

## No means no... doesn't it?: Public perceptions of the language used in the cross-examination of an alleged rape victim.

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This paper focuses on the experiences that an alleged rape victim must endure whilst undergoing a cross-examination by a defence lawyer in the courtroom. It explores the notion that the questioning strategies adopted by defence lawyers are harsh and unnecessary by collecting public perceptions of courtroom discourse through a self-completion questionnaire. There has been minimal research into the public's perceptions of the language used in cross-examination, and therefore this study aims to expand on this. The hypothesis is that the majority of participants would disagree with the level of questioning within the cross-examination and considered the experience unnecessarily interrogative and unpleasant towards the alleged victim. Through the sampling of 77 members of the public, aged 18 and older, the answers obtained from the questionnaire were used to identify specific language choices alongside the quantitative data collected through discourse analysis. The research findings supported the hypothesis in that the majority of participants disagreed with the level of interrogation and the style of questioning used by the defence lawyer towards the alleged rape victim. In conclusion, the findings from this research can further encourage a change in the style of language used in the cross-examination of alleged victims and contribute to further re-analysis of such techniques used within a courtroom

### 1. Introduction

It is extremely important to continue to develop research surrounding experiences of consent and courtroom discourse due to the high number of young people who fall victim to sexual violence; nearly half a million adults are sexually assaulted in England and Wales each year (Rape Crisis 2017). The miscommunication of consent appears to be continually problematic within rape trials today. However, there is evidence of progression surrounding how we define 'consent'. There was no statutory definition of consent in the Sexual Offences Act 1956, but a definition has been established more recently in Section 74 of the Sexual Offences Act 2003 as 'if he agrees by choice, and has the freedom and capacity to make that choice'.

Ultimately, the aim of a rape trial is to determine whether the act (sexual intercourse) should be considered a crime, and without observation or physical evidence, this solely relies on interpretation and judgement (Edwards 1996, pp. 178-179). Such conclusions can often be difficult to reach and the style and tactics used within the courtroom in order to reach this decision is the primary focus of this research. Courtroom discourse has been widely studied within linguistics focusing on the interrogative questioning style alleged rape victims endure

(Matoesian 2001). However, due to changes within the law and newer definitions of consent, the need for further research to identify modern day opinions is imperative.

The research within this project aims to provide evidence that a reformation of the law is necessary to ensure objectivity and certainty within the courtroom. Furthermore, the findings from this research aim to show a shared opinion of the modern-day treatment of alleged victims within the cross-examination of their trial and aim for future development in the styles and techniques adopted by a defence lawyer in the courtroom today.

## **2. Previous research**

### **2.1 Context of rape**

When statistics such as '1 in 5 women aged 16 - 59 has experienced some form of sexual violence since the age of 16' are considered alongside 'only around 15% of those who experience sexual violence choose to report to the police' (Rape Crisis 2017), it is evident why the continuation of research in this field is extremely important. This is not only to reduce the number of rape cases, but to further understand why there is such a low percentage of rape cases reported to aim for a positive change in the comfortability of people speaking about their experiences.

The Sexual Offences Act 2003 defines the act of rape as when an individual intentionally penetrates the vagina, anus or mouth of another person with his penis. Although there has been much progression in the understanding of what constitutes rape, the issue in many cases appears to be the understanding of what consent is and how it is given. As legislation outlines, a sexual offence is classed as rape if the victim does not consent to penetration or the perpetrator does not reasonably believe that the victim consents (Sexual Offences Act 2003). Currently, the law places the responsibility of consent in the hands of a defendant, and therefore before sexual intercourse, one must ensure that the other person consents to the act. Despite new legislation and although they may appear clear to understand, what consent is and determining whether it was clearly given or not continues to be a problem within many trials. Alongside the issue of consent, miscommunication between the victim and the defendant can often be the centre of the rape trial. A form of miscommunication can often be evident in cases of date, acquaintance and marital rape, where often a male has interpreted a female issuing her lack of consent with 'no' and this being understood as sexual play (Henley and Kramarae 2001, p. 34).

## **2.2 Context of the courtroom**

When the question of consent within a rape trial is brought to court, it is mostly the job of a cross examiner to unpick the different interpretations of the story. The cross-examination is the heart and soul of a criminal trial and therefore making careless and unnecessary mistakes can be a disaster (Swerling 1998). A friendly lawyer's (those who are examining their own witness) goal is to establish precise facts and then the role of the cross-examiner is to test the reliability of these facts (Coulthard, Johnson and Wright 2017, pp. 84-87). There is a highly-structured dialogic form within cross-examination in which two speakers are interacting (Cotterill 2003, p. 94). Furthermore, the cross-examination allows the defence lawyer to weaken the adversary's position or to advance his own (Swerling 1998). The use of legalese within the courtroom is said to leave lay people, particularly women and children, disempowered (Svongoro et al. 2012). However, to enable decision-making, legal language must be explicit and plays a very important role in establishing and maintaining the power imbalance between legal professionals and lay people (De Klerk 2003). Also, because the language used within courtroom discourse can be difficult to understand, the operation of power can therefore be masked (Stygall 2012). Many victims of rape have described the process of cross-examination as the most distressing part of their experience within the criminal justice system (Kebbell, O'Kelly and Gilchrist 2007).

Another important goal of the cross-examiner, is to discredit the evidence provided and the person providing it whilst eliciting information that could be helpful for their defence case (Zydervelt et al. 2016). Furthermore, an important language ideology that underpins the cross-examination process is that repeated questioning provides the opportunity to show truthfulness in a witness's testimony (Eades 2012). This process is done in an interrogative nature with the defence lawyer unpicking specific parts of the victim's statement. In legal training, lawyers learn about leading questions to elicit information from the witness. Different types of questions are designed to subtly prompt witnesses to produce a specific answer, such as: Wh-questions, yes/no questions and tag questions (Coulthard, Johnson and Wright 2017, pp. 82-83). Wh-questions are said to generally display less control than yes/no questions because they impose little of the questioner's interpretation or words within the testimony with little proposition, however yes/no questions contain a more substantive proposition (Ehrlich 2001, pp. 70-71).

Wright and Hosman (1983) researched the 'style' of language in the courtroom by focusing upon the use of hedges and intensifiers used by men and women. The results of this study heavily support the implications of gender differences on the representation of witnesses within the courtroom and therefore encouraged future research to further understand the

purpose of various styles used within the cross-examination process. Similarly, O'Barr (1995) stated that 'the style in which the testimony is delivered strongly affects how favourable the witness is perceived, and by implication suggests that these sorts of differences may play a consequential role in the legal process itself' (1995, p. 75).

When looking at research between 1991 and 2016, there is evidence of similarity in the language used in the courtroom. This is evident in the notorious rape trial of William Kennedy Smith in 1991 (Matoesian 2001) and a more recent trial involving Derek Rose in 2016 (Associated Press in Los Angeles 2016). Both cases involved a female who claimed she was taken advantage of and violently raped by men. When considering the year of the cases taken to trial and the supposed development of the concept of consent, the alleged female victim is still considered to be portrayed by a cross-examiner in the most recent case as a weaker female, by using language such as 'friends with benefits' and ordering the witness not to cry when being questioned by the defence lawyer. Similarly, both statements use language to support the giving of consent like 'she wanted to have sex previously in the evening' and 'she was too embarrassed to initially tell someone'. This is further supported by Edwards (1996) who stated that 'rape until recently has been legally defined as culturally perceived as a crime committed by men against women'. Although it is evident that because of research and the progression of women's groups there have been some changes, the general assessment from feminists illustrate that the system is largely unchanged (Edwards 1996, p. 179).

The aim for change in the language used towards alleged victims appears to have been evident for many years. From the 1970s, feminists, activists and academics began to challenge the attitudes towards the violation of females in the criminal justice system and aimed to improve the treatment of victims (Erez 2002). When comparing research from 1996 to current research in 2016 with the similar aim of improving the judicial process, it appears little has changed to try reducing the difficulty of cross-examination for all people involved. Despite the evidence of progression and reforming of laws, legislation and the societal views of women, alleged rape victims are evidently continuing to feel interrogated, humiliated and distressed throughout the cross-examination process. This is to such an extent that women are reluctant to stand up in court, this will be further explored in the next section of this paper.

### **2.3 A female's experience of the courtroom**

Rape Crisis (2017) approximate that 85,000 women and 12,000 men are raped in England and Wales every year, statistics which can explain the extent to which a woman's experience has been researched compared to a male's. Although this research has no intention of appearing bias towards a gender, it is evident that much research is central to experiences of females and therefore must be reviewed as rape is still mostly portrayed as a male-on-female

crime in mainstream and popular culture (Brunwin 2015). Matoesian (1993) examined the social institutions of law, patriarchy and language of domination. He observed how women's experiences of violation is transformed into routine consensual sex through courtroom linguistics practice. He stated that 'language is a system of power for those who control it, and, in the context of the rape trial, talking power transforms the subjective violation of the victim – the victim's experience of sexual terror – into an objectivity: namely, consensual sex'. The research supports the impression of a women's experience within the courtroom being gender bias. Furthermore, Burman (2009) explained a case in which a female rape victim ran from the courtroom during questioning, from this she was brought back and later arrested for her actions by the trial judge. These actions were illuminating by presenting the experience that many women continue to go through in contemporary court trials and furthermore shows the way the criminal justice system treat victims of rape by possibly holding them accountable if they wish to withdraw (Burman 2009, pp. 379-380).

With the thought of not being believed for such reasons that have been discussed above, people are reluctant to report the incident with the worry of going through another traumatic experience like a cross-examination and ultimately the defendant not being convicted. This therefore produces an explanation for the conviction rate for rape being far lower than other crimes, with only 5.7% of reported rape cases ending in the conviction of the preparator (Kelly, Lovett and Regan 2005). Finally, the belief that rape trials constitute a dynamic process in which a women's experiences of sexual assault is transformed into an event of routine consensual sex through trial discourse further functioning in the social control of female sexuality, is what drives future research (Matoesian 2001, pp. 230-231).

#### **2.4 Male excuses and rape myths**

The validity of the cross-examination process in rape trials is often questioned due to the stereotypical belief about the male sex drive. Eckert and McConnell-Ginet (2013, pp. 175-177) state that it is believed within court cases that a male's sexual drive is uncontrollable and a force external to the man, and this has often contributed to the outcome of a rape trial. Therefore, this supports the idea that often males escape blame due to the incident being excused by the natural male sex drive. This was evident within a Canadian trial of a university student analysed by Ehrlich (2001) where she explained the issue of miscommunication between an alleged rape victim and defendant. Ehrlich explains how the defendant's (re)definition of consent within the trial strategically invoked notions about 'gendered' miscommunication, he therefore relied on dominant notions of masculinity and male sexuality, including forceful resistance and an overpowering male sex drive to explain his interpretation of the victim's signal of resistance. (Ehrlich 2001, p. 128). The trial mentioned above is an

example of the court aiming to prove 'beyond reasonable doubt' that the victims did not consent to the sexual acts in question and is therefore a clear example of ways in which the defendant can support their statement in court (Ehrlich 2001, p. 35).

Within a rape trial the alleged victim is often confronted with questions as to why they did not try to physically resist the defendant or push them away to show their lack of consent. This was evident within the rape trial analysed and discussed by Ehrlich (2001, pp. 84-87), where the use of a negative *Wh*-question, e.g. 'Why didn't you just get up?' presupposed the proposition that the woman did not attempt to leave the situation. When looking at the strategies used by defence lawyers, this type of questioning aims to suggest that this would have been a simple task to do and be unproblematic for the victim. Despite the alleged victim within the trial stating that they attempted to push the defendant away, this act was not forceful enough to satisfy the cross-examiner's idea of resistance (Ehrlich 2001, p. 85). Therefore, the reconstruction of events by the defence lawyer as consensual sex due to the lack of resistance can often lead to the belief that the rape did not occur (Ehrlich 2001, p. 92). These beliefs are often described as 'rape myths'. Rape myths are common beliefs about rape that aim to downplay or excuse sexual assault and are fuelled by ill-informed media report of sexual-violence related stories (Rape Crisis 2017). The victim's clothing choices or/and the amount of alcohol consumed by the alleged victim are often used as excuses for the defence. MacLeod (2016) evaluates how rape myths have become culturally engrained when analysing women who were reporting a case of rape to the police. MacLeod concluded that women appeared to anticipate a requirement to account for their reported actions and that these accounts could be compared to themes of victim blaming. However, from this research it is difficult to challenge the idea of rape myths due to research suggesting they appear to be engrained within society and women appear to display evidence of self-blame in their own talk. Similarly, it is important to challenge and aim to eliminate rape myths from society, they are very apparent within court trials and therefore it appears impossible to pursue a case without defending against them (MacLeod 2016, p. 108).

Another factor that could support the defendant's case is whether the defendant is known to the victim, as 90% of people who are raped knew the defendant prior to the incident (Rape Crisis 2017). This is a factor that has caused great difficulty for many years for the criminal justice system; if there are little or no signs of violence and the alleged victim and rapists are known to each other, then it is essentially the alleged rapist's word against the victim's (Edwards 1996, p. 180). Similarly, if the female seems to show an interest in the defendant, they have little credibility in the courtroom (Ehrlich 2014). While rape is generally an under-reported crime, 'real rapes' (when the defendant is unknown) are much more likely to be reported than when the defendant is known to the victim (Ehrlich 2001, p. 20).

## **2.5 Public perceptions**

Due to the lack of perception studies in this field, this research aims to examine the public's perception of the language used in the courtroom with the aim to create insightful findings that encourage a positive change in the language used towards victims in the cross-examination process. Galanter (1997) examined the public's trust and confidence in lawyers through their perceptions illustrated in public opinion surveys. He found that most people believed the lawyer's ethical standards and practices to be poor. Similarly in another survey surrounding public opinion, there were low ratings of lawyer being honest, ethical, caring and compassionate. Therefore, the findings encouraged for this research too present participants with the style of questioning that is used and understand a more modern interpretation of courtroom discourse. Research by Galanter (1997) was reported in the 1990's and therefore cannot be representative of a modern opinion, some thirty years on.

## **3. Methodology**

### **3.1 Using a questionnaire for the research**

A questionnaire (see Appendix A) was considered the most appropriate tool to collect data for this research project as it is the most effective way of achieving a widespread of representative numerical data. Furthermore, questionnaires are regarded highly reliable as they are easily replicable and the quantifiable data can be verified by others (McNeill and Chapman 2005). As the nature of the research focused on opinions, the use of a questionnaire appeared most appropriate as they are frequently used to measure people's attitudes, and their perception of languages or groups of speakers (Rasinger 2010, p. 60). Also, surveys are appealing and effective as they can be used for large groups of people resulting in expansive findings and therefore representative of a wider population (McNeill and Chapman 2005, p. 30). Additionally, it was evident from previous research that questionnaires can produce a large quantity of efficient and effective results; for example, Koss et al. (1987), conducted a highly credible and reliable piece of research aiming to reflect the true scope of rape and other forms of sexual aggression amongst students. This was achieved by collecting quantitative data through a self-completion questionnaire to enable the representation of a larger population. Although the results are limited in generalisability to postsecondary students, the group is a representative sample of a diverse, higher educated community in the United States. The chosen method in their research enabled a clear statistical representation of findings that is easily adaptable and replicable for future research. Similarly, Hickman and Muehlenhard (1999) and Sprecher et al. (1994) illustrated the advantages of using such methods of data collection when researching the misinterpretation of sexual consent. By using self-completion questionnaires, the researchers could collect a large range of results efficiently. Therefore,

because this research aimed to discover public perceptions of the language used in the cross-examination process, the use of a questionnaire to ensure clear and replicable findings was essential. 'Some researchers think of survey research as the only way to learn about public opinion, and they devote all, or almost all, of their analysis of public opinion to the analysis of survey research' (Brooker and Schaefer 2006).

There are implications for the generalisability of the findings due to the chosen method. For example, a certain type of population may have been more inclined to respond than others, thus introducing bias into the results. However, by allowing open access to the questionnaire, this research did not seek a specific audience, thus increasing the generalisability to a wider population. Also, the time preparing the questionnaire can often reduce the usefulness if the preparation has been inadequate (Munn and Drever 1990) and questionnaires can often limit the amount of response and not allow for participants to give their answers in their own words (Rasinger 2001, p. 63). To avoid such issues with this research, comment boxes were available in the questionnaire for the participant to add any further comments.

Furthermore, for this research it was necessary to complete a onetime collection rather than a longitudinal study, which consists of collecting data more than once. A longitudinal study would have been time consuming, costly and unnecessary for this research due to the study not measuring an attitudinal change from the participants. Additionally, it was important that my participants could take their time with the questions, unlike interviews and focus groups, where they may have felt pressured to answer within a short amount of time. Moreover, an impersonal way of testing participants appeared to be the most appropriate form of data collection for this research as it obtained anonymous and objective data as it allowed for the participants to give honest and responses under minimal pressure. Similarly, the completion of a questionnaire eliminated the need for face to face interaction for my research and therefore increased the possibility of participation due to lack of intrusion, something that was important to ensure for this research as the topic of rape is considered sensitive. It further reduced the chance of Observer's Paradox, explored by Labov (1972, p. 113), as there were no verbal and visual cues to influence the participant's answers. Finally, the anonymity of the participant ensured comfortability and encouraged a more natural response.

#### **4.2 Questionnaire design**

The data were collected through a self-completion questionnaire that was made available online through Google Forms. The difficulties a paper questionnaire posed, such as collecting them all back in, threatened the ability to achieve a high response rate. The questionnaire was made available to answer online enabling easy access for many participants. Furthermore, this facilitated the snowball sampling method which will be discussed further within this paper.



Initially, at the start of the questionnaire the participants were presented with an introduction to the questionnaire explaining any ethical concerns they may have. The introduction highlighted that all data collected are confidential and the identification of participants will not be possible during or after the study. Next, the questionnaire consisted of 11 questions asking the participants' opinions of a transcript. The number and length of questions were considered to ensure the participant did not lose interest. The transcript (see Appendix B) was made available online by Wikipedia and therefore by using this, I could reduce any ethical concerns and time spent collecting data. A transcript from an American court trial was used due to the lack of accessibility to transcripts of cross-examinations made available by UK court trials. However, when comparing research on trials within the UK and online information provided by In Brief: The Legal Information Site (no date), it appeared that the level of questioning was very similar and therefore the transcript was considered appropriate for this research. The transcript illustrates a cross-examination of a female alleged rape victim who met male two defendants at a nightclub. Afterwards, they went to an apartment owned by one of the defendants where she claimed she was raped by both men. The defence in the case was that consent was given and the charges against both defendants were dismissed.

Extracts of the transcript were specifically selected to obtain varied examples of questioning techniques used in the cross-examination of the alleged victim. It was important to identify which extracts would be most beneficial for the questionnaire as transcripts cannot provide examples of every different speech behaviour, and therefore judgements must be made regarding which features to represent and present to the participants was important (O'Barr 1995, p. 137). The questions presented alongside the transcripts were purposively in a specific order for the nature of the research, the first two questions asked for details of the participants (age and gender) and the following questions directly focused on the extract of transcript shown. The clear and organised layout was to ensure the participants could easily use the questionnaire and that they understood what was being asked of them.

Rasinger (2010) states that 'Questionnaires must be perfect before we distribute them: we must be confident that they will work well and that they reliably generate valid data'. Furthermore, the questions were structured to obtain both quantitative and qualitative data. Due to the nature of the research focussing on the participant's perceptions of the language use in a cross-examination, many of the questions were open-questions to allow for the participants to present their answers in their own words (Rasinger 2010, p. 63). This also ensured that the participants did not feel limited to what they could answer and therefore allowed for more detail in the responses which was highly desired within the research. Quantitative data was obtained using a Likert Scale to present the opinions of the participants in a clear statistical way and were also easier to process in the analysis stage (Rasinger 2010,

p. 63). Qualitative data was gained by the open questions that enabled the participant to openly express any further opinions towards the questionnaire and research. The questions used were inspired by public opinions expressed within recent findings, for example work done by Lindgren et al. (2008) who researched whether men interpret people's behaviour more sexually than women do. The researchers concluded many explanations for gender differences for the perception of sexual intent and therefore similar methods were adapted and used for this research to aim for similarly useful findings in the field.

### **4.3 Method of sampling**

Before the collection of data, it was essential to approximate what information I wanted to find when choosing the correct and appropriate method of sampling. No specific characteristics of the participants were required besides the age to which they could complete the questionnaire (18 years old and above) due to the nature and delicacy of the research. Furthermore, the aim was to compare the similarities and differences among participants of various ages and genders, thus requiring a range of participants. Although a large representative sample was used, implications are evident with generalisability in relation to different populations and communities. Therefore, this was considered when deciding on the sample used in this research to include a large age range, to create largely representative findings of the perceptions of courtroom discourse, whilst enabling the results to be generalised to members of various communities.

For this research, a snowball sampling method was achieved through an initial random sampling technique to recruit participants to increase the reliability of the findings. Furthermore, a snowball sampling method increased the chances of a higher response rate by individuals sending the research to other people, gaining more responses in a random manner (Groom and Littlemore 2012, p. 97). Similarly, the aim of the technique was to increase the response rate by using social media and university email to make the research available to many different people as variation within the participants was desired. Clark and Lewis (1977) conducted research with the aim of changing public attitudes towards rape. By using a random sample of women in Canada, they produced effective results due to the availability of participants. Therefore, supporting the use of the sampling type for this research to be an effective choice due to the necessity of many participants to produce representable data.

Finally, when considering alternative ways of sampling, purposive sampling appeared another effective method as it eliminates unnecessary data collection. However, for this research it was not essential to ensure a specific community or an equal number of male and female

participants and therefore random sampling appeared the most appropriate choice of methodology.

#### **4.4 Qualitative and quantitative data**

The collection of quantitative results through empirical research in this study ensured a sufficient richness of response over a wide representative sample and therefore achieved a range of responses. This was important to ensure the findings were representative and did not limit the degree to which the findings could be applied to various populations beyond the sample. Also, the responses were easily comparable and shown clear and comprehensible findings and quantitative data further allowed for the collected data to be electronically coded, which in turn produced a sufficient analysis using frequency information about linguistic occurrences (Baker 2006, pp. 1-2).

Qualitative results were found from this research. Although the analysis of such data can be harder to compare and time consuming, it allowed for participants to express their opinions freely which was essential when analysing these findings. This was further illustrated in the data collected for other research into court responses to victims of rape. By analysing qualitative court observation, Smith and Skinner (2012) identified the fundamental inadequacies of court responses to rape and sexual assault victims by obtaining complex and rich data. This further shows that the collection of qualitative data for my research was important to ensure similarly beneficial and transferable data. Furthermore, qualitative data allowed for this research to analyse negative discourse prosodies the participants used when discussing perceptions of the rape trial. This was useful for this research as it allowed for the clearer understanding of the opinions presented within the data.

#### **4.5 Analysis of data**

Finally, after collecting the data obtained by the questionnaire, the participants' results were linguistically analysed to establish correlational similarities or differences among the responses collected. By collecting my own corpus for my research, I could undergo corpus linguistic analysis which enabled both qualitative and quantitative language to be examined within the research. Although this style of analysis has its limitations, it appeared to most appropriate for the nature of this research as corpus analysis is the study of language based on examples of real-life language use (McEnery and Wilson 1996, p. 1). The questionnaire responses obtained qualitative data through participants' responses and therefore the large amount of data had to be linguistically analysed accordingly, by using the program AntConc (Anthony 2014) to look at salient words alongside premodifiers and postmodifiers, I could clearly analyse the perceptions of the participants by uploading the data to visualise and compare the data easily. Furthermore, AntConc (Anthony 2014) allowed for the analysis of

similarities in opinions presented by the participants, which were analysed to test the hypothesis that there is a shared opinion amongst the public that the language used towards an alleged victim of rape in the cross-examination process is harsh and unnecessary. However, the differences of opinion were also closely considered by analysing specific language choices chosen by the participants and later using the AntConc (Anthony 2014) toolkit tabs 'Concordance', 'Collocates', 'Word List' and 'Keyword List' within the toolkit to compare the language choices to understand the significances within the data. Furthermore, it allowed for a wider understanding of the use of particular terms that would not have been considered for analysis had the data undergone manual analysis only.

## **5. Analysis**

### **5.1 Quantitative analysis**

Figure 1 illustrates the answers provided when the participants were presented with Transcript 2 (see Appendix C) and later asked questions concerning their interpretation of the style of questioning used by the defence lawyer towards to alleged rape victim. Within this transcript, the defence lawyer used Yes/No questions and leading questions to encourage a response which supports his statement. For example, 'And you weren't pushing them away?' is an example of a question asked by the defence lawyer towards the alleged victim to suggest the victim did not physically show her lack of consent to the act. The questionnaire gained responses through a Likert-style scale with the options of 'Agree', 'Disagree' and 'Neither agree nor disagree' alongside possible opinions about the style of questioning presented by the defence lawyer. From Figure 1, it is clear to see that the majority of participants did not consider the style of questioning to be useful or necessary for the examination of the victim's experience. Similarly, most of the participants stated that the style of questioning undermined the victim's story. Although the majority of participants stated that they agreed that the questioning was very important for the case, there was not a significant difference between the number of participants that agreed and that disagreed for it to be a noteworthy finding from the research.

The participants were presented with Transcript 2 (see Appendix C) and asked, 'The questions asked above are...?'. Figure 1 clearly shows the answers provided within the questionnaire.

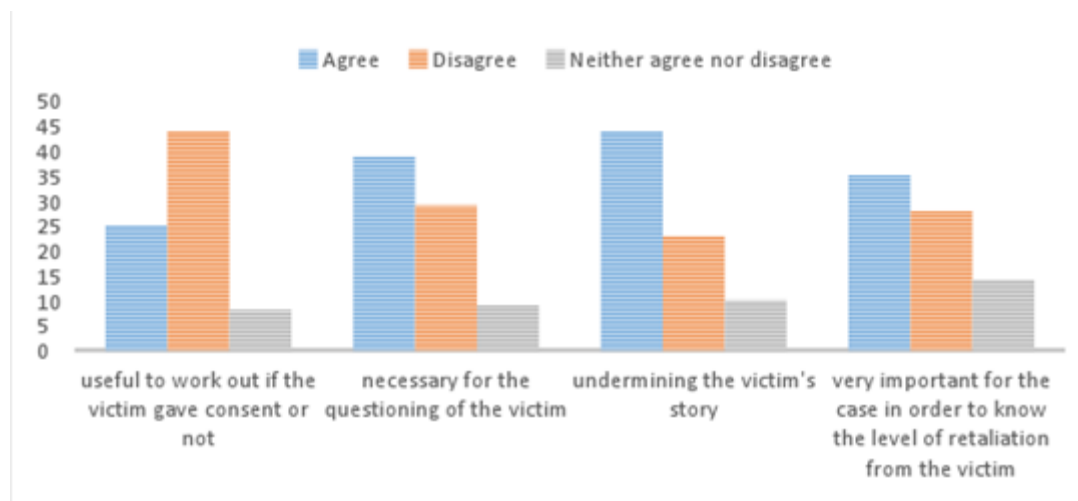


Figure 1: the answers provided when the participants were presented with Transcript 2 (see Appendix C)

Furthermore, Figure 2 illustrates the answers provided by participants when asked about the level of questioning by the defence lawyer in Transcript 3 (see Appendix D). Within the transcript, the defence lawyer focused on the reason why the alleged victim did not attempt to leave the apartment. The style of questioning displayed used leading and declarative questions, for example 'nobody was stopping you, though?'. The use of Yes/No questions within the transcript aims to seek information from the defendant, information-seeking questions were analysed by Coulthard, Johnson and Wright (2017, pp. 82-93) whereby they evaluated the use of such questions in the case of Harold Shipman. In the court trial, Harold Shipman is presented with various style of questions to elicit information. The use of information-seeking questions was strategically placed to require little confirmation to allow the defence lawyer to foreground important information and facts in front of the jury without using obvious leading questions (Coulthard, Johnson and Wright, 2017, pp. 85-86). The transcripts used in this research are canonical examples of these to allow for the participants to understand the various strategies adopted within the cross examination.

The participants' responses were measured through a Likert Scale focusing on their level of agreement with examples of an interpretation that could be taken on the level and style of questioning shown by the defence lawyer. Figure 2 clearly illustrates that most of the participants agreed with the style of questioning being 'interrogative', 'offensive to the victim', 'suggestive' and aggressive'. Similarly, the majority of the participants disagreed with the idea of the questioning being 'fair' and although the majority of the participants disagreed that the questioning style was 'useful', there was not a notable difference between the participants who agreed or disagreed with this. Overall, the data collected and tabulated in Figure 2 illustrates that the majority of the participants did not agree with the style of questioning adopted by the defence lawyer in Transcript 3 (see Appendix D).

Figure 2 illustrates the participants answers to the question 'Please state whether you agree or disagree to the following statements. The questioning of the defence lawyer appears to be...'.

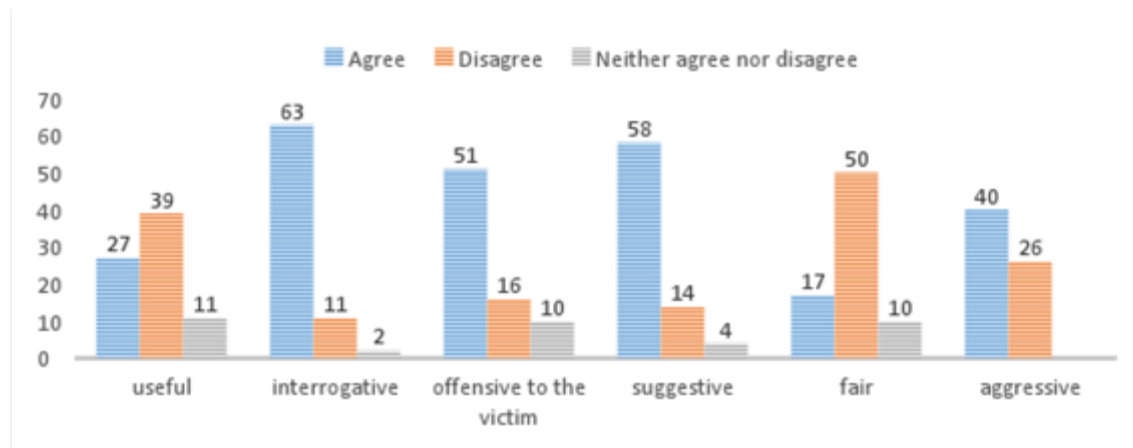


Figure 2: the answers provided when the participants were presented with Transcript 3 (see Appendix D)

Finally, after all information about the trial and transcript of the cross-examination had been shown in the questionnaire, the participants were presented with the statement 'The questioning strategies take away the victim's right to respond'. The participants were asked to select 'Agree', 'Disagree' or 'Neither agree nor disagree'. The data collected from this question is presented in a pie chart in Figure 3 showing the percentage of participants that responded to each answer. Reviewing the data in this way, it was clear to see that the majority of the participants (70%) selected that they agreed with the statement 'The questioning strategies take away the victim's right to respond'. This will be further elaborated on below.

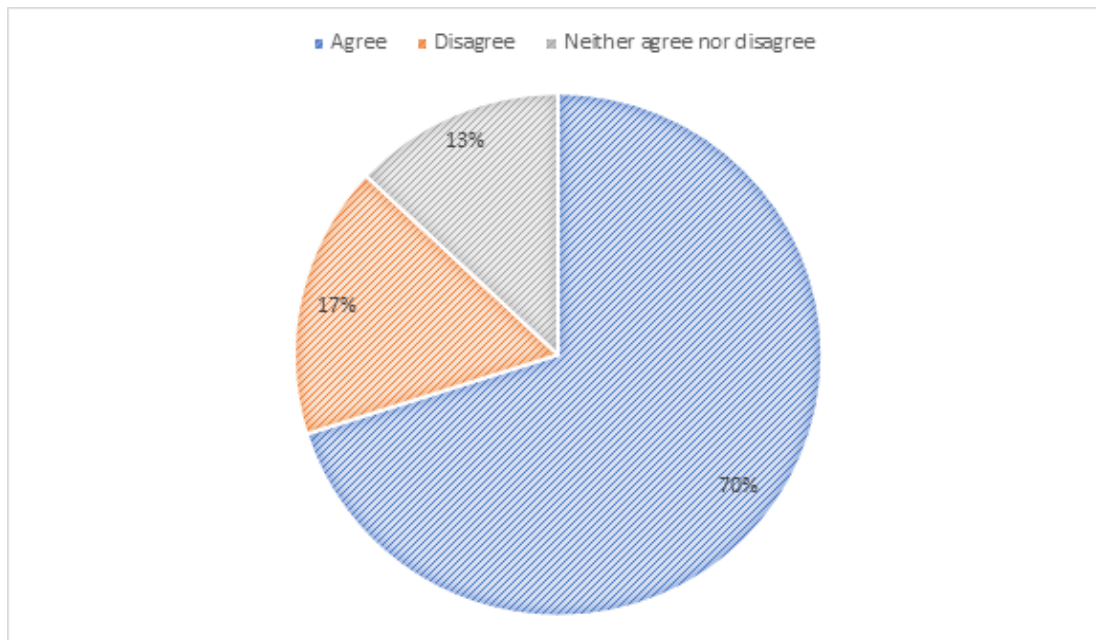


Figure 3: the participant's response to the statement 'The questioning strategies take away the victim's right to respond'.

## 5.2 Qualitative analysis

### 5.2.1 The discourse prosodies of the victim

Table 1 illustrates the 18 words considered most salient within the data and the frequency of these within the corpus created by the participants answers from questionnaire. Table 1 shows that the most significant finding was the use of the word 'victim'. The noun 'victim' appeared in the data 117 times and was the 18th most frequent word within the entire data. Although it was expected for the participants to use the term 'victim' in their answers as the questions asked were focussing on the case of an alleged rape victim, close analysis of pre- and post-modification patterns revealed some interesting patterns.

<b>Salient Words</b>	<b>Number of word appearances in the data</b>	<b>Percentage of word frequency in the corpus %</b>
Victim	117	1.054
Questions	102	0.919
Agree	83	0.748
Lawyer	61	0.549
Disagree	45	0.406
Woman	42	0.378
Questioning	40	0.360
Defence	39	0.351
Rape	38	0.342
Consent	37	0.333
Evidence	34	0.306
Men	34	0.306
Jury	31	0.297
Victims	30	0.270
Question	26	0.234
Leading	25	0.225
Decision	24	0.216
Interrogation	14	0.126

Table 1: Collocates of 'victim'

Analysis of pre-modification patterns shows that the participants were most likely to refer to the alleged rape victim in the transcripts using the noun phrase 'the victim' (a total of 91 times), which was interesting when compared alongside the other choices made for example, 'the woman' (a total of 32 times) and 'the alleged victim' (a total of 6 times). The frequency of these terms within the data is illustrated in Table 2 below.

<b>References to the alleged victim</b>	<b>Frequency of times within the data</b>	<b>Percentage of use within the data %</b>
'The victim'	91	0.820
'The woman'	35	0.315
'The alleged victim'	6	0.054

Table 2: references to alleged victim

The differences in naming choices within the data for the alleged victim, shown in Table 2, is interesting for analysing the way in which the participants chose to refer to the female in the transcripts with the definite article 'the' followed by noun 'victim', despite the individual being referred to as 'the alleged rape victim' throughout the questionnaire. The significance of this will be discussed later in this paper.



When analysing the collocates from this corpus, it was beneficial to compare the premodifiers of 'victim' in The British National Corpus (2007) (BNC) to note any similarities to the corpus collected in this research. Within the BNC the premodifier 'a' was found 375 times and 'alleged' 21 times as pre-modifications to the noun 'victim'. However, the noun phrase 'the victim' was found a total of 1464 times, which therefore suggests that it is the most likely phrase an individual would use and therefore may not be significant enough to contribute to the overall findings of this research. Also, the BNC does not allow for the differentiation between a definite victim and an alleged victim and therefore closer analysis using the corpus is required to complete valid analysis of such terms. However, the analysis of such data is still important for the overall findings of the research.

### **5.2.2 The discourse prosodies of the defence lawyer and questioning strategies**

Analysing post-modification patterns also identifies interesting findings surrounding the participants' interpretation of the questioning strategies used by the defence lawyer. The questionnaire focused around the style of language used in the questioning of the alleged rape victim and therefore the number of occurrences of 'questions' (a total of 102 times), 'questioning' (a total of 40 times) and question (a total of 26 times) was not surprising. However, through further analysis of the post-modifying collocates, including the 2R and 3R items which followed these terms, it was clear to interpret the opinions expressed by the participants.

For example, words such as 'derogatory', 'leading', 'unnecessary', 'irrelevant', 'subjective', 'unfair' and 'suggestive' were all found as 2R or 3R post-modifications, which clearly illustrated that many participants did not agree with the level or type of questioning proposed by the defence lawyer and this was shown with the use of such negative discourse prosodies. Examples of the use of terms in the data are; 'the last question is leading and suggests it's her own fault', 'but the last question is leading and suggests', 'first question is dismissive, demeaning and flippant' and 'too interrogating, the last question was unnecessary'. However, words such as 'effective', 'fair', 'appropriate' and 'suitable' were also used, suggesting that some participants agreed with the questioning proposed by the defence lawyer, for example; 'lawyers line of questioning was clearly effective', 'phrasing of these questions are fair and appropriate' and 'the questions asked are suitable'. The analysis therefore demonstrated a range of opinions from participants when asked about the style of questioning that was presented by the defence lawyer towards the alleged rape victim. However, by analysing such post-modifiers it was clear to see that there were a higher occurrence of words suggesting disagreement with the style of questioning.

Additionally, the verb 'agree' was evident in the data a total of 83 times which is nearly double the occurrence of the word 'disagree' in the data (a total number of 45 times). However, when analysing the concordance lines of these terms, it was clear to see that a closer analysis of the text was necessary to understand the data further. When analysing the pre-modifiers and post-modifiers of the word 'agree', I found that 'I agree' appeared 31 times, 'I do agree' appeared 3 times - when compared to 'I do not agree' a total of 4 times and 'I don't agree' a total of 7 times. It was important to keep such variation in mind as the wide range of questions asked required answers of agreement which suggest different opinions, for example the answers to such questions as 'Do you agree with the level of interrogation used by the defence lawyer and why?' and 'The way victims are represented through questioning in court should change'. To what extent do you agree with this statement and why?'. Therefore, by answering with 'agree', it therefore had to be considered that two different opinions could have been made which present the same data and looking at the frequency of such terms would not be a reliable analysis. Frequency lists are helpful in determining the focus of the text, however much care is needed to not make presuppositions about the ways the words are used that are being analysed (Baker 2006, p. 71). Overall, this shows that further analysis was necessary to correctly conclude such findings and that overall, the analysis of the words 'agree' and 'disagree' showed a wide range of opinions from the participants and the level of questioning by the defence lawyer.

Finally, the use of the noun 'lawyer' (occurring a total of 61 times) was unsurprisingly used throughout most of the data collected due to the nature of the questionnaire focusing on the defence lawyer. When considering the post-modifiers of 'lawyer', it was most interesting to focus on the 2R and 3R items of the term in the concordance lines. When analysing the post-modifiers, there were a range of words used in relation to the defence lawyer such as 'demeans', 'implies', 'influencing', 'portraying', 'suggesting', 'undermining' and 'belittling'. Such terms hold negative connotations when looking at The Oxford Dictionary (2017) definitions of the words, for example: the definition of the term 'demeans' – 'to cause a severe loss in the dignity of and respect for (someone or something), the term 'implies' – to indicate the truth or existence of (something) by suggesting rather than explicit reference and the term 'belittle' – to dismiss (someone or something) as unimportant. When considering the definitions of such terms and the evidence of their use by the participants to describe the questioning within a cross examination, it clearly suggests that many of the participants did not agree with the style of questioning presented by the defence lawyer in the transcripts shown. Therefore, when analysing the word 'lawyer' more closely, it enabled a further understanding of the thoughts and opinions expressed by the participants on the style and length of questioning from the

defence

lawyer.

## 6. Evaluation

### 6.1 Evaluation of findings

The results here have provided insightful findings surrounding the notion of courtroom discourse. The research hypothesised that the majority of participants within the research would consider the level of interrogation presented by the defence lawyer in the cross examination to be harsh and unnecessary. Therefore, when considering both quantitative statistics and the qualitative linguistic analysis of the ways in which the participants presented their opinions, the findings supported the hypothesis of the research.

The quantitative data was obtained by closed-questions within the questionnaire, requiring the participants to answer using a Likert Scale. By calculating the statistical data and presenting it in graphs and tables, it was clear that the majority of the participants disagreed with the level of interrogation presented by the defence lawyer. When the participants were asked how they considered the style of questioning within Transcript 2 (see Appendix C), the questionnaire provided various interpretations that focussed the participants' responses in order to obtain useful data. The majority of participants stated that they disagreed with the notion of the questioning being useful with the trial to find out if the alleged victim gave consent and furthermore most participants considered the questioning from the defence lawyer to undermine the victim's explanation of events. The findings support the use of questioning examined by Coulthard, Johnson and Wright (2017, pp. 87-89) whereby they evaluate a defence lawyer managing to build a negative evaluation into their Yes/No questions with the aim of attacking the defendant and undermining their story within the cross-examination of the Harold Shipman case.

Similarly, when presented with Transcript 3 (see Appendix D), the participants were asked how they considered the questioning presented by the defence lawyer. After analysing the data, it was evident that the majority of participants stated that they agreed that the questioning was 'interrogative', 'offensive to the victim' and 'suggestive'. Additionally, the majority of the participants disagreed with the idea of the questioning being fair. Finally, the analysis of quantitative data shows that 70% of participants agreed that the style of questioning used within the cross-examination took away the alleged victim's right to respond. The public opinions expressed within the data could provide an explanation for why many victims of rape described the cross-examination as the most distressing part of their experience within the criminal justice system (Kebbell, O'Kelly and Gilchrist 2007).

Furthermore, the questionnaire obtained a large amount of qualitative data that required a discourse analysis approach to interpret and analyse the data for the research. Referential strategies and collocates are important to analyse how participants construct their stances towards the alleged victim in the transcript. Stances indicated by syntactic choices were interesting to analyse in the data, especially the idea of presupposition. There appears to be an implicit assumption about the background of the incident which is evident within the discourse of the answers given. For example, it was evident that the participants were most likely to refer to alleged victim as 'the victim' (a total of 91 times). Examples of this are shown in Figure 4.

Hit	KWIC
1	Yes because he is trying to ascertain whether the victim was comfortable at that point or not
2	's subtle, but seems like he is leading the victim by using a statement, then converting i
3	but it does come across very patronising and the victim would feel belittled which I think is
4	is clearly the job of defence to blame the victim. Who is already feeling vulnerable Yes
5	Yes I feel it has purpose to prove the victim was happy in her situation at that
6	the story I don't really see why the victim is asked if she knows she lives
7	sking those questions undermines what happened to the victim! Not only this but it shouldn't
8	only this but it shouldn't matter whether the victim "pushed" him off, by her saying no
9	ented and consequently distancing themselves from the victim not consenting to having sex. Not clear
10	uestioning that the question was never asked, and the victim did not say 'no'. But as the
11	the victim did not say 'no'. But as the victim explained, she was 5 minutes behind eve
12	The lawyer is definitely using phrases that lead the victim- they don't establish what she did
13	isn't that useful for working out if the victim gave consent because it doesn't give
14	rectly. It must be upsetting and frustrating for the victim to be questioned on this way." Not
15	questioned on this way." Not knowing much about "the victim's story", I felt that I couldn'
16	ust pushing someone away I agree with questioning the victim about consent due to false allegations
17	. However, a few assumptions made and can twist the victim's words easily with these questions. Th
18	omitted. Think lawyer is trying to imply that the victim would have pushed with her hand if
19	consensual. It's very difficult to say if the victim was putting up a struggle enough for
20	of coordination, i.e. lack of control by the victim Lack of retaliation doesn't mean she

Figure 4: concordance lines for 'the victim'

This was similarly supported when the use of 'The victim' within this corpus was compared to the BNC (2007), showing that individuals are more likely to refer to a victim in this way. However, this corpus does not differentiate between cases where the defendant is guilty or not guilty and so it is difficult to make this comparison without further analysis of the different corpora. For this research the analysis of 'the victim' suggested that, although the participants were unaware of the outcome of the trial, they awarded the alleged victim full victim status suggesting that they have interpreted the 'alleged' perpetrator as guilty. It could be interpreted as that after reading the examples of the structure of a cross examination, most of the participants did not support the defendants or the defence lawyer. This could therefore suggest that the participants' opinions showed evidence of disagreement in the style and level of interrogation shown by the defence lawyer.

Furthermore, when analysing the adjectives that were evident as the pre- and post-modifiers of terms 'questions' and 'questioning', 'derogatory', 'leading' and 'unnecessary' were found to be used by the participants in association to the defence lawyer and the negative connotations allowed for a further understanding of the opinions expressed by the participants. Examples of this are shown in Figure 5.



Figure 5: concordance lines for 'questions'.

Additionally, when closely analysing the term 'lawyer', the collocations 'influencing', 'undermining' 'demeaning' were all used to describe the defence lawyer in the cross examination shown in the transcripts. Therefore, the analysis of language choices evident in the answers suggests that many of the participants did not agree with the method the defence lawyer questioned the alleged rape victim, thus further supporting the hypothesis of this research.

Overall, the findings from this research illustrate that after the participants were presented with a transcript, offering an example of the type of questioning an alleged rape victim can endure, they generally stated that they were unhappy or did not agree with the style of questioning, the tactics and the intensity of the language used by the defence lawyers. Although it was clear that the majority of the participants disagreed with the questioning strategies, some of the participants considered the level of interrogation in the trial to be necessary and useful for the cross-examination of victim in order to obtain the absolute truth. The research did not hypothesise that all the participants would agree with one another and therefore variation within the opinions shared by the participants was expected. Finally, the findings from the

research further demonstrate the importance of research surrounding public opinions to obtain a non-biased and fair representation of the public when questioned about controversial topics in society.

## **6.2 Contribution to the field of Linguistics and research limitations**

This research has also presented a useful contribution to existing research. Research completed by Cotterill (2003) and Ehrlich (2001) analysed the language used by the defence lawyer and considered it direct and gender-biased. Furthermore, Burman (2009) showed that victims of rape were affected by the level of interrogation they experienced whilst in the court and demonstrated the need for change within courtroom discourse and the way victims are treated within the process. By supporting such findings, this research increases the understanding of the language used in the courtroom by providing examples to members of the public. However, as the findings were from opinions expressed by the public, this could possibly be a stronger voice in the field of linguistics due to the impact public opinion is believed to have in the change in legislation presented by Wilson (1993).

There continues to be much space within the field of linguistics and the analysis of courtroom discourse for future research. The sampling of participants on a much larger scale would not only increase the reliability and generalisability of such findings, but further allow for the analysis to draw upon differences within the public's opinion focusing on the age and gender of participants. Much of the literature used to support this project looked at differences in the treatment of male and female victim and defendants. Therefore, future research would be able to draw a close analysis on gender differences in the treatment of victims and defendants.

Although there are implications for this research, it has supported much existing literature in this field and therefore further presents the necessity for change within the interrogative methods used in the courtroom. Despite the progressive changes within the law in the Sexual Offences Act 2003 and the law against marital rape, alleged rape victims are still undergoing brutal and intimidating experiences within the courtroom today.

Finally, this research successfully answered the research questions by conducting an analysis of the opinions expressed by participants and showing that the majority of the participants disagreed with the level of interrogation presented by the defence lawyer. The research could provide more explanations for why individuals are unlikely to stand up for their crime or why people find cross-examination so brutal. If this is the case, it is important for the rape myths that are present to be challenged and furthermore, society need to be further educated on the process of cross-examination with the legal system. Overall, it is important to note that the findings presented in this research are simply an example of the public's opinion and therefore are not conclusive enough to be generalised to be entire population.

## 7. Conclusion

By using an appropriate methodological approach and utilising a suitable analysis of the data, the findings from this research answered the proposed question of whether the public held a shared opinion of the level of interrogation posed by a defence lawyer to be considered unfair and unnecessary. This was successfully answered by findings from the collected qualitative and quantitative data showing that most of the participants did not agree with the questioning towards the alleged rape victim and considered it 'interrogative', 'suggestive' and 'undermining the alleged victims story'. Furthermore, the research also explained that not all the participants shared the same opinion. However, the majority supported the hypothesis of the research.

This research could further encourage a change within the legal system that is appreciated and accepted by the majority of the public. Although a small-scale research project, this research has opened new pathways for the field of linguistics and the re-examination of courtroom discourse. Furthermore, there continues to be a high proportion of individuals not coming forward about their experience of sexual assault due to the worry of having to experience the cross-examination process. When considering the report of only 15% of individuals who experience sexual violence choose to report the incident to the police (Rape Crisis 2017), by increasing the public's knowledge of such experiences and encouraging changes with the law for a more friendly and approachable system, we can hope for a change in such statistics in the future.

## References

- Anthony, L. (2014). AntConc (Version 3.4.4). [Software]. [Accessed 18 January 2017].
- Associated Press in Los Angeles (2016). Derrick Rose rape trial: woman describes alleged assault by NBA star and friends [online]. *The Guardian*. Available at: <https://www.theguardian.com/us-news/2016/oct/06/derrick-rose-rape-trial-victim-testimony-los-angeles> [Accessed 21 December 2016].
- Bachman, R. (1994). Violence against women. Washington: US Department of Justice. Available at: <https://www.ncjrs.gov/pdffiles1/digitization/145325ncjrs.pdf> [Accessed 5 February 2017].
- Baker, P. (2006). *Using Corpora in Discourse analysis*. London: Continuum.
- Brooker, R.G. and Schafer, T.M. (2006). *Public Opinion in the 21<sup>st</sup> century: Let the People Speak?* Boston: Houghton Mifflin Company.
- Brunwin, R. (2015). The Problem With How We've Defined Consent [online]. *Everyday Feminism*. Available at: <http://everydayfeminism.com/2015/11/the-problem-with-consent/> [Accessed 11 January 2017].

- Burman, M. (2009). Evidencing sexual assault: Women in the witness box. *Probation Journal* 56(4): 379–398.
- Clark, L.M. and Lewis, D.J. (1997). *Rape: The Price of Coercive Sexuality*. Toronto: Women's Press.
- Cotterill, J. (2003). *Language and Power in the Court: A linguistic Analysis of the O.J. Simpson Trail*. Basingstoke: Palgrave.
- Coulthard, M., Johnson, A. and Wright, D. (2017). *An Introduction to Forensic Linguistics: Language in Evidence*. 2nd edn. London: Routledge.
- De Klerk, V. (2003). Language and the law: Who has the upper hand? *International Association of Applied Linguistics Review* 16(1): 89–103.
- Eades, D. (2012). The social consequences of language ideologies in courtroom cross-examination. *Language in Society* 41(4): 471–497.
- Eckert, P. and McConnell-Ginet, S. (2013). *Language and Gender*. 2nd edn. Cambridge: Cambridge University Press.
- Edwards, A. (1996). Gender and sexuality in the social construction of rape and consensual sex: a study of process and outcome in six recent rape trials. In: Adkins, L. and Holland, J. (eds.), *Sex, Sensibility and the Gendered Body*. Basingstoke: Palgrave, pp. 178–201.
- Ehrlich, S. (2001). *Representing Rape: Language and Sexual Consent*. London: Routledge.
- Ehrlich, S. (2014). Language, gender, and sexual violence: legal perspectives. In: Ehrlich, S., Meyerhoff, M and Holmes, J. (eds.), *The Handbook of Language, Gender, and Sexuality*. Chichester: Wiley, pp. 452–470.
- Erez, E. (2002). Domestic Violence and the Criminal Justice System: An Overview. *The Online Journal of Issues in Nursing* [online]. 7 (1) (January). Available via: American Nurses Association [Accessed 5 January 2017].
- Galanter, M. (1997). *The faces of mistrust: the image of lawyers in public opinion, jokes, and political discourse*. *University of Cincinnati Law Review* 66(3): 805–846.
- Gentleman, A. (2013). Prosecuting sexual assault: 'Raped all over again' [online]. The Guardian. Available at: <https://www.theguardian.com/society/2013/apr/13/rape-sexual-assault-frances-andrade-court> [Accessed 12 January 2017].
- Groom, N. and Littlemore, J. (2012). *Doing Applied Linguistics: A Guide for Students*. London: Routledge.
- Henley, N.M. and Kramare, C. (2001). Gender, Power and Miscommunication. In: Juschka, D. (ed.), *Feminism in the Study of Religion*. London: Continuum, pp 34-60.
- Hickman, S.E. and Muehlenhard, C.L. (1999). "By the semi-mystical appearance of a condom": How young women and men communicate sexual consent in heterosexual situations. *Journal of Sex Research* 36(3): 258–272.
- Holmes, J. (2013). *Women, Men and Politeness*. London: Routledge.



- In Brief: The Legal Information Site (no date). Cross examination [Online]. Available at: <http://www.inbrief.co.uk/court-proceedings/cross-examination/> [Accessed 3 March 2017].
- Kebbell, M.R., O'Kelly, C.M.E. and Gilchrist, E.L. (2007). Rape victims' experiences of giving evidence in English courts: a survey. *Psychiatry, Psychology and Law* 14: 111–119.
- Kelly, L., Lovett, J. and Regan, L. (2005). A gap or a chasm?: attrition in reported rape cases. [online]. London: Office of Justice Programmes. Available at: <https://www.ncjrs.gov/App/Publications/abstract.aspx?ID=232617> [Accessed 15 January 2017].
- Koss, M.P., Gidycz, C.A. and Wisniewski, N. (1987). The Scope of Rape: Incidence and Prevalence of Sexual Aggression and Victimization in a National Sample of Higher Education Students. *Journal of Consulting and Clinical Psychology* 55(2): 162–170.
- Labov, W. (1972). Some principles of linguistic methodology. *Language in Society* 1(1): 97–120.
- Lindgren, K.P., Parkhill, M.R., George, W.H. and Hendershot, C.S. (2008). Gender differences in perceptions of sexual intent: A qualitative review and integration. *Psychology of Women Quarterly* 32(4): 423–439.
- MacLeod, N. (2016). "I thought I'd be safe there": Pre-empting blame in the talk of women reporting rape. *Journal of Pragmatics* 96: 96–109.
- Matoesian, G. (1993). *Reproducing Rape: Domination Through Talk in the Courtroom*. Chicago: University of Chicago Press.
- Matoesian, G.M. (2001). *Law and the Language of Identity: Discourse in the William Kennedy Smith Rape Trial*. Oxford: Oxford University Press.
- McNeill, P. and Chapman, S. (2005). *Research Methods* (3<sup>rd</sup> edn). London: Routledge.
- McEnery, T. and Wilson, A. (1996). *Corpus Linguistics*. Edinburgh: Edinburgh University Press.
- Munn, P. and Drever, E. (1990). *Using Questionnaires in Small-Scale Research. A Teachers' Guide*. Midlothian: Macdonald Lindsay Pindar Plc.
- O'Barr, W.M. (1996). *Linguistic Evidence: Language, Power, and Strategy in the Courtroom*. San Diego: Academic Press.
- Rasinger, S.M. (2010). Quantitative Methods: Concepts, Frameworks and Issues. In: Litossieliti, L. (ed.), *Research Methods in Linguistics*. London: Continuum, pp. 49–67.
- Rape Crisis (2017). Rape Crisis England & Wales [online]. Available at: <http://rapecrisis.org.uk/statistics.php> [Accessed 31 November 2016].
- Sexual Offences Act 1956 (c. 69). London: The Stationary Office.
- Sexual Offences Act 2003 (c. 42). London: The Stationary Office.
- Smith, O. and Skinner, T. (2012). Observing court responses to victims of rape and sexual assault. *Feminist Criminology* 7(4): 298–326.

- Sprecher, S., Hatfield, E., Cortese, A., Potapova, E. and Levitskaya, A. (1994). Token resistance to sexual intercourse and consent to unwanted sexual intercourse: college students' dating experiences in three countries. *Journal of Sex Research* 31(2): 125–132.
- Stygall, G. (2012). Discourse in the US Courtroom. In: Solan, L. and Tiersma, P. (eds.), *The Oxford Handbook of Language and Law*. Oxford: Oxford University Press, pp. 369–380.
- Svongoro, P., Mutangadura, J., Gonzo, L., and Mavunga, G. (2012). Language and the legal process: A linguistic analysis of courtroom discourse involving selected cases of alleged rape in Mutare, Zimbabwe. *South African Journal of African Languages* 32(2): 117–128.
- Swerling, J.B. (1998). *I Can't Believe I Asked That Question: A Look at Cross-Examination Techniques*. SCL Rev, 50, pp. 753.
- The British National Corpus. (2007). Version 3 BNC XML Edition. [Software]. [Accessed 26 February 2017].
- Tiersma, P. (2007). The Language of Consent in Rape Law. In: Cotterill, J. (ed.), *The Language of Sexual Crime*. Hampshire: Palgrave Macmillan, pp. 83–103.
- Oxford Dictionary. (no date). *Oxford Living Dictionary* [online]. Available at: <https://en.oxforddictionaries.com/definition> [Accessed 6 March 2017].
- Walker, P. (2013). Frances Andrade killed herself after being accused of lying, says husband [online]. *The Guardian*. Available at: <https://www.theguardian.com/uk/2013/feb/10/frances-andrade-killed-herself-lying> [Accessed 1 December 2016].
- Wilson, J.G. (1993). The role of public opinion in constitutional interpretation. *Brigham Young University Law Review* 4: 1037–1137.
- Wright, J.W. and Hosman, L.A. (1983). Language style and sex bias in the courtroom: the effects of male and female use of hedges and intensifiers on impression information. *Southern Speech Communication Journal* 48(2): 137–152.
- Zydervelt, S., Zajac, R., Kaladelfos, A. and Westera, N. (2016). Lawyers' strategies for cross-examining rape complainants: have we moved beyond the 1950s?. *The British Journal of Criminology* 57(3): 551–569.

## Appendix A

Online link for the questionnaire used in the research:

[https://docs.google.com/forms/d/e/1FAIpQLSc7MzQmUUfWqWYU08T6k19XPwpUgQaM6ViP7\\_yB9NlohqrsDw/viewform](https://docs.google.com/forms/d/e/1FAIpQLSc7MzQmUUfWqWYU08T6k19XPwpUgQaM6ViP7_yB9NlohqrsDw/viewform)

## Appendix B

The reference for the transcript of the court trial whereby extracts were taken from for the questionnaire of this research:

Gross, N.R., (2011). Sample Cross-Examination of Sexual Assault Victim 2. Available at: [http://defensewiki.ibj.org/images/1/10/Sample\\_Cross\\_Examination\\_Sexual\\_Assault\\_Victim\\_3.pdf](http://defensewiki.ibj.org/images/1/10/Sample_Cross_Examination_Sexual_Assault_Victim_3.pdf) [Accessed 27 November 2016].

## Appendix C

Extract of transcript used in the questionnaire titled 'Transcript 2':

Q: Did you flex your arm and try to prevent your shirt from being removed?

A: I don't remember. I mean, I just remember being five minutes behind everything.

Q: But you weren't scratching at Mr. Smith –

A: No.

Q: And you weren't pushing them away?

A: I was trying but it was very – I mean, like "push" with my body but there was no leg.

Q: No pushing with the hand?

A: No.

## Appendix D

Extract of transcript used in the questionnaire titled 'Transcript 3':

A: I didn't feel like I was in a position to leave. I didn't feel like I would be allowed to leave.

Q: Nobody was stopping you, though?

A: I didn't – because I hadn't tried. So I just didn't want to escalate the situation.

Q: You did not see any indication of someone stopping you –

A: They just raped me, So I didn't really think they'd be keen on me saying I'm leaving, I don't know where I am. You know, like I didn't want to send up any flags that would put me in any danger.

Q: But you never tried or asked to; right?

A: No