

# Los Angeles Times

## OPINION

### Op-Ed: Harvey Weinstein's latest trial and the ritual of degrading women in court



*A witness weeps in a courtroom sketch from Harvey Weinstein's 2020 trial in New York. (Elizabeth Williams / Associated Press)*

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Harvey Weinstein's Los Angeles rape trial, which [ended Monday](#) with the jury finding him guilty of raping one woman, was more than a one-off parade of salacious stories about a disgraced apex predator and a ritual dragging-through-the-mud of women who said they were violated. Its savage mistreatment of female witnesses is instructive to [the approximately 300,000 American women](#) who are raped each year and consider whether to involve the criminal justice system.

According to Justice Department statistics, rape is the most under-reported, under-investigated and under-prosecuted of all violent crimes, and the least likely to result in a conviction. About

30% of survivors suffer post-traumatic stress disorder — a rate [higher](#) than [that of combat veterans](#). This trial helps explain why many women don't report — and it shows the searing mismatch between a defendant's right to an effective defense and the needs of trauma survivors for safety and justice.

Weinstein has 20 years left to serve on a sentence in New York state following his 2020 conviction for rape and assault, which he is appealing. In Los Angeles, he was found guilty on three charges of rape and sexual assault, acquitted on one charge of sexual assault, and the jury could not reach a unanimous verdict on three other charges. His accusers were four women — a model, an actor, a massage therapist and a documentary producer. Four other women testified as backup witnesses, describing a pattern of eerily similar predations that escalated from “business meetings” in hotel rooms to requests for naked massages and brutal sexual assaults.

Many of the witnesses against Weinstein exhibited intense psychological distress on the witness stand. All underwent what criminal justice professor and rape trial scholar Gregory Matoesian calls a “harrowing degradation ceremony,” weathering cross-examinations that would never be inflicted on a man testifying, say, that his business partner had embezzled from him.

“I do not believe you just say, ‘Believe her,’ ” cautioned expert witness Barbara Ziv, a forensic psychiatrist who has interviewed thousands of sexual assault victims and perpetrators and testified in both Weinstein trials about common rape myths and related issues. “This is an allegation of a crime and it needs to be investigated. Questioning any individual on the stand in any crime is appropriate. But there is a difference in the ways that people's characters are attacked in cases of sexual victimization. Their characters, their lifestyle, everything about them is called into question.”

Ashley Matthau, a former American Ballet Theatre ballerina and a supporting witness, took the oath with her hand shaking. While a victim services escort sat quietly behind her, she burst into tears before she was asked a single question. In a voice as whispery and breathless as a child's, she said that Weinstein had pressured her into a hotel room and, after his female aide conveniently disappeared, coerced her sexually in Puerto Rico 19 years ago, when she was a 22-year-old performing in Miramax's “Dirty Dancing: Havana Nights.” Defense attorneys, ignoring the imbalance of power between a film's producer and a member of its dance troupe, questioned why Matthau had even entered the hotel room if she was so afraid, implying she must be terminally naïve, lying or complicit. Undeterred, she returned later as a rebuttal witness.

Defense attorney Mark Werksman called documentary filmmaker Jennifer Siebel Newsom, who holds an MBA from Stanford, “just another bimbo.” On cross-examination, he asked her to mimic the moans she said she'd made, in 2005, to try to bring what she said was a rape by Weinstein to a rapid close. (She refused.) “Do you understand the paradox,” Werksman challenged, “of trying to stop a rapist by faking an orgasm?” Newsom later shot back, “What you're doing today is exactly what he did to me.”

And so it went. *Why did you smile in that photo afterward if you were so upset? Why did you go to that audition, or accept those theater tickets? Why did you stay in that hotel room if you were so traumatized by that so-called rape, which, by the way, we say never happened?*

In closing arguments, defense attorney Alan Jackson contended that two of the four alleged attacks were fabrications, and that the others constituted “transactional sex” willingly engaged in by “fame and fortune seekers.” He called the women’s testimony “a pack of lies,” ridiculous, a “farce” and “insulting” to the jury.

Prosecutor Marlene Martinez countered that Weinstein worked to keep his victims quiet by plying them with favors afterward. And Ziv told the jury that rape victims rarely conform to a mythical stereotype of pure, empowered, outraged womanhood. Eighty-five percent of raped women know their attacker, she said. Many feel ashamed, confused or complicit. Few report immediately, and most stay in contact with the abuser afterward. “It’s the norm,” she said.

Thanks to California legal reforms, the courtroom is somewhat less hostile to rape victims than it was in past decades. Defense attorneys can no longer ask about their sexual history. Women who say they were subjected to a similar pattern of so-called prior bad acts by the defendant can testify as supporting witnesses, undercutting the classic “he said, she said” narrative. The Los Angeles County district attorney’s [Bureau of Victim Services](#) has more than 80 support advocates to help crime victims restore a sense of safety and autonomy by offering therapy referrals, help finding new housing or an escort for distressing court appearances.

But testifying in a rape trial, even though it focuses attention on an invisible epidemic that crosses all cultural, racial and class lines, can still be a ceremonial degradation.

Many human needs collide in a courtroom. The community has an interest in holding rapists accountable. Women seek sexual safety and justice. A defendant has a right to an effective defense. And into this morass walks a woman, set to testify before strangers about perhaps the most intimate, humiliating and traumatizing thing she has ever experienced. Those who testified were heroic.

“For many of the survivors I have spoken with over decades there can be something empowering about coming forward for the good of the collective,” said Deborah Tuerkheimer, a former Manhattan assistant district attorney and author of “Credible: Why We Doubt Accusers and Protect Abusers.” “It’s brave. But it often comes at great personal cost.”

*Journalist Katy Butler is the author of “Knocking on Heaven’s Door” and “The Art of Dying Well.”*