



THE DISPENSABILITY OF PHYSICAL CONTACT IN THE CRIME OF RAPE: A JURISPRUDENTIAL ANALYSIS OF VIRTUAL RAPE



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ABSTRACT

Sexual criminality has taken on new forms of manifestation in contemporary times, especially with the advent and expansion of information and communication technologies. In this context, criminal conducts arise that, although they do not involve direct physical contact between perpetrator and victim, represent a clear violation of sexual dignity, as occurs in the so-called virtual rape. The present study aims to critically analyze the possibility of configuring the crime of rape, provided for in article 213 of the Brazilian Penal Code, even in the absence of physical contact, in the light of the current criminal legislation, contemporary doctrine and jurisprudence of the higher courts, with special emphasis on the decisions of the Superior Court of Justice. The research adopts a qualitative, descriptive and bibliographic approach, with analysis of primary and secondary sources. Legal provisions, paradigmatic judges, scientific articles, specialized doctrines and institutional documents aimed at the protection of sexual dignity in the digital environment were examined. The results show that the legal understanding has broadened to recognize the practice of libidinous acts at a distance, when resulting from coercion, serious threat or psychological manipulation, as a typifiable conduct in the crime of rape, as long as the constraint to the victim's sexual freedom is configured. The conclusion of the study points to the adequacy of the extensive interpretation of the criminal type in the face of the new forms of sexual violence mediated by technology, reinforcing the need for a Criminal Law sensitive to social transformations and committed to the protection of autonomy and sexual integrity, even in the virtual space.

Keywords: Sexual self-determination. Digital violence. Criminal jurisprudence.

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INTRODUCTION

Technological evolution has profoundly transformed social dynamics, expanding the spaces of human interaction beyond the physical plane. However, this advance has also led to the emergence of new forms of violence, especially in the field of sexual crime (Landini, 2018). The internet and digital devices, while expanding access to information and communication, have been used as means to commit acts that threaten the sexual dignity of victims (Pereira; Cavalcante, 2024). In this context, the phenomenon of the so-called "virtual rape" emerges, an expression used to describe coercive libidinous conducts perpetrated in a digital environment, often without any physical contact between aggressor and victim.

Brazilian criminal legislation, especially article 213 of the Penal Code, has traditionally been interpreted based on the requirement of physical contact between the aggressor and the victim for the crime of rape (Brasil, 2009). However, in view of the new social and technological realities, the possibility of interpretative expansion of this legal provision has been discussed, in order to encompass conducts in which violence or serious threat occurs in the virtual environment, but results in sexual embarrassment comparable to what occurs in the physical plane. This reinterpretation of the criminal type raises relevant questions in light of the principles of criminal legality and the exhaustiveness of the incriminating rule.

Contemporary doctrine has been divided as to the admissibility of virtual rape, especially with regard to the compatibility of this interpretation with the postulates of the Criminal Law guarantee (Rodrigues, 2024). On the other hand, the Brazilian higher courts, especially the Superior Court of Justice, have developed significant jurisprudence when dealing with cases in which the coercion to practice libidinous acts occurs remotely, often through threats to disclose intimate images or emotional manipulation of the victim. Such a context imposes the need for a critical and in-depth analysis of judicial decisions and doctrinal arguments that support the expansion or restriction of criminal typicity in this scenario.

The challenge lies, therefore, in understanding whether the Brazilian legal system admits or should admit the figure of virtual rape within the limits of article 213 of the Penal Code, or whether such conducts should be typified by means of autonomous criminal figures, such as extortion, sexual harassment or other specific criminal types. The analysis of this problem requires a multidimensional approach, considering not only the legal and jurisprudential aspects, but also the social and psychological impacts caused to victims,

whose sexual dignity is violated in a digital context, often with damage equivalent to that caused by direct physical aggression.

In view of this panorama, the following guiding question is formulated: what are the grounds used by modern doctrine and by the higher courts of Brazil regarding the admissibility of virtual rape? From this, it is defined as the general objective of this study to critically analyze such foundations, in the light of the current criminal legislation and the prevailing jurisprudential interpretations, with special emphasis on the decisions of the Superior Court of Justice and the contemporary doctrine.

The methodology used in this research is qualitative, descriptive and bibliographic, based on the analysis of primary and secondary sources. Legal provisions, especially article 213 of the Penal Code, as well as decisions of the higher courts, will be examined, focusing on paradigmatic rulings on the subject. In addition, scientific articles, specialized doctrine and institutional documents that deal with sexual violence in the digital environment will be used. The study seeks, through the critical-interpretative analysis of these materials, to offer a comprehensive view of the limits and possibilities of the configuration of virtual rape in the Brazilian legal system.

OVERVIEW OF CRIMES AGAINST SEXUAL DIGNITY IN BRAZILIAN CRIMINAL LAW

Brazilian Criminal Law, aware of the need to protect the fundamental rights inherent to the human person, especially with regard to his physical, psychic and sexual integrity, contemplates a specific list of crimes classified as crimes against sexual dignity, typified in articles 213 to 234-C of the Penal Code. These crimes, inserted in Title VI of the Special Part, have been the subject of profound legislative reformulations over the last decades, in line with the evolution of society and the legal and social understanding of the sexual autonomy of individuals (Planalto, 2009).

Sexual dignity came to be understood as an autonomous legal value, detached from public morality or social customs, foundations that historically underpinned the criminal repression of such conducts. After the enactment of Law No. 12,015/2009, the understanding was consolidated that the focus of criminal protection should be sexual freedom and valid consent as a central element in the practice of any act of a libidinous nature (Brasil, 2009).

The current legal system classifies crimes against sexual dignity into different chapters: Crimes against sexual dignity are regulated in Title VI of the Special Part of the Brazilian Penal Code, which was substantially reformed by Law No. 12,015/2009, giving

new treatment to conducts that threaten the freedom and sexual self-determination of individuals.

This criminal category encompasses different types of crimes, organized into specific chapters: Chapter I contemplates crimes against sexual freedom, such as rape (art. 213), sexual rape by fraud (art. 215) and sexual harassment (art. 215-A); Chapter II deals with sexual crimes committed against vulnerable people, including rape of a vulnerable person (art. 217-A), corruption of minors (art. 218) and the satisfaction of lasciviousness in the presence of a child or adolescent (art. 218-A); in addition to these, other penal provisions deal with pimping and trafficking of persons for the purpose of sexual exploitation, such as favoring prostitution (art. 228) and the maintenance of a house of prostitution (art. 229), composing a set of norms aimed at the protection of sexual dignity as an essential legal good (Brasil, 2009).

From the consolidation of this new paradigm, the victim's consent, his capacity to consent, and the existence of physical or moral coercion became central elements of the criminal classification (Oliveira; Leite, 2019). However, with technological advances and the expansion of the environment of social interaction to the virtual space, the challenge arises to reinterpret these typical figures in the light of new modalities of sexual violence, including those devoid of direct physical contact, such as the so-called "virtual rapes".

In this scenario, the importance of the debate on the possibility of configuring the crime of rape even in the absence of direct physical contact is highlighted, since the criminal legislator, by using the expression "constraining someone, through violence or serious threat, to have carnal intercourse or to practice or allow another libidinous act to be practiced with him" (art. 213 of the Penal Code), did not expressly link the occurrence of the crime to the physical presence between the perpetrator and the victim (Brasil, 2009).

Contemporary jurisprudence has moved towards recognizing as rape situations in which the perpetrator, even at a distance, manages to subjugate the victim, especially when it comes to vulnerable people, such as children and adolescents. An example of this is the practice of virtual embarrassment for the victim to send intimate images or videos, under serious threat, which characterizes a true attack on their freedom and sexual dignity.

In this scenario, the crime of rape of a vulnerable person, provided for in article 217-A of the Penal Code, stands out, which dispenses with any demonstration of violence or threat, and proof of the practice of a libidinous act with a minor under 14 years of age is sufficient. The Superior Court of Justice, through Precedent 593, established that:

The crime of rape of a vulnerable person is configured as carnal conjunction or the practice of a libidinous act with a minor under 14 years of age, and any consent of

the victim to the practice of the act, her previous sexual experience or the existence of a romantic relationship with the agent is irrelevant (STJ, 2024).

Such an understanding reinforces the objective character of vulnerability and, consequently, legitimizes the punishment of conducts practiced virtually, as long as they involve libidinous acts determined or induced by the aggressor, even without physical contact. The practice of libidinous acts at a distance, through psychological manipulation, threats or coercion, proves to be fully capable of configuring the crime of rape, according to the interpretative guidelines of doctrine and jurisprudence.

Law No. 13,718/2018, by introducing article 215-A in the Penal Code, created the autonomous type of sexual harassment, which fills the gap between the criminal misdemeanor of obscene act (article 233, CP) and the crime of rape. It is a conduct defined as: "Practicing against someone and without their consent a libidinous act with the objective of satisfying one's own lust or that of a third party." (Penal Code, 2018)

This rule emerged as a response to the growing social demand for more effective measures against sexual harassment in public environments, such as notorious episodes such as a man who ejaculated on a woman inside a public transport. In this sense, the legislation aimed to typify sexual behaviors that do not reach the severity of rape, but that still compromise the victim's dignity (Basoli et al., 2021).

However, it is important to distinguish between the criminal type of sexual harassment and the practice of an obscene act. According to Nucci (2019), the difference lies in the nature of the victim: while article 233 protects the collectivity, article 215-A directly protects the human person, individually considered, and the absence of the victim's consent is an essential element.

The evolution of criminal legislation on sexual matters has also impacted the regime of criminal action. Prior to Law No. 12,015/2009, private criminal action predominated, except in cases of real violence, in which Precedent 608 of the Supreme Court applied: "In the crime of rape, committed through real violence, the criminal action is unconditional public." (Brazil, 2009).

With the legislative reform, public criminal action conditioned to the representation of the victim was adopted as a rule, with exceptions for cases involving minors under 18 years of age or vulnerable people, in which the action became unconditional public (Alvisi; Ravnjak; Dias, 2021).

At this point, Nucci (2019) formulates a pertinent criticism of the adopted model, asserting that: "The legislator did not do well in standardizing the publicity of criminal

action". The ideal would be to consider violent cases as unconditional public action; cases without violence, conditioned public or private action.

Finally, empirical data point to an alarming growth in sexual crimes. According to the Senate (2024), in 2022, 51,971 sexual crimes against children and adolescents were recorded in Brazil, representing an increase of 15.3% compared to the previous year, according to the Brazilian Yearbook of Public Security. This data reveals the urgency of a closer look by the criminal justice system at new forms of sexual violence, including those that occur in the digital environment.

THE CONFIGURATION OF RAPE IN THE PENAL CODE: ELEMENTS OF THE TYPE AND THE NEED (OR NOT) FOR PHYSICAL CONTACT

The typical configuration of the crime of rape, provided for in article 213 of the Brazilian Penal Code, underwent a significant reformulation with the entry into force of Law No. 12,015/2009, now covering not only carnal intercourse, but also any libidinous act practiced through violence or serious threat. The current wording of the criminal type provides:

Rape – Article 213 of the Brazilian Penal Code: It consists of constraining someone, through the use of violence or serious threat, to have carnal intercourse or to practice, or allow to be practiced with him, another libidinous act. The penalty provided for is imprisonment, from 6 (six) to 10 (ten) years.
Paragraph 1 - The penalty is increased to imprisonment from eight (8) to twelve (12) years, if the conduct results in serious bodily injury, or if the victim is under eighteen (18) years of age and over fourteen (14) years of age.
Paragraph 2 - If the conduct results in the death of the victim, the penalty will be imprisonment from 12 (twelve) to 30 (thirty) years (Brasil, 2009).

Such expansion demonstrates that the protected legal interest goes beyond the physical integrity of the victim, reaching her sexual freedom and self-determination.

From this perspective, the concept of libidinous act acquires centrality in the analysis of the criminal type. For Nucci (2019), such acts include, for example, "masturbating in front of someone in a persecutory manner; ejaculating on someone or close to the person, so that the person is embarrassed; showing the penis to someone in a persecutory manner; to take off one's clothes in front of someone, equally, in a persecutory manner." Although such conducts, by themselves, may constitute autonomous crimes such as sexual harassment (art. 215-A), it is possible, depending on the context and the presence of the elements of the type, that they are subsumed under the figure of rape, especially when there is coercion or serious threat directed at the victim.

Thus, it becomes evident that the crime of rape does not necessarily require direct physical contact between the perpetrator and the victim. The core of the criminal type is

coercion through violence or serious threat, with physical contact being a possibility, and not an indispensable condition for the consummation of the crime (Alves *et al.*, 2019).

Contemporary doctrine, attentive to technological and social transformations, has recognized the possibility of the occurrence of the so-called "virtual rape", an expression used to describe situations in which the perpetrator, through coercion or threat carried out in a digital environment, induces or forces the victim to perform acts of a sexual nature against her will.

In this sense, Greco (2017, p. 108) is categorical in stating:

We understand that physical contact between the agent and the victim is not necessary for the purposes of recognizing the crime of rape, when the agent's conduct is directed towards making the victim herself practice the libidinous act, as occurs when the agent, through serious threat, forces her to masturbate.

This position is echoed in the statement of Professor Rogério Sanches, who, in a live broadcast, expressly defended the possibility of qualifying as rape the conduct carried out in a virtual environment, provided that the typical requirements are present, especially the use of serious threat and the practice of a libidinous act.

Jurisprudence begins to consolidate this interpretation, as observed in the first case that occurred in the city of Carmo do Paranaíba, in 2017. At the time, a 19-year-old man was preventively arrested for the practice of virtual rape, after threatening several victims, aged between 16 and 24, through a fake Facebook profile, demanding that they send him pornographic content under threat of death. The police chief in charge, Ítalo de Oliveira Cardoso Boaventura, pointed out that the agent knew the routines and addresses of the victims, using this knowledge to exercise psychological control and obtain, through serious threat, the practice of libidinous acts, even if at a distance.

This type of conduct reveals that the core of the criminal injury is closely linked to the violation of sexual freedom and the psychic and emotional shock caused to the victim, which reinforces the understanding that rape can be consummated regardless of physical contact. The protection of sexual dignity, as a fundamental legal good, is not restricted to the protection of the body, but also involves respect for the victim's psychic and moral integrity, as Capez (2018, p. 73) teaches: "sexual dignity is related to the victim's freedom of sexual self-determination, to their preservation in the psychological, moral and physical aspects, in order to maintain their personality intact."

Criminal prosecution in cases of this nature requires the proper legal framework and respect for due process, whose grounds are essential to the legitimacy of the criminal action. As Cunha (2018, p. 597) summarizes,

Once the occurrence of a criminal offense is verified, the State's criminal prosecution begins with the preliminary investigation, usually through the police inquiry, which will gather elements related to the criminal fact and seek to ascertain its authorship. Once the investigation procedure was concluded, the holder of the right to act (to promote criminal action) expressed his opinion on it. Criminal action can be conceptualized as the right to request (or demand) the judicial protection of the State, aiming at the resolution of a conflict arising from a concrete fact. [...] Criminal action, legitimate and trimmed in constitutional dictates, is a prerequisite of existence and validity for the application of individualized criminal action, which arises solely from due process of law (Cunha, 2018, p. 597).

Capez (2018, p. 68) reinforces this understanding by stating that it is the "right to ask the State-judge to apply objective criminal law to a concrete case". In this context, Nucci (2014, p. 587) points out that the monopoly of criminal jurisdiction belongs exclusively to the State, and self-defense or self-settlement in criminal matters is prohibited.

In the Brazilian legal system, criminal action can be public or private. The first is promoted by the Public Prosecutor's Office, and can be conditioned to representation or unconditional, while the second is subdivided into exclusively private, very personal, and subsidiary of the public (Cunha, 2018). In the case of rape – including virtual rape – the general rule is public criminal action conditioned to the victim's representation, except in cases of vulnerable victims, in which the action is unconditional.

Therefore, the doctrinal and jurisprudential analysis leads to the conclusion that the absence of physical contact does not prevent the consummation of the crime of rape, as long as the essential typical elements are present: embarrassment through violence or serious threat and the practice of a libidinous act. Technological advancement imposes a rereading of the criminal type, in order to ensure the effective protection of the sexual dignity of victims, including in the digital spheres, where new forms of violence emerge and challenge the performance of the penal system.

THE ADMISSIBILITY OF VIRTUAL RAPE IN THE JURISPRUDENCE OF THE HIGHER COURTS

The evolution of social and communicational dynamics, driven by the advancement of technology and the consolidation of the virtual environment as a sphere of human interaction, has brought with it the emergence of new types of criminality, including the so-called virtual rape, whose criminal configuration has generated intense debates both in doctrine and in the jurisprudence of the higher courts.

The possibility of configuring the crime of rape without the occurrence of direct physical contact between the perpetrator and the victim has been admitted, especially in cases where, through serious threat or irresistible moral coercion, the agent constrains the victim, through technological resources, to practice libidinous acts on herself for her own

satisfaction or that of third parties. This scenario is supported by article 213 of the Penal Code, which, after the reform promoted by Law No. 12,015/2009, began to cover, in addition to carnal intercourse, any libidinous acts practiced through violence or serious threat, without conditioning its typification to the existence of direct physical contact (Brasil, 2009).

In this line, the jurisprudential understanding has been gradually shaped to recognize that sexual dignity, as a protected legal good, goes beyond the physical and bodily dimension, also reaching the psychological and moral aspects of the victim. The jurisprudence of the Superior Court of Justice (STJ), in the judgment of RHC 70.976-MS, expressly recognized that physical contact between aggressor and offended party is not necessary for the configuration of the crime of rape of a vulnerable person, understanding that the mere lascivious contemplation of a minor under 14 years of age, for payment, without any physical touch, can trigger criminal action.

The conduct of lasciviously contemplating, without physical contact, for payment, a minor under 14 years of age naked in a motel room may give rise to the initiation of a criminal action to investigate the crime of rape of a vulnerable person. The majority criminal doctrine in Brazil understands that lascivious contemplation constitutes a libidinous act capable of characterizing the criminal types provided for in arts. 213 and 217-A of the Penal Code, and the existence of physical contact between the perpetrator and the victim is irrelevant for the consummation of the crime. In the case in question, it should also be noted that the criminal type charged is included in a chapter of Title VI of the Penal Code, which has as its object the protection of sexual dignity. Thus, it is understood that the violation of sexual dignity is not limited to physical aggression, since libidinous acts, even without contact, can generate equally relevant psychic shocks. The greater or lesser severity of the act committed – depending on the presence of physical injuries added to the psychological suffering caused to the victim – is an aspect to be considered in the dosimetry of the penalty. (RHC 70.976-MS, Rel. Min. Joel Ilan Paciornik, judged on 8/2/2016, DJe 8/10/2016) (Newsletter No. 587).

According to the summary of the decision, "lascivious contemplation configures the libidinous act constituting the types of arts. 213 and 217-A of the CP, and it is irrelevant [...] that there is physical contact between the offender and the offended" (STJ, RHC 70.976-MS, Rel. Min. Joel Ilan Paciornik, DJe 10/08/2016).

The doctrine also corroborates this understanding. For Rogério Greco (2017, p. 108), rape can be configured even in the absence of physical contact, as long as the victim, under duress, is induced to perform the libidinous act. As an example, the hypothesis in which the agent forces the victim, through serious threat, to masturbate in front of a camera, a practice that, according to the author, configures the criminal type of article 213 of the CP. This conception is reinforced by Rogério Sanches, who, in a doctrinal statement, expressly defended the possibility of configuring rape in a virtual context, as long as the embarrassment through threat or moral violence is present.

The criminal classification of conducts carried out in the digital environment, especially those associated with the unauthorized disclosure of intimate content, is supported by article 218-C of the Penal Code, which contemplates as typical conducts: "offering, exchanging, making available, transmitting, selling or exposing for sale, distributing, publishing or disseminating scenes of rape, rape of a vulnerable person, sex or pornography". This article aims to protect, in addition to sexual freedom, the right to image and intimacy of the victims, and the victim's consent is unnecessary for the consummation of the crime (PRADO, 2019).

The doctrine also points to the existence of mediate or indirect authorship in virtual crimes, because, as DIREITONET (2021) explains, the perpetrator, through irresistible moral coercion, instrumentalizes the victim himself as a means to carry out the libidinous act. Such embarrassment characterizes the so-called *vis compulsiva*, where, under serious threat, the victim loses his self-determination and acts under the agent's psychic domination, characterizing the exclusion of culpability under the terms recognized by the TJDFT (2021).

Jurisprudence has also recognized the incidence of other criminal types in related situations. As Domingos (2019) observes, the so-called sextortion, when it involves demanding money or goods in exchange for the non-disclosure of intimate images, constitutes the crime of extortion (art. 158 of the CP). However, according to Cunha (2017), when the requirement involves sexual advantages, the crime of rape may be configured, including in its attempted or consummated form, along the lines of article 213 of the CP, thus consolidating the recognition of the dispensability of physical contact.

Concrete cases reinforce this understanding. In the municipality of Carmo do Paranaíba/MG, in 2017, preventive detention was decreed for a young man who, through a fake profile on social networks, threatened to disclose intimate images of his victims if they did not send him new pornographic content, characterizing a typical scenario of virtual rape. Another emblematic case occurred in Teresina/PI, where a computer technician was arrested after threatening a victim with the disclosure of intimate images, demanding that she send him videos of herself masturbating. Judge Luiz Moura decreed his preventive detention, recognizing the embarrassment and the practice of libidinous acts without physical contact as elements that configure the crime.

The relevance of the discussion is also projected in the socio-political dimension and in the way the justice system treats victims. The case of influencer Mariana Ferrer, surrounded by rape accusations and a subsequent instruction hearing marked by public

humiliation, revealed secondary victimization in the criminal process and the omission of state agents in the face of symbolic violence practiced in court.

In addition to the Minister, the Federal Senate (2020, s.p) also ruled on the case:

The recent case of the young woman from Santa Catarina, Mariana Ferrer, a victim of rape, is also pointed out in the project as emblematic. Video released by the press shows excerpts from the hearing in which the young woman appears crying, humiliated by the accused's defense lawyer, who exposed the blogger's "social behavior" by showing photos of her, taken before the crime, with what he called "gynecological poses". Lawyer Cláudio Gastão also stated that "I would not like to have a daughter of Mariana's level". Words uttered before the judge and the prosecutor, who would not have expressed any reaction of censure in the face of this conduct. The words of the lawyer and the omission of the public agents are so appalling that they offend not only the victim, but all Brazilian women. It is no coincidence that this was the most commented and reported fact of the week. Attitudes of public agents such as those of the Prosecutor and the Judge are recurrent obstacles for women to report crimes against sexual dignity, especially the crime of rape.

The episode was widely criticized, including by Minister Gilmar Mendes, who lamented the connivance of the Judiciary in the face of acts of torture and humiliation. For Silva (2021, p. 19), the Brazilian legal system is still far from offering a safe and welcoming environment for victims of sexual crimes.

Finally, it should be noted that, according to Oliveira and Leite (2019, p. 12), virtual rape occurs when the victim is coerced, even at a distance, to perform libidinous acts to satisfy the agent's desire:

A brief example is that the agent, through serious threats, forces the victim to turn on some kind of web to masturbate and among other acts to satisfy the agent's sexual desire. It can be seen that there was no physical contact between the agent and the victim, only that the victim was constrained to perform libidinous acts to satisfy the agent's sexual desire, thus falling under article 213 of the Penal Code (Oliveira; Leite, 2019, p. 12).

Even in the absence of physical contact, the element of coercion through serious threat remains, fulfilling the requirements of the criminal type provided for in article 213 of the CP. The legislative reform promoted by Law No. 12,015/2009, by adopting a broader wording for the concept of rape, allowed an interpretation that contemplates the new forms of sexual violence, reaffirming that the libidinous act does not depend on the physical presence of the aggressor, consolidating the understanding that rape, in current times, can also manifest itself in the virtual space.

FINAL CONSIDERATIONS

The reflections developed throughout this study allowed us to achieve the proposed objective, that is, the critical analysis of the legal, doctrinal and jurisprudential foundations that support the possibility of configuring the crime of rape even in the absence of physical contact between the agent and the victim. It was demonstrated that, from the reform introduced by Law No. 12,015/2009, the criminal type described in article 213 of the Penal Code began to encompass not only carnal intercourse, but also any libidinous act practiced through violence or serious threat. This normative change gave greater breadth to the protection of sexual dignity, allowing interpretations compatible with the new contexts of virtual crime.

The analysis of the jurisprudence of the Superior Court of Justice showed a progressive inclination of the higher courts to recognize that the constraint to practice libidinous acts, even at a distance, through threats or moral coercion, constitutes a direct violation of the victim's sexual self-determination and, therefore, fits into the typical elements of rape. Emblematic cases, such as those judged in RHC 70.976-MS and the preventive detention decreed in Teresina/PI, demonstrate the sensitivity of the Judiciary in the face of the new criminal dynamics provided by the use of digital platforms and social networks as instruments of sexual violence.

From the doctrinal point of view, it was observed the consolidation of positions favorable to the admission of virtual rape as a form of criminally typical rape. Authors such as Rogério Greco and Rogério Sanches recognize the possibility of configuring the crime regardless of physical contact, as long as the essential elements of violence or serious threat are present. Such interpretations reaffirm the centrality of the protection of the victim's sexual freedom, understood as a legal good that transcends physical integrity and reaches psychological and moral dimensions, often violated in contexts of forced virtual exposure.

In view of this, it is concluded that the absence of physical contact does not detract from the existence of the crime of rape, as long as the victim, coerced or threatened, is constrained to perform libidinous acts. The systematic interpretation of the current criminal legislation, in line with jurisprudential advances and contemporary doctrine, allows us to affirm that virtual rape must be fully admitted in the Brazilian legal system, as a way to ensure the effective protection of sexual dignity in a scenario of continuous technological and social transformations. Thus, the urgency of a responsive penal system is confirmed, which recognizes the new modalities of violence and acts effectively in the repression and prevention of sexual crimes in the digital environment.



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