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## SOCIAL AND LEGAL ASPECTS ON THE TOPIC OF VIRTUAL RAPE

**Problem statement.** The term “virtual rape” describes a wide range of scenarios and events, which are different from the act of rape in which the attacker and the victim are physically adjacent to one other.

Although rape that occurs in the manner known since forever cannot be, under any circumstances, taken lightly, the law must encompass all the events that maintain the hard core of the offense of rape and its fundamental elements. Therefore, in this article I will examine the full range of the issues that address the topic, as well as the question of whether it is more correct to include the topic of “virtual rape” in the framework of the Penal Law (article 345, which defines what rape is) and not in the framework of the Sexual Harassment Prevention Law.

In the year 2014 Amendment Number 10 of the Sexual Harassment Prevention Law was legislated, at the initiative of Knesset Member Yifat Kariv from the Yesh Atid Party. The amendment to the law determines that the dissemination of a photograph, film, or recording of a person, which focuses on his sexuality, under circumstances in which the publicization may humiliate or abase the person and the publicization is carried out without the person’s consent, will be considered sexual harassment, for which there is up to five years of imprisonment.

In this article, as aforementioned, I will review the main reasons for which this act, the dissemination or publicization of sexual pictures of a person, should be considered virtual rape and not sexual harassment. These acts, therefore, need to be come under article 345 of the Penal Law.

In chapter 8 of my book Digital Evidence, in Practice, between Law and Technology, which was published in an updated edition in the year 2015, I wrote that the Internet is indeed a global network of computers, which connects many different networks of computers and links between billions of computers around the world. The tremendous amount of information stored in it through Internet pages and commercial and content websites, alongside the accessibility of the information from anywhere in the world and at any hour, creates another “state” that does not have territorial borders.

In addition, the Internet space provides new opportunities in the business and social dimension for many companies and people. Alongside these opportunities, the Internet brings with it also different types of threats, for instance, electronic fraud, computer crimes, crimes in cyberspace, and so on.

Some maintain that in its present form the Internet realizes the vision of the global village. However, conversely there is the approach that maintains that the Internet is still far from this, because of the material and technological gaps between the countries in the world that prevent the development of globalization.

These are technological threats, alongside complex legal issues that inspire concern on topics of the defense of privacy, fair trade, protection of copyrights, property and ownership issues, jurisdiction, and cross-border transactions, alongside issues of computer crime, sovereignty, and others.

In actuality, our world is a technology-driven world, a world of machines, computers, computer systems, and different types of communication

networks. The uniqueness of this world is the connection between hardware and software, which communicates with the person in his language.

This world is a melting pot of social worlds, alongside diverse cultures, found in a state of constant development, acting “around the clock”. This is a world called the virtual world, a world without geographic borders, which is created by people.

**Review of recent research and publications.**

The issue of virtual violence has been the subject of research by both domestic and foreign scientists in various fields of legal science. These are scientists like: Dworkin A., Edwards D., Gibson L., Linden R., Johnson S., Stone A., Symons D., Thiessen D., Thomas W., Znaniecki F.

**The formulation of the research problem.**

The analysis of the data focused on the elements of the problem of virtual rape and the definitions, outlooks, philosophical perceptions that explain the meaning of things, including the separation between the physical space and the virtual space, and the inferences from it. Needless to say, in the framework of my research, as well as in the writing of this article, I was exposed to a large number of other offenses, such as other types of violence on the Internet, and the offense of virtual rape, under the existing circumstances to my understanding is included as a phenomenon that is among the most worrisome phenomena.

The objective of this chapter, as well as of my research as a whole, is to detail the methods used in the research, which included hundreds of hours of learning, legal analysis of past events, and questions I asked attorneys and jurists in Israel, to understand and examine their view of the topic, alongside the look at documented events and in-depth understanding of the structure of the Internet as a whole.

**Presentation of the main material.** The offense of rape is a behavioral offense that is established in section 345 of the Penal Law, 1977, which defines clearly what the offense is and what are the factual components required for conviction. The legislature in Israel determined for this offense a severe punishment

of up to 16 years or 20 years under aggravating circumstances, punishment that is similar to the charge of manslaughter.

The factual basis required for rape is defined in article 345(c) of the Penal Law as sexual intercourse, which is “the penetration of an organ of the body organs or an object into the woman’s sex organ.” In other words, to convict a person of rape, it is necessary to have a physical sexual act – and this does not exist in virtual rape.

Given this obstacle, how is it possible to deal with the offense of virtual rape through existing law?

One of the possibilities is to establish the indictment on the basis of 350 of the Penal Law, the definition of which is the cause of the action. Here it is possible to convict for rape also if the person who is accused by law did not commit an act of rape physically but caused another to do this, as the law says, “One is if the person did the act or caused the act to be done to him or another person.” Accordingly, a person who causes the other to perform a sexual act on himself, even if through the virtual medium, can be convicted by rape.

In addition, the main component in the offense of the rape is the component of free consent, and under the law rape is an act that is performed without the woman’s free consent. In the case of virtual rape, frequently the victims give their agreement and they are those who photograph themselves and act sexually at the requests of the other side. However, in the many cases in which their agreement is given through deceit, it is possible to establish the component of lack of consent on the basis of article 345 (a) (2) of the Penal Law – impersonation is a situation in which a person provides a misrepresentation about himself and his personal nature, when because of the presentation the woman consents to an action with a sexual nature [12].

Despite the desire to establish the aggravated virtual rape under the offense of rape determined in the book of laws, it is important to emphasize the transition from the real arena to the virtual arena with the accusation of rape, also regarding

the social-moral attitude towards the phenomenon and the factual requirements of the offense. On the factual level, the application of the article of rape that was intended to deal with real sexual offenses of rape in the virtual sphere raises difficulties and it is necessary to have the courts hold a meaningful discussion to carry out the desired adjustment in the established law. On the moral social level, while physical rape is morally condemned nearly completely and therefore the legislature has determined a severe punishment for this offense, virtual rape still remains a controversial issue that is not appropriately addressed in society. Therefore, other legal alternatives for the prevention of and struggle against this phenomenon can and should be examined.

#### Sexual Harassment Including the Relationship and Difference between Rape in the Physical Space and Virtual Rape

To understand the difference regarding what I have written to this point, sexual harassment is defined in real life as unwanted sexual gestures, exposure, or touches, and these actions are considered frequent on the Internet to the same degree as in real life, and even more. As I understand, there are three types of sexual harassment that constitute the foundation of the definition: gender harassment, undesired sexual attention, and sexual coercion, which is not included in the definition of rape.

On the metaphorical level, it is possible to define sexual harassment in responses and verbal comments, alongside visual actions, which by nature are insulting and/or cross intimate boundaries and/or discuss the nature of their gender, including the use of stimuli to awaken negative emotions and/or undesired behaviors that clearly are harassing to the victim and/or sexual intentions or statements towards another individual, without exerting physical pressure on a person, with the goal of extracting from her sexual cooperation [7].

The factual basis required in rape is defined in article 345 (C) of the Penal Law as sexual intercourse, which “the penetration of an organ

of the body organs or an object into the sex organ of the woman”. In other words, to convict a man of rape, and referring to what is written in the words of explanation on the issue of sexual harassment and in analogy to the offense of virtual rape, there is the physical sexual act, and thus it is possible to complete the “missing link” that connects the virtual environment to the physical environment.

From another angle, it is possible to say that for the Internet, in light of the geographic distance, it is possible to include the offense of virtual rape only in the framework of the Sexual Harassment Prevention Law, since the geographic distance does not allow the carrying out of actions physically by the attacker, namely a situation that is impossible to achieve as a result of the distance existing on the Internet.

In actuality, and despite the absence of the ability of use of physical force as a result of the geographic distance, victims may interpret threats and imposition of authority as real physical force – exactly like in face-to-face situations.

As known, physical force is conveyed through the Internet and cellular network in a number of ways, for instance, sending frightening email messages, threats of the use of intimate films and photographs, viruses for the purpose of the collection of personal information, hacking into the victim’s computer system, flooding the victim’s email inbox, and dissemination of threats on the mobile phone through the use of applications like WhatsApp, Facebook, and others. In addition, cases of bribery and temptation may also constitute a main role on the way to harm of the virtual rape victim.

To understand the depth of this matter, I was recently exposed to an article titled “The Rape Incident in Cyprus: Don’t Blame Just the Tourist” which was written by Rabbi Yoni Levi on July 28, 2019 on the Serugim Website. There it said:

“... True, it is possible to now assign all the blame to the British tourist who fabricated the charge of rape since she was angry that they had filmed her during the act and to thus close the discussion. However, this would be a serious mistake and an evasion of the truth.

Dear friends, the data do not lie! 94% of the children up to ninth grade have watched pornography (the research of Dr. Efrat and Shlomit Habron), which is a laundered word for ‘virtual rape’. There are an infinite number of WhatsApp groups of children and youths who with an easy click can join and be a part of a dark world where Sodom and Gomorrah pale in comparison – films of beheading, hard core pornography, rape of children, pressure to upload intimate contents and harassment by pedophiles [3].

And you know what, forget about Aya Napa. The incident there made the main headlines, but here is another story that was published on the same day and was pushed aside: a 12 year old girl from Ramlah who twice suffered gang rape at knifepoint by a group of boys in seventh and eighth grades from her school who filmed and disseminated the films in the school. The girl has been hospitalized for already four months in a closed institution with a terrible mental situation and her family has received threats to her life if she files a complaint ... and this is one of many examples ... let’s not close our eyes and not cover this up. Leave these youths alone. They are really not the point. Since Cyprus is here. Really here”.

In actuality, sexual harm through the use of the Internet occurs every day. About 35% of the youths noted that during the past year they were sent materials of a sexual character through the social networks. About 40% reported that they receive verbal requests of a significantly sexual character on the Internet.

This same sexual harassment, which fundamentally is the factual and legal basis for the instilment of content for the establishment of the offense of virtual rape, can be expressed in sending photographs and films and texts of a sexual character, including the carrying out of a sexual act in the framework of a conversation and/or the presentation of a sexual act through a camera and live, including virtual surveillance, threats, hacking into the computer, and so on.

Further sexual harm that occurs on the Internet is virtual rape in multi-user computer games

with figures of high quality animation that distort the perception of the difference between the virtual sphere and the physical sphere and has created more than once a feeling of legitimacy even after the departure from the game. In these games it is possible to view especially violent virtual rape. Players who have experienced this type of rape have reported symptoms of post-trauma, which require more than once medicinal treatment over time [14].

As known, many relationships begin through the use of the Internet and the normative relationship leads more than once to friendship, business relationships, romantic relationships, and so on. However, also as known, some relationships lead to the harm to another, to sexual exploitation, and to rape in the virtual space.

To better understand, it is necessary to perform a comparison on the differences and similarities between sexual assault and virtual rape, in the attempt to identify themes of similarities and differences between the two. To illustrate these themes of similarities and differences, the following table (not comprehensive) was built.

In addition to the differences described above, there are main differences between rape in the physical sphere and virtual rape. In real rape, the victim may have the ability to escape or flee, to call for help, or to file a complaint with the Police, unlike in the virtual world, where the victims of virtual rape may not have the ability to flee and/or may not know how to escape and to obtain physical help from others who are present (after all, the world of the Internet does not have physical materiality).

Furthermore, real rape has a tendency to occur in the private spaces, since the attacker is not interested in being seen or caught (rape drugs even prevent the victim from remembering the attacker). However, virtual rape can occur publicly or privately since there are very few outcomes, if any, in a case where the attacker is seen or caught.

To understand the depth of the influence of acts of virtual rape on the victims, both in the computerized space and in reality, and to

Table 1

**Comparison between Rape and Virtual Rape**

	<b>Rape</b>	<b>Virtual Rape</b>
Why this happens	Sexual satisfaction, including power and control	Sexual satisfaction, including power and control
How this happens	Random or planned Through the use of physical force that leads to the undesired penetration, abuse, contact, etc. Can be the result of surveillance, sexual harassment, rape at a meeting, etc.	Random or planned Through the use of psychological force, including the use of technological means that cause the rape victim to perform on themselves penetration and/or other sexual acts, abuse, etc. Can be the result of surveillance, sexual harassment, naiveté, lack of experience
Who this happens to	Naïve and/or trusting people and/or distracted people, exploitation of an opportunity by the attacker	Naïve and/or trusting people and/or distracted people, exploitation of an opportunity by the attacker and/or lack of experience in the virtual space

*Source: compiled by the author*

understand about the relationship the concepts described above, the following is an example of a virtual rape in the Internet space, during a computer game [8].

*The Bungle Affair.*

This is the first documentation of a virtual rape, in the year 1993. The Bungle Affair exposed the most intimate details of virtual rape, as well as the responses of the victims and the online community towards the attacker. The publications about the case were addressed by professionals and scholars in the United States, for an important basis on the topic of virtual rape. The Bungle Affair occurred in the Internet space called LambdaMOO, a type of multi-user dimension in which they can create room and objects, including the creation of interaction with others.

In actuality, this is a structure compared to a mansion that consists of hundreds of rooms connected to one another. The person who carried out the crime was called Mr. Bungle, an avatar controlled by a student at New York University and described as “a fat, smooth clown, with the face of a cookie, dressed in a stained clown costume and with a belt twirled with mistletoe with a buckle that said “kiss me under this, bitch!” The virtual rape occurred on March 2, 1993, in the living room of LambdaMOO where

many other avatars had gathered. Mr. Bungle, without provocation, went into the living room around 10PM and by using a Voodoo doll forced Legba (unclear gender), controlled by a woman from Seattle, WA to provide him with sexual services. Legba’s shouts forced the rapist to leave the virtual living room. From there, he went to unfamiliar places in the mansion but continued to use his voodoo doll to attack, this time a number of avatars: Starsinger, a female character controlled by a woman in Haverford, PA, Legba, Bakunin (unknown gender), and Juniper (a squirrel) [13].

Mr. Bungle forced Legba to eat his/her pubic hair, Starsinger to hurt herself using a butcher knife, and all to undertake violent sexual acts on one another. Last, the difficult experience ended when Iggy, a trusted figure, used a magic gun to close Mr. Bungle into a cage that prevented the doll and the avatar to cause further chaos.

This example is one of many that document virtual rape in the game space, where rapists make use of fictive characters, which give them a sense of omnipotence, and under this “cloak”, they commit acts of virtual rape as derived from a type of violence online and at a distance. It is important to recognize that until now most acts of virtual rape have evaded legal implications,

at least in Israel and in the United States, whether this situation derives from the lack of existence of laws that deal with violence on the Internet or virtual rape or is a failure in the amendment of the accepted existing law, so that it will include components of violence online as derived from the offense of rape.

These testimonies indicate how a game that can be interpreted as innocent can assume the form of a nightmare physically, including difficult mental implications that last time. Needless to say, this online environment gives sex offenders and pedophiles a free space to act, under a seeming cloak of legitimacy of a computer game.

*Questions of How and Who on the Matter of Virtual Rape.*

Many questions can be asked on this issue, and the main ones are how does this happen and who may become a victim? What makes virtual rape so real and true for the victims? Is this the embodiment of the user into the avatar or the vitality of the environment? Is virtual rape only a non-harmful type of sexual harassment or does it require real enforcement – far more than the Sexual Harassment Prevention Law provides?

To answer these questions, it is necessary to understand about the interaction between avatars (the fictive character created by the user for the purpose of the game) and the virtual environments as a whole.

According to common law, the components of the offense of rape include the characteristic of the physical harm or sexual penetration, so as to be considered this type of offense. Indeed, the Internet and the virtual environments lack of the ability to provide a sense of physical contact, but nevertheless with emphasis on the space in computer games, including three dimensional glasses, these means bridge the dimension of virtuality and through them the participants achieve a sense of reality.

For many years, in the United States the difficulty in the definition of the term virtual rape derived from the fact that this is an unclear or vague idea, since in the real life the definition of the offense of rape was not agreed upon in a way

that is undeniable. I will note that definitions and laws associated with rape differ from one state to another, and therefore I will attempt to learn from the article authored by Kilpatrick already in the year 2000 for the National Violence against Women Prevention Research Center, which analyzed the issue of sexual assault, including the offense of rape. I learned from his statements that the abstract definition was significantly changed in comparison to the common definition according to law (and before the 1960s) to a more detailed and comprehensive definition in the year 1962 which was based on the model of punishment in the United States and that today the federal definition is detailed and comprehensive [2].

According to the federal definition, the offense of rape fundamentally addresses the issue of sexual contact of any time that was carried out without consent and unwillingly, out of clear awareness. I will note that the definition does not differentiate between the attacker's sex and does not differentiate between sexual assault achieved through threat or by force or any other means. Given this fact and on the basis of the social structure that makes great use of the internet, computer games, and other instruments at its disposal in the technological environment, the same environment that enables any other type of attack, the violent nonconsensual sexual attack of the individual by definition is virtual rape.

As quoted and referenced in the article of McKinnon (1997a, p. 228) and Williams (2000, p. 101), "virtual rape" is defined as:

"A sexually-related act of a violent or acutely debasing or profoundly humiliating nature against a character who has not explicitly consented to the interaction. Any act which explicitly references the non-consensual, involuntary exposure, manipulation, or touching of sexual organs of or by a character is considered an act of this nature. (Nancy [#587980] 1994)

(For the full account, see Dibbell (1998)).

Two weeks later, after the above definition and reprimand were originally suggested, the following was posted, as referenced by MacKinnon (1997a, p. 229):

“Sexual harassment (particularly involving unsolicited acts which simulate rape against unwilling participants). Such behavior is not tolerated by the LambdaMOO community. A single incidence of such an act may, as a consequence of due process, result in permanent expulsion from LambdaMOO...” [sic]

This petition makes no requirement on mediators that they recommend expulsion in every incident; if circumstances dictate, a lesser action may be designated. But if, after due consideration, the opinion of the mediator is that the situation was extreme enough to warrant expulsion, the effect of this petition is to confirm that the community thinks that expulsion is within the scope of reasonable penalties for an act of this kind. (Linnea [#58017], 1994)”

Therefore, virtual rape fundamentally constitutes the simulated sexual nonconsensual violation of the attacker and/or the avatar against the victim. Namely, this is the visual and/or textual representation of the user, on the part of the avatar that attacks through the online interaction.

*Virtual Rape in the Framework of Virtual Communities and Computer Games.*

In this chapter, which addresses a little more at length the issue of rape in the frameworks of online communities and computer games, I will start with the examination of the question of who are the victims in general. As I understand it, and on the basis of research studies and learning, there are a number of situations in which virtual rape can occur. Three situations are a result of the fact that the victim is curious or inexperienced, a result of surveillance of the victim for a given period of time, or that the victim was sexually harassed.

Virtual rape as a result of the victim's curiosity or inexperience appears at first to be a strange comment, and/or curiosity is considered a very human attribute and can lead Internet users to situations that may be dangerous in the circumstances of the matter. On May 6, 2007 Diana Allendale revealed her experience with virtual rape in the game “Second Life” as a response to a post to VirtualToReality.com

called “How exactly does ‘virtual rape’ even occur in Second Life?” (Sartre, 2007):

“As to the virtual ‘rape’...my first week in-world, a male avatar invited me to a beach. Turned out to be a nude beach. I’m not a prude, and to be honest, still tend to equate dressing (and undressing) my avatar as playing with my Barbie doll when I was little. So sure, I took off my clothes, we went skinny-dipping and afterward, he suggested two poseballs. Being the newbie, I was, I didn’t understand that the word “love” hovering over the top meant “intercourse”. When a cock suddenly appeared on him and he started going at it with my avatar, I will admit, my first thought was...”Hey! I didn’t consent to this!” But reason took hold, I told him I wasn’t interested and that was the end of it. A few short minutes later, I was dressed and had left him on the beach, feeling ticked off that someone would take advantage of my newbie-ness, but having learned a little about human nature.” (Allendale, 2007)

As I understand, this is a problematic description, in light of the fact that also in our physical world going to a nudist beach leads necessarily to the removal of the clothing and hence it is reasonable that the male sex organs will be exposed – more than one. If this causes a person to feel discomfort, then the person should not go to a nudist beach. Conversely, some maintain that in this event it is possible to see the abundance of tempters in the virtual space, as well as the danger for these new users who are not aware of what can happen and are convinced that in the virtual sphere the virtuality will not allow the other users to hurt them [11].

From another angle, it can be said that the lack of technological understanding is a barrier before the new users who are not aware of the strength of the technology on the issue of the almost infinite possibilities. Hence, they are not aware that actions as described can indeed occur. In other words, many users are convinced that the geography is their defense, and this provides them with a sense of confidence that naturally lowers the personal defense systems. Thus, a situation is created in which the attacker can act

in this space without interference. In actuality, the same new users are emotionally manipulated to engage in simulated sex activity (cybersex) without their consent and/or innocently trust their attackers, and they may serve as easy targets in the virtual communities.

Needless to say, in most cases in the preliminary stages this is the lack of understanding of the victim about the deeds of the attacker and/or attackers. This lack of understanding enables the event to occur.

*Sexual Harassment and Prohibited Surveillance Actions, Using Technological Means and the Internet – Cyberstalking.*

As I noted previously, virtual rape is defined today in Israeli law under the category of sexual harassment as a whole. As I understand, and on the basis of researches and articles I read and from the statements of the American legislature, as a part of the actions that are carried out by the virtual attacker, which in my opinion should be addressed in the framework of the offense of rape, these actions in their definition are actions of sexual harassment and include actions of surveillance of others using the Internet, while using other electronic means (cyberstalking).

Sexual harassment, consequently, is one of the links that connect between the rapist's intention and his awareness of the commission of the offense, namely actions that will contribute to the carrying out of the offense of virtual rape.

In the year 1999 the vice president of the United States, Al Gore, identified growth in certain types of online behaviors that are used to harass and frighten others and demanded to receive a report from the Attorney General. The report of the U.S. Department of Justice defined the "use of the Internet, E-Mail, or other electronic communications to track another person" as cyberstalking. Some scholars agree with this simpler definition.

However, Bocij (2002) describes the phenomenon of cyberstalking in much greater detail, as follows:

"A group of behaviors in which an individual, group of individuals or organization uses information and communications technology

(ICT) to harass one or more individuals. Such behaviours [sic] may include, but are not limited to, the transmission of threats and false accusations, identity theft, data theft, damage to data or equipment, computer monitoring, the solicitation of minors for sexual purposes and confrontation. Harassment is defined as a course of action that a reasonable person, in possession of the same information, would think causes another reasonable person to suffer emotional distress".

From what is written, we learn that the purpose of the stalking person is not necessarily sexual motives. Sometimes these actions are actions of revenge, hatred, anger, jealousy, obsession, etc. These actions indeed are harassing, and they can be included under the definitions of the Sexual Harassment Prevention Law.

Needless to say, actions of surveillance of any type are harassing and have definite psychological and physiological influences on the victims, which may cause emotional responses similar to fear, anxiety, nightmares, powerlessness, excessive readiness, changes in eating and sleeping habits, increased levels of distress, feeling of lack of control, and feeling of loss of self-confidence.

*Relationship between Cyberstalking and Virtual Rape.*

How does virtual rape fit into the category of cyberstalking, and how does it constitute an extension of the "traditional" worrisome surveillance? About a decade ago, a special report was issued by the Bureau of Justice Statistics in the United States (2009), which estimated that about 3.4 million people aged eighteen and up were victims of harassing surveillance. The report indicated that 13,9% of the victims of harassing surveillance experienced rape/sexual assault by the attacker. The report described issues of physical attacks performed by harassers/stalkers against the victims, as well as the fact that this is something common: rape/sexual assault is the rarest of the cases.

It is possible to learn from the statements of the Israeli legislature that these issues in the material world indeed are included in the framework of the Sexual Harassment Prevention Law but are



not interpreted to the Internet space and that all reference to actions of surveillance in this space are absent. In other words, as I understand, explanatory action, namely the generalization of these actions through the use of technological means, as described above, certainly can lead to increased awareness, as well as the creation of a threat against the people undertaking these actions themselves.

It is necessary to take into account that the feeling of revenge, hatred, anger, jealousy, obsession, and so on create the psychological basis for the carrying out of the offense of virtual rape also in the framework of computer games, including virtual communities, and the virtual space creates a feeling of legitimacy for the players who take with them the virtual space outside of the boundaries of the game, namely, this is a simulated reality.

In actuality, the simulated reality and the material world are two overlapping realities, and more than once the feeling of reality in the virtual space, during the computer game, and the emotional strengths in it blur the boundary between them and enable metaphorically the same person to project the simulated reality into the physical space.

As known, the virtual communities themselves do not exist in the physical sense or

in the geographic sense but are built in social terms in an online environment that is provided by people who are situated in a geographically dispersed manner with the same areas of interest. In other words, virtual communities are not generally located in the same geographic region in the physical world; but the virtual community itself is found at a certain network address where the members of the community are allowed to unite. In other words, the virtual community is a social cooperative with its own organization, which is created and preserved using technological means and regardless of a geographic or socioeconomic connection, age, religion, and/or race. Namely, it is a multiplicity of individuals connected to one another only electronically.

Returning to the issue of cyberstalking, this environment allows the collection of considerable data about the harassment victim and her refusal to the harasser's demands to perform activity of some type may fundamentally cause the harasser to feel the desire for revenge and the shift of the emotions to outside of the framework of the virtual game. Thus, it is necessary to understand these actions and to include them in the framework of the Sexual Harassment Prevention Law.

### Summary

On the basis of what is written here, the following question is therefore asked: What is the normative framework for the establishment of the offense of virtual rape, which, as aforementioned, constitutes a traumatic injury to the victimized women, which essentially does not lessen the sexual harm that occurs in the physical world?

From the information in my hands, and on this research basis, it appears that the Prosecutor's Office is also aware of the difficulty, alongside the lack of adequate legislation as a deterrent device. In the attempt to deal with the phenomenon, and as a result of it, the Prosecutor's Office files overly stringent indictments, though they may not stand a judicial test, simply to exert pressure on the defendant to sign a plea bargain for a less serious charge.

If we truly want to combat the phenomenon, we must deal with it under an established normative framework suited to implementation in the virtual world, from the bridging over the gaps found in the framework of the simulated reality and/or the multiplicity of realities, and the application of the offense in the framework of the offenses of rape in the Penal Law, as well as under the definition of an indecent act, given the circumstances of the matter.

These statements were said on the basis of many years of experience in the virtual space and in the attempt to illustrate the extent to which the phenomenon of virtual rape obligates as serious a punishment as physical tangible rape. The facts prove that the social and legal conditions are ready for the application

of this normative framework to the virtual world, and that the obligation of the law is to be unequivocal on the matter of virtual rape as a physical act, through the application, as aforementioned, under certain circumstances under article 350 of the issue of the offense of an indecent act.

As I understand, it is necessary to make the required changes in an amendment to the law, namely the offense of rape has gone through changes in the past decades, from the basing on the component of the use of force to the basing on the component of free consent. Thus it is necessary to perform an essential change in the foundations of the offense at this time as well.

As known, in the past, to prove the constellation of the components of the offense of rape, the accuser must prove that the rapist acted through violence and threats, alongside the rest of the components of the offense, and as a result of the constellation of laws. Today, under the change of the circumstances and a new environment, some of these components have been neglected, and the law must go through an essential change and as a part of the broader social changes.

The changes that the virtual spaces have created in society and in the ability to commit the offense also, in my opinion, obligate a change in the framework of the law, a change that will express the serious harm that can occur not only in the real world and through direct contact. However, until the legislature internalizes the need for this, the most effective instrument for dealing with virtual rape that occurs today is the broad offense of an indecent act, which can be easily tailored to sex offenses in the virtual space.

I hope that my statements indeed will bring about the desired change in the laws of the State of Israel, in the issues of virtual rape, as well as in other/additional issues associated directly and/or indirectly with technology. Moreover, I hope that this article, as derived from my research, will strengthen the awareness of the constellation of offenses committed in the virtual space. As known, explanation is one of the means that create awareness, alongside the duty to report.

**Key words:** virtual rape, physical rape, sexual harassment, social influence, Penal Law, Prevention Law, crime, social and legal aspects.

### **Шані Рофех. Соціально-правові аспекти теми віртуального зґвалтування**

#### **Анотація**

У даній статті автор прагне розглянути весь спектр соціальних і правових аспектів у тематиці віртуального зґвалтування – соціальні впливи в результаті відмінності між фізичним зґвалтуванням і віртуальним зґвалтуванням. Термін «віртуальне зґвалтування» описує широкий спектр сценаріїв і подій, які відрізняються від акту зґвалтування, в якому нападник і жертва фізично знаходяться поруч один з одним.

Хоча зґвалтування, вчинене способом, відомим із незапам'ятних часів, не може бути сприйнято легковажно ні за яких обставин, закон повинен охоплювати всі події, які підтримують міцну основу злочину зґвалтування і його основні елементи. Тому в даній статті автор розглядає весь комплекс питань, що зачіпають дану тему, а також питання про те, чи правильно включати тему «віртуального зґвалтування» в рамки кримінального права Ізраїлю (стаття 345, яка визначає, що таке зґвалтування), а не в рамки закону «Про запобігання сексуальних домагань».

Крім того, автор розглядає такі питання. Обґрунтовано визначення терміна «віртуальне зґвалтування». Наголошено на різниці між правопорушеннями, які повинні бути включені в рамки сексуального домагання в Інтернет-просторі, і правопорушеннями, які повинні бути включені в рамки злочину зґвалтування в кримінальному законодавстві. Запропоновано правильний шлях інтеграції терміна «віртуальне зґвалтування» в рамки загального права і правильну категорію злочинів такого роду. Вивчено питання регулювання та організації на практиці кримінального права, якщо виходити з того, що наявних засобів захисту недостатньо,

а також існують проблеми в рамках віртуального звалтування, яке відбувається в сетингу гри, в тому числі обов'язок повідомляти, і чи лягає цей обов'язок на користувачів і якщо ні, то на кого. Проаналізовано, які закони або нормативні акти існують і/або можуть бути змінені для забезпечення дотримання питань віртуального звалтування.

**Ключові слова:** віртуальне звалтування, фізичне звалтування, сексуальне домагання, соціальний вплив, кримінальне право, превентивне право, злочинність, соціально-правові аспекти.

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