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## **The journalists' obligation of protecting the victims of sexual assault**

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### **Abstract**

The most debated media story of 2015 in Romania was related to a case of sexual assault. On the 19th of July 2015 seven teenagers were released from house arrest in the case where they were accused of collectively raping an 18-year-old high school student. The Romania media landscape was quickly overtaken by this story: we had in depth media reports about the alleged assailants and their home town, scandal regarding a facebook group created by a parent of one of the former mentioned and even a TV appearance from the victim and her mother on live television. The present article will attempt an analysis of the responsibilities that journalists have in protecting victims of sexual assault, according to the European law, Romanian legislation and in the media code of ethics. The questions we are starting from are these: were the Romanian journalists really disgusted by the actions of the seven or was it just a race for larger readership and viewership? What did the journalists do wrong when reporting n this story? What could they and should they have done more in order to protect a victim of sexual assault? And why was this case so widely reported while other cases of rape are constantly ignored by the Romanian media and society?

**Keywords:** ethics, journalism, romanian media, sexual assault, protection of victims

**JEL classification:** O10, Z10, H10

## 1. Introduction

Stories about rape are usually not on the media agenda in Romania – similar incidents as the one this analysis is founded happen frequently - and for nine months, the alleged rape (alleged until there is a decision from the court) was only treated in local media and did not gain any national attention. A similar act that happened last year in Iasi was completely ignored by the media, when another teenager was also a victim of an aggravated sexual assault. The main difference in this case is how the alleged assailants were treated by the judicial system – which scandalized both the public opinion and mass media – they were allowed to leave house arrest after the court deemed them not to be a social risk, having no prior records, even though a group sexual assault can be classified as a highly antisocial and illegal act. The seven men, aged between 18 and 27, claimed they were innocent and that the girl had consented.

The reaction triggered by their release was unexpected and out of control – the media recounted the events in which the rape took place with explicit details, somehow managing to shame both the victim and the aggressors: *“she was approached in the bus stop. (...) Instead of taking her home, the young man and one of his friends took her to a field in Valeni, where he called other friends to take part in the rape. For three hours, the girl was subject to all kind of perversions, being abused until she passed out.”* (Voicu, 2015). Journalists tend to fall back on readymade clichés involving sex and gender, when reporting incidences of abuse against women, instead of giving an unbiased account of the facts. (Boyle, 2012). Their descriptions were highly specific, to an unnecessary and irrelevant point: *“she was sprinkled with alcohol to regain consciousness so the aggressors could mock her again. (...) she was barely able to walk”*. (Voicu, 2015). *“She passed out twice in that terrifying sexual <<fun>>”* (Voicu, 2015). The victim shaming was not done directly by the authors, but through the opinion of the victims neighbours, which the journalist and editor chose to include: *“<<She had it coming, since she got in a car with seven. Had she been a good girl nothing would have happened>>, said a local. (...) <<The girl is to blame>>”*.

A few days later after the scandal broke, the victim was convinced by a TV presenter, Cătălin Măruță, to appear live on his TV show, along with her mother. The show "La Măruță" of Tuesday 21 July 2015, in which the Vaslui rape victim offered an interview failed to get significant viewership, but garnered public outrage against the presenter for taking advantage of the victim and her fragile state. The ratings for the show was below the stations average for the day, with only 513.000 viewers (Obae, 2015). The National Audiovisual Council of

Romania received 25 complaints about the show and decided to take the case into advisement – but dismissed Pro TV of any blame, considering that the written agreement from the victim was enough to dissuade any deontological issues. Greer noticed that “*many newspapers were increasingly using the soft pornography of rape, and reports of other sex crimes, as a mechanism to sell news papers*” (Greer, 2003, p. 94) and we think the Romanian media tried the same thing in this case – by overexploiting the details of a sexual assault they wanted to earn higher viewership and readership, in a race to the bottom of quality media. Following this, many publications raced to publish online and print the “*first pictures of Raluca, the raped student from Vaslui*”.

The case was handled differently not only by the press but also by the public opinion. “*Differences in the coverage seem to revolve around journalists’ handling of three main topics — the victims, the suspects and the larger cultural and societal aspects of rape*”. (Tenore, 2013) In our case, the victim was a young student, which her teachers described as disciplined and smart, the suspects were seven arrogant teenagers from a very poor Romanian town, overcoming the social ignorance and shame that rape brings in modern Romanian society. The public opinion was outraged, according to Daniel David, because “*when people feel that justice is not very efficient, they return to more primitive mechanisms of social organization.*” (Ivascu, 2015).

The Vaslui rape scandal is about one thing: notoriety at all costs, in terms of total amorality. It is a monster that feeds on ratings and likes and for which there is no right and justice. (Câmpeanu, 2015). “*If the media wants to help stop rape, they need to focus on the survivors, the prevalence of rape and sexualized violence, the underlying reasons why men rape, and tell people they have more agency to improve our world than simply shaking their heads at an atrocity and talking to their sons about it.*” (Shahryar, 2013). Most of Romanian media decided instead to cover the tabloid side of the story and not the facts, stigmatizing both the aggressors and the victim, while leaving the true problem - the way sexuality and violence is romanticized in the Romanian society undiscussed.

The freedom of the press and the importance that it has the right to cover any topic is undisputed in this day and age - it is “*necessary for newspapers, broadcasters and other branches of the media to perform their vital role in the political and social life of a liberal society*” (Barendt & Hitchens, 2001, p. 1). Such protections exist in the Romanian Constitution, which under Article 30 (1) states that “*Freedom of expression of thoughts, opinions, or beliefs, and freedom of any*

*The journalists obligation of protecting the victims of sexual assault creation, by words, in writing, in pictures, by sounds or other means of communication in public are inviolable.*”. More protections are offered by the Article 10 of the European Convention on Human Rights states that; *“Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers.”*

*“The recipient should receive the journalistic text framed by convention: the text is unbiased, the text is fair. Both principles require the recipient to accept the journalist’s decision regarding the selection of sources (the first case) and of the facts believed as important (in the last case).”* (Negrea, 2014).

What is in question is where do we draw the lines of our freedom when they risk overcoming the freedom of others? Do victims of sexual crimes or any crimes for that matter deserve an extra layer of protection? This layer was definitely not granted to victim, R. M., who had her name published in some minor online publications and her photo blasted on TV stations and all online tabloids. To make matters worse, the mother of one of the accused created a facebook group named *“Apel către cei care o cunosc pe R. M.”* or *“A call to those who know R.M.”* (the victims name was fully disclosed), where she was asking for information regarding the victim. Her actions were picked up by the media, making the search for the victims name as quick as a google search for the name of the group. In a society as traditional as the Romanian society is, being the victim of a rape brings more social shame then being the perpetrator. Discourse at European level (also) focuses on the protection of the rights of victims. Romania, as an EU member state, has committed to protect the victims of crimes and to establish minimum standards in this respect through Directive 2012/29/EU, referred briefly as the Victims Directive. (Dumbravan, 2015). Has Romanian media offered protections for our victim? A romanian blogger summed it up in an insightful way: *“in the end I have only one question: who actually raped that young girl: the seven teenagers or the Romanian media?”* (Bibire, 2015)

## **2. Code of ethics in media**

The most important Code of Press Ethics of Romania media was established by the member organizations of the Media Organizations Convention, signatory of the "The Journalist’s Statute" adopted by the media Organizations Convention held in Sinaia between July 9-11th 2004. The enforcement of the provisions set forth by the Code of Press Ethics are made thanks to the care of specialized bodies of each signatory organization, this code

of ethics being an effort of self regulation of the Romanian media landscape. No journalist has the obligation to follow this code, but major media organizations have tried to establish it as the starting point when talking ethics in the Romanian press. There are three aspects that are relevant to are case covered by the Single Code of Press Ethics: the right to private life, the protection of victims and the protection of minors. (Vlăduțescu, 2013)

The protection of private life: *“A journalist has the responsibility to respect the private life of the individual (including those aspects that regard family, residence and correspondence). Interfering into one’s private life is permitted only when the public interest of finding the information prevails. In this context it is irrelevant whether a public person actually wanted or not to obtain this information. An activity is not considered private just because it is not publicly developed.”*

The protection of victims: *“The identity of the victims of accidents, disasters or crimes, mainly those sexually abused, should not be revealed with the exception of the situation in which there is a consent from those victims or when there is a major public interest that prevails. The same treatment should benefit vulnerable persons (the sick, the disabled, refugees, etc).”* (Romania Code: The Journalists Code of Ethics)

The protection of minors: *“A journalist has the responsibility to bear in mind the legitimate interest of a minor. He/she will protect the identity of minors involved in felonies, whether as victims or as felons, with the exception of the situation in which the public interest demands that they are properly identified, or if their parents or legal representatives so demanded, so as to protect the superior interest of the minor.”*

### **3. Legal protection**

The Ministry of Justice boasts that, at the legislative level, most provisions of the Victims Directive are found in the new Code of Criminal Procedure and in Law 211/2004. However, in practice, we stand badly: they do not work and are not fulfilling their purpose, particularly with regard to legal aid, psychological and medical care, which should be available to victims of crime, fact substantiated by crime victims and their representatives, and NGOs that face these cases. (Dumbravan, 2015). If the right to the victims privacy would be properly implemented, it would have been possible to prevent the public dissemination of information leading to the identification of the victim. The state could encourage the media, considering the provisions of the Directive, through self-regulatory

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measures to protect personal data of the victim.

Directive 2012/29/UE offers the following protections in article 17: „*Gender-based violence is understood to be a form of discrimination and a violation of the fundamental freedoms of the victim and includes violence in close relationships, sexual violence (including rape, sexual assault and harassment), trafficking in human beings, slavery, and different forms of harmful practices, such as forced marriages, female genital mutilation and so-called 'honour crimes'. Women victims of gender-based violence and their children often require special support and protection because of the high risk of secondary and repeat victimisation, of intimidation and of retaliation connected with such violence.*”. These protections should be transposed in national law, but unfortunately they are not.

The Romanian Constitution does not have any special provisions regarding the rights and protections of victims, the closest applicable article to our case would be art. 26 – “(1) The public authorities shall respect and protect the intimate, family and private life.”. Through this article, citizens of Romania are granted the right and the protection of their private life, including the cases where they are victims.

The New Civil Code also lacks provisions regarding the protections of victims – but some of them can be drawn out from other articles. Article 71 (1) states that “Any person has the right to have his/her privacy respected”, while Article 72 and Article 73 bring protections for a person's dignity and their image. The New Civil Code does define some limits, so called violations of private life, through article 74 – relevant in our case being the following paragraph: “f) *the dissemination of news, debates, surveys, written or audiovisual reports on the intimate, personal or family life, without the consent of the person concerned;*” is forbidden.

The Romanian legislation does not regulate written press with the exceptions of the provisions of the New Civil Code and the New Penal Code, but there are special regulations for broadcast media. According to the Regulatory Code of Audiovisual Content, established through Resolution nr. 220/2011 of the National Audiovisual Council, article 41 (1): “*Audiovisual media service providers can not broadcast: a) images of a person in the position of the victim without his/her consent;*” and, according to article 44 (2), “*The persons who are victims of crimes involving sexual life can not be disclosed in any way; exempted situations are where victims gave their written consent, subject to compliance with the limits of identification set by the agreement.*”.

## 4. Conclusions

The legal protections in place in both European and national Romanian legislation are not sufficient and do not come into action fast enough in cases that need a very quick reaction regarding the protection of victims, especially of in the cases of victims of sexual assault. The victim in our studied case was a minor at the time of the crime, theoretically being protected by two layers of law – the protection of the victim of a sexual crime and the protection offered to a minor. Those protections failed to stop the Romanian media from publicizing every detail of the sexual assault, shaming the victim and, in some cases, even giving very easy access to sensitive information regarding the victim – her full name and picture.

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