

**HOW RAPE CULTURE MANIFESTS AS SOCIAL AND POLITICAL PHENOMENA:
FOUNDING A NEW SOCIETY IN AWARENESS AND UNDERSTANDING.**

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ABSTRACT

There have been many victories with social movements that sought the recognition of civil rights, equal rights, and human rights. However, even with continuous successes in those fields, women and men still undergo different social, cultural, and political pressures that shape them as they grow up into adulthood. Through an analytical and documental investigation, this research reaffirms that, because of social evolution, a specific phenomenon has been created, maintained, and normalized: rape culture. This socially integrated rape culture has abetted the expansion of sexual violence and sexual assault, as well as gender division. In other words, it separates men from other genders, in a way in which the latter might fear the former. Therefore, based on observations of a case study of the Netflix Original Series Unbelievable within a literary review, there is an extensive discussion that aims at forming awareness, to assist in the discovery of multidimensional and interdisciplinary solutions.

Keywords

Rape Culture, Silence Culture, Institutional Sexism, Violence, Sexual Violence, Sexual Assault, Gender Violence.

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INTRODUCTION

As long as men's fantasies dominate the landscape of sexual interactions, thus becoming normative and widespread, women will internalize them to feel accepted, wanted, and perhaps, loved (Noir, 2021). Through the advancement of contemporary western civilization¹, male-dominated powers determined that women are less deserving than men, even when occupying the same positions, possessing similar skills, or achieving the same goals (Wismeijer and van Assen, 2013; Nagoski, 2015). This strict reality molded a female-derogatory and male-preferential environment, which actively obstructs women from enjoying the same opportunities and chances that men are given (Willis, 1982; Allyn, 2000). Tradition states that women, as lesser beings than men, should exist only to satisfy the *male gaze* (Nagoski, 2015; Rubin, 1975). In other words, it is the aesthetic pleasure of the male perspective, from a gender-based social and political power inequality, that guides social interaction (Mulvey, 1975).

What is Rape Culture?

These traditionally maintained male-dominated powers and the implementation of the *male gaze* by society translate into an environment where being a woman is not as safe as being a man. Hence, women have needed to prove themselves to men as worthy individuals deserving of respect and attention, who are part of the whole of mankind as much as them (Nagoski, 2015). Therefore, if found in undesirable positions, women think twice before endangering or jeopardizing their relationship with men (Thacker, 2017). In fact, they start by "lying, [because] even with good people, even with people you can [...] trust, if the truth is inconvenient, [then] they don't believe it" (Unbelievable, 2019, episode 7).

Within this context, the concept of rape culture consists of the use, usually by part of authorities, of specific language and attitudes meant to invalidate sexual assault; which can go from completely erasing the factual happening of the event to turning the blame towards the victim (Lanford, 2017; Nicholls, 2021). Moreover, since the recognition of sexual assault in the public arena, *rape culture* has become a common ground "in which rape is prevalent and in which sexual violence against women is normalized and excused" (Marshall University, 2021). This social phenomenon, which is based on the *silence* and *hookup culture*², comprehends five underlying components: "traditional gender roles, sexism, adversarial sexual beliefs, hostility toward women, and acceptance of violence" (Johnson and Johnson, 2017, p.1).

¹ Although opinions vary, *Western* society most often refers to the geographical sections comprising the Americas, the majority of Europe, and parts of Australasia (Kurth, 2003). The term of *Western* in this article alludes more to the mindset and culture that is linked to those geographical places; however, those are not mutually exclusive.

² The *silence* and *hookup* cultures are two socially embedded phenomena that promote the dehumanization of a romantic or sexual partner.

As Appiah (2018) states, traditional gender roles are the social fictions that separate men and women into two different beings, where one is always above the other. These distinctions are supposed to dictate how genders must act and think, by rewarding those who comply and punishing those who do not (Nagoski, 2015). Hence, the adversarial sexual beliefs are based mainly on a sexism stemming from a historical patriarchy where the world is ruled by men, and men are the only ones with *reason*³ (Hobbes, 1651; Liberated, 2017). Furthermore, the comfort that society finds with sexism, which stems from the benefits the persons in power enjoy, results in an institutionalized psychological hostility and acceptance of physical violence perpetrated towards women (Johnson, 2017).

The cultural stereotypes related to each gender, pertaining to different academic and occupational fields, can easily be discovered on any level of analysis, superficial or otherwise. To further the argument, in Harvard Business Review, the different words used to describe male and female leaders are compared. Through analysis of 81.000 performance evaluations, Smith *et al.* (2018) found that “managers use more positive words to describe men in [...] reviews and more negative ones to describe women” (*Table a*). In positive terms, men were mostly characterized as analytical and women as compassionate; while in negative ones, men were designated as arrogant and women as inept (Smith *et al.*, 2018).

Table a. Words managers use to describe men and women, in descending order of relative frequency⁴.

Words Used to Describe Men		Words Used to Describe Women	
POSITIVE	NEGATIVE	POSITIVE	NEGATIVE
Analytical		Compassionate	
Competent			Inept
Athletic		Enthusiastic	Selfish
Dependable	Arrogant	Energetic	Frivolous
Confident			Passive
Versatile		Organized	Scattered
Articulate			Opportunistic
Level-Headed			Gossip
	Irresponsible		Excitable
Logical			Vain
Practical			Panicky
			Temperamental
			Indecisive

Source: a compilation based on the analysis by Smith *et al.* (2018).

³ In the *Leviathan*, Hobbes explains that men possess reason from their birth and cultivate it throughout their lives. However, he does not write the same about women, as they are not political beings capable of reason (Hobbes, 1651).

⁴ Table reading follows a descending order, from top to bottom, according to the frequency that the characteristic was described by the study's sample.

The persistence of this cultural phenomenon is built upon the male-dominated belief that the rejection of a woman towards a man's sexual advances is not to be considered, even when performing intimate relations (Lanford, 2017). Thus, the subsequent normalization of sexual assault, and blaming of the victim for their own assaults instead of the perpetrator, becomes standard (Thacker, 2017). In consequence, an environment is created, in which the outcomes of rape trials are defined by the portrayal of rape victims (Nicholls, 2021; Burt, 1980). Moreover, media outlets and criminal justice systems perform an institutionalized unjust reasoning towards sexually assaulted women, paralleling the "persistent imbalance in power dynamics between men and women" (Harvard Kennedy School, 2019).

An example of the *rape culture* that permeates into the political arena are the events reported in *The Independent*, with a crisis meeting between the Mayor of Cologne, and Chiefs of Police Wolfgang Albers and Wolfgang Wurm in Germany. This meeting followed a specific "attack, where dozens of women were repeatedly touched and groped, with one case of alleged rape in the center of town" (Revesz, 2016). The importance of this occurrence takes place in the meeting, with "Mayor [Henriette Reker's statement] that women should adopt a 'code of conduct' to prevent future assault", expecting them to prevent sexual violence by keeping a foot and a half from strangers (Revesz, 2016).

Scope of the investigation

The present thesis focuses on an analysis of the cultural phenomenon known as rape culture. To illustrate this phenomenon, the Netflix limited series *Unbelievable*, the article in which it was based, and the book written by the same authors, are assessed. It recounts the true story of Marie Adler, an eighteen-year-old girl who was raped and led to believe otherwise by the police force and her advisors. The pertinence of *rape culture* in this case is evidenced from the first episode, on the 30-minute mark, when the male police officer in charge of her case asks her a leading question:

A young woman, been through a ton of bad stuff, on her own for the first time, just broke up with her boyfriend, feeling isolated, lonely, might... on the spur of the moment, come up with something, without thinking it through, that would get her the attention she needs. Is there really a rapist running around that we should be looking for? (Unbelievable, 2019, episode 1).

This analysis reviews and illustrates some reasons behind the culture of rape, that are liming the political and social arenas, in education centers as well as workplaces. With the help of a true-crime story, this investigation aims at creating awareness about how *rape culture* manifests in women's interrelations, where their existence is in a lower position of power than men; through the analysis of real events that evidence an existing problem. The importance of the placement of these concepts behind the story represented in *Unbelievable* are the details about society's handling of rapes that are found in between the scenes of dramatized reality. An important scene in the series in episode 7, which was reported on in

news articles and magazines after its release, is the main character Marie Adler's therapy session⁵, where she is trusted and recomforted about her rape for the first time since the start of the series (*Figure i*).

Figure i. Marie's therapy session in *Unbelievable*, episode 7, 2019.



Source: Netflix limited series *Unbelievable* (2019), directed by Susannah Grant.

What has come before?

This analysis provides an empirical-analytical treatment of rape culture, including what is behind it and what could be its causes. The intention of this analysis is to review the literature to explain the comeuppance of rape culture, as it is shown in *Unbelievable*, and to present *rape culture* from its origins to its current institutionalization, throughout its most important notions and elements. Although this research tries to focus on a wide array of women, from all sexualities and races, due to the diversity of women that were raped within the case study; a large part of the literature and investigations on this affair is done by, or about, white women (Hunter and Nettles, 1999).

As a qualitative approach, it is a documentary investigation portrayed in a case study that objectifies qualities of a subjective nature. The purpose is to contribute to the enhancement of viewpoints for the field of Social Sciences, in which one learns, through theory and practice, to be a professional that critically studies and interprets culture and politics, while considering, comparing, and analyzing how meanings are

⁵ This scene can be found in one of Netflix's YouTube channels under the name: *Marie's Therapy Session – Unbelievable*, found in <https://www.youtube.com/watch?v=3muGuDL1qaM>

constructed daily. By looking into the meaning, the political power, and the social impact of various contemporary cultural practices, it is possible to understand the context of cultural policymaking, allowing researchers to submit and advocate in favor of intelligent, appropriate, and productive proposals for change in existing or planned policies.

What lies ahead?

The *general objective* of this paper is to determine the factors that foster the existence of *rape culture* in contemporary Western society, based partly on the story shared in Netflix limited series *Unbelievable*. To achieve an understanding of how the theory is manifested in the story's reality, a standard order of ideas is put into place, starting with an abstract and an introduction to contextualize and fill knowledge gaps about what will be discussed throughout the paper. Next, the description of the theory explains the limitations and assumptions, to detail the analytical methodology used. Due to the several topics to be considered for the analysis, the results are divided into three main parts, as the three *specific objectives* establish.

The first part, '*From genesis to popularization*', defines the origins of rape culture and its characteristics, by way of a documental review of its previous studies and antecedents. The second, '*Institutionalization of silence*', deals with how institutions maintain rape culture, both on their legal and public sides, considering the investigations and politics around it. And part three, '*An Unbelievable False Report*', introduces the elements of rape culture in Netflix limited series *Unbelievable*, and the story it was based on, to show the impact that rape culture has on the women and men that experience it, and their surroundings. Drawing from that, the discussion takes on the task of identifying the main results from the previous section and intertwining them to allow further interpretation, based on founded argumentation.

Subsequently, to give awareness to society about the harmful behavior that men use towards women, a conclusion is drawn to answer the question: **how does rape culture, as a social phenomenon, render the events behind the limited series *Unbelievable* a reflection of contemporary Western civilization?** Furthermore, recommendations are proposed on what could be done better and how it could be done better are presented, for future investigations or to eventually achieve a solution to the problem. Lastly, references and appendices support the data collected to obtain the results found, and a list of additional resources to aid potential readers or investigators.

METHODS

The empirical-analytical methodology is adopted for this article, due to its use of secondary documental analysis of information. All results and interpretations are analyzed from an academic perspective based on the *Fourth Wave Feminism*, which brought about the foundation of the women's empowerment movement, in addition to equality or understanding (Cochrane, 2013). For its *origins in literature*, this research reviews first-hand data from scientific journals, and magazine and news articles, that broach the subject of *rape culture*. The emergence of *rape culture* has been extensively studied, therefore this

bibliographic investigation focuses on argumentative knowledge, by using thoroughly developed theories at its foundation. The bibliography for the literature review was selected with the following blueprint:

[i] The initial search engine utilized for this research was mainly Google Scholar, which redirected to others such as *JSTOR: Journal Storage*, *SAGE journals*, *CORE econ*, *ScienceDirect*, *SciELO*, *BASE*, and *ResearchGate*. Even though those were the principal databases utilized due to their academic basis, literature such as books, theses, and encyclopedias was also consulted.

[ii] To prevent irrelevant papers from surfacing in the principal databases used, search criteria centered on the following terms: rape, rape culture, violence, gender violence, sexual violence, sexual assault.

[iii] With the same objective as the previous guideline, the defined exclusion criteria contained opinion-based or unfounded articles, and papers written with a political or social agenda.

With an *investigative approach*, to present evidence how *rape culture* is institutionalized and its level of integration in contemporary society, news articles are presented, from each country's respective governmental websites or popular media outlets such as *CNN*, *El Espectador*, *BBC*, *El Tiempo*, and *The New York Times*. Moreover, a broad review is conducted about rape cases from the United States, the European Union, and South America that were dismissed, where the charges were dropped, or in which the victim was left without any justice. Then, laws and sentences pertaining to *sexual violence* and *harassment* from South America, the United States, and the European Union extracted from governmental sites and their international counterparts, are exposed from a social and political stance.

To conclude the investigation and determine the factors in contemporary western society that allow the existence of *rape culture* as is determined by the *general objective*, a *materialization of the theory* is conducted with the story portrayed in true-crime series *Unbelievable*. This Netflix limited series exhibits the true events following a serial rapist case that took place from 2008 to 2011 in the United States. Throughout the analysis of the series, along with the article and book it was based on, a parallel between the scenes and the theory is evidenced according to the three *specific objectives* pondered, with references to the story's contents and representation of *rape culture*.

LITERATURE REVIEW

Even in the present culture where traditional norms are obligations of the past, individuals choose to endure self-inflicted prejudices based solely on their gender, rather than talent or capacities (Appiah, 2018; Nicholls, 2021). The cultural environment created by those norms develops a formative path of obligatory nature, which as Appiah proposes, is founded on the constant customs and conventions of the *status quo* (Appiah, 2018). Therefore, although the average quality of life is higher than it was in other times, men and women still experience distinct social pressures exerted on them, based solely on the identities that society has defined for each of them (Veenhoven, 2005; Gould, 2009).

Origins in literature: from genesis to popularization.

As Jackson (1983) and Gill (2008) state, girls are polished to believe that sexual practices bestow upon them pain and take their innocence away; a necessary step that they must take towards *womanhood*, which they will never be able to get back. At that same time, boys are taught that starting their sexual lives at a young age transforms them into *real* men; hence, they are appraised for it and pushed to repeat it throughout their lives (Gill, 2008; MacKinnon, 2019). Moreover, there is the constant reminder that the prince saves the princess, even in cases where she is not aware (*Figure ii*). These norms start being incorporated by both from their childhoods, at the time when anything that a parent, teacher, or any other authority, tells them has no reason not to be right or true (Gilbert, 1980). Henceforward, when experiencing the unexplained hierarchical power relations between men and women as adults, neither knows nor has been taught of any other way (Thorne and Luria, 1986).

Figure ii. *Sleeping Beauty* (1959): 'love's first kiss'.



Source: Walt Disney Pictures' *Sleeping Beauty* (1959), directed by Wolfgang Reitherman.

Having that as a parting point for both men and women since traditional times, it is not surprising that women became accessories for men: objects to be won over, shown off, and then discarded (Morris, 1995; Pateman, 1997). These practices endured, intentional or not, maintain unfounded differences between men and women; giving the masculine existence power over the feminine one, by conditioning the latter to think that to be desired, they must abide by preconceived conducts⁶ (Fernando, 2018). Hence, society unintentionally continues to nurture painful cycles inflicted upon women, which derive from their common need to be accepted into the social and cultural pattern, based on gender inequality, at the cost of their mental and physical well-being (Nicholls, 2021; Gill, 2008).

⁶ In *The Conversation*, Dulini Fernando (2018) elaborates the reasons why workplaces and educational institutes rely on a *culture of silence* to allow the sexual harassment. This specific culture pertains to the use of **silence** as a defense mechanism against men and their assaults, in which neither the victim nor her colleagues or coworkers dare speak out.

In consequence, social scientists from the *Second Wave Feminism* attempted to give women more opportunities, creating a significant shift in the representations of women from wives-to-be to active, independent, and sexually powerful beings (Gould, 2009; Gill, 2008). Garcia *et al.* (2012) state that the movements promoted during that period achieved the integration of women into the workforce, even if they were regarded as lesser laborers to men. Nevertheless, through their incorporation into social interaction, the force of the sociopolitical critique and subjacent power of the innovating ideals was neutralized and domesticated (Cawston, 2018; Gill, 2008). Subsequently, a blueprint of womanhood (*Figure iii*), which every woman who considers herself a powerful and independent woman should follow, was shaped into a hypersexualized and pornographized mold (Cawston, 2018; Liberated, 2017).

Therefore, instead of freeing them from prejudice and oppression, Gould (2009) proposes that their own feminist paragons eventually forced *sexual agency* to become a requirement of feminine subjectivity (Gould, 2009; Garcia *et al.*, 2012). Moreover, to keep from becoming marginalized for not entering the ideals of femininity, society expects women to be beautiful and attractive, sexually knowledgeable, and always up for sex, even if not consenting to it (Nicholls, 2021; Gill, 2008). As Cawston (2018) writes, these standards are adequately illustrated in pornography, where the “material objectification of sexism [plays] a functional role in the [enjoyment and] concealment of those sexist attitudes” (p. 625). The use of that term, *pornography*, is used by the author with the preconception that any person can consume it without prejudice and therefore can easily show the lack of importance culturally placed on equality in relations.

Figure iii. Depiction of the blueprint of womanhood by Sharon Stone in *Basic Instinct* (1992).



Source: Carolco Pictures' *Basic Instinct* (1992), directed by Paul Verhoeven.

Accordingly, an undermining in consent and consensual relations affects both men and women in their intimate encounters with each other, by perpetuating the socially imposed roles of the man who dominates the dominated woman (Marzano and Laugier, 2003). Hence, men are led to believe without question that they possess an unspoken right to women and their bodies, in cases when part of their skin is visible, or their sexual knowledge is evident, among others (Gill, 2008; Thorne and Luria, 1986). Thus, for a woman, there is always the possibility of experiencing violence caused by the rejection to the advance of a man (Gill, 2008; Liberation, 2017). As a result, dominance as part of masculine attitudes and domination as part of feminine attributes, play a major role in rendering the word *no*, and its variations, absent from women’s vocabulary (Nicholls, 2021; Buchwald *et al.*, 2005).

RAINN (2019) defines consent as a clearly and freely communicated “agreement between participants to engage in sexual activity”, and “cannot be given by individuals who are [...] intoxicated or incapacitated by drugs or alcohol, or asleep or unconscious”. In case “someone agrees to an activity under pressure of intimidation or threat, [or unequal power dynamics such as employee and employer,] that isn’t considered consent”. In addition to that, there exists another level of consent denominated *enthusiastic consent*, which focuses on *the presence of a yes rather than the absence of a no* (Table b). Enthusiastic consent “can be expressed verbally or through nonverbal cues, such as positive body language, [but] these cues alone do not necessarily represent consent. [It is necessary to] still seek verbal confirmation” (RAINN, 2019).

Table b. Indications of what consent is and what it is not.

Consent	NOT Consent
Informed and coherent affirmative statements given freely.	Refusing to acknowledge a negative statement such as <i>no</i> .
Confirming that there is reciprocal interest.	Disengagement, silence, non-responsiveness, or visible distress.
The explicit agreement to engage in activities.	The assumption that wearing certain clothes, flirting, or kissing is an invitation.
Having permission before changing sexual activity.	Someone being incapacitated by psychedelic substances or alcohol.
Accepting that confirmation is changeable.	Pressuring someone into sexual activity by using fear or intimidation.
	Assuming you have permission to engage in a sexual act because you’ve done it in the past.
Psychological responses: erection, lubrication, arousal, or orgasms are involuntary.	

Source: a compilation based on the article by RAINN (2021) and the Health Promotion and Wellness guidelines from the University of Wisconsin (2021).

Despite that, either willingly or not, women accept to put on a performance in front of men, thinking that their value equates to their sexual appeal and the pleasure that they bring, which Nicholls (2021) presents as dependent on the opinions of men. In consequence, instead of working together towards a common goal of equality and acceptance, women compete for men's interest and attention through “crazy, unexpected, and sensual acts”, allowing themselves to presume that their freedom, sexual or otherwise, is obtained only through the enjoyment of the (proverbial) spotlight (Liberation, 2017). However, even when held to different standards, both men's and women's upbringing converge into the casual intimacy that is founded on the ambivalence towards sexual activities, or dehumanization of the other (Garcia *et al.*, 2012; Buchwald *et al.*, 2005). This recent phenomenon is labeled *hookup culture*.

Gill (2008) explains the participation to *hookup culture* from two perspectives: women and men. For women, it translates into the fulfillment of their will to matter, by proving that they are desired and wanted; and for men, it reaffirms their masculinity and heightens their social status (Gill, 2008). This situation prevents men and women from executing anything on their own terms because both of their social values are relative to their use of women's bodies (Liberation, 2017; Gill, 2008). Thus, to adapt to the new precepts of society and be perceived as functioning adults, both undergo an indoctrination to objectify sexual activities and ignore each other as cognizant individuals, with thoughts and limits (Gilbert, 1980; Garcia *et al.*, 2012).

Alongside *hookup culture*, not to replace but rather complement, another equally intrinsic phenomenon has flourished: *rape culture* (MacKinnon, 2019). The main difference between these is that in contrast to the second (*rape culture*), the first (*hookup culture*) does not entail criminal behavior (Nicholls, 2021). Furthermore, MacKinnon (2019) proposes that the set of norms *rape culture* bears enable men and women to lack guilt and awareness whenever one takes advantage of the other, respectively (MacKinnon, 2019; Burt, 1980). Hence, having rape and sexual assault as defining and parting concepts, *rape culture* designs an environment where women do not feel safe in the presence of men, scared that sex will be forcefully taken from them (Byers, 1996; MacKinnon, 2019).

Therefore, the behaviors within *rape culture* are socially standardized through ignorance towards it and myths against it (Byers, 1996; Landgraf and von Treskow, 2017). On one hand, women do not possess the capacity to defend themselves or inculcate the guilty, due to their fear of violence, or threat to their future, both physically and psychologically (Miller and Armstrong, 2015). On the other, men often get away with their sexual crimes given that the law sees them as victims of an environment, not as products of a culture (Miller and Armstrong, 2018). In other words, as Burt (1980) explains, while sexually assaulted women do not get justice but a lifetime of trauma; men who sexually assault, not only go free but are frequently able to do it again (*Figure iv*). These phenomena open the door for new cultures to derive from it, such as the culture of silence and the institutionalization of sexual violence (McKee, 2020; Soothill *et al.*, 1990).

Figure iv. Introduction scene for *Lolita* (1997), the depiction of the sexual relationship between a man in his fifties and a 12-year-old girl.



Source: Pathé Pictures' *Lolita* (1997), directed by Adrian Lyne.

Investigative approach: institutionalization of silence.

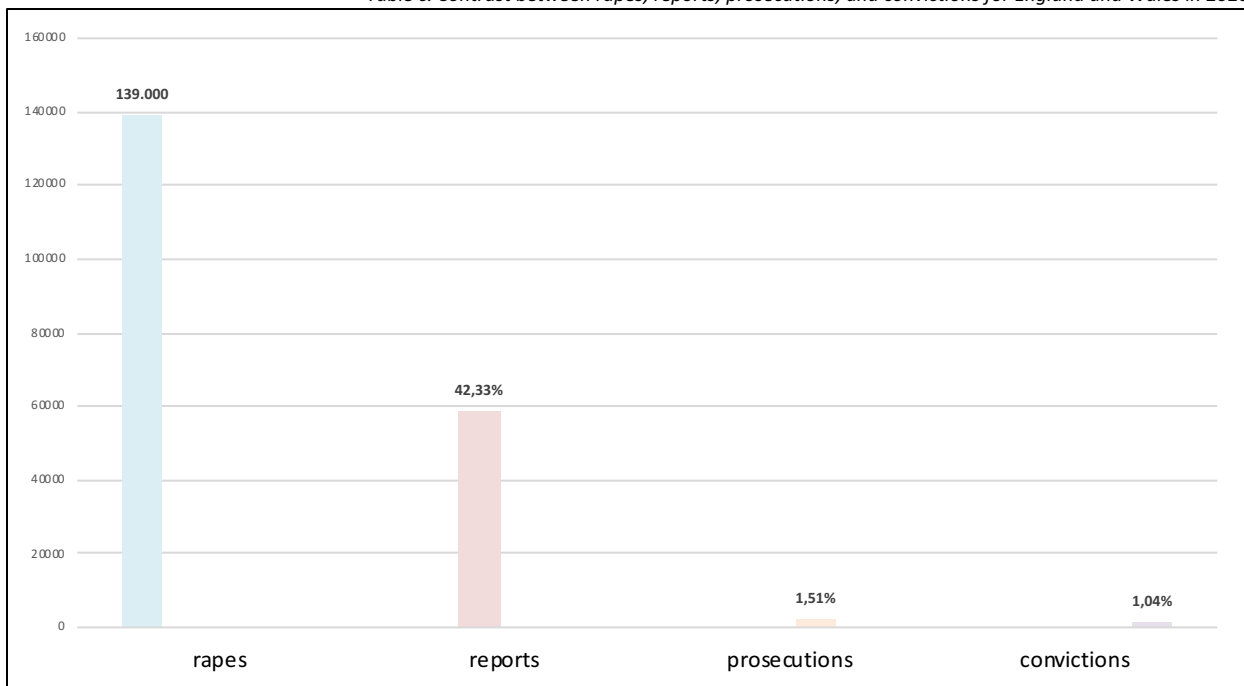
The institutions that have silenced women and protected men through history, governmental or not, have taken the fear of false rape accusations and defamation as a *justification for ignorance* or a *right to ignore* (Miller and Armstrong, 2018; Pazzanese, 2020). By stating that “rape [and sexual assault are] an accusation easily to be made, [...] hard to be proved, and harder to be defended [against] by the party accused,” English chief justice Matthew Hale constructed a solid defense for rapist and assaulters to remain unsentenced (Miller and Armstrong, 2015). Although the *Hale warning* stopped being the foundation of criminal cases involving rape, the damage it made to the Legal System did not disappear (Kimble, 2018). With the “examining [of] police records in detail and [the use of] methodologically rigorous standards,” Miller and Armstrong (2015) evidence that false reporting only constitutes about 5% of all cases.

Along with the history, and the multiple cases of rape that went by unsentenced, the Justice System has improved its relationship with rape victims, focusing mainly on “rape myth acceptance and assessment of victim credibility” (McKee *et al.*, 2020). In present times, law enforcement is trained on how to approach rape cases, women are guided by mental health professionals through them, and judges do not make assumptions based on lack of information or evidence (Miller and Armstrong, 2018; Soothill *et al.*, 1990). Nonetheless, some problems remain when it comes to the victimization and degradation of women that have been sexually assaulted, especially in conservatory places such as South America and the United States (DW, 2020; Moreno and Pardo, 2018). This type of situation happens in different ways and forms;

nevertheless, *rape culture* is mostly evidenced when a rapist does not suffer consequences for his crime (Pazzanese, 2020).

In March 2020, a BBC News article on violence against women statistics, along with a yearly census conducted by the Office for National Statistics and data from the Crown Prosecution Office for England and Wales, gathered information on rapes, rape reports, prosecutions, and convictions displayed in a visual form (*Table c*). This table shows that throughout the year, 139.000 women were attempted to be raped or were raped, while only 58.845 of them reported the crime to the authorities when it happened. Furthermore, only 1,51% (2.102) and 1,04% (1.439) of the 42,33% that did report the crime were prosecuted and convicted respectively. Although this is only an example of what *rape culture* encompasses and should not be generalized, the articles on the handling of rape cases from different countries, and their respective statistics, support that it is a social problem shared by diverse cultures.

Table c. Contrast between rapes, reports, prosecutions, and convictions for England and Wales in 2020.



Source: a compilation based on BBC News article on violence against women statistics in England and Wales.

Depending on the society that is being studied, the treatment of women that have been raped and their subsequent official reports or omissions differ (NISVS, 2018; Eurostat, 2017). The United Nations Office on Drugs and Crime (2018), which “collects data on crime and the operation of criminal justice systems in order to make policy-relevant information and analysis available in a timely manner to the international community”, developed a statistical report on sexual violence. Although it discloses a grand variety of crimes, it solely covers “police recorded offences of sexual violence by country, counts and rates per 100.000 population” (UNODC, 2018). Therefore, only the cases of rape that are reported to the police and

stay in their books are presented in these statistics. Thus, its statistics are possibly higher, given that “nearly 80 percent of rapes [...] go unreported” (Kimble, 2018).

In South America, sexual assault goes unreported mainly as a decision, to avoid dishonor on the family’s name and legacy (Fore *et al.*, 2018). Moreover, the elevated number of unreported rapes that occur in Latin America is majorly due to the lack of trust that victims have with their respective authorities, mainly the police (Restrepo, 2020; Bergman and Flom, 2012). These cases usually go unnoticed by the Legal System and their censuses because, apart from not being reported as a crime, they are hidden within a union, either formal as a marriage or informal as cohabitants (Sanchez, 2019). Besides, due to the illegality of abortion in most Latin American countries, whenever the (usually underage) girl becomes pregnant, the most common choice for her is to become a dependent of her aggressor, either legally or by agreement (Dannemann, 2019).

Even though some regions in the United States allow marriage with a minor, the major reason for rapes to be discarded or unreported is different (Altamirano, 2016). North America portrays sexual assault as an offence manufactured by the victim, for which she must prove her statement with enough evidence to convince the officers in charge (Fore *et al.*, 2018). Furthermore, even when a report passes all obstacles and becomes a criminal case, the rapist’s *once-promising future* is often used as a justification or excuse for forgiveness and acquittal (Dickson, 2019; Lefkowitz, 1998). Therefore, the confluence of both occurrences gives permission to officials, family members, teachers, friends, and any other person that can affect a raped woman, to let a rape be unreported or a report to be unmade (Balcazar, 2016; Miller and Armstrong, 2018).

Hence, the process of assault and union becomes a cycle, ridden with misinformation and distrust, which allows to society to lessen the importance of sexual violence (UNFPA, 2021). Subsequently, these national governments and authorities become unaware, be it consciously or unintentionally, of the real number of rapes taking place within their jurisdiction (Enarte, 2020). Therefore, non-governmental organizations, such as the Observatory of Gender Equality in Latin America, and the Caribbean, and the Rape, Abuse and Incest National Network in North America, maintain as key actors for the reports assembled by international institutions on sexual violence (RAINN, 2021; UNODC, 2018). Nonetheless, foreign reports made on sexual violence are not deemed important to the national agencies that are responsible for it, given that they do not believe it is representative, or refuse to solve the problem with its necessary transformation (Balcazar, 2016).

Although member countries of the European Union have more detailed and updated national official reports on sexual violence, the awareness of those cases does not rectify their mistreatment (UNFPA, 2021). Despite the positive variation from the Americas for the occurrence of sexual violence in the European Union, the hiding and covering of it does not (Eurostat, 2017). The statistics collected by the EU Office of Statistics vary from country to country, due to the slight dissimilarity in the social and cultural mechanisms, and each country’s respective propensity to report (bra, 2020). However, even though it is more difficult to evidence the lack of reporting made in the EU than in America, there is a high correlation

between the propensity to report the incident to the police, and the level of gender equality, confidence in the criminal justice system and negative attitudes towards rape myths (bra, 2020). Accordingly, it is in the countries where the three latter indicators are higher that the low inclination to report a rape is a prevailing reality.

THE RIGHT TO SAY NO

Even though there is no universally adopted definition, *The Elements of Crimes of the International Criminal Court (ICC)*, in a 2002 report revised in 2010, defined rape as:

The penetration [...] by force, or by threat of force or coercion, such as that caused by fear of violence, duress, detention, psychological oppression, or abuse of power, against [a person or a third person], or by taking advantage of a coercive environment, or the invasion was committed against a person incapable of giving genuine consent [which can be] affected by natural, induced, or age-related incapacity (Dowds, 2018).

Despite its differing from state to state, even within the same country, the perception of rape has abysmally changed over time. In truth, there is not a definition that can be globally implemented due to their lack of cultural, social, or political concession. Hence, comparing statistical data on rape from various regions, and its consequent culture, turns not only impractical and unproductive, but practically unreachable (Bachman and Schutt, 2019). However, it is an accessible task to investigate the laws that cover rape for most countries, and how they diverge or conflict with each other. The presentation of these legislations will start with South America and North America, and end with the European Union, similarly to the previous section.

SOUTH AMERICA

The *Economic Commission for Latin America and the Caribbean*, alongside the *Gender Equality Observatory for Latin America and the Caribbean*, built an index for all laws concerning violence, by country, within South America. From this record, laws that defined sexual violence and the last relevant updates made to the Law pertaining to sexual violence will be presented for ten countries, displayed in alphabetical order. This database is difficult to find if there is no previous knowledge of the institutions that provide the information, and once found, it does not organize or categorize the laws pertinent to sexual violence. Therefore, it is not an accessible tool for rape victims that are attempting to find justice for themselves.

In the *Argentine Republic Penal Code*, **Law 23.179** follows the *Convention on the Elimination of All Forms of Discrimination against Women*, first approved in Resolution 34/180 of the General Assembly of the United Nations in 1979 and subscribed by the Argentine Republic in **1980**. **Law 25.087** of **1999** eliminates the concept of an *honest woman*⁷ from the definition, broadens the concept of rape with different types

⁷ The concept of *honest woman* refers to sexual inexperience or lack of sexual experience, but not necessarily *virginity* (Díaz, 1988). In these cases, it pertains to the unawareness a woman might have towards a sexual act being performed with her. Thus, due to the subjectivity of the term, it

of sexual aggressions, and establishes the aggravating conditions of the penalty, in the *Crimes against Sexual Integrity* chapter.

In **2017, Decree 522** regulates *Law 26.879* on the creation of the *National Registry of Genetic Data* related to crimes against sexual integrity, and in *Law 27.352, Article 119* establishes as a punishable offence the sexual abuse carried out with: [a] the use of violence or threat of violence; [b] the coercive or intimidating abuse of a relationship of dependence, authority, or power; or [c] taking advantage of the fact that the victim for any cause has not been able to freely consent to the action.

In **2019, Law 27.501**, on *Integral Protection to Prevent, Punish and Eradicate Violence against Women*, incorporates *Article 6* on street harassment, as a modality of violence against women in public spaces, and in *Article 9*, implements a free and accessible telephone line to provide support, information, and advice on the prevention of violence against women and assistance to those who suffer it. It also urges police and security forces to act to protect women victims of gender-based violence when the violence occurs in public spaces or of public access.

In the *Plurinational State of Bolivia, Law 1.678* of **1997** adds [a] sexual violence as a punishable offence; [b] eliminates the term *honest woman*⁶ from the definition of sexual crimes, which subjected the victims to a judge's evaluation; and [c] changes the name of *Title XI* of the *Second Book* of the *Penal Code* to *Crimes against Sexual Freedom*. **Law 2.033** of **1999** on the *Protection of Victims of Crimes against Sexual Freedom* [aa] defines and broadens the penalty for the crimes of rape, statutory rape, corruption of minors, and pimping; [ab] adds the consideration of anal and oral access as rape; and [d] promotes multidisciplinary care for the victim. In **2009, Article 15** of the *Bolivian Constitution* enshrines the rights of all persons to life and to physical, psychological, and sexual integrity, elevating the importance of sexual assault as a criminal offence.

In the *Federative Republic of Brazil Penal Code, Law 10.224* of **2001** amends *Law 2.848* of the *1940's Penal Code* with the [a] criminalization of sexual assault and harassment. **Law 10.778** of **2003** establishes the [b] mandatory notification at a national level of the cases involving violence against women, who attended either a public or a private health service. In **2013, Law 12.845** modifies [c] the definition of sexual violence to any form of non-consensual sexual activity; and [ba] demands hospitals to direct the victims to social assistance services and to offer them emergency, comprehensive, and multidisciplinary care to control and treat the recurrent physical and psychological aggravations of sexual violence.

Law 13.718 of **2018** criminalizes: [aa] the acts of *sexual importunity*, defined as the practice of a libidinous act against a person without their consent, with the purpose of satisfying the offender's own lust or that of third parties; and [d] establishes the grounds for possible increased penalties to sexual crimes against vulnerable persons, collective rape, and corrective rape. In **2019, Law 13.931** establishes that in the cases in which there is evidence or proof of violence against women, public and private health services have a

subjects women to the judge's personal evaluation. Therefore, the discarding of the term theoretically broadened the definition of rape and subsequent elimination of a judge's personal opinion on legal cases.

compulsory [bb] obligation to report to the police authority within twenty-four hours, for the appropriate measures to be taken and for national statistical purposes.

The *Republic of Chile Criminal Code* and the *Code of Criminal Procedure* are amended by **Law 19.617 of 1999** in five fundamental aspects: [a] broadening the perception of victims by replacing the word *woman* with *person*; [b] defining rape as an offence punishable by major imprisonment in *Article 361*; [c] extending the faculties to denounce rape; [d] expanding the services where examinations of injuries can be carried out; [e] eliminating the possibility of the accused to access prison benefits; and [fa] describing rape as an act of carnal access where force or intimidation was used, and when the victim is [fb] deprived of her senses or her incapacity to resist is taken advantage of.

Law 20.005 of 2005 typifies sexual harassment as a criminal offence, defined in **2019, Law 21.153** as the performance without the consent of the victim, of acts of sexual significance capable of provoking intimidating, hostile, or humiliating situations, either verbal or executed by means of gestures; conduct consisting of approaches or pursuits; or acts of obscene exhibitionism or explicit sexual content.

The *Republic of Colombia Penal Code* approves, in **Law 248 of 1995**, the *Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women*, and its definition of *violence against women* as any action or conduct based on their gender that causes death or physical, sexual, or psychological harm or suffering, whether in the public or private sphere. **Law 360 of 1997** adds *Article 417*⁸ to define rape as a crime against sexual freedom and human dignity and establishes penalties and procedures for the different cases. After the updates pertaining to violence against women made in **Law 599 of 2000**; within **Law 975 of 2005**, the Justice and Peace Law:

Victims of sexual, reproductive, and gender-based violence who approach the Ombudsman's Office should not testify before the authorities, but rather relate and record their facts through the officials designated for this purpose - lawyer, psychologist or public defender - which will be carried out individually and in private, guaranteeing confidentiality, respect and protection of their rights and allowing victims to experience counseling as a restorative process, insofar as it generates conditions that allow them to recover their dignity.

Law 1.257 of 2008⁹ [a] establishes rules for awareness, prevention, and punishment of forms of violence against women; [b] establishes violence against women as a violation of their human rights, implicating guarantees for prosecution, protection of victims, and relevant sanctions; and [c] typifies the crime of sexual harassment. In **2011, Decree 4.796** defines the actions necessary to detect, prevent and provide comprehensive care to female victims of violence through the services guaranteed by the General Social Security Health System. And lastly, **2014's Law 1.719** implements measures to guarantee the right of access to justice for victims of sexual violence during armed conflict.

⁸ Title XI of the *Second Book of the Penal Code*, *Decree Law 100* of 1980; and *Decree Law 2700* of 1991.

⁹ *Law 1.257* amends the *Penal Code*, *Code of Criminal Procedure* and *Law 294* of 1996.

The *Republic of Cuba Criminal Code*, through **Law 62** of 1987, establishes sanctions against rape and sexual abuse, in *Article 298* on the Crime of Rape and in *Article 300* on Lustful Abuse.

In the *Republic of Guatemala Criminal Code*, **Law 7** of 1999 on Dignification and Integral Promotion of Women¹⁰, defines and typifies sexual violence. Article 200, which prescribed the extinction of criminal action for crimes of a sexual nature when the perpetrator married the victim, was repealed in 2005. **Decree 22** of 2008 implements provisions aimed at eradicating gender violence and any type of coercion against women by guaranteeing the protection of women, in relationships of power or trust; against discriminatory practices, physical, psychological, or economic violence; or disregard for their rights. **Decree 09** of 2009 prevents, represses, punishes, and eradicates sexual violence, exploitation, and trafficking in persons; and protects, compensates, and attends to the victims for damages caused.

In 2010, **Agreement 1** of the *Supreme Court of Justice* initiates the process of creating specialized bodies for the specific treatment of violence against women; and in 2012, **Agreement 12** of the *Supreme Court of Justice* agrees on the transformation and creation of jurisdictional bodies for Femicide and other forms of Violence against Women. Then, **Decree 22** of 2017 creates the *Genetic Data Bank for Forensic Use*, making all genetic information immediately available to the *Public Prosecutor's Office*, for criminal investigations and their respective processes.

The *Republic of Honduras Penal Code* is amended in 1983 by **Decree 144**, introducing the treatment of crimes of sexual violence and criminalizing sexual harassment and rape as offences of public order. In 2005, **Decree 234** replaces *Decree 144* of 1983¹¹ with *Crimes against the Physical, Psychological, and Sexual Freedom and Integrity of Persons*, modifying the vocabulary used to broaden the perceptions and persecutions of the crime.

The *Republic of Peru Penal Code* typifies the crime of sexual violence in 1991. **Law 27.942** of 2003 on the Prevention and Punishment of Sexual Harassment, proposes the prevention and punishment of sexual harassment produced in authority or dependency relationships, regardless of the legal form of this relationship. In 2004, **Law 28.251** incorporates articles related to sexual violation, for better use of the criminal system.

Law 28.963 of 2007 modifies *Article 170* by [a] defining the penalty for sexual violence, to not be less than 12 nor more than 18 years; [b] disqualifying the aggressor if, for the execution of the crime, they took advantage of any position that gave them [ba] particular authority over the victim, [bb] a relationship of kinship related by nature or adoption, [bc] a relationship arising from a contract for the provision of services, [bd] an employment relationship, or [be] if the victim provides services as a domestic worker.

¹⁰ Found in *Chapter IV* of the *Criminal Code*, *Law 7* of 1999, *Article 20*.

¹¹ *Title II* of *Book Two*, *Special Part* of the *Penal Code*, *Crimes against sexual freedom and honesty*, *Decree 144* of 1983.

Law 30.609 of **2017** determines the inappropriateness of a redemption penitentiary benefit for work or education¹², for inmates who have committed rape. In **2018**, **Law 30.364** creates the *National Specialized Justice System for the Protection and Punishment of Violence against Women and Family Members*¹³ with the purpose to ensure prompt and effective development of processes and allow the fluid interaction between all the operators of the procedural route against violence. Thus, improving the time of attention and response to the victims, and guaranteeing their integrity, safety, and real and effective access to justice. Additionally, **Decree 1.410** of **2018** adds the crime of sexual harassment to the law and clarifies¹⁴ its concept, optimizing the procedure of their punishment.

In **2005**, **Law 17.938** repeals *Article 116* of the *Oriental Republic of Uruguay Penal Code*, which exculpated perpetrators of sexual violence if they married the victim. **Law 18.561** of **2009** prevents and punishes sexual harassment in workplaces, teaching environments, and study centers; and compensates the victims. Then, **Law 19.580** of **2018**: [a] establishes norms against violence against women to guarantee the effective enjoyment of women's right to a life free of gender-based violence without any distinction or discrimination between them whatsoever; [b] establishes mechanisms, measures, and comprehensive policies for prevention, attention, protection, punishment, and reparation; and [c] defines gender-based violence against women as any conduct, action or omission, in the public or private sphere, which, based on an unequal power relationship based on gender, has the purpose or result of impairing or nullifying the recognition, enjoyment or exercise of the human rights or fundamental freedoms of women.

Although South American countries do not share a constitution, nor any common investigative authorities, the laws stated within their particular national Codes contain similar characteristics. Those countries first and foremost define what sexual assault or sexual violence is, and then, decree by decree, amend them with new and improved descriptions of the criminal offence and its respective punishments. These definitions of rape proposed by Latin America are similar to the International Criminal Court's delimitation, mainly in their detailed definition of what a sexual act entails and how it must be typified. Nonetheless, in the South American context, it is an acknowledged reality that corruption and illegality are present in cases of different importance (Pastrana Valls, 2019). Therefore, although the laws typify and punish the criminal act of rape, authorities allow and, in some cases, assist in the discovery of technicalities that can protect the offenders (EOM, 2020).

THE UNITED STATES

Since the nineteenth of March 2012, the *Federal Bureau of Investigation (FBI)'s Uniform Crime Report* redefined rape as the “penetration, no matter how slight, of the vagina or anus with any body part or object or oral penetration by a sex organ of another person, without the consent of the victim”, becoming

¹² A *redemption penitentiary benefit* refers to the benefits that an inmate can achieve through labor or education. An example of what those could be is the permission to receive more visitors in a month or being able to remain in the yard longer than the other inmates.

¹³ The System is integrated by the Judicial Power, the Public Prosecutor's Office, the National Police of Peru, the Ministry of Justice and Human Rights and the Ministry of Women and Vulnerable Populations.

¹⁴ This Decree amends *Law 27.942 on the Prevention and Punishment of Sexual Harassment*, and *Law 30.057 on Civil Service*.

more inclusive and omitting the requirement of physical force (FBI, 2012). Regarding the United States' laws on rape¹⁵, two perspectives will be considered: federal laws and state legislatures. For the first, the *Office of the Law Revision Counsel* consolidated the *United States Code* with general and permanent laws of the US; and for the second, the *House and Senate of the United States* gathered the different states' legislatures within the national governmental website *congress.gov*.

From the *US Code's Title 18, on Crimes and Criminal Procedure, in Chapter 109A*, rape is separated into five different forms: aggravated sexual abuse, plain sexual abuse, sexual abuse of a minor or ward, abusive sexual contact, and sexual abuse resulting in death. These differences define the punishment that the offender will be sentenced with, ranging from a fine to life imprisonment. As a foundation, **Section 2246** defines the term *sexual act* as the penetration between the vulva or anus and the penis; the contact between the mouth, the vulva or the anus and the penis; or the penetration of the anal or genital opening of another by a hand or finger or by any object, with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person.

In **1986**, four sections on sexual abuse were published in the official gazette. **Section 2242** on *Sexual abuse*, which was amended last in **2007** for some of its use of vocabulary, states that:

Whoever in the special maritime and territorial jurisdiction of the United States, including all prisons, institutions or facilities in which people are held in custody by direction of or pursuant to a contract or agreement with the Attorney General, knowingly causes another person to: [1] engage in a sexual act by threatening or placing them in fear, or [2] engages in a sexual act with a person if they are [a] incapable of appraising the nature of the conduct, or [b] physically incapable of declining participation in or [c] communicating unwillingness to engage in, that sexual act; or [3] attempts to do so.

Section 2241 on *Aggravated sexual abuse*, adds four clauses to the previously mentioned section, as part of the forms of the abuse:

By [1] using force against that other person; [2] threatening or placing that other person in fear that any person will be subjected to death, serious bodily injury, or kidnapping; [3] rendering a person unconscious and thereby engaging in a sexual act with that person; [4(1)] administering to a person by [a] force or threat of force, or [b] without the knowledge or permission of that person, a drug, intoxicant, or other similar substance, and thereby [4(2)] substantially impairing the ability of that other person to appraise or control conduct.

Section 2243 on *Sexual abuse of a minor or ward*, which shall be fined, imprisoned not more than fifteen years, or both, adds two clauses for those who knowingly engage in a sexual act with a [1] minor who [a] is between the age of 12 years and 16 years, and [b] is at least four years younger than the person so engaging; or a [2] ward who is [a] in official detention, and under the custodial, supervisory, or disciplinary authority of the person so engaging. In a prosecution within this section, it is a defense, which the defendant must establish by a preponderance of the evidence, that:

¹⁵ It is interesting to note that, even though the definitions of rape and its own laws vary considerably by states, in all of them the word *rape* has been modified to words such as sexual assault, sexual abuse, or sexual battery.

Regarding subsection [1], the defendant reasonably believed that the other person had attained the age of 16 years; or, regarding the whole section, that the persons engaging in the sexual act were at that time married to each other. However, the knowledge of the defendant that (1) the age of the other person engaging in the sexual act was legal; or (2) that the requisite age difference existed between the persons so engaging, are evidence which the Government need not prove.

Section 2244 on *Abusive sexual contact*, defines the punishments of those who knowingly engage in or cause sexual contact with or by another person, for cases under:

Section 2242, the accused shall be fined and/or imprisoned not more than three years; *section 2241*, the accused shall be fined and/or imprisoned not more than ten years; subsection [1] of *section 2243*, the accused shall be fined and/or imprisoned not more than two years; and subsection [2] of *section 2243*, the accused shall be fined and/or imprisoned not more than two years. In the cases involving all other sections, where one as mentioned above engages in sexual acts with another person without that person's permission shall be fined and/or imprisoned not more than two years.

Having the previous in mind, and with a fresh understanding of the federal laws on sexual abuse in the United States mentioned above, five states' legislature on the topic will be presented. In a similar form as with the Latin American countries, the laws will be extracted from *State Penal* or *Criminal Code* for each territory.

The *California State Penal Code*¹⁶, **Chapter 1**, defines rape as an act of sexual intercourse accomplished against a person's will [a] by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the person or another; [b] preventing resistance with any intoxicating or anesthetic substance, or any controlled substance, and this condition was known by the accused; [c] or when they were at the time unconscious of the nature of the act, and this is known to the accused.

The conditions for the latter subsection [c] apply for the victims who were: [A] unconscious or asleep; [B] not aware, knowing, perceiving, or cognizant of the essential characteristics of the act or [C] that the act occurred; [D] submitted under the belief that the person committing the act is someone known to the victim other than the accused, and this belief is induced by any artifice, pretense, or concealment practiced by the accused, with intent to induce the belief; [E] by threatening to retaliate in the future against the victim or any other person; or [F] by threatening to use the authority of a public official to incarcerate, arrest, or deport the victim or another, and the victim has a reasonable belief that the perpetrator is a public official.

In the *Colorado State Criminal Code*, **Section 402**¹⁷ defines sexual assault as any act where a person knowingly inflicts sexual intrusion or sexual penetration on a victim in the cases where: [a] submission is

¹⁶ Found in the *California Penal Code, Part One of Crimes and Punishments, Title 9 of Crimes against the Person involving Sexual Assault, and Crimes against Public Decency and Good Morals, Chapter 1 on Rape, Abduction, Carnal Abuse of Children, and Seduction.*

¹⁷ Found in the *Colorado Criminal Code, Part Four on Unlawful Sexual Behavior, Article 3 on Offenses Against the Person, Section 402 on Sexual Assault.*

achieved by means of sufficient consequence that can be caused; [b] the actor knows that the victim is incapable of appraising the nature of the victim's conduct; [c] the actor knows that the victim submits erroneously, believing the actor to be the victim's spouse; [d] the victim is in the custody of the law or detained in a hospital or other institution and the actor has supervisory or disciplinary authority over the victim and uses this position of authority to coerce the victim to submit; or [e] the victim is physically helpless and the actor knows the victim is physically helpless and the victim has not consented.

In the *Florida State Penal Code*, **Section 011**¹⁸, sexual battery is defined as the sexual act performed or attempted upon a person without their consent under the circumstances where: [a] the victim is physically helpless to resist; [b] the offender coerces the victim to submit by threatening to use force or violence likely to cause serious personal injury on the victim, and the victim reasonably believes that the offender has the present ability to execute the threat; [c] the offender coerces the victim to submit by threatening to retaliate against the victim, or any other person; [d] the offender, without the prior knowledge or consent of the victim, administers or has knowledge of someone else administering to the victim any intoxicating substance that mentally or physically incapacitates the victim; [e] the victim is mentally defective or physically incapacitated, and the offender has reason to believe this or has actual knowledge of this fact.

The *Code of Virginia State*, in **Section 61**¹⁹, defines rape as any sexual intercourse with a complaining witness or causing of sexual intercourse with another person of a complaining witness, whether or not his or her spouse, and such act is accomplished: [a] against the complaining witness's will, by force, threat, or intimidation of or against the complaining witness or another person; or [b] using the complaining witness's mental incapacity or physical helplessness; or [c] with a child under age 13 as the victim. A violation of this section shall be punishable, in the discretion of the court or jury, by confinement in state prison for life or any term not less than five years.

The *Criminal Code of Arizona State* classifies sexual abuse under **Section 04**²⁰ as the intentional or engaging in sexual contact with any person without the consent of that person, or if they gave consent as a minor and the defendant was in a position of trust. Moreover, with an increased punishment, sexual assault is defined as the intentional or knowingly engaging in sexual intercourse or oral sexual contact: [a] with any person without consent of such person; [b] when the sexual assault involved the intentional or knowing administration of flunitrazepam, gamma-hydroxybutyrate or ketamine hydrochloride without the victim's knowledge; or [c] if the sexual assault involved the intentional or knowing infliction of serious physical injury, under Section 06.

These state-specific laws mainly follow the definition of rape given by the *FBI* presented above; however, they contain the same flaws. Hence, on the 8th of March 2021, a bipartisan bill to renew and improve the

¹⁸ Found in the *Florida Penal Code*, Title XLVI on Crimes, Chapter 794, Section 011 on Sexual Battery.

¹⁹ Found in the *Code of Virginia*, Title 18.2 on Crimes and Offences Generally, Article 7 on Criminal Sexual Assault, Section 61 on Rape.

²⁰ Found in the *Criminal Code of Arizona* (Title 13), Chapter 14 on Sexual Offences, Sections 04 and 06.

Violence Against Women Reauthorization Act was introduced in the *US House of Representatives* by Hon. Sheila Jackson Lee, Hon. Brian Fitzpatrick, and Hon. Jerrold Nadler. This bill builds upon **Act 1.585**, which passed in the *House of Representatives* with bipartisan support in 2019. The improved **VAWA of 2021** reflects the input of newly defined and understood violence against women, and many of the priorities presented by the domestic and sexual assault movements. The bill takes a holistic approach, addressing the complex realities of survivors' lives and maintaining established protections for them, and addressing persistent legal technicalities in *State and Federal Penal and Criminal Codes*.

EUROPEAN UNION

Even regarding different state entities, the laws within the *European Union* share many common traits within their definitions and punishments, and vary slightly in sentencing statistics (bra, 2020). Thus, the legislature of five countries, chosen from all state members, is presented directly from their *Criminal or Penal Code*. Although this primary source approach was taken, victims of sexual assault, or others concerned, can easily visit the website of the *European Institute for Gender Equity* to search for the legal definitions of any violence conducted against women, their respective punishments, and the specific laws that contain them.

In the *Italian Rocco Code*, **Article 609bis** of 1996²¹ establishes sexual violence as anyone who, with violence or threats or through abuse of authority, [a] forces someone to perform or undergo sexual acts, be it by [aa] abusing a person physically and mentally inferior at the time of the crime; or [ab] misleading the injured person with a false identity or passing as someone else. The punishment is dependent on the circumstances of the crime, but it ranges from five to ten years.

However, in **Article 609tre** the penalty increases to six to twelve years in the cases where: [a] weapons, alcoholic, narcotic substances, or other substances seriously damaging to the health of the injured person were used; [b] by a person who is misrepresented or who pretends to be a public official or a person in charge of public service; [c] on a person in any case subject to limitations on personal freedom; [d] against a person who has not completed the age of sixteen of which the culprit is the ascendant, the parent even adoptive, or guardian; [e] towards a person who has not reached the age of fourteen.

The *Organic Law* of 1995, **Article 180**²² states that sexual assault consists of vaginal, anal, or oral penetration, and the insertion of body parts or objects into either of the former two orifices, with imprisonment from six to twelve years, in the cases where: [a] the violence or intimidation exercised is of a particularly degrading or humiliating nature; [b] the acts are committed by the joint action of two or more people; [c] the acts are committed against a person who is in a situation of special vulnerability due to his age, illness, disability or for any other circumstance; [d] the person responsible had prevailed in a

²¹ Found in the *Italian Penal Code*, Title XII on the *Crime against the Person*, Chapter III on the *Crime against Individual Liberty*, Session II on *Crimes against Personal Liberty*.

²² Found in the *Spanish Penal Code*, Title VIII on *Crimes against Sexual Liberty and Indemnity*, Chapter I on *Sexual Aggressions* and Chapter II on *Sexual Abuse*.

situation of coexistence or a relationship of superiority or kinship, by being ascendant, or brother, by nature or adoption, or related, with the victim; or [e] weapons or other equally dangerous means capable of causing death or any injuries are used.

Article 181 states that whoever performs acts that violate the freedom or sexual indemnity of another person without violence or intimidation, but without consent, will be fined or punished with four to ten years. Therefore, non-consensual sexual abuses are considered as crimes in the cases where it is [A] carried out on people deprived of their senses or whose mental disorder is abused; [B] committed with drugs or any other natural or chemical substance; or [C] the consent is obtained by making use of authority or influence to coerce the victim.

In the *Greek Penal Code, Law 4619 of 2019*²³, in **Article 336** and **338**, whoever forces another person to take part or tolerate sexual intercourse, by penetration or actions of the same gravity, is sentenced to at least ten years imprisonment under the crime of sexual violence, in the cases where: [a] the victim did not consent to the act; [b] physical violence or threat of serious and imminent danger to life or physical integrity was used; [c] it was committed by two or more perpetrators that worked together; or [d] mental or physical inability of another person or their incapacity to resist was taken advantage of.

In the *Swedish Criminal Code, Section 1 of 2018*²⁴, a person is guilty of rape when performing sexual intercourse with a person who is not participating voluntarily and is sentenced to imprisonment for at least two and at most six years, in the cases where: [a] consent is given to whether voluntariness, considering if it was expressed by word, deed or in some other way; [b] by assault or otherwise with violence or by the threat of a criminal act; [c] the perpetrator has improperly exploited the fact that a person is in a helpless state, owing to [ca] unconsciousness, [cb] sleep, [cc] intoxication or other influence of drugs, [cd] illness, [ce] bodily injury, or [cf] mental impairment; or [d] the person is induced to participate by seriously abusing their position of dependence on the perpetrator.

In the *Maltin Criminal Code, Articles 198*²⁵, whosoever shall, by violence, have carnal knowledge of a person of either sex, is, on conviction, liable to imprisonment for a term from three to nine years, with or without solitary confinement, in the cases where: [a] the victim was unable to resist due to physical or mental infirmity; [b] the offender took advantage of his capacity of public officer; [c] the offender is a remunerated servant of the injured party; [d] it is committed by any ascendant, tutor, or institutor; [e] it is committed on any prisoner by the person charged with their custody or conveyance; [f] the offender has been aided by one or more persons; [g] the offender has made use of any arms proper; [h] the victim, or any other person who has come to their assistance, has sustained any bodily harm; [i] it is committed on a person related to the perpetrator by consanguinity or affinity up to the third degree inclusively; or [j] the offence was committed with the threat of a weapon.

²³ Found in the new Greek Penal Code, Second Book Special Edition, Nineteenth Chapter on Crimes against sexual freedom and crimes of economic exploitation of sexual life.

²⁴ Found in the Swedish Criminal Code, Chapter 6 on Sexual Offences, Section 1.

²⁵ Found in the Maltin Criminal Code (Chapter 9), Title VII of Crimes Affecting the Good Order of Families, Sub-title II of Sexual Offences.

The European Union utilizes legal characteristics that are based mainly on the type of force, either physical or psychological, that were used in the perpetration of the criminal offence. Hence, the lack of reporting in these countries is not related to the legal discrepancies or alternances as it happens in the Americas, but rather the socially accepted mythical nature²⁶ given to the crime of rape (Keneally, 2018; Nagoski, 2015). In both Americas, although most countries have a detailed description of what criminal sexual abuse is, the loopholes that can be easily found within the use of language in the laws, both regionally and nationally, allow offenders to evade any punishment different to an improbable fine (Lopez, 2016). The European Union does not differ much from that, given that although it does have clearer laws and punishments for rape, it has a similar amount of under-reporting, and practices the same victimizing prejudices when it is reported, hindering criminal conviction (Loofbourow, 2019; bra, 2020).

Along with the global phenomenon of under-reporting, justice systems tend to disregard sexual assaults of any type as punishable felonies or as grave enough offences for imprisonment, usually excluding those ending in homicide as they are seen as crimes of a higher legal importance (Ivory, 2017; Keneally, 2018). There have been some cases of sexual assault, in the last decade, that became nationally or globally acknowledged by either the *press* or *social media*. These range from Weinstein's harassment of Hollywood actresses with the use of intimidation strengthened by his authority over them, to the *collective rape of a 13-year-old indigenous minor* by a group of soldiers from the Colombian National Army.

Figure v. Harvey Weinstein charged with rape following New York arrest.



Source: BBC News' Harvey Weinstein was led out in handcuffs (2018), by Reuters.

²⁶ The Merriam-Webster dictionary defines a myth as an unfounded or false notion popularized as a belief or tradition. Rape's *mythical nature* refers to the notions that undermine its importance with an immediate mystification, by distrusting a victim.

For the first case (*Figure v*), some of the sexual assault reports investigated by the Police, which dated back to the 1990s, concluded in the 23-years imprisonment of Harvey Weinstein in March 2020 (Ransom, 2020). The effects that preceded this incident had a great impact on the men in power and the women being harassed by them, along with others who fell under the same category of survivors with the *Weinstein effect* or the *#MeToo* movement (Datla, 2020). For the second, in mid-June of the year 2020, after the National Military proclaimed that they should not be seen as soldiers anymore, “seven soldiers acknowledged guilt for the harassment” and were imprisoned, following Attorney General Francisco Barbosa’s statement (Miranda, 2020). For a short period, the aftermath of the news shook the core of Colombian society but rapidly faded away as another social problem arose (El Tiempo Justicia, 2020).

Nevertheless, the culture around those criminal acts has not been revised by the institutions that strengthen them, given that they believe it does not need to be resolved, due to their lack of legal importance (Amnesty International, 2021). These situations are illustrated and materialized in the case of Marie Adler, an 18-year-old girl who survived through unfortunate events during the investigation of her rape.

CASE STUDY

Materialization of the theory: an Unbelievable False Report.

To believe something takes not only the need to understand or hear about it but rather a requirement to witness the facts as they develop through time (Sterzer, 2010). That is why it is helpful, in understanding *rape culture* theory, to analyze a materialization of it. Therefore, an investigation on the true crime story behind Netflix limited series *Unbelievable* is conducted (*Figure vi*). The events illustrated in the episodes are based on the 2015 news article *An Unbelievable Story of Rape* by Miller and Armstrong, and the 2018 book *A False Report*, written by the same authors in more detail.

The plot follows the dramatization of a series of rapes in Washington State and Colorado that took place between 2008 and 2011. Through the episodes, there are two perspectives and timeline of events depicted: the first shows Marie Adler, an 18-year-old girl who was raped in 2008, and the second follows two female detectives, Karen Duvall and Grace Rasmussen, looking for a serial rapist. While Adler, in 2008, tries to go through her day to day after living the traumatic event of being raped; in 2011, the detectives investigate a rape linked to women’s reports of rape that were never taken as trustworthy. This is explained by Miller and Armstrong (2015) as being almost routinary given that in rape cases, “the credibility of the victim [is] often on trial as much as the guilt of the accused.”

Figure vi. Promotional poster for Netflix limited series *Unbelievable*.



Source: Netflix limited series *Unbelievable* (2019), directed by Susannah Grant.

With Adler, the consequences of being attacked both by the assailant and the police²⁷ are presented (*Unbelievable*, 2019). Before any specification on what the story is about or how it will develop, the

²⁷ In the story, both dramatized and factual, it is clearly put into words how the rape was only a traumatic event that unleashed the harassment perpetuated by the police, the media and her close friends and family (Miller and Armstrong, 2018).

character of Marie is introduced with her recounting of her rape to a male police officer in his late forties. Even though reporting the crime was the first scene shown, the uncomfortable particularities of the act are repeated throughout the first episode to different characters that appear during the introduction of the story. To report her rape, Marie was required to repeat the traumatic event she had been through only hours before, in a detailed manner, while she was still processing it. Then, she had to attend many clinical examinations on her body, especially her genitalia, which although a logical requirement, was still difficult for her both physically and emotionally.

After going through all those processes, she needed to prove that her attack was real to the same investigators to whom she pleaded for help, and to her friends whom she needed for support, given that she held an abusive background and her report encountered '*elevated minor inconsistencies*' (Miller and Armstrong, 2015). Marie's abusive childhood was principal in the undermining of her claims, given that the police officers, her foster families, and friends believed that she was not trustworthy and was ultimately looking for attention. A commonly used argument made against the veracity of the victim's pleas is that "there is a status to being a victim" and the rape is therefore manufactured; something which applied to Adler's situation, as she was thought to desperately need the spotlight (Unbelievable, 2019, episode 4).

Those claims and experiencing the constant disbelief of her childhood foster parents, her emotional response was to withdraw her rape report, stating that it was a lie to get the attention that she never had. The woman on whom the series was based describes this as a moment of freedom, where "flipping the switch was a relief [and most importantly,] it would let her leave" (Miller and Armstrong, 2015). After withdrawing her report, she endured a long conversation with her housing friends and supervisors to explain the reasons she had lied about her rape, while they actively looked down on her (*Figure vii*). Those events lead her to an attempted suicide, where she was rescued by her best friend, who requested not to be contacted again. Thus, due to her decision to abnegate her rape report, looking to put the incident '*behind her*', she lost her housing, friendships, job, close relationship with past foster parents, and even her privacy (Miller and Armstrong, 2018).

Along with that, she was charged²⁸ with filing a false report by the same police station that had taken an oath to protect her, for which she was sentenced to pay a fine of 500 dollars, which she did not possess at the time, and have mandatory meetings with a therapist and a probation officer, which would deter her recovery from those traumatic events. The culmination of her ordeal comes in 2011 with her victory over a lawsuit against the city for '*ruining her life*', after her rapist is convicted and her story corroborated, which gave her sufficient money to start a new life elsewhere, permitting her to finally start to heal (Unbelievable, 2019, episode 8).

²⁸ "In practice, many police departments will pursue charges against women only in extreme circumstances — say, in a highly public case where a suspect's reputation has suffered, or where the police have expended considerable investigative resources. This reluctance stems from the belief that in rape cases, the biggest problem is not false reporting, but no reporting" (Miller and Armstrong, 2015).

Figure vii. Portrayal of Marie Adler by Kaitlyn Dever.



Source: Netflix limited series *Unbelievable* (2019), directed by Susannah Grant.

Since the events that elapsed between 2008 and 2011, although many changes have been made to the process of rape reports, and the consequent protection of sexually assaulted women, no progress can be certain given that “there are no firm statistics on how often police arrest women for making false rape reports, nor on how often prosecutors take such cases to court. Nobody collects such data” (Miller and Armstrong, 2015). Nonetheless, the popularization of the faults within the Justice System publicly highlighted the lack of investigative objectivity. “The International Association of Chiefs of Police and the FBI stress the need for a thorough investigation before discounting a report of rape. [Therefore,] cops must work as hard to prove a falsehood as they do to prove a truth” (Miller and Armstrong, 2015).

The difference between the case in 2008 and 2011 could be dependent on many factors: might be that the second time, the investigators were female; that the Justice System acquired better and more multidisciplinary training for their detectives; or other undisclosed reasons. Thus, from the governmental standpoint, detective Duvall arrives at the scene of Amber Stevenson’s rape, a 22-year-old woman living in Golden County, Colorado. Through the description of the events that the new victim tells the detective, who paces the conversation in a respectful and understanding manner, it is shown, through vague details, that this rapist shares characteristics with Adler’s attacker. However, the connection between both cases is not found by the authorities until the conclusion of the police investigation.

In contrast to the 2008 male officers’ indifference, striving detective Duvall starts finding similarities with a nearby case, joining the investigation with Westminster detective Grace Rasmussen. The scale of their investigation becomes larger with every new evidence that is found, consequently culminating in a joint

task force with the FBI, due to the interstate series of crimes. Notwithstanding their superficial progress and great quantity of unflinching proof, as is stated in the sixth episode, there is a pattern to investigative work around sexual assault reports: “there’s a rape, there’s a rush of police work, new evidence, new leads. And then, one by one, they dry up” (Unbelievable, 2019). In the 2018 book, Miller and Armstrong quote an officially distributed guide that advised:

Investigators [to] not assume that a **true** [or believable] victim will be hysterical rather than calm; able to show clear signs of physical injury; and certain of every detail. [In fact, as may happen after a traumatic event,] victims confuse fine points or even recant. Nor should police get lost in stereotypes — believing, for example, that an adult victim will be more believable than an adolescent.

Moreover, contrasting more with treatment that Adler received in the Lynwood Police Department:

Police officers should not interrogate victims or threaten to use a polygraph device. Lie-detector tests are especially unreliable with people who have been traumatized and can destroy the victim’s trust in law enforcement. Many states bar police from using them with rape victims (Miller and Armstrong, 2015).

Figure viii. Portrayal of Karen Duvall (left) and Grace Rasmussen (right) by Merritt Weber and Toni Colette.



Source: Netflix limited series Unbelievable (2019), directed by Susannah Grant.

Although important to the case, the detectives’ story does not show *rape culture* first-hand, but from the perspective of two female detectives attempting to improve women’s physical psychological safety while witnessing a *culture of silence*, ignorance, and disinterest (Figure viii). Experiencing the tolerance around the colossal amount of violence against women through the stories of other women, even inside police

stations, one of Rasmussen's lines in the fifth episode that holds the most emotional meaning is '*where is the outrage?*' (Unbelievable, 2019). Duvall and Rasmussen's combined stories conclude with the apprehension of the rapist, Christopher McCarthy, an honorably discharged United States Military veteran, who portrayed real serial rapist Mark Patrick O'Leary.

After conducting interviews posterior to his sentencing, authorities, along with the public, determined that this man was mentally unstable and unaware after claiming that he realized Marie was not his type while "peeping into her bedroom, [but he had] spent so much time hunting [...] that he conditioned himself to incorporate as many women as possible, young or old, into his fantasies [so] his work wouldn't be wasted" (Miller and Armstrong, 2015). Hunting, for O'Leary, during his time perpetuating the crimes, was the search that existed before the rape. For him, the act of violently sexually assaulting a woman in her own house was denominated as the rape theatre. In statements, he shares that "deviant fantasies had gripped him since he was a kid, way back to when he had seen Jabba the Hutt enslave and chain Princess Leia. [Then, he would ask himself,] where do you go when you're 5 and already thinking about handcuffs?" (Miller and Armstrong, 2015).

The serial rapist started breaking into houses at the age of eight, and without anyone stopping him, he continued doing it until his late twenties, when he raped the first woman (Unbelievable, 2019). Following the events that came to light a couple of years after the imprisonment of O'Leary, multiple studies were developed on how police stations handled rape or sexual assault charges and victims. In a report on Marie Adler's case, which as Miller and Armstrong (2015) state, was not made public before the publishing of their article four years after the events, sex crimes supervisor with the Snohomish County Sheriff's Office Sergeant Gregg Rinta "wrote that what happened was *nothing short of the victim being coerced into admitting that she had lied about the rape*".

Indeed, Rinta fails to find a justification for the '*coercive, cruel, and unbelievably unprofessional*' approaches that the detectives used when threatening Marie with a jail sentence and the consequent withdrawal of the housing assistance that the government had given her as a foster child (Miller and Armstrong, 2015). It is important to become aware of the effects that the victims of the serial rapist had on the Lynnwood Police Department. Miller and Armstrong (2015) denote that after the report was made on the treatment of criminal cases involving rape, "despite the reviews' tough language, no one in the Lynnwood Police Department was disciplined". This situation demonstrates the damage that *rape culture* encompasses.

DISCUSSION

The roles that men and women practice in society, throughout their entire lives, depend on many factors such as class, ethnicity, age, skin color, and beauty, to not mention all. Despite that, the social and cultural dependences, and interrelations between persons, which in consequence form their interpersonal relationships, are based on an institutionalized hierarchy. Although not an inherently unjust system, the *status quo* repeatedly emerges to structure a culture where men and women are understood from

different perspectives, even in the same conditions²⁹. Hence, the relations of power between men and women remain parallel to how they were in past times: a hierarchy that descends from men to women (Gresham and Lopez, 1996).

The phenomenon of *rape culture* is only one of the aspects that reflect the inequality experienced by women from the beginning to the end of their social lives. Especially as seen in *Unbelievable*, the individualization and unrelation of violent events towards women maintain social relations as they have been: unaware of the cultural problems it contains. Although countries, as shown by their legislatures, have defined criminal convictions against sexual violence performed against women, it is not considered an institutionalized problem but rather an unfortunate consequence of criminal behavior. These beliefs strengthen *rape culture* from within, affirming its use of the concept of culture, and beneficiate the same men that have historically been in power, be it formally as authorities or informally as husbands or brothers.

Has rape become cultural?

The answer is subjective. A woman who has never experienced sexual violence, or a man that has never performed any kind of harassment, would determine that it has not, but rather an exaggeration accorded by dependent women to defend themselves against rejection or detriment in any kind of relationship with a man. However, a survivor and an assailant may have similar opinions, although from different perspectives and awareness stances. The woman who was sexually assaulted believes *rape culture* to be a set of norms within institutions that give permission to the men who commit those crimes to come out unscathed, while the man would see it as the gratuitous aid that acquitted or dismissed their offences against a woman's sexual integrity.

The stance taken to evaluate a problem or answer a question differentiates the results. In society, as the interactions in sociopolitical relations have traditionally been ruled by men, it was and is still made for men. Thus, according to its pre-existing gender segregation, women need to adapt to men's behaviors if they wish to participate. Therefore, even when a woman is sexually harassed, she prefers to be silent than report the act due to the fear she has of losing men's respect or understanding, or in other terms, her position. This belief strengthens the initial problem that is gender inequality in social interrelation, where men believe they are right, and women stay silent. Taking the case of Harvey Weinstein as an example, the artists under his authority preferred to endure the repeated harassments than report them, because of their certainty that they would be the only ones who would be negatively affected.

Thus, the problem is not based on a lack of information on rape crimes, but on the cultural unwillingness to blame men (Loofbourow, 2019). Even though the laws in the three continents are much stricter than they would seem, sexual violence is not taken as seriously as it should (Nagoski, 2015). Thus, an objective answer is difficult to reach, due to the close link that *rape culture* has with the emotions that women have

²⁹ The term '*conditions*' comes from an interdisciplinary literature where race, age, height, beauty standards, nationalities and more physical or psychological characteristics or behaviors affect the quality and quantity of years that any person lives.

felt and shared on social media and traditional media whenever their cases are sentenced in favor of the offender, or women who never got the chance to even report. From its root, a culture consists of the characteristics of a specific group of people, from their social behavior to their beliefs and institutions. Therefore, within the information gathered in the results, the *culture* of *rape* encompasses the way that sexual violence victims are treated by their juniors, equals, or superiors; what type of woman they are perceived as after their assault; and their incidence in press media or social media.

Guilty until proven innocent

The presumption of innocence displayed by authorities and institutions when it comes to the offenders in rape reports carries invalidity towards justice by turning the blame unto the victim. As it is common knowledge, be it by social media or a type of oral tradition, that rape survivors do not frequently receive legal justice, women prefer to get over their own rape by themselves instead of putting their integrities through a public social evaluation. Hence, the legislation that supports those norms has *innocence* and *culpability* in the same category, where *'innocent until proven guilty'* does not rule the spectrum of opinions or choices in which investigations take place. However, the opposite is more plausible, with the victims of a rape case entering the legal arena with a target that turns the blame on them. On those grounds, the reason behind under-reporting becomes clearer: when the police investigation does more damage than good, even after experiencing sexual assault, a woman would choose not to report.

Therefore, *Unbelievable* can be said to show a reflection of *rape culture* in contemporary Western society. One materialization of the *culture* in the series is evidenced by her previous foster mother, Judith, who actively contacted the police officers in charge to convince them that Marie Adler had not been raped. Although she was persistent on the fact that Marie was raised in abusive conditions, that she wanted attention and her demeanor was *not hysterical*, she did not have any proof to support her claims. In episode 1, sitting with detective Parker, Judith knew that her statement would affect Marie's report when she started the conversation with: *'would it be okay if this stayed between us? I'd rather it be in confidence. I don't want it getting back to Marie'*. Her knowledge of the effects that her conversation with the detective could have on Marie was illustrated, although possibly not to the extent to which it occurred.

Her argument can be organized into three categories: *the incidence of Marie's background*, *her lack of visible emotions*, and *the 'weird' details in her report*. From an internalized sexism, Judith convinces herself that she is helping Marie in some way by giving some *'context'* to detective Roberts before he continues to investigate Marie's rape report. This is evidenced by the way she starts her argument, by saying that she loves Marie and understands her, but that she "makes for a very complicated young woman" (Unbelievable, 2019, episode 1). Marie's foster mother makes it a point to share that she has experience with teenagers due to her work in a high school, so she knows and understands the hardships of adolescence from within.

In respect to *the incidence of Marie's background*, Judith explains the difficult upbringing that Marie had, moving through many foster homes, some of which were abusive. Thus, she proposes to Roberts that Marie wanted the attention that her families never gave her. Moreover, drawing from more recent times,

she recalls how Marie moved out of her house six months before the rape report when she turned eighteen and was still getting accustomed to being independent. Hence, she had “been a little needier. More acting out [and] overly sensitive, overly contrary” (Unbelievable, 2019, episode 1). For anyone, she claims, *‘change is stressful’*, and therefore, for a person with Marie’s background, it is not unreasonable to believe that she would do anything for attention.

Regarding *Marie’s lack of visible* emotions, she contextualizes Roberts by sharing her personal experience with sexual assault during her twenties, to highlight the informed foundation of her argument. Judith explains that when she got the call from Marie about the events, she felt overwhelmed, angered, and frustrated, and rushed “straight over there, right away, and... [...] The whole thing just felt... off” (Unbelievable, 2019, episode 1). Even though not condemning evidence, the emotions and behaviors displayed by rape victims that she thought appropriate for the situation, were not portrayed by Marie when she saw her after the occurrence. Hence, the only answer she can give to Roberts’ question about why she thought it was *‘off’* is that it was “just not right: how she was acting and reacting” (Unbelievable, 2019, episode 1).

Lastly, about *the ‘weird’ details in Marie’s report*, she states the improbability she finds in the evidence found in the scene of the crime. Judith describes that the alleged perpetrator “brought a blindfold but nothing to tie her”, and hence used what was at his disposal, but “would a shoelace even hold her?” Furthermore, she suggests a theory about the picture that Marie said the man took of her stomach and chest when she was tied: “well, just hypothetically, [Judith says,] say she’s gotten herself into a situation with some boy. And there is a compromising picture out there, or she thinks there might be” (Unbelievable, 2019, episode 1). The entire argument, even if not considered by detective Roberts as useful, gives the investigation insight into what Marie’s families think her capable of, which does ultimately affect their perceptions of her.

Then, she finishes the conversation by convincing herself and Roberts that she has not undermined Marie (*Figure ix*). When Roberts asks her about her doubts, Judith responds: “I am not drawing any conclusions. I just... I woke up this morning, with all this stuff spinning around in my head, and I thought you guys should have the whole picture. The context. [I don’t have doubts about Marie’s story,] I just thought since I had this... feeling... maybe I had an obligation to share it with you” (Unbelievable, 2019, episode 1).

The portrayal of this scene by Elizabeth Marvel illustrates *rape culture* from the perspective of a woman that has appropriated male prejudices. Especially in her last statement, where she turns the blame on Marie by theorizing that the rape was a fabrication to get attention and avoid critics for a compromising photograph taken of her. In the example led by Judith, the legislatures of the countries, states, or even counties, do not have any importance on the way that Marie’s report is being affected by outside opinions. Even though there are laws pertaining to sexual violence in Colorado, that protect and uphold justice for victims, rape victims do not get the luxury of a fair trial or criminal investigation. Thus, even when an authority, represented by detective Roberts in this scene, wishes to assist a rape victim from an objective

perspective; *rape culture*, interpreted by Judith, deters justice through preconceived notions that society has formed around rape crimes.

Figure ix. Judith, one of Marie's foster mothers, in episode 1 minute 32:25.



Source: Netflix limited series *Unbelievable* (2019), directed by Susannah Grant.

Masculine femininity

Social problems and necessities are undertaken particularly from the heterosexual man's perception of reality, or the *male gaze*. This idea is partially attributed to Sartre (1943), who described *le regard* as the fundamental relation between human beings, where individuals find themselves when introduced to the gaze of another. Moreover, the act of *objectification* is an inherent aspect of *le regard* due to its foundation in *the other*, who is part of a society. Therefore, the social roles determined by society for society claims that '*a person who calls for money in the streets is a beggar*'. Hence, this *object-ness* creates pillars upon which human connections are based, given the organization and categorization of all beings (Figure x).

Then, in the same way that an individual is objectified, social pressures and norms compel him to self-identify as an object, depriving him of the freedom of a *being-for-itself* to become a representation of something, or *presence in person*. Furthermore, in *Visual Pleasure and Narrative Cinema*, Laura Mulvey (1975) introduces the *male gaze* per se, referring to the aesthetic pleasure that the male viewer draws from a gender-based social and political power inequality. Hence, the lack of masculinity that the woman externalizes induces psychological unpleasure in a man, caused by his fear of losing their masculinity, or femininity in itself. Therefore, to appease and satisfy the *male gaze*, women are voided of their personal agency to be perceived only as the *sexual other*: a subject opposite to man that is passive, and hyper-sexualized as the '*collection of aesthetically ideal female body parts*'.

Figure x. Gender roles depicted in the music video of *Little Game* by Benny.



Source: Benny's *Little Game* music video (2014), directed by Miss Benny.

Moreover, even without needing or wanting it, men hyper-sexualize all related to femininity to prove their masculinity, usually to other men, and heighten their social status. For example, the use of the terms *schoolboy* and *schoolgirl* carries a different connotation. Both came from the same concept of the person who goes to school, who usually must dress in school uniforms. Thenceforth, gender roles divided the *school person* into girls and boys and performed the level of sexualization respective to each. While a *schoolboy* is a boy who attends a school; a *schoolgirl* can be either a girl dressed in a short plaid skirt and a slightly unbuttoned white shirt, with pigtails on her head, or a girl who goes to a school (Figure xi). Due to the *male gaze*, the use of the term *schoolgirl* with a sexual connotation is higher than that of *schoolboy*.

Therefore, given that society is ruled by the *male gaze*, masculinity plays a major role in *rape culture*, allowing the repeated social disregard towards the scope and influence of sexual violence, where the level of discomfort brought to men defines its importance. Drawing from that, women figured that to achieve the power to free expression, they must appropriate masculinity to enjoy the same privileges as men and performing femininity would render them desirable. However, in a social interaction where men and women obtain the same opportunities by sharing their qualities, they accordingly possess the same defects. Thus, the damaging traits of masculinity encompassed within the *male gaze* and *rape culture* become as much part of the female and male perspective of women and femininity. A common occurrence of this takes place when women, in fear of being labeled hysterical or emotional, allow the *male gaze* to stop them from supporting the causes and social movements that exist for their own benefit.

Figure xi. Infantilization depicted with Britney Spears in the '...Baby One More Time' music video.



Source: Jive Records' ...Baby One More Time (1998), directed by Max Martins.

These attitudes are easily exemplified in the sexual liberation movement, which began with the furthering of relations between men and women towards an equality that could be shared in intimate, political, economic, and social relations. Hence, women adopted masculine characteristics with the objective of participating in society and exaggerated their feminine attributes men publicly fantasized about. Nevertheless, given that adaptation women undertook, the goal of the movement deviated towards a hyper-sexualization, instead of a free sexual agency. This can be evidenced in the *hookup culture*, where *enthusiastic consent* does not matter in the decision to engage or not in sexual acts, but rather what the interaction will personally provide. Thus, even with the intention of equality, the *male gaze* transformed these movements into the hyper-sexualization of women by both men and women.

Furthermore, women cater to men's interests and topics to not be criticized by them, which means the avoidance of female-centric themes, because, as Marjorie (2020) states: "we have seen it happen to other people already, why would I risk being labeled with such a thing?" Hence, society bases "what is right off of what the majority of men think", and therefore, an act by a man does not carry the same meaning as an act by a woman (Marjorie, 2020). A kind act by a man, through the *male gaze*, might be perceived as a favor that must be given back; while by a woman, it would be seen far from manipulation but rather as love and care. Thus, the *male gaze* determines how each gender perceives the other as well as themselves.

This can be visually evidenced in films, where a woman who is going through a difficult time, labeled as a *sad woman*, is depicted as beautiful and sexy (Figure xii).

Figure xii. Portrayal of Beth Harmon by Anya Taylor-Joy in Netflix miniseries *The Queen's Gambit*.



Source: Netflix miniseries *The Queen's Gambit* (2020), directed by Scott Frank.

The Leviathan is a Man

Due to the importance of social interaction in the existence of *rape culture*, the foundation of society is primordial. Thus, drawing from the literature that has been theorized, Hobbes' social contract stands out. His theory consisted of a state that would rule all, *The Leviathan*, who would be subject to its people's public opinion, either favor or critics. In this state entity, the government and the citizens had predetermined roles with obligations and rights, and their violations would be proportionally punished. However, this was developed in a context where a citizen had the *sine qua non* requirement of being a male. Hence, Hobbes' works on the social contract do not explicitly exclude women, as it was a truth universally acknowledged that they were not the same as men (Figure xiii). Therefore, in addition to the corruptions of power that were experienced throughout history, women were not initially even considered as affected individuals in society.

Figure xiii. Frontispiece of *The Leviathan* by Abraham Boss.



Source: Thomas Hobbes' *Leviathan* (1651), drawn by Abraham Boss with Hobbes' assistance.

Reporting rape

There is a theory in the international relations field which proposes that governments use foreign conflict to distract their citizens from the social problems that are being experienced. The logic of this tool is that the creation of the common enemy that must be taken down, which is of high importance, overshadows smaller domestic problems such as economic depression or social inequality. Hence, it consists of the intentional manipulation of opinions and perceptions, mainly through the media, to turn the public's opinion and approval rates to the government's favor. A similar tool is used in the institutionalized *rape culture*. From the moment a sexual assault report is submitted, there is an attempt to relieve the case of its importance by its minor inconsistencies, the background of the victim, or the supposed range of emotions the victim should express.

Thus, the *diversionary war* theory is performed in the opposite direction. The victim reports a rape to the authorities and, instead of investigating the guilt of the rapist, they blame the victim with her past mistakes, her manner of dressing, the words she uses, whom she communicates with, and any other unrelated and unimportant detail about her. Moreover, her lack of details or coherence, or the visibility of her emotions, derail the investigation towards her, only as an individual with faults, rather than a woman who was raped. Furthermore, having internalized the *male gaze* that permeates into femininity, some women who have experienced sexual assault convince themselves that the attack was their own fault. Hence, with the knowledge of both being a probable possibility, victims decide to not report in fear of losing more than they could ever achieve (*Figure xiv*).

Figure xiv. "I know I'm supposed to say that, if I had to do it over, I wouldn't lie. But the truth is, I would lie earlier and better".



Source: Netflix limited series *Unbelievable* (2019), directed by Susannah Grant.

CONCLUSIONS

Within an unequal environment in which sexual violence against women is normalized and excused, the ideas, customs, and behaviors of society reflect *rape culture*. The use of misogynistic language and the glamorization of sexual violence allow society to disregard women as equal beings to men. Hence, no matter their differences, *rape culture* degrades women as a gender and limits their behavior in general. In other words, girls and women live in fear of experiencing rape, not only because of the traumatic event, but what it does to the personal well-being, relationships, and reputation; something which men do not experience. Furthermore, *rape culture* functions as "a powerful means by which the whole female population is held in a subordinate position to the whole male population, [in which a cycle of fear towards a plausibility is nurtured,] even though many men don't rape, and many women are never victims of rape" (Marshall University, 2021).

However, the technological development that occurred in the 21st century forced the blind eye of the western world to stare directly at many socially and culturally harmful behaviors, such as *rape culture*. With *Unbelievable*, highlighted characteristics of *rape culture* such as *victim-blaming* are presented, given that the police were more interested in the way that the victim had texted her friend after being raped or the reason that a picture was taken during the offence, instead of the factual happenings. Although the

trivialization of her rape report was not obvious to anyone other than Marie, it was incrementally evidenced to her family by the lack of answers that resulted from the police investigation.

That type of attitude in the face of rape with Marie Adler's case can be reflected in sexism-based microaggressions such as sexually degrading jokes, unwarranted gendered violence in fictional works, the sexualization of dominant relationships, and the tolerance towards sexual harassment. Therefore, although not a panacea, acknowledging sexual violence in public arenas such as social media may boost civilization one step closer to promoting potential studies to pursue solutions. It is necessary to change several social attitudes such as the use of language that trivialize rape or equate women to objects, towards the support and aid for women who have claimed to be raped, no matter their background. Within intimate relations, the most important fact to remember is that consent cannot be assumed. Society must move together towards an *unsexist* and *un-misogynistic* environment where women and men are perceived and treated as equals. Thus, the logical order framed by society must transform from teaching women to avoid being raped, to teaching men not to rape.

RECOMMENDATIONS

This thesis is a bridge over a rough path, a way to promote awareness about rape culture, a reality that has been avoided and normalized by society. As it has been studied, even though there are plenty of laws to deter and punish sexual violence, the application of those is statically nearly inexistent. Therefore, education as a tool becomes of higher importance in the development of a conscious opinion about the phenomenon of rape culture. The dangers that it encompasses must be highlighted to the equilibrium of society due to the collective power that it possesses.

For the 2012 International Day for the Elimination of Violence against Women, *Ni Putes Ni Soumises Association*, a french feminist group, joined with French advertising agency *Babinet, Erra, and Tong Cuong (BETC)* to release a gender violence prevention campaign that used ads to describe three violence against women. The design followed Pantone Color's scheme, in which each image has the color name (i.e., *Rape red*), the source (i.e., *Christina N. 1980-2012*), and the illustration (ie. *Photograph taken of the woman's body*). Three cards were shared: *rape red*, *grave green*, and *booze brown*, describing three different colors that a bruise can take by their cause (*Figure xv*). Although an impactful and memorable idea, it did not become either globally or domestically known, and its reach was very small. This was because in 2012, social media was not very pertinent in daily life as it is now, and thus, its content did not transform into common conversational topics.

Figure xv. Rape red, Grave green, and Booze brown.



Source: *Ni Putes Ni Soumises* (2012) prevention campaign.

A campaign that exemplifies the harnessing of technology could be the *ALS Ice Bucket Challenge*, which was proven to be effective in raising awareness at an international level. Taking place in 2014, the *ALS Association* presents its evolution towards a viral phenomenon with a high quantity of diverse participants. The challenge involved the filming of a *previously nominated* person having a bucket of ice water poured on their head, the posting of the video on social media, and the consequent nomination of new participants. The idea of the challenge was to raise awareness for motor neuron disease (or amyotrophic lateral sclerosis) with the use of social media and encourage participation by determining the forfeit as a financial donation. During the height of the challenge, many American celebrities uploaded their own videos and donated a charitable amount of money to different foundations. Although the main institutions benefited from this campaign, it was mainly the ALS Association in the United States and the Motor Neuron Disease Association in the United Kingdom (*Figure xvi*).

To report on the influence of the challenge to the movement, RTI International states that the donations gathered in 2014 as part of the challenge amounted to 115 million USD. Hence, as president and CEO of The ALS Association Calaneet Balas claims, “five years after the Ice Bucket Challenge soaked the world, the pace of discovery has increased tremendously, bringing ALS researchers closer than they have ever been to real breakthroughs in diagnosing, treating, and eventually curing this disease” (ALS Association, 2019). The organization grew in both size and density, as the number of clinical trials and the network of scientists focused on motor neuron disease increased. In its first years after the funding collected by the challenge, researchers discovered five new genes connected to amyotrophic lateral sclerosis, fostering new lines of investigation for its scientists.

Figure xvi. Summary of the official ALS Ice Bucket Challenge report by the ALS Association.

PRESS RELEASE from the **ALS ASSOCIATION**

Ice Bucket Challenge dramatically accelerated the fight against ALS

*New report shows significant increases in ALS research
spending, researchers funded, collaborations, dollars leveraged*

Source: report by the ALS Association (2019).

However, the *Ice Bucket Challenge* did not pertain to violence against women. Hence, to link the previous examples' impactful characteristics, the South African Salvation Army's use of *#thedress* in 2016 to promote gender violence awareness can be presented. *#thedress* was a 2015 viral trend that used the image of a dress that could be perceived as white and gold, or black and blue, which consisted of the personal perception that the viewer had of the image. The SA Salvation Army made use of this existing viral topic to transform it into a social campaign, under the slogan *#StopAbuseAgainstWomen* (Figure xvii).

Figure xvii. Why is it so hard to see black and blue?



Source: South African Salvation Army campaign (2015).

The poster presents a fashion catalog photography of a woman posing with a dress, but she has visible bruises on her body indicating the violence she faces. The campaign then states: *'Why is it so hard to see black and blue? The only illusion is if you think it was her choice. One in 6 women are victims of abuse'*. This campaign was praised on social media for its creativity and memorability, but due to its initial location, its reach was limited.

Lastly, in 2015, an ad was played during the *Super Bowl XLIX* in Phoenix, Arizona. The annual *Super Bowl* holds the Football National League championship along with its famous half-time show. In that year, Katy Perry performed, featuring Lenny Kravitz and Missy Elliot. This event is also internationally popular for the ads that are played during it. That year, the *Wall Street Journal* ran an ad for violence against women that finished with the statement: *'When it is hard to talk, it is up to us to listen'* (The Wall Street Journal, 2015). The video followed a *911* call between a woman and an operator. This ad campaign made use of the characteristics mentioned in the previous examples: a viral trend (ie. *Super Bowl, Katy Perry, etc*), visually attractive illustrations and sounds, and social media. For further investigations towards solutions on these topics, this type of campaigns could be implemented.

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