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Thematic Article

Surviving the blame: Resisting secondary victimization in trials for male violence against women

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Abstract

The present work aims to contribute to the secondary victimization debate, specifically analyzing how secondary victimization is produced through the language of public prosecutors and defense attorney in examinations and cross-examinations, respectively. This paper is divided into two parts. In the first one, early CA studies on secondary victimization will be presented from a critical perspective, highlighting the results of such research and, more importantly, how said studies have contributed to defining and analyzing the phenomenon of secondary victimization in criminal trials. In the second part, in line with the approach, court transcripts will be analyzed, from a wider collection of real-life trials from Italian and U.S. courts. This will allow us to show how the victims become an active part during the cross-examinations, that is, instead of passively enduring the invasive and derogatory questions of public and defense attorneys, victims begin to resist the harmful implications of such questions.

Keywords: secondary victimization, victim, rape trial, violence against women, conversation analysis.

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Victims and secondary victimization[1]

Within studies dedicated to victims of crime, the phenomenon of secondary victimization remains relatively under-explored. Yet, beyond its significant ethical and civic relevance — as it raises questions concerning the proper functioning of justice and law in contemporary societies — the issue of secondary victimization offers insights for a less naive reinterpretation of the very concept of victim. In contemporary victimology (Saponaro, 2004; Borghi & Manghi, 2009; Walklate, 2014; Shapland, 2017), attention is predominantly directed towards the classification of victim types (i.e., by gender, age, crime suffered, etc.), the processes of stigmatization experienced by victims, the tendency of certain minority groups to be victims of specific crimes such as racial hatred or hate speech, and, finally, the denunciation of the inadequacy of rights and measures for victim assistance and support. While these are rich and interesting research streams, they share a common limitation: they take for granted the socially associated meaning of the category "victim" and the social process through which an individual is described as such.

On this point, Ethnomethodology and Conversation Analysis (EMCA) offer an alternative perspective capable of considering the victim not as a given entity, but as the outcome of an interpretive process. In other words, the victim is not so much understood as something the individual is, but rather as something the individual does. It is, in essence, an identity that should be understood in a performative sense, particularly highlighting how the recognition of victimhood depends on the ability to meet the common-sense expectations connected to this status. In other words, to be described as a victim, it is not enough to have suffered a wrong or violence; it is also necessary to attempt to embody the characteristics that common sense associates with the category of victim.

An emblematic case of the interpretive nature of the concept of victim are trials for sexual violence against women. In such cases, the victim's "victimhood" is always subject to a sort of calibration.

> Rape is seeable as a morally unjustified act, but the victims of rape are always monitorable for their innocence and for the degree of that innocence. Thus, a story that told of how a prostitute was raped might fail to engender sympathy for the victim because she might not so easily be seen as the subject of the harrowing or nightmare-like experience (Lee, 1984, p. 72).

[1] Paragraphs "Victims and secondary victimization" and "Pioneering conversation analysis studies on courtroom interaction" written by Enrico Caniglia. Paragraphs "Data overview", "Surviving the blame: How victims resist secondary victimization", and "Conclusion: Resisting secondary victimization" written by Selena Mariano.

This calibration depends not only on how the victim's identity is characterized (in this case, a prostitute rather than a very young girl), but also on other biographical elements mentioned during the trial and even on the demeanor displayed during the various courtroom situations, particularly during cross-examination.

It is precisely the interpreted nature of victim status that, in our view, explains the occurrence of secondary victimization in criminal trials for male violence against women. Procedural actions, and in particular the examination and cross-examination of the complainant, aim, of course, to verify the existence of the latter's victim status — if there is no victim, there is no crime, and thus the accused are acquitted. However, even in cases where it is demonstrated that a rape, namely a non-consensual sexual act, has occurred, prevailing legal culture still requires the "degree" of the complainant's victimhood to be defined, or, even, to verify their nature as an "innocent victim". All the more in overt rape cases, the prevailing judicial practice in adversarial systems, such as the Anglo-Saxon ones, and in the mixed systems of continental Europe, requires judges and prosecutors to still ascertain the victim's "degree of innocence" to establish the extent of the accused's guilt (Bakken, 2008). Consequently, defense lawyers can still act to diminish the woman's nature as an innocent victim to obtain mitigating circumstances, and thus reduced sentences, for their client. Although this is a widely accepted judicial practice[2], it nonetheless triggers the phenomenon of secondary victimization: during the trial the complainant always risks undergoing a process of personal degradation at the hands of the institution of justice. Secondary victimization is, in fact, the mechanism through which the victim suffers psychological violence from other individuals precisely when seeking justice[3].

Secondary victimization is rooted in the procedures and concrete practices that characterize current criminal proceedings and is not so much a matter of attitudes towards gender differences prevalent in society. Researching secondary victimization does not mean probing the attitudes of justice professionals or measuring the psychological consequences on victims. Rather, it concerns the analysis of the prevailing practices in the conduct of examinations and cross-examinations. Once again, interpretive approaches such as EMCA prove useful because their analysis focuses precisely on the concrete details of the interactional moments of criminal proceedings, because it is there that the dynamics producing secondary victimization are found.

[2] It is not without reason that, for many observers, the core issue lies in the prevailing culture's continued failure to accept the principle that rape is rape, even in the presence of acts and situations that might appear to have encouraged or explained it.

[3] As is widely acknowledged, this phenomenon contributes to the underreporting of sexual violence, precisely to avoid the ordeal of a criminal trial in which one's private life is subjected to public scrutiny, and where there is even a serious risk of victims being transformed into those responsible for what happened to them — in essence, encountering victim-blaming.

Pioneering conversation analysis studies on courtroom interaction

As scholars of natural occurring interaction, ethnomethodologists and conversation analysts have engaged with the criminal trial, primarily interested in the interactional modalities that constitute it. British ethnomethodologists Max Atkinson and Paul Drew (1979), pioneers in analyzing criminal trials using video recordings of natural events, were not so much concerned with discussing legal procedures, that is, reasoning theoretically about the content of criminal procedural law, but rather with observing what concretely occurs during the criminal trial. Their aim was to describe the concrete modalities of courtroom proceedings; in particular, those not explicitly regulated by criminal procedural law that yet affected practical aspects tacitly implied in examination and cross-examination. Not only in the United Kingdom, but also in many other Western countries, such as Italy and the United States, little of criminal procedural law is dedicated to regulating aspects like question design in cross-examination, the organization of turns in witness examinations, or recognizing the satisfactory or unsatisfactory nature of a response from the interrogated party. These are all actions that criminal trial actors must resolve themselves and practically. In particular, without in any way disputing the importance of legal procedures in the trial, the aim of ethnomethodologists was to grasp the relevance of practical rules and specific constraints of verbal interaction within those interactional moments — examinations and cross-examinations — that constitute the very heart of courtroom proceedings (Komter, 1994).

While the general description of interactional situations in courtroom proceedings constituted the primary aim of Atkinson and Drew's pioneering research (Drew & Ferraz de Almeida, 2020), in subsequent decades the interest of conversation analysts has shifted to specific aspects of the contemporary criminal trial. Although secondary victimization has not yet constituted an explicit research topic for the Ethnomethodological Legal Studies community, several significant studies have offered various encouragements in this direction. Firstly, we can mention Greg Matoesian's works dedicated to the trial against William Kennedy Smith (1995; 2001). The American researcher described several cross-examination techniques by which the accused's lawyers successfully diminished the complainant's innocent victim status. Roy Black, Kennedy Smith's defense lawyer, employed the techniques of "detailing-to-death" and "resumptive repetition" to tacitly show the incongruity of complainant Patricia Bowman's behavior with respect to the expectations that common sense associates with the "victim". Culturally shared expectations about the category of "woman victim of rape" were subtly and implicitly invoked by Black in his questions to the witness and then emphasized in his "resumptive repetitions", thus offering jurors material to doubt the severity of the event or even the complainant's credibility. For example, during cross-examination, Bowman answered that she first called a friend, and lawyer Black highlighted in his "resumptive

repetition" why the complainant had not called the police or her close relatives, which we would probably expect from a rape victim. Another example: the first thing the complainant said to the friend who came to pick her up was to ask where her shoes were, and again the defense lawyer emphasized this aspect to tacitly highlight how Bowman directed her first interest to a trivial aspect, instead of immediately talking about what had happened to her or her psychological condition, as we would once again expect from a victim.

"Interested enough that at some time during that period of time you took off your pantyhose?" lawyer Black further asked, tacitly suggesting in this way how the complainant had in some way taken a step interpretable as seeking sexual involvement. Thus saying, lawyer Black once again threatens her status as an "innocent victim" or calibrates it downwards (Matoesian, 1995). The woman confusedly replies that she does not even remember how it happened, "I still don't know how my pantyhose came off" (p. 680): Bowman appears so crushed by lawyer Black's implicit accusations that she cannot even counter them. What is not mentioned is that Kennedy Smith and Bowman were on a beach and that the gesture of taking off pantyhose can indeed appear to men as seeking sexual involvement, but appears quite different to women who are walking on the shoreline: in that situation, and from a woman's perspective, it is like taking off socks to prevent them from getting wet.

All these skillful emphases on the incongruities with socially shared knowledge about the category of "rape victim" and about the relationships between "women and rapists" had a decisive effect in undermining the complainant's innocent victim status in the eyes of the jurors. In fact, from Matoesian's research, it is evident how in rape cases the court's action not only concerns the control of objective evidentiary data, but also has to do with the woman's ability or inability to conform to the victim stereotype. And when this conformity fails, it becomes easy to be targeted as partial responsible for what happened, thus undergoing a process of victim-blaming[4]. The objective data of the rape event do not hold value in themselves but are always filtered, that is, interpreted, in light of common-sense beliefs about women and rape. The ability to mobilize these interpretations in one direction or another is decisive for the outcome of the trial.

Even the strictly expressive aspects of the proceedings interfere in the recognition of the victim role, as shown by Susan Ehrlich's research (2007; Hildebrand-Edgar & Ehrlich, 2017), another scholar of the dynamics and details of natural interactions in criminal trials for violence against women. It often happens that questionable acquittal verdicts are explained by accusing the judge

[4] In this regard, the 2015 judgment of the Florence Court of Appeal — in the trial known as "the Fortezza da Basso rape" — is revealing. It highlighted how the complainant had returned to work in the days following the group violence she suffered, an aspect which, for the judges, demonstrated the non-serious nature of the episode. Once again, the complainant's failure to adhere to the stereotype of the rape victim as a person who remains prostrate and devastated due to the violence suffered played against her, as if attempting to resume one's life were an aspect precluded to the "true" victim. For this judgment, the European Court of Human Rights condemned the Italian State to pay a fine to the complainant, cf. Judgment of the European Court of Human Rights of 27 May 2021, Application no. 5671/16, Case *J.L. v. Italy*.

of poor knowledge and understanding of the laws governing the offence of sexual violence. In other words, if judges had known and understood the laws well, they would not have issued those sentences. In open criticism of this strictly legal explanation, Ehrlich instead considers the role played by the expressive components of language during the trial and how they interfere with the complainant's victim identity. It is necessary to clarify immediately that by "language" the Canadian scholar does not mean legal lexicon, that is, specialized legal language, but precisely the speaking style of the parties in the trial. To this end, Ehrlich takes up the distinction between 'powerless and powerful speech styles' elaborated by linguists John Conley and William O'Barr (2005). For the two American linguists, "powerless" is a style full of uncertainties and other forms of hesitation, while "powerful" is assertive and free from uncertainties. In courtroom testimonies, the latter would be advantageous because it conveys an impression of sincerity, while the former gives the impression that the person is not sure of what they are saying or is even lying. However, Ehrlich notes how in rape trials this hypothesis does not work. In a trial analyzed by the Canadian author (Hildebrand-Edgar & Ehrlich, 2017), while the complainant, a woman, appeared assertive and confident, the accused, a man, instead appeared uncertain and hesitant. Yet, contrary to what Conley and O'Barr argued, the complainant's appearing assertive and confident played against her: for the judge, an assertive and confident woman is one who can also defend herself from sexual assaults, so the sexual act that took place must have been consensual. In the judgment, the judge indeed evaluated the complainant as not credible, repeatedly citing her assertive and "powerful" speaking style during the proceedings. The judge thus allowed himself to be tacitly guided by this conviction to the point of not taking into minimal account the difference in physical size between the accused and the complainant, which instead would have suggested quite different conclusions. In summary,

> powerful speech styles are only credible to the extent that they align with particular kinds of speakers. [The powerful style] is constrained by other kinds of social beliefs in the sense that the particular meanings assigned to speech styles will depend on what kinds of social actors are using the styles and in what contexts (Hildebrand-Edgar & Ehrlich, 2017, p. 105).

In fact, in rape trials, their adoption by women disadvantages them because it no longer makes them adhere to the social beliefs connected to the category of 'victim', that is, "being assertive clashes with expectations that victims of sexual assault should self-present as defenseless and vulnerable" (Hildebrand-Edgar & Ehrlich, 2017, p. 101).

Data overview

Using EMCA approaches, the present work describes mainly how secondary victimization is resisted by the victims of male violence during cross-examinations. The focus of this research, therefore, is not to look for a quantitative trend nor statistical elements, and neither to look for correlations of cause-effect, related to gender or conviction rates. Rather, the aim of this work is to look at how, during the interactional exchanges in cross-examinations, secondary victimization is produced by legal actors and resisted by victims. In fact, even though the courtroom is a highly specialized context, it is EMCA position that the core structure of courtroom interaction is fully based on ordinary resources, altered only by an asymmetry of such resources, generated by the professional methods used (Heritage, 1998). It is paramount to highlight, nevertheless, that the authors' focus is only and exclusively on how the interaction unfolds during courtroom cross-examinations in gender-based violence crimes, and not on wrong convictions, a quantitative trend, or a hidden power at work. The goal is, rather, to depict victims' resources to resist secondary victimization, whether the latter comes off as a discriminatory rhetoric strategy skillfully used by defense attorneys to lower the victims' credibility, or as stereotypical-rich commonsense knowledge employed by judges, public prosecutors or prosecuting attorneys. To this end, video recordings have been transcribed and then analyzed, looking at forms of secondary victimization in the parties' turns of talk — namely, rape myths and gendered stereotypes[5], invoking moral judgments on the victims — and how victims responded to them.

The data used comes from a collection of interactions that occurred naturally within actual trials. Specifically, the collection consists of twelve examinations and cross-examinations, of which seven from Italian court proceedings and five from the U.S. celebrity trial *CA v Kellen Winslow II* (2019).

The Italian trials were selected in relation to the articles of the penal code relevant to gender-based violence. Specifically, in the present work two proceedings are analyzed, the first one for sexual violence (art. 609-bis P.C.) and the second one for mistreatment of family members and cohabitants (art. 572 P.C.). Differently than other Italian works that look at what the judge(s) say in the sentence (Dino, 2022; Massidda & Pasciuto, 2025), greater attention has been given to the

[5] "[…] rape myths are 'prescriptive or descriptive beliefs about rape that serve to deny, downplay or justify sexual violence'" (Smith, 2018, p. 55), and create assumptions that all survivors will have the same response to rape. Indeed, Burrowes (2013) suggested that rape myths are used to criticise a victim/survivor's actions, ignoring the role of fear, guilt and shock in their decision-making. These beliefs are deeply embedded in our culture, and include, other than what constitutes a 'real rape', also normative expectations about how rape victims behave (before, during, and after the offence), who is the offender and what/how he commits the crime (Temkin & Krahé, 2008). Gendered stereotypes, on the other hand, have been defined by Smith as "inferences about a witness based on common cultural representations of their gender. On the basis of identifying one characteristic, namely gender […], jury were left to infer other characteristics, such as untrustworthiness" (Smith, 2018, p. 129).

attorneys' role. Nonetheless, a methodological limitation of this data is the absence of video recordings, and the analysis is therefore restricted to orthographic transcripts provided by court agencies. Consequently, essential interactional components, such as prosody, proxemics, and non-verbal cues, are not subject to investigation. The available transcripts, however, allowed for a greater focus on turn-taking structure and participants' categorization work.

To address the scarcity of video-recorded data, the celebrity trial *CA v. Kellen Winslow II* (2019) was selected, given the accessibility of recordings on YouTube. In this trial, Kellen Winslow II — former NFL player — was accused of rape and sexual battery to the detriment of five different women. This offered a rich database, providing five different cross-examinations of the victims. The recordings were transcribed according to EMCA methodology, using Jeffersonian conventions (see Appendix 1) only when analytically relevant, and prioritizing standard orthography for accessibility. Finally, in all data each complainant has been anonymized.

Surviving the blame: How victims resist secondary victimization

The first transcript to be analyzed is from *CA v Kellen Winslow II*, reporting the cross-examination of victim no. 2, in the trial referred to as Jane Doe 2 (hereby JD2), to grant her privacy. JD2, a 59-year-old woman victim of rape, at the time of the crime was 58 and a transient person, meaning without a job nor a home. Six months prior to the rape, the woman recalls being on the street and getting approached by a man called Kevin, identified by the complainant as Kellen Winslow II, who asked her if she needed a ride someplace, given that she was carrying with her a lot of bags because of her homelessness. JD2 accepted the offer, asking the defendant to ride her to the shelter where she used to sleep at the time. This was the first contact between the two, followed by six or seven additional encounters that happened in a friendly manner. Eventually, one day, while JD2 was with a friend of hers to whom the woman just lent her telephone, "Kevin" approached her to ask her to go for a coffee, to which JD2 agreed. It was in that occasion that the defendant drove to an isolated place and raped JD2.

Let us consider Extract 1, in which DA (the defense attorney) is inquiring if the accused, when approaching the victim in his car during the months leading to the crime, ever tried to hide or conceal his identity. This line of inquiry could be heard, as the victim herself does, as strategic to demonstrate that, being the defendant a famous person, the victim is falsely accusing him just to achieve personal gain:

Extract 1:

```
1  DA                              [>(And you know)<] you would agree
2        with me, that (.) that he didn't like (slouch) down in the
3        humme:r (.) make sure people didn't see him,=
4  JD2   =I was-i just thought he was uh-a friend acquaintance¿
5        ((JD2 coughs))
6   DA   (I just-th-th-)the point-the question to you is
7        >did he< any attempt to conceal his identity, (.) at ANY
8        TIME that he pulled up (.) next to you.
```

In his turn (lines 1 to 3) DA asks a declarative polar question (that is, a question with only two answers), starting with "you would agree", a polite form. The presence of a polar question calls into preferred answers (Pomerantz, 1984), that in this case would be agreeing (being the polarity positive). But JD2 knows that by agreeing she would self-blame herself (Drew, 1979), therefore she does not answer "Yes". At the same time, JD2 neither gives the dispreferred answer ("No"), being such an answer more difficult to give (Pomerantz, 1984). Instead, she gives an account (hearable as such by "I just thought", line 4) to explain what she was seeing. In fact, when DA had asked about Kellen Winslow hiding his identity because of his status as celebrity (as confirmed by the self-initiated repair in line 6, "the point-the question to you"), JD2 answered making evident what was relevant to her: not the defendant hypothetically concealing his identity, and thus neither his celebrity status, but rather the fact that he was a "friend acquaintance" (line 4), hence somebody trustable to talk to. Showing such epistemic positioning is crucial to JD2's credibility because, according to DA's strategy invoking rape myths, had she known the identity of the accused as a (sport) celebrity, an indirect accusation would be manifested, namely that she was falsely accusing him just to achieve personal monetary gain (Smith, 2018). Such is hearable too in Extract 2, inquiring about the accused's car, one that is very expensive:

Extract 2:

```
1 DA    =Understood (.) but↑ (.) a gu:y, (.) in a super nice hummer,
2       (.) rolls up, a:nd you (like/what) thalk to the guy. right?
3       (1.0)
4 JD2   Uh because he seems like a friend not because of the £hummer£ hh=
```

DA's turn in line 1 opens with an exhibit of shared comprehension ("Understood"), followed by a brief pause that signals a change in affiliation (namely, disagreement), as shown by the "but" that starts his second turn construction unit, consisting of making available an alternative description of what was happening ("a guy in a super nice hummer rolls up and you like/what talk to the guy", lines 1 and 2). JD2, in turn, is required to agree with DA ("right", line 2), being that

the preferred and type-conforming answer (Raymond, 2003), but, as anticipated by the one-second-long pause in line 3, JD2's second pair part is nonconforming — showing disagreement — and, at the same time, neither is a direct disaffiliation. Rather, JD2 again shows her epistemic positioning, hearing an accusation building in the sequence of DA's turns. In fact, DA is implying that "a guy in a super nice hummer" is a rich person[6], as stated in previous turns here not reported, where DA suggests that such car would be "nice and shiny and expensive looking". In doing so, DA's manifested strategy is to invoke the aforementioned rape myths (rape allegations to achieve monetary gain - Smith, 2018) to weaken JD2's credibility, by implicitly accusing her of false allegations. Therefore, here in Extract 2 the complainant is being described as a woman, earlier assessed as homeless, hence in that moment living on the street, walking up to a guy in an expensive car. Being homeless and walking up from the street, though, are hearable as a natural predicate and a category-bound activity, respectively, of sex workers. Thus, DA's association of JD2 to a sex worker aims to deprive the woman of her victim status, invoking a common rape myth by which "people working in prostitution cannot be raped" (Silver et al., 2015). In this attack to her credibility, JD2's only resource is, as aforementioned, to account for her "hearable morally wrong" actions ("because", line 4) describing the accused as "like a friend", hence invoking feelings of chattiness and trustability, rather than interest in his money, as explicitly made available by JD2 ("not because of the hummer"). Finally, in this extract, is very important the use of prosody, that typically falls within the purview of lawyers. In fact, JD2 utters the word "hummer" through a laughter (as the £ symbol shows, in line 4). By "laughing the word off", irony is produced, hence giving to money and to the hummer — that is, in fact, symbol of wealth — even less relevance to the account for her actions, since irony signals the speaker's detachment (Clift, 1999).

Finally, let's take into consideration the third and final extract from this cross-examination — please note that PA stands for Prosecution Attorney and J for Judge.

[6] A Hummer is an expensive car that, depending on the model, can be worth up to $150,000 (circa) in the U.S.

Extract 3:

```
 1 DA    Is it fair for me to say, (.) that your-the people that are
 2       on the streets? (.) would see a >very nice hummer?< (.) come
 3       up? (.) and you walk up and talk to the person in the HUmmer?
 4       (.) >i mean that's fair for me to say isn't it,<=
 5 JD2   [=I mean]                       [I: ]
 6 PA    [=Objec ]tion it lacks foundati[on ]and calls for speculation=
 7 J     =Overruled go ah[ea]d=
 8 JD2                   [I-]
 9 JD2   =I didn't think much of it. (.) .h i don't care if my
10       fri(.)end .h is down in the street, with no food or no
11       money, (.) .h I don't care they've tons of money. .hh
12       if they (stree)-treat me respectfully, (.) i talk to 'em.=
```

As in the prior extracts, DA's turn is structured as a polar-positive question, for which the preferred and type-conforming answer would be "yes", and it is almost the same question of Extract 2, inquiring about seeing a Hummer approaching and JD2 walking up and talking to the driver of said Hummer. However, in this specific instance, DA, rather than asking JD2 what she was doing, uses an "epistemological filter" (Matoesian, 1993) by asking her what *others* were seeing her doing (lines 1 and 2), exactly like the members of the courtroom during the cross-examination were seeing what she was doing through DA's questions, invoking once more the association solicited before, namely that JD2 is acting more like a sex worker and not as a potential victim of rape — that should be passive, innocent, and emotionally fragile to be deemed credible (Christie, 1986). Interactional rules would require JD2 to agree but, if she were to do as such, she would accept the accusation of not being a victim (or not a "good enough" victim), therefore she starts her turn offering another account ("I mean", line 5). A bit of overlapping happens: PA calls for an objection, which is rejected by the Judge. JD2 turn then resumes on line 9, as if the interruption never took place. Here too, as in Extract 2, the rhetoric used by JD2 is the one typically used by attorneys, consisting here in "poetic repetition" (Matoesian, 1995), and a three-parts list (Hutchby & Wooffit, 1998), both used in interaction as a mean to strengthen one's position. The repetition of "I didn't think/I don't care" along with the list of "to be down in the streets, no food, no money" are functional for JD2 to protect her credibility, making evident that the defendant's money was used as strategy by the defense to lower the victim's credibility. In addition, to account for her talking to the defendant ("I talk to them", line 12), the complainant specifies her rules to do as such ("If they treat me respectfully"), hence implying that "Kevin" treated her respectfully *and therefore* she talked to him. Since "to be treated respectfully" is a rule that does not require a monetary transaction, then, by highlighting her footing towards "Kevin" as "being treated respectfully", JD2 is refusing any interest in his wealthiness.

In conclusion, Jane Doe 2's strategy to resist secondary victimization consists of offering accounts as alternative descriptions of the motives of her actions. This is not something new in courtroom conversation analysis, where this skillful use of ordinary resources to avoid self-blame and accusations has been noticed before (Atkinson & Drew, 1979; Komter, 1994). What is striking in trials for gender-based violence, though, is how a 'double bind' (Matoesian, 1993) is in place: the moral dimension of being a woman and the stereotypical patriarchal values, in the form of rape myths and gendered stereotypes, are used as evidence to challenge the witness' credibility.

Other examples of how secondary victimization is performed and resisted to are found in the Italian courtroom transcripts, hereby analyzed in some excerpts.

The first one is taken from a trial for rape. The defendant (D) — under false identity — contacted the victim (V) on a social network on the pretense of befriending the woman. After some time in their friendship, he started asking her for some personal pictures. Initially she sent him pictures that were already online on her profile, but he kept asking for photos in a more intimate attire, which she sent as well. Then, one day, D contacted V to tell her that a friend of his found V's pictures and was blackmailing V to show them at her workplace and to her husband if she had not met with him. V therefore agreed to meet D's friend, who in that occasion raped her, promising that it was the first and last time. Despite that, it happened once more during a second similar meeting, after which V realized that D's friend was, in fact, D himself and contacted a private investigator to solve the case. In a third meeting, that took place after V contacted the police on the investigator's advice, D was taken by the police.

The first extract from this trial (Extract 4) is from V's cross-examination, conducted by one of D's attorneys (DA2, as in defense attorney number 2) who is inquiring about the second meeting. Some of the information is redacted to ensure anonymity.

Extract 4:

1	DA2	[REDACTED] The way to get to [REDACTED] who
		[REDATTO] La strada per arrivare a [REDATTO] chi
2		gave directions that is **who chose this place?**
		l'ha indicata cioè chi l'ha scelto questo luogo?
3	V	**I didn't choose it**
		Io non l'ho scelto
4	DA2	It was you two how did you?
		Eravate voi due come fa?
5	V	**He told me** to go where we went last
		Lui mi ha detto di andare dove eravamo stati l'altra
6		time...
		volta...
7	DA2	But you couldn't get there?
		Ma non si poteva andare?
8	V	No [REDACTED] so I started driving the car around
		No [REDATTO] quindi io mi sono messa a girare e con la
9		and **I didn't even know where I was going I didn't**
		macchina e non sapevo nemmeno io dove stavo andando non
10		**know I drove the car around until he saw**
		lo sapevo ho girato con la macchina finché lui ha visto
11		**a slightly more secluded place.**
		un posto un pochino più appartato.

DA2's first question is about who chose the place for the second meeting (lines 1 and 2). Such question is important for the defense to determine the agency and accountability of the crime: it is implied that if V participated to choose the place, she then was an accomplice to the crime she suffered, in a classic victim blaming fashion. According to such reasoning, though, every action that V could have done to comply with D would make her an accomplice, rather than a victim. The "double bind" is once again at work: V is treated as an accused, as she herself shows in her turns, and it is taken for granted that a woman should do anything in her power to avoid the crime, rather than inquiring about the presence of consent, which is crucial in rape trials. In fact, V can hear DA2's "hidden agenda" (Caronia & Orletti, 2019), in fact her immediate response is to avoid responsibility: "I didn't choose it" (line 3). Another way to formulate this answer would have been "D did", but in doing so she would have been accusing another person. On the contrary, the preferred response in front of accusations is to deny them (Atkinson & Drew, 1979), which V does. DA2 hears the implicit accusation to D, hence asks "It was you two" (line 4), therefore implying that of two people, if one did not do it then it must have been the second one. V again orients herself to avoid self-blame ("He told me", line 5), creating a contrast between her non-actions and D's active participation in the crime. DA2 then proceeds to ask: "But you couldn't get there" (line 7), referring to the place where the first rape happened. V immediately replies with the preferred answer ("No", line 8), followed by an expansion of her turn ("so I started driving the car around"). For V to "start driving", though, is an admission of responsibility, hence another expansion follows

("and", line 9) to clarify that she "didn't even know where (she) was going" (line 9), involving an extreme case formulation ("even"), to reinforce her status as victim, and a repetition ("I didn't know, lines 9 and 10). V's turn of talk closes with a formulation: "I drove the car around until he saw a slightly more secluded place" (lines 10 and 11), addressing her part of agency. Namely, she "just" drove the car, but it was D who chose the place where to stop.

Let us now consider Extract 5. Here DA3 (defense attorney number 3) is inquiring on how many times, and in which form, the pictures exchange between V and D happened.

Extract 5:

1	DA3	Still in that initial phase you had been asked some
		Sempre in quella prima fase le vengono chieste delle
2		pictures **you first send** pictures that already were
		fotografie lei prima invia delle foto che sono già
3		on your profile **then pictures you said before in**
		nel suo profilo poi sono foto ci diceva prima in
4		**you underwear, after** those pictures in the next
		abbigliamento intimo, dopo queste foto nella fase
5		phase **did you send more pictures?**
		successiva invia anche altre foto?
7	V	It happened on Instagram when he contacted me that **he kept insisting**
		È successo su Instagram quando lui mi ha contattato che
8		to have a picture of me naked and **was giving me ultimatums if you**
		insisteva per avere una foto nuda e mi dava gli ultimatum
9		**don't send it to me within two minutes I'll send everything I'll go**
		se entro due minuti non me la mandi mando tutto vado giù
10		**down to your workplace and I'll do it** so to send it **on the advice**
		a lavoro e faccio quindi io per farlo tramite consiglio
11		**of the investigator** I took a picture from Google where **there wasn't**
		dell'investigatore ho preso una foto da Google che non
12		**my head but it wasn't a picture of me** to keep him
		c'era la testa ma non era una foto mia per tenerlo
13		quiet but it lasted two minutes because then...
		tranquillo ma è durato tranquillo due minuti perché poi...

DA3 first turn is set as reported indirect speech ("you said before", line 3), in which they recount how, during the first two stages of V and D's relationship, and after the first two meetings, more pictures were exchanged. As for the previous extract, here this inquiry is important for the defense, because a positive answer would undermine V's credibility, according to a victim blaming framework: she was raped twice by the person to which she would have continued sending intimate pictures, hence implying that V was compliant to what D asked her to do; in the same way, it could be that she was compliant to having sex with him too — therefore, her allegation of rape would result as false. As DA2 in the previous extract, DA3 is trying to address part of the responsibility of the crime upon V to attack her credibility.

Furthermore, to V, DA3's position in this turn is non-negotiable, since they are referring to something that V already testified to. In fact, that is not the question DA3 intended to ask. Rather, the question is about sending more pictures (line 5), in the context just explained, and it is asked in their final turn construction unit as a positive polar question ("did you send more pictures?", line 5). By formatting the question as such, DA3 exhibits their knowledge about the answer, that is a positive one, thus creating more difficulties for V to resist to the implications whether she was to give the preferred answer (namely, "yes"). In fact, V refrains to give such answer in a direct way: her turn opens immediately with an explanation of why she did, indeed, send more pictures ("It happened on Instagram", line 7). Specifically, she begins accounting for why the contact happened again ("he kept insisting", line 7), thus refusing responsibility for that; then she continues, describing his morally flawed character ("was giving me ultimatums […] I'll do it", lines 8 to 10) in a counterattack to D's credibility and, finally, she explicitly admits to sending another picture but, once again, rejects responsibility on the account of expert advice ("on the advice of the investigator", lines 10 and 11), and specifies that it was not her picture because, first of all she "took it from Google" (line 11), and secondly, "there wasn't (her) head but it wasn't a picture of (her)" (lines 11 and 12). This latter part of V's turn makes evident that she hears an implicit self-accusation in admitting that she could not actually offer proof of the identity of the person in the picture, other than her own testimony. Evidently, this poses a problem for V — as shown by the "but" — who then proceeds to offer such proof ("it wasn't a picture of me").

In conclusion, in this trial too secondary victimization is part of the defense's strategy to lower the victim's credibility and the veracity of her testimony. Particularly, the defense attorneys try to solicit and invoke rape myths about the victim's responsibility, which is falsely thought to be shared in crimes of male violence against women (Bohner et al., 2009). Here too, rape myths are part of a strategy of fabricating moral judgments to use as probative elements. V's response to such attacks, in this instance, is to produce turns hearable as a challenge to DAs' turns while not explicitly challenging their position (Pomerantz, 1988). That is to say: V's constant monitoring of DAs' turns of talk gives her the chance to foresee and manage their accusations, and she does so by not explicitly saying no, but by clearly disaffiliating with what is being said and depicting herself as a canon passive victim; therefore, she offers an alternative description as a challenge to DAs' version, rather than simply offering the second pair part she is expected to give.

Finally, another way of resisting secondary victimization has emerged in the data, as the following extracts show. These come from a second, and final, Italian trial, for domestic violence and abuse, where the victim V and her child were victims of now V's ex-husband, the defendant. As in prior extracts, please note that DA stands for defense attorney, J for judge, and PA for prosecution attorney.

Extract 6:

1	DA	Listen I wanted to ask you something, **why at two**
		Senta, volevo chiederle una cosa, come mai a distanza
2		**different moments, in two complaints, two months apart,**
		di due tempi, di due denunce-querele, di due mesi una
3		**in the first one there is no reference to physical**
		dall'altra, nella prima non c'è nessun riferimento ad
4		**assaults, on the contrary you exclude them, and conversely**
		aggressioni fisiche, anzi lei le esclude, e invece
5		**in the [second] one start to appear**, for the first
		nella [seconda] cominciano ad apparire, per la prima
6		time, **a whole series of physical aggressions, not only**
		volta, tutta la serie di aggressioni fisiche, non solo
7		**in [YEAR] but in the whole period even prior [to that]**
		nel [ANNO] ma anche in tutto il periodo anche pregresso
8		**and before you lived together.**
		e prima della convivenza.
9	V	**But** this is**... I mean, it's the story of my life**, then...
		Ma questa è... cioè, è la storia della mia vita, poi...
10	DA	No, explain it to us, maybe I understood...
		No, ce lo spieghi, magari ho capito...
11	V	What **do I have to explain to you**? **I have told what**
		Cosa le devo spiegare? Io ho parlato di quello che mi è
		happened to me.
		accaduto.
12	DA	Uhm.
		Uhm.
13	V	Then, I mean **if I am credible or not credible**,
		Poi, cioè voglio dire se sono credibile o non sono credibile,
14		**that is the story of my life and there are many people**
		quella è la storia della mia vita e ci sono tante persone
15		**who can testify.** That's it.
		che possono testimoniare. Punto.

In this extract, DA is asking V about the inconsistencies between the two complaints she presented to the police, namely that in the first one she did not mention any physical abuse but, in the second one, six months later, she did mention physical assaults, that happened long before the first complaint (lines 1 to 8). What DA is trying to demonstrate is that V is not a reliable witness, since if physical assaults actually occurred so long ago, a rational truth-telling person would have already told that in the first complaint. The natural implication is that V is accused of having fabricated the occurrence of physical abuse. Here too, as in previous extracts, V can hear DA's hidden agenda (Caronia & Orletti, 2019), and starts managing the forthcoming accusation, firstly showing the disaffiliation ("But", line 9), and then formulating what DA recounted as "the story of (her) life" (line 9), thus transforming an inconsistency into something she would know better than DA since, in fact, it is her life. DA formally starts a repair procedure, given that V's answer is not the preferred one, addressing V's turns of talk to the entire audience ("explain it *to us*/*ce* lo spieghi", line 10 — "ce" is an Italian particle referring to plural first person), to which V manifests

explicit disaffiliation ("What do I have to explain?", line 11), giving yet an additional connotation to "her life": not only she knows it better than DA, but also there is nothing to explain because she already did. Furthermore, she starts a repair: while DA is oriented to all the participants in the courtroom, V is directly challenging only DA ("to you/le", line 11 — "le" is an Italian particle referring to singular second person).

DA's turn in line 12 is, unfortunately, non-analyzable, since it is a mainly verbal turn. What can be told is that is treated as non-relevant by V, who in line 13 repairs her line 9 turn, that was allegedly interrupted by DA as "…" shows, by repeating the last word ("Then", lines 9 and 13). Then she proceeds to manifest her epistemic stance: "if I am credible or not credible" (line 13), explicitly revealing DA's intention undermine her credibility; and repeats "that is the story of my life" (line 14), in addition with a third connotation, namely that is provable ("there are many people who can testify", lines 14 and 15). Showing evidence of truthfulness, like "people who can testify", is V's strategy to validate her character as a righteous person, rather than an inconsistent witness.

Let us now consider one final extract. In Extract 7, V rejects the constraints of the classical asymmetry typical of institutional interaction, according to which she could only give answers, and does a request in the form of a question ("May I say one thing?", lines 1). Her PA refuses her request (line 2), but the judge — who is the sole arbitrator in the courtroom — grants their permission (line 3). V now forms her own accusation, creating a contrast using a recursive rhetorical list. Specifically, V describes her actions: she "showed up" (line 4), thus demonstrating high consideration towards the trial; she "read a piece of paper" (line 4), meaning the rite of oath to tell the truth, hence legally binding herself to give a non-mendacious testimony; oath which she complied with by "(saying) the truth" (lines 4 and 5). Finally, she "put (her) face on the line" (line 5), which meant that she put herself in the position of being challenged, and to undergo invasive investigations and cross-examinations strong in being right and seeking justice. Moreover, by "showing up and putting her face on the line", she has had no problems in overtly confronting the law. She subsequently proceeds to compare her behavior to the defendant's (D): "who didn't (put their face on the line) and didn't show up is who committed the crimes" (lines 6 and 8). In doing so, V implicitly accuses the defendant of not being everything that she has proven to be, meaning that D was not strong in being right, and had problems with facing the law, its places and representatives. In other words, V implies that D has something to hide from the law, namely that he, indeed, committed the crimes of which V complained and suffered.

Extract 7:

1	V	**May I say one thing?** *Posso dire una cosa?*
2	PA	No, no. *No, no.*
3	J	Please do. *Dica.*
4	V	**I showed up, I read this piece of paper and I said** *Io sono venuta qua, ho letto questo foglio e ho detto*
5		**the truth. I put my face on the line,** *la verità. Io ci ho messo la faccia, chi non ci ha*
6		**who didn't...** *messo la faccia...*
7	J	Alright madam, you are under oath. *Va bene signora, lei è sotto giuramento.*
8	V	**...and didn't show up is who committed the crimes.** *...e non è venuto qua è chi ha commesso i reati.*

In conclusion, a new method of resisting secondary victimization is noticeable, that is to directly challenge the hearable accusation in the hidden agenda of defense attorneys, by anticipating it and immediately defending oneself in such a blatant way to reach a direct accusation of the defendant, creating distrust towards their reliability.

Conclusions: Resisting secondary victimization

The analysis of the courtroom transcripts provides a compelling insight into the complex and often subtle ways in which victims of crime navigate and actively resist the phenomenon of secondary victimization during cross-examinations. Looking at micro-levels of interaction unravels a nuanced understanding of the dynamics at play within the courtroom and the pervasive influence of societal norms and deeply ingrained stereotypes surrounding victimhood, particularly in cases of gender-based violence.

In the case of Jane Doe 2, the primary strategy observed was the skillful and strategic provision of alternative accounts. Faced with questioning from the defense attorney designed to undermine her credibility by invoking harmful rape myths, JD2 consistently offered explanations for her actions that directly countered these implicit accusations. For instance, when questioned about whether the accused attempted to conceal his identity, JD2's response focused not on his celebrity status (as the defense was implying) but on the fact that she perceived him as a "friend acquaintance", someone she felt she could trust. This subtle but crucial reframing of the situation effectively deflected the defense's attempt to paint her as someone who would knowingly interact with a celebrity for ulterior motives. Similarly, when confronted with the defense's portrayal of her approaching a man in a "super nice hummer" — an attempt to categorize her as a sex worker

and thus less credible as a rape victim — JD2 again resisted this categorization by emphasizing her perception of the accused as "like a friend," highlighting feelings of trust and chattiness rather than any interest in his wealth. Her ironic laughter when uttering the word "hummer" further underscored her detachment from the materialistic implications the defense was trying to impose. This consistent strategy of offering alternative interpretations of her motives served as a powerful tool for JD2 to maintain her narrative and resist the secondary victimization inherent in the defense's line of questioning.

The Italian transcripts revealed instances where victims, facing similarly loaded and stereotype-driven inquiries, adopted a different, albeit equally strategic, approach. In the first Italian trial, the victim (V) employed a range of subtle yet effective resisting strategies to counter the defense's attempts at discrediting her. She consistently distanced herself from responsibility by denying involvement in decisions, such as the choice of meeting location ("I didn't choose it"), and frames her actions passively to emphasize a lack of control ("He told me", "I didn't know"). Rather than offering direct answers that could be used against her, she reframed accusatory questions, providing a context that highlights coercion and manipulation by the defendant ("he kept insisting"). V also invoked the authority of an investigator to justify her actions and to dissociate herself from compromising material by clarifying it was not an image of herself. Through repetitions, intensifiers, and careful categorization choices, she reinforced her vulnerability while subtly disaffiliating from the defense's narrative without direct confrontation and altogether trying to reinforce her credibility as a "passive victim". These strategies allowed her to maintain credibility and resist the victim-blaming tactics embedded in the defense's questioning.

Finally, the second Italian trial for domestic violence and abuse revealed a particularly assertive form of resistance. In this case, the victim not only challenged the defense attorney's attempts to portray her as an unreliable witness by highlighting inconsistencies in her police reports but also directly confronted the court's traditional power dynamics. Her initial disaffiliation ("But […] that is the story of my life"), when challenged about the inconsistencies, served to reframe the narrative from a potential fabrication to her lived experience. Her subsequent direct challenge to the defense attorney ("What do I have to explain (to you)?") further asserted her agency and knowledge of her own situation. Most strikingly, in the final extract, V defied the passiveness typically expected from a witness by requesting permission to speak directly ("May I say one thing?"). When granted permission, she proceeded to construct a powerful rhetorical argument, comparing her own actions (showing up, taking the oath, telling the truth, "put(ting) (her) face on the line") with the defendant's absence and failure to face the court. This direct accusation of the defendant, framed through a contrast with her own demonstrable commitment to the legal process, represents a significant act of resistance against secondary victimization, directly challenging the defendant's reliability and implicitly reinforcing her own. Such an assertive style of testimony, though, has been

proven by Hildebrand-Edgar and Ehrlich (2017) not to be effective when employed by victims of male violence. On the contrary, because in contrast with the image of the "ideal victim", such discourse style could lead to decrease a victim's credibility.

Overall, through the application of EMCA to delve into the *minutiae* of courtroom interaction, it has been possible to observe how, in trials concerning gender-based violence, victims often experience a deprivation of their status as such, instead perceiving themselves as being treated more like the accused than the accusers. Specifically, it has emerged that, within defense counsels' strategies, secondary victimization constitutes a central component, systematically designed to elicit moral judgements regarding the victims' behavior in order to undermine their credibility. In doing so, questions are framed as *de facto* accusations, implying a degree of culpability on the part of the victims for the very crimes they have suffered. The responses that emerged can be characterized either as disaffiliation, through the use of alternative accounts to those proposed by the defense to recalibrate the perceived morality of the victim, or, in some instances, as openly confrontational, directly challenging the lawyers, as demonstrated in the final Italian case. Both types of responses, however, generally function as defensive strategies in the face of attacks that compromise the victims' identity and integrity — attacks to which victims should not, in the first place, be subjected. More importantly, they ought to be afforded protection by other actors within the courtroom, rather than being left to defend themselves alone. Thus, the findings underscore the need for greater awareness amongst legal professionals (namely, attorneys but also judges) of what rape myths and gendered stereotypes are, how to avoid invoking them, and most importantly how to defend the victims from secondary victimization. Indeed, further research could explore the effectiveness of these different resistance strategies and investigate the role of judicial and legal training on mitigating secondary victimization in courtroom settings.

Appendix 1

SYMBOL	DEFINITION AND USE
[yeah] [okay]	Overlapping talk
=	End of one TCU and beginning of next begin with no gap/pause in between (sometimes a slight overlap if there is speaker change). Can also be used when TCU continues on new line in transcript.
(.)	Brief interval, usually between 0.08 and 0.2 seconds
(1.4)	Time (in absolute seconds) between end of a word and beginning of next.
Word Wo:rd	Underlining indicates emphasis. Placement indicates which syllable(s) are emphasised. Placement within word may also indicate timing/direction of pitch movement (later underlining may indicate location of pitch movement)
wo::rd	Colon indicates prolonged vowel or consonant. One or two colons common, three or more colons only in extreme cases.
↑word ↓word	Marked shift in pitch, up (↑) or down (↓). Double arrows can be used with extreme pitch shifts.
.,_¿?	Markers of final pitch direction at TCU boundary: Final falling intonation (.) Slight rising intonation (,) Level/flat intonation (_) Medium (falling-)rising intonation (¿) (a dip and a rise) Sharp rising intonation (?)
WORD	Upper case indicates syllables or words louder than surrounding speech by the same speaker
word-	A dash indicates a cut-off. In phonetic terms this is typically a glottal stop
>word<	Right/left carats indicate increased speaking rate (speeding up)
<word>	Left/right carats indicate decreased speaking rate (slowing down)
.hhh	Inbreath. Three letters indicate 'normal' duration. Longer or shorter inbreaths indicated with fewer or more letters.
Hhh	Outbreath. Three letters indicate 'normal' duration. Longer or shorter inbreaths indicated with fewer or more letters.
£word£	Pound sign indicates smiley voice, or suppressed laughter
(word)	Parentheses indicate uncertain word; no plausible candidate if empty
(( ))	Double parentheses contain analyst comments or descriptions

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