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An Examination of the Terms Used to Describe Sexual Assault in Written Judicial Opinions from the Tanzanian Court of Appeal

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ABSTRACT

Drawing on critical discourse analysis, this paper examine the language used in describing rape or sexual assault in written judicial opinions from the Tanzanian Court of Appeal. The analysis attempts to identify and describe elements of language that reveal the way in which the act of rape is represented in written judicial opinions. The study further applies qualitative analysis of written judicial opinions collected from judicial opinions from the Court of Appeal published online. The focus is to identify the specific lexical items, phrases, or sentences that characterise sexual assault. These descriptions are classified into sexual/erotic language, violent language, and physical language. It also includes the use of socially or morally disapproving language that does not have connotations of violence. Another way to describe them is to use a combination of sexual and violent language (oxymoron). According to the analysis, assaultive acts of rape are referred to primarily using erotic or sexual terms. Physical descriptions of the act of rape are used, though they are also accompanied by euphemisms for propriety. Violent language is used, but it is not very prevalent. Morally disapproving language is also used; for instance, in one judgement, the complainant is referred to thusly: “It is beyond question that PW1 was not quite the salt of the earth in her ccount." The use of a combination of sexual and violent language (oxymoron) is also noted, such as “demanded to have sexual intercourse with her." The preference for euphemistic terms is a culturally approved way of referring to undesirable events, and the use of erotic or sexual terms allows the assault to be relegated to the realm of normal sexual behaviour, thus making it more bearable for public use.

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1.0 Introduction

The importance of the choice of language used in official documents, especially legal ones, cannot be overemphasized. Bavelas & Coates (2001) note that the choice of terms used in characterising sexual assault has various effects. First, the language used becomes the official version of events in the courtroom and everywhere else; second, it impacts how the crime is viewed. They, for instance, argue that using sexual or erotic language to describe the assault implies that the act was mutual, thereby reducing the assault's violence (Bavelas & Coates, 2001).

The act of violating a person sexually is referred to as 'rape.' In Penal Codes like the Tanzanian one, the act of sexually violating a person is referred to as 'rape', while in other nations such as Canada, it is referred to as'sexual assault'. Rape is a crime that is highly prevalent in most societies today. In the Tanzanian Penal Code, the rape offense is listed under the main heading 'Offences against Morality[1] The Tanzanian Penal Code refers to a range of crimes related to sexual violations of female individuals as rape, while it considers violations of male individuals as indecent assault. In Canada, the change in terminology from 'rape' to sexual assault' was intended to change how sexual assault was viewed. According to Bavelas & Coates (2001), the term 'rape' led the courts to perceive the crime as a sexual or moral transgression, as it emphasised the penetration of a vagina by a penis, whereas the term'sexual assault' was expected to emphasise the assaultive nature of the act. Researchers have observed that despite extensive reforms of sexual assault laws, judicial decisions continue to reflect traditional cultural mythologies about rape (Comack, 1999; Coates *et al*., 1994; Coates & Wade, 2004).

The language used in discussing rape and sexual assault is usually influenced by the social and moral views of the community, especially those of the persons in authority. The judges' knowledge about the world is derived from their "common sense," which is the intangible cultural system that contains people's informal knowledge about the world from their social group's point of view (Sagiv, 2015). Thus, a judge's point of view may be influenced by the society in which they live. Boux (2016) highlights the problematic nature of rape and sexual assault discourses, as statements or comments from influential societal figures reveal the underlying conflicts in defining what constitutes rape or sexual assault, as well as other social forces that shape the perception and prosecution of these crimes.

The discourse on sexual assault is affected by social forces, whereby the violation done to the victim and its results are at times attributed to 'acts of God'. For instance, in Bradner (2012), a US Senate candidate named Murdock is quoted as saying that "pregnancies are'something that God intends to happen'—even in cases of rape". Similarly, in Blake (2012), US Senate nominee Representative Todd Akin was also quoted as having said that "Legitimate rape rarely causes pregnancy." Thus, rape is classified not in terms of the harm suffered by the victim but in terms of a social classification that has the category of 'legitimate rape' and 'others', where the near legitimacy of 'others' will be judged along a continuum where the extreme end of the continuum is the proposition that the complainants fabricated the allegation. Research has proven that the number of complainants who fabricate claims of rape is very low. In a study carried out by Lisak *et al*. (2010), an analysis of 136 cases of sexual assault was carried out, and only 8 (5.9%) were false allegations.

The discourse on rape is determined by society's view of gender roles, sex roles, and sexual purity; therefore, the statements by the politicians above are quite disturbing since the very people who are expected to uphold the rule of law are excusing crimes publicly. In Tanzania, students who get pregnant are expelled from school regardless of whether the pregnancy was due to rape. Thus, the responsibility of ensuring that rape or sexual assault does not occur is vested directly on the students themselves. Even though legal remedies are available, securing a conviction in a court of law does not assure a return to school for a student who got pregnant from rape.

The descriptive names used for rape reveal implicitly the general view of society about rape. Pankratz (1992) argues that the judges' values as framers of the law were influenced by the world they knew, and consequently, judges in rape cases operate in the context of the world in which they live. The names range from explicit to socially crafted terms for propriety.

This study employs Bavelas & Coates' (2001) approach to describe the language used to describe rape in written judicial opinions from the Tanzanian Court of Appeal. Bavelas & Coates (2001) conducted a study that examined the language used to describe sexual offences in 75 British Columbia trial judgments. The study examined how judgements tended to characterise sexual assault offences. They particularly examined whether the language used portrayed these offences as sexual or violent acts. They divided the types of sexual assault

[1]Tanzanian Penal Code Cap16, Chapter XV 130

descriptions into three categories. These categories included affectionate or erotic depictions of a violent act, physical descriptions, violent descriptions, and disapproving descriptions. Findings showed that the most frequent description was in erotic or affectionate language. They provided examples of how to characterize a violent act in an affectionate or erotic manner, such as: *"...had intercourse", 'French kiss'.*

They further noted that physical descriptions were the next most frequent descriptions. Physical descriptions were extracted, for example: "*Acts of vaginal penetration"*, *"Tried to put his tongue in my mouth."*

Violent descriptions were third in terms of frequency of occurrence. They included extracted statements, such as: "*You then violated her vagina with your fingers.*" "*The man attacked the complainant.*"

Disapproving characterisations occurred less frequently. For example: *"Acts of depravity"*. *"The offender's action... was loathsome and despicable and must be strongly condemned."*

Bavelas & Coates (2001) argue that the use of sexual vocabulary to describe the act of rape has several important effects. They state that it minimises and hides the intrinsic violence of the assault, and secondly, it makes it harder to visualise that these actions were unwanted violations. They claim that the language does not just euphemise but actively misleads and misdirects. The sexual language normalises the assaultive acts and brings them discursively into the range of everyday human behavior. Bavelas & Coates (2001) propose that sexual language was so common in judgements studied because it is familiar, available, convenient, and euphemistic. They argue that the physical or violent alternatives are often more awkward, unfamiliar, and graphic, and that people may be less willing to use them for any or all of these reasons.

They argue that mutual sexual acts should be described in sexual terms since there is consent and therefore mutuality. Sexual assault, on the other hand, is a unilateral activity that is accomplished by physical force, threat, or abuse of power. Bavelas & Coates (2001) contend that others may find it appropriate to describe sexual assault in erotic terms because the perpetrator's motive is sexual. They argue that this reasoning is mistaken since studies (Flynn, 1999; Kellert & Felthous, 1985) have shown that nonsexual violence (for example, animal abuse) can be linked to subsequent interpersonal violence, including rape. Therefore, they propose that the perpetrator's motivation can be best treated as power, control, or violence. They further note that even if the perpetrator's motive was sexual, it would not be relevant since a sexual assault does not become a sexual interaction because the perpetrator describes it that way. Their view is that rape is not a'sexual' assault but is rather a 'sexualized' assault.

The descriptions of sexual assault provided in the judgements may usually be influenced in overt or subtle ways by the culture of a people. Sze-chie Fa (2007) notes that there are some differences in rape myths subscribed to by the American people when compared to those of the Chinese people. She notes that the Chinese in a way subscribe to the 'cult of chastity,' which then determines the assaultive acts that will be considered rape. In a similar manner, the Tanzanian society and subtly the legal system are affected by societal values that dictate the terms that are used to determine whether a violation of an individual was an act of rape or a consensual sexual activity. The language used in the written judgement may also subtly reveal the cultural beliefs and attitudes that the judge adheres to. The language user may not necessarily be overtly aware that their language usage reflects an unconscious cultural belief that they subscribe to. Though great effort is made to mask one's personal leaning, linguistic choices may reveal one's position and disapproval of certain behaviours.

2.0 Materials and Methods

2.1 Study Area

This study was conducted in Tanzania, and it specifically features rape cases from the Tanzania Court of Appeal. The opinions were from different regional Courts of Appeal, namely Mbeya, Dar es Salaam, Arusha, Mwanza, and Mtwara, to ensure representation of the regional courts in Tanzania. Court of Appeal judgments were considered viable for study because they included descriptions of the assaults and the circumstances surrounding them, though they also dealt with legal issues. Written judgments usually provide information on the discussion and events leading to the court's decision and are the official version of a case's proceedings; therefore, this study examines the language used in naming the assault and how it fits into the categories proposed by Bavelas & Coates (2001).

2.2 Research Design and Sample Size

This study is qualitative and focusses on what forms are used by a writer and how and why they are used. Johnstone (2000) argues that, in the courtroom, qualitative evidence is more

demonstrable than quantitative evidence because it draws on language data. He (2000) further states that "qualitative results appeal to the non-mathematical but structured sense of probability held by judges and juries." The study further applied Critical Discourse Analysis (CDA) as the theoretical and analytical framework (Fairclough, 1992).

Data was collected from the Tanzanian Court of Appeal's judicial opinions on rape cases, which were found online. The term 'rape' was used as a parameter in searching for and identifying judgements from the online sites https://www.judiciary.go.tz, https://tanzlii.org, and https://africanlii.org. Following that, purposive sampling was used to collect related judgments at the sites. For this study, 12 judicial opinions were collected from decisions made by the Tanzanian Court of Appeal. The rape cases being considered were those where the allegations of rape were made by females against males. The rape cases in this study were adjudicated after the amendment of the Sexual Offences Act of 1998. The opinions ranged in length from 6 pages to 25 pages. The opinions from the Court of Appeal were considered in this analysis because they included descriptions of the assaults and the circumstances surrounding them, though they also dealt with legal issues. In eleven (11) cases, rape was the primary count. Out of the eleven (11) cases, four (4) appellants were acquitted, while seven (7) of the appeals were dismissed and the charges and conviction were upheld. The 12th opinion was initially treated as a case of indecent assault since the assault was regarded as that of sodomy rather than rape. The High Court, using a revisional order, upgraded the offense to that of rape, but the Court of Appeal's opinion was that the revisional order was nullity. Because the opinion was solely on determining the legality of the revisional order, it was omitted from analysis. The charges of the examined cases are displayed in Table 1.

Table 1
Charges of the Cases

Charge	Number of cases
Indecent assault	1
Rape	10
Gang rape	1

Source: Field data (2023)

2.3 Data Collection Instruments

The data for this study was collected using a documentary review of the language used within the judgments. The study based its analysis on the descriptions proposed by Bavelas & Coates (2001), in which the terms used to describe sexual assault are divided into sexual/erotic language, violent, and physical descriptions.

2.4 Data Analysis

We examined the collected judgments to identify the language used to describe the act of rape, including oxymorons, sexual or erotic language, violent language, physical descriptions, and morally disapproving language. We identified and gathered the words, phrases, and sentences used to describe the assault, the alleged victim of the assault, and the alleged perpetrator and his assaultive actions into specific descriptive groups, which were then discussed. The analysis focuses on the language used rather than the judges who made or wrote the decisions. The study analyses judicial opinions that have been published for general public consumption online, but where it is deemed necessary to mention the victim of the assault, the abbreviation PW1 is used.

3.0 Results and Discussion

3.0 Demographic Information

3.0.1 Gender of the Participants

All the 12 appellants were all male while the complainants were all female.

3.0.2 Age of the Complainants

The complainants' age was as shown in Table 2 below.

Table 2
Age of Complainants

S/N	Age	Number
1	1-18	7
2	18 and above	1
3	unstated	4
	Total	12

According to the data presented in the above table, the majority of the complainants—seven (7) are legal minors, and five are 15 years and under, with the youngest being 10 years old.

3.1 Naming of the Assault

The judgments were examined to identify instances where the sexual assault was described. The act of rape itself has been described using a variety of terms, as shown below:

3.1.1 Naming the Act of Rape

Using various terminologies, the act of rape is referred to. Some of them are legal terms used in

the penal code, while others are chosen by the judgement writers based on their assessment of the details of the case. Different terms are used depending on whether the act is judged as violent, a truthful or false allegation, or a flaw in character or morals.

In the Tanzanian penal code, the penile nonconsensual vaginal penetrative act is referred to as rape, while other penile penetrative acts (oral penetration or anal penetration) are referred to as indecent assault. The terms used to describe sexual assault may be legal ones found in the Penal Code and other enactments, or they may arise due to social or moral assessments of the details of the assault. The selection of the terms to be used may be affected by the judge's opinion of whether the allegation is judged to be truthful or false. In the legal sense, the terms 'sexual assault', 'sexual offence', 'rape', and 'carnal knowledge' are used to describe the assault, using language found in the Penal Code and other legal enactments, or in sentencing.

These legal terms are used with the intent of providi ng a sense of professionalism.

3.1.2 Social or Morally Devised Names

Some of the names used in the written judgments are engineered depending on the judge's perception of the social or moral wrong done to the complainant or their perception of the act of rape regardless of whether they consider the complainant credible or not. Such terms include:

i. Those that reveal some form of violence or suffering of the complainant. Some of the terms used may reveal that the act was not consensual and was likely a violent one. These are terms like 'the ordeal'. In the judgment Imani Chimango v. Republic: *"It was at that moment where PWI narrated the* ***ordeal*** *to her.*"

The act of sexual assault is also referred to in some judgments using the term 'ravish'. The term 'ravish' has the meaning 'to carry off by force' according to Collins Dictionary. The word rape also has a similar sense in its archaic meaning. According to the Merriam-Webster dictionary ravish means 'to seize and take away by violence'. In the judgment Isaya Renatus v. Republic, the sexual assault is referred to using the term 'ravished'.

ii. Euphemistic reference to the act of sexual assault.

Euphemisms are used universally to avoid mentioning offensive and unpleasant words. Longman (2009) dictionary defines euphemism as an indirect term that is used by a speaker to save a hearer from being shocked or feeling embarrassed or upset. McGlone& Batchelor (2003) go further and argues that a speaker saves his/her face by the use of a euphemism. Allan (1991) further argues that euphemisms not only save the face of a speaker but also that of the hearer or the face of some third party. Linfoot-Ham (2005) claim that euphemisms are a powerful linguistic tool and that they 'are embedded so deeply in our language that few of us, even those who pride themselves on being plain spoken ever get through a day without using them. Leech (1974) refers to euphemisms as 'the linguistic equivalent of disinfectant'.

Sexual activity is a socially sensitive topic and explicit public description of the sexual act is considered taboo. According to Crystal (2005) taboo language is avoided because it is socially offensive, hurts feelings and evokes embarrassment. Euphemisms dealing with sex and bodily effluvia are conditioned by distaste and embarrassment (Enright, 2004). Although the concept of euphemism exists around all cultures, specific euphemistic use of words may be limited to members of particular communities. Katamba (2005) argues that euphemisms are not only used to avoid embarrassing or hurting others but they are used to deal with social taboos found in every culture. Euphemisms are used to downplay concepts which would otherwise be offensive. Euphemistic terms and phrases euphemize and minimize the violence of the assault and further they subtly imply mutuality in the act.

For instance, in the case Alfeo Valentino v. Republic, prosecution witness 2(PW2) testified about what the appellant did to PW1 she said: *"While Grace (PW1)* ***was being done by the accused*** *I was in another room with the other man ….."*

She uses the phrase 'being done' instead of the explicit names for the sexual act. Social propriety dictates that direct references to sexual acts are inappropriate especially among children. The use of such words to refer to the act of sexual assault may be considered as a face-saving strategy.

The phrase "*make love to"* is used to describe the appellant's proposed offer to sexually assault the complainant in the case Mwombeki v. Republic. Such phrases minimize the seriousness of the sexual assault and make it seem like a consensual sexual act.

The sexual assault is also referred to using the term 'rounds' which relegates it to a competitive sport. For instance, in the judgement, Nurdin Wailu vs

Republic it is stated that: "*The appellant then inserted his penis into her vagina. In all, he made five "rounds" throughout the night.*"

3.1.3 Categories Used in the Description of Sexual Assault

Following Bavelas & Coates (2001), the language used to characterise sexual assault was divided into five main categories, which were: sexual or erotic language, violent descriptions, physical descriptions, morally or socially disapproving language, and oxymoron. Sexual language included language that described the acts in erotic or affectionate terms. Violent descriptions depict the act as a forced, unwanted assault. Those actions that were violent but did not specifically target the act were excluded. For example, descriptions such as "he got hold of her," "dragged her into the saloon," and "appellant seized PW1 at knifepoint." Physical descriptions had no violent or sexual connotations; they simply described the positions of the body parts. The other category included language that was socially or morally disapproved of, and finally, the oxymoron, which combines descriptions of sexuality and violence.

Table 3 below shows the frequency of phrases and words appearing in the different categories. The results indicated a higher use of sexual/erotic language in the judgments, with physical descriptions and violent language following closely behind. The least used were the socially or morally disapproving language, followed by oxymoron.

3.1.4 Sexual or Erotic Language

Sexual or erotic language helps to make the descriptions less offensive and, at times, less graphic. As Bavelas & Coates (2001) noted, such language is familiar, available, convenient, and euphemistic. According to Table 1, sexual or erotic language occurs in eight of the twelve judgments studied.

In the studied judgements, sexual or erotic language refers to the act of rape in various ways, such as sexual intercourse, ***fak*** (fuck*), sexual want, sexual relationship, sex, love affairs, and make love. The judgement Husein Ramadhani vs. Republic exemplifies the use of erotic language, describing the sexual assault as '***fack*** (fuck*). The complainant testified as follows:

"He began to fack (fuck) me. I lie up face. Then he turned me down face and ***facked*** *(fucked*) my anus".* (Pg. 5).

The judgement in Edson Simon Mwombeki vs. Republic refers to the act of unwanted sex as "make love". It is reported thus: "He proposed to make love to PW1, which she declined." In the Tarimo vs. Republic judgement, the terms 'love affair' (pg. 5), 'lovers' (pg. 5), 'love relationship' (pg. 8), and 'I'm in love' (pg. 13) signify a mutual understanding between the participants, indicating that any sexual contact was consensual.

In many of the judgments studied, sexual assault is also referred to as ***sexual intercourse***. The term is found in seven of the twelve judgments. This usage allows the reporter to avoid using terms that could be socially disgraceful; therefore, the term can be regarded as a sort of euphemism. For instance, in the judgement of Issaya Renatus vs. Republic, a stranger rape case, the witnesses reported seeing the appellant engaged in sexual intercourse with PW1 (Pg. 2). In the case of Peter Abel Kirumi vs. Republic, it is reported that: *".....the appellant had* ***sexual intercourse*** *with a certain Nasma Said, who was then aged sixteen."* (Pg. 1).

The appellant approached her and again demanded to have sexual intercourse with her (Pg. 4). The term 'sexual intercourse' implies mutual agreement, and it further suggests that the act is pleasurable, not forced or unwanted.

Table 3

Frequency of Occurrence of Words, Phrases in the Selected Categories

s/n	Case	Sexual/ erotic Lg	Violent Lg	Physical descriptions	Socially or morally disapproving Lg	Oxymoron Violent + sexual language
1	Chimango vs R	-	1	1	1	1
2	Karimu vs R	-	3	-	-	-
3	Shaban Amiri vs R	-	1	1	1	2
4	Kirumi vs R	2	-	1	1	1
5	Ally Onyango vs R	-	3	-	-	-
6	Husein Ramadhani vs R	3	-	-	-	-
7	Galus kitaya vs R	8	-	-	-	1
8	Isaya Renatus vs R	-	1	3	-	-
9	Kisanga vs R					
10	Mwombeki vs R	1	2	-	-	2
11	Nurdin Wailu vs R	-	-	2	-	-
12	Tarimo vs R	2		1	1	-
Total		16	11	9	4	7

The use of the term 'sexual want' to refer to the assault is noted in the Husein Ramadhani vs. Republic judgement, where it is written as follows: *"He, having finished his sexual want, let me free..."* The term 'sexual want' implies that the act was done to satisfy a necessary craving, even though it was actually an assault. The term's usage may also be due to translation problems from Kiswahili to English, whereby the assault is not clearly expressed in the translated words.

The term 'sex' also appears in the judgments. For instance, in the judgement, Galus Kitaya vs. Republic, it is stated that *"the appellant admitted he had **sex** with the complainant, but he said she was his wife."* In this case, the appeal was denied since the appellant admitted that he had had sexual relations with an underage girl. The admission by the appellant may be the reason why the term 'sex' is used to describe the act.

An instance of rape or sexual assault is forced and leaves the victim with physical or mental wounds. People who talk about sexual assault using words that imply it was mutual and probably pleasurable downplay the violence of the assault, and Bavelas and Coates (2001, Pg. 30) say this makes the assault seem like consented sexual activity. They further argue that it serves to hide the survivor's experience.

3.1.5 Violent Language

The descriptions use violent language even after the appellant is acquitted. The results indicate that violent language is used in seven of the twelve judgments in this study.

The term' sexual assault' is used to show that the act was non-consensual, and this can be seen in the judgement, Karimu s/o Kiara vs. Republic, where it is stated that 'During the sexual assault, PW1 cried for help.' Same judgement uses 'rape' and 'raped' to indicate violent act.

In the judgement, Imani Charles Chimango vs. Republic, terms such as 'forced to sex' and 'undressed her by force' clearly indicate that the act was violent. In Shaban Amiri vs. Republic, it is reported that the complainant initially stated that the appellant *"violently threw her on the floor before ordering her to open her thighs and rape her*" but later the complainant recanted. A violent description indicates that the complainant was dishonest, implying that the act was consensual rather than rape.

The term 'ravish' is used in the judgement Edson Simon Mwombeki vs. Republic. It is stated in the judgement that, *"...we are satisfied that PW1 was a credible witness whose testimonial account reveals how she was ravished by the appellant."* (p. 17). In Issaya Renatus vs. Republic, the following is also stated: "*The two courts, thus, found as an established fact that the appellant ravished PWI (p. 4). According to the appellant, when asked to identify the ravisher, the victim pointedly implicated him.*" (p. 5).

The term 'ravish' has the meaning of 'to seize and take away by violence' according to the Merriam-Webster dictionary, which indicates that the assault was violent.

The term 'ordeal' is used in the judgement, Edson Simon Mwombeki vs. Republic, where it is stated that, *"...narrated to her aunt the ordeal of being raped by the appellant..."*. The term 'ordeal' shows that the experience was unpleasant.

The majority of the violent descriptions focused on the actions that preceded the assault. The lack of prominent violent graphic descriptions of the act is primarily due to cultural inhibitions; sex is considered a private and consensual act, and there is a tendency to avoid public graphic descriptions of sexual violence.

3.1.6 Physical Description

As noted above, physical descriptions in this instance are those that describe the positions of the body parts particularly the sexual organs. In the judgments studied, physical descriptions were identified in six of the twelve judgments studied. In the judgment, Imani Charles Chimango vs Republic, it is stated that, *"....he took his male organ and inserted it into her vagina".* In Peter Abel Kirumi vs Republic it is stated that, *"...he inserted his manhood into her vagina".* In Shaban Amiri vs Republic, it is reported that the complainant bled from what she called 'her private parts'. It is observed in these descriptions that there is a deliberate tendency to use euphemisms when describing sexual body parts. This is due to cultural expectations of propriety. It is regarded as improper to call sexual organs by their names publicly especially the male organs and most of the judgments adhere to this expectation. In one judgment, Nurdin Musa Wailu vs Republic, the male sexual organ is mentioned by its proper name. It is stated that, *"the appellant then inserted his penis into her vagina".* The female sexual organ 'vagina' is named in four of the twelve judgments while the male organ 'penis' appears in only one judgment. Thus, we can observe that there is greater reluctance in mentioning the male sexual organ and the writers tend to resort to the use of euphemisms. The female sexual organ is a recipient thus its

supposed passive role makes it easier to name than the male organ which is regarded as the aggressor organ. Culturally, there may be a reluctance to explicitly state what the male organ does to the female organ because it will be equivalent relating a pornographic movie. The trend is to use euphemistic terms like 'manhood, private parts, male organ, sexual organ' instead of graphic descriptions.

3.1.7 Socially and Morally Disapproving Language

Rape is regarded as an abhorrent crime by society, and there are terms used in the judgements that reveal the distasteful nature of the act on the part of the perpetrator and society's view of the women, girls, or young men who are regarded as either lying or having encouraged the assault.

The act of sexual assault is referred to as an 'unholy mission' in the judgement Imani Charles Chimango vs. Republic, which fits the profile of stranger rape. The ruling states that, *"....the appellant participated in aiding the second accused to fulfil his unholy mission."* By calling the act unholy, it presupposes that the act can be holy. In the judgement Peter Abel Kirumi vs. Republic, the complainant is judged thus: *"....it is beyond question that Nasma was not quite the salt of the earth...".* In the judgement, the complainant is said to be an outright liar, mainly because she did not report the first instance of sexual assault by her boss and only reported after an aborted second attempt. Thus, she did not follow the expected behaviour of a rape victim. In Shaban Amiri vs. Republic, the complainant is said to have bled from what she called 'her private parts'. The inverted commas are found within the judgment. The use of inverted commas is a form of moral censorship that implies that those 'private parts' are not so private after all.

In Tarimo vs. Republic, it is questioned of the alleged victim: *"What would one have expected from a 20-plus-year-old woman who had had undisputed sex on several prior occasions with, to mention only one, the appellant?"* This rhetorical question presupposes that the woman in question is lying about being assaulted by the appellant, and phrases such as 'who had undisputed sex on several prior occasions' imply that the woman in question is involved in multiple sexual affairs with the appellant and others. This is a form of social and moral censorship of the complainant's personality.

3.1.8 Oxymoron

In the judgements studied, oxymorons can be observed in five udgments. In Imani Charles Chimango vs. Republic, it is stated that the perpetrator 'demanded to have sexual intercourse with her'. The term 'demanded' implies that it was forced, but the terms' sexual intercourse' imply that the act was consensual. The pairing of violent and sexual descriptions can also be observed in the judgement Shaban Amiri vs. Republic, where it is said that, *"...Because of the said forced sexual intercourse..."* and *"....had sexual intercourse with her against her consent..."*. The term 'forced' implies violence, which is paired with the words 'sexual intercourse' which implies consensual sex. In this case, sexual intercourse is used with words that imply the act was not consensual.

4.0 Conclusion

In conclusion, the most common descriptions in the studied judgements are sexual or erotic. These are followed by violent descriptions, physical descriptions, oxymoron, and finally, social or morally disapproving language. Both legal and socially devised terms are used when naming the act of rape.

5.0 Recommendations

The study recommends training for judges and personnel who deal with rape cases on how to avoid implicit and explicit censorship of victims/complainants. There is also a need to enact a policy to allow expert opinion in court to explain the behavior of victims that does not fit into expected behavior.

6.0 Funding Statement

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