

# Rape as Loss of Honor in the Discourse of Moroccan Rape Trials

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## **Abstract**

The importance of a girl's virginity and its strong association with a girl's honor and that of her family is deeply rooted in the Moroccan culture. This importance is structured and revealed in the Moroccan penal code, which makes loss of virginity an aggravating circumstance of rape. This cultural association between virginity and honor constitutes an oppressive ideology which permeates the discourse of rape trials and generates a number of confusions that are detrimental to the victims of rape. Moreover, the fact that consensual sex outside marriage is forbidden by the Islamic religion and law, for it is considered as a sin (*zina*), generates a number of negative assumptions about the rape victim's social image and virtue, and tends to categorize her according to a number of female stigmatized stereotypes. This article aims at showing how these cultural and religious elements, manifest in the discourse of law representatives and lay litigants, function as discursive strategies which blur the issue of rape and contribute to the treatment of its victims as culprits, guilty of crimes of honor, thus making of rape a high-risk complaint for a woman in Morocco.

## 1. Previous Research on Discourse in Rape Trials

Research in Critical Discourse Analysis (CDA) has revealed that discourse plays a dynamic role in constructing social reality. It is the vehicle via which social reality is constructed, reinforced and maintained (Fairclough, 1989; Fisher and Todd, 1986; Foucault, 1972; Johnstone, 2000), including social institutions like the courtroom and social categories like gender. As reported by CDA scholars, the ways we communicate are constrained by the structures and forces of these social institutions and identities within which we function and live, and these social institutions and categories in turn are defined and shaped by our use of language or discourse (Fairclough, 1989; 1992). This ongoing dialectic interaction between discourse and social order is not a neutral and harmless exercise; rather, it generates a number of ideologies which are circulated via discourse. The danger in these ideologies is that they serve to empower some participants but serve to disempower and oppress others. As a result, discourse can serve as a vehicle for creating, maintaining and perpetuating injustice, as is the case in rape trials. Indeed, rape trials are a good example of arenas where a disempowered group has to struggle against the oppressive (in this case, patriarchal) ideologies which permeate the discourse of the social institution.

In linguistic research on rape trials, a largely constitutive role is ascribed to language. For example, in analyzing the language of sexual assault adjudication processes, Ehrlich (2001) gives empirical substance to theoretical claims about the primacy of discourse in constructing and constituting the social realities of sexually assaulted women. She claims that in rape trials, discursive constraints shape and structure “the interpretive framework that imbued the events and participants with meaning” (Ehrlich, 2001:2). In other words, the interpretation of the rape events in the legal institution is mediated by an ideological framework which constrains and shapes the meanings of these events. She argues that studies of gender must be attentive to the way institutions—specifically legal institutions—constrain and shape gendered performances. Indeed, rape trials are considered by feminist scholars to be a site on which gender relations are reproduced in particularly stark and visible ways, and they have been cited as barometers of ideologies of sexual difference (Lees, 1996).

Research has also revealed that in rape trials, “the harms produced by the so-called remedy are as bad as the original abuse” (Smart, 1989:161). Revictimization of rape victims by cross-examining lawyers has been described by Matoesian (1995:676) as performing “rape of the second kind,” and the pivotal role of language in achieving such effects has convincingly been demonstrated. Indeed, rape trials have often been cited by contemporary feminist critics of the law as embodying all that is problematic about the legal system for women, from the revictimization of rape victims to the legitimization of normative views of female and male sexuality. As Lees (1996:36) succinctly puts it, “the discriminatory qualities of rape trials have led some feminist legal theorists to conclude that ‘judicial rape’ can be more damaging than actual rape, ‘masquerading’ as it does under the name of justice.”

In Morocco, Gender discrimination has been the main concern of some Moroccan feminist scholars like Mernissi (1987; 1994; 1996), who provides an exhaustive description of the way the image of the Moroccan woman and her sexuality are shaped and constructed in the Moroccan culture; however, she does not address rape in her writings. In addition, although rape is a widespread phenomenon which constitutes a high proportion of criminal offences in Morocco (Benbouya, 2000; Conway, 2002), it has never been dealt with from a linguistic or discursive perspective. The present study is the first to examine Moroccan rape trials themselves. I take a linguistic approach, using critical discourse analysis. This study is based on an earlier study (Lamrani 1997), which focused on the linguistic aspects of communication in the Moroccan criminal courtroom. It did not focus specifically on gender. The present study is therefore the first to address the gender issue in the Moroccan courtroom. It seeks to show how gender shapes verbal interaction in rape trials, and how women and men are treated in the court of justice. More specifically, this article seeks to show how discourse in Moroccan rape trials serves as a vehicle for circulating gender discrimination, and how women who are victims of rape are subjected to another more subtle form of violence, verbal violence, in the Moroccan court of justice.

## 2. Background

This section presents a short description of the sociolinguistic situation in Morocco, which is both a diglossic and a multilingual community. It also provides a description of how rape is viewed in both the Moroccan culture and the Moroccan Penal code.

## 2.1. Sociolinguistic Situation in Morocco

The diglossic situation in Morocco is characterized essentially by the situational distribution of Modern Standard Arabic (MSA) and Moroccan Arabic (MA), regarded as the high-status variety and the low-status variety, respectively. Acquired as mother tongue, MA is mostly used in informal situations, whereas MSA, which is learnt through formal schooling, is used only in writing and in formal situations (Abbassi, 1977; Dahbi, 1989; Youssi, 1983, 1991). The diglossic situation in Morocco has evolved into triglossia, which is an evolutionary stage of diglossia, where Middle Moroccan Arabic (MMA) has emerged to reduce the conceptual and structural distance between MA, which is mainly spoken, and MSA, which is primarily written (Youssi, 1983; 1995). MMA is the spoken variety that the literate elite use in formal situations like the courtroom. Indeed, it is the functional variety of Arabic which is used and preferred by court officials in the oral proceedings of the trials, because it is assumed to be accessible to all Moroccan speakers, and thus to ensure effective communication. However, observation of genuine courtroom interaction reveals that it is the educated or literate portion of the Moroccan population who converse in MMA; the illiterate litigants, who have difficulty using and understanding this variety, instead use the MA vernacular in their oral testimonies (Lamrani, 1997, 2000).

## 2.2. Rape as a Crime of Honor in the Moroccan Culture

Morocco is a Muslim country in which all sexual relations outside marriage are criminalized. That is to say, the Moroccan legal system is based on the Islamic law (Shari'a), which considers any sexual relation between a man and a woman outside marriage as *zina*, i.e. illicit sex or fornication. Thus, in the Moroccan culture, a woman must preserve her virginity for her husband. If she loses her virginity before or outside marriage, this entails that she has lost not only her own honor, but also the honor of all her family, especially that of her father and brother(s). In other words, in the Moroccan context (and presumably in all Muslim countries), a woman is "the repository of male-defined honor in the community [...]. This concept is restrictive for women, who fear losing the vested honor through any nonconformist behavior" (Zia, 1992:25). Indeed, in Morocco, a virgin bride is praised and is referred to as *lHurra* (the pure or the authentic), *lmeHDia* (the preserved), and *bent rrja:l* (the daughter or the sister of men). This means that in preserving her virginity until the day of her marriage, the woman is assumed to have preserved the honor of her family, especially that of the male members. Even when the unmarried girl is a helpless victim of rape, attacked and robbed of this badge of honor, she becomes a source of shame and dishonor for herself and her family. For this reason, a very frequent way for a man to get away with rape is to marry the young woman he raped and deflowered. In doing so, he is assumed to

be restoring the woman's honor, and paying for his deed by being forced to marry a woman without honor, a damaged girl (*mxessra*), although he is the one who damaged her (*xesserha*). What is more, if the raped and deflowered woman fails to prove her non-consent in the sexual encounter, she is automatically charged with illicit sex and fornication (*zina*). In fact, through this legally available option of getting away with rape by marrying the victim, rape may be seen to undergo a sort of institutionalization in Morocco. That is to say, by condoning rape through marriage, the Moroccan legal system institutionalizes it and even legitimizes it as a way of getting married: a way of marrying a virgin who does not consent could be to deflower her via rape and getting away with it by offering to marry her. Indeed, this concern with the woman's virginity is clearly manifest in the Moroccan legal system.

### 3. Rape and Crimes of Honor in the Moroccan Legal System

#### 3.1. The place of virginity in rape in the Moroccan penal code

Rape is defined in Article 486 of the Moroccan penal code as follows:

*Rape is an act by which a man has a sexual relationship with a woman without her consent. It is sanctioned by imprisonment from 5 to 10 years.*

*If the victim is a minor whose age is less than 15, the sanction is imprisonment from 10 to 20 years.*

Loss of virginity is one of the aggravating circumstances of rape in the Moroccan penal code. This fact is stipulated in Article 488:

*If the crime ( of rape) results in the victim's loss of virginity, the sanctions are as follows:*

*Imprisonment from 10 to 20 years for [committing] the first part of [Article] 486, and imprisonment from 20 to 30 years for [committing] the second part of [Article] 486.*

As can be seen in article 488, stronger sanctions are applied for rape if the woman is a virgin. While the sanctions for the rape of a woman aged 15 or over are 5 to 10 years of imprisonment, this increases to 10 to 20 years for rape with 'deflowering'. This reflects the loss of honor to the woman and her family associated with loss of virginity outside marriage, and means that a concern with a woman's sexual reputation is structured into rape cases by the law itself.

In six out of the twelve cases in my sample, the question of the woman's virginity was an issue. In two cases, the defendants, both of whom admitted to intercourse with the woman (one at the time of the rape, the other in a previous relationship), claimed she was not a virgin at the time (238, 254). In a third, evidence that the woman was not a virgin, in the form of a medical certificate, was used to suggest that she was 'crying rape' to cover for consensual sex. In the remaining three cases, the events covered by the trial involved the loss of the woman's virginity; in one of these a medical examination was administered to assess whether the hymen had been broken recently.

### 3.2. The impact of sex as a sin (*zina*) in Moroccan law

In addition to exploiting the cultural association between loss of virginity and loss of honor, which seems to shift the blame from the male defendant and allocate it to the female victim, judges also draw on the religious frame, which forbids consensual sex outside marriage (*zina*) and considers it a sin. Indeed, consensual sex outside marriage is illegal in Morocco; it constitutes a crime of honor as stipulated in Article 490 of the Moroccan penal code:

*490: All individuals of the opposite sex, who, without being related by marriage links, have sexual relations between them, are punished with imprisonment from one month to one year.*

That is to say, Article 490 clearly forbids consensual sex outside marriage for both men and women.

The fact that consensual sex is also an offence (though a lesser one, but one in which both parties are equally implicated) has three consequences:

1. If a man is accused of rape, claiming that the woman consented is not as attractive a defence as in non-Muslim countries, since consensual sex is still an offence (if a lesser one); so denial, of one form or another (of the events, of knowledge of the woman, of knowledge of the events), is a more common defence in my sample.
2. If a woman makes a complaint of rape and the accused is not convicted, she is liable to be prosecuted herself for having consensual sex. Since this must always be a possibility, it makes accusations of rape a very high-risk complaint for women.
3. However, if a woman is at risk of being prosecuted (or dishonored) for having consensual sex anyway, there is an incentive for her (or her family) to allege rape (Article 486), which shifts the responsibility to the man alone. Hence the suspicion that this has occurred is one way in which women's allegations of rape are discredited.

What is of import for the present discussion is the fact that the sanctions in Article 490 are clearly much lighter (1 month to 1 year) than the ones stipulated in rape (5 to 10 years). Consequently, for a man charged with rape, it is much more convenient to allege consensual sex; however, for the female victim, Article 490 constitutes a high risk, because if she fails to provide enough evidence for her non-consent (which is extremely difficult to prove), she will automatically be accused of committing the crime of honor stipulated in Article 490. That is to say, she will be seen as a sinner who, in religious terms, is guilty of fornication (*zina*).

## 4. Methodology

The data of this study consists of twelve rape trials, observed and audiotaped in the criminal court of Rabat from 1991 to 1999. It also includes the court reports of these cases, from the police report to the verdict report. The victims are of different age groups, including both

minors and older women, and come from different social backgrounds, urban/rural, middle class/lower class, and literate/illiterate.

In analyzing the data, this study uses a sociolinguistic and discourse-analytic approach. In trying to show the influence of gender in Moroccan rape trials, this study seeks to depict the linguistic and discursive features via which gender-discriminatory ideologies are circulated and reinforced in the Moroccan legal institution. Attention is given to the ways linguistic resources, both semantic and syntactic, are used by law representatives to mitigate and silence rape by drawing on the oppressive cultural ideology which equates loss of virginity, albeit in rape, with the raped girl's loss of her own honor and that of her family.

## 5. The Importance of Virginity in Moroccan Rape Trials

The importance of a girl's virginity and its strong association with honor is deeply rooted in the Moroccan culture. This importance is not only structured and revealed in the Moroccan penal code, which as discussed above makes virginity an aggravating circumstance of rape, but it is also manifest in the verbal interaction that takes place between the judge (J), the defendant (D) and the victim (V) in rape trials.

### 5.1. Association Between Loss of Virginity and Loss of Honor

A cultural assumption that permeates discourse during Moroccan rape trials is that a girl's loss of virginity—albeit by force through rape—entails loss of her honor and that of her family. This assumption not only manifests itself in the lay litigants' discourse, but also in the discourse of the judges. An illustrative example is extract (1), where the judge and the victim's father (F) discuss this issue:

(1) 123-12/10/99

1F: (...) *huwwa mulaha* (pause). [Loudly] *waHeq lli lih lHeq wa Heq lli lih lHeq wa Heq lli lih lHeq ?ila huwa mul eljarima hadi*

2J: *?aji we\$ki lli qallik had\$si\_/ bentek\_/*

3F: *?iyyeh benti*

4J: *kifa\$/*

5F: *nnhar lli wqeç liha dak \$si çerfatha mmha weTleçt ?ana we SSewwetha wgalet liya flan qbettha wedditha çend jjadarmiyya wedditha çend TTBib wgalet liya flan*

1F: (...) *He is the responsible [party] (pause). [Loudly] By the name of he who knows the truth (God) by the name of he who knows the truth, by the name of he who knows the truth, he is the one that is responsible for this crime.*

2 J: *Come on, who told you this? Your daughter?*

3 F: *Yes, my daughter.*

4 J: *How?*

5 F: *The day this happened to her, her mother found out, and I went up and whipped her, and she told me it was So-and-So. I took her to the gendarmerie and I took her to the doctor and she told me it was So-and-So.*

Of importance to the present discussion is turn 5, where the father, outraged, reports that he went up and whipped his daughter after learning that she had been raped. That is, in addition to being raped, the victim had also to be whipped, i.e. punished, because through losing her virginity, she has damaged her family's and especially her father's honor.

The assumption that a girl's virginity equals her virtue and honor, and as such should be preserved at any cost, is clearly expressed, this time by the judge in extract (2), which is taken from another rape case. Here the judge is interrogating the victim:

(2) 660-12/10/99

1V: *warah mluwwi liya yeddi wsadd liya femmi*

2J: *waxxa mluwwi lik yeddik brek LLerD ba\$ yjerrek ?enti m\$iti brejlik \$ajbek lHal ?a\_/\_*

3V: *xeft lantherres*

4J: *daba gulti luwwalik yeddik wem\$iti m\$ah maxeSSek\$e tetherres (pause) ?amma Hsen tetherres wella Haja xra\_/\_*

5V: *(Silence.)*

1 V: *But he was twisting my arm and holding my mouth closed.*

2 J: *Even if he was twisting your arm, sit on the ground so that he would have to drag you. You went on your own feet. You must have been pleased? No?*

3 V: *I was afraid of breaking my bones.*

4 J: *Now you said he twisted your arm and you went with him. You didn't want to break your bones. (pause) What's better? To break your bones or something else?*

5 V: *(Silence.)*

In turns 1 and 3, the victim expresses the natural fear that any ordinary individual is likely to feel in a dangerous and violent situation such as rape, but this natural and legitimate fear is denigrated by the judge in turn 4, where he overtly states that to have her bones broken is nothing compared to having “something else” broken, alluding to her loss of virginity. This strategy of implying that a woman must preserve her virginity at any cost blurs the issue of rape and brings into focus the issue of virginity and its association with the woman's virtue, reputation and honor, thus relegating rape as an independent act (independent from deflowering, that is) to a secondary role. In other words, this strong emphasis on the woman's loss of virginity could be seen as an unconscious strategy to mitigate rape and minimize its gravity as an autonomous act regardless of whether it results in deflowering or not, and may be seen as a means of shifting the responsibility and the guilt from the male defendant to the female victim. Indeed, there seems to be a prevalent and recurrent confusion between rape and deflowering as two separate acts by collapsing them into one single act (loss of virginity), not only on the part of lay litigants, but also on the part of law professionals.

## 5.2. Confusion Between Rape and Loss of Virginity

Although Moroccan penal code distinguishes between rape and loss of virginity, with loss of virginity considered to be an aggravating circumstance of rape, both litigants and law professionals tend to confuse the two acts and blur the distinction between them. An

illustrative example is extract (3), where the defendant himself admits having “raped” the victim (a sixteen-year-old girl), meaning that he had deflowered her, although he claims that he did so with her consent.

(3) PS/ 91

1J: *ttuhma lemwujjha lik hiya tte&Ri:R biqa:SiRa wa li&tiSa:B wa liftiDa:D, ?a\$ tatgul fhad\$&si\_/*

2D: *had ssiyyda SaDiqa dyali (inaudible) marest mçaha ljins (inaudible)galtli &taSeBni uw la ma&taSebtini\$ &adin\$uf waHdaxur ye&taSeBni weLLeSSeqha fik (inaudible) m\$it lçend jeddha uw galli SBeR çliyya ndir lHa:la lmadaniyya, ddit nna:s uwxTebt qbel man&taSeBha (inaudible) &taSeBtha wana qabel ntzewwej biha*

3J: *(inaudible)*

4D: *?ana &taSeBtha, lHeqq lHeqq.*

1 J: *You are charged with deceiving a minor, with rape and deflowering. What do you say about this?*

2 D: *This lady is a friend of mine (inaudible), I had sex with her (inaudible) She said to me, ‘Rape me; if you do not rape me, I will look for another man to rape me and I will put the blame on you.’ (inaudible) I went to her grandfather and he asked me to wait until he made the civil register [the official birth document]. I took with me some people to ask for her hand before raping her (inaudible). I raped her and I am willing to marry her.*

3 J: *(inaudible)*

4 D: *I did rape her. This is the truth.*

In this extract, the defendant, though literate, does not seem to grasp fully the meaning of the word ‘rape’ (*&tiSab*), which is a Modern Standard Arabic (MSA) word. He takes ‘rape’ to mean ‘deflowering’ or ‘loss of virginity’ regardless of whether the sexual act was with the victim’s consent or without it. The defendant’s use of the term ‘rape’ (*&tiSab*) and its derivations in turn 2 reveals that he is misusing the term and confusing it with ‘deflowering’ (*ftiDa :D*). He claims that the girl asked him to rape her, which is a contradiction in terms, because consent and rape are exclusive. In turn 4, the defendant emphatically admits having committed what he calls and understands as rape. This extract clearly reveals that the defendant is confusing rape with loss of virginity.

That lay people, like the defendant in extract (3), make this confusion between rape and deflowering may be understandable, but what is striking is that sometimes judges, who know perfectly well the difference between the two, seem to contribute to enhancing this confusion instead of dissipating and clarifying it. An example is extract (4), which is a continuation of extract (3):

(4) PS/91

1J: *wa\$ kateçref \$nu hiya &taSebtiha\_/*

2D: *XeSSertha, dXelt biha*

3J: *ziyyenti biha, zewweltilha lbakara dyalha*

4D: *iyyeh*

5J: *bXaTerha uxla bezzez\_/*

6D: *lla bXaTerha nçamasaça:dat RRa?is uw daba kanTLeB men lmeHkama lmuwaqqara ntzewwej biha çla yeddikum*



1 J: *Do you know what 'you raped her' means?*

2 D: *Damaged her, deflowered her.*

3 J: *You deflowered her, you took her virginity away..*

4 D: *Yes.*

5 J: *Was it with her consent or did you force her?*

6 D: *No, with her consent, Your Honour, and now I am asking the honored court to allow me to marry her.*

The judge's rhetorical question in turn 1, which is taken by the defendant as a genuine question, indicates the judge's awareness of the defendant's lack of understanding of the MSA word 'rape'. In turn 2, the defendant explains, using Moroccan Arabic (MA), what he understands by the MSA word for rape. For him, it means 'deflowering' or 'loss of virginity'. The MA word 'damaged her' (*XeSSertha*) that the defendant uses in turn 2 as a synonym for the word 'rape' is very significant, for it reveals the association between a girl's loss of virginity and the damage this brings to her honor and reputation (i.e., she is damaged). However, instead of dissipating this confusion between 'rape' and 'loss of virginity', the judge in turn 3 seems to indulge the defendant's misinterpretation by providing two other terms for loss of virginity, thus reinforcing this erroneous confusion. In other words, from turn 2 to turn 4, the judge and the defendant seem to agree on the meaning of the word 'rape' and take it as synonymous with 'loss of virginity'. It is not until turn 5 that the judge indirectly addresses the element of consent, which is a crucial constituent of the crime of rape, in the form of a question: 'Was it with her consent or did you force her?'

This confusion between rape and loss of virginity seems to shift the focus from 'rape' as an autonomous and independent crime as stipulated in Article 486, to 'loss of virginity', which does not constitute a crime in itself (There is no independent article concerning loss of virginity alone in the Moroccan penal code), but which is only one among several aggravating circumstances of rape (Article 488). This confusion, which places a strong emphasis on loss of virginity, seems to automatically deemphasize, downtone, and ultimately undermine rape as a criminal act even if it does not result in loss of virginity, for rape is an autonomous crime independently of loss of virginity; it is a criminal act in itself, regardless of whether it results in loss of virginity or not. This apparently unconscious strategy of blurring the distinction between rape and loss of virginity is highly detrimental to the victim of rape, who has to dissociate herself from a number of cultural assumptions such as the assumption that a woman who has lost her virginity has lost her honor and has damaged the honor and reputation of her family.

## 6. Strategies of Mitigating Rape

This tendency of blurring rape is not only achieved via confusing rape with loss of virginity, but also via mitigating rape during trials by means of several discursive strategies. One recurrent strategy is euphemism, both lexical and syntactic. Some illustrative examples of lexical euphemism involve the judge using vague terms to refer to rape, as shown in extracts (5) and (6):

(5) 238/99 ( addressing the defendant in a case of gang rape involving the deflowering of a thirteen-year-old schoolgirl )

1D: *marest mçaha*

2J: *XeSSertiha*

1 D: *I had intercourse with her.*

2 J: *You damaged her.*

(Later in the same case; the judge interrogating the victim)

1J: *ddawek wetkRefSu çlik bjuj bihum uw melli sala waHed jak laXur*

2D: *?iyyeh melli sala waHed ja laXur*

3J: *They took you and ravished you (or ill-treated) you, both of them, and when one had finished, the other came.*

4V: *Yes, when one had finished, the other came.*

(6) 660/99

1J ( to defendant): *galet lik dditih, ?a\_/ fettesçud wetkerfesti çliha, ?a\_/*

2D: *?alla çemmri madditha*

1J (to defendant): *She said you took her, didn't you? At nine o'clock and you ravished her (or ill-treated her), didn't you?*

2 D: *No, I never took her.*

The judge in extract (5) does not use the verb 'raped' ; instead, he uses two MA verbs, 'damage' (*Xesser*) in turn 2 and 'ill-treat' or 'ravish' (*tkerfes*) in turn 3. Both expressions can be seen to mitigate the act of rape: the first blurs the issue of rape by disguising it under deflowering; the second trivializes rape by replacing the verb 'rape' with a euphemistic verb, thus referring to rape in vague terms. The same verb *tkerfes* is used in extract (6), taken from another rape case, where the judge is addressing the defendant. The meaning of this verb ranges from mere verbal acts like insulting to physical acts like hitting. Moreover, these verbal or physical acts may involve different greater or lesser degrees of aggression and violence.

Another strategy used by the judges, which can be seen as a way of mitigating rape, is to replace the word 'rape' with vague pro-terms like 'thing' (*\$\$i*) or 'event' (*waqi?a*). Extracts (7) and (8) illustrate this point:

(7) 238/99

J (addressing the victim and pointing to the two defendants): *hadu katçerfihum qbel men lwaqiça\_/*

1J (addressing the victim and pointing to the two defendants): *Did you know these (two defendants) before the event?*

(8) 37/99

1J (addressing the defendant and asking him about the victim): *whad Samira (victim's name) dak \$\$i kayen\_/*

1 J (addressing the defendant and asking him about the victim): *and this Samira (victim's name), did that thing happen?*

In extract (7), the judge refers to the act of rape as 'the event' (*lwaqi?a*). He seems to treat it like any ordinary event. That is to say, the word 'event' is a vague term which may have positive as well as negative properties, but the judge does not even qualify the event of

rape as a negative one. The same can be said about extract (8), where the judge refers to the act of rape as ‘that thing’ (*dak \$ši*). Indeed, ‘this thing’ (*had \$ši*) and ‘that thing’ (*dak \$ši*) are recurrent expressions that the judges use to replace the word ‘rape’ as can be seen in extracts (9) through (11). In (10) and (11) the victim, Kenza, is mentioned by name.

(9) 238/99

J (to the victim): *melli wqeç lik had \$ši, \$kun rejjeçek leddar\_*

J (to the victim): *When this thing happened to you, who took you back home?*

(10) 660/99

J (to the defendant): *?a\$nu wqeç lik mça Kenza Hetta çmelti liha dak \$ši\_*

J (to the defendant): *What happened to you with Kenza so that you did that thing to her?*

(11) 660/99 (same case as above)

J (to defendant): *qalt lik ?asidi bi?annaha fetessçud jat çendha Kenza wqalet liha bi?annak kunti \$addha (pause) uw\$edditi liha fummha (pause)uw çmelti liha dak \$ši(pause) had \$ši kayen\_*

J (to defendant): *She [the witness] has stated that at nine Kenza came to her house and told her that you had seized her (pause) and gagged her (pause) and did that to her (i.e. raped her). (pause) This is so?*

In extracts (9) through (11), the expression ‘this thing’ (*had \$ši*)/ ‘that thing’ (*dak \$ši*) refers to both ‘rape’ and ‘deflowering’ at the same time, since both cases involve rape with deflowering. This co reference seems to foreground the issue of deflowering, which is merely one of the aggravating circumstances of rape, and to background the issue of rape, which is a crime in its own right. By focusing on the issue of deflowering during the trial, the issue of rape is minimized, and that of deflowering is maximized with all the cultural implications that loss of virginity has for a Moroccan woman’s honor, namely that a woman deflowered outside marriage is a woman who lost her honor. This euphemism in extracts (9) through (11) is a recurrent pattern which may be seen to obscure and mitigate the gravity of rape in Moroccan rape trials, because it seems to blur the distinction between rape and deflowering on the one hand, and to mitigate rape as an autonomous act, independent of deflowering, on the other. These linguistic expressions or nominal pro-forms seem to function as disguising elements or cover terms, which obscure and even silence rape by deleting the head noun ‘rape’, which is the subject of rape trials. One might think this is logical and argue that since rape is understood, it need not be expressed; however, this interpretation is soon discarded when some victims use the term ‘rape’ in their interaction with the judge.

Indeed, when some victims break the silence on rape by using the MSA term for rape, (*StiSaB*), during rape trials, judges do not seem to tolerate it. An illustrative example is extract (12), taken from a case of rape with deflowering. In this extract, the judge is interrogating the victim:

(12) 123/99

1J: *wa\$nu wqeç lik mça hadak\_*

2V: *had ssiyyed ddani weStaSeBni*

3J: *?a\_/?\$nu gulti\_*

4V: *had ssiyyed ddani lejjnan weStaSeBni*

5J: *(sarcastically) Hetta nti katçerfi StaSeBni, ?\$nu hiya StaSeBni\_ / matekdebši, ?a\$nu dar lik\_*

6V: *ddani lejjan wtemma ḤtaSeBni*

1 J: *So what happened to you with that one?*

2 V: *This gentleman took me and raped me.*

3 J: *Huh? What did you say?*

4 J: *This gentleman took me to the orchard and raped me.*

5 J: *(sarcastically) Even you know ‘raped me’? What is ‘raped me’? Don’t lie. What did he do to you?*

6 V: *He took me to the orchard, and there he raped me.*

The fact that the victim refers to rape by its name, ‘he raped me’, does not seem to be appreciated by the judge, who at first sounds astonished and uses a request for clarification in turn 3: ‘Huh? What did you say?’ When the victim reiterates the word ‘rape’ in turn 4, the judge clearly expresses his sarcastic and scornful attitude towards the victim in turn 5: ‘Even you know ‘raped me’? What is ‘raped me’?’ This is a rhetorical question which could be paraphrased as ‘How does someone like you know the word ‘rape’?’, perhaps alluding to the fact that a country girl like the victim, who is likely to be illiterate, would not ordinarily know a MSA word like ‘rape’, with all its legal implications (see extract 4). He then goes on to test her on her understanding of the word ‘rape’: ‘What is ‘raped me’?’, directly followed by ‘Don’t lie’ in the same turn. In this extract, the judge clearly tries to discourage the victim and prevent her from calling the act of ‘rape’ by its name. Indeed, the judge’s turns in this extract clearly reveal his hostility towards this victim who has dared jeopardize his mitigating strategies and break the silence over rape.

## 6.1. Sex as Sin

The religious frame of sex as sin permeates Moroccan rape trials. Indeed, appeal to this religious frame is a recurrent feature in rape-trial discourse. It is manifest not only in the discourse of law representatives, as extract (13) reveals, but also in the discourse of lay litigants, as shown in extracts (14) and (15):

(13) 23/10/2000

1J (addressing victim): *mṣiti mḥah bXaTRek\_/\_*

2V: *lla*

3J: *ḥrefti rasek Ḥadi temṣi mḥah leddar\_/\_*

4V: *lla*

5J: *wemnin dxelti mḥah leddar , ḥrefti Ḥadi tdexlu lelmunkar\_/\_*

6V: *lla*

7J: *lla\_/\_ Ḥadi tdexlu tSeLLiw\_/\_*

1 J (addressing victim): *Did you go with him willingly?*

2 V: *No.*

3 J: *Did you know that you were going with him to the house?*

4 V: *No.*

5 J: *And when you entered the house with him, did you know that you were entering in order to sin?*

6 V: No.

7 J: *No! You were entering in order to pray?!*

In this extract, the judge in turn 5 implies that the woman knew that she was going to commit a sin when she agreed to enter the house with the defendant. That is to say, he is presenting her as a sinful woman, i.e. a woman without virtue. In the face of her denial, he becomes sarcastic in turn 7: 'No! you were going to pray?!' The judge in this extract uses two religious terms, 'sin' and 'pray', which are opposed in meaning, but which appear in his two contiguous turns (turns 5 and 7). This strategy seems to place the woman in a very narrow religious frame, whose binary features are exclusive: i.e. either she entered with the man in order to pray (which is impossible in this context), or she entered in order to sin; there is no other option. The judge in this extract is using irony as a rhetorical feature in order to ridicule the woman and cast doubt on her version of the rape.

Obsession with sin in Moroccan rape trials is also apparent in the discourse of some rape victims, who appear to struggle in order to preserve their image against the stereotype of the female sinner that law representatives seem to construct of them. An illustrative example is extract (14), taken from a case of attempted rape, where the victim is a twenty-six-year-old married woman from the countryside, with three children.

(14) 37/99

1J: *Xda lmeçza wjak\_/ ?a\_/*

2V: *?ella, Xella lmeçza wja liyya ?ana, gbeD fiyya wgalliya Hiyydi sserwal wella SanDerbek (pause) gutlih sir ?ana beLLah we\$\$reç mçak ?ana bewladi webrajli ?ana bewladi matheRRem\$ çliya wladi*

1 J: *He took the goat and came at you? Right?*

2 V: *No, he left the goat and came to me, myself. He grabbed me and told me, 'Take off your pants or I'll hit you'. (pause) I told him to go away in the name of God and the Islamic law (Shariça). I have children and a husband. I have children. Don't make me commit a sin towards my children.*

The woman in this extract refers to the religious frame of God and Islamic law (Shariça) in turn 2, in whose name she pleads with her assailant to leave her alone. She seems to equate being raped with committing a sin. That is, she seems to confuse her image of rape with that of adultery even when she is not consenting: 'Don't make me commit a sin towards my children.' This confusion on the part of the victim in this extract is to a certain extent real, because in the Moroccan culture, a woman who is raped is also dishonored. That is to say, a woman loses her honor whether she is a victim of rape or a consenting partner in a sexual relation outside marriage. The association with sin is present in both cases, at least culturally if not legally. This extract also shows that the victim's individuality as a woman is undermined. She seems to exist only as a mother and a wife. She is concerned about the repercussions that rape is going to have on her children and her husband rather than on herself. In turn 2, she is trying to persuade the man that the price for her of being raped will be higher than if she were unmarried and with no children. This concern with her family's honor is clearly expressed in extract 15, taken from the same case:

(15) 37/99

1J: *wHiyyed lik leHwayej wella la\_/*

2V: *whezz liya ppijamti wgalliya Hiyydi sserwal*

3J: *huwa\_*

4V: *?iyyeh, ?iwa nekdeb çlih\_ / ?ana manHeRRem\$ wlad*

5J: *?iwa\_*

6V: *malqit Hetta waHed webqit kangullih beççed menni ?ana brajli ?ana beLLah webe\$\$Reç beççed menni ?ana çendi ddrari ...*

1 J: *Did he take off your clothes or not?*

2 V: *He raised my pyjamas and told me to take off my pants.*

3 J: *He?*

4 V: *Yes, how can I lie about him? I don't want to make my children the children of sin.*

5 J: *So?*

6 V: *There was nobody around to help me and I kept telling him 'Leave me alone, I have a husband. In the name of God and the Shariça (Islamic law), leave me alone, I have children...'*

Turn 4 shows the woman's fear to commit a sin, which would contaminate the honor of her children: 'I don't want to make my children the children of sin.' She continues to plead in the name of God and the Islamic law (Shariça) in turn 6, where she voices her concern about her husband and children again: 'I have a husband. In the name of God and the Shariça leave me alone; I have children.' The woman in extracts (14) and (15) is obsessed with not committing a sin even though she is not a consensual partner in this extramarital sexual encounter. She refuses to be a source of shame and disgrace for her husband and children. Although she is not legally guilty, she seeks throughout these extracts to absolve herself from the moral guilt associated with sex outside marriage (*zina*).

## 6.2. The Construction of Female Stereotypes

As shown in the previous section (extract 13), judges tend to construct female plaintiffs in rape trials as women of loose morals, and the struggle against this stigmatized stereotype is clearly shown in extracts (14) and (15), where the woman is trying hard to absolve herself from this stereotype of the female sinner. Indeed, in Moroccan rape trials, victims are often constructed or reframed by the judge as pernicious and dangerous females, who range between the seducer who seeks pleasure to the husband hunter, who uses the allegation of rape in order to entrap a man and oblige him to marry her. The following extracts illustrate these recurrent stereotypes:

(16) 660/99 (used above as extract 2)

1V: *warah mluwwi liya yeddi wsadd liya femmi*

2J: *waxxa mluwwi lik yeddik brek LLerD ba\$ yjerrek ?enti m\$iti brejlik çajbek lHal ?a\_ /*

1 V: *But he was twisting my arm and holding my mouth closed.*

2 J: *Even if he was twisting your arm. Sit down on the ground so that he would have to drag you. You went on your own feet. You must have been pleased? No?*

The judge in this extract explicitly asserts the victim's consent in having sex with the defendant: 'You went on your own feet.' That is to say, nobody forced her to go. The judge goes beyond the issue of mere consent to state that the victim derived pleasure from the act: 'You must have been pleased? No?' For the judge, she was seeking pleasure in an illicit sexual

encounter. The stereotype that arises from the judge's turn is that of the seducer, who seeks illicit pleasure, and the liar, who cries rape to cover for consensual sex.

The other stereotype that judges construct of women in rape trials is that of the liar who cries rape in order to have a man marry her against his will. An illustrative example is (17), taken from a case of rape which ended in marriage:

(17) 23/10/2000 (used above as extract 13)

1J (*addressing plaintiff*): *daba nti mertu\_*/

2P: *?eh*

(.....)

3J: *daba lli çTa LLah çTah Sir guli lHeqq, \$Hal wenti tatemşi mçah\_*/

4P: (*inaudible*)

5J: *mşiti mçah bXaTRek\_*/

6P: *lla*

7J: *çrefti rasek Sadi temşi mçah leddar\_*/

8P: *lla*

9J: *wemnin dxelti mçah leddar , çrefti Sadi tdexlu lelmunkar\_*/

10P: *lla*

11J: *lla\_ / Sadi tdexlu tSeLLiw\_/gulti maçendek mçah Hetta SiLa webi ?annahu dar lik lmus, had \$şi makayen mennu walu\_*/

12P: (*inaudible*)

13J (*sarcastically and angrily*) : *kun makdebtış maytzewweş bik\_*/

1 J (*to plaintiff*): *Now you are his wife?*

2 P: *Yes.*

(.....)

3 J: *Now, what has happened has happened. Just tell the truth. How long have you been going out with him?*

4 P: (*inaudible*)

5 J: *Did you go with him willingly?*

6 P: *No.*

7 J: *Did you know that you were going with him to the house?*

8 P: *No.*

9 J: *And when you entered the house with him, did you know that you were entering in order to sin?*

10 P: *No.*

11 J: *No! You were entering in order to pray?! You said you had no relationship with him and that he brandished a knife at you. None of this is true, is it?*

12 P: (*Inaudible*)

13 J: (*Sarcastically and angrily*) *Had you not lied he would not have married you?*

This extract shows that despite the fact that the plaintiff has become the defendant's wife, she still sticks to her version of the rape in spite of the judge's attempts at making the case appear as consensual sex. However, the judge is constructing the woman as a liar who invented this scenario of rape in order to force the defendant to marry her: 'Had you not lied, he would not have married you?' This declarative question can be paraphrased as: You

lied to the court and accused him of rape in order to force him to marry you. The implication of this utterance is that the woman was a consensual partner in sexual relations with the defendant, who did not want to marry her, so she alleged rape in order to entrap him into marriage. In the judge's version in this extract, it is the man (the defendant) who is victimized, and it is the woman (the plaintiff) who becomes the culprit. What is more, even the state attorney (the prosecutor) interferes in this case to scold the woman and to remind her that she has committed a legal offence by lying to the court, as shown in extract 18. In other words, both the law representatives accuse the woman of having lied to the court in order to have the defendant marry her.

(18) 23/10/2000

*1Prosecutor(to plaintiff): flwila:yat lmuttaHida yuçtabaru lkadib jarima, flemeSrib ?iha:na, hada tala:çub, tathem ssiyed btuhmat liStiSaB nna:tij çennu ftiDa:D uw kedbat çelwaki:l lça:mm, Sadi nta:bçuk btuhmat lkadib*

*1 Prosecutor (to plaintiff): In the USA, lying is considered a crime; in Morocco it is a humiliation. This is not serious; she accuses the gentleman of rape which resulted in deflowering, and she lied to the general prosecutor. We are going to sue you for lying.*

The prosecutor's threats to the woman show that it is the woman who gets the blame even when the man gets away with rape by marrying her. She is the one whom the judge and the prosecutor scold, blame and incriminate when she sticks to her version of rape, which both of them construct as consensual sex. In this extract, the judge and the prosecutor clearly align with the male defendant against the victim, the female plaintiff, whom they construct not only as a husband hunter who cries rape in order to force the man to marry her, but also as a liar and a law offender who has to be sued for lying and misleading the court officials.

## 7. Conclusion

To sum up, the data analysis in this study has revealed that there is a tendency on the part of the judges in Moroccan rape trials to indulge in blurring the distinction between rape and deflowering as two distinct acts, and to shift the focus away from the act of rape, which is the crime at issue in the trial, and place it on loss of virginity, which is merely an aggravating circumstance of the crime of rape. The consequence of this shift of focus is that the rape victim is revictimized in public within the courtroom for having lost her virginity, which, in the Moroccan culture, entails the loss of her honor and that of her family. This strategy is achieved by making the MSA word for the verb 'rape' (*StaSeb*) a synonym to the MA vernacular word 'damage' (*xeSSer*), which is used to refer to loss of virginity (see extracts 1-4). Another discursive strategy used by Moroccan law representatives is to mitigate and silence rape by resorting to both lexical and syntactic euphemism. That is to say, they use vague terms like *'tkerfes'* 'ravish', ill-treat, which disguise and trivialize the act of rape (see extracts 5-6), and replace the word 'rape' with pro-terms like 'thing' (*šš*), 'event' (*waqi?a*), and expressions like 'this thing' and 'that thing' (extracts 7-11). What is more, when some victims, especially illiterate ones, venture to use the MSA word for rape (*StiSab*) in their



testimonies, the judge reacts in an irritated and hostile way (extracts 4, 12).

In addition to exploiting the cultural association between loss of virginity and loss of honor, which shifts the blame from the male defendant to the female victim, judges also draw on the religious frame, which forbids sex outside marriage and considers it *zina* (illicit sex) (extract 13). Indeed, this religious frame of sex as *zina* not only permeates the discourse of the judges, but also constitutes a traumatic obsession, clearly manifest in the discourse of the victims themselves, who struggle hard in order to dissociate themselves from the stereotypes of the dishonored woman and the female sinner (extracts 14-15). On the whole, in Moroccan rape trials, female victims of rape tend to be constructed as women of loose morals, as either seducers or husband hunters (extracts 16-17).

Analyzing the discourse of Moroccan rape trials reveals a number of cultural assumptions, such as that a woman who loses her virginity outside marriage is without honor, and that a woman who is raped is sinful. These assumptions play an important role in administering justice, although they are far from being fair and have no legal foundations. These unfounded and unfair cultural assumptions function as an ideological framework which is constantly appealed to in Moroccan rape trials, even on the part of the administrators of justice, the judges. Moreover, the institutional aspect of the courtroom setting seems to lend more force and strength to these unfair assumptions, which manifest themselves in the verbal interactions of rape trials. It also seems to render them more oppressive towards the victims of rape, who have come to seek justice in the institution of the court. That is to say, despite their being legally unfair, these assumptions tend to appear as legitimized and institutionalized because they are resorted to and used by legal representatives. Indeed, they are used as dynamic tools which contribute to shaping and governing gendered relations in Moroccan culture and perpetuating the already existing inequality between men and women. Finally, rape trials in Morocco provide a good example of how discourse plays a dynamic role in perpetuating and reinforcing a given social order or (disorder) and reveals how language serves as a vehicle for structuring social reality and creating inequality between gendered entities by maintaining oppression of women even in the heart of an institution whose *raison d'être* is to restore and maintain justice and equality.

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