



TRANSTEORETICAL APPROACHES ON DOMESTIC VIOLENCE

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Abstract: Domestic violence is a widespread public health problem. Domestic violence does not just manifest itself physically, it can take different forms, from verbal aggression to insults of psychological, emotional, sexual, material deprivation or simply negligence. All these affect the victim in many ways. Thus, the professionals in medical, legal sciences, but also the state authorities with responsibilities in social protection and assistance must know the phenomenon very well and find the best ways to fight it. No institution will be able to achieve this objective by working individually, but only an efficient cooperation of all these factors can contribute to limiting the negative effects and the state of vulnerability, but also to provide information and support to the victims.

INTRODUCTION

Domestic violence is an increasingly common situation today. The term domestic violence was first used in 1973 by Jack Ashley (1) who spoke of spouses who physically assault their wives, in an address to the UK Parliament. Therefore, for almost 5 decades, the authorities have been considering this phenomenon and fighting against it with all the means available to them. Despite this fact, the chapter is far from closed as new episodes of this kind always appear and new methods of response, bodies of action and protocols to be followed in the wake of domestic violence are needed.

From then and until now and certainly from here on, many theories, details and meanings attributed to this entity will be formulated. However, one of the most plastic, but also accurate definitions is the one provided by the World Health Organization, which published a World Report on violence and health, which called domestic violence a scourge affecting community bases and threatening life, health and the happiness of all.(2) It is a statement that very accurately reproduces the characteristic notes of this notion. Indeed, these situations visibly affect our societies and therefore, the best techniques must be found to combat these unfortunate events.

The first document of legal value that establishes that domestic violence is a violence of human rights is the Istanbul Convention.(3) It studies topics such as the proper prevention and punishment of situations with the harmonization of legislation, the protection of victims, the monitoring of objective realities through studies and specialized programmes, but also numerous topics related to discrimination regarding minorities, disabilities or opinions. Thus, new directions are to be followed in addressing violence of all types. Romania ratified the Convention in 2016, thus committing itself to participate with all the resources in achieving the goals proposed by it.

Legal context

Violence of any kind is punished according to the law in force. The issues related to the perpetrator's liability in this

situation are described in the Chapters of Offenses against life and bodily integrity or health in the Criminal Code. The hit or any acts of violence causing suffering are punished with imprisonment or fine, depending on the severity of the traumatic injuries (articles 188 and 189, respectively 193-195), even the threat with such acts, or even murder. Regarding the intra-family aggressions, there are exact specifications in art. 199 of the Criminal Code, which stipulates that for acts committed on a family member, the special maximum of the punishment provided by law is increased by one-fourth. It is also mentioned that the criminal action can be initiated also *ex officio*, and the reconciliation of the parties removes the criminal responsibility.(4) Therefore, domestic violence is foreseen as a crime.

Although it has a fixed structure and it seems that all possible situations are regulated precisely, there is always room for improvement. The multitude of circumstances and their variability bring about the necessity of continuous improvement of the legislation. As in some communities a certain level of violence is accepted (5), it is clear that evolution is expected in most areas, but also regarding mentalities.

Also, the law provides for the possibility of issuing a restraining order so that when life, physical, mental integrity, or freedom is threatened by an act of violence of a family member, a protection order may be requested, by which it may be arranged different obligations or restrictions such as: the temporary evacuation of the aggressor from the family home, the aggressor being forced to keep a minimum distance or the prohibition of any contact.(6)

In Romania, there is also the Institution of the People's Advocate, which can be consulted by the initiators of the draft laws and ordinances which, through the content of the regulations, concern the rights and freedoms of the citizens, provided by the Constitution of Romania, the pacts and other international treaties regarding the fundamental human rights to which Romania this part. Also, it can be notified *ex officio* or at

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the request of the different authorities or individuals, regardless of age, sex, citizenship, political affiliation or religious beliefs.(7)

Forensic context

Domestic violence is of several types, but physical aggression predominates. Therefore, the first necessity is related to the medical-surgical attitude. The most important is the life of the victim and all therapeutic efforts must be undertaken. In some cases, even if they are few, it is very important to involve the attending physicians who notify the judicial authorities.(8,9) This situation is in fact a legal obligation, but it represents a marked negative note for the society - the fact that only at the end of the intervention chain, when the patient arrives at the hospital, the competent bodies are notified to take the necessary measures.

As we have shown, mechanical trauma has the highest frequency. Thus, primary lesions (bruising, hematomas, excoriation, wounds) occur, which, as described by the name itself, represent the simplest and most common consequences of an aggression. By their morphological characteristics (localization, appearance, topography) with local or remote, immediate or secondary effects, they are of particular importance in general pathology and forensic medicine.(10) The recognition of the traumatic lesions and their peculiarities acquires a real significance in diagnosis, establishing the etiology and identifying, to a large extent, the vulnerable agent.(11) Although the ones presented so far represent most of the cases, it should not be neglected that as a result of the violence in general, but also of the domestic one, serious diagnoses have resulted, with important functional resonance which have become permanent or even worse, situations with fatal outcome.(12)

Currently, the assessment of the severity of the traumatic injuries is made according to certain normative principles that are used relatively unitarily in Romania. Therefore, the evaluation is performed by granting a number of days of medical care or meeting criteria that define several notions - endangering life, infirmity, post-traumatic abortion, serious and permanent aesthetic injury; also, the remaining work capacity following an aggression can be evaluated.(13) According to these, but not exclusively, the criminal classification of the deed is done, with all the consequences that derive from here.

Psycho-social context

One of the main concerns of the World Health Organization is domestic violence. If at first, the term referred only to violence against women, it now includes aggression against any member of the family. Along with this situation, excessive alcohol consumption is of particular interest. Unfortunately, most of the times, the two phenomena occur simultaneously (14), with the potential to stimulate each other. There are many specialized studies related to these topics and, in conclusion, the following paradigm has been reached: alcohol abuse and especially intrafamilial aggression, both of short and long term, produce anomalies in the psycho-somatic development of persons with effects on personal, social and professional life.(15) Also, these two elements are associated with other psycho-social components with a strong impact on communities, such as: psychological integrity, precarious socio-economic status, educational deficiencies, disorganized social environment, organic and psychic comorbidities.(16,17)

Of the most associated domestic post-aggression psychic consequences, depression and post-traumatic stress syndrome are representative.(18) From the psychological point of view, the most common consequences are the loss of self-esteem, anxiety and vulnerability. The psychologically and psychiatric well-being is on the same place as the somatic well-

being and for which, also, a material quantification cannot be established.

Child abuse is another form of intra-family aggression with extremely serious consequences. The most common forms of abuse are verbal and emotional violence in the form of negligence.(19) Studies show that it is not compulsory for a child to be a victim of domestic violence, it is enough to witness such situations in order to affect his/her emotional development, but also from a social and neuro-cognitive point of view.(20) Instead, one of the most pernicious forms of child abuse is the sexual abuse. Following an analysis of multiple studies in the field, it was pointed out that those subjected to such behaviour have very high chances of being decompensated by organic pathologies, mental disorders or psycho-social disorders. Regarding physical comorbidities, these may represent long-term consequences of traumatic injuries; psychic ones - schizophrenia and post-traumatic stress syndrome are more common; from the psychosocial point of view, the abuse of different substances (alcohol, tobacco, medicines, drugs, even combinations) and serious dietary changes are frequently discovered. Their number is constantly increasing.(21) For this reason, we can assume that there is a causal link between the two phenomena. Because young people are the most vulnerable and do not have yet a defined psychological structure, behavior and personality, therapeutic interventions are easier and mandatory in the sense of stabilizing and harmonizing the psychological activity.

The European Union Agency for Fundamental Rights conducted interviews with 42,000 women and underlined the general scale of domestic violence against women. The figures obtained are impressive. Almost half of the women (43%) were psychologically assaulted, and one in 3 women was physically and/or sexually assaulted (in different forms). At the same time, it has been found that young women are the most likely to become victims of domestic aggression.(21)

CONCLUSIONS

Domestic violence is a problem of general interest with multifactorial etiology and serious consequences, on several levels, affecting the daily life of the society. Therefore, it is very important that all institutions and authorities empowered to be proactive in recognizing the signs of violence and in combating all forms of violence in order to limit their effects as much as possible, as it is a difficult phenomenon, if not impossible to eradicate. Also, the allocation of the necessary funds to finance the screening programs, emergency calls, shelters, medical care and psychological or economic assistance is crucial for establishing an appropriate mode of action, but also in evaluating and controlling these situations. From all points of view a significant matter is also the financial issue. As most aspects of everyday life also involve a material side, this also penetrates into domestic violence. From the cost of the treatment of the injured person to possible damages, but also the projects to combat the intrafamilial aggressions require a huge amount of resources. Although they are allocated considerably, as long as such events will still occur, we can say that they are insufficient.

One of the most important goals is to change certain mentalities that still make differences in positions, status or ideas. Another beneficial approach would be to treat them as a public problem rather than a private one. For example, in some of the hospitals in the United Kingdom, professionals have been hired to support people who are victims of domestic violence, who have the role to act in critical moments until the intervention of the authorized authorities. They are responsible for hosting those who are attacked, offering financial, psychological or legal support, guiding them towards the competent bodies or whatever else is necessary.(23) These

people become specialists in the field and help to identify intrafamilial abuses that without their intervention would remain undiagnosed. This is an activity that by its importance deserves the proper attention, it is worth studying and then implemented in our hospitals.

Taking these aspects into account, we find the continuous need for valid and concrete information for carrying out specialized studies, raising awareness, meeting the needs of victims, supporting legislation and improving the efficiency of the domains of activity related to domestic violence.

REFERENCES

1. Api.parliament.uk. (2019). BATTERED WIVES (Hansard, 16 July 1973). [online] Available at: <https://api.parliament.uk/historic-hansard/commons/1973/jul/16/battered-wives>. [Accessed 5 Nov. 2019].
2. World report on violence and health: summary. Geneva, World Health Organization; 2002.
3. Convention A, Convention, T. (2019). Text of the Convention. [online] Istanbul Convention
Action against violence against women and domestic violence. Available at: <https://www.coe.int/en/web/istanbul-convention/text-of-the-convention> [Accessed 25 Nov. 2019].
4. Lupașcu D. Noul Cod Penal și Noul Cod de Procedură Penală. București. Universul juridic; 2014.
5. Wolfgang Marvin E. Ferracuti F. The Subculture of Violence: Towards an Integrated Theory in Criminology. London: Tavistock Publications; 1967.
6. Legislatie.just.ro. (2019). LEGE 174 13/07/2018 - Portal Legislativ. [online] Available at: <http://legislatie.just.ro/Public/DetaliuDocumentAfis/202718> [Accessed 30 Oct. 2019].
7. Avp.ro. (2019). Atribuțiile Avocatului Poporului. [online] Available at: http://www.avp.ro/index.php?option=com_content&view=article&id=76&Itemid=165&lang=ro-ro [Accessed 30 Oct. 2019].
8. Zorjan S, Smrke U, Sprah L. The role of attitudes to, and the frequency of, domestic violence encounters in the healthcare professionals' handling domestic violence cases. Slovenian Journal of Public Health. 2016;56(3):166–171. doi: 10.1515/sjph-2017-0022. 2017.
9. Saliba O, Saliba Garbin CA, Garbin AJI, D AP. Responsibility of health providers in domestic violence reporting. Revista Saude publica. 2007;41(3):472-7. DOI 10.1590/S0034-89102007000300021. 2007.
10. Moraru I. Medicina Legală. București. Editura medicală; 1967.
11. Scripcaru Gh. Terbancea M. București. Editura didactică și pedagogică; 1978.
12. Iftenie V. Dermengiu D. Medicină legală, Ed. C.H. Beck., București; 2014.
13. Dermengiu D. Evaluarea gravității leziunilor traumatice. Repere axiologice criteriologice și metodologice. București. Gemma; 2015.
14. World Health Organization .Global status report on alcohol and health. Geneva: World Health Organization; 2011.
15. Krug EG, Mercy JA, Dahlberg LL, Zwi AB. The world report on violence and health. Lancet.2002;360(9339):1083–8. doi: 10.1016/S0140-6736(02)11133-0.
16. Abramsky T, Watts CH, Garcia-Moreno C, Devries K, Kiss L, Ellsberg M, Jansen HA, Heise L. What factors are associated with recent intimate partner violence? Findings from the WHO multi-country study on women's health and domestic violence. BMC Public Health. 2011;11:109. doi: 10.1186/1471-2458-11-109.
17. Gilchrist G, Hegarty K, Chondros P, Herrman H, Gunn J. The association between intimate partner violence, alcohol, and depression in family practice. BMC Fam Pract. 2010;11:72. doi: 10.1186/1471-2296-11-72.
18. Riedl D, Exenberger S, Daniels JK, et al. Domestic violence victims in a hospital setting: prevalence, health impact and patients' preferences - results from a cross-sectional study. Eur J Psychotraumatol. 2019;10(1):1654063. Published 2019 Aug 22. doi:10.1080/20008198.2019.1654063.
19. Riedl D, Beck T, Daniels JK, et al. Violence from childhood to adulthood: The influence of child victimization and domestic violence on physical health in later life. J Psychosom Res. 2019 Jan;116:68-74. doi: 10.1016/j.jpsychores.2018.11.019.
20. Mueller I, Tronick E. Early Life Exposure to Violence: Developmental Consequences on Brain and Behavior. Front Behav Neurosci. 2019;13:156. Published 2019 Jul 9. doi:10.3389/fnbeh.2019.00156.
21. Hailes HP, Yu R, Danese A, Fazel S. Long-term outcomes of childhood sexual abuse: an umbrella review. Lancet Psychiatry. 2019 Oct;6(10):830-839. doi: 10.1016/S2215-0366(19)30286-X.
22. Violența împotriva femeilor: o anchetă la nivelul UE Rezultatele pe scurt. FRA – Agenția pentru Drepturi Fundamentale a Uniunii Europene. Luxemburg: Oficiul pentru Publicații al Uniunii Europene; 2014.
23. Halliwell G, Dheensa S, Fenu E, et al. Cry for health: a quantitative evaluation of a hospital-based advocacy intervention for domestic violence and abuse. BMC Health Services Research. 2019;19(1):718. Published 2019 Oct 21. doi:10.1186/s12913-019-4621-0.