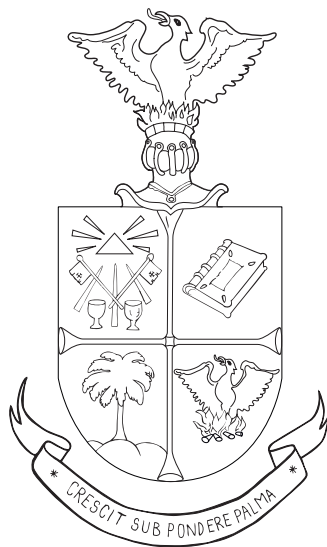


Karoli Mundus II.

KAROLI MUNDUS II.

Edited by:
Osztovits, Andras



2022, Budapest

Károli Gáspár University of the Reformed Church in Hungary Faculty of Law

THE IMPACT OF THE ME TOO MOVEMENT

1. The movement that made violence against women an open topic of conversation

The Me Too movement started when Alyssa Milano posted a twitter message urging women who are victims of sexual harassment or assault to respond to her message with “me too”. By the end of October 2017, Twitter had confirmed that the #MeToo hashtag had been used by more than half a million times in two weeks, a number that has only grown since then.² That tweet itself was a reaction to an article that spread quickly on the internet and everyone heard about it, even if they did not want to. On October 5, 2017, The New York Times published an article in which several women accused Harvey Weinstein of sexual harassment and said the man paid them a substantial sum in exchange for their silence, which, according to Weinstein’s lawyer, is not proof of the truth of the stories, it was only a means of avoiding unnecessary, lengthy procedures.³ The article mentioned, among other things, decade-old cases, where the man had made an offer to an actress at a morning meeting, called her to his room, asked her to massage him, or maybe if she would watch him take a shower, and then in 2014 he offered an intern to help the girl’s career if she accepts his sexual approach.⁴ In 2015, an Italian model called the police at a job-related meeting; the report stated that Weinstein grabbed her breasts after asking if they were real and then reached under her skirt.⁵

According to the statements of the victims interviewed, secrecy seemed to be the most appropriate step for them, as they feared the consequences and, since everything happened between the two of them, they thought they could not prove anything. This thought process was made even worse by the man’s manipulation

1 lecturer, University of Debrecen, Faculty of Law

2 Respers France, Lisa: *#MeToo: Social media flooded with personal stories of assault*, CNN (2017) <https://edition.cnn.com/2017/10/15/entertainment/me-too-twitter-alyssa-milano/index.html> (2022. 01. 19.)

3 Kantor, Jodi – Twohey, Megan: *Harvey Weinstein paid off sexual harassment accusers for decades*, The New York Times (2017) <https://www.nytimes.com/2017/10/05/us/harvey-weinstein-harassment-allegations.html> (2022. 01. 20.)

4 Kantor – Twohey *et al*

5 Mckinely Jr., James C., *Cy Vance defends decision not to pursue case against Harvey Weinstein*, The New York Times (2017) <https://www.nytimes.com/2017/10/11/nyregion/cy-vance-defends-weinstein-decision.html> (2022. 01. 19.)

and by – as a former employee expressed – the women questioning themselves and deeming their own behavior problematic, thinking they gave the man ‘signs’.⁶ The first article triggered an onslaught of cases, where actors, producers, men working in the film industry were accused of similar things, often not simply harassment but rape. After the publication of the first article, cases were constantly brought to light where actors, producers and men working in the film industry were accused of similar, often the most serious, rape.

So the answer to this was #MeToo, which wanted to make it clear that although society and a lot of people seemed surprised by what was revealed, that such sexual behaviors and acts are not newfound or never have happened before. One should not think that this is not happening everywhere in the world, that rape or sexual harassment are crimes and acts that happen to only a few. On the contrary; the movement has highlighted that this is happening to large numbers of women in all parts of the world, of which many cases never come to light, since, as we can see in Hungarian statistics as well, the latency is particularly high.

A victimology survey from 2002 shows that sexual crimes have the highest rate of latency out of all crimes, only one in seven victims reports the case, and in cases of male victims, the chances of remaining silent is even higher.⁷ There may be differences in severity and detail, but the essentials are the same: victims are recipients of sexual offers, acts that are unsolicited, they are unwilling, clearly reject the other person, but the other person does not take this seriously or does not care. It can be conditional, threatening, violent, it can take as serious a form as rape, or it can be just a short sexually charged sentence which is not acted upon, but what is common in these is that they are against the freedom of sex and self-determination and the answer to these is simply ‘no’.

Thanks to users of various social media platforms around the world, the initial scandal outgrew Hollywood and the film industry in a matter of days; there were women coming forward with stories who had nothing to do with Weinstein and the world of actors or actresses. Simple, ordinary people, young or older, from different countries, different cultures, who used the #MeToo hashtag to share stories of how they became recipients of unwanted sexual offers, or even victims of sexual harassment, coercion and rape.

2. Critics and skeptics

Naturally, there have also been criticisms of the movement, people who wish to distinguish between real, valid problems and extreme, unnecessary issues, and there were some who simply found the whole movement redundant.

6 Kantor – Twohey *et al*

7 Gönczöl Katalin – Kerezsi Klára – Korinek László – Lévay Miklós: *Kriminológia*, Budapest, Wolters Kluwer (2013) 362-364.

One such criticism is that a line should be drawn within #MeToo stories. There are acts and issues that really need to and should be talked about, like sexual coercion or rape, for example, the woman who shared her story saying once at a workplace gathering she was drugged and then raped.⁸ And then there are acts that are just innocent little jokes, flirtation that needs to be accepted and not mentioned on par with the former as it has nothing to do with it.⁹ There is rape and there are compliments, there is nothing tying the two together.

There might be people, even maybe a lot, whose own moral values do not really mind behaviors like a vulgar remark about their body or an unwanted touch, but that does not have to be the socially accepted norm that every woman should objectively endure, saying it is only a natural part of femininity. In terms of their severity, they really cannot be compared to sexual violence, but in terms of their impact, they can be; a violation of a woman's human dignity, a minor restriction of their sexual self-determination, which, according to the Hungarian regulations, may even constitute a crime of defamation.¹⁰ To differentiate between these, to say that the story of some women is worth nothing compared to the story of another woman, simply because the former was whistled at by strangers as a teenager and the other was raped by her boss, ignores the former woman's completely real problem.¹¹ The two can coexist, are not unrelated, only they should be categorized differently.

Others have criticized the movement for tearing up painful wounds.¹² No one is obliged to share such an experience with the world on easily and openly accessible platforms like Twitter or Facebook, which is not a problem; whoever does not want to share does not share. Critics, however, say the situation is different when it comes to those who have experienced rape, and as much as they were able to, they processed it within themselves, and then one day accidentally are confronted by these posts, bringing back negative experiences they would rather forget.¹³ It is simply the curse

8 *Had my life ruined for years*, Blind – Anonymous Work Talk (2018) <https://www.teamblind.com/article/Had-my-life-ruined-for-years-z5ECMPni> (2022. 01. 18.)

9 Pluckrose, Helen: *Are woman really victims?*, Quillette Magazine (2017) <http://quillette.com/2017/11/22/women-victims-four-women-respond/> (2022. 01. 20.)

10 Section 227 (2) of the Hungarian Criminal Code: commits a crime of defamation and shall be punished in accordance with Section (1) who commits the defamation physically. Section 205 (3): a person who commits obscene conduct towards another and violates the human dignity of the victim commits the crime of defamation.

11 Charlston, Libby-Jane: *Why I'm not joining the #metoo hashtag even though I was sexually harassed*, Huffington Post (2017) https://www.huffingtonpost.com.au/libby-jane-charleston/why-im-not-joining-the-metoo-hashtag-even-though-i-was-sexually-harassed_a_23245315/?guccounter=1&guce_referrer_us=aHR0cHM6Ly9lbi53aWtpcGVkaWEub3JnLw&guce_referrer_cs=I1ad07wLbBzTdV1x3yZWlQ, (2022. 01. 20.)

12 Wittes Schlack, Jullie: *#MeToo flared but won't endure*, Wbur (2017) <http://www.wbur.org/cognoscenti/2017/10/18/metoo-flared-but-wont-endure-julie-wittes-schlack> (2022.01.19.)

13 Lafuente, Cat: *Who is the woman behind the #MeToo Movement?*, The List (2017) <https://www>.

of social media; to read or see something that someone does not want. It is hard to avoid. This, though, should not mean that in order to protect such victims, no one should share any story.

There are two conflicting interests here; the victim who wants to talk about it, and the victim who does not, and the extent of their will's importance is very difficult to weigh. Perhaps what could tip the balance toward disclosure is that if everyone kept silent, it would be impossible for there to be any progress in this area, and it would be unattainable to prevent such attacks where the latent criminality is already extremely high. After all, if a problem is not talked about, how could it be a real problem.

In addition, many have questioned the credibility of women who came out with their stories from a perspective of up to 10-20 years. The negative side of social media and the internet in general is that anyone can say anything, the opportunity is given. It is almost irrelevant whether it is true or not, and (false) news, a story can spread in a matter of moments, and it is easily possible that no one checked its origins.

The problem with this criticism is, that in addition to the trauma and stress sexual assault victims face, those who were violated by a rich and famous person feel even more pressure because the public might not believe them, so as a result, victims are driven to suppress the truth.¹⁴ The basis of this skepticism is the assumption that there are many false accusations in court; that lot of women turn to the authorities with a made-up story, as Weinstein defended, only to seek revenge on innocent men, which is disproved by reality and statistics.¹⁵ Even as #MeToo is shifting public awareness about how serious sexual harassment and rape is, many women, in addition to being the targets of these crimes, bear the burden of speaking out about it and continuing on what had always been asked of women: take the responsibility for preventing sexual assault—whether by being more chaste or by sharing their pain on social media.¹⁶

From a legal point of view, all the problems raised by the movement can be basically divided into two main parts: criminal law and criminal procedural law.

On one hand, the events told in the stories can be examined and interpreted on the basis of their quality, thus distinguishing between entries describing defamation, humiliation, and sexual coercion or rape, where the latter two are clearly criminal offenses, and then the stories which were described as sexual harassment, which is somewhere between the two abovementioned main categories.

thelist.com/110186/woman-behind-metoo-movement/ (2021. 01. 18.)

14 Adurasola Alabi, Olabisi: *Sexual violence laws redefined in the „Me Too” era: Affirmative consent & statutes of limitations*, Widener Law Review Vol. 25:69 (2019) 85.

15 Kuszing Gábor: *A hamis vád és a „szülői elidegenítés szindróma” mítosza*, Nők Joga (2010) 1. <http://nokjoga.hu/sites/default/files/filefield/vadaskodnak-e-nok-szexualis-eroszakkal-kg-2010.pdf> (2022. 01. 10.)

16 AdurasolaAlabi*et al* 76.

On the other hand, we can talk about women who have been victims of a crime, who have not turned to the authorities, who have not reported their attackers, or if they have done so, they have not been convicted, which raises procedural issues such as the institution of private motion, the (mis)treatment of victims, or the difficulties of the investigation such as obtaining adequate evidence. These problematic aspects, moreover, are directly or indirectly influenced by the victim-blaming attitude of society towards the victims of sexual crimes.

3. Society's view on sex crimes in the Me Too era

These crimes still divide society to this day, and the Me Too movement has provided a good recent example. Victim-blaming, holding the victim partially or fully accountable for the act committed against them and the normalization of such acts contribute to the existence of a culture of rape that distracts from reality and its very real problems. For example, one woman shared her story on Facebook, gaining over ten thousand shares, where she speaks about how she feels like what happened to her was rape, even though there was no actual violence or force used, but she didn't fully consent.¹⁷ She got a lot of backlash. People asked, "Oh, is that all?" It happened, they said, because she did not read the situation properly. Because she was too nice and accommodating to the person who assaulted her. They said it happened because she was not forceful enough. Or maybe she made it up.

In the 1970s, a term was born in the U.S., 'rape culture', that attempts to define this phenomenon. The main point of this is that society normalizes rape and any sexual or physical action of a sexual nature against women, which includes anything that downplays the behaviors expressed in the previous sections of the study.¹⁸ This mentality, the objectification of women, the blaming of the victim, the traditional dominant male / subordinate female roles is worsened by social media platforms that can be used quite freely by anyone, even by a country's leader, who can tweet sexist jokes about women, that *boys will be boys*¹⁹ and it is just *locker room talk*²⁰ between men.

There is a picture in society of a 'real victim' and a 'real rape' which is rooted in stereotypes that assume an unexpected, physical attack by a stranger in a deserted place and a moral, resilient woman who will have physical injuries, so the investigation

17 Gianino, Laura: *I didn't say no – but it was still rape* (2017) <https://www.bustle.com/articles/135171-i-didnt-say-no-but-it-was-still-rape> (2022. 01. 20.)

18 WAWAW Rape Crisis Centre, *What is rape culture?* <http://www.wavaw.ca/what-is-rape-culture/> (2022. 01. 19.)

19 Bradner, Eric: *Melania Trump: Donald Trump was 'egged on' into 'boy talk'*, CNN (2016) <https://edition.cnn.com/2016/10/17/politics/melania-trump-interview/index.html> (2022.01.20.)

20 Tweet of Donald J. Trump on the 10th of October 2016 <https://twitter.com/realdonaldtrump/status/785286990153543681> (2022.01.20.)

will be simple and full of decisive evidence.²¹

The statistics refute this assumption. There is a survey that shows that the crimes that have become known were committed primarily by a person close to the victim, such as a relative or supervisor.²² According to statistics conducted by the Ministry of Interior of Hungary (from the period of the second half of 2018), almost 80% of sexual violence was committed against women, almost half of it against children aged 0-13, while in the case of sexual coercion, the number of children or juvenile victims were almost equal to adults.²³ In the case of child victims, there is good reason to believe that under the supervision of a parent (or some other adult fit to supervise), not a stranger, but someone close to the victim had the opportunity to commit the crime.

The reasons for the existence of the culture of rape and the term 'real victim' can be found in socialization, such as the objectification of women, the blaming of the victim, the persistence of traditional dominant male / subordinate female roles all contribute to it. This mentality not only adversely affects women in society and in everyday life, but also indirectly affects the occurrence and legal perception of sexual violence and coercion. Even such a relatively simple thing as defining consent can be twisted by these presumptions. First, there was the slogan 'no means no' which placed the burden on victims, making it their responsibility to show resistance, and many mocked its presence. This turned into 'yes means yes', especially in the era of the Me Too movement, becoming the one slogan that protects victims and holds perpetrators accountable for their actions, which is also called an affirmative consent and creates a culture of *respect*.²⁴

Many articles and posts on social media platforms, on the other hand, report non-criminal behavior where it is no longer about career guidance or other similar offers, but about actions that take place in everyday life, even in a matter of seconds. In the context of the Me Too movement, the term 'sexual harassment' is often used to describe these acts. Such an act is not known by Hungarian criminal law, thus the criminal assessment of sexual harassment is often questionable, whether in some cases it may be considered sexual coercion, defamation, simple coercion, or even sexual humiliation.

It should be mentioned here again (that had been brought to attention by critics of the movement in their own way) that we should differentiate between some of the #MeToo stories. There is a difference between an unsolicited remark, snooping, a humiliating, generally immoral expression or request, and sexual violence and sexual coercion as criminal offenses. Although they are not sufficient to establish

21 Szabó Judit – Virág György: *A nemi erőszak mítosza*, In: *Szexuális erőszak: mítosz és valóság, Kutatások a szexuális erőszakról*, szerk.: Parti Katalin, Országos Kriminológiai Intézet, Budapest (2017) 216-217.

22 Kovács Gyula: *Az erőszakos közüsilés a számok tükrében*, Magyar Bűnüldöző 2. évf. 2011/3-4. 46-47.

23 Based on the Criminal Statistics System of the Ministry of Interior of Hungary (bsr.bm.hu)

24 AdurasolaAlabiet al 78-80.

sexual violence or coercion, the recipients of these acts feel that their sexual self-determination, sexual morality, human dignity and honor have been violated by said sexual act. As stated at the beginning of this essay, the Me Too movement showed that despite this violence, turning to the authorities is not common, which could be, for example, because of victim-blaming, the authorities' inadequacy or the trauma itself holding back the victim.²⁵ Social media is huge and the influence, or the potential to influence, it has on people, society is undeniable.

Another side of it is what became apparent during this movement: holding perpetrators of these crimes accountable for their acts in the absence of effective legal procedures. In this ad hoc process, journalists expose misconduct and employers, consumers, or professional organizations are called upon to remove the accused from a position of power and since the start of the Me Too movement in 2017, a number of survivors have used this informal process to report abuse, and, as a result, over two hundred accused individuals have lost high-profile jobs, roles, or positions.²⁶

This extralegal process is not a rights-claiming system in which survivors make demands for justice, instead it is private in the sense that it is not enforced by authorities, but unlike many other forms of private administration, it is public in the sense that it is driven by and occurs in the spotlight of media coverage.²⁷ It is a process that harnesses the power of media, especially social media, and provides an alternative way to persecute perpetrators, which, even if it is somewhat successful, cannot replace an effective legal procedure, but it can supplement it when the latter fails the victim.

A great example of this, is how Weinstein's case continued and partly ended recently in 2021. Although it started with an online article and posts on social media, after several charges made by many women against him, Weinstein was indicted in New York in 2018 and in Los Angeles in 2021 on several counts of rape and sexual assault charges. He was sentenced to 23 years in prison after his trial in New York in 2020, and the trial in Los Angeles is still pending as of January 2022.²⁸

Closing remarks

In my study, I considered it important to present the main events and points of the Me Too movement, which provoked reactions from people all over the world as it drew attention to a real, serious problem that is violence against women. Under the Hungarian Criminal Law, many of the acts mentioned by the movement correspond

25 AdurasolaAlabi *et al* 86.

26 Clarke, Jessica. A.: *The Rules of #MeToo*, University of Chicago Legal Forum Vol. 2019 Article 3, 38.

27 Clarke *et al* 41-42.

28 *Harvey Weinstein timeline: How the scandal unfolded*, BBC (2021) <https://www.bbc.com/news/entertainment-arts-41594672> (2022. 01. 20.)

to some of the crimes, but this does not guarantee that the perpetrator will be held accountable or that the damage caused to the victim will be amended in any way. Furthermore, the victim could be exposed to even more harm during the procedure because of society's victim-blaming tendencies.

As harmful as social media can be, the movement and its effect, with its positivity, negativity and everything in between, is undeniable. Facts are that women are subjected to sexual violence all over the world and something needs to be done about it both in society and law, and, hopefully, a sometimes-controversial social media movement was what the world needed for change to be set in place.