



## What Hinders Victims from Reporting Sexual Violence: A Qualitative Study with Police Officers, Prosecutors, and Judges in Hungary

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### Abstract

While rape historically remains underreported all over the globe, and criminal justice factors contribute to this problem, we investigate unique circumstances that might influence reporting inclinations by Hungarian victims of sexual violence. Among other possible factors, victim-blaming, institutional desensitization, and a lack of trust in the criminal justice system and in the community are discussed. The in-depth interviews ( $n = 22$ ) with law enforcement and criminal justice professionals conducted in 2018 in Hungary reveal roots of underreporting in the complexities of the criminal justice system: there is a failure to prioritize victims' needs—mental care services, physical and privacy protection—and a focus instead on solely providing legal justice. The further deficits that can be found among professionals' attitudes and behaviors in the courtroom are products of the following: a lack of standardized protocols in addressing the needs of victims; a dearth of technical and evidence-based knowledge and training; a lack of supervision and trauma-informed services to practitioners; high caseloads; a focus on the goal of high conviction rates; not providing open communication toward victims; and a shortage of standardized protocols in dealing with victims.

### Keywords

Sexual violence, reporting, police, prosecution, judges, criminal justice, Hungary

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## Introduction

Although underreporting sexual violence is a global phenomenon, Hungary stands out as having the lowest reporting rate among 28 European countries, with only 2.1 reports per 100,000 persons (Lovett and Kelly 2009). The analysis classified countries into three groups—those with low, mid-range, and higher reporting rates. Low reporting rates defined as less than six per 100,000 are found in 10 countries (all in Eastern and Southern Europe), mid-range defined 6–10 per 100,000, are found in another 10 countries. The smallest group has the highest reporting rates, more than 10 per 100,000, found in six countries, five of which are in Northern and Western Europe, ranging from 11.66 in Finland to 46.51 in Sweden (Lovett and Kelly 2009). The Hungarian women’s rights association, Women for Women Together Against Violence (Nők a Nőkért Együtt az Erőszak Ellen: NANE), claims that only 0.24% of actual cases are known to the authorities (Wirth and Winkler 2015). The relatively high level of traditional gender role expectations and attitudes supporting gender-based violence are possible obstacles to reporting. Among the 26 countries surveyed in a Europe-wide study (Eurobarometer 2017), 78% of Hungarians believe that the most important role of a woman is to take care of her home and her family. The Eastern European region (ranging from 62–82%), and within that, Hungary (77%) lags behind the European average (88%), and especially behind Western Europe (ranging from 91–99%) in believing that it is acceptable for men to cry (Eurobarometer 2017). These deeply ingrained patriarchic values might well influence public acceptance of gender-based violence and rape myths.

In an international study representing and comparing gender-based values in European Union (EU) member states, Hungarian participants were twice as likely as the EU average to believe that “having sexual intercourse without consent may be justified in certain situations.” Rates were double those of the EU average for situations including drug and alcohol use, voluntarily going home with someone, and wearing revealing, provocative, or sexy clothing (Eurobarometer 2016, 2017). Although with a less divisive opinion, Hungarian respondents still agreed more with victim-blaming statements than the European average (Eurobarometer 2016).

In the following, we review the literature about possible explanations of underreporting sexual violence globally, then we provide an overview of the Hungarian criminal procedure, with special regard to the measures protecting victims of sexual violence. After furnishing the results of an interview-based qualitative study with Hungarian criminal justice professionals, we will interpret our findings and provide insight on what can be learned from the Hungarian case.

## Reasons for Underreporting

There are several reasons why people choose not to report their victimization of sexual violence.

One reason is that the institutionalization of rape culture, the collective societal myths of rape, structural attitudes such as *victim precipitation*,<sup>1</sup> and the *just-world* belief<sup>2</sup> (Lonsway and Fitzgerald 1994) are all perpetuated by authorities such as victim assistance organizations, health care institutions, schools, workplaces, the police, and the criminal justice system. Institutional betrayal refers partly to the violence happening within an institution that both the victim and perpetrator are part of, with the latter usually being higher in the hierarchy (military, childcare, schools, workplaces). It also refers to the phenomenon when the institutions to which victims turn (criminal justice, or medical, mental health facilities) let the victim down and thereby violate the trust victims hold toward these institutions (Smith and Freyd 2014). When an individual experiences a violation of trust upon turning to an institution for help (e.g., by the refusal of a report of victimization), that violation of trust may well generate an enduring sense of institutional betrayal (Smith and Freyd 2014; Ullman et al. 2007) and discourage future victims in their efforts to seek help at the same institutions.

Reporting depends on the personal characteristics of the victim as well. Those who have trust in the police are more likely to report rape (Moore and Baker 2018), but those who have a history of sexual

victimization are less likely to turn to the authorities or to supporting services (Fisher et al. 2003; Wolitzky-Taylor et al. 2011). When victims face negative reactions from the police or victim support agencies, they are less likely to report and seek help (Ullman 1999). In addition to the fear of being blamed for what happened to them (Heath et al. 2013; Kilpatrick, Edmunds, and Seymour 1992; Parti, Szabó, and Virág 2016; Wolitzky-Taylor et al. 2011), victims often choose not to report due to fear of reprisal (Allen 2007; Felson and Paré 2005; Wolitzky-Taylor et al. 2011), and fear of disbelief or humiliating treatment by the authorities (Allen 2007; Bachman 1998; Campbell 2005; Fisher, Cullen, and Turner 2000; McGregor et al. 2000; Parti, Szabó, and Virág 2016; Wolitzky-Taylor et al. 2011). One deep concern that victims have with the criminal justice system is the concern of not being believed and, as a consequence, of being treated unjustly by the authorities (Allen 2007; Bachman 1998; Campbell 2005; Fisher, Cullen, and Turner 2000; McGregor et al. 2000; Parti, Szabó, and Virág 2016; Wolitzky-Taylor et al. 2011).

Even among professionals, rape myths and victim-blaming can be pervasive and can influence the perceptions held toward a rape victim's credibility and reliability (Krahé 1991; Page 2008). However, rape myths are not the singular determinant of how cases are dealt with; legal and procedural considerations play a significant part in what attitude victims perceive when reporting the case (Frazier and Haney 1996; Schuller and Stewart 2000; Stewart and Maddren 1997). Nevertheless, rape myths can strongly influence how victim credibility is perceived by police officers (Jordan 2004; Temkin and Krahé 2008); factors such as victim-perpetrator relationship can influence an officer's perceptions about victim credibility and responsibility (Frazier and Haney 1996; Sleath and Bull 2012; Venema 2014;). Factors that might further influence the beliefs of officers are a lack of physical injury from the incident (Frazier and Haney 1996; Schuller and Stewart 2000;); the victim's involvement in substance use, and "immoral," promiscuous behavior (Jordan 2004; Schuller and Stewart 2000;); a lack of physical evidence (Adams, Girardin, and Faugno 2001; Baker et al. 2010; Beh 1998; Bowyer and Dalton 1997; Sommers et al. 2013;); and the concealment of circumstances of the case<sup>3</sup> (Jordan 2004). *Victim discreditation*, distancing the case from the widely believed "real rape" scenario (i.e., rape committed by a stranger, at night, against a virtuous victim [Estrich 1987]), and underlining aspects of the case that support the myth of "real rape" are widely applied at trial (Temkin, Gray, and Barrett 2018). In an analysis of case files on sex crimes in Hungary, Parti, Szabó, and Virág (2017) showed that rape myths are present in the Hungarian criminal justice system as well. References to the victim actively precipitating the attack appeared in 18% of case files ( $n=147$ ), reference (questions to the victim or other notes found in the case file) to the victim's clothing or substance use at the time of the offense appeared in 16%, and references to the presumed mental state of the victim appeared in 62% of the case files (Parti, Szabó, and Virág 2017). The time interval between the act and the reporting (longer time-lapse), as well as a marital relationship between the victim and the perpetrator, are extenuating circumstances, which result in more lenient sentences at trial in cases of sexual violence (Parti, Szabó, and Virág 2017).

In addition to the procedural and legal responses, institutional desensitization is another factor that can influence how victims are treated. Criminal justice professionals, especially police officers, are often exposed to high levels of daily stress, which are internalized as vicarious trauma (Warren 2015). Mental health support helps officers think clearly and evaluate the evidence; however, this may increase compassion fatigue and disrupt moral judgment (McQuerrey Tuttle et al. 2019). Secondary trauma-related compassion fatigue in the police is closely related to the transgression of personal moral beliefs (Papazoglou and Chopko 2017). Hearing stories from victims of sexual assault can lead an officer to experience compassion fatigue and moral injury or the disruption of moral beliefs (Papazoglou et al. 2020). These experiences can alter beliefs about the trustworthiness of human beings (Litz et al. 2009; Papazoglou and Chopko 2017). While desensitization training can lead to resilience in law enforcement officers, the effects they have on handling cases of sexual violence are understudied. Victims of sexual violence deserve to be treated fairly. Among other factors, empathy (Posick, Rocque, and Rafter 2014) and the perception of control over the process (Fleury-Steiner et al. 2006; Greenman 2010; Hotaling and Buzawa 2003; Zweig and Burt 2007) correspond to a higher level of trust and the perception of fairer treatment from and satisfaction with the criminal justice system.

A potential explanation of low reporting rates is the low level of trust in other people, as well as in institutions. Statistics show that trust in the police and other institutions, though increasing, is still low (Boda and Medve-Bálint 2014; Bodor and Grünhut 2015; Eurostat 2015), and general trust in fellow citizens in Hungary is among the lowest in Europe (Bodor and Grünhut 2015; Eurostat 2015).

Trust in the police can be crucial in deciding to report victimization. Individuals who have a history of victimization are more reluctant to report than non-victims (Staubli 2017). A victim's willingness to report is correlated with their level of trust in authorities; those who were dissatisfied with how their cases were handled and with the information they received are less likely to report (Staubli 2017). Negative experiences can be detrimental to victims and disrupt their trust in the police (Staubli 2017).

### **The Hungarian Criminal Procedure**

To understand the role of the prosecution and the court in making decisions in cases of sexual violence, let us briefly examine the system of penal procedure in Hungary, as well as the roles of police, prosecutors, and judges, who in this article shall be referred to as criminal justice professionals or practitioners.

The Hungarian law of criminal procedure has its roots in the inquisitorial system. The basic principles of criminal procedure are legality and mandatory prosecution, although the prosecutor has an increasingly discretionary power (for an overview, see Róth 2008). The Hungarian criminal procedure consists of three stages: investigation, prosecution, and court procedure. The public prosecutor, who is head of the investigation, always supervises the legality of the investigation carried out independently by the investigating authorities; the former can also instruct the latter on how to investigate. Being head of the investigation, the prosecutor is the most important filter in the criminal process; they decide whether the prosecution of the given suspect is necessary or if other measures would be more appropriate. Once the investigation is over, the prosecutor decides whether the case can go to trial. Common reasons the prosecution drops a case are that there is no offender or there is insufficient evidence. According to the principle of legality, if the evidence gathered in the investigation lays enough ground for the prosecution, the indictment is well-founded in respect of facts and law, and the prosecutor has to prosecute (Róth 2008).

Although the police play an important role in the investigation and have a strong influence on the outcome of the case, Hungarian law does not allow the police to dispose of cases. They must hand over all cases to the prosecutor when the investigation is finished, but they are also entitled and required to make a summary report of the case, recommending termination of the procedure or filing the charge.

The sanctioning power is reserved only for the court. There is no jury system; after hearing the case, the judge, either alone or in chamber, decides both the verdict and sentence if guilty. The presiding judge has the right to lead the hearing. They may question the defendant, the witnesses, and the experts first. The prosecutor, the defense counsel, the defendant, and other participants will only pose questions after the judge.

The burden of proof is on the accuser. This derives from the principle of innocence: the defendant must be presumed innocent until proven guilty of the crime they are charged with. The prosecutor is the public accuser and has to bring evidence to prove the defendant's guilt.

Although victims have several rights—most importantly, an adequate response to their needs, access to justice and fair treatment, access to victims' services, protection of their privacy, and restitution and compensation (UNODC 2006)—they are still considered forgotten individuals in the criminal justice system (UNODC 2006). They are rarely allowed to fully participate in decisions that concern them and do not always receive the assistance, support, or protection they need. This critique also refers to the Hungarian criminal justice system, where a victim of domestic violence or a sexual crime might withdraw their statements or choose not to press charges in the first place due to a lack in the amount of protection



they would need to feel safe (Amnesty International 2007). The Amnesty International report speaks about domestic and sexual violence, where most victims choose not to report or press charges out of fear of retaliation and/or humiliation and revictimization during the criminal procedure. Yet in most cases of sexual violence, victims' testimonies are necessary in proving guilt beyond a reasonable doubt since physical evidence is extremely rare in sexual crimes. Parti, Szabó, and Virág (2017) conclude that in all ( $n = 147$ ) case files of sexual violence, victim testimony was required for the prosecution to go to trial; however, other evidence, such as a forensic expert's testimony (112), a review of the premises (49), or an injury report (46) were presented in much fewer cases. Despite victim testimony being such a significant piece of evidence, victims do not enjoy the right to submit extra material on the nature of the harm they suffered (e.g., victim impact statements), nor do they have access to an institutional victim protection service (such as specialist services in the justice and health care system; Amnesty International 2007). These factors all contribute toward the weakening of *victim-witness resilience*, that is, the likelihood of the victim withdrawing charges or not pressing them in the first place, as a consequence of not feeling emotionally and physically protected during the criminal procedure.

### ***Education and Training of Criminal Justice (CJ) Professionals***

Discussing education and training is important to conceive the level of background knowledge criminal justice professionals have when processing cases of sexual violence. Upon completing a university degree in law (five years of Masters in Law is compulsory for anyone aspiring for a career in law), interning for three years, and passing a series of professional exams (similar to the bar exams in Anglo-Saxon countries), a candidate will be appointed as a clerk at a court or a prosecutorial office for at least one year (up until this point, the same is true for a defense lawyer's education and career path as well). Clerks are appointed to prosecutors/judges on the basis of position vacancy. To ensure central and standardized training, the Academy of Judges and the Academy of Prosecutors were founded in 2006 with the task of preparing candidates for the "bar exams" and to provide training on special issues (such as new laws and their applicability) for prosecutors and judges. Although someone who aspires to function as an investigator or a practitioner in criminal justice has to complete a lengthy education, sexual violence is not a mandatory part of their curricula. Training on rape myth acceptance, rape culture, or trauma-informed care for the purpose of enhancing understanding and improving their response in sexual violence investigations are also not included in the education or the follow-up training of criminal justice practitioners (Amnesty International 2007). Judges can voluntarily participate in training sessions with lectures touching upon the situations of victims suffering PTSD as a consequence of physical or sexual assault, but according to the Hungarian Helsinki Committee on the victim's rights in practice (Ivány and Moldova 2014), judges are neither prepared nor trained to be able to appropriately deal with victims.

Without specific background knowledge other than the above-described requirements, prosecutors and judges deal with a variety of offenses ranging from corporate crimes to sex crimes. With no branch specification required, one can pass the bar exams and take a position as a prosecutor or a judge practically without having to have observed a single case of sexual violence processed in the justice system.

Similarly, most police officers conducting investigations and interviewing victims are not equipped with the necessary skills to understand nonverbal signs of trauma and abuse, since special victim interview techniques concentrating on the nonverbal signs have only recently become part of their curricula (OSCE 2009). Interviewing victims is a skill that takes years to master, and basic police training should provide a solid foundation for that. Successful victim interviews uncover important information while avoiding revictimization. Although special training sessions are provided for law enforcement agencies aimed at sensitization and awareness-raising on gender-based violence, these training sessions are rather sporadic and do not reflect the needs of the law enforcement in getting updated information on a permanent basis (Ivány and Moldova 2014).

### ***Persons in Need of Special Treatment***

Finally, let us briefly discuss the latest legislation that aims to improve victim privacy and protection in cases of sexual violence. Act 90 of 2017 on the Criminal Procedure (CP) came into effect on July 1, 2018, in Hungary. The new CP introduces the concept of “persons in need of special treatment.” Such persons are: minors, that is, persons under the age of 18, and victims of crimes of a sexual nature regardless of age. The new CP grants special treatment for victims of sexual violence: they can only be interviewed by a person of the same sex; the accused and his attorney must not be present at the victim interview; after an indictment is filed, the victim can only be interviewed by a judge at the victim’s place of residence (to ensure the victim does not have to travel to the location of the court hearing different to their residence); the public should be excluded from the part of the trial where the victim’s presence is required; a confrontation, according to which the victim has to say their accusations facing the accused and, in response, the accused is ordered to assert their objections directly to the victim, must not be arranged; and the CP must be organized in a way to avoid all unnecessary encounters between the victims and the accused in general. All victims in need of special treatment must be interviewed through teleconferencing or videoconferencing throughout the criminal procedure (Section 122 of the new CP), except in cases where the personal presence of the victim-witness is deemed to be necessary by the judge at trial. To ensure protection, the investigating authority, the prosecution, or the court may order that the victim must not even see or hear the defendant present or may order that the victim’s face and voice be distorted by technical means so that the defendant cannot identify them (Section 124(5) and 126 of the new CP). If victims of sexual crimes under the age of 14 were interviewed during the investigation and a video and audio recording was made, the court may refrain from questioning the victim as a witness at trial. It is worth mentioning that some of the above-mentioned measures are still at the discretion of the prosecution or the court, meaning that a criminal justice practitioner’s level of knowledge regarding sexual violence will influence how frequently and how well these measures are applied. A practitioner’s awareness of the victim’s fragmented memory, as well as a knowledge of the effect that being confronted by the accused and being interviewed multiple times have on the psychological well-being of the victim, might influence decision-making and thus the outcome of the criminal procedure.

Research on what hinders victims from reporting sexual violence in Hungary is sparse. Studies show the level of trust in the community and in institutions is low, while the level of rape myth and gender-based violence acceptance is high. However, we do not know how criminal justice professionals conceptualize sexual violence and how the characteristics of criminal procedure affect a victim’s inclination to pursue justice. This study aims to fill this gap by reflecting the ideas of those who deal with cases of sexual violence in the criminal justice system and by investigating those characteristics of the criminal procedure that might be hindering victims from pursuing justice.

### **Methods**

We conducted semi-structured individual interviews with criminal justice professionals, that is, police officers, prosecutors, and judges ( $n = 22$ ), to hear, in their own words, perceptions of the causes of underreporting sexual violence between March 1 and May 31, 2018. The minimum length of the interviews was 59 minutes, the maximum was 91 minutes, with a mean of 71.5 minutes. Participants were asked open-ended questions about (1) their conception of victimization in general in Hungary (What is your first thought about victimization?), (2) their conception of sexual violence victimization (Who are the victims?, Why does sexual violence occur?), (3) what victims’ needs are (What do you think are the needs of the victims?), and (4) whether and how the needs of victims are satisfied within the criminal justice system (Do you think victims’ needs are met in the criminal justice system?). As the research was intended to be reported to an international audience, the interviews, though conducted in Hungarian, were anonymized and translated into English by research assistants under the supervision of a Private Investigator (PI). Although there are no gender-based pronouns in Hungarian, when the participant had a back story that included the gender of the victim, we included gendered pronouns in the transcripts.

We utilized thematic analysis to analyze interview content (Braun and Clarke 2006). In the first step, the researchers familiarized themselves with the interview content by repeated readings. Then they generated initial codes before refocusing on the broader level of the themes. After this stage, themes were defined and named. The research team—comprised of the two PIs and three research assistants—met on a weekly basis to compare those themes identified in the interviews. We reviewed, redefined, and, when necessary, renamed themes at these weekly research meetings. Every interview was read and coded by one PI and at least one research assistant to ensure inter-rater reliability. In cases where the coders ascribed different themes to the interviews, a third coder was assigned to review the themes and match them to the interview segments to resolve discrepancies. Overall, a full agreement has been achieved between the coders. All discrepancies have been addressed, and all necessary adjustments to coding have been made.

To recruit study participants, we pulled statistics from the Unified Statistical System of Investigations and Prosecutions (ENyÜBS) publicly available in Hungary. We selected four counties: the two counties with the fewest case files on sexual violence reported between the years of 2012 and 2017, and the two counties with the most such case files. Since criminal justice and law enforcement are hierarchical systems, we could not recruit subjects simply by random sampling; rather, we contacted the headquarters of all three authorities—police, prosecution, and court—in the selected counties and requested that participants be delegated by their respective headquarters. We sent out the interview questions before the interviews had taken place. Interviews were conducted in the offices of the subjects by one of the PIs.

Despite participants not being selected randomly, we believe that the interviews provide a better context, one deeply embedded in Hungarian society, that could not have been understood to such an extent without hearing the participants. We focused on the subjective dimensions of the social world, which helped reflect the various perspectives of the participants. Thus, we took into account how participants view the social world without trying to develop a social scientists' interpretation of that world (Bachman and Schutt 2017). Hence, we do not provide a mirror for reality as it is, but rather for the reality *constructed* by the participants (Kvale 2002).

## Results

Hungary's Criminal Code (Sections 196–198, Act 100 of 2012 of the Criminal Code) defines sexual violence broadly: it can be committed without physical force, within a marriage, against victims of any age (i.e., sexual abuse against minors), and is not limited to penetration via sexual organ or object; the law protects sexual self-determination.

In seeking narratives as to why sexual violence continues to be underreported in the country, we identified six recurring themes from the interviews: (1) procedural issues within the criminal justice system, such as a lack of protocol for how victims of sexual violence should be interviewed, and no unified processing guidelines for prosecutors and courts in such cases; (2) insufficient education and knowledge of sexual victimization in justice professionals; (3) cultural issues and attitudes within society in general, both psychological and sociological, infiltrating into the criminal justice system; (4) institutional desensitization and gatekeeping; (5) organizational and structural mechanisms in the justice system and victim support services; and (6) victims' needs not corresponding with the realities of the criminal procedure. In the following, we provide details on these concerns as presented by the participants, illustrated by interview segments.

### *1. Procedural Issues Within the Criminal Justice System in Hungary*

#### *The Problem of "Concurring Goals"*

The foremost concern of participants was that the goal of criminal justice does not correspond with the victims' fundamental interests. The goal of the criminal justice system is to inflict retribution (punishment) for the crime committed; however, the victim's idea about justice often deviates from this. Being a marginal player in the criminal justice system, the victim's hope (for protection or for a harsher or alternative

punishment) is the least likely to be fulfilled, and other than a testimony, the victim's voice is not heard throughout the process. Participants comprehended this and emphasized the arbitrary manner in which a victim is interviewed by the police, then cross-examined at trial, and often discredited by the defense lawyer who lists unnecessary details of the victim's private life and descriptions of their clothing or allegedly provocative behavior leading up to the crime. The criminal justice process is inherently victim-blaming, as discrediting the victim is part of the process. Participants stated that if sexual violence happened to them, they would probably not report it:

The point of the criminal procedure is that the perpetrator has to pay for what he did. Then it is okay, we have reached our point. But otherwise, if I look at the life... the life of the victim... Did it have any point? I don't know. Or if it changes, could it change anything? [W]e sacrifice the victim, so that she has to go through all this... How does she go back to her family? How will she resolve her relationship with her mother, grandmother, with her siblings... who maybe didn't believe her? (Prosecutor).

In cases of sexual violence, victims bear trauma, and they cannot begin to heal until the criminal procedure is over. This causes a fundamental discrepancy between the interest of the victim and the goal of the criminal procedure; victims sometimes have to be interviewed multiple times and must be present throughout the procedure to provide the evidence necessary for proving the crime. Moreover, according to our participants, multiple interviews are sometimes necessary for establishing a trustful and confidential relationship between the victim and the investigator, but, at the same time, reiterating the story can deepen the trauma:

I think shame is not the primary factor which causes high latency [in reporting]. I think it is more about the discomfort around the procedure, the investigation, the court phase, the fact that testimonies have to be made and you have to go to hearings, these are the factors which cause high latency. The criminal procedure lasts too long, and it generates strain (Prosecutor).

The hierarchical circumstances and the arbitrary manner of the hearings exact a further toll on the victim's psychological well-being. Some even question whether testimony that is given in these circumstances is credible at all:

At the hearing [...], as it is conducted at the moment, it is not possible to expect a credible testimony (sic) from a victim. It shouldn't be conducted like that, that the judge is sitting on the pulpit in a gown, with the victim standing up front, and then the judge says that [the victim] has to tell the truth... under these court-like circumstances, it is hopeless. Judges completely ignore these circumstances and the way these victims should be approached (Prosecutor).

Even if the victim's testimony is recorded in a way that is admissible, judges might still insist on hearing the victim live at trial. This practice is particularly damaging for the victim as the likelihood of meeting the perpetrator is high, even when the parties are to be heard separately (as ordered by the new CP to avoid any unnecessary encounter). It can also be damaging to speak about traumatic events in front of strangers. As one participant put it, disrespecting the victim's interests for privacy, protection, and trauma-free proceedings is the only way to fulfill the goal of the criminal procedure:

The investigation authority cannot deal with the soul of the victim, we have to collect the evidence (Police officer).

Our objective is that if there is a crime and there is a perpetrator, the perpetrator should receive his deserved punishment. The cost of all this is that the victim is even more harmed (Prosecutor).



### *Lack of Protocols: Interviewing the Victim*

There is no protocol on how, where, by whom, or how many times victims should be interviewed. At the time of the current data collection, audiovisual recording of the victim's interview, though sometimes occurring, was not the norm. In most cases, only a written record of the victim interview is attached to the case files, containing no timestamps or nonverbal signs. Knowing the timeframe of the interview and recognizing nonverbal signs of psychological trauma would assist the prosecution in the decision as to whether the case would need more evidence or would stand trial even without the need for further interviews with the victim. But, according to study participants, these signs are not included in the record, and neither law enforcement nor prosecution, the persons designated to interview the victim, bear the adequate knowledge necessary to interpret nonverbal signs:

The victims were interviewed by the detective for four long hours because of the emotional state they [the victims] were in. It lasted for hours, but I can see the timeframe only from the records. And if someone only runs through the records in two minutes, the only thing they will see is that the girls did not say anything. There are no signs about the circumstances of the hearing, no nonverbal signs, the opinion and the insights of the interviewing officer are not included (Prosecutor).

The lack of protocols on who should be present at the victim's interview increases confusion about the necessary steps of collecting evidence and its admissibility:

The interview went on with [the victim] leaning over the table—she was so ruined psychologically that she could not even say a word. And then the questions came: look, come on, tell us what happened to you. For me, it was stunning to see this. And still, my own colleagues do not support the presence [of the prosecutor during the police interview of the victim] either: according to them, "Why should we go? There is the police, they should do the interview, and there is other evidence as well." I told them that there is no other evidence (Prosecutor).

### *Subjective Judgment Dominates the Procedure*

Participants expressed skepticism about the adequacy of forensic psychologists' expert reports that, again, lack standardization. These cases have high stakes and are sparse in physical evidence. Moreover, the forensic expert report is presented in such a way that it is impossible to check credibility. The ways in which victims are examined by forensic psychologists are not standardized, nor is the content of the written forensic report. These shortages can result in multiple interviews with the victim and sometimes multiple forensic examinations of the same person:

I've been to an [forensic] expert evaluation [examination of the victim], and I know that it consists of a test, a drawing, and goodbye. They finish in one or two hours. I am not sure that the [forensic] expert report is adequate. Many times, I feel that the expert opinion is based on sympathy. If the victim is a pleasant person, they proceed faster. Not everything is well revealed (Prosecutor).

### *Victim Support is Not Integrated into the Procedure*

Victim needs are not assessed in a process that focuses on gathering evidence. Participants noted that mental health care to victims should be provided by the state, especially to minors who are victims of abuse. Right now, there are no forensic or clinical psychologists specializing in sexual violence. This means there are no mental health resources to turn to when the procedure is over:

You need professional help to process these traumatic experiences. But there are no state-financed institutions that help victims like this (Police officer).

If there were state organizations like that, psychologists would see a point in specializing in these cases; most children are not brought to psychologists, only if something very bad happens. Otherwise, they think that the child will “grow out of it.” But these problems, you cannot simply “grow out of” (Police officer).

Without basic mental health care services, victims do not feel supported enough to withstand the vagaries of this procedure or to stand firm with their testimonies; participating in the process increases the likelihood that they may withdraw accusations. Of course, without the victim’s testimony, most cases will not lead to the prosecution and punishment (deterrence) of the perpetrator. Yet respecting and meeting the needs of the victim increases the likelihood of successfully proving a case (Parti, Szabó, and Virág 2017):

Not only punishing the perpetrator, but also holding the hand of the victim and supporting them after the sentencing [is necessary]. At the moment, it is not like that. We interview the girl, the police officer says thanks for coming and then goodbye. And the girl stands there looking around for what she should do, where she should go. It isn’t like, “Come on, we’ll take you; where do you want to go?” And we are only talking about the logistics here. She is simply used and abused by the system and then put off (Prosecutor).

## ***2. Insufficient Education and Knowledge of Sexual Victimization Among Justice Professionals***

Accurate, evidence-based, and accessible education is key to understanding the dynamics of sexual violence, including victim/survivor behavior. Without up-to-date knowledge, professionals cannot conceive of the special characteristics of rape, such as that victims tend to have fragmented memories (Campbell 2005), as well as the possible reasons behind late reporting (Jordan 2004) and having no physical evidence (Sommers et al. 2013; Adams, Girardin, and Faugno 2001; Baker et al. 2010; Beh 1998; Bowyer and Dalton 1997). Insufficient and/or inaccurate education of professionals may impede the victim’s trust and protection from revictimization throughout the procedure. To break the myth of “real rape” among criminal justice practitioners (Temkin, Gray, and Barrett 2018), professionals must have a proper education and up-to-date training that addresses these issues; participants focused on this deficit as their second most frequent concern. Sex crimes do not receive special attention in law school curricula, nor in training for criminal justice professionals, and while training courses are available on legal and practical matters of sex crimes, they are not mandatory. Thus, only a few interested judges attend training on sex crimes, though not attending does not prevent a judge from hearing such cases. This also applies on the prosecutorial level, where there is no specification per case type, and only those who are already sensitized and interested in understanding sex crimes attend such training, despite that all employees would benefit from them:

[Colleagues] come if they are interested, and those who are not interested or have a different opinion about these things never come [to training]. And you are never able to check whether a judge who regularly hears these cases has ever attended at least one of these sensitizing trainings—about interviewing the victim, about memory loss, about the presentation of the case, about how the victim can talk about this, or their fears (Judge).

The lack of specialized, practice-oriented education and training leaves most professionals to their own devices when it comes to interviewing victims and evaluating testimonies; the threat of a procedural cascade here is obvious as a diminished or disrupted ability to assess cases for prosecution likely leads to cases being dropped:

We did not study interview techniques at the university. You can train yourself about this if you get such cases and you consult the literature (Police officer).

I think this is a kind of freestyle thing with certain limits. Everybody trains themselves (Police officer).

Since prosecutors can be present at victim interviews and thus might come in direct contact with the victims, participants asserted that they, too, could benefit from learning victim interview techniques, child developmental psychology, and empathetic skills:

[Prosecutors need to learn] what individuals are capable of understanding at a certain age, how we can give meaning to what they say. What words should be used with victims. What questions can be asked. What exact [mental] condition the traumatized victim is in (Prosecutor).

### ***3. Attitudes, Both Psychological and Sociological, and Cultural Issues Within the Population in General***

In an attempt to explain why rape remains largely underreported, participants mentioned the attitudinal roots within the population in general. Gender-based violence is tangible and ubiquitous in the form of sexist jokes. This permissive attitude is also present within the criminal justice system, where professionals reflect and typify a society that tolerates forms of gender-based violence (Eurobarometer 2016). Criminal justice professionals not fitting the general public's expectations can be stigmatized, too. In this system, public judgments may blame not only victims but also professionals for their decisions:

Just think about the prosecutor or the judge or the like—people will talk about them as being unfit for their profession. I think judges are afraid of being judged; they are afraid of being blamed (Judge).

Based on the literature, the connection between underreporting sexual violence and societal attitudes toward gender-based violence might not seem immediate. But if we examine the levels of gender role expectations and subtle violence acceptance within a society (Eurobarometer 2017), it becomes clear that they create a hostile environment for those professionals who must constantly contravene their organization's rules. Participants asserted that systemic change within an organization would be required to depart from social norms and until this change happens, the organizational culture simply does not support victims in reporting.

### ***4. Institutional Desensitization and Gatekeeping***

In criminal justice, the institutional priority is to find the accused guilty and punish them (retribution and deterrence). Although criminal justice practitioners might be interested in providing justice according to the victim's needs (restitution and reconciliation), sometimes the law does not allow for this (in crimes where, by law, restitution and alternative sanctions are not an option), or they are ordered by the head of the authority to act in a certain way (e.g., to not press charges or not pursue appeal in certain cases). In such cases, desensitization occurs when co-workers (i.e., criminal justice practitioners) abide by institutional rules at the cost of repressing their own emotional need to see a victim getting what she deserves (having her voice heard, reconciling with the offender). In law enforcement and prosecution, success is measured by clearance rates; the rate of cases resolved (terminated or sent to the prosecution) by the police, and successfully indicted (with the final sentencing of the offender) by the prosecution indicates how successful the given authority is in fulfilling its role. Pursuing high conviction rates often results in only processing those cases that promise a high chance of provability and conviction. This is especially a concern in crimes where physical evidence is rare, and the court has to rely overwhelmingly on witness testimonies—as is often the case for sexual violence. This is the phenomenon of gatekeeping, one all too well known in processing sex crimes (for an overview, see Yung 2016). In sex crimes, witness testimonies often contradict, especially because there are only two witnesses: the victim and the accused. That means that, from the beginning, sex crimes carry a lower likelihood of being processed, or leading to indictment or sentencing compared to other crimes, precisely because they are more difficult to prove.

One prosecutor pointed out these issues and recommended that the success of criminal prosecutors should not be measured by high conviction rates in relation to sex crimes:

I think my primary job is not to bring only cases 100% proven to court. We have this indictment success statistics [in Hungary], but it only shows that we terminated cases that might not go through the court. Cases that are not certain, but still would have a chance [are not even indicted]. The best means of evidence is if we see the handle of the axe in the perpetrator's hand and the edge of the axe right in the victim's head. Only this case would be unambiguous. But there are no such cases in reality (Prosecutor).

### ***5. Organizational/Structural Mechanisms in the Justice System and Victim Support Services***

Participants argued that decision-makers in the hierarchical, paramilitary system of Hungarian law enforcement had been educated in a time when sex crimes were defined and regulated differently. Top-level management, lacking up-to-date training, cannot manage personnel to implement more updated legal regulations. This creates frustration among line officers, who have to align with orders, about sometimes overruling the broad definitions of up-to-date rape laws, and can easily lead to rejecting reports of victims from marginalized groups (e.g., the Roma community) and those who live in the social and legal shadows (sex workers):

Sexual violence was taught differently in the 1970s, and it is differently lectured at the faculties of law at universities today. Although I know that it has a different meaning, those who have learnt it in the 1970s-80s are still in a position to decide. And the changes of the legal environment have not necessarily affected their way of thinking (Police officer).

Dealing with highly traumagenic cases calls for mental health care for professionals. It became conspicuous from the interviews that professionals who are regularly assigned to violent and sex crimes are in need of mental health care. Yet employees are left alone with their vicarious trauma:

I was like a washcloth by the end of the day from all [parties at the court] who spoke their cases out [laughs while saying]. As a court clerk, I basically fulfilled the role of a psychologist (Prosecutor).

### ***6. What do Victims Need?***

We asked participants what they thought victims needed. Participants answered this question differently, but they were in agreement that the criminal justice system rarely serves the victim justice. A consistent view of participants was that the victim should be listened to, their concerns and fears heard, and the victim's voice should be more emphasized throughout the process. Though the sentence handed down to the accused may not satisfy the victim, if victims were allowed to submit a victim impact statement and be present when the verdict is announced, this could at least partially satisfy the victims' needs. Having a more victim-centered criminal process sometimes simply means listening to the victim's concerns:

We should orchestrate the procedure in a way that causes the least possible suffering to victims. The real compensation to them is not the perpetrator being held responsible, but the fact that they are believed. That we really believe them (Police officer).

Participants contended that data protection measures should be provided throughout the process, as victims are commonly frightened and/or threatened by the perpetrator and his family. The assurance of privacy and identity protection can be critical to many victims who might otherwise withdraw their testimonies in fear of retaliation:

Keep her incognito in the first place, so she does not have to worry about the suspect and his relatives, who will find her and take revenge even if the defendant is imprisoned. If she does not have to fear retaliation, she will have greater trust in turning to us (Police officer).

Respondents indicated that *confrontation* and publicity during trial should be minimized or eliminated to ensure victim protection. Although increasing the number of victim interviews may result in clearer and more complete evidence, participants suggested that interviews should be limited.

Finally, participants argued that victims—as well as the general public—should receive more extensive information as to what the criminal procedure requires after reporting a crime. Many victims do not report because of uncertainty concerning procedure, exposure, and possible consequences. Public education and socially supportive messages of crime reporting and criminal procedure may well facilitate enhanced trust in the police and the criminal justice system—to the benefit of victims of sexual violence.

## Discussion

The current study attempts to answer the question of what hinders victims of sexual violence from seeking institutional justice in Hungary. We have asked criminal justice practitioners—police officers, prosecutors, and judges—about the characteristics of the criminal procedure and whether it meets the needs of victims. Semi-structured interviews shed light on procedural issues such as a lack of protocol on victim interview techniques, insufficient education and training in sexual victimization among justice practitioners, attitudes perpetuating rape myth acceptance and gender-based violence on the societal level, institutional betrayal and gatekeeping, organizational and structural mechanisms in the justice system, and the discrepancies between victims' needs and the goals of the criminal procedure.

The roots of underreporting can be traced back to the complexities of the criminal justice system: although the priorities of the penal procedure are retribution and the prevention of further criminal acts, failure to pay attention to victims' needs jeopardize these priorities. Our results substantiate earlier findings according to which procedural considerations play a significant part in what attitude victims perceive in the criminal process (Stewart and Maddren 1997; Schuller and Stewart 2000; Frazier and Haney 1996). Focusing solely on providing legal justice undermines victims' access to mental care services and physical protection. Victims' concern about their physical well-being and mental health can cause them to refrain from reporting sexual violence, or to end up withdrawing their testimonies in ongoing cases.

Law enforcement, prosecution, and courtroom professionals who are overburdened with heavy caseloads, and do not have access to mental health services as a standard service pertaining to their profession, will not be sensitive enough to victims' concerns. The heavy workload and the vicarious trauma they may encounter (Burman, Robinson, and Crowley 2018; Branson, Weigand, and Keller 2014; Gartner 2014; Molnar et al. 2017) leads desensitized CJ professionals to concentrate on rushing cases out of the system, without assessing and addressing victims' needs.

The goal of high conviction rates is another obstacle in processing sex crimes. Professional gatekeeping (Yung 2016) is of special concern in crimes like sex offenses where physical evidence is rare and the court relies on witness testimonies.

In countries like Hungary, where the level of rape culture and gender-based violence is high (Eurobarometer 2016, 2017; Parti, Szabó, and Virág 2016), criminal justice professionals face gender-specific stereotypical thinking embedded in their organizational cultures. An organizational culture that supports gender stereotypes contributes toward the perpetuation of rape myths acceptance and victim-blaming (Krahé 1991; Page 2008; Jordan 2004; Temkin and Krahé 2008; Parti, Szabó, and Virág 2017) within its system.



This research was a qualitative, interview-based study on a small, purposive sample of criminal justice professionals in Hungary; thus, the outcomes cannot be generalized. However, the study offers important findings both for Hungary and other countries: if victims' needs of trauma-informed investigative measures, privacy, and personal protection are not recognized during the penal process, it likely decreases the number of rape reports and compromises the outcome of the criminal procedure, as victims tend to withdraw their testimonies and accusations if they do not feel protected against retaliation from the perpetrator or respected throughout the criminal justice process. Future research is required to assess the needs of victims of sexual violence from a criminal justice standpoint. In Hungary, victims' needs are not assessed, which creates massive discrepancies between what victims anticipate and what they actually can obtain from a criminal procedure. According to our results, victims' voices are not heard, they are not listened to the way they would need to be, their privacy and security are not protected enough. All these factors result in fewer sex crimes being reported to the police and weakening witness resilience (i.e., the likelihood that witnesses will maintain, without withdrawing, their testimonies throughout the procedure).

In Hungary, the rules of substantial criminal law and criminal procedure in effect are appropriate in that they cover a wide range of sexual acts corresponding to international (Krug et al. 2002) standards, and the rules of the CP ensure the rights of victims. The new CP, in effect since July 2018, introduced new rules to protect victim privacy and to ensure that the criminal procedure provides fair circumstances and decrease the chances of victim-offender encounter and re-traumatization over multiple interviews and hearings. We would instead posit that the problem is in the application of the rules because criminal justice authorities are sometimes not open to adopting new implementations (Róth 2008). This concern applies to those measures that are not mandatory according to the new CP, and thus the onus of application, therefore, falls on the individual person of authority. For example, the application of teleconferencing in sexual crime cases only applies if the judge assumes that the personal presence of the victim-witness is not necessary at trial. Since the principle of directness is preferred by judges, witnesses, including victim-witnesses, are heard directly at trial in most cases. In an empirical study of sexual crime case files, Parti, Szabó, and Virág (2017) found that audio and/or video recording of victims' interviews had been conducted in only four out of 155 victims, moreover, and 22 out of 147 accused persons had been ordered to *confront* the victims at trial. It is worth noting that our present research covers the conditions before the new CP measures would have taken effect. Thus, it is imperative to examine how criminal justice professionals adapted to these new requirements. A follow-up study must examine these concerns in the near future.

Although the opinions of criminal justice practitioners in the current research are telling, we need to investigate the consequences of neglecting victims' needs in the criminal justice procedure in more detail. How does it affect witness resilience and the victim's willingness to report sexual violence? Future research must address the effect of CJ professionals' mental well-being on the outcomes of the criminal process. Our study claims that institutional desensitization and cynicism, the consequences of high caseloads, and the lack of mental health care for practitioners decrease the amount of attention given to victims' needs. However, we were not able to establish causality between the mental well-being of CJ professionals and the outcomes of cases (i.e., whether mental well-being affects presenting evidence, finding guilt, and rendering judgment), yet it is suggested for future investigation. We propose that the mental health-focused and trauma-informed supervision of police officers, prosecutors, and judges could (1) help mitigate vicarious trauma in CJ professionals and (2) enhance their ability to assess victims' needs and thus exercise a more conscientious decision-making process. Such processes would range from decisions on whether or not to arrest the accused, on ensuring adequate protection of the victim's privacy, and on how to apply re-traumatization preventative measures. It is alarming that rape reporting is similarly low in Eastern and Southern European countries, with Hungary having the lowest rate of reporting (Lovett and Kelly 2009). Future research should address how criminal justice systems precipitate this phenomenon: how the characteristics of the penal procedure, as well as the attitudes of CJ professionals, possibly hinder the reporting of sexual violence and witness resilience.

### ***Policy Recommendations***

Although the current study might have generated more questions than answers, there are crucial problems that must be addressed to ensure that the needs of victims are met.

In Hungary, sex crime does not receive special attention in law school curricula nor in training for justice professionals. While training is available on legal and practical matters, it is sporadic and not mandatory. Interview participants have suggested to either provide mandatory training or to have specific, case type-based assignments for prosecutors and judges who deal with sex crimes and can ensure an adequate understanding of the phenomenon. Training must cover victim-centered, trauma-informed interview techniques, victims' memory fragmentation, nonverbal communication, and child development. Sensitization must cover rape culture awareness and provide resilience techniques to CJ professionals against societal stereotypes on gender-based violence. At the same time, CJ professionals who work with sex crime victims must be enrolled in newly established mental health supervision programs to prevent vicarious trauma and burnout. Protocols on victim interview techniques must be created to reflect a victim-centered approach, ensuring the victims are interviewed as few times as possible, but also in a comprehensive manner, so that a follow-up interview is only necessary in exceptional cases. The record of the interview must contain details on victims' nonverbal communication. Victim interviews in sex crimes, regardless of the victim's age, should be audio-visually recorded, thus, eliminating the need for victim appearance at trial. Protection of victim data, as well as obvious concerns for the victim's mental and physical well-being, should be assured, with particular attention given to protecting victims from pressure by the offender(s).

Victims' voices should be more amplified. Despite victim testimony being imperative and sometimes the only significant evidence in cases of sexual violence, victims do not have the right to submit additional material (e.g., a victim impact statement) to express the nature and weight of the harm they suffered. This discrepancy has to be remedied. Conversely, victims should receive more extensive information as to what the criminal justice procedure will require after a report is submitted. Open communication about potential obstacles and outcomes might enhance trust in authorities and facilitate a perception of fair treatment and satisfaction in law enforcement and the criminal justice system (Zweig and Burt 2007; Fleury-Steiner et al. 2006; Hotaling and Buzawa 2003; Greenman 2010), resulting in more reports.

Our findings suggest that victim support services should be embedded in the criminal justice process. State-financed programs such as mental health care and intervention should be introduced so that victims have access to these essential services to recover from traumatic events; this includes the potential trauma of having participated in the criminal justice procedure. Forensic and clinical psychologists should be incentivized to specialize in sexual violence. Protocols of victim forensic examination must be updated and standardized to ensure credibility. But most importantly, a fair balance between the state's effort to deter and punish, as well as meet the needs of victims, must be pursued.

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- <sup>1</sup> A belief that victims initiate the actions that lead to their harms and loss (Wolfgang 1957; Mendelsohn 1956; von Hentig 1948).
- <sup>2</sup> A cognitive bias that a person's actions are inherently inclined to bring morally fair and fitting consequences to that person, and thus, it is assumed that rape is the consequence of victim precipitation, and it is believed that the victim will be spared in the future if he/she does not repeat the acts precipitating to his/her victimization (Lonsway and Fitzgerald 1994).
- <sup>3</sup> Concealment of the circumstances refers to actions where the complainant attempts to conceal factors such as the extent of her drinking, denying having danced with the suspect, among other things, to bolster her credibility. Paradoxically, finding out that the complainant conceals such details, the police are likely to conclude that the complainant is not trustworthy and dismiss the case (Jordan 2004).

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### **Legislation cited**

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