: Homophobia and the male rape victim. *Current Research in Social Psychology, 10*(4), 43-57.

Andersson, U. (2019). The Visible Vagina: Swedish Legal Narratives About Rape Through the Lens of Gender, Place and Vulnerability. In U. Andersson, M. Edgren, L. Karlsson, & G. Nilsson (Eds.), *Rape Narratives in Motion* (pp. 101-118). Cham: Palgrave Macmillan. doi:10.1007/978-3-030-13852-3_5

Andersson, U. (2021). The body and the deed. Places of rape in Swedish court narratives. *Gender and Women's Studies, 4*(1), 2. doi:10.31532/GendWomensStud.4.1.002

Andersson, U., & Edgren, M. (2018). Vulnerability, Agency and the Ambivalence of Place in Narratives of Rape in Three High-Profile Swedish Cases. *NORA - Nordic Journal of Feminist and Gender Research, 26*(3), 197-209. doi:10.1080/08038740.2018.1472140

Andersson, U., Edgren, M., Karlsson, L., & Nilsson, G. (2019). Introductory Chapter: Rape Narratives in Motion. In U. Andersson, M. Edgren, L. Karlsson, & G. Nilsson (Eds.), *Rape Narratives in Motion* (pp. 1-16). Cham: Palgrave Studies in Crime, Media and Culture. Palgrave Macmillan. doi:10.1007/978-3-030-13852-3_1

Ballesteros, E., & Blanco, F. (2021). «Yo sí te creo». Estereotipos sexistas hacia las víctimas de agresión sexual. Un estudio de caso sobre la Audiencia Provincial de Baleares (2018). [«I believe you». Sex-stereotypes to sexual assault victims. A case study for the Balearic Court (2018)]. *IQual. Revista de Género e Igualdad*, 89-108. doi:http://dx.doi.org/10.6018/iqual.442801

Bladini, M., & Bergman, S. (2022). The Judge Under Pressure: Fostering Objectivity by Abandoning the Myth of Dispassion. In D. Giannoulopoulos, & Y. McDermott, *Judicial Independence Under Threat* (pp. 223-240). Oxford: Oxford Unversity Press. Retrieved from https://gupea.ub.gu.se/bitstream/handle/2077/73323/bladini_chapter.pdf?sequence=1&isAllowed=y

Boyle, K. (2019). What's in a name? Theorising the Inter-relationship of gender and violence. *Feminist Theory, 20*(1), 10-36. doi:https://doi.org/10.1177/1464700118754957

Brandariz, T. (2021). Los mitos de la violación en el caso de 'La Manada'. Una crítica a la división patriarcal público / privado [Rape myths in the case of 'La Manada'. A critique of the patriarchal public/private divide]. *Investigaciones Feministas, 12*(2), 575-585. doi:10.5209/infe.76277

Brooks, P. (1996). The Law as Narrative and Rhetoric. In P. Brooks, & P. Gewirtz (Eds.), *Law's Stories: Narrative and Rhetoric in the Law* (pp. 14-22). New Haven: Yale University Press. Retrieved from https://www.jstor.org/stable/j.ctt32bw2g.5

Brooks, P. (2005). Narrative in and of the Law. In J. Phelan, & P. J. Rabinowitz (Eds.), *A Companion to Narrative Theory* (pp. 415-426). Oxford: Blackwell Publishing Ltd. doi:10.1002/9780470996935.ch28

Bruner, J. (1991). The Narrative Construction of Reality. *Critical Inquiry, 18*(1), 1-21. Retrieved from https://www.jstor.org/stable/1343711

Burgason, K. A. (2021). Using Loseke to examine the influence of laws, myths, and claims making on sex offenders' socially constructed realities. *SN Social Sciences, 1*(6), 1-21. doi:10.1007/s43545-020-00005-5

Burgin, R., & Flynn, A. (2021). Women's behavior as implied consent: Male "reasonableness" in Australian rape law. *Criminology & Criminal Justice, 21*(3), 334-352. doi:10.1177/1748895819880953

Camplá, X., Novo, M., & Arce, R. (2017). Fuerzas policiales y mitos sobre las agresiones sexuales: una revisión sistemática de la evidencia. In C. Bringas, & M. Novo (Eds.), *Psicología jurídica: Conocimiento y práctica* (pp. 287-303). Sevilla: Universidad de Sevilla.

Cantín, M. (2017). *Realidad jurídica de las mujeres en los siglos XIX y XX en España y en Derecho comparado.* Universidad de Zaragoza. Facultad de Filosofía y Letras.

Casado, H., & Ruiz, T. F. (2019). Economic Life in Late Medieval and Early Modern Spain, 1085-1815. *Oxford Research Encyclopedia of Economics and Finance*. doi:10.1093/acrefore/9780190625979.013.481

Christie, N. (1986). The Ideal Victim. In E. A. Fattah (Ed.), *From Crime Policy to Victim Policy* (pp. 17-30). London: Palgrave Macmillan. doi:10.1007/978-1-349-08305-3_2

Coates, L., Bavelas, J. B., & Gibson, J. (1994). Anomalous language in sexual assault trial judgements. *Discourse & Society, 5*(2), 189-206. doi:10.1177/0957926594005002003

Comack, E. (2020). "Sex was in the air": Pernicious myths and other problems. In E. Comack, & E. Comack (Ed.), *Locating Law: "Race/Class/Gender/Sexuality Connections* (pp. 257-294). Winnipeg: Fernwood Publishing.

Daly, E. (2022). Respectability. In E. Daly (Ed.), *Rape, Gender and Class: Intersections in Courtroom Narratives* (pp. 69-103). Cham: Palgrave Macmillan. doi:10.1007/978-3-030-93925-0_3

Echeburúa, E., & Redondo, S. (2010). *¿Por qué víctima es femenino y agresor masculino?* Madrid: Pirámide.

Edgren, M. (2019). Conditional Vulnerability: Rape Narratives in Swedish Courts, 1990–2014. In U. Andersson, M. Edgren, L. Karlsson, & G. Nilsson (Eds.), *Rape Narratives in Motion* (pp. 43-69). Cham: Palgrave Studies in Crime, Media and Culture. Palgrave Macmillan. doi:10.1007/978-3-030-13852-3_3

Ehrlich, S. (2012). Perpetuating — and Resisting — Rape Myths in Trial Discourse. In E. A. Sheehy (Ed.), *Sexual Assault in Canada: Law, Legal Practice and Women's Activism* (pp. 389-408). Ottawa: University of Ottawa Press. doi:10.1353/book.20786.

Elliott, J. (2005). *Using Narrative in Social Research: Qualitative and Quantitative Approaches.* London: SAGE Publications Ltd. doi:10.4135/9780857020246

Estrich, S. (1987). *Real Rape.* Cambridge: Harvard University Press.

Fludernik, M. (2014). A Narratology of the Law? Narratives in Legal Discourse. *Critical Analysis of Law, 1*(1), 87-109.

Frank, A. W. (2012). Practicing Dialogical Narrative Analysis. In J. A. Holstein, & J. F. Gubrium (Eds.), *Varieties in Narrative Analysis* (pp. 33-52). Thousand Oaks: SAGE Publications, Inc. doi:10.4135/9781506335117

Gancedo, Y., Sanmarco, J., Selaya, A., González-Dapía, A., & Novo, M. (2021). Estudio de los efectos de los mitos sobre las agresiones sexuales en la verosimilitud de una víctima-denunciante de una agresión sexual [Assessing the Effects of Myths about Sexual Aggression on the Verisimilitude of a Victim-Complainant of Sexual Assault]. *Acción Psicológica, 18*(1), 221-248. doi:10.5944/ap.18.1.30805

Garvey, J. (1978). Characterization in narrative. *Poetics, 7*(1), 63-78. doi:10.1016/0304-422X(78)90005-0

Gavey, N. (2005). *Just sex? The cultural scaffolding of rape.* London: Routledge. doi:10.4324/9780429443220

Gavey, N., & Schmidt, J. (2011). "Trauma of Rape" Discourse: A Double-Edged Template for Everyday Understandings of the Impact of Rape? *Violence Against Women, 17*(4), 433-456. doi:10.1177/1077801211404194

Gómez, D. V. (2023). Sobre la (no) aplicación retroactiva de la LO 10/2022, de garantía integral de la libertad sexual. A propósito de la STS 128/2023 de 27-2-2023. *InDret*(2), v-xi. Retrieved from https://raco.cat/index.php/InDret/article/view/415759.

Halverson, J. R., Goodall, H. L., & Corman, S. R. (2011). What is a Master Narrative? In *Master Narratives of Islamist Extremism* (pp. 11-26). New York: Palgrave Macmillan. doi:10.1007/978-0-230-11723-5_2

Hammack, P. L., & Toolis, E. E. (2015). Putting the social into personal identity: The master narrative as root metaphor for psychological and developmental science. Commentary on McLean and Syed. *Human Development*, 350-364. doi:10.1159/000446054

Hayward, K., & Young, J. (2004). Cultural Criminology: Some notes on the script. *Theoretical Criminology, 8*(3), 259-273. doi:10.1177/1362480604044608

Hyvärinen, M. (2012). Analyzing Narratives and Story-Telling. In P. Alasuutari, L. Bickman, & J. Brannen (Eds.), *The SAGE Handbook of Social Research Methods* (pp. 447-460). London: SAGE Publications Ltd. doi:https://doi.org/10.4135/9781446212165

Jonsson, M. (2008). *La mujer en la España post-franquista: Estudio sobre algunas razones para la comprensión de su actual situación.* Karlstad: Karlstad University, Faculty of Arts and Education. Retrieved from http://www.diva-portal.org/smash/record.jsf?pid=diva2%3A5428&dswid=3420

Koulianou-Manolopoulou, P., & Fernández, C. (2008). Cultural and legal accounts of rape. *Athenea Digital*(14), 1-20. doi:10.5565/rev/athenead/v0n14.470

Labov, W., & Waletzky, J. (1967). Narrative Analysis: Oral Versions of Personal Experience. In J. Helms (Ed.), *Essays on the Verbal and Visual Arts* (pp. 12-44). Seattle: University of Washington Press. Retrieved from https://www.ling.upenn.edu/~rnoyer/courses/103/narrative.pdf

Loseke, D. R. (2009). Examining Emotion As Discourse: Emotion Codes and Presidential Speeches Justifying War. *The Sociological Quarterly, 50*(3), 497-524.

Loseke, D. R. (2015). The Empirical Analysis of Formula Stories. In J. A. Holstein, & J. F. Gubrium, *Varieties of Narrative Analysis* (pp. 251-272). Thousand Oaks: SAGE Publications, Inc. doi:10.4135/9781506335117

Loseke, D. R. (2019). *Narrative Productions of Meanings: Exploring the Work of Stories in Social Life.* London: Lexington Books.

Loseke, D. R. (2022). *Narrative as Topic and Method in Social Research.* Los Angeles: SAGE Publications.

MacKinnon, C. A. (2016). Rape Redefined. *Harvard Law & Policy Review, 10*(2), 431-478. Retrieved from https://heinonline.org/hol-cgi-bin/get_pdf.cgi?handle=hein.journals/harlpolrv10&section=22&casa_token=vnIk_qtP39UAAAAA:WXF2odgNNjkzzBAdqYFuBUXbTFWM8Q6UdxHBCL-g02WOAwXkWNuz1gg_oF9VWoPglfupuaR8

Martínez, A., & Cabezas, M. (2022). Violencia sistémica y género: disidencias y resistencias. *methaodos.revista de ciencias sociales, 10*(1), 6-9. doi:10.17502/mrcs.v10i1.554

McKenzie-Mohr, S. (2014). Counter storying rape: women's efforts toward liberatory meaning making. In S. &. McKenzie-Mohr (Ed.), *Women voicing resistance: Discursive and Narrative Explorations* (pp. 64-83). London: Routledge.

McKenzie-Mohr, S., & Lafrance, M. N. (2011). Telling stories without the words: 'Tightrope talk' in women's accounts of coming to live well after rape or depression. *Feminism & Psychology, 21*(1), 49-73. doi:10.1177/0959353510371367

McLean, K. C., & Syed, M. (2015). Personal, Master, and Alternative Narratives: An Integrative Framework for Understanding Identity Development in Context. *Human Development*(58), 58:318–349. doi:10.1159/000445817

McLean, K., Lilgendahl, J. P., Fordham, C., Alpert, E., Marsden, E., Szymanowski, K., & McAdams, D. (2017). Identity development in cultural context: The role of deviating from master narratives. *Journal of Personality, 86*(4), 631-651. doi:10.1111/jopy.12341

Mezey, N. (2001). Law as Culture. *Yale Journal of Law & the Humanities, 13*(1), 35-68. Retrieved from

https://heinonline.org/HOL/Page?collection=journals&handle=hein.journals/yallh13&id=47&men_tab=srchresults

Ministerio de Agricultura, Alimentación y Medio Ambiente. (2013). *Medio Rural: trabajando en femenino.* Madrid: Ministerio de Agricultura, Alimentación y Medio Ambiente.

Ministerio de Igualdad. (2021). *Dictamen 393/2021 sobre el Antrepoyecto de Ley Orgánica para la garantía integral de la libertad sexual.* Retrieved from https://www.boe.es/buscar/doc.php?id=CE-D-2021-393

Orenstein, A. (2007). Special issues raised by rape trials. *Fordham Law Review, 76*(3), 1585-1608. Retrieved from https://ir.lawnet.fordham.edu/flr/vol76/iss3/11

Ortiz, M. (2006). Mujer y dictadura franquista. *Aposta. Revista de Ciencias Sociales*(28), 1-26. Retrieved from https://www.redalyc.org/pdf/4959/495950221001.pdf

Pain, R. (1997). Whither Women's Fear? Perceptions of Sexual Violence in Public and Private Space. *International Review of Victimology, 4*, 297-312.

Poder Judicial España. (n.d.). *Centro de Documentación Judicial (CENDOJ).* Retrieved from Poder Judicial España: https://www.poderjudicial.es/cgpj/es/Temas/Centro-de-Documentacion-Judicial--CENDOJ-/#:~:text=El%20Centro%20de%20Documentaci%C3%B3n%20Judicial,servicios%20de%20gesti%C3%B3n%20del%20conocimiento.

Polleta, F., Trigoso, M., Adams, B., & Ebner, A. (2013). The limits of plot: Accounting for how women interpret stories of sexual assault. *American Journal of Cultural Sociology, 1*(3), 289-320.

Polletta, F., Chen, P. C., Gardner, B. G., & Motes, A. (2011). The Sociology of Storytelling. *Annual Review of Sociology, 37*, 109-130. doi:10.1146/annurev-soc-081309-150106

Presser, L. (2009). The narratives of offenders. *Theoretical Criminology, 13*(2), 177-200. doi:10.1177/1362480609102878

Presser, L. (2010). Collecting and Analyzing the Stories of Offenders. *Journal of Criminal Justice Education, 21*(4), 431-446. doi:10.1080/10511253.2010.516563

Presser, L. (2013). We Are Written: A Narrative Framework of Harm. In *Why We Harm* (pp. 19-30). New Brunswick: Rutgers University Press.

Presser, L. (2018). *Inside story: How narratives drive mass harm.* Oakland: University of California Press.

Presser, L. (2022). *Unsaid: Analyzing Harmful Silences.* Oakland: University of California Press.

Presser, L., & Sandberg, S. (2015). Introduction: What is the Story? In L. Presser, & S. Sandberg (Eds.), *Narrative Criminology: Understanding Stories of Crime* (pp. 1-20). New York & London: New York University Press.

Presser, L., & Sandberg, S. (2017). Research strategies for narrative criminology. In J. Miller, & W. R. Palacios (Eds.), *Qualitative Research in Criminology: Advances in Criminological Theory* (pp. 85-99). New York: Routledge. doi:10.4324/9781315127880

Raitio, J. (2008). Legal Certainty, Non-Retroactivity and Periods of Limitation in EU Law. *Legisprudence, 2*(1), 1-23. doi:10.1080/17521467.2008.11424671

Riessman, C. K. (2008). *Narrative Methods for the Human Sciences.* Los Angeles: Sage Publications, Inc.

Rubio-Martín, M. J., Blanco, F., & Ballesteros, E. (2022). ¿Qué queda del mito de la violación real? Un estudio de caso basado en análisis de sentencias judiciales [What remains of the real rape myth? A case study based on the analysis of court decisions]. *Revista Española de Sociología, 31*(4), 1-21.

Sagar, A. (2019). Judicial Narrative and Rape Myths: The Farooqui Case. *Socio-Legal Review, 15*(1), 44-65. Retrieved from https://pure.jgu.edu.in/id/eprint/2538

Sanday, P. R. (1997). *A woman scorned: Acquaintance rape on trial.* Berkeley and Los Angeles: University of California Press.

Serisier, T. (2018). *Speaking Out: Feminism, Rape and Narrative Politics.* Cham: Palgrave Macmillan.

Smith, O. (2019). Narratives, Credibility and Adversarial Justice in English and Welsh Rape Trials. In U. Andersson, M. Edgren, L. Karlsson, & G. Nilsson (Eds.), *Rape Narratives in Motion*

(pp. 71-99). Cham: Palgrave Studies in Crime, Media and Culture. Palgrave Macmillan. doi:10.1007/978-3-030-13852-3_4

Smith, O. (2021). Cultural scaffolding and the long view of rape trials. In R. Killean, E. Dowds, & A. M. McAlinden (Eds.), *Sexual Violence on Trial: Local and Comparative Perspectives* (pp. 241-253). London: Routledge.

Tardón, B. (2018, November 22). *Los mitos de la violencia sexual*. Retrieved from 20 minutos: https://blogs.20minutos.es/mas-de-la-mitad/2018/11/22/los-mitos-de-la-violencia-sexual/

Taslitz, A. E. (1996). Patriarchal Stories I: Cultural Rape Narratives in the Courtroom. *Southern California Review of Law and Women's Studies, 5*(2), 387-500.

Toates, F., Smid, W., & van den Berg, J. W. (2017). A framework for understanding sexual violence: Incentive-motivation and hierarchical control. *Agression and Violent Behavior, 34*, 138-253. doi:https://doi.org/10.1016/j.avb.2017.01.001

Trujano, P., & Raich, M. (2000). Variables socioculturales en la atribución de culpa a las víctimas de violación [Sociocultural variables in blame attributions at rape victim]. *Psicothema, 12*(2), 223-228.

Tutenges, S. (2019). Narrative Ethnography under Pressure: Researching Storytelling on the Street. In J. Fleetwood, L. Presser, & S. Sandberg (Eds.), *The Emerald Handbook of Narrative Criminology* (pp. 27-43). Bingley: Emerald Publishing Limited.

UNODC. (2018, May). *Adversarial versus inquisitorial legal systems*. Retrieved from United Nations Office on Drugs and Crime: https://www.unodc.org/e4j/en/organized-crime/module-9/key-issues/adversarial-vs-inquisitorial-legal-systems.html#/top