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Domestic Violence in Romanian Society



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VOCABULARY

repression

Unterdrückung

assault

Gewaltanwendung

abuse

Beschimpfung; Misshandlung

in-laws

verschwägert

shove

leichter Stoß

name-calling

Beschimpfung

Although many families seem to be happy and ideal, with satisfied and united partners, in reality, behind the closed doors, lots of tragedies can happen. Often, something that seems to be an expression of tenderness is, in reality, a repression of the victim and a restriction of his/her freedom. Domestic violence is a general social problem, which affects every community and every country. Victims and perpetrators of domestic violence, women and men, children or elder, come from all ethnic groups, cultures, educational levels, regardless of age, gender and sexual orientation. Domestic violence can take many forms, from physical assaults, to emotional violence and manipulative forms of behavior.

1. DEFINITION OF DOMESTIC VIOLENCE

There is no standard, universally accepted notion of what constitutes violence. The term “domestic violence” can be also misinterpreted as meaning that it only includes violence which occurs in the household.¹ However, crimes of domestic violence do not only take place in a shared place of residence. The workplace or the public arena can also be the setting for incidents of domestic violence.

The Common Curriculum Policing Domestic Violence of CEPOL (July 2008) is based on the following definition: domestic violence describes “(...) any act of abuse or threat of a physical, psychological, sexual or economic nature that is perpetrated by people in current or concluded family, conjugal or intimate relationships to exercise power and control.” A similar definition is also used in the United Kingdom.² “Domestic violence describes any incident of threatening behavior, violence or abuse (psychological, physical, sexual, financial or emotional) between adults, aged 18 or over, who are or have been intimate partners or family members, regard-

less of gender and sexuality.” Family members are defined as mother, father, son, daughter, brother, sister and grandparents, whether directly or indirectly related, in-laws or step family.

Romanian special law No. 217/2003³ defines domestic violence as “any deliberate physical or verbal act against a family member, which causes physical, psychological or sexual suffering or a damage of property.”

2. FORMS OF DOMESTIC VIOLENCE

Domestic violence is a very common phenomenon which includes all forms of criminal behavior as well as non-punishable behavior which have a negative impact on the victim, woman or man.⁴ Domestic violence can begin with “simple” angry words and may escalate into shoves, blows or a pattern of assaults and controlling behaviors. The attacks can be physical in nature, direct as bodily assaults and sexual abuses or passive, as victim’s isolation from own children. The psychological and economical forms of domestic violence, such as threats, name-calling, withholding

financial resources are very important too because of the negative consequences for the victim.

Physical violence can be directed against the victim and a close relative of his/her or against the victim's property (damage of property). Acts of abuse may include shoves, blows, slaps in the face, hitting the head against a wall, strangulation, throwing objects, beating up, burning with cigarettes, attacks with weapons, rape, murder.

Psychological violence can be active or passive, too. Active psychological violence may include issuing threats, coercion, scaring a person, public insults, defamation and stalking, name-calling. Examples of passive psychological violence include interruption or insufficiency of sexual acts, banning contact with family and friends, blocking a telephone connection, victim's isolation from the outside world, economic violence (withholding financial resources).

Sexual violence is a form of domestic violence too, which denotes all sexual acts that the victim is forced to engage in.⁵ The rationale behind is generally not an uncontrolled sex drive but rather the demonstration of power.⁶

3. RISK FACTORS OF DOMESTIC VIOLENCE

The extent and distribution of risk of domestic violence is an essential first step in the process of assessing the costs and benefits of different domestic violence reduction programs.

In the Romanian society, an important part of delinquency takes place within the family so that specialists talk about a real "conjugal delinquency". This phenomenon may have different reasons, but the most significant ones are the following:

a) the majority of urban citizens comes from small village communities, where

social control is more strict than in the city,

b) acute social and professional stress,

c) inadequate education,

d) poverty and social exclusion,

e) alcohol abuse,

f) examples given by mass-media, with excessive presentation of violent acts etc.

The starting point, the "detonator" of domestic violence within the family can also have many forms, for example persiflage, family muteness, verbal threats, gestures, cavils, neglecting the family, scurrility, proper violence etc. As follows, domestic violence can begin because of an imprudent attitude, a certain behavior, an inadequate gesture which can facilitate a conflicting situation and violent behavior. Therefore, specialists try to find out if every person is a "bearer" of the risk of domestic violence and is a potential victim or it is particular only to a certain group of persons.

PREVIOUS DOMESTIC ASSAULT

The most robust risk marker for domestic violence is that of a previous assault. The greater the frequency of previous assaults, the more likely there will be further assaults.⁷ The same studies show that 35 % of households have a second incident within five weeks of the first. Although desistance is possible, minor violence is a predictor of escalation to major violence.

BIOLOGICAL FACTORS

As biological risk factors of domestic violence, the existing literature⁸ exemplifies age (youth or old age) and the fact that the victim is a woman.

a) Youth is an important risk factor for domestic violence. A child is an "ideal" potential victim. Violence against children can have disastrous physical and psychical effects. In many cases, violence within the family against children

VOCABULARY

slap
Ohrfeige

rape
Vergewaltigung

to scare
jemanden (er)schrecken

defamation
Beleidigung; Verleumdung

rationale
Beweggrund

detonator
Zünder

persiflage
Spöttelei

cavil
Nörgelei

or the witnessing of domestic assaults is linked to being a perpetrator of domestic violence as an adult. There is evidence of co-occurrence of domestic violence and child abuse in the same family. The violence is “learned” in the family. Child abuse can be seen as an indicator of domestic violence in the family and vice versa.⁹ A special situation is sexual abuse of children and especially girls. In Romanian judicial practice, many cases of father’s sexual abuse against girls aged 6–10 years were registered. Another situation is that younger women are more often assaulted by their partners. As women become older, the risk of domestic violence decreases.

There is also some correlation between pregnancy and domestic violence. However, this correlation may exist because young women are a group with higher risk of domestic violence and pregnancy is associated with this age.¹⁰ On the other hand, in some families, pregnancy may generate a stressful situation because of various reasons as: woman’s physiological changes, a long sexual abstention or the fear of the responsibility to be parents.

- b) The fact to be a woman is another high risk for a violent behavior. Domestic violence is a violation of women’s human rights. Violence directed against women by their intimate partners (current or former spouses or boyfriends) has devastating physical, emotional, financial and social effects on women, their children and on their own family. Women who are victims of domestic violence are more likely to be unsatisfied with their life and they have a lower self-esteem. They usually feel hopeless and worthless and tend to believe that there is little they can do to change many of the important things in

their life. Moreover, in desperate cases, victims choose suicide or murder of the aggressive partner. As an example, according to statistics of the prison for women from Targșor (Romania), in one in five cases, the imprisoned woman had had conflicts with her partner, she killed him, and had been abused and threatened for a long time before the crime. The same statistics show that one of the reasons of female criminality is previous abuse directed against the woman (sexual, psychological, emotional, social or economic) and that the majority of women who killed their partners because of domestic violence never committed any criminal offence before.

In Romania, the situation of women is more tragic because victims of domestic violence are often reluctant to file a complaint against a violent partner. In many cases, women do not trust the juridical or medical authorities because most of their members are men and, on the other hand, because the police believe that they do not have the right to interfere with “family business”.

Thus, in practice, few victims of family violence turn to the court. Even when the accusations are proven, punishment does not deter from the behavior.

Furthermore, while the case is pending before the court, the victim often continues to live with the alleged perpetrator. On the other hand, because of the onerous nature of the proceedings and the ineffective remedies, the survivors choose to withdraw their complaints or to reconcile with the aggressor.

All studies and surveys concerning domestic violence show that women are

more severely affected than men. Women are more likely to be injured in attacks, to have been subject to frightening threats, to have suffered multiple assaults and to have been upset and frightened at the time of the incident.¹¹

In Austria¹², for example, in nine in ten cases, victims of domestic violence were female. Nearly two thirds of them were between 25 and 44 years old and were employees or workers. Some 97 % of the perpetrators were male. They were of the same age as the victims, and half of them were blue-collar workers. More than one quarter was unemployed.

In Romania, a survey of the National Agency for Family Protection shows that between January 2004 and September 2007, 44.284 cases of domestic violence were registered and 633 women died.¹³ The age of the victims was between 25–45 years. In the first three trimesters of 2008, 4.395 cases of domestic violence against women were registered (16 % minors).¹⁴ In 2007, according to police crime records, there were 1.967 female victims of domestic violence (44 cases of murders, 14 cases of death-blows, 1.752 cases of simple or aggravated battery).¹⁵ Another statistics¹⁶ shows that in the first months of 2009, 245 women – victims of domestic violence – called the Pilot Centre for Assistance and Protection of Victims of Domestic Violence of Bucharest. In the same period of time, more than 4.000 women chose to be counseled over the phone by the specialist of this Centre.

Analyzing the situation, it is interesting to present another survey¹⁷ on violence against women in Bucharest. Most of the women in Bucharest are satisfied with their families, the way they get along with other people, their education, job and housing. Health, opportunities to succeed in life and leisure are dissatisfying aspects for about three in ten women, while almost

40 % of the interviewees say they are dissatisfied with their financial situation.

About six in ten women in Bucharest have a good self-esteem; they said they had never felt worthless or hopeless during the preceding month. Even a greater proportion of them strongly disagree with the statements “I feel that my life is not very useful” or “I feel that I cannot do anything right”. However, most of the women felt quite often nervous, restless or sad or that everything was an effort. About one in ten women says she has little control over the things that happen to her or that there is no way she can solve any of her problems.

Moreover, 24 % of the women strongly agree with the statement “there is little I can do to change many of the things important in my life”.

Overall, we can distinguish two major categories of women: one of rather satisfied women with great self-esteem and with a good morale, which includes about two thirds of the women in Bucharest, and another category of women rather dissatisfied with their life, who feel worthless and hopeless when dealing with problems of life. The first category consists mainly of women with a high level of education, employed and with high incomes, while the second category includes rather women with low education, low incomes and many children, who are retired or housewives.

Overall, only 8 % of the respondents who are married or have a steady partner rate their relationship as “fair” or “poor”, while 19 % say they are getting along excellently with their partner. In 18 % of the couples problems occur “often” or even “very often”. It seems that as the relationship gets older, the problems tend to occur more frequently. Those who have

VOCABULARY

jealousy
Eifersucht

been married for more than 20 years tend to say that problems occur often, while those involved in younger relationships say problems occur rarely or not at all.

The economic condition is a major factor for the way people are getting along with each other within a relationship. Almost two thirds of women who said problems had occurred in their relationship mentioned the lack of money as the main source of them. Children's behavior is the second main source for the problems occurring in a relationship. Next major sources for misunderstandings between spouses are: alcohol consumption, neglecting the family, the intrusion of the parents in couple life, and infidelity/jealousy.

One problem with violence against women within the family is that women deny that certain behaviors are violent as they appear to be less serious. Therefore it is important to see to what extent women define some types of behavior within the family as violence against them. Overall behavior that describes economic control over women within the family and the verbal or emotional abuse tend to be considered as domestic violence by a smaller percentage of women than in the case of physical or sexual abuse, which are considered the most serious forms of domestic violence.

About 52 % of the women in Bucharest have experienced verbal or emotional abuse within their family at certain moments in their life, and 24 % have been victims of such abuse in the last twelve months more than once. 21 % of the women have been victims of physical abuse and 8 % victims of sexual abuse within the family at least once in their life. 6 % of the women in Bucharest have suffered physical abuse and about 3 % sexual abuse more than once in the preceding year.

There are some socio-economic variables that correlate positively with the occurrence of domestic violence against

women. Women with lower levels of education, from families with lower income, and with many children are more likely to be victims of domestic violence. However, this does not mean that women from upper classes are not victims of domestic violence: 8 % of the women who have been physically abused more than once in the last twelve months, have higher education and 6 % of those from families with highest incomes have been sexually abused more than once in the last year.

42 % of the women who had been victims of domestic violence in the last twelve months were abused by their current husband or boyfriend. Only 35 % of the women who had experienced a form of domestic violence talked with someone about it. Of those who experienced physical abuse within the family, only 17 % went to or called the police to make a complaint last time when they were aggressed.

About one third of the women interviewed know another woman who was victim of a form of domestic violence.

Violence against women within the family seems to be more characteristic for certain social environments. Victims of domestic violence are more likely to know of other victims in their circle of friends.

42 % of the women perceive domestic violence against women being very common in the city where they live. The majority thinks that domestic violence against women is unacceptable in all circumstances and should be punished by law.

GENDER INEQUALITY

The risk of domestic violence is lower in an egalitarian partnership and it is increased by marital dependency and lack of economic resources.¹⁸ As we presented

before in the survey on violence against women, women who were unemployed or housewives had a higher risk of domestic violence. On the other hand, men who believe that wife beating is legitimate are more likely to become perpetrators. This situation we can find especially in the villages, within the families with a low education and with patriarchal attitudes and conceptions.

POVERTY AND SOCIAL EXCLUSION

Domestic violence exists more often in the families who are living in poor households and financially insecure households. This doesn't mean that domestic violence is not found in better off households as well. It is a circle of circumstances, because domestic violence can also lead to poverty as it makes it more difficult for a woman to keep a job and furthermore, unemployment and lack of economic resources can increase the risk of domestic violence.

EDUCATIONAL FACTORS

Insufficient education, an inadequate family and social environment can be risk factors for domestic violence too, because all these factors create an "anti-social personality" in most of cases. As regard the "unhealthy" family environment, as we already said, witnessing of domestic assaults is linked to being a perpetrator of domestic violence as an adult.

4. ROMANIAN REGULATIONS AGAINST DOMESTIC VIOLENCE

Offences in the area of domestic violence are regulated by common law, such as the Penal Code and police (security) law, so that there are no special regulations for special offences regarding domestic violence. In such situations, police and justice try to find better methods to prevent and stop the phenomenon of domestic violence, using the existing regulations

(which are insufficient) and specific prevention activities. Increasing domestic violence in Romanian society requires new regulations, with more severe punishment and which create more adequate instruments for police intervention. At the same time, it is necessary to change the police mentality, in order to be more involved in family conflicts, considered as "private family matter" by many officers.

As a matter of fact, the victim of domestic violence has the following possibilities: to complain to the Justice Court, to the Prosecution department or to the police; victims can also file divorce proceedings and ask the Civil Court, at the same time, to evict the perpetrators from the household until the end of the divorce proceeding. In all situations, victims have to prove the violent acts with a medical certificate issued by the Institute of Medical Jurisprudence.

POLICE INTERVENTION

In the field of domestic violence, police intervention is regulated by two laws as follows:

- according to The Police Law no. 218/2002, item no. 26 (1), police defends the life, corporal integrity and liberty of the people (...) and apply necessary measures to maintain public order and citizens' security (item no. 26 [2]); police has the right and obligation to bring to the police station the person whose acts are dangerous for somebody's life (...) and has the right to use force against the person whose act is a dangerous attack on life, health or freedom (item no. 31 [1b]),
- according to Law no. 61/1991 regarding sanctioning actions against rules according to public order, chasing of the spouse, children or another family member from the common household is a contravention (item no. 2 [30]), which

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restraining order
einstweilige Verfügung

is sanctioned with penalty from 200 to 1.000 lei¹⁹ (item no. 3 [b]).

This is the legal basis of police intervention in case of domestic conflicts. One of the instruments most frequently used by police is “dispute settlement”. The officers talk to the conflicting parties, trying to mediate the conflict and suggest to the woman to complain against the perpetrator to the police, to seek refuge or to complain to the Civil Court for divorce proceedings.

Domestic violence is under-reported. Police statistics show that, unfortunately, only 5 % of the cases of domestic violence are investigated by the authorities because many victims withdraw the charge in the first hours from the complaint (in many cases because of fear of the perpetrator). On the other hand, the police attitude discourages victims to ask them for help in the future. Especially in the rural areas, abused women complained about officers who did not believe what women told them or, worst, they blamed women for their partners’ violent behavior.²⁰

As a matter of fact, Romanian police do not have many practical possibilities and methods to support and protect victims further on.

The project of the new Penal Code increased the heaviest punishment for the offences in the domestic violence field, but Romanian law still does not have a regulation which offers to police more power and new instruments devised to make their intervention more adequately serve the purpose of immediate protection of victims. It is recommended that new Romanian legislation in the field of domestic violence should have as a model the Austrian Protection against Domestic Violence Act 1996.

THE PENAL CODE REGULATIONS

An important step in Romanian regulation regarding domestic violence was made in 2000, when the Penal Code was improved. In fact, prior to the Law no. 197/2000 which modified the Penal Code, no regulation has reported on domestic violence. In consequence, offences in the field of domestic violence were generally regulated by the Penal Code. For the first time, the notion of family member was defined as spouse or other close relative living in the same household. Another important improvement was done with regulation of the procedure of restraining order against the perpetrator. So that, in case of assaults or other aggressive acts against a family member, the Penal Court can forbid to perpetrator to re-enter the household for a fixed period of time, which can be till two years. For issuing such an order are necessary two preconditions: The existence of a grievous danger for the victims’ life, health or freedom or the offender was punished with imprisonment for at least one year. Unfortunately, in the project of the new Penal Code²¹, these restraining measures are not regulated anymore.

For all domestic violent actions, the extent of the victim’s injuries determines the severity of punishment. The Criminal Code requires that the longer it takes a victim to heal, the heavier is the punishment. If the victim is the perpetrator’s spouse, the sentence is more severe.

For example, murder is punished with imprisonment for 10–20 years and suspension of certain rights (item no. 174). The murder of a spouse or other close relatives is punished with life imprisonment or imprisonment for 15–25 years and suspension of certain rights (item no. 175 [c]). Obviously, in order to start the criminal investigation the victim’s prior complaint is not required.

Simple battery is punished with imprisonment for 1–3 months or fine, but if the battery is against one of the family members, then the perpetrator is punished with imprisonment from six months to one year or penalty (item no. 180 [1]). If the victim needs no more than 20 days to recover, the perpetrator is punished with imprisonment from three months to two years or fine, and if the offence is committed against a family member, the punishment is imprisonment from one to two years or fine (item no. 180 [3]). Both cases require the victim's prior complaint in order to start the criminal investigation. If the victim needs no more than 60 days to recover, the perpetrator is punished with imprisonment from six months to five years, and if the victim is a member of the family, the punishment increases from one to five years imprisonment and the victim's prior complaint is not necessary (item no. 181).

Aggravated battery (when the victim needs more than 60 days to recover) is punished with imprisonment from two to seven years (item no. 182).

The punishment for manslaughter is imprisonment from five to 15 years and suspension of certain rights (item no. 183).

Because in practice it is difficult to distinguish between domestic violence and sexual assaults and rape, the Penal Code regulates distinctly the sexual assaults against the spouse. For example, if rape is punished with imprisonment from three to ten years and suspension of certain rights, sexual assault against a spouse or another family member is punished with imprisonment from five to 18 years (item no. 197 [2b1]).

The project of the new Romanian Penal Code has a distinct regulation of violence within the family and increases the punishment for each offence regarding domestic violence by one quarter. The project has another positive side, so that for

simple or aggravated battery against a family member, the victim's prior complaint is not required anymore to start the investigation (item no. 197 [2]). In the project, the new definition of the family member extends the categories of persons so that family members include:

- ascendants and descendants, brothers and sisters and their children and all other persons who become relatives as a consequence of adoption,
- spouse,
- persons cohabiting as man and woman but are not married (item no. 176).

In case of murder, aggravated murder, simple or aggravated battery or manslaughter committed against a family member, the most severe penalty for each of the offences is increased by one fourth (item no. 197 [1]²²).

In Romanian society, domestic violence is a serious social problem. The situation is alarming because the tolerance of violence within the family is still very high. The seriousness of this phenomenon is proved by a large number of calls to the police (more than 50 % of calls are in connection with domestic violence) and an impressive number of women – victims of domestic violence – which you can meet at emergency because of physical assaults (25–35 %). It is also important to show the increase of the number of new-born babies with malformations because abuses against women during the pregnancy.

***Violence is a “model” for
many of perpetrators, a
“model” which has been seen
and learned in the own family
in the past.***

Another problem is that many victims and perpetrators, especially from rural areas, do not know that domestic violence is a crime, punished by the law and vic-

VOCABULARY

manslaughter
Totschlag

tims do not know where to ask for help or are ashamed of their situation. On the other hand, the existing procedures assure the victim's protection for the future, but Romanian legislation against domestic violence (with all its improvements) still

does not contain practical methods and instruments to serve the purpose of immediate protection for the victims of domestic violence by keeping the perpetrator away from the household.

¹ CEPOL (2008). *Common Curriculum Policing Domestic Violence*, 22.

² ACPO/CENTREX (2004). *Guidance on Investigating Domestic Violence*.

³ *For prevention and fighting against domestic violence for prevention and fighting against domestic violence*.

⁴ CEPOL (2008). *Common Curriculum Policing Domestic Violence*, 24.

⁵ *Ibid*, 25.

⁶ Appelt, B./Kölliger, A./Logar, R. (2001). *Gewalt gegen Frauen und ihre Kinder, Bundesministerium für Soziale Sicherheit und Generationen (Hg.) Gewalt in der Familie – Gewaltbericht*, Wien, 388.

⁷ Walby, S./Myhill, A. (2000). *Policing & Reducing Crime. Reducing domestic violence – What works? Briefing Notes, University of Leeds*.

⁸ *Ibid*.

⁹ *Ibid*.

¹⁰ *Ibid*.

¹¹ *Ibid*.

¹² Haller, B./Pelikan, C./Smutny, P. (2006). *The Austrian Protection against Domestic Violence. Act 1996, Crime Policy in Europe, Council of Europe Publishing*, 37–46.

¹³ <http://www.fundatiasensiblu.ro/>.

¹⁴ *Statistic of National Agency for Family Protection, September 2008*.

¹⁵ <http://www.fundatiasensiblu.ro/>.

¹⁶ *Statistic of Pilot Centre for Assistance and Protection of Victims of Domestic Violence from Bucharest; this centre is subordinated to the National Agency for Family Protection (<http://www.anpf.ro/agentia/institubord/centrulpilot>)*.

¹⁷ *The first survey on violence against women in Bucharest done by The Gallup Organization Romania Bucharest (2003). Prepared for Olympic DDB/Win Balkans*.

¹⁸ Walby, S./Myhill, A. (2000). *Policing & Reducing Crime. Reducing domestic violence – What works? Briefing Notes, University of Leeds*.

¹⁹ Ca. 50–240 Euro.

²⁰ Haller, B./Pelikan, C./Smutny, P. (2006). *The Austrian Protection against Domestic Violence. Act 1996, Crime Policy in Europe, Council of Europe Publishing*, 37–46.

²¹ *The new Romanian Criminal Code will enter in force in September 2009*.

²² *Violence within the family*.