

## When Silence Makes Sense: The Trivialization of Rape in Côte d'Ivoire

Annick Gnazalé\*

### Abstract

Rape was made a criminal offense in Côte d'Ivoire<sup>1</sup> in 1981. However, it was not until the decade of political and military crisis in Côte d'Ivoire – beginning in 2002 – that rape was marked as a matter of public concern. Prior to this decade, and despite criminalization in 1981, rape was shrouded in both institutional and social silence. This article argues that the silence observed during this period reflects the trivialization of rape in Côte d'Ivoire. This argument draws from data including rape decisions reported in the press between 1960 and 2002. It also draws from interviews that were conducted with representatives from national and international institutions, victims and perpetrators of rape, their families and civil society players. Study data were interpreted in the light of Élisabeth Noëlle-Neumann's 'spiral of silence' theory. According to this theory, fear of isolation can lead to silencing individuals (or the State) who renounce their own judgement if their opinion contradicts the opinion shared in their social (or political) environment.

### Introduction

The last several years have been marked internationally by several social movements known as 'the liberation of women's speech'.<sup>2</sup> The best known, #MeToo, emerged in the United States and revealed a social phenomenon suffered by millions of women in silence: rape.<sup>3</sup> Some scientific studies establish a close link between rape and social inequalities between men and women.<sup>4</sup> In 2003, a UNIFEM study revealed that one in three women had been raped, beaten, forced into sexual intercourse or abused at least once in their lives.<sup>5</sup> The World

---

\* Chaire Unesco de Bioéthique, Université Alassane Ouattara, Bouaké, Côte d'Ivoire. Email: [annick.gnazale@ird.fr](mailto:annick.gnazale@ird.fr)

<sup>1</sup> Côte d'Ivoire is a country in West Africa covering an area of 322,462 km<sup>2</sup>.

<sup>2</sup> Courbet LP, 'Un an après #MeToo. Paroles, récits individuels et collectifs' (2019) 365 *Le Journal des psychologues* 42 <https://www.cairn.info/revue-le-journal-des-psychologues-2019-3-page-42.htm> accessed 11 August 2023.

<sup>3</sup> Ibid; Manceron O, 'Le sexisme après le mouvement MeToo' (2019) 365 *Le Journal des psychologues* 16 <<https://www.cairn.info/revue-le-journal-des-psychologues-2019-3-page-16.htm>> accessed 11 August 2023.

<sup>4</sup> Héritier F, 'Le sang du guerrier et le sang des femmes' (1984) 29 *Les Cahiers du GRIF* 7 <[http://www.persee.fr/web/revues/home/prescript/article/grif\\_0770-6081\\_1984\\_num\\_29\\_1\\_1629](http://www.persee.fr/web/revues/home/prescript/article/grif_0770-6081_1984_num_29_1_1629)> accessed 24 June 2022; Jaspard M and others, 'Violences vécues, fantasmes et simulacres. Comment analyser les violences envers les femmes' (2003) 22 *Nouvelles Questions Féministes* 72 <<http://www.cairn.info/revue-nouvelles-questions-feministes-2003-3-page-72.htm>> accessed 24 June 2022; Jaspard M, 'Les violences envers les femmes: une reconnaissance difficile', *Femmes, genre et sociétés* (2005) *La Découverte* <<https://shs.cairn.info/femmes-genre-et-societes--9782707144126-page-148>> accessed 11 February 2025; Ricci S, «*Avant de tuer les femmes, vous devez les violer ! Rwanda : rapports de sexe et génocide des Tutsi* (2014) Éditions Syllepse <<https://itunes.apple.com/WebObjects/MZStore.woa/wa/viewBook?id=0>>; Salmona M, *Le livre noir des violences sexuelles - 3e éd.* (2022) Dunod.

<sup>5</sup> UNIFEM, 'Facts and figures on violence against women' (2003) <<http://www.unwomen.org/en>> accessed 12 March 2014.

Health Organization defines rape as “penetration by physical strength or any other means of coercion of the vulva or anus, by means of the penis, other parts of the body or an object”.<sup>6</sup> The United Nations estimates that one in three women worldwide has experienced physical or sexual violence simply because they are women.<sup>7</sup> Work by second-wave feminists such as Susan Brownmiller revealed rape as a political problem, fundamental to the patriarchal domination of women, including as a means of appropriating a wife.<sup>8</sup> In addition to the fact that it mainly affects women, Raphaël Branche describes rape as a special crime in which the victim bears the shame.<sup>9</sup> Branche demonstrates this by reference to the silence about rape during the Algerian war, where women kept quiet about their experiences.<sup>10</sup> According to Aline Leriche, shame is a painful and sensitive feeling that we prefer not to talk about.<sup>11</sup> For her, shame “leads to silence and withdrawal, sometimes to the point of inhibition”.<sup>12</sup> This point was also made by Véronique Moufflet, who noted that a significant proportion of rape victims of the war in the east of the Democratic Republic of Congo (DRC) have kept their silence since 1996. Collette-Carrière argues that the majority of rape victims are reluctant to involve police and refuse to press charges, making rape one of the crimes least reported to the police.<sup>13</sup>

This article examines the social and institutional construction of the silence that surrounded rape in Côte d'Ivoire from 1960, when the country gained independence from colonial rule, to 2002, which saw the start of a decade of military and political crisis. It argues that the silence observed during this period reflects the trivialization of rape in Côte d'Ivoire. This argument draws from data including rape decisions reported in the press between 1960 and 1981 (before rape was criminalized in the Penal Code) and between 1981 and 2002 (after rape was criminalized). It also draws from interviews that were conducted with representatives from national and international institutions, victims and perpetrators of rape, their families and civil society players. The analysis interprets the study data in light of Élisabeth Noëlle-Neumann's 'spiral of silence' theory. According to this theory, fear of isolation can lead to silencing individuals (or the State) who renounce their own judgement if their opinion contradicts the opinion shared in their social (or political) environment. Before analyzing the study data, the article provides some contextual detail and an elaboration of the study methodology.

## Context

The status of women has given rise to controversy in the literature on the social organization

---

<sup>6</sup> <https://www.who.int/fr/news-room/fact-sheets/detail/violence-against-women>

<sup>7</sup> <https://news.un.org/fr/story/2021/03/1091282>

<sup>8</sup> Brownmiller S, *Against our will: men, women, and rape* (1975) Ballantine Books, Fawcett Columbine <<http://gen.lib.rus.ec/book/index.php?md5=a3c094070ebb38d78877eb079cbe482d>> accessed 11 August 2023.

<sup>9</sup> Branche R, 'Des viols pendant la guerre d'Algérie' (2002) 75 *Vingtième Siècle. Revue d'histoire* 123 <<http://www.cairn.info/revue-vingtieme-siecle-revue-d-histoire-2002-3-page-123.htm>> accessed 24 June 2022.

<sup>10</sup> Ibid

<sup>11</sup> Leriche A, 'Petite histoire du viol conjugal et de la honte' (2008) 27 *Le sociographe* 85 <<http://www.cairn.info/revue-le-sociographe-2008-3-page-85.htm?ref=doi>> accessed 27 June 2022.

<sup>12</sup> Ibid 90.

<sup>13</sup> Collette-Carrière R, 'La victimologie et le viol, un discours complice' (1980) 13 *Criminologie* 60 <<http://id.erudit.org/iderudit/017116ar>> accessed 8 March 2023.

of pre-colonial Africa. In the colonial imagination, women were presented as objects for sale,<sup>14</sup> “eternally exploited”<sup>15</sup> and “animal women”.<sup>16</sup> The African woman’s material, moral, and customary situation was portrayed as miserable.<sup>17</sup> Contrary to this colonial imaginary, some authors maintain that colonization is at the root of the devaluation of African women.<sup>18</sup> For the latter, colonization caused women to lose their power and autonomy within the family structure.<sup>19</sup> Despite controversy over customary social status, the status of women has hardly improved since Independence in Côte d’Ivoire.<sup>20</sup> For example, even though the Ivorian Constitution of 1960 proclaimed equality and non-discrimination for all, women frequently continued to have the status of minors, including in provisions of the Ivorian Civil Code 1964 (see below).<sup>21</sup> Sexual violence against women was passed over in silence or even tolerated. Indeed, the phenomenon was not treated as a public problem until the decade of political and military crisis (2002-2011) vividly exposed its prevalence. This exposure was in part aided by the arrival of international institutions and organizations and the systematic recording of rape cases throughout the territory.

Before its exposure in the national press, a key indicator of silence surrounding rape in Côte d’Ivoire was the absence of a definition of rape in the Ivorian Penal Code 1981 (hereinafter Penal Code). Article 354 of the Penal Code, although describing rape as a crime, did not define the offense. The Article provided that rape was punishable by 5 to 20 years’ imprisonment. The penalty was life imprisonment where:

- 1) The perpetrator was aided in his crime by one or more persons;
- 2) The perpetrator was the father, an ascendant or a person having authority over the victim, if he was responsible for his education or his intellectual or professional training;
- 3) The victim was under 15 years of age.

<sup>14</sup> Geismar L, *Recueil des coutumes civiles des races du Sénégal : établi par L. Geismar* (1933) Impr du Gouvernement <<http://catalogue.bnf.fr/ark:/12148/cb33022625p>>; Geoffroy de Villeneuve RC, *L’Afrique, ou histoire, mœurs, usages et coutumes des Africains. Le Sénégal par R. G. V.* (Nepveu 1814) <<https://www.edition-originale.com/fr/livres-anciens-1455-1820/voyages/geoffroy-de-villeneuve-lafrique-ou-histoire-moeurs-usages-1814-80479>> accessed 14 August 2023.

<sup>15</sup> Goutalier R, ‘Les États généraux du féminisme à l’Exposition coloniale, 30-31 mai 1931’ (1989) 36 *Revue d’histoire moderne et contemporaine* 266 <[https://www.persee.fr/doc/rhmc\\_0048-8003\\_1989\\_num\\_36\\_2\\_1493](https://www.persee.fr/doc/rhmc_0048-8003_1989_num_36_2_1493)> accessed 14 July 2023.

<sup>16</sup> Martinkus-Zemp A, ‘Européocentrisme et exotisme : l’homme blanc et la femme noire (dans la littérature française de l’entre-deux-guerres)’ (1973) 13 *Cahiers d’Études africaines* 60 <[https://www.persee.fr/doc/cea\\_0008-0055\\_1973\\_num\\_13\\_49\\_2726](https://www.persee.fr/doc/cea_0008-0055_1973_num_13_49_2726)> accessed 15 August 2023.

<sup>17</sup> Labouret H, ‘Situation matérielle, morale et coutumière de la femme dans l’ouest. Africain’ (1940) 13 *Africa: Journal of the International African Institute* 97 <<https://www.jstor.org/stable/1156952>> accessed 14 August 2023.

<sup>18</sup> Assié-Lumumba NT, *Les Africaines dans la politique : femmes Baoulé de Côte d’Ivoire* (1996) Harmattan; Barbier JC (ed), *Femmes du Cameroun : mères pacifiques, femmes rebelles* (1985) Orstom, Karthala; Lalami F, ‘L’enjeu du statut des femmes durant la période coloniale en Algérie’ (2008) 27 *Nouvelles Questions Féministes* 16 <<https://www.cairn.info/revue-nouvelles-questions-feministes-2008-3-page-16.htm?ref=doi>> accessed 3 August 2023.

<sup>19</sup> Imam AM-T, Sow F and Mama A, *Sexe, genre et société. Engendrer les sciences sociales Africaines* (2004) CODESRIA Books <<https://publication.codesria.org/index.php/pub/catalog/book/282>> accessed 15 August 2023.

<sup>20</sup> Lalami (n 18).

<sup>21</sup> Kaudjhis-Offoumou FA, *Les droits de la femme en Côte d’Ivoire* (1996) NENA/CODESRIA.

However, given the absence of a definition of rape in the Penal Code and the lack of practical mechanisms for combating rape, most courts preferred to define offenses committed as indecent assault rather than rape.<sup>22</sup> According to a study carried out in 2016 by the United Nations Operation in Côte d'Ivoire (UNOCI) Human Rights Division, some perpetrators of rape had their offense reclassified as 'indecent assault' and were not given the minimum sentences provided for in the Penal Code, even though the facts constituted rape.<sup>23</sup>

Having highlighted the silence that surrounded rape before 2002, the analysis in this article examines how this silence took hold and was perpetuated. Through a thematic analysis of 11 interviews and press archive data, the article shows how Élisabeth Noëlle-Neuman's theory of the 'spiral of silence' helps us to understand this phenomenon.<sup>24</sup> Silence, a concept associated with our thinking about rape, is frequently associated with emptiness or with absence. Is silence therefore "a flat expanse, without defect, without history"?<sup>25</sup> The social movement for the 'liberation of women's speech' allows us to respond negatively to this question. Several studies carried out in the field of social and human sciences have made it possible to approach silence as "a modality of meaning"<sup>26</sup> or "a form of discourse".<sup>27</sup> In *Le Sexe du Silence*, David Le Breton highlights the gendered dimension of silence and the inferiority of women in the ability to break silence, as compared to men.<sup>28</sup> According to Le Breton, the decision of women to remain silent is explained by an inequality of status between men and women.

## Methodology

The data on which this article is based is qualitative.<sup>29</sup> It consists of documentary data and semi-structured interviews. The documentary data includes the debates of the deputies on the criminalization of rape in the National Assembly between 1960 and 1981. It also includes newspaper reports of decisions handed down by Ivorian prosecutors' offices between 1981 and 2002, as published by the government daily *Fraternité-Matin*. The interview data includes

<sup>22</sup> UNIFEM, Bureau Régional, 'Violences faites aux femmes : l'état du droit' (1998).

<sup>23</sup> ONUCI, 'Rapport sur les viols et leur répression en Côte d'Ivoire' (2016) <[http://www.onuci.org/IMG/pdf/Cote\\_d\\_Ivoire\\_-\\_Rapport\\_sur\\_les\\_viols\\_et\\_leur\\_repression\\_-\\_Juillet\\_2016.pdf](http://www.onuci.org/IMG/pdf/Cote_d_Ivoire_-_Rapport_sur_les_viols_et_leur_repression_-_Juillet_2016.pdf)> accessed 30 August 2016.

<sup>24</sup> Noëlle-Neumann E, 'La spirale du silence : une théorie de l'opinion publique' (1989) 4 *Hermès* 181 <<http://www.cairn.info/revue-hermes-la-revue-1989-1-page-181.htm?ref=doi>> accessed 25 June 2022.

<sup>25</sup> Le Breton D, 'Anthropologie du silence' (1999) 7 *Théologiques* 11 <<http://id.erudit.org/iderudit/005014ar>> accessed 25 June 2022.

<sup>26</sup> *Ibid*

<sup>27</sup> Bilmes J, 'Le silence constitué. La vie dans un monde de plénitude de sens' (1996) 14 *Réseaux* 129 <[https://www.persee.fr/doc/reso\\_0751-7971\\_1996\\_num\\_14\\_80\\_3806](https://www.persee.fr/doc/reso_0751-7971_1996_num_14_80_3806)> accessed 24 June 2022.

<sup>28</sup> Le Breton D, *Le sexe du silence* (1997) Métailié.

<sup>29</sup> I started thinking about rape as part of my Master's degree for the 'Safe and Inclusive Cities' programme funded by the International Development Research Centre (IDRC). The study provided a socio-anthropological analysis of the management of rape by the communities, the police and the Court of Justice from 1990 to 2014 in Bouaké. The results of this study revealed an institutional and social silence surrounding the issue of rape prior to 2002. This prompted the need to produce socio-anthropological data on the criminalization of rape in Côte d'Ivoire. The data in this article comes from my doctoral research on the 'Sociohistory of the criminalization of rape in Côte d'Ivoire', defended on 4 April 2024 at the Université Alassane Ouattara de Bouaké, Côte d'Ivoire. All translations are my own, including quotes from interviews, archive extracts and scientific articles originally in French.

interviews I conducted with a lawyer in charge of legal affairs at the Ministry of Women's Affairs from 1982 to 1987, the National Human Rights Council, two police officers (one man and one woman), the General Secretary of the Association of Women Lawyers of Côte d'Ivoire, five rape victims and their families, one rape perpetrator and one religious leader. My ethical responsibility required me to inform participants of the study objectives and data use before obtaining their written or verbal consent. I anonymized participants by using either their initials or fictitious first names. I nevertheless mentioned some of the institutions they belong to and/or their status, given the significance of this information to what they reported. The thematic analysis of the interviews with these various participants enables us to understand the social and legal status of Ivorian women in the 1980s and the way silence surrounding rape was constructed and maintained between 1981 and 2002.

I collected this data in the cities of Abidjan and Bouaké<sup>30</sup> between September 2018 and February 2020. The data analysis sought to follow Max Weber's 'comprehensive approach'. This approach allows us to understand a social phenomenon. Weberian understanding is defined as the objective reconstruction of a cognitive process.<sup>31</sup> The objective is to understand the meaning of silence which surrounded rape since 1981, the year of its criminalization in Côte d'Ivoire, until 2002, when this phenomenon became a public problem. The data was interpreted in the light of Élisabeth Noëlle-Neumann's theory of the 'spiral of silence'.<sup>32</sup> The theory made it possible to interpret the trivializing attitude of police officers and judges towards rape victims and their families as the manifestation of an awkwardness between cultural norms and criminal law provisions. The theory also made it possible to interpret the refusal of victims and their families to denounce rape in the context of their fear of social rejection and reprisals from members of their community.

### **Socio-historical context: The emergence of the criminalization of rape in Côte d'Ivoire**

#### *Treatment of rape before Independence*

Rape was first criminalized in Côte d'Ivoire in 1981. However, before this date, it was one of the offenses punished by the colonial administration based on the French Penal Code of 1810. On 16 August 1922, a decree reorganizing indigenous justice in French West Africa allowed local customs to be applied in civil matters. As far as punishment was concerned, the decree permitted the following:

- 1) penalties provided for by local customs insofar as they are not contrary to the principles of French civilization;
- 2) penalties provided for specific offenses by police and administrative regulations;
- 3) imprisonment or a fine when local customs do not punish offenses to be heard by the indigenous courts.

---

<sup>30</sup> Bouaké is Côte d'Ivoire's second largest city after Abidjan. It was the stronghold of the armed rebellion during the decade of crisis between 2002 and 2011.

<sup>31</sup> Gonthier F, 'Weber et la notion de «compréhension»' (2004) 1 Cahiers internationaux de sociologie 35 <<https://shs-cairn-info.lama.univ-amu.fr/revue-cahiers-internationaux-de-sociologie-2004-1-page-35?lang=fr>> accessed 4 May 2025.

<sup>32</sup> Noëlle-Neumann (n 24).

Looking at Guéré<sup>33</sup> custom, Alfred Schwartz points out that rape was part of the category of so-called ‘criminal’ cases, known as *wê-te* (serious cases)<sup>34</sup> but that “only sexual relations with an underage girl [were] considered rape”.<sup>35</sup> Moreover, rape was only punishable by a fine requiring payment ranging from a goat to an ox. In the event of aggravating circumstances, such as the death of the victim, the offender's kin were obliged to replace the victim by paying the ‘blood price’, which in traditional society was double the dowry that the parents would have received for the daughter if she were alive. The payment of blood money reflects the seriousness with which rape was treated in the event of the death of the victim. Penalties for recognized rapes were therefore designed to replace ‘stolen property’. Researchers agree that equating rape with theft stems from the male ownership of women.<sup>36</sup>

### *Socio-legal status of Ivorian women between Independence and the 1981 Penal Code*

The criminalization of rape in Côte d'Ivoire emerged in an antinomic socio-political context: on the one hand, an international political context marked by the fight to end discrimination against women;<sup>37</sup> on the other, a local context marked by a socio-legal status that infantilized women, in the image of the Napoleonic Code in France and as reflected in jurisdictions around the world.<sup>38</sup> The Ivorian Civil Code, introduced on 7 October 1964, was in force at the time rape was criminalized in 1981. Of note is that the Civil Code did not provide for gender equality. Several Articles in the Code detail that women were under the guardianship of their husbands, despite the principle of equality before the law being proclaimed by the Ivorian Constitution of 3 November 1960, adopted on Independence. For example, Article 58 provided that, “The husband is the head of the family. He exercises this function in the common interest of the household and the children.” A husband’s obligation to provide for his family could be suspended if the wife abandoned the marital home without “just cause” and refused to return (Article 59). A married woman could represent her husband, if necessary, but only if he granted her the privilege (Article 65).

<sup>33</sup> The Guéré are a people from the west of Côte d'Ivoire.

<sup>34</sup> Schwartz A, *Tradition et changements dans la société guéré* (1971) Orstom

<sup>35</sup> *ibid* 188.

<sup>36</sup> Brownmiller (n 8); Gonthier N, ‘Les victimes de viol devant les tribunaux à la fin du Moyen Âge d’après les sources dijonnaises et lyonnaises’ (1994) 27 *Criminologie* 9 <<http://id.erudit.org/iderudit/017353ar>> accessed 25 June 2022; Cautela SG, ‘Questions de mot. Le “viol” au XVIe siècle, un crime contre les femmes?’ (2006) 24 *Clio. Histoire, femmes et sociétés* 57; Vigarello G, *Histoire du viol XVIe-XXe siècle* (1998) Éditions du Seuil.

<sup>37</sup> <https://www.ohchr.org/fr/instruments-mechanisms/instruments/convention-elimination-all-forms-discrimination-against-women> accessed 9 June 2021.

<sup>38</sup> Bouché de Español J, ‘L’Espagne, une histoire politique au féminin’ (2007) 3 *NF Après-demain* 8 <<https://www.cairn.info/revue-apres-demain-2007-3-page-8.htm>>; Dekeuwer-Défossez F, ‘Droit des personnes et de la famille : de 1804 au pacs (et au-delà...)’ (2003) 107 *Pouvoirs* 37 <<https://www.cairn.info/revue-pouvoirs-2003-4-page-37.htm>> accessed 17 August 2023; Dequiré A-F, ‘Les violences faites aux femmes dans le monde : une pandémie?’ (2019) 50 *Pensée plurielle* 21 <<https://www.cairn.info/revue-pensee-plurielle-2019-2-page-21.htm>>; Froidevaux-Metterie C, ‘Le féminisme et le corps des femmes’ (2020) 173 *Pouvoirs* 63 <<http://www.cairn.info/revue-pouvoirs-2020-2-page-63.htm?ref=doi>> accessed 13 October 2022; Gaté J, ‘Droits des femmes et révolutions arabes’ [2014] *La Revue des droits de l’homme. Revue du Centre de recherches et d’études sur les droits fondamentaux* <<https://journals.openedition.org/revdh/929>> accessed 17 August 2023; Mossuz-Lavau J, ‘Le vote des femmes en France (1944-1984)’, *Explication du vote*, vol 2e éd. (1989) Presses de Sciences Po <https://www.cairn.info/explication-du-vote--9782724605667-p-209.htm>.

Article 66 did hint at women's financial dependence at the time by providing that under Article 65, a wife could, on her signature alone, have a current account opened as the representative of her husband. However, this was conditional on the depositary notifying the husband of this account being opened.<sup>39</sup> Additionally, the balance of this account could only be in debit under an express mandate from the husband. Similarly, in terms of the professional status of a woman, Article 67 specified that a woman could exercise a (separate) profession, provided her husband did not object. Regarding the management of the spouses' joint and even personal property, Article 74 provided that, "The joint property and personal property of the spouses shall be administered by the husband." Articles 77 and 78 combined made clear that a wife had no legal right to sell, alienate, mortgage or dispose of either her own or community property without her husband's consent, while a husband only needed a wife's consent to dispose of community property.

It is therefore clear that the principle of equality before the law enshrined in the Ivorian Constitution was not transcribed in the Civil Code.<sup>40</sup> Despite the Ivorian Government's ambition to modernize the nation by enhancing the image of women, the Civil Code turned out to be a legal tool for the infantilization of women. The Civil Code thus participated in the social construction of the image of women around their sex. In the social imagination, women were reduced to the role of wife and mother and therefore perceived as objects of pleasure and a means of reproduction. The Civil Code acted as a social determinant of the cultural 'right to use' a woman's body, sometimes expressed through sexual harassment, rape, and other forms of sexual assault perpetrated by men, which were then generally trivialized.

#### *Treatment of rape between Independence and the 1981 Penal Code*

Faced with a lack of official data concerning rape cases in Côte d'Ivoire before the decade of political-military crisis, I surveyed the first Ivorian Government daily newspaper, *Fraternité-Matin*.<sup>41</sup> This investigation shed light on how rape was treated in Côte d'Ivoire between Independence and the introduction of the 1981 Penal Code. In all, there were ten issues of *Fraternité-Matin* prior to 1981 which contained reports of rape, with three articles reporting on rape trials. The first of these three articles carried the headline "At the trial: K. K. violates his 5-year-old niece, 10 years hard labor".<sup>42</sup> The article stated that the medical certificate was not capable of proving rape, but only attempted rape. The jury granted the defendant mitigating circumstances because he said he was drunk at the time of the crime. Drunkenness was then considered to be a mitigating circumstance in rape on the grounds that the defendant was not in full possession of his mental faculties at the time of the commission of the offence. Despite this circumstance, the defendant was sentenced to 10 years of hard labor and ordered to pay the victim and her parents, who had joined the civil action, the sum of F250,000 (€381.49) in damages. In the second article, "In flagrante delicto",<sup>43</sup> the rapist was

---

<sup>39</sup> If the husband could not be affected by the notification, the depositary could require that the wife be authorized by the courts.

<sup>40</sup> Kaudjhis-Offoumou (n 21).

<sup>41</sup> *Fraternité-Matin* was founded on 9 December 1964 by the country's first President, the late Félix Houphouët-Boigny. It is also the newspaper of the government press.

<sup>42</sup> *Fraternité-Matin* no. 3190, 1 July 1975.

<sup>43</sup> *Fraternité-Matin* no. 3425, 9 April 1976.

described as, “[w]ith greying hair, D. R. is an old man in his fifties. Divorced, he has three children.” The defendant's criminal record confirmed he had previously been sentenced to 18 months’ imprisonment for assaulting a minor. He was found guilty of ‘violence against a minor’ (the victim was 11 years old) and sentenced to 2 years’ imprisonment. The third article was entitled “At the Daloa<sup>44</sup> assizes: Sidiba Ouedraogo kills his cousin’s wife after raping her. He will do fifteen years’ hard labor.”<sup>45</sup> According to the testimony of a Mossi<sup>46</sup> chief, the defendant also committed adultery with his uncle's wife. Interestingly, the rape of the murdered victim was also categorized as adultery. After deliberation, the accused was found guilty of murder and sentenced to 15 years’ hard labor and a 15-year ban from the (then) Daloa Department regional administrative area. He received no separate penalty for the rapes.

These articles provide insight into how rape was treated by the courts before the introduction of the Penal Code in 1981. In the first case, the perpetrator of the attempted rape of a 5-year-old girl received a severe sentence, despite the ‘mitigating circumstance’ accepted by the jury. Indeed, unlike the 2019 Penal Code, which provides for life imprisonment for rape committed in a “state of obvious drunkenness or under the obvious influence of narcotics”,<sup>47</sup> drunkenness was not considered an aggravating circumstance in the 1960s-early 1980s. Neither was drunkenness included in the aggravating circumstances of rape in the 1981 Penal Code. In the second case, the perpetrator of the attempted rape of an 11-year-old girl received a derisory sentence, compared to what the Penal Code permitted. In the third case, the rapes were not considered as rape, but rather as cases of adultery because the victims were married. These press articles show that before 1981, the classification of rape depended on the age and social status of the victim. The younger the victim, the harsher the punishment. In other words, the standing of the victim exacerbates or lessens the crime.<sup>48</sup> Consequently, an adult or married woman who was the victim of rape might not be considered as such, which contributed to silencing the crime.

### **Silencing rape between 1981 and 2002**

#### *Institutional silence*

According to an analysis of the Minutes of the parliamentary debate concerning the Criminal Code Bill 1981,<sup>49</sup> of the 21 MPs involved (three women and 18 men), three men argued in favor of a definition of rape, given the “severity of the maximum penalty” proposed by the government rather than to assist victims in the pursuit of justice. One MP commented:

In my opinion, sentencing someone in our country, in Africa, to life imprisonment for rape is serious and too excessive. That's why some people

<sup>44</sup> Daloa is a town in center-west Côte d'Ivoire.

<sup>45</sup> *Fraternité-Matin* no. 4397, 27 June 1979.

<sup>46</sup> Mossi are a people from Burkina Faso, a country that borders Côte d'Ivoire.

<sup>47</sup> Ivorian Penal Code 2019, Article 404, paragraph 7.

<sup>48</sup> Vigarello (n 36).

<sup>49</sup> Preparatory work on the Criminal Code, National Assembly, Sixth legislature, first ordinary session 1981, General and Institutional Affairs Committee, Minutes of the examination of the draft law on the Criminal Code, Abidjan, 25 June 1981.

have asked for a legal definition, ...even with violence, it rarely happens. I don't need to insist on that. We all know the girls (...). I think we're having fun with imprisonment. According to the text, I think 20 years is a long time.<sup>50</sup>

The MP maintained that the African context does not lend itself to a life sentence for rape. He justified this with reference to the socio-cultural context, saying “in our country, in Africa” to justify his position, believing that rape rarely happened “even with violence”. For him, the reputation of “the girls” should not have allowed a man to be sentenced to life imprisonment for rape. He found that “too excessive”. His comments, which contain rape myths, denies and legitimized rape by making the victim share responsibility for the act.<sup>51</sup>

My research at police stations, courts and criminal justice institutions in Bouaké and Abidjan revealed a lack of information about cases of rape that occurred between 1981 and 2002. There are no official statistics on rape cases during this period. This lack of statistical data made rape virtually invisible. As pointed out by Joseph Gusfield, this absence of information contributes to the problem of the silencing of rape: “social problems are constructed through the social organization that defines them and gives them reality through the collection of empirical evidence”.<sup>52</sup> My investigation into the recording of rape in police stations in the town of Bouaké confirmed Marylène Lieber's finding that “violence against women is difficult to identify in police statistics because it is recorded under various headings such as ‘assault and battery’, ‘sexual assault’, etc”.<sup>53</sup> My investigations confirmed that cases of rape, some of which were proven, were recorded in the police report under the headings of ‘assault and battery’, ‘sexual assault’ or ‘indecent assault’. According to Lieber, violence against women is thus subsumed within “categories that blur their specific characteristics and those of the social relationships in which they are embedded”.<sup>54</sup>

Examining the recording of rape requires an assessment of the people in charge of this function, i.e. the police. The way the police handled rape can help us understand how they contributed to the silencing of the phenomenon. My research found that police officers acted as a deterrent to rape victims who decided to report their rape. Captain Gérard acknowledged that:

---

<sup>50</sup> Camille, MP, National Assembly, 25 June 25 1985.

<sup>51</sup> Burt MR, ‘Cultural myths and supports for rape’ (1980) 38 *Journal of Personality and Social Psychology* 217; Koss MP and Shiang J, ‘Research on brief psychotherapy’, *Handbook of psychotherapy and behavior change, 4th ed* (John Wiley & Sons 1994); Lonsway KA and Fitzgerald LF, ‘Rape myths’ (1994) 18 *Psychology of women quarterly* 133 <<https://onlinelibrary.wiley.com/doi/abs/10.1111/j.1471-6402.1994.tb00448.x>> accessed 17 August 2023; Trottier D and others, ‘Adhésion aux mythes du viol et perpétration de coercition sexuelle chez les étudiants et étudiantes universitaires : une revue systématique de la littérature [Rape myth acceptance and sexual coercion perpetration among male and female university students: a systematic review of the literature]’ (2021) 62 *Canadian Psychology / Psychologie canadienne* 326.

<sup>52</sup> Gusfield J, *The culture of public problems. Drinking-driving and the symbolic order* (1981) Chicago University Press.

<sup>53</sup> Lieber M, ‘Ce qui compte et ce qui ne compte pas : usages des statistiques et violences faites aux femmes’ (2011) HS 2 *Cahiers du Genre* 157 <<https://www.cairn.info/revue-cahiers-du-genre-2011-3-page-157.htm?ref=doi>> accessed 27 June 2022.

<sup>54</sup> Ibid.

Before, GBV<sup>55</sup> victims were not treated well. For example, when a victim goes to the police to report it, the officer says: why did you go there? When he did it, you didn't enjoy yourself? When it's like that, the victim feels guilty and goes home.<sup>56</sup>

Confirming the observation that the police contributed to a double process of victimization, Clarisse, a lawyer specializing in gender issues, pointed out that:

When the incident is discovered by chance and brought to the attention of the police and all that, um, their first instinct is to find out whether the young girl did not give her consent. And...the investigation is carried out as if the girl had raped herself. The police officer will immediately teach the rapist how to behave. And I've seen it several times.<sup>57</sup>

Victims would often be received at the police counter and questioned, with no regard for any form of confidentiality. Five victims' families, one attacker's family, and one religious leader that I spoke with were also of the view that the police sometimes encouraged the victim's family to withdraw their complaint in the interests of 'social balance'. 'Social balance' here refers to the stability of a community and the enhancement of interactions between its members. Its evocation would mean that the case was not referred to the public prosecutor's office. In Peace Medie's study, she too describes how the pressure to withdraw the complaint generally comes from the rapist's family, but that the police can also exert this pressure in collusion with the family, for the benefit of 'social balance'.<sup>58</sup> She observes that when perpetrators have support from loved ones, community leaders and law enforcement, victims face immense pressure to withdraw their complaints.<sup>59</sup> These results confirm Jacques Chevallier's analysis that police use their discretion to interpret and apply the law in favor of the accused.<sup>60</sup> Chevallier suggests this is due to male solidarity, with investigations taking place as if it was the rape victim who was on trial.

Police officers decide whether a complaint should be registered, and they have a fairly wide margin for interpreting the facts.<sup>61</sup> For rape complaints, research has shown that police officers try to qualify a woman's story by checking that it fits the legal definition of rape, as they understand it.<sup>62</sup> This would have been particularly important during the period prior to 2002, when rape was qualified according to the case law of the various police stations and public prosecutor's offices because there was no case law definition at the national level.

---

<sup>55</sup> Gender-based violence.

<sup>56</sup> Interview with Police Captain Gérard, 29 March 2019.

<sup>57</sup> Interview with Clarisse, lawyer, 27 July 2019

<sup>58</sup> Medie P, 'Rape reporting in post-conflict Côte d'Ivoire: accessing justice and ending impunity' (2017) 116 *African affairs* 414.

<sup>59</sup> *Ibid.*

<sup>60</sup> Chevallier J, 'La place de l'administration dans la production des normes' (2011) 79 *Droit et société* 623, 624 <<http://www.cairn.info/revue-droit-et-societe1-2011-3-page-623.htm?ref=doi>> accessed 8 March 2023.

<sup>61</sup> Lieber (n 53)

<sup>62</sup> Pérona O, 'Déqualifier les viols : une enquête sur les mains courantes de la police judiciaire' (2018) 99 *Droit et société* 341 <<http://www.cairn.info/revue-droit-et-societe-2018-2-page-341.htm?ref=doi>> accessed 25 June 2022.

Police officers' definitions also depended on their perception of rape and their representation of women. According to Pierre Favre, there are several levels at which social order is created, some of which are more decisive than others, with the police at the forefront:

The police draw up a general and hierarchical order of what is forbidden and what is authorized, of what is urgent and what can wait, of what is potentially dangerous and what is harmless, of what is just and what is unjust, of what is admissible and inadmissible, of what is socially normal and what is pathological.<sup>63</sup>

In other words, through the response they provide, the police determine what social and anti-social behavior is, beyond what the law prescribes. They have the power to contribute to the trivialization or criminalization of a social phenomenon. Indeed, police officers can avoid opening investigations that they believe will not lead to the charging of a respondent.<sup>64</sup> Very often, police officers' characterization of complainants' accounts involves a dialogue between "the letter of criminal law and representations of female sexuality".<sup>65</sup>

#### *Court 'correctionalization'*

'Correctionalization' is a judicial practice that consists of disqualifying one criminal offense by requalifying it as a less serious offense and/or misdemeanor. "It is then a question of pursuing under the correctional qualification of sexual assault, or even sexual harassment, facts which could be pursued under the criminal qualification of rape, the act of sexual penetration being deliberately avoided."<sup>66</sup> In this section, I draw on my examination of press articles reporting rape trials published in the Ivorian Government daily newspaper, *Fraternité-Matin*, between 1981 and 2002. This investigation provides insight into the state response to rape via the courts and public prosecutors' offices after rape was criminalized in the Penal Code. My main finding was that the sentences delivered were lower than those provided for in the Penal Code and that rape prosecutions were routinely reclassified into a different offense, contributing to the silencing of rape.

To demonstrate, the first newspaper article reported that the court did not convict the defendant of rape but of indecent assault on a 10-year-old minor. He was sentenced to six months' imprisonment and a fine of F30,000 (€45.79). In this case, the rape was requalified as a less serious charge and the perpetrator sentenced to a very lenient punishment, given the minimum sentences that were detailed in the Penal Code:

Anyone who commits an indecent assault, committed or attempted with violence, on a person of either sex, is liable to...five to ten years' imprisonment and a fine of 200,000

---

<sup>63</sup> Favre P, 'Quand la police fabrique l'ordre social : Un en deçà des politiques publiques de la police?' (2009) 59 *Revue française de science politique* 1231 <<http://www.cairn.info/revue-francaise-de-science-politique-2009-6-page-1231.htm>> accessed 27 June 2022.

<sup>64</sup> Pérona (n 62).

<sup>65</sup> *ibid.*

<sup>66</sup> Le Magueresse C and Maduraud A-L, 'Ces viols qu'on occulte : critique de la «correctionnalisation»' (2018) 2 *Délibérée* 32 <<http://www.cairn.info/revue-deliberee-2018-2-page-32.htm?ref=doi>> accessed 25 June 2022.

francs (€305.35) to 2,000,000 francs (€3,052.94) if: ... The victim is under 15 years of age.<sup>67</sup>

In the second rape trial report<sup>68</sup> the Daloa Court of First Instance charged the instigator of a gang rape with violence against a minor and sentenced him to one year's suspended imprisonment and a fine of F50,000 (€76.32). As previously, the nature of the attack was silenced with the conviction 'correctionalized' as 'violence against a minor', to avoid using the term 'rape'. Furthermore, and notwithstanding the defendant's role as the instigator of the gang rape, the violence and nature of the attack, and the young age of the victim, we again see a very lenient sentence. The minimum sentence of 5 years was also not respected in the third reported case, which involved two guards raping a 10-year-old girl.<sup>69</sup> The perpetrators were found guilty of the offense of 'indecent assault with violence and as part of a group on a minor under the age of 15', and sentenced to 3 years' imprisonment, despite the aggravating circumstances. In the final report, a priest was convicted of raping a 12-year-old girl and sentenced to 24 months' imprisonment and a fine of F75,000 (€114.49).<sup>70</sup> However, the rape was reclassified as a misdemeanor by the court, in addition to the silencing impact of the lenient sentence, despite the aggravating factors.

These articles show that rape was systematically reclassified by the public prosecutor's office as an offense of 'indecent assault', despite confessions of sexual penetration and the conclusions of the medical certificates. Although 'correctionalization' is not necessarily trivialization, the value of this judicial practice depends on the correctional sentence. Correctional sentencing may have been useful in these cases if the sentences handed down had been the maximum penalty provided for by law in cases of indecent assault. However, the decisions did not correspond to even the minimum penalty for indecent assault. According to Cautela, legal caution in classifying rape, a crime of which women are *a priori* the victims, is based on the idea of a moral weakness inherent in female nature.<sup>71</sup> The weakness of such public responses has, as Lieber points out, encouraged the concealment of rape through a widespread attitude of minimizing violence against women.<sup>72</sup>

The trivializing attitudes on the part of both the police and public prosecutors and courts, appear to reflect a discrepancy between cultural norms and the provisions of criminal law. Moreover, the way rape cases were handled sheds light on the place of women in a society ruled by men.<sup>73</sup> While women were required to report rape to the authorities, they did not enjoy the confidence of state personnel,<sup>74</sup> who preferred to encourage the withdrawal of complaints and out-of-court settlements in the preservation of 'social balance'. The rationale underpinning concern for 'social balance' is the conceptualization of women's bodies and

<sup>67</sup> Ivorian Penal Code 1981, Article 355.

<sup>68</sup> *Fraternité-Matin* no. 7584, 17 January 1990: "Debauchery! Issia, three for a girl". Issia is a town in the center-west of Côte d'Ivoire

<sup>69</sup> *Fraternité-Matin* no. 9062, 27 December 1994: "Sexual touching of a 10-year-old girl. Two guards sentenced to 3 years in prison".

<sup>70</sup> *Fraternité-Matin* no. 11261, 22 May 2002: "'Hiré. Abbé J. M. T." Hiré is a town in the south of Côte d'Ivoire.

<sup>71</sup> Cautela (n 36) 4

<sup>72</sup> Lieber (n 53)

<sup>73</sup> Gonthier (n 36)

<sup>74</sup> *ibid.*

feminine nature in the patriarchal context, as underlined by Cautela,<sup>75</sup> and the implications for women's social status. In other words, a social representation that reduces women to their biological characteristics, moral weakness and status as the property of men and their family, exposes women to men's sexual assaults and excuses attacks. The trivialization of rape by public institutions naturalized the gendered phenomenon of rape and sexual assault, making it invisible and trapping it in a spiral of silence. As well as state actors, this spiral of silence was fed and sustained by the discourse and practices of journalists and social actors, which I will discuss in the next section.

### *Silence around the criminal aspect of rape in the communities and the press*

The silence surrounding rape in Côte d'Ivoire was both institutional and social. Again, I examined articles published by the Ivorian Government daily newspaper, *Fraternité-Matin*, to gain insight into public attitudes of the time in relation to rape. In an article entitled "Odious! At eight, they rape a 13-year-old girl",<sup>76</sup> the journalist mentioned a case of gang rape that took place in Gbougbo I, a village in Dabou.<sup>77</sup> According to the journalist, the village community wanted to hush up the affair. In addition, the victim's family were ready to withdraw the complaint if the families of the alleged perpetrators – all sons of the village – apologized to them, as was customary. Reportedly, the mother's main concern was that her daughter should be able to conceive after this rape. These maternal feelings reflect the social imaginary constructed around the social status of women, with the traditional image for a woman tied to fertility and motherhood.<sup>78</sup> This construction of a woman's social status led some families to conceal the rape of their daughters in the hope of marriage and motherhood for them.

As well as communities, journalists obscured the criminal nature of rape through their discourse in some cases. This can be seen in an article titled "Funny guy. He raped lonely women", where the journalist dealt with the case of a serial rapist who was active in the commune of Yopougon in 1987.<sup>79</sup> The journalist's use of the expression "Funny guy" is confusing in such a context and tends to reduce the crime to some sort of bizarre act, rather than sustained sexual violence against numerous women. Relatedly, in the article discussed above involving the gang rape of a 15-year old,<sup>80</sup> the journalist established a link between the "budding charms" of the victim ('M') and the "lustful instincts" of the perpetrator and instigator of the gang rape ('S'):

Little M. has grown up. Young people her own age (15) and even the older ones are not insensitive to her budding charms. S., for example, his lustful instincts are aroused every time she passes under his eyes. However, this idle

<sup>75</sup> Cautela (n 36)

<sup>76</sup> *Fraternité-Matin* no. 7386, 23 May 1989.

<sup>77</sup> Dabou is a town in the south, close to Abidjan, the economic capital of Côte d'Ivoire.

<sup>78</sup> Bekkar R, 'Statut social des femmes, accès à l'espace et à la parole publique' 83; Bourdieu P, 'La domination masculine' (1990) 84 *Actes de la recherche en sciences sociales* 2 <[https://www.persee.fr/doc/ars\\_0335-5322\\_1990\\_num\\_84\\_1\\_2947](https://www.persee.fr/doc/ars_0335-5322_1990_num_84_1_2947)> accessed 12 October 2018; Héritier (n 4); Houdebine A-M, 'De «la» femme dans les discours : ou résistances des images : différence et discrimination' [1990] *Les cahiers du CEDREF* 51 <<http://journals.openedition.org/cedref/1397>> accessed 29 June 2023.

<sup>79</sup> *Fraternité-Matin* no. 6955, 17 December 1987. Yopougon is one of the 13 communes of the city of Abidjan.

<sup>80</sup> *Fraternité-Matin* no. 7584, 17 January 1990.

22-year-old doesn't have the courage to approach M. to tell her about the consuming flame that consumes him.

The journalist seemed to justify the orchestration of the gang rape on the grounds of the instigator 'suffering' in the face of the victim's beauty and his unfavorable social situation. Unlike the socially condemned and silenced rape victim, the perpetrators could count on the sympathy and solidarity of their community, and of society in general.

In the media coverage of these rape cases, the journalistic argument was built around the social representation of women as seductive. This coverage, while maintaining the culture of rape, dissuaded victims from filing complaints. I therefore agree with Foucault that the media contributed to the imposition of the norms that structured society,<sup>81</sup> norms that prescribed the profile of 'real victims' as having to be girls who were completely innocent to sexual pleasures and who had been taken by surprise and violated. Journalists therefore acted as indirect prescribers of political and social norms, exercising a disciplinary power that was all the more restrictive because it trivialized and was uncontested.<sup>82</sup> As Seidel and Capitan argue, "discourse does not only have symbolic effects: it 'constructs' and 'makes sense'"<sup>83</sup> - in this case, a sense imbued with gender stereotypes, perceived through the analysis of different press articles.

#### *Settling out of court – the suspicion surrounding the victim's consent*

Rape is taboo, according to those I interviewed, including Valéry, a policewoman, Clarisse, a lawyer, and Fanta, a civil society representative. According to lawyer Clarisse, for married women, making a complaint of rape was almost an admission of adultery. For unmarried girls and women, it tarnished the image of both the victim and her family. Victims rarely spoke out, sometimes forced into silence by their families or communities, with suspicion cast on them rather than the perpetrators. Policewoman Valéry reported on expressions that were used in Côte d'Ivoire in cases of rape: "she likes to provoke men"; "she herself looked for it because at this time of day, it's dangerous for women to go that way"; "her dress encouraged the boy".<sup>84</sup> These expressions not only socially condemned the victim, but reflected the position under the colonial Napoleonic Code, whereby the victim could be implicitly condemned for having 'participated' in the act, as rape was considered a sin.<sup>85</sup> According to civil society representative, Fanta, this social imaginary surrounding rape was shared as much by the communities as by the social actors involved in the fight against this phenomenon in Côte d'Ivoire:

<sup>81</sup> Foucault M, *Dits et écrits 1954-1988*, vol 4 (1994) Gallimard.

<sup>82</sup> Bertini M-J, 'Langage et pouvoir : la femme dans les médias (1995-2002)' (2007) 152 *Communication et langages* 3 <[http://www.persee.fr/web/revues/home/prescript/article/colan\\_0336-1500\\_2007\\_num\\_152\\_1\\_4651](http://www.persee.fr/web/revues/home/prescript/article/colan_0336-1500_2007_num_152_1_4651)> accessed 29 June 2023.

<sup>83</sup> Seidel G and Capitan C, 'La représentation des femmes dans le discours sur le sida en Afrique sub-saharienne' (1996) 49 *Mots* 48 <[https://www.persee.fr/doc/mots\\_0243-6450\\_1996\\_num\\_49\\_1\\_2121](https://www.persee.fr/doc/mots_0243-6450_1996_num_49_1_2121)> accessed 8 March 2023.

<sup>84</sup> Interview with Valéry, policewoman, 13 November 2018.

<sup>85</sup> Leriche (n 11)

Before, everyone, even the NGOs, even the associations and others, most of the players were dominated by...prejudices, sociocultural constraints. Because when you hear that a woman has been raped, you say to yourself, "But how?" They ask how she did it? ... When you tell someone, they've been raped, it means they had it coming.<sup>86</sup>

Looking at the representation of women in the discourse on AIDS in sub-Saharan Africa, Seidel and Capitan note that despite the diversity of causes invoked to account for the disease, the moral argument often wins out.<sup>87</sup> The moral argument also emerged in the aforementioned newspaper report of a 10-year-old girl raped by two guards. The journalist deflected blame from the perpetrators by raising suspicions about the consent of the victim.<sup>88</sup> He wondered whether the victim had not ended up enjoying the rape given the repetition of the act and the arguments she gave to explain herself. He further wondered whether the explanation for the little girl's behavior lay in her social environment and moral values, while telling us nothing more about the situation of the perpetrators, apart from their profession. In his discourse, the journalist placed the responsibility for the rape on the victim, rather than on the perpetrators.

My research found this to be the case for rape generally. Faced with 'suspicion' about consent on the part of rape victims, 'out-of-court settlements' were the community's main recourse. Victims and their families:

Always tried to settle things within the family. Rape cases were often settled by negotiation, within the family or, um, by the parents of both ... They get together to try and find out, for example, if it was the girl who was at school, for example, who was raped, we try to find out how the man's parents can finance the continuation of this girl's education.<sup>89</sup>

Police stations and courts were avoided in favor of social arbitration. This procedure was entrusted either to the heads of families or to community leaders. The police were generally only called in when this approach had not been conclusive for the victim's family. Fear of social rejection, promoted by the social condemnation of the victims, dissuaded victims and their families from reporting the rape. This in turn further fueled the silence around this phenomenon. For Noëlle-Neumann, if public opinion is the result of the interaction between individuals and their social environment, then the individual may renounce his or her own judgement in order to avoid isolation. Silence has been adopted by victims to protect themselves from social rejection. While silence is suffering in itself, sometimes breaking it is even more difficult.<sup>90</sup> As Patricia Hill Collins has argued, "[i]n contexts of violence, when self-censorship seems to be a protection, silence makes sense".<sup>91</sup>

---

<sup>86</sup> Interview with Fanta, General Secretary of the Côte d'Ivoire Association of Women Lawyers, 18 October 2018.

<sup>87</sup> Seidel and Capitan (n 83).

<sup>89</sup> Interview with Clarisse (n 57).

<sup>90</sup> Vidal L, *Le silence et le sens. Essai d'anthropologie du sida en Afrique* (1996) Anthropos-Economica.

<sup>91</sup> Collins PH, 'Quelles politiques sexuelles pour les femmes noires?' (2016) HS 4 Cahiers du Genre 97 <<https://www.cairn.info/revue-cahiers-du-genre-2016-3-page-97.htm?ref=doi>> accessed 27 June 2022.

---

## Conclusion

Côte d'Ivoire passed legislation in 1981 making all forms of attack on a person's physical and psychological integrity a criminal offense and punishing it as such. However, this legislation suffered a number of shortcomings, particularly as regards the punishment of rape. Although rape appeared to be a public problem – as evident in newspaper reportage – the legal framework for dealing with this phenomenon did not evolve between 1981 and 2002. Indeed, like the French Penal Code of 1810, the Ivorian Penal Code of 1981 did not provide any definition of rape. It merely indicated the penalties applicable to this offense. In addition, there were gaps in the implementation of the law prohibiting rape in police stations and courts. During this period, there was silence around rape in society, against a backdrop of trivialization. The construction of this silence was a complex process, involving political, legal and socio-cultural dimensions. This process was sustained and fueled by the social representation of women in a male-dominated society, a representation that confined women to the role of reproducer and object of male pleasure.

The question of the existence of "a genuine criminal policy concerning the repression of rape"<sup>92</sup> arose acutely in Côte d'Ivoire between 2012 and 2014, in the aftermath of the decade of political-military crisis from 2002 to 2011. Studies published by certain organizations reported a systematic 'correctionalization' of rape in the public prosecutors' offices. Before the inflation of the discourse around rape between 2002 and 2011, carried mainly by these organizations, rape was trapped in a spiral of silence. The spiral of silence began in the Penal Code with the lack of a definition of rape. It was maintained by the weakness of public responses through the systematic 'correctionalization' of rape cases in public prosecutors' offices. This weakness of public responses made rape invisible in Côte d'Ivoire. Beyond the police stations and courts, the spiral of silence was also maintained in the press and communities. The victim's non-consent was regularly questioned in the way rapes were reported in the press. Concerning the communities, the silence was evident by the attempts to withdraw complaints and come to out-of-court settlements. From state institutions to communities, the silence around rape appeared as a social consensus, ensuring the trivialization of this phenomenon between 1981 and 2002.

However, the repression of rape has undergone an evolution in the revised Penal Code of 2019, through the definition and recognition of marital rape. In addition, 'gender desks' have been installed in police stations and gendarmerie brigades between 2019 and 2020. Rape is increasingly being prosecuted as a crime, particularly at the Bouaké Court of First Instance. Nevertheless, there is still work to be done in terms of reporting rape cases and the attitude of police officers towards rape victims. Despite the Ivorian government's efforts to suppress rape, the study showed that police officers, through their way of thinking and their attitudes towards victims, continue to fuel a 'rape culture' that suggests its understandable inevitability in Côte d'Ivoire.

---

<sup>92</sup> Le Magueresse and Madurand (n 66).