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"EFFICIENCY AND EQUITY OF JUSTICE IN NUMBERS: The influence of the Security Forces in Sexual Crime Reports"

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ABSTRACT

Within the project of "Justice Efficiency and Equity in Numbers", "The Sexual Victim Project" or "Proyecto Víctima Sexual" in Spanish, aims to study the role of the victims of sexual violence in terms of treatment throughout the Spanish Justice System. This is done through a social and procedural approach to the victims. The current Spanish Justice System deals with sexual crime victims in the same way as any other victim, without taking in consideration the specific characteristics of this kind of crimes and the impact they have on them.

This dissertation approaches the necessity of education within the Security Forces to prevent the myths of sexual aggressions (AMMSA) from interfering when this type of crimes are reported and reduce primary and secondary victimization produced by prejudices and other misperceptions.

   Key words: victim, sexual aggression, sexual assault, sexual crimes, violence against women, gender violence, secondary victimization, police prejudices.

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1. INTRODUCTION

According to the World Health Organization, Sexual Violence is defined as "any sexual act, attempt to obtain a sexual act, unwanted sexual comments or advances, or acts to traffic, or otherwise directed, against a person's sexuality using coercion, by any person regardless of their relationship to the victim, in any setting, including but not limited to home and work"[1].

The unrecorded crime rate or dark figure in this kind of offenses has always been very high, resulting in a lack of reliable data. At European Union level, until 2014, the only information available was the official numbers based on reported sexual violence. Considering the unreported number could be five times the number of reported sexual violence, there was no real, exhaustive and comparable data to allow EU to adopt specific politics to confront sexual violence and more specifically, violence against women.

To address this problem, in 2014, the European Union Agency for Fundamental Rights (FRA) published the first EU-wide survey on gender violence in order to gather comparable data. The survey was conducted to 42,000 women from all over the 28 EU Member States and covered questions about the scope, frequency and seriousness of violence practiced against women in the EU. The items referred to the suffering of physical, psychological and sexual violence by the victims, experience of childhood victimization, sexual harassment and new methodologies used for committing these abuses such as Social Media[2].

The results showed that sexual violence is a common crime in the European Union with 3,7 million women suffering from it during the year prior to conducting the survey, that is, 2% of the total women population between 18 and 74 years in the UE[3]. There is also an important prevalence of victims during childhood. About 12% of the survey respondents claimed to have experienced some kind of sexual incident by an adult before the age of 15[4]. This percentage could represent up to 21 million women in the UE. The real number is assumed to be higher as this percentage does not include sexual offences carried out by individuals under 18 years old or family members. Furthermore, it has been found that after the age of 15, 1 in every 20 women

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[1] Etienne G. Krug t al., eds., *World report on violence and health* (Geneva, World Health Organization, 2002), 149. Available at: https://apps.who.int/iris/bitstream/handle/10665/42495/9241545615_eng.pdf?sequence=1

[2] European Union for Fundamental Rights, *Violence against women: an EU-wide survey. Main Results Report* (Luxemburg: FRA-European Union Agency for Fundamental Rights, 2014). Available at: https://fra.europa.eu/sites/default/files/fra_uploads/fra-2014-vaw-survey-main-results-apr14_en.pdf

[3] Ibid, 21.

[4] Ibid, 121.

(5%) has been raped and among them, almost 1 in every 10 victims was attacked by more than one perpetrator[5].

Narrowing the scope to Spain, the latest data comes from the "Macroencuesta de Violencia contra la Mujer" conducted in 2019 in order to establish the percentage of women who has suffered or that currently suffers any kind of violence because of their gender. The sample consisted of 9.568 women above the age of 16[6]. The results stated that victims who suffered from partner sexual violence at some point in their lives represented an 9,2%[7] and that among them, around 87% suffered it repeatedly[8]. Outside the scope of partner violence, 13,4% of the women experienced sexual violence at some point in their lives, being the perpetrator a male in 46,1% of the cases and him being a relative in 33,1% of the cases, a friend or acquaintance 27,8% and 17,4% strangers. When the perpetrator was a woman, friends or acquaintances had the higher percentage with 30,7%[9].

Even with improved police statistics and other criminal justice data, their usefulness to describe the real prevalence of sexual violence is limited because many incidents are not reported. This is why victimization surveys such as the one conducted by the FRA are important to improve these estimations. Not only they record the number of women who report incidents to the police but also the number of the ones who do not[10]. Therefore, they have become one of the most reliable methods for gathering information about the scale and nature of violence against women in a general population.

Among the reasons of sexual violence victims' reluctancy to report is their fear of derogation and being generally disbelieved, even by officers of the Criminal Justice System or health professionals[11]. When a victim decides to report a crime, the first step is usually to go to the Police. Hence, police officers assume, whether they like it or not, a very important role in the Criminal Justice Process. Their job in these cases should consist of simply record the

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[5] Ibid, 21.

[6] Delegación del Gobierno para la Violencia de Género, *Macroencuesta de Violencia contra la Mujer 2019* (Madrid: Centro de Publicaciones del Ministerio de sanidad, Servicios Sociales e Igualdad, 2020), 10. Available at:
https://violenciagenero.igualdad.gob.es/violenciaEnCifras/macroencuesta2015/pdf/Macroencuesta_2019_estudio_investigacion.pdf

[7] Ibid, 25.

[8] Ibid, 143.

[9] Ibid, 149.

[10] European Union for Fundamental Rights, *Violence against women,* 14.

[11] Rita Gunn and R. Linden, "The impact of law reform on the processing of sexual assault cases", *The Canadian Review of Sociology and Anthropology* 34, no. 2 (1997): 155-174.

statements of the victim. However, and most likely in crimes related with sexual violence, police officers may take a controlling role by deciding what is or is not a crime or if it should be pursued and question the trustworthiness of the victims. If this discouraging appears from the very beginning of the process, it highly unlikely that any victim will seek help in the Criminal Justice System. Hence, apart from the negative effects that come with the criminal offense itself (primary victimization), the victim can suffer from this kind of secondary victimization due to the way he/she is treated whilst in the bosom of the process caused by a bad police praxis.

One of the main determinants for the presence of this kind of behavior in the Security Forces but also in the general population is the Acceptance of Modern Rape Myths (AMMSA), which are descriptive and prescriptive beliefs that justify sexual violence by transferring the blame to the victim[12]. Examples of these myths conform idea of the "perfect or real victim", perceived as an innocent devastated and hysterical woman, formally dressed and who has fought against her aggressor by all means. Other examples are the thought that if the event occurs under the effect of alcohol or drugs it cannot be considered a sexual assault or the belief that many reports are false, made by revengeful women against their alleged perpetrator. In words of Estrich, "no myth is more powerful in the tradition of rape than the belief of the lying woman"[13].

The list is endless and altogether with many other discouraging factors that the victims may perceive, the biases that appears in the Security Forces is an issue that needs to be addressed in order to eliminate any negative consequence that the victim could experience during their involvement in the Criminal Justice procedures. Besides suffering the consequences of the crime, sexual violence victims suffer from an inconsiderate system that lacks regulations and specification of the several institutions involved in the criminal process. Among them, the Security Forces can be found.

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[12] Madeleine Van der Bruggen and Amy Grugg, "A review of the literature relating to rape victim blaming: An analysis of the impact of observer and victim characteristics on attribution of blame in rape cases," Aggression *and Violent Behavior* 19, no. 5 (2014): 523-531.

[13] Susan Estrich, *Real rape: How the legal system victimizes women who say no* (Boston: Harvard University Press, 1987), 47.

2. RAPE MYTHS AND POLICE REPORTING

For the interest of this dissertation, the relationship between the Acceptance of Modern Myths about Sexual Aggression (AMMSA) and how a woman's profile adjustment to the "real victim" myths can influence police reporting needs to be understood.

The Acceptance of Modern Myths about Sexual Aggression (AMMSA) refers to "descriptive or prescriptive beliefs about sexual aggression (e.g., about its scope, causes, context and consequences) that serve to deny, downplay, or justify sexually aggressive behavior that men commit against women"[14].

These beliefs facilitate victim blaming (e.g., women who dress provocatively are looking forward to getting raped), imply that many rape reports are false (e.g., women often report false accusations in revenge against the alleged perpetrator), exonerate the perpetrator (e.g., justifying men's sex drive is not under their control), and propose only certain kind of women get raped (e.g., only promiscuous women are victims of sexual violence)[15]. As an example, results of McGee et al.[16] showed that over 40% of their respondents thought that rape allegations are often false, and that percentage also includes professionals working in the Criminal Justice System such as police officers.

These beliefs are held regardless of gender or age. However, since they started to be examined in the 1970s, the myths have evolved and they vary across cultures, as well as victim blaming[17]. Cultures with greater gender inequality, hierarchical family structures and deep-rooted traditional gender roles are more conducive to victim blaming[18].

Within rape mythology, there is, on the one hand, the "real rape" perceived as an act of violent, coercive penetration committed by a stranger during an attack in an outdoor isolated witness free place at night. On the other hand, "the real victim" is characterized as a morally correct and honest White woman who has fought against the perpetrator and has gotten

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[14] Heike Gerger et al., "The Acceptance of Modern Myths About Sexual Aggression (AMMSA) Scale: Development and validation in German and English.", *Aggressive Behavior* 33, no. 5 (2007): 425.

[15] Gerd Bohner et al., "Rape myth acceptance: Cognitive, affective and behavioral effects of beliefs that blame the victim and exonerate the perpetrator.", in *Rape: Challenging contemporary thinking*, by M. Horvath and J. Brown (Devon, UK: Willan Publishing, 2009), 17-45.

[16] Hanna McGee, M. O'Higgins, R. Garavan, and R. Conroy, "Rape and child sexual abuse: What beliefs persist about motives, perpetrators and survivors?", *Journal of Interpersonal Violence* 26, no. 17 (2011): 3580–3593.

[17] Martha R. Burt, "Cultural myths and supports of rape.", *Journal of Personality and Social Psychology* 38, no. 2 (1980): 217-230.

[18] Sven H. Pedersen and Leif A. Strömwall. "Victim blame, sexism and just-world beliefs: A cross-cultural comparison." *Psychiatry, Psychology and Law* 20, no. 6 (2013): 932-941.

physically injured while doing so[19]. To sum it up, the "real rape" scenario will have the following elements: (1) a stranger perpetrator, (2) physical force or use of weapons and (3) a violent intercourse; whist the "real victim" or morally upright woman will be characterized by being (1) White-Caucasic, (2) young, (3) single, (4) sexually inexperienced, (5) not previously assaulted and (6) showing visible signs of emotional trauma[20].

In contrast, results from studies several studies have shown that only a minority of women are physically coerced by the perpetrator and that in the majority of cases, the perpetrator is not a stranger[21]. Concerning the victim, a non-emotive expression and behavior is more usual that what would be expect. For example, in the study conducted by Du Mont[22], only 27,5% of the women suffered a violent sexual assault, a 40,3% were calmed and rational when making the report and their assailants were known by them for less than 24 hours in 21.6% of the cases, 35.7% for more than 24 hours and 22.2% were current or former partners. Regarding the place and time of the assault, a minority of rapes occur in public places, varying from 7%[23] to 17.3%[24] of cases even though in some studies the percentage raises up to a 32%[25] and the majority take place at night[26]. These studies also propose women between 16 and 29 years old to be at higher risk. About the injuries, results are not clear, with some studies sustaining 2/3 of the victims had no injuries whereas others claim the same proportion for injured victims.

Despite being less than half of the reported rapes, Sleath and Woodhams[27] compiled several studies that analyzed real stranger rape cases with the aim of comparing respondent's expectations of what would be the victim and perpetrator behaviors and the reality. Their

[19] Gail Steketee and Anne Austin. "Rape victims and the justice system: Utilization and impact.", *Social Service Review* 63, no. 2 (1989): 285-303

[20] Jacqueline M. Golding,, J. M. Siegel, S. B. Sorenson, M. A. Burnam, and J. A. Stein, "Social support following sexual assault., *Journal of Community Psychology* 17, no. 1 (1989): 92-106.

[21] Andy Feist et al, *Investigating and detecting recorded offences of rape. Home Office Online Report 18/07* (London: Home Office, 2007).; Lawrence A. Greenfeld, *Sex offenses and offenders: An analysis of data on rape and sexual assault* (Washington, DC: U.S. Department of Justice, 1997).

[22] Janice Du Mont, Karen-Lee Miller, and Terri Myhr. "The Role of "Real Rape" and "Real Victim" Stereotypes in the Police Reporting Practices of Sexually Assaulted Women." *Violence Against Women* 9, no. 4 (2003): 466-486.

[23] Feist et al, *Investigating and detecting recorded offences of rape. Home Office Online Report 18/07*, …

[24] Greenfeld, *Sex offenses and offenders: An analysis of data on rape and sexual assault,* …

[25] Liz Kelly, Jo Lovett, and Linda Regan, *A gap or a chasm? Attrition in reported rape cases* (London, UK: Home Office Research, Development and Statistics, 2005).

[26] Greenfeld, *Sex offenses and offenders: An analysis of data on rape and sexual assault, …*; Feist et al, Investigating and detecting recorded offences of rape. Home Office Online Report 18/07, …

[27] Emma Sleath and Jessica Woodhams. "Expectations about victim and offender behaviour during stranger rape.", *Psychology, Crime & Law* 20, no. 8 (2014): 798–820.

review gathered the most diverse results with very inconsistent frequencies for each behavior. In the case of victims who offered resistance against their assaulter (e.g., struggling, hitting, kicking, punching or taking the weapon away), the frequencies ranged from 5.3% and 63.6% of cases; and for perpetrators who were forceful and coercive (e.g., kicking, punching, slapping or tearing apart victim's clothes), from 19.8% to 68.2%. The use of weapons appeared in 42.97% of cases on average but other studies outside the Sleath and Woodhams' compilation obtained lower percentages with only 4% in Feist et al.[28] with an English and Welsh sample population or 6.25%. in Greenfeld[29] with a US sample population. Lastly, alcohol intake is usually present in stranger rapes as research has determined that the majority of women attacked by an unknown person were highly intoxicated[30]. Conclusively, the "real rape" and "real victim" myths are nothing more than myths for most sexual violence offences.

The origin of these rape myths is related with gender-specific utilities[31]. For example, men who believe in them think their own acts of sexual dominance fall under normal practices of sexual behavior, thus helping their self-esteem by morally neutralizing their violations[32]. How do rape myths do that? By setting a very strict definition of the term rape. If their practices do not correspond with the "real rape", men could assume that their acts do not conform a sexual aggression. As an illustration, non-consensual sex if it is performed with partners or acquaintances or using a verbal threat instead of physical force to compel someone to have sex. In case of women, rape myths can have an effect on their self-esteem as well due to their ability to categorize propensity of women to become a victim. In other words, if women endorse rape myths, they can believe that if they do not fit into the "real victim" stereotype, they would not be assaulted[33]. In consequence, they may take less precautions and have a wrongful idea of which are the situations that can really put them at risk.

The acceptance of these myths can have a great impact on how people react towards sexual violence. In Spain, sexual aggression is defined in the art. 178 of the Spanish Penal Code as attempting a person's sexual rights using violence or intimidation. When this attempt consists

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[28] Feist et al, *Investigating and detecting recorded offences of rape. Home Office Online Report 18/07*, …

[29] Greenfeld, *Sex offenses and offenders: An analysis of data on rape and sexual assault*, …

[30] Feist et al, *Investigating and detecting recorded offences of rape. Home Office Online Report 18/07*, …

[31] Bohner et al., "Rape myth acceptance: Cognitive, affective and behavioral effects of beliefs that blame the victim and exonerate the perpetrator.", 17-45.

[32] Albert Bandura, "Moral disengagement in the perpetration of inhumanities.", *Personality and Social Psychology Review*, 3, no. 3 (1999): 193–209.

[33] Zoë D. Peterson and Charlene L. Muehlenhard. "Was it rape? The function of women's rape myth acceptance and definitions of sex in labeling their own experiences." Sex Roles 51, no. 3/4 (2004): 129–144.

of a carnal penetration of another person's vagina, anus or mouth or either the introduction of body limbs or objects in any of the first two, it will be punished as rape in art. 179. A victim of sexual assault who believes in rape myths may not think he/she has been raped even though she/he has been, legally speaking[34].

Not only do they affect people in general but also police officers and their attitudes. Besides the accordance of the crime with the stereotype, other factors can affect a police officer decision on whether or not to file a crime report, lay charges or arrest the suspect in intimate partner violence cases even if the victim does not want to make any accusation. For instance, levels of sexism or empathy, the gravity of the case or the perception of their personal responsibility[35]. All of them, in the end, can lead to the perpetuation of rape myths and stereotypes and result in biased attitudes and behaviors towards the crime itself, the victim, the perpetrator and the overall investigation.

Nowadays, modern myths about sexual aggression are still used to justify or even support rape and also to facilitate victim blaming[36]. People with higher AMMSA have been found to be more likely to presume that many sexual violence allegations are false or overdramatized, to transfer the blame from the perpetrator to the victim and support the belief that only certain types of women suffer from sexual violence. For the victim blaming to happen, several individual and situational factors tend to be considered such as the victim's attractiveness or the clothes she was wearing which are endorsed by rape myths[37].

In fact, Tomlinson[38] study on factors that negatively influence police reporting concluded that the majority "stem directly from rape myths that are deeply embedded in our general culture"[39]. Moreover, another study by Stewart et al.[40] indicated that police reporting is related

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[34] Ibid.

[35] Marisol Lila, Enrique Gracia, and Ferdnando Garcia, "Ambivalent sexism, empathy and law enforcement attitudes towards partner violence against women among male police officers." *Psychology, Crime & Law* 19, no. 10 (2013): 907–919.

[36] Amy Grub and Emily Turner. "Attribution of blame in rape cases: A review of the impact of rape myth acceptance, gender role conformity and substance use on victim blaming.". *Aggression and Violent Behavior* 17, no. 5 (2012): 443-452.

[37]Gerd Bohner and Evelyn Schapansky. "Law students' judgments of a rape victim's statement: The role of displays of emotion and acceptance of sexual aggression myths." International Journal of Conflict and Violence 12, no. 1 (2018): 1-13.

[38] Tomilson, Debra. *Police-reporting decisions of sexual assault survivors: An exploration of influential factors*. Calgary: Alberta Law Foundation, 1999.

[39] Ibid. p.89

[40] Mary White Stewart, Shirley A. Dobbin, and Sophia Gatowski. "Real rapes" and "real victims": The shared reliance on common cultural definitions of rape." *Feminist Legal Studies* 4, no. 2 (1996): 159-177.

to a woman's impression of the actual event fitting the "real rape" and real victim" myths. Prior to considering the assault itself, the woman must conclude she is a real victim and for that aim, she usually compares herself with the "real victim". However, the "real rape" factors have been demonstrated to be more influential to the decision to report than the "real victim" ones[41].

In any case, the influence of AMMSA is undeniable. The more similar the assault is to the stereotype of the "real rape" myth, the more likely are victims to report. Clay-Warner and McMahon-Howard found that, in the USA, the likelihood of a rape to be reported was doubled if it was committed in public or through a housebreak. It was more likely as well if the perpetrator was a stranger than if it was a partner or ex-partner and also if the victim was injured or coerced using a weapon.

Although it has been difficult to define a profile of the woman who reports, it has been argued that women of color are less likely to report due to this discordance with the portrayal of the "real victim" and their fear of racial discrimination[42]. Nevertheless, other research has proven the resemblance to the mythologized real victim to be indifferently related with police reporting. In that sense, in Du Mont's study[43], women were equally likely to report regardless of the age, race, marital status, employment, prior assaults, mental health difficulties, prior drinking to the scene or emotional approach to the Sexual Assault Centre (SAC).

The underreporting of these discrepant assaults has many reasons behind it. For example, a victim of domestic violence may be afraid of suffering increased violence or other consequences by their partners or ex-partners if they make the decision to report. This fear does not exist if the perpetrator is unknown. Even when the victims do not believe in the myths themselves, they might fear the Criminal Justice System will and that their allegations will not be taken seriously. It has been found that the likelihood that an offense will be reported is three and a half times higher if coercion has been used and physical injuries have resulted from the attack as they could be shown as proof of the forced sex act[44]. However, a great number of sexual assaults lack this violent component, leading to their underreport and consequent

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[41] Du Mont, Miller and Myhr. "The Role of "Real Rape" and "Real Victim" Stereotypes in the Police Reporting Practices of Sexually Assaulted Women.", 466-486.

[42] Sherene Razack. "What is to be gained by looking White people in the eye? Culture, race, and gender in cases of sexual violence.". *Signs* 19, no. 4 (1994): 894-923.

[43] Du Mont, Miller and Myhr. "The Role of "Real Rape" and "Real Victim" Stereotypes in the Police Reporting Practices of Sexually Assaulted Women.", 466-486.

[44] Ibid, 477.

reinforcement of the real rape myth[45]. But in fact, it is true that police, prosecutors and judges are more likely to disbelieve an allegation of rape if there is no evidence of injuries[46]. In the same way, evidence has been found to support a positive correlation between the use of physical violence and the probability of a case being solved[47]. These facts create the idea on women that her case will be more easily prosecuted if coercion is involved and that more effort will be placed in its resolution.

Biased reporting contributes to the perpetuation of AMMSA and consequently leads to increased misperceptions of what constitutes rape. If the greatest number of rapes reported fit the stereotype, it will contribute to the public belief that those are the majority. Also, when measuring self-reported proclivity, several studies that used male students for their sample, found that AMMSA correlates with higher chances of reporting they will commit rape in a given "real rape" myth scenario[48]. Although it could be argued that the outcome applies only to non-criminal populations, repeated studies with imprisoned populations have concluded to find a relationship between AMMSA and the actual commission of rape offences. However, within incarcerated population, there were differences. Coercive and aggressive perpetrators had a higher acceptance of AMMSA than prisoners that claimed to have had consensual sex[49].

Nonetheless, if the perpetrators already upheld those beliefs or whether their degree of acceptance of rape myths was strengthened after committing the crime to exempt their acts cannot be determined. This matter was studied by Bohner et al.[50] by comparing AMMSA scale results filled out either before or after presented with a given rape scenario. The findings demonstrated a positive correlation between increased AMMSA and increased rape proclivity if the scale was presented before having to make a decision on the mock scenario but no relation

[45] Margaret. J. McGregor et al., "Why don't more women report sexual assault to the police? (Research letter).", *Canadian Medical Association Journal* 162, no. 5 (2000): 659-662

[46] Shirley Feldman-Summers, and Gayle C. Palmer, "Rape as viewed by judges, prosecutors, and police officers.", *Criminal Justice and Behavior* 7, no. 1 (1980): 19-40.

[47] Sharon Grace, Charles Lloyd, and Lorna. J. Smith. *Rape: From recording to conviction* (London: Home Office Research Unit, 1992).

[48] Gerd Bohner et al., "Rape myths as neutralizing cognitions: Evidence for a causal impact of anti-victim attitudes on men's self-reported likelihood of raping." *Journal of Social Psychology* 28, no. 2 (1998): 257-268; Patrick Chiroro et al., "Rape myth acceptance and rape proclivity: Expected dominance versus expected arousal as mediators in acquaintance-rape situations." *Journal of Interpersonal Violence* 19, no. 4 (2004): 427–442.

[49] Sarah DeGue, David DiLillo, and Mario Scalora, "Are all perpetrators alike? Comparing risk factors for sexual coercion and aggression.", *Sexual Abuse: A Journal of Research and Treatment* 22, no. 4 (2010): 402–426.

[50] Bohner et al. "Rape myths as neutralizing cognitions: Evidence for a causal impact of anti-victim attitudes on men's self-reported likelihood of raping.", 257-268.

if the AMMSA scale was filled out after. These results imply a causal relation between those two variables (AMMSA and rape proclivity).

Notwithstanding, considering the ubiquity of rape myths and how inconsistent the relationship between a person's attitude and its behavior is, it is difficult to establish that the simple fact of accepting rape myths would induce someone to commit an actual rape. Easier to defend would be the idea that myths reinforce biased perceptions of what constitutes a rape, or sexual violence in general, which could end up affecting a person's reasoning and decision on whether they should or would be acceptable to commit a sexual violence offense.

Hence, juror members can be influenced by rape myths too, thus affecting their opinions and judgments of guilt. Jurors with higher AMMSA have been proven to have a bigger tendency to blame the victims while excusing the perpetrator[51] and give fewer guilty verdicts[52]. Nevertheless, Munro and Kelly[53] found that the conviction rates were higher when the victim had a previous relationship with the perpetrator (either intimate, friendly or professional) than when the relationship was of other kind or there was no relation (stranger). The reason behind it could be either the similarity of those stranger cases to the "real rape" myth or that AMMSA have less impact on the legal resolutions in reality than in a written mock date-rape situation[54].

As it has been explained, AMMSA can influence many aspects concerning rape such as the decision to report, commit it or give a guilty verdict. It can also minimize the impact of organizations looking forward to diminishing rape cases, increase the number of rapes reported and guarantee a fair trial. To amend this situation, there are different measures taking place amongst which education takes a central role as the inaccuracy of rape myths can be supported by empirical studies[55].

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[51] Elizabeth M. Hammond, Melissa A. Berry, and Dario N. Rodriguez. "The influence of rape myth acceptance, sexual attitudes, and belief in a just world on attributions of responsibility in a date rape scenario." Legal and Criminological Psychology 16, no. 2 (2011): 242-252.

[52] Destin N. Stewart, and Kristine M. Jacquin. "Juror perceptions in a rape trial: Examining the complainant's ingestion of chemical substances prior to sexual assault." Journal of Aggression Maltreatment & Trauma 19, no. 8 (2010): 853-874.

[53] Vanessa Munro and Liz Kelly. "A vicious cycle? Attrition and conviction patterns in contemporary rape cases in England and Wales.". In *Rape: Challenging contemporary thinking*, by M. Horvath y J. Brown (Devon, UK: Willan Publishing, 2009), 281-300.

[54] Genevieve F Waterhouse, Ali Reynolds, and Vincent Egan. "Myths and legends: The reality of rape offences reported to a UK police force." *The European Journal of Psychology Applied to Legal Context* 8, no. 1 (2016): 1-10.

[55] Linda A. Anderson and Susan. C. Whiston. "Sexual assault education programs: A meta- analytic examination of their effectiveness." *Psychology of Women Quarterly* 29, no. 4 (2005): 374–388.

3. POLICE NO-CRIMING PRACTICES

As it has been explained in the previous section, the reporting rates are presumed to be lower than the real number of sexual violence crimes. Likewise, the existence of biases within the Security Forces is undeniable which, altogether with other bad practices, also known as no-criming practices, makes them partly responsible for the high attrition and low reporting rates from which this kind of offences suffer.

The term "attrition" refers to the process through which complaints and reports drop out of the Criminal Justice System at one of the several possible points of exit of the system. These exit points can be situated within the police service, the Office of the Attorney General or in court. Certain degree of attrition is present in all crimes as a consequence of different factors like the victim not wishing to press charges or lacking evidence, but the rate of attrition for sexual violence crimes is higher than that of many other offences[56]. Moreover, Phillips and Brown[57] stated that the conviction rate of this type of crimes is the lowest among all serious crimes.

What the average citizen would expect from the Criminal Justice System is that, when a serious offence takes place, the victim would have at their disposal all the necessary facilities to file a complete report. That report would then be verified, and the perpetrator would try to be identified and arrested, handing over the case to a prosecutor thereafter. Finally, the culpability would be determined at trial after the prosecutor presses the charges. The practice, instead, shows that those expectations are far from reality. "The justice system has been likened to a giant sieve, filtering out cases at every stage of the process"[58].

Specifically, in violent sexual offences, four stages have been identified as having the greatest number of cases dropped. First, when the police makes the decision of whether or not to record the described event as a crime or to no-crime[59] it. Second, when the police verifies

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[56] Susan J. Lea, Lanvers, Ursula and Shaw, Steve. "Attrition in rape cases: Developing a profile and identifying relevant factors". *British Journal of Criminology* 43, no. 3 (2003): 583–599.

[57] Coretta Phillips and David Brown, *Entry Into the Criminal Justice System: A Survey of Police Arrests and Their Outcome* (London: Home Office, 1998).

[58] David P. Bryden and Sonja Lengnick, "Rape in the Criminal Justice System", *Journal of Criminal Law and Criminology* 87, no.4 (1997): 1194-1384.

[59] *No-crime* refers to an incident that was initially recorded as a crime but has subsequently been found not to be a notifiable crime on the basis of additional verifiable information. Definition from Her Majesty's Inspectorate of Constabulary and Fire & Rescue Services (HMICFRS), *Crime Recording: making the victim count. The final report of an inspection of crime data integrity in police forces in England and Wales* (London: HMIC, 2014), 12. Available at: https://www.justiceinspectorates.gov.uk/hmicfrs/wp-content/uploads/crime-recording-making-the-victim-count.pdf

the crime and decides whether or not to refer the case to the Public Prosecutors Office; third, when prosecutors take the decision of whether to keep on with the procedure or to close the case; and fourth, when the judge decides whether or not to convict the defendant[60].

In summary, two of the four potential exit points occur within the institutions of the Security Forces. Thus, when looking at the most frequent non-criming practices performed by the police forces, it can be found: (1) the denial of the police to file a report; (2) informing the person who wants to report that the event they describe cannot be categorized as a crime; (3) provoking or encouraging the withdrawal of the report; (4) recording uncompleted or insufficient testimonies or evidence that could help in the investigation.

(1) To begin with the negative of the police to record, it has to be considered that police officers have the discretion to decide whether a crime is recorded or not but on a grounded basis. For instance, if a crime is out of their territorial jurisdiction or if there is no evidence to prove the complainant statement to be true. The discretion on that is quite broad and that discretion can be affected by particular thoughts, prejudices, beliefs of how things are or should be done or even by simply misunderstandings the procedure rules or not knowing that a described event accounts for a crime.

In sexual violence offences, changing old attitudes such as skeptical perceptions of why women decide to report a sexual violence crime is hard. For that reason, very early on, in the United Kingdom, Circular 69/1986 advised to the police practice that sexual violence cases could only be no-crimed if the complaint retracted or admitted making a false allegation but, in any case, just on the basis of insufficient evidence. In Spain, art. 408 of the Spanish Criminal Code punishes "the authority or official who, lacking the obligation of his/her position, intentionally fails to promote the prosecution of the crimes of which he/she is aware or of those responsible" (on a free translation), with a penalty of special disqualification for employment or public office for a period of six months to two years.

(2) Secondly, informing the person who wants to report that the event they describe cannot be categorized as a crime. When a victim attends a police station or calls to a crime-reporting center to file a report, it could happen that the officer attending them thinks the facts that are being stated do not fulfil the requirements to constitute a crime. Nevertheless, the statement should be impartially taken and if after an initial analysis, it is clearly confirmed that the event

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[60] Susan J. Lea, Ursula Lanvers and Steve Shaw. "Attrition in rape cases: Developing a profile and identifying relevant factors*", British Journal of Criminology* 43, no. 3: 583–584.

cannot be considered a crime, the victim should be informed of whether or not the crime is going to be further investigated and in the case that it is not, on what grounds the decision to archive has been made.

(3) Thirdly, provoking or encouraging the withdrawal of the report. This is a very common practice in sexual violence crimes. The usual procedure consists of making the victim feel that she has no credibility after she has given contradictory or uncoherent statements. It has to be taken into consideration that sexual violence victims are required to go over and over their initial statement several times once they start with the reporting procedure (with the police, with the sanitary personnel, with the police again, on writing…). The victim might feel pressured to recall more details, even if she does not, and it might give the impression that she is making up the story. Moreover, when alcohol or drugs were involved, inconsistency on the part of the victim is challenged even more. If the victim could not give a clear explanation of what happened due to substance effects, the chances of the case being pursued were very much reduced.

Furthermore, the victim can be scared out by being told about the risks of making a false report (art. 456 and 457 of the Spanish Penal Code) and end up retracting her statement to avoid more secondary victimization. In fact, in the study of Lea, Lanvers and Steve[61], police officers very often claimed false allegations of rape were made. Indeed, this constituted the main reason for cases being no-crimed. The numbers showed that in just under 10% of the cases the police claimed that the victim was making a false allegation and in only a further 10% the victim admitted to actually be making a false report. Still, the victim was charged of false reporting in very few occasions.

According to police statements, the false allegations were made when the reporting person was either an "unstable female" or when there was a "malicious" purpose. The problem is that the criteria for deeming a person "unstable" is totally subject to the investigating officer's personal opinion, far from solid grounds. On the other hand, the reasons for labelling some reports as malicious were varied such as the partner of the complainant calling off their engagement, wanting to force her lover to engage with her, suspicion of her partner cheating on her or she having cheated on herself.

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[61] Lea, Lanvers and Shaw. "Attrition in rape cases: Developing a profile and identifying relevant factors", 583–584.

In any case, it is undeniable that false allegations in sexual violence crimes might happen but there is no evidence supporting that their rate is higher than that for any other crime. However, if there are officers still holding AMMSA or other traditional beliefs about sexual crimes, it is more likely that they will think that a report is false when it does not match with the stereotype. Indeed, this minority may many times believe that the sole purpose of the reporting women is to seek attention. And, when applied to male victims, these stigmas and prejudices are multiplied due to the perception of male rape and male sexual violence as a taboo in our society[62]. Nevertheless, the majority of police officers do not behave under the influence of any of these beliefs and does empathize with the victims[63].

(4) In the fourth place, recording uncompleted or insufficient testimonies or evidence that could help in the investigation. The police its responsible for gathering as much as information as possible about a criminal event in order to pursue the most efficient investigation possible. However, if a police officer suspects a fake allegation is being made or the event described does not constitute a crime, the relevant questions and testimonies may not be made to the victims and witnesses, thus provoking potentially useful evidence going missing and resulting on a dishonest manipulation of the case.

The clandestinity of crimes against sexual liberty prevents that, on many occasions, other evidence is available beyond the testimonies of the victims, which become the only direct incriminating elements submitted to the consideration of the Court (STS 119/2019[64]). The victim's statement is considered direct evidence and has been admitted as sufficient prosecution evidence to undermine the presumption of innocence by both the Constitutional Court and the Supreme Court doctrine[65]. For this reason, to contrast the veracity of such a statement, a series of jurisprudential elements have been established, such as the absence of absolute incredibility, the authenticity of the story and the persistence in the prosecution (STS 3501/2019[66]). Precisely, due to the weight that the victim's statement may have as the sole or main evidence that undermines the presumption of innocence and implies a conviction in the sentences, the

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[62] Elizabeth J. Kramer. "When men are victims: Applying rape shield laws to male same-sex rape", *NYU Law Review* 73, no. 1 (1998): 193-332.
[63] Ibid.
[64] Sentence of the Supreme Court 119/2019, of March 6, 2019.
[65] Plenary session of the Constitutional Court, sentence 258/2007, of December 18, 2007.
[66] Sentence of the Supreme Court 3501/2019, of October 31, 2019.

questions to the victim while giving her statement will, many times, be aimed to discredit her, her behavior, relationships or consent.

Hence, if police do not fulfil their duty of recording crimes with integrity, the reports will suffer the consequences and would prevent bringing perpetrators to justice. So, to what extent can the information recorded by the police be trusted? The most difficult part is to find evidence of these practices actually taking place. There is no other proof than the statements of victims talking about their experience in the police institutions and how they were attended by police officers when they came forward to file a report. The number of withdrawn or archived cases can provide some general sense of what could be happening, but no report or other physical evidence is going to keep record of the discouragement of a person to report or just simply, if this discouragement works, no record will exist.

It is worth mentioning one of the few sentences in which the Court in fact does mention the poor behavior of the police and reproaches., as it follows:

"This sentence cannot be started, prior to the analysis of the evidence, without ceasing to manifest a fact that is really detrimental to any social awareness campaign against this type of behaviors that overwhelmingly harm women such as, even in the year 2018, when the first events reported in this procedure occurred, still in official instances, in this case from a National Police Station, a victim of a crime of sexual content being demotivated to the point that she has to seek other avenues of support to get her initiative to have a judicial response. A behavior that, moreover, could have resulted in the absolute lack of prosecution of certain facts that have been repeated over time and for which the complainant had a strong piece of evidence which were not collected. Something can be deduced from the heading of the police report where it is recognized that on June 27, 2018, Nuria went to the Police Station to meet with the Family and Women Unit to tell what happened on the 26th in the defendant's business and to ask for advice to report the facts, and that "informed of the possibility of reporting the events and the course that the report would take, she finally decided not to report the events". The witness, who is completely believed in her account for the most serious fact with respect to which the accusation is made, is equally credible in the demotivation that she suffered from the police officers that it was going to be her word against that of the defendant. The witness has referred that she even offered the pants that she suspected of having the accused's semen as proof that what she was denouncing was not a simple misunderstanding or a mistake due to an involuntary rubbing or touching, but that there had been complete sexual satisfaction on the part of the accused. This police negligence could have prevented a prolonged prosecution,

because if a scientific analysis would have determined that there was semen in Nuria's pants, any excuse from the accused would had been idle, it would have prevented the pilgrimage of statements and constant questioning of her version and, of Couse, would have facilitated the argument that the events occurred as Nuria told. Any other victim less sensitized, any other person less belligerent or who felt guilty for what happened would have abandoned their interest, but this has not been the case. The police rectification a week later, although a very important piece of evidence was already lost, partially corrected the initial ineffectiveness" (SJP 41/2020; on a free translation).

But even when the crimes are correctly recorded, the chances of them ending up either removed or cancelled without a compelling reason are very high. According to the inspection report of the HMIC[67], from 3,246 decisions to cancel or no-crime a crime record, 664 of the times were incorrect. Among these, more than 200 were rapes. It has to be noted that even though the rate for no-criming by the police is 3.1%, specifically for rape it goes up to 7.3%. Offenders who should be being pursued by the police for these crimes are not being brought to justice and their victims are denied services to which they are entitled.

In this same report, another reason mentioned by a significant number of police officers for the inaccuracy of the records was undue performance pressures. In terms of performance pressures, they included: the unjustified obstruction of crime recording by supervisors of investigation groups to decrease the number of crimes recorded and thus, make their performance look better; the incorrect re-classification of crimes into less serious ones or other ones to achieve a specific target; and again, the reluctance to believe victims' description of the events by trying to disprove their story or by investigating before recording (record must be made prior to any investigation). Still, the re-classification of crimes accounted for less than 10% of cases. In the majority of them, it resulted in downgrading from the original offence and in some others, the sexual classification was completely removed.

The same study of Lea, Lanvers and Shaw[68] mentioned before also compiled some frustrations and disillusionment of the police officers themselves with the current system. They were connected to the misinformation and poor communication between the Public Prosecution Office and the Security Forces, mainly with the lack of knowledge of what evidence it was

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[67] HMICFRS, *Crime Recording: making the victim count. The final report of an inspection of crime data integrity in police forces in England and Wales,…*, 18.
[68] Lea, Lanvers and Shaw. "Attrition in rape cases: Developing a profile and identifying relevant factors*",* 594.

expected from them to be collected for a sexual violence case to be prosecuted. Thus, they felt that their work was going to waste when no further action was taken in a case and that some attitudes and perceptions of professionals in the following stages of the Criminal Justice System also influenced the outcome of the cases.

Due to the lack of proof and the difficulties finding people willing to give statements of these practices happening, few studies have been developed on the matter. However, considering the importance of honest and reliable crime-recording, deeper research should be performed on this topic. At the end of the day, failures in doing so accurately can be detrimental for victims and the community in terms of the denial of justice and public safety. The researchers and, of course, the police itself, should reflect on the origin of these improper practices and look out for solutions that could put an end to the very serious situation they provoke.

Despite all the difficulties in relation to the high attrition for sexual violence offenses, there is still hope. The application of reforms and changes to reduce no-criming practices have demonstrated to have a positive impact and the realization of the necessity to improve the treatment given to sexual violence victims has been increasing these last years. With more research into factors that sustain attrition and no-criming, as well as a strategic and planned reform within the police (and other judicial bodies), a better treatment to victims could be provided and stop supporting a culture that facilitates the commission of sexual offences[69].

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[69] Lea, Lanvers and Shaw. "Attrition in rape cases: Developing a profile and identifying relevant factors", 598.
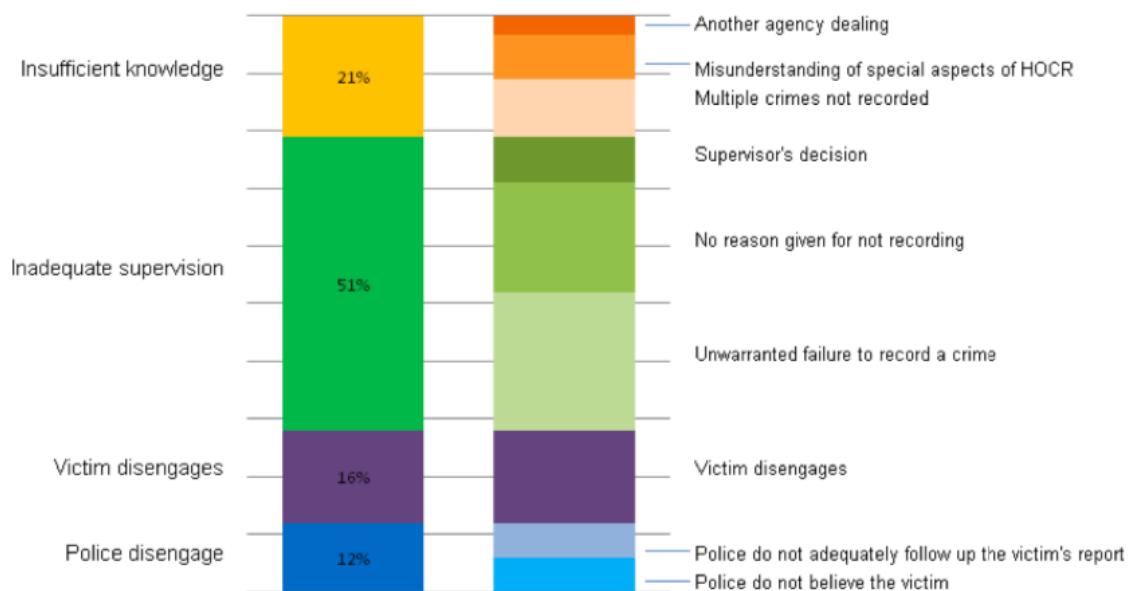
4. FACTORS

There are many factors that can explain why a crime has not been recorded. However, these actions can be undertaken either consciously or unconsciously. That is, there might not necessarily be a substantial or malice reason behind such practices for them to take place. Police officers can carry them out of ignorance or because they have internalized certain rape myths as their own to such an extent that they do not even notice their skewed behaviors.

As a matter of fact, one of the major antecedents for these high numbers is the acceptance of biased beliefs about rape (AMMSA) by the Security Forces. If AMMSA is embedded in the beliefs of the police officers, the evaluation of sexual violence cases will not be objective. Thus, a victim who does not adjust to the "perfect victim" profile could provoke skeptic attitudes and disengagements of police officers leading to underreporting, inaccurate recordings or the archive of the report.

According to a research based in England and Wales for all kind of crimes, most of the reasons for underreporting can be summed up in three main groups: inadequate supervision, insufficient knowledge and disengagement by the police or the victim[70]. Inadequate supervision explains approximately 51% of the mistaken cases, being gratuitous or unintentional failures to record the offence the major reason behind it. Insufficient knowledge accounts for about 25% of the errors due to failure of police officers to follow the rules and procedures. Disengagement by the police or the victim takes approximately 28% of the under-recorded crimes, in which a 7% corresponds to police disbelieving the victim, particularly in sexual violence offences, instead of taking their statement. Other causes that may lead to disengagement by any of the parties are missed court calls or impossibility to contact the victim.

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[70] HMICFRS, *Crime Recording: making the victim count. The final report of an inspection of crime data integrity in police forces in England and Wales,…*,77.

Reasons for crimes not correctly recorded (1,159 missed crimes reviewed)
Inadequate supervision is the main cause for crimes not being correctly recorded

Source: HMICFRS, *Crime Recording: making the victim count. The final report of an inspection of crime data integrity in police forces in England and Wales, 77.*

To reduce this unproper recording of sexual crimes as well as many other undesired practices within the Criminal Justice System, Evidence-Based Practices (EBP) have recently been incorporated as a solution to identify effective or ineffective Criminal Justice programs and practices. EBP has its origins in the medical field in the 1990s but over the last decades, it has spread to many other disciplines. The practice relies on scientific and mathematical evidence to find strong arguments to substantiate decision-making[71]. With an EBP approach, police officers create, examine and use the best accessible evidence to support or confront policies, practices and decisions.

But even the most empirically grounded programs and practices can produce inconsistent, unsustainable or harmful outcomes when poorly implemented[72]. In order to supervise EBP, implementation science assesses how EBPs can be best implemented and how to improve their immediate and future outcomes. Research defends the need for maintaining a high degree of

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[71] Liz Trinder and Shirley Reynolds. *Evidence-Based Practice: A Critical Appraisal* (Oxford: Blackwell Science, 2000).

[72] Dean. L. Fixsen et al. *Implementation research: A synthesis of the literature*. (Tampa, FL: University of South Florida, Louis de la Parte Florida Mental Health Institute (FMHI), The National Implementation Research Network, 2005).

fidelity and quality implementation in order to most work and sustain EBPs in the most successful way possible[73]. However, EBP should not be seen as definitive and uncritically answers to be applied by the officers.

In any case, for any behavioral change to happen, four conditions are necessary: individual's desire to change the behavior, the acknowledgment of that change being necessary, an environment that allows that change to occur, and the perception of some kind of reward if the change is adopted[74]. The main problems that have been found in the Security Forces are the lack of resources and the resistance to change due to obsolete mentalities. Findings of Fleming and Wingrove[75] suggest that the higher the level of education of a police officer, the more supportive they were to EBP training and activities, and hence, more open to change. For the environment, a supervisor who encourages continuously EBPs will be essential. And, regarding the reward, it could be either internal (own feelings of satisfaction) or external (public recognition).

Another possible explanation for police officers non-criming practices is presented by the *Moral Foundations Theory (MFT)*, which proposes an explanatory framework of the diverse values people may rely upon subconsciously when they ponder whether something is morally acceptable or not. As a theory of moralization, it is centered on individual's moral perceptions, but it focuses on the description of different criteria, or moral foundations, that people may use when they intuitively judge the acceptability of an action or event rather than as an authoritarian theory of morality[76].

The MFT works with five main categories of moral foundations: The Care/Harm, the Fairness/Cheating, the Loyalty/Betrayal, the Authority/Subversion and the Sanctity Degradation:

- The *Care/Harm foundation* is concerned about the protection of the vulnerable and it appears when signs of suffering take place. It is translated in compassion and empathy.

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[73] Christopher T. Lowenkamp et al. "Intensive supervision programs: Does program philosophy and the principles of effective intervention matter?", *Journal of Criminal Justice* 39, no. 4 (2010): 368-375.

[74] Donald L. Kirpatrick and James K. Kirpatrick, *Evaluating Training Programs,* 3rd ed. (San Francisco: Berrett-Koehler Publishers, 2006).

[75] Jenny Fleming and Jennifer Wingrove, "'We Would If We Could … but Not Sure If We Can': Implementing Evidence-Based Practice: The Evidence-Based Practice Agenda in the UK", *Policing* 11, no. 2 (2017): 202-213.

[76] Jonathan Haidt, "The emotional dog and its rational tail: A social intuitionist approach to moral judgment". *Psychological Review*, 108, no. 4 (2001): 814–834.

The lack of this moral concerns is positively correlated with the acceptance of rape myths and victim blaming[77].

- The *Fairness/Cheating* foundation cover concerns for trusting in partner relationships. It is triggered by the suspicion of cheating behaviors and inequality of one partner with the other. It has a negative correlation with hostile sexism which has a positive association with victim blaming[78].

- The *Loyalty/Betrayal* foundation refers to moral concerns about being a member of a group or community and supporting them[79].

- The *Authority/Subversion* appeals to the worship of authorities, hierarchies and leadership in order to preserve the social order. It is linked with the endorsement of gender roles as well as sexism, and therefore, victim blaming[80].

- The *Sanctity/ Degradation* foundation worries about the maintenance of physical and mental purity. It is elicited by cues related to the utilization of the body such as sexuality. It is against prostitutes, casual sex and pornography.

The first two foundations, Care and Fairness, belong to the "individualizing foundations" because they focus on the protection of individuals and their well-being. The other three, Loyalty, Authority and Sanctity are part of the "binding foundations" and are aimed to protect human beings as a part of groups or communities from any deviant behavior that could threaten the unions among them[81]. These last foundations have been found to predict victim blaming in numerous crimes, including sexual violence offences. Indeed, AMMSA is positively related with binding foundations and negatively with the individualizing ones.

For these sexual crimes precisely, the influence of moral foundations has been poorly investigated. Some hypothesis proposed by Harper and Harris[82] suggested that high approval of the Loyalty foundation could be associated with the common myth of the perpetrator being

[77] Ashley Watts, et al., "Psychopathic traits predict harsh attitudes toward rape victims among undergraduates", *Personality and Individual Differences* 106, no.1 (2017): 1-5.

[78] Gerger et al. "The Acceptance of Mothern Myths About Sexual Agression (AMMSA) Scale: Development and validation in German and English.". 422-440.

[79] Patrizia Milesi, et al., "The interplay of modern myths about sexual aggression and moral foundations in the blaming of rape victims", *European Journal of Social Psychology* 50, no. 1 (2019): 1-13.

[80] Maria L. Vecina and Raul Piñuela, "Relationships between ambivalent sexism and the five moral foundations in domestic violence: Is it a matter of fairness and authority?", *The Journal of Psychology*, 151, no. 3 (2017): 334– 344.

[81] Jesse Graham et al., "Mapping the moral domain", *Journal of Personality and Social Psychology* 101, no. 2 (2011): 366–385.

[82] Craig. A. Harper and Andrew J. Harris, "Applying moral foundations theory to understanding public views of sexual offending", *Journal of Sexual Aggressio*n 23, no. 2 (2017): 111-123.

a stranger which is dismantled by the empirical studies which prove that in the majority of cases the offender is in fact a partner, friend or family member. Besides, Authority endorsement could implicate less severity in the punishment of violent sexual offences committed by a close person or by the intimate partner. Lastly, agreement with the Sanctity foundation could result in more punitiveness for incidents in which a sexual taboo such as extramarital sex or homosexuality, is involved. In short, binding foundations are indicators of higher victim blaming and lower offender blaming.

In relation with AMMSA, the MFT could provide an interesting approach as individual's intuitive moral judgments are based on self-evident perceptions so strongly held that makes it very hard for them to understand why other people do not share their same convictions[83]. As proposed by Milesi et al., incorporating the broad and varied perspective of the MFT with the analysis of AMMSA and victim blaming could clarify the multiple subconscious responses that may underlie and prolong unsympathetic and careless attitudes toward sexual violence victims[84].

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[83] Haidt, "The emotional dog and its rational tail: A social intuitionist approach to moral judgment", 814–834.

[84] Milesi, et al., "The interplay of modern myths about sexual aggression and moral foundations in the blaming of rape victims", 1-13.

5. POSSIBLE SOLUTIONS TO ELIMINATE NO-CRIMING PRACTICES

Among the responsibilities of the Security Forces, there is the duty of protecting the victims, the duty of ensuring a correct statement for the investigation and trial, the duty of preventing and facilitating the reporting of future crimes and, last but not least, the duty of not causing more harm to the victims[85]. The general sequence of the victims' transit through the police station starts with the registration at the counter, then lecture of their rights, followed by taking their statement and finally, delivering a copy of it to them. Certainly, it is essential to train the different agents that deal with victims of sexual crimes[86] in every of those steps (from the ones who take part in the police investigation, to the ones in charge of taking their statements, notify them or any other type of accompaniment) to avoid no-criming practices or secondary victimization to happen.

The Directive 2012/29/UE and the Istanbul Convention on preventing and combating violence against women and domestic violence establish the mandate of creating a stage where victims are referred to specialized support services to be able to adequately attend to their multiple needs. Victims have the right to be assisted by support services, but they can only exercise that right if they are informed and derived, without prejudging them or assuming what their behavior should be when faced with the offer[87]. That specialized service should be provided by trained professionals. This is supported by art. 30 of the Spanish Victim Statute, which ensures a general and specific training regarding the protection of victims in the criminal process, especially for those in need of special protection, like sexual victims are, for every personnel at the service of the Justice system, including the Security Forces. Additionally, The Sustainable Development Goal 16 of the United Nations aims to promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels. More specifically, one of its targets is to promote and enforce non-discriminatory laws and policies for sustainable development[88].

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[85] Deirdre Healy, "Exploring victims' interactions with the criminal justice system: A literature review" (University College Dublin, 2019), http://www.justice.ie/en/JELR/Victim_Interactions_with_the_Criminal_Justice_System.pdf/Files/Victim_Interactions_with_the_Criminal_Justice_System.pdf

[86] Emma Sleath and Ray Bull, "Comparing Rape Victim and Perpetrator Blaming in a Police Officer Sample", *Criminal Justice and Behavior* 39, no. 5 (2012): 646–665.

[87] Varona, *Policía y victimas: Pautas para evitar la victimización secundaria,*…

[88] United Nations, *The Sustainable Development Report* (New York: United Nations Publications, 2020).

The objective of any educative training should be to improve the response given by the Security Forces and make the police officers acknowledge and apply the principles, laws and procedures to give victims their deserved attention from the perspective of respecting their human rights. The aim should be to promote justice oriented more towards individuals, and more precisely, towards victims. And for that purpose, understanding, active listening, sensitivity, supervision, and training are deemed indispensable for a good accompaniment of the victims by the Security Forces, which is are the first body that has contact with them.

The Criminal Justice System revolves around the principle of innocence, according to which it is preferred that a guilty person is not convicted than to convict an innocent one. However, that does not seem incompatible with a presumption of victimization and a more favorable attention to the victims. Professor Antonio Beristain[89] alludes to the principle *in dubio pro victima*, which allows adequate attention to victims, particularly at the police headquarters. Without prejudging the innocence of the victims or the possible perpetrators, and considering the hidden victimization existent, as well as the insignificant number of false allegations in this field, it is a matter of not questioning the truth told by the victims, largely composed by feelings of pain, shame, humiliation, guilt, fear, confusion, anger and indignation. Basic gestures like shaking hands, looking at the eyes instead of at the computer's keyboard while listening to them or not asking questions that prejudge or blame do not contradict the presumption of innocence and they respect human rights and aids to a better investigation.

That said, the creation of a specific trained unit in the Security Forces could allow a better assistance, free of prejudices, to victims. As it has been said, many times, the only existing evidence in a case is the testimony of a victim. And it cannot be forgotten that the effectiveness of a statement is related to the ability of the victim to perceive the facts and try to convey what happened to the police. If that perception is discouraged or manipulated by the Security Forces, that statement would lose any power. The key outcome of police training is to make the officers capable of assisting victims in developing and presenting a a crime impact description that is acceptable to the Court[90]. The victim's statement is fundamental and, in any case, a good treatment by every intervening officer will guarantee that, even when there is no sufficient

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[89] Antonio Beristain, *Victimología. Nueve palabras clave,* (Valencia: Tirant Lo Blanch, 2020).

[90] Marta Holgado, *Avanzando hacia un trato profesional y humano con las víctimas por parte del personal de la Ertzaintza: Una propuesta de formación adaptada a la Directiva 29/ 2012/ UE* (Postgraduate thesis, UPV/EHU, 2014).

evidence to prove the event occurred, the received attention was adequate and has provided, at least, certain procedural justice[91].

This procedural justice implies thinking of a reparation and healing process which begins before any prevention or judicial decision, in the police headquarters, and which is given altogether with the protection of the victims. In this sense, it is important to organize police training that allows for feedback from victims who have overcome their victimization to verify how effective and humane police intervention can positively influence the lives of victims in the short, medium and long term. This type of police training, with the participation of victims, would also serve as an acknowledgment of the professional work carried out by police officers and lessen the vicarious trauma[92] suffered by many police officers who work continuously with victims of serious crimes like sexual violence offences.

In relation to the Moral Foundations Theory explained in the previous section, it is suggested to create trainings with educational messages in an abstract rather than in a direct way to prioritize Fairness over Sanctity beliefs and thus, reduce victim blaming. Also, reframing educational ideals into the moral foundations that are more highly endorsed in a society can increase the message persuasiveness. In certain contexts, like sexual criminality, framing educational messages in terms of Fairness can be more efficient than doing it in terms of Care or Authority. In other words, it may be more useful to raise concern on establishing gender equity than saying how sexual victims should be taken care of or how laws should be reinforced[93].

Nevertheless, to improve the attention given to the victims, training is not enough. The integration of victim's human rights at any decision-making time, with clear and participative organizational structures that are applied with transparency is very important for any improvement. That is, cultural, social and professional organizational changes are needed to get over the myths, prejudices and negative perceptions revolving sexual violence crimes.

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[91] Gema Varona, *Policía y victimas: Pautas para evitar la victimización secundaria*, 1st ed. (Pamplona: Aranzadi, 2020).

[92] The vicarious trauma refers to an accumulative process due to the continuous exposure to victims during workday that provokes high negative psychological consequences. Lisa McCann and Laurie Anne Pearlman, "Vicarious traumatization: A framework for understanding the psychological effects of working with victims", *Journal of Traumatic Stress* 3, no. 1 (1990):121-149.

[93] Milesi, et al., "The interplay of modern myths about sexual aggression and moral foundations in the blaming of rape victims", 10.

To ensure a more simplistic and bias free approach to crime recording, some recommendations given by the HMIC[94] would be interesting to apply. Namely, to have an integrated computer system which enables the databases of all the Security Forces to exchange information automatically; to establish protocols that ensure crime-recording is done at the earliest time possible, in accordance to art. 31 of the Spanish Victim Statute which promotes the creation of any protocol that deem necessary in order to protect the victims; and to have a supportive and effective leadership with the right knowledge of the rules, laws and protocols and who supervises the crime-recording decisions.. Also, and in relation with the educational training, to have sufficient call-handling and specialist crime-recording staff with clearly defined responsibilities and the necessary understanding of the crime-recording rules.

Such an approach would substantially minimize the sources of error, strengthen the trust of the public in crime-recording, provide an improved service to the victims and allow police officers to focus on the investigation and the rest of their responsibilities. Additionally, the process will be more efficient thanks to reduced investment in rectifying errors, reduced audits and inspections and trained and expert staff dealing with the decision of whether to record or not a crime instead of general frontline officers. And all these recommendations are small steps that could be implemented in the Security Forces at an international, European, national, autonomic or local level.

In summary, the Security Forces are the first door into the Criminal Justice System and maybe the only one that a victim might encounter, so what victims experience in this stage can conditionate the trust in the rest of the process[95]. Indeed, trust in the police can minimize perceptions of insecurity not only for the victims but for the general population. Considering all that, the role of the Security Forces into avoiding secondary victimization and building trust is undeniable, and clearly, a continuous training and research on the matter appears to be a good solution. As Nelson Mandela said, "*education is the most powerful weapon which you can use to change the world*"[96]. However, no education or awareness-raising provided by any training will be effective without an organizational transformation and a change in the attitudes of professionals dealing with victims. As it has been said before, for any behavioral change to

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[94] HMICFRS, *Crime Recording: making the victim count. The final report of an inspection of crime data integrity in police forces in England and Wales,…*,91.

[95] Erik Alda et al., "Antecedents of Perceived Fairness in Criminal Courts: A Comparative Analysis", *International Journal of Comparative and Applied Criminal Justice* 44, no. 3 (2019): 201–219.

[96] Nelson Mandela Speech, Madison Park High School, Boston, 23 June 1990.

actually happen, the change must have to be wanted by the officers within the Security Forces in the first place.

6. CONCLUSIONS

1. The scope of underreported sexual violence crimes is way bigger than what numbers show. Among the reasons of sexual violence victims' reluctancy to report is their fear of derogation and being generally disbelieved, even by officers of the Criminal Justice System or health professionals.

2. Acceptance of Modern Rape Myths (AMMSA) are descriptive and prescriptive beliefs that justify sexual violence by transferring the blame to the victim. Even though they have been proven to be no more than myths for most sexual violence offences, the majority of factors that negatively influence police reporting stem directly from rape myths that are deeply embedded in our general culture.

3. Another possible explanation for police officers non-criming practices is presented by the *Moral Foundations Theory (MFT)*, which proposes an explanatory framework of the diverse values people may rely upon subconsciously when they ponder whether something is morally acceptable or not

4. There are practices performed by the Security Forces which discourage the report of sexual violent crimes such as: the denial to record; telling the person that what they are describing is not a crime; encouraging the withdrawal; and not collecting enough information.

5. Due to the lack of proof and the difficulties finding people willing to give statements of these practices, few studies have been developed on the matter. However, considering the importance of honest and reliable crime-recording, deeper research should be performed on this topic.

6. Reliable crime-recording should be guaranteed in order to reduce primary and secondary victimization and comply with victims' rights.

7. Even though there will always be certain rate of underreported crimes, accurate crime recording could also help improving the placement of the Security Forces' resources and their efficiency through the analysis of the number, type and location of the crimes committed and the understanding of potential risk and threats for the public.

8. Most of the reasons for underreporting can be summed up in three main groups: inadequate supervision, insufficient knowledge and disengagement by the police or the victim.

9. Failures in accurate crime-recording can also increase the risks to victims and the community of the denial of justice and reduce trust in the whole Criminal Justice System to which the Security Forces are the first door that victims encounter.

10. Trust in the information that the Security Forces give about crime is part of the essential trust which the public must have in them. Distrust in the Security Forces may increase the perception of insecurity, so the police play an essential role on this.

11. Hence, this study, like many others have done before, suggests that there are still officers, probably a minority, within the Security for whom stereotyped attitudes about women who report sexual violence offences remain intact and that further training is highly recommended to deal with it.

12. The presumption that the victim should always be believed is not incompatible with the presumption of innocence. The practice of of investigating before recording should be dropped right away.

13. Protocols should be implemented to mandate the recording of crimes at the earliest point of contact with the police as possible, in all but the most exceptional circumstances.

14. Apart from an accuracy, what it is intended by a proper crime-recording is to give victims the treatment they deserve with specialized services and individualized attention.

15. In any case, the services for sexual violence victims should be provided regardless of accurate crime records. As set out in the Spanish Victim Statute, victims are entitled to basic assistance services even if finally, a report is not filed.

16. No education or awareness-raising provided by any training will be effective without an organizational transformation and a change in the attitudes of professionals dealing with victims.

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