

DOMESTIC VIOLENCE AND WOMEN VICTIMIZATION

ANAMARIA CERCEL

Faculty of Law and Administrative Sciences, University of Craiova,
Romania

Abstract

Domestic violence is generated by multiple causes. Statistics do point out that most of its victims are women. The victims of this type of violence are protected by law, as well through norms of penal nature, as through special laws created in order to protect the specific victims. Yet, victims are still reluctant when it comes to call for the legal guarantees and protection offered by the law, either for lacking the knowledge of the respective legal stipulations or because they continue to trust, a waiting for the intervention of their friends and/or close relatives. Through the Law no. 217/2003 and Law no. 47/2006, the state has intervened, so that the victims of domestic violence could benefit from central and local institutions, through counseling services and appropriate shelter houses. To prevent domestic violence and to strive against it, is an important item of state's policy in the matter of family protection and it represents an important point of the state's public health policy.

Key words

Domestic violence; legal guarantees and protection; women victimization.

1. General considerations

A national survey published in 2004 shows that among the causes of domestic violence are included alcoholism, poverty, socializing in an environment dominated by violence, and the patriarchal type of family organization, which subsists mainly in Romanian society. In addition to these determinants we might add jealousy, the partner's mental illness and the suspicions of infidelity.

We have to worry that most victims are not aware of the legislation or institutions that protect their rights. Statistics show that only one from five victims called the police, and most of them were women. Besides the police, the victims go to hospitals for medical treatment only. When asked who should be involved in the settlement of domestic conflict, the subjects answered: their relatives in 44% of cases, the police in 33% of cases, neighbours at a ratio of 10% or nobody in 21%. This situation is due to attitudes in the Romanian society, namely to the high tolerance towards domestic violence, unlike other European countries. Thus, this type of aggressive behaviour is often considered as normal and it is transmitted from generation to generation. Add to this the lack of confidence in the

effectiveness of the protection granted to victims by the state. Police crews often called by relatives and neighbours to stop a conflict in the family are reluctant to intervene, sometimes for the reason that the partners, who assault themselves constantly and do not change their behaviour, are no more categorized as "serious cases". Moreover, victims are also not decided to enter a legal way, because they are not driven by the desire to hold accountable the perpetrators of criminal assaults, but rather to frighten them up in order to stop doing it.

2. Internal Romanian regulations

The Romanian legislation on preventing and striving against domestic violence is modern. Domestic violence is sanctioned by arts. 175, 176, 179-183, 189-191, 193, 194, 197, 198, 202, 211, 305-307, 309, 314-316, 318 and others, of the Criminal Code and by the Law no. 217/2003, Law no. 47/2006 on the national social assistance and other legal stipulations on the same subject.

Preventing and striving against domestic violence is a part of the state policy of integrated care and support for the family and represents a major public health concern.

Domestic violence is whatever physical or verbal action deliberately perpetrated by one family member against another member of the same family that would cause physical pain, psychological, sexual or material damage. Preventing women from exercising rights and fundamental freedoms is assimilated as domestic violence.

Legal protection is ensured for the traditional family and partnership, as well for concubinage because are protected persons who have established relationships similar to those between spouses or between parent and child, as pointed out by the social survey.

In preventing and striving against domestic violence are involved the government, ministries and state authorities, local communities through their legal representatives. In addition, mayors and local councils will work with religious organizations, nongovernmental organizations, and any other legal entities and individuals involved in charity purposes as stipulated by the law.

3. Involved institutions

Social reintegration and supervision services do form personnel - social workers and psychologists - able to conduct therapy programs and counselling for perpetrators. The results of these programs will be presented in court, under the law's prescriptions.

The National Agency for Family Protection was established as a specialized organism under the Ministry of Health's authority.

This agency's objectives are:

- a) Promoting the family values, understanding and mutual assistance in the family, preventing and striving against violence in the relationship between its members;
- b) Supporting family members in distress resulted from acts of domestic violence;
- c) Assisting victims through recovery of health and social reintegration;
- d) Assisting the perpetrators through alcoholism's treatment and rehabilitation, both psychological and psychiatric;
- e) Protecting the victims, especially minors, through measures able to preserve the confidentiality of their identity, and psychological measures for their protection during the trial of the case;
- f) Initiation and coordination of social partnerships able to prevent and strive against domestic violence.

In order to achieve these objectives and protect the victims of domestic violence, the agency has the following functions:

- 1) Development, elaboration and applying of strategies and programs able to care for and protect the victims of domestic violence;
- 2) To control the applying of regulations in their own field and within the units operating under its authority;
- 3) Funding or co-funding specific programs for protecting and strengthening the family, for care and protection for the victims of domestic violence;
- 4) The establishment of shelter houses and hotlines for the victims of domestic violence;
- 5) Training, authorization and coordination for family professional assistants;
- 6) Organizing courses providing awareness of the forms of domestic violence;
- 7) Conducting studies and researches, strategies, forecasts, production and publishing of scientific and specific promotion materials;

- 8) Realizing the database for the management of domestic violence` situations;
- 9) To favour involvement and support initiatives of social partners in solving the problem of domestic violence;
- 10) To establish rehabilitation centers for the victims of domestic violence;
- 11) To set up support centers for abusers.

Foster family social workers are licensed by the Agency in order to provide assistance in specific family relationships.

The Assistants, in their protected family, assume the following responsibilities:

- a) to identify and keep track of family conflicts that could rise caused by violence;
- b) to carry on activities aiming to prevent family violence;
- c) to identify non-violent solutions through contacts with the persons concerned;
- d) to call for individuals or for legal persons to support the solving of situations which generate domestic violence;
- e) to monitor the rights of persons forced to use shelter-houses` services.

If it should find cases of family violence against minors, domestic violence workers would be obliged to provide the necessary assistance and to immediately notify the National Authority for Child Protection and Adoption, the specialized public service at the local level.

Mediation, in cases of domestic violence, is an innovative and very important aspect. Thus, the law stipulates that cases of domestic violence may be subject of mediation on request of the sides. Persons with responsibilities in solving cases of domestic violence should guide the sides.

The prevention of conflict situations and the mediation among family members are realized through the family council or by a mediator. Mediation is considered by many specialists the best way to solve the conflicts which are raising from family life.

Mediation does not prevent criminal procedures or the applying of law. The Family Council is a non-profit unincorporated association, composed of family members who have full legal capacity as stated by the law. Members of the family council which, by law, would be serving a prison penalty or would be in custody or who, in order to participate in family council

reunion, would break the interdiction of leaving the city could not keep this membership.

In the family council are involved the guardians, on behalf of the family member, which they represent. The Family council meeting could take place on the proposal of one of its members or of the family assistant.

4. Measures to protect victims of domestic violence

The protection for victims of violence is provided in specialized care centres, houses for victims of domestic violence, called shelter houses, and they are social units, usually without a legal personality, which provide protection, housing, care and counselling to victims of domestic violence who came to make use of this social service forced by the existing situation.

During criminal investigation or trial court, on the victim's request or automatically, whenever there would be evidence or clues that a family member has committed an act of violence causing physical or mental suffering on another member, could be ordered temporarily, one of the measures stipulated by arts. 113 and 114 of the Penal Code and the measure of prohibition concerning the return to the family home. The measures should cease when the status of danger that led to these interdictions would have stopped and the court should order that. The person against whom one of these measures would be taken could require whenever during the trial, to the court competent to try the case, the revocation of the measure, when its grounds should cease to exist.

To the biological differences between men and women do correspond some psychological and social differences. Since differentiation is becoming increasingly complex and beyond the level of biology, social roles are coming to be clearly defined.

The women's emancipation, the gain of equal rights with men, the access to education and culture, to the exercise of professions that were yet recently an attribute of men, led to the blurring of differences between the two genders, through a feminine gain on the line of fundamental assets: independence, courage, leadership, initiative. Tradition has shown that specific to women are sensitivity, emotions, aesthetics, educational talents. But tradition has established as well a weaker image of women in the frame of marriage, the husband being enable to patronize her, including through physical aggression.

5. Women victimizing

Women are particularly targets of physical aggression, both by physical injuries, particularly as a component of domestic violence as well by sexual offences. In France, 95% of cases of domestic violence caused physical injuries and, in 28% of these cases, the injuries were bad.

Rape is an extremely dangerous offence that has been very severely punished in all countries, including the Romanian Principalities (see compendia Neagoe Basarab) and subsequently maintained in all the Romanian criminal laws that followed. At first, the special social danger of this offence lies in the abuser who may not follow the rules of society particularly restrictive in this area, he is obviously a social misfit with little chances of re-socialization, and secondly this is about the physical, especially psychological trauma that the victim will experience for a long term.

Four categories of rape offence have been identified, according to the means employed by the defendant or the favouring circumstances:

- 1) violent rape, reducing the victim to helplessness;
- 2) rape by moral coercion;
- 3) rape by abusing of a situation;
- 4) rape of persons with physical and mental pathological conditions.

Rape is an offence, which may be committed by a stranger or even by a friend of the victim. A three-year study on a sample of 500,000 victims revealed the following situations:

The rapist was a known person to 40% of cases: 4% relative, lover 7%, 6% friend, a good knowledge of 6%, 16% random acquaintances;

The rapist was not a person known to 55% of cases, 49% completely unknown, known to having him randomly seen 7%; Connection rapist - victim not specified for 4% of cases.

Other British studies have revealed that seven from ten women aged less than 30 years have expressed their concern that they might fall as victims of acts of rape and every week two women are killed by current or former partners. It was also estimated that approximately 750,000 women were raped at least once since the age of 16 years

The cases of rape could be classified in two categories:

- 1) causes external to the victim: mental disorders of the aggressor, desert and dark places;
- 2) causes imputable to the victim herself: provocative or insulting attitude, provocative clothing, ignoring minimal preventive measures such as non-attending of certain places, etc.

Given these circumstances, in the specialized literature (C. Böhmer) victims of such violence were classified as follows:

a) totally innocent victim. Example: the victim is called by an unknown aggressor on a dark unlighted alley;

b) the victim is partly to blame. Example: The victim consented to visit at home the aggressor and after she was complaining that she was raped.

c) the victim of revenge. Example: the person wanting to get rid of his partner accused him of rape.

Prostitutes, who are in a very disadvantaged situation, constitute a special category of rape victims. Prostitutes are exposed to more sexual offences than others of the same age. American criminologists have shown that victimization of prostitutes is done frequently by afro-americans and even by the police itself, since the rape of prostitutes is more probable due to the impression that they should not oppose a hard resistance. It was also noted that rape in a group is more commonly met prostitutes. To these results, we might add that prostitutes are not generally believed, up in regard to their "job", and that this type of offence is carried out clandestinely, the assertion of the victim and eventually some forensic evidence having to stand against the denial of the aggressor.

Another very common situation of victimizing women is domestic is mental violence, by hurtful words and threats.

The mistreatments of women may lead to the suppression of their life.

A national study conducted and published in 2004 has shown that more than 800,000 women in Romania have often suffered domestic violence.

By comparison, the United Kingdom of Great Britain researchers have shown that one from four women have suffered domestic assaults from their lives. Two-thirds of domestic violence's victims are women. The most popular type of domestic violence is psychological violence consisting of insults, curses, threats involving separation and death. Domestic and sexual domestic violence has exclusively female victims. About 12% of divorced women said that they had been raped by their husbands, compared to 2.3% of married women who confess so. Victims of physical violence at a ratio of 20% admitted that they were slapped and kicked. If domestic violence should culminate by the suppression of the victim's life, statistics could show that women are more often killed by their husbands than husbands killed by wives.

The latter situation is also called "the beaten woman syndrome" and it is a situation of women's victimizing by the husband who is lagging her for a long time. At some point it becomes unbearable, a situation to which she would respond with violence, suppressing her husband's life.

The wives` victimizing is due mostly to the aggressive and repressive behaviour their husbands, but there could be situations when the wife contribute herself to cause the violence through her provocative attitude exteriorised during unfavourable situations.

5. Conclusions

The importance of preserving the normal cohabitation and family relationships requires a toughest incrimination for domestic violence and it determines criminal liability for those who by their actions have seriously damaged these social values.

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Contact – email
acf88@yahoo.com