

Language: a feminist guide — We need to talk about rape

Friday 27 December 2019, by [CAMERON Deborah](#) (Date first published: 25 October 2019).

Language can make rape disappear. We need to talk about the *word* ‘rape’: how it’s used, when it’s avoided, and how that both reflects and contributes to a culture of impunity and injustice.

When is a rape not a rape? The answer, apparently, is ‘most of the time’ [1]. Of more than 58,000 rapes reported to the police in England and Wales last year, only 1758 resulted in anyone being charged with rape, let alone convicted. Of course there are legitimate reasons why some cases aren’t pursued. Some rapists are never caught; some complainants are too traumatised to participate in the long and gruelling process of bringing a perpetrator to justice. (And yes, a small percentage of reports—as with any crime—may turn out on investigation to be untrue.) But the number of reported rapes that disappear into the void—that get ‘no-crimed’, reclassified, put on the back burner, or abruptly dropped without charge—suggests a deeper and more systemic problem. As EVAW, the End Violence Against Women Coalition, said last month, the chance that a rapist will be convicted is now so small, rape is ‘effectively being decriminalised’ [2].

Earlier this year, when the victims’ commissioner Dame Vera Baird expressed concern about the low rate of rape convictions, one critic accused the QC and former Solicitor-General of failing to grasp a fundamental principle of the justice system [3]. ‘The jury’ he mansplained,

is there to ensure that what gains a rape conviction is what the general society agrees is indeed rape. That’s actually the point.

Though I do not draw the same conclusion this writer does—that the system is working as it should—he is surely right to say that the treatment of rape in the justice system is affected by ‘what the general society agrees is indeed rape’. From a feminist perspective that’s exactly the problem: what is generally agreed to be rape overlaps only partially with what women experience and report as rape, or even with what the law defines as rape. There’s a mismatch between the legal definition (which in England and Wales, as in many other modern jurisdictions, centres on the absence of consent, or of a ‘reasonable belief’ in consent) and the common-sense understanding people carry in their heads.

One place where you can see this mismatch is in language, which is both an expression of our cultural common sense and a means through which it is reproduced. That’s why I think it’s instructive to examine the way words like ‘rape’ are used—or, just as importantly, not used—in public discourse. Here I’m going to concentrate mainly on the language of the media, whose reporting both reflects and shapes public opinion. How do the media talk about rape? What tacit assumptions underlie their linguistic choices?

I’ll start with a case that made headlines at the end of August, when Virginia Roberts Giuffre, one of the victims of the now-deceased child abuser and trafficker Jeffrey Epstein, made a public statement

in which she described three coerced sexual encounters with Prince Andrew [4]. (For the record, he denies this.) The first two took place when she was 17, and in Florida, where she made a sworn statement of these facts in 2011, a 17-year old is below the legal age of consent. It is also illegal, not just in Florida but in most jurisdictions, to make use of the sexual services of a person under the age of 18. Furthermore, Giuffre's statement made clear that even if she had possessed the legal capacity to consent, she was not, and did not act like, a willing participant.

If 'rape' means sex without consent, then what Giuffre alleged in her statement was rape (or in legal terms, possibly, depending on the details, sexual assault). But as a number of people noted on Twitter, the word 'rape' did not appear in any of the news reports, which in most cases used the formula 'forced to have sex'. Though 'forced' obviously implies coercion, those who tweeted about it saw 'forced to have sex' as a euphemism, deliberately avoiding the strongest term the English language makes available for describing non-consensual sex. And many evidently suspected that the reason for that avoidance was Andrew's status as a member of the royal family.

My own explanation is different. While I'm sure the media were keen to avoid suggesting that the Queen's son might be a rapist, the fact is that they also avoid the term 'rape' (or 'alleged rape') in many 'ordinary' cases. This avoidance, as we'll see, reflects various assumptions about what rape is and what it isn't. In this case, I think the basis for those assumptions was not the status of the people involved but the context in which their encounters took place.

'Forced to have sex' is an agent-deleted passive [5]: once you make it active, you see that the grammatical subject and semantic agent of the verb 'force' is not Prince Andrew but Jeffrey Epstein. The underlying structure, in other words, is 'A forced B to have sex with C'. And in this scenario, where one man (let's call him a pimp) makes a contract with another (a punter—though in this case not a paying punter: girls were 'loaned' to Epstein's associates without charge), we do not generally call either man's actions 'rape'. We only think of it as rape when the two roles, forcing someone to have sex and actually having sex with them, are played by the same individual.

It is also typically assumed that sexual encounters of this type must be consensual by definition, because that's what punters pay for, and because women who sell or are sold for sex have neither the right nor any reason to refuse (prostitutes who make rape complaints tend to get particularly short shrift from the police.) Repulsive though feminists may find them, these assumptions are widely accepted, and they explain why the word 'rape' is rarely considered applicable to this kind of situation.

But it should not be thought that this is the only context in which the media prefer formulas that do not contain the 'R-word'; the same avoidance can be observed in almost all contexts. Jane Gilmore, the Australian feminist behind the 'Fixed It' project, where she takes a red pen to sexist headlines and publishes a screenshot of her amended version with the caption 'here you go [name of media outlet], I fixed it for you' [6], is particularly exercised by the persistent use of the word 'sex' rather than 'rape' in reports on rape cases, even though the media could meet their legal obligation not to prejudice criminal proceedings simply by adding the modifier 'alleged'. As Gilmore says, this is not how they approach the reporting of other crimes which no one has yet been convicted of. If someone is accused of stealing a car, the media feel no need to describe them as merely 'driving' the car until a jury has convicted them of theft. Even if their defence is 'I was driving it with the owner's permission', words like 'theft' or 'steal' won't be completely off-limits. 'Rape', however, is a different matter.

I came to similar conclusions while researching an article for the TES on the language used in media reports on child sexual abuse. The reports I read, especially on cases involving adolescent girls, showed a marked reluctance to use either the word 'rape' or other words implying criminality, like

'assault' or 'abuse'. For instance, teachers who had been charged with abusing a position of trust were most commonly said to have 'had sex with' the teenage pupils they solicited; sometimes they were said to have had a 'relationship' or an 'affair'. The language, in other words, was drawn from the register we would normally use to talk about sex or romance between consenting adults—even when the teacher was a serial offender preying on pupils as young as 13, and even in reports published after he had been convicted.

Why are reports on cases involving children so cautious about words like 'rape', 'assault' and 'abuse'? I did wonder if it might be because the actual charge in most of these cases isn't rape (offences against minors have other names, like 'sexual activity with a child'). But on reflection I concluded that the charge was not the issue: the avoidance had more to do with two other factors.

One of these factors is a reluctance to use words which imply violence in cases where the perpetrator used emotional and psychological manipulation rather than force or threats. This is how many child abusers operate. In a talk I heard recently about the case of Larry Nassar, the US gymnastics team doctor who abused hundreds of girls over a period of two decades, the journalist Lindsey Smith (who, with her colleague Kate Wells, covered the case for Michigan public radio, and went on to tell some of the survivors' stories in the award-winning podcast *Believed* [7]) explained that the main reason Nassar got away with it for so long was his ability to win the trust both of his victims and of their parents and coaches. Teachers who exploit their pupils also rely on trust; perhaps, then, it's not surprising that the 'abuse of a position of trust' cases were the ones where formulas like 'had sex/a relationship/an affair with' were most consistently favoured. By using this language, though, the media just repeat the gaslighting which enables this form of abuse to flourish.

The second factor is a tendency to deny or gloss over the power imbalance between adult men and adolescent girls. The language of 'relationships' and 'affairs' implicitly affirms what Jeffrey Epstein argued explicitly—that teenage girls should not be thought of as vulnerable children. They may be technically underage, but in reality they are sexually and socially mature adults: they neither need nor want protection from the sexual attentions of older men.

Sometimes the denial of girls' vulnerability is taken to the next level, by representing them as more powerful, calculating and in control than the men who have exploited them. This victim-blaming story is quite often told in court. At one trial in 2015, the judge said, of a 44-year old teacher who had just been convicted of abusing a position of trust by having sex with a 16-year old pupil, that he had been 'groomed' by an 'intelligent and manipulative girl'. Another adolescent victim was described as a vindictive 'bunny boiler'.

This portrayal of adult men as the real victims, ensnared and manipulated by predatory teenage girls, is a good example of what the philosopher Kate Manne calls 'himpathy', our socialised tendency to feel a man's pain more easily and keenly than we would feel a woman's, and to give him, wherever possible, the benefit of the doubt. That tendency provides another motive for not naming men's actions as rape: since everyone agrees that rape is a particularly heinous crime, we must be ultra-cautious about making such a damaging accusation. We see this concern about ruining men's lives in everything from the reluctance of judges to punish young men with promising futures to the demand that defendants in rape cases should be granted the same anonymity as their victims. Though the world is full of men who have been accused of rape and have not lost everything (think of Roman Polanski and Donald Trump), this may be yet another reason why people so often shy away from the R-word.

Himpathy can influence attitudes to rape in other, less obvious ways. Earlier this month, the Court of Protection delivered a judgment [8] in the case of a cognitively impaired man who wanted to have sexual relationships, but who had no understanding of consent. In the past he had behaved

‘inappropriately’ towards women, and his carers, worried that he might be arrested for reasons he was unable to comprehend, had put measures in place to prevent this. The judge, however, ruled that those measures infringed his fundamental rights. He was entitled, as she put it, ‘to make the same mistakes which all human beings can, and do, make in the course of a lifetime’.

As the lawyer Ann Olivarius commented on Twitter, the judge seemed wholly indifferent to the consequences of her ruling for the women this man’s carers believed he would victimise. In fact, she actively minimised the threat he posed to women by reframing it in bland, euphemistic language. Talking about ‘mistakes which all human beings can and do make in the course of a lifetime’ suggests that the issue is something commonplace and relatively minor-like the possibility the man might cause offence or embarrassment by making clumsy and unwelcome advances. In reality his carers feared he would commit a serious sexual offence. Few people would describe raping someone as a ‘mistake’, and certainly not as the kind of mistake that ‘all human beings can and do make’ (especially if we think women count as human beings). Of course, the judge could hardly have said, in so many words, ‘this man should have the same freedom to rape women as all other men’. But if you can get past the silences and the euphemisms, is that not, in essence, what her ruling does say?

This year, schools in England and Wales will be required to teach their pupils what the law says about sexual consent. Young people will learn that you have to be 16 to give consent, and that sex without consent is illegal. But outside the classroom the same young people will encounter large quantities of discourse in which non-consensual sexual acts, including acts involving minors, are described in terms that either normalise them (‘sex’, ‘relationship’, ‘affair’) or trivialise them (‘behave inappropriately’, ‘make mistakes’). Which of these conflicting messages do we think they will retain?

We need to talk about rape—by which I mean, talk about it as rape. The legal definition may have changed, but ‘what the general society agrees is indeed rape’ is still, in many ways, closer to the view Susan Estrich critiqued in her 1987 book *Real Rape* [9], according to which rape was only ‘real’ if it involved a savage attack by a stranger on a woman of blameless reputation. (The reporting of this kind of case is the one context in which we don’t see any avoidance of the R-word.) If we want to change the current consensus, we need (among other things) to stop using, or tolerating, language that makes the reality of rape disappear.

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Postscript

Since I originally wrote this post, two high-profile news stories have underlined its point about the way language is used to downgrade the seriousness of sexual violence against women and children, and to cloak the reality of violence in vagueness and euphemism. They’ve also demonstrated that this isn’t just an English language problem.

In Spain there have been street protests following the decision of a court in Barcelona that six men who gang-raped a 14-year old girl in Manresa in 2016 could only be found guilty of the lesser charge of ‘abusing’ her, because they did not use ‘violence or intimidation’ [10]. They didn’t have to, because drink and drugs had rendered their victim incapable of resistance. Although the Spanish penal code does not recognise ‘rape’ as a specific offence (the more serious crime is ‘sexual assault’), ‘rape’ was the word protesters used in denouncing the ruling and calling for the law to be changed to frame the offence in terms of (non-)consent. ‘No es abuso, es violación’-‘It’s not abuse, it’s rape’-they chanted.

In France, the actor Adèle Haenel gave an interview [11] in which she recounted her experience,

between the ages of 12 and 15, of being abused by the director Christophe Ruggia. I have chosen the word 'abused' because Haenel was a child at the time. The details she has given do not suggest rape (i.e. penetration), but they do indicate a sustained pattern of abusive behaviour—forced touching/kissing and constant unwanted sexual attention—by a much older man towards a minor girl he had power over. But media reports, as usual, preferred other words, like 'sexual harassment' (as used in reports on #MeToo cases involving adults in the entertainment industry), and in the case of *Screen Daily* [12], the old-fashioned, euphemistic 'molest' and 'molestation'.

What we see in these cases is a pattern whereby the language used, by the courts and/or the media, systematically downgrades the seriousness of whatever behaviour has been complained of. Gang-rape becomes 'abuse'; child abuse becomes 'harassment' or 'molestation' (and as we saw at the height of #MeToo, harassment becomes 'inappropriate behaviour'). The repetition of these formulas establishes them as the 'official' reality.

But the Spanish case shows how powerful it can be to challenge this linguistic downgrading. Even where the word 'rape' has been removed from the penal code, it remains meaningful—and potent—in everyday language. The protestors are saying, in effect, 'your patriarchal law cannot define our experience; its language does not speak for us'. (The cartoon alongside captures this sentiment: it's captioned 'sorry, but the only one who can decide if you were raped or not is me'.) Spanish feminists have insisted on talking about rape as rape; they have foregrounded the naming of the crime in chants and hashtags (#NoEsAbusoEsViolacion). Wherever we see the same kind of linguistic avoidance and downgrading, we should follow their example.

P.S.

- OCTOBER 25, 2019 DEBUK:
<https://debuk.wordpress.com/about/>
- The illustrations are reproduced (on the original article) from Jane Gilmore's 'Fixed It' project, from the Denver Post (h/t Twitter correspondents Jarvis Good and EwokNews), and from the Facebook page of Campus Relatoras (h/t Pilar Cuder Domínguez)
- The author is a feminist and also a linguist.

Footnotes

[1] <https://www.theguardian.com/law/2019/sep/12/prosecutions-in-england-and-wales-at-lowest-level-in-a-decade>

[2] ESSF (article 51648), [Britain: Collapse In Number Of Rape Charges Despite Huge Rise In Reports](#).

[3] <https://www.continentaltelegraph.com/crime/dame-vera-baird-doesnt-understand-rape-nor-rape-statistics/>

[4] <https://www.theguardian.com/us-news/2019/aug/27/prince-andrew-virginia-giuffre-epstein-accuser>

- [5] <https://debuk.wordpress.com/2015/11/29/passive-aggressive/>
- [6] https://www.theguardian.com/books/2019/aug/31/is-not-sex-and-broken-hearts-dont-cause-women-are-dying-and-language-matters?CMP=Share_iOSApp_Other
- [7] <https://choice.npr.org/index.html?origin=https://www.npr.org/podcasts/510326/believed>
- [8] <https://www.theguardian.com/society/2019/oct/03/man-who-does-not-understand-consent-has-right-to-pursue-sex-court-rules>
- [9] https://books.google.com/books/about/Real_Rape.html?id=MMrGAGj6RY0C
- [10] <https://www.euronews.com/2019/11/05/it-s-not-abuse-it-s-rape-protesters-denounce-spanish-court-ruling-on-sex-assault-case>
- [11] <https://www.independent.co.uk/arts-entertainment/films/news/adele-haenel-portrait-lady-on-fire-christophe-ruggia-sexual-harassment-a9183886.html>
- [12] <https://www.screendaily.com/news/actress-adele-haenel-accuses-director-of-sexual-harassment-reignites-frances-metoo-debate/5144360.article>