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THE PERCEPTION OF WOMEN VICTIMS OF DOMESTIC VIOLENCE

REGARDING THE CRIMINAL JUSTICE SYSTEM

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Key words: Domestic violence, the criminal justice system, expectations, support factors and obstacles in the process of overcoming the victim status of being a victim.

Introduction

The interest in the domestic violence phenomenon started to emerge in Romania in the beginning of the 90s, the non-governmental organizations being among the first to pay a special attention to it. Due to external pressure as well as to profound changes on the international level, Romania, being a country that applied for EU membership, had to adopt and create a legislative framework as well as enforcement strategies for domestic violence cases. It was not a easy process because the issue of equality between men and women was not considered important. As regards the scientific interest in the domestic violence phenomenon, there were no major studies published in the last decade. There have only been some studies based on prevalence data regarding domestic and gender violence and not on mechanisms of punishing these types of violence. Even though there have been changes on the legislative level, the phenomenon needs a continuous attention in order to understand what are the most efficient means of intervention and what is on the one hand the concrete material impact of the law, by studying the *real* effect that produced in the life of the women victims of domestic violence and on the other hand, the *symbolic* impact, by studying the way in which social messages are shaped and expressed (Smart, 1989).

The present research is based on the methodology of an international research project regarding the way women victims of domestic violence approach justice. The study was carried out in 4 European countries and Coordinated by the Carlo Cattaneo Reasearch Institute in Bologna (Fondazione di ricerca Istituto Carlo Cattaneo)[1].

The purpose of this paper is to present a multilateral image of the functioning of the criminal justice system from the perspective of the women victims of domestic violence. Within this research we are presenting the social situation, the institutional system, the national policies (derived form international policies) which have a

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[1] "Why Doesn't She Press Charges? Understanding and Improving Women's Safety and Right to Justice" ("De ce nu depun femeile plângeri? Îmbunătățirea măsurilor de protecție a femeilor și a accesului lor la instanțele de judecată"), financed by the European Commission through Daphne III (2007-2013).

determining role in ensuring the access of women to the criminal justice system. According to this research in order to reach the mentioned objective it is important to collect the individual experiences of the women victims of domestic violence. They especially want to highlight the women's perspective of the legislation against domestic violence, respectively the methods used by the women in order to ask for legal support, the obstacles that prevent them to benefit from the legislation and receive support and safety. Within this study, the feelings, the ideas, the actions of the women have been followed as well as their expectations with regard to the justice system.

The present paper does not see domestic violence as a monolithic phenomenon – Bogard's expression for describing the research which are limited to a single profile of the victims (Bogard 1999) – but starts from the assumption that we live in social contexts created by the intersections of different power systems (Sokoloff și Dupont, 2005). Thus, this study would be incomplete without including the perceptions of women coming from different cultural environments (or marginalized). As a result, we have offered to the women interviewed a space for expressing their opinions and we could capture the way in which gender inequality intersects institutionalized forms of power, or even some institutional abuses. The present research also aimed at indentifying specific cultural obstacles that prevent women from using the criminal justice system.

During the research we used the qualitative research methodology. For this purpose we analysed 78 semi-structured interviews with women in a domestic violence situation from the county of Cluj and Iași paying a special attention to groups from ethnic minorities. The sampling method used was theoretical sampling. In the analysis of the results we used thematic analysis with the used of the software Atlas.ti.5.0. Afterwards, we analysed two case-studies (focusing on the narrative elements of the interviews) which are among the cases that ended in a success with the purpose of presenting the dynamics of the vents with regarding to the collaboration victim-system, as well as to highlight the support factors which were at the basis of the process of overcoming the victim status of being a "victim".

Starting with the perspective of human rights, the theory found at the basis of this paper, is a feminist theory. According to this theory, the family is no longer perceived as a private space with a patriarchal organization where the man holds absolute power –

thus, the family is no longer outside the reach of the legislation or outside of social control. On the other hand, the current legislation reflects the norms and social structures through which power inequalities of the society are manifested. Even though during this research we focused on the relationship between the women victims of domestic violence and the criminal justice system, we support the idea according to which focusing on legal solutions only offers limited solutions and interpretations (Smart, 1989). Our focus on the legal interventions in the cases of domestic violence did not have the purpose of taking them out of the context of the wider problem of discrimination and women inequality.

The results highlight women's expectations with regard to the justice system, the perceived usefulness of the legal intervention, as well as the main factors which come into play when women decide to continue or to leave the criminal justice process. The results of the study show that the lack of success of the women victims of domestic violence in their actions to seek justice in court and to escape violence is based on a variety of factors. No matter these factors and their intersection, it is undeniable that the justice system and the police play a role in their decision to give up trial. Even though it was observed that in most of the cases police (or legal interventions in general) cannot or do not offer the safety needed or the rapid elimination of danger, the importance of the non-legislative factors has been underlined.

The results of the research bring new elements in the specialised literature first of all on a theoretic level, by checking and completing feminist models of approaching domestic violence with aspects regarding the way in which the institutional system may influence the human capacity of exercising freedom. Secondly, the research leads to a series of conclusions with a practical value which reveal the effects of the legislative institutions on the women's capacity of exercising the rights and autonomy of an adult and mature person, and especially the ways in which these institutions and the professionals working there should support the women victims of violence in order to help them become stronger having the law on their side.

Chapter 1 is a short presentation of the conceptual framework of domestic violence. As regards to the conceptualization of domestic violence, various definitions shall be presented. Even though there is no consensus among the researchers, the presentation of

the definitions has the purpose of understanding the common elements of all the forms of violence in order to better comprehend this phenomenon (Schuler, 1996).

The definition of domestic violence varies around two concepts, the terms of "violence" and "domestic", as Garner and Fagan highlighted in 1996 (cf. Roberts, 2002). There are several disagreements with regard to these terms between the theoreticians due the fact that they bring different perspectives in their conceptualization. In order to have a full image of all its forms we shall present the definition given by Stark and Flitcraft (cf. Muntean, 1999), which we shall use in the present paper because they widen the interpretation of the phenomenon "the physical or sexual attack can be accompanied by intimidations and verbal abuse; the destruction of personal belongings of the victim; the victim is forcefully isolated from friends, family and other people that might potentially help her; threats against important people in her life, including children; creating an atmosphere of threat and terror around the victim; control her access to money or personal belongings, food, means of transportation, phone and other sources of protection or treatment the victim might benefit from." Gordon's perspective (Winstok, 2007), who makes a difference between the term of domestic violence and family violence, as well as Kilpatrick' perspective (2004) who approaches the concept of domestic violence from the point of view of public health and of the criminal justice system, shall be presented below. We shall also show the intentional nature (Roth, 2005), as well as the key features of domestic violence: it is manifested over a certain period of time; increases in frequency and seriousness (it is not an isolated event, but a part of a continuum); it is a chosen and intentional behaviour which involves power and control and it is not limited to a certain ethnicity/cultural environment, social class, age, sexuality or identity (Sissons, 2011).

We have also followed the international historic evolution of the social and legal context of violence. We have listed the international treaties of ONU and the EU which recommend the Member States to take consistent legislative measures based on the principle of zero tolerance towards any form of violence. We have also shown the undeniable importance of international documents, such as the Vienna Declaration and Action Plan (United Nations, 1995) where the signatory states guaranteed that they shall implement policies in order to prevent and fight violence against women and ensure

efficient protection for women. Also the General Recommendations of the CEDAW[2] Commission (nr.12 and 19)[3], impel the signatory states to ensure the adequate services for the protection and support of the victims of domestic violence. In the Recommendation of the Council of Europe nr.5/2002, the Group of Specialists of the Council of Europe recommended the creation of a shelter for every 7500 inhabitants. At the same time, the Recommendation of the Council of Europe nr.5/2002 equally refers to the coordinated community answers and impels the states to implement them. The European Parliament Resolution of the 26th of November 2009 draws attention to the proper training of the judicial system representatives and of those involved in the enforcement of the laws, especially the representatives of police, courts, social assistance, medical and judicial services.

As regards the national context, 1989 brought profound changes on the international (and national level) in politics as well as on the economic and social level: the collapse of the Soviet Union and of the satellite states, the war in Yugoslavia, the adoption of the neo-liberal economic agenda in Eastern Europe and the beginning of the negotiations for EU adhesion. A crucial moment for Romania was its wish to join international organizations such as the Council of Europe and the European Union. The countries that wished to join the UE had to make profound changes such as the approximation of their internal laws with the European laws, the adoption of the acquis communautaire, the creation of mechanisms and structures in order to monitor these laws. The creation of a legislative framework and of the implementation strategies was not a easy process because the issue of equality between men and women was not considered important, given that the inheritance of the communist regime was a society that blind to gender problems. Non-governmental organizations are the first to offer services for victims of domestic violence. A short history and the present situation with regard to

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[2] CEDAW-Convetion on The Elimination of All Forms of Discrimination

[3] "States parties should take all legal and other measures that are necessary to provide effective protection of women against gender-based violence, including, inter alia: …(i) Effective legal measures, including penal sanctions, civil remedies and compensatory provisions to protect women against all kinds of violence, including inter alia violence and abuse in the family, sexual assault and sexual harassment in the workplace; (ii) Preventive measures, including public information and education programmes to change attitudes concerning the roles and status of men and women; (iii) Protective measures, including refuges, counselling, rehabilitation and support services for women who are the victims of violence or who are at risk of violence"

social services are presented. They show that Romania was in a situation in which it was not able to respect the international provisions with regard to the efficient protection of the victims and the creation of services accessible to them.

On the legislative level, domestic violence was first recognized as being a social problem in 2000, when the section of the Romanian Criminal Code regarding "Hitting and harm to physical integrity or to health" was modified (aggravating provisions were introduced with regard to the punishment of these deeds when they are committed against a family member as follows: art. 180, 181 of the Romanian Criminal Code incriminates hitting and other forms of violence). Given that these modifications were not enough, in 2003, as a result of the pressure from external factors and the civil society, Law no. 217 of the 22nd of May 2003[4] on the prevention and fight against family violence was adopted, as well as Law no. 211/2004 which offers the victims the right to free psychological counselling and legal support, and financial compensation from the Government.

Law no. 217/2003, does not insist on the safety of the victim, but rather refers to the prevention of violence through a system of family assistants, a structure which did not exist at the time; this can be interpreted as an example of resistance to change. Even though the legislative acknowledgement of family violence is undeniable, The Romanian Criminal Code does not provide for a separate and distinct offence for family violence. As a result it does not include any definition of the concept. We observe the existence of two distinct definitions with regard to the terminology of family violence in the Romanian Civil Code and in the Romanian Criminal Code. As a result, in practice, family violence is punished according to the provisions of the Romanian Criminal Code and of the Romanian Criminal Procedure Code. As a consequence, the lack of approximation of the Romanian Criminal Code and of the Romanian Criminal Procedure Code with Law no.217/2003 of the Romanian Civil Code, leads to a limited number of domestic violence cases being judged. Thus, legal intervention is critical and problematic. (Antal and Szigeti, 2011). In 2004, Interministerial Order no.384/306/993 on the approval of the Procedure of collaboration for the prevention and monitoring of the family violence cases which regulates the cooperation within the activity of prevention and

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[4] M. Of. nr. 367 din 29 mai 2003

monitoring of family violence cases and identifies local institutions which shall conclude protocols of collaboration and shall elaborate a coordinated answer in domestic violence cases was adopted.

In this chapter we presented some problems of the judicial system with regard to issuing a judgment on the cases, to the safety of the victim and to the punishment of violence. At the same time, Law no.217/2003 offers some levers which are not taken advantage of. These levers shall be shortly presented.

Chapter 2 shall present a classification of the theories in four main categories: psychological, sociological, feminist and multi-cause theories.

The psychological theories presented, i.e. the cycle of violence theory, the battered woman syndrome theory, the Stockholm Syndrome theory, the traumatic attachment theory, explain "the psychological paralysis" of women (Walker, 2004), the development of the "individual vulnerability" (Jackson, 2000) and bring an explanation of the reluctance and the ambivalence of women with regard to sending their abuser to court or to maintaining their accusations (Dutton, 1995).

Sociological theories, the family systems theory, the social learning theory, the resources theory, the exchange theory and the labelling theory draw attention on the importance of the family and educational environment as well as on the consequences of social reactions, thus making the society more responsible than the individual.

The feminist theories support the idea that domestic violence is not a part of life that is only related to personal biography, but is rather a manifestation of a form of social control which has the following key concepts: social class, power and ideology. The feminist theory is based on some main ideas. First of all, it considers behaviour in general and deviant behaviour in particular as having *structural origins*, stressing the relationship between the deviant behaviour and the economic organization of the capitalist society, as well as the idea of inequality of power. Secondly, we can notice the idea of *free choice, which supports the people's capacity of being able to choose* between violent or non-violent behaviour. The feminist perspective states that human societies are based on hierarchies and what differentiates the groups from one another is the difference in status. Hierarchies result in social stratification. The consequence is that the dominant groups

take the control of the institutions "imposing on the members of the dominated classes a legitimate order which favours the perpetuation of their power" (Oigen, 2002). As a result, the interests of the dominating groups are transformed into laws and policies, where the laws are "the instruments of the state".

According to the feminist perspective, the conflict between deviance and social control is a natural conflict because our thoughts and actions are filled with power. However, when it is not a mutual conflict, there is unequal distribution of power. This inequality leads to the isolation and exclusion of the others, thus, some groups of the population are forced to occupy the last steps of the social ladder. The institutions of power are seen as an exclusive service of imposing the domination of the rich, of maintaining the subordination of the others and of reducing the contradictions of the social class which undermines the system. According to this theory there is a deliberate will of isolating a certain social category. In this context, deviance is the reflex of inequality (Spitzer, 1985) and is ascribed to the people that come from the inferior social layers of society. However, the theoreticians of the feminist perspective consider that domination does not always occur and are preoccupied with the means of creating a "mutual space". One of the solutions they offer is political activism, the fight for the disappearance of a society based on inequality. This perspective shows the complexity of creating links with power and opens a window towards a historical understanding of violence.

The development of these theories contributed to the genesis of a more sophisticated and multi-cause model which offers multi-factors explanations, the most significant being the ecological theory. This theory pays special attention both to intrapsychic factors and to the context or circumstance of the violence phenomenon. According to this theory, domestic violence has its roots in a combination of factors which include personal antecedents and circumstances of women victims and abusers, as well as the nature of the relationship between men and women, neighbours and colleagues. Nevertheless, violence against women must be seen in the context of a larger structural inequality in the society where it occurs, as it is present and reflected in the attitudes, cultural norms and in the institutions of that society. According to this theory,

abusive situations can be a result of the interaction between individual, social, political and cultural factors (Heise, 1998; Perilla, 1999).

Chapter 3 In this chapter we present the evolution and the efficiency of the criminal justice system as seen by the national and international research, as well as the vulnerability factors which make difficult for women to take the decision to leave the domestic violence situation, thus making them prone to being a victim again. We shall present results concerning police action, studies regarding the criminal prosecution procedures, studies conducted inside the courts, as well as the experiences of the women who used the criminal justice system. Follows the presentation of the most important studies conducted in Romania.

Studies concerning the enforcement of the law show that the police is agency to which women turn to most of the times. It has an undeniable role in providing safety. Schulman (1979), Strauss and Gelles (1980, 1985) show that out of a total of 10.2% of the women who suffer from domestic violence, 6.8% are victims of repetitive violence, and out of the total of mistreated women, 14.5% call the police (Dutton, 1995). This study shows that 1 in 6 victims of domestic violence call the police.

In the search for the most efficient answer from the police, several studies have been conducted on the effect of the arrest on subsequent domestic violence and the decrease of the number of repeated calls in domestic violence cases. The Minneapolis experiment shows that arrest was associated with a smaller possibility for women to become victims again (Sherman and Berk, 1984). The Minneapolis experiment was replicated in 5 other jurisdictions. The results obtained showed that arresting the perpetrator is a necessary answer, which however does not have the expected effect on certain types of perpetrators (Maxwell, Garner and Fagan, 2001, Hester and Westmasterland, 2005, Hester, 2005). Following these result the "pro-arrest" policy was encouraged within the police. After the introduction of the compulsory police custody, Sherman and his collaborators support the idea that the measures applied cannot be universal, but that they must be individualized. They suggest the replacement of mandatory police custody with "mandatory actions" or with the possibility of choosing a set of actions such as taking the victim to a specialised shelter, the possibility of taking the perpetrator into police custody or sending him into a detoxification centre. Sherman

suggests that a "police custody staged" by the victim takes into consideration the decision of the person that is the most affected by the decision of taking the perpetrator into police custody, thus making it possible to verify if this measures is good for her or not. This approach draws attention on the re-evaluation of the role of the women in conceptualizing what an adequate legal response means to them (Mills, 2003). Burton (2008) states that the victims of domestic violence are a heterogeneous group, even if they have experienced violence, they come from different cultures and environments and thus, they have different needs.

Studies regarding criminal prosecution highlight the importance of using alternative evidence, such as photo cameras, testimonies of the neighbours etc. (Burton, 2008). As regards the studies concerning the judgment phase, the empirical data related to the answer of the criminal courts in domestic violence cases, are limited. The number of domestic violence cases ended in a punishment tends to be quite small (Hester and Westmarland, 2005; Ventura and Davis, 2005). Cretney and Davis (1997) observed that the judges usually opt for "keeping the peace". The prison punishment was given in court only in 11% of the domestic violence cases. At the same time, it was observed that the prison punishment was more probable when the court understood that relationship between the victim and the perpetrator had ended (Burton, 2008).

The studies that focused on the women's perspective with regard to the efficiency of the interventions show that in spite of the efforts made by the system, women perceive minor changes as regards the efficiency of the interventions conducted in view of their protection (Hague, 2003). They observe that the inefficiency may be due to the insufficient coordination and the disagreements related to the possibilities of intervention of the agencies or to the fact that the professionals don't make the necessary efforts or they lack the authority to intervene. Women would have expected harsher convictions for the perpetrators. They considered that the punishments they received inappropriate for the seriousness of their deeds (Hoyle and Sanders, 2002)

As regards the studies conducted in Romania, the current research and studies mainly focus on the prevalence of domestic violence and some sociological aspects. Such studies are: The Gender Barometer (Gallup, 2000), the Questionnaire on violence against women (Gallup, 2003), the National Research on Domestic Violence and Violence in the

Workplace - Romania (CPE, 2003), the Questionnaire on reproductive health (the Romanian Ministry of Health, 2005). According to the Gender Barometer (Gallup, 2000), more than half of the population believes that family abuse is a private matter (63%). Only 28% of them believe that police should intervene. According to the study on violence against women (Gallup 2003) (N = 193), only 17% of those who had the experience of physical abuse called the police and file a complaint (the last time they were abused). Most of the subjects said they were not happy with the police intervention (63%), while 66% of them argued that was because the police did nothing. Out of those who did not file a complaint, 53% of them did not state their reasons, 21% said it was not that bad, 7% were afraid/thought that it might not help.

In "The National Research on Domestic Violence and Violence in the Workplace" (CPE, 2003), most of the respondents (61%) said they considered family violence as a private matter and 33% considered that police and 3% that the Prosecutor's Office should intervene. In this survey, the percentage of those who filed a complaint at the police against their abuser was of 20%. 47% of those who filed a complaint were satisfied by the way the police officers dealt with their case, a higher percentage compared to the results of the previous survey.

The research, Victims of Domestic Violence: Children and Women (Muntean, 2000), which is a qualitative analysis of 40 interviews of women victims of family violence, highlighted the fact that police intervene especially in cases where the partners are divorced and most of the times they give fines for disturbing the peace, directly and indirectly encouraging domestic violence.

In 2006 a group of researchers from A.P.F.R Timişoara analysed 51 cases of domestic violence judged in court. According to their results, in 67% of the cases, women maintained their statements, while in 11.2% of the cases they withdrew the criminal complaint. 9.8% of the perpetrators were arrested during the trial, and in most of the situation the punishment given was a fine. In 4 cases, the perpetrators were imprisoned (they very serious cases). The data provided by the General Prosecutor's Office in 2010 show that the total number of criminal cases sent to trial between 2002 and 2009 varies between 128 (in 2006) and 242 (in 2002). The number of files did not increase after the adoption of Law no.217/2003, which indicates that during the period analysed by this

study, the legal system did not fulfil its punitive role with more strength than before the new law (Law no.217/2003).

As a result, there is an acute need of data on the applicability of the law, on the general standards and on the methods to be used, which should include relevant and useful information on the efficient means of intervention that benefit the victims in domestic violence cases.

Chapter 4 In this chapter we shall present the research methodology, the objectives and the purposes as well as the methods of analysis of the data and ethical aspects. This study is based on the methodology of an international research project regarding the way women victims of domestic violence approach justice. the sudy was carried out in 3 European countries and Coordinated by the Carlo Cattaneo Reasearch Institute in Bologna (Fondazione di ricerca Istituto Carlo Cattaneo).[5]

The general objective of the research is to evaluate women's access in a situation of domestic violence to safety and legal protection, paying a special attention to women coming from ethnic minorities. It was divided in the following *specific objectives*:

1. The investigation of the reasons, the support factors which can be found at the basis of overcoming the victim status of being a victim

2. The investigation of the obstacles that make difficult the collaboration with the criminal justice system

3. The analysis of the experience of the women who addressed the justice system, according to each legal step, as well as the results obtained with regard to the legal intervention.

For the research undertaken we used the qualitative research methodology. For this purpose we analysed 78 semi-structured interviews with women in a domestic

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[5] "Why Doesn't She Press Charges? Understanding and Improving Women's Safety and Right to Justice" ("De ce nu depun femeile plângeri? Îmbunătățirea măsurilor de protecție a femeilor și a accesului lor la instanțele de judecată"), finanțat de Comisia Comunităților Europene, prin linia de finanțare Daphne III (2007-2013). Sub patronajul Uniunii Europene, partenerii proiectului de cercetare sunt: Casa delle donne per non subire violenza, Bologna, Italia, Dipartimento di analisi dei Processi Politici Sociali e Istituzionali (DAPPSI) - Università di Catania; Scuola Interregionale di Polizia Locale, Modena, Italia, UAB (Universitat Autonoma de Barcelona), Barcelona, Spania; Standing Together Against Domestic Violence, Londra, United Kingdom; School for Policy Studies - University of Bristol, Bristol, United Kingdom, precum și Universitatea Babeș-Bolyai, prin Facultatea de Sociologie și Asistență Socială Cluj- Napoca.

violence situation from the county of Cluj (48 women) and Iaşi (30 women) paying a special attention to groups from ethnic minorities. As regards the nationality of the respondents, 72% are Romanian, 16% are Hungarian and 11% are Roma. Only 1 of the women interviewed was of Turkish nationality.

The sampling method used was theoretical sampling..

In the analysis of the results we used thematic analysis with the used of the software Atlas.ti.5.0. Thematic analysis was conducted separately for each step of the legal intervention, starting with *not using the justice system* to *using the justice system*: Emergency calls, filing the criminal complaint, the investigation phase and the judgment phase.

The investigated themes have been the following: feelings with regard to the violence suffered; the behaviour of the partner or of the ex-partner after the violent episodes; the involvement and the reactions of the children to the violent situation directed against their mother; the process of looking for help and the attitudes of the people around them (members of the family, friends, neighbours) and of the specialised staff working in the organizations they contact; perceptions and representations regarding the reactions of the criminal justice system; possible obstacles in the way of using the criminal justice system.

Afterwards, we analysed two *case-studies* (focusing on the narrative elements of the interviews) which are among the cases that ended in a success with the purpose of presenting the dynamics of the vents with regarding to the collaboration victim-system, as well as to highlight the support factors which were at the basis of the process of overcoming the victim status of being a "victim". Following these analysis, the data were presented independently for each case and an "intercase confrontation" for the results obtained shall be conducted (Iluţ, 1997).

Chapter 5

In this chapter we shall pay a special attention to the perception of women with regard to the moments that determined them to use the criminal justice system. With regard to the notification, most of the times women contacted the police through emergency calls after repeated episodes of violence and in the middle of a violent event which was perceived as unbearable, dangerous, with unpredictable consequence, the

feelings associated with the call being fear, dread or shame. As we can see, women call the police in a crisis situation, in the moment when they "don't know what to do" in order to stop violence. As regards to the decision to report violence, it is a deliberate decision, a turning point in life of the woman (Grauwiler, 2007). Following the critical events women admit that the situation "is out of control". They consider that need to manage the situation *differently*, a change of perspective occurs and they become active with regard to change and accepting help. Women will file a complaint against the perpetrator when they have the necessary information ("when they know they can") and the wish to change the situation they are in. The analysis of the moments that determined them to take the decision to take the steps of the legal intervention is characterised by affirmations such as "I know I have to". These are moments when women realise that if they abandon the legal steps, this decisions will cost them more than bring them benefits. This triggering moment was observed in the cases where the reporting of violence led to legal consequences which turned against the victims (e.g. the aggressive partner sued them or there were situations in which they were afraid they might loose the custody of the children) and the women wish justice to be done. As regards the moments that determined them to use the criminal justice system, children had a major influence in taking the decision. Women take decisions with regard to using or not the criminal justice system depending on the way they anticipate the direct or indirect effect of the justice system's answer on the well-being and safety of the children. If they consider that they cannot ensure the safety of their children, they tend to stay in the violent situation, or when on the contrary, they think that they can win back safety with the help of the legal system, they act accordingly. Is it obvious that the decision making process is a much more complex one and depends on a series of other factors. We wished to highlight the role played by the children in the decisions taken by the women. This aspect draws attention to the fact that the legal or social interventions must take into consideration the situation of children which is of main priority and not to disregard it.

Follows a presentation of the *obstacles* found at the basis of maintaining the victim status of being a victim. Summarising the results presented in chapter 4 we can conclude that the individual obstacles, such as fear, shame, commitment towards the partner, the hope that the situation will change, maintaining the image of the family, are

important barriers in the way of using the criminal justice system. Interpersonal obstacles are added to the individual ones. They are represented by pressure from the family, from the perpetrator and/or from the children. Community obstacles such as social insecurity, lack of financial resources, poverty and lack of social resources increase the vulnerability of the women. The social obstacles perceived by the women are the answers of the legal agencies. In this context we identified the following:

As regards the *police*: The general perception of women in domestic violence situations is that the police response is fragmented, each violence episode being considered as an isolated event, without taking into consideration its cyclical character. Even when the police is called for several times, even if violence becomes more serious, the answer of the police identical, the most used measures being a fine or a warning. Usually, the enforcement of these measures does not have the desired result, being inefficient from the point of view of stopping violence or determining the perpetrator to be aware of his responsibilities. Only in a few cases it was noticed that the measures had the effect of discouraging future violence; these were the cases where the women called police during the first episodes of violence, or when the measures had an effect on the social status of the perpetrator. In most of the cases, the fines are paid by the women, and after police intervention they are prone to future violence. Previous negative experiences related to failing to make the perpetrator aware of his responsibilities, will increase the woman's mistrust in the criminal justice system.

As regards the *criminal prosecution phase*, another obstacle mentioned by the women is the fact that the initiation of criminal prosecution is conditioned by the issue of the forensic medical reports, their cost and the difficulty to have access to the forensic medical institutions. In most of the cases it is difficult to obtain proofs. Most of the times, violent situations occur in private spaces without witnesses, or even if there are witnesses, they avoid to get involved and give statements. Women observe that after reporting violence, they often lose contact with the criminal justice system; they are not informed about the future procedural steps, which determines them to withdraw their complaints.

Following the analysis of the interviews we did not obtain results concerning the Prosecutor's Office. The lack of data about the Prosecutor's Office may indicate either

that women do not have a direct contact with the prosecutor or that there are too few women who had a well prepared case file and went to court.

With regard to the *judgment phase*, the obstacles mentioned are: the long duration of the trials, the indifference of the judges, and the usage of a specialised language in the communication with the victims. At the same time, women speak about the minimisation of the seriousness of the acts of violence and the issuing of inappropriate punishments.

The obstacle which is common to each step of the intervention is the lack of legal information which results in losing their trust and the direct contact with the criminal justice system. From this point of view, we saw that there was a direct link between the level of information they had and the steps they took to contact professionals from the criminal justice system. At the same time, the legal information received helped take the necessary procedural steps in order to report violence or to ensure the physical/financial safety of the women.

Women perceive the *attitude of the professionals*, of the police officers especially as an important or even determining factor (not necessarily the only factor) in the process of taking the decision to report the violence they suffered from. We did not encounter any cases in which the professionals put pressure in favour of not reporting violence, at least explicitly. However, we encountered cases in which divorce was suggested as being a concrete solution to the violent situation, or in which they had a discouraging attitude by presenting their case as being one which lacks legal solutions. Moreover, an attitude of the professionals that does not respect the principles of intervention in case of domestic violence and is characterised by a lack of involvement or non-observance of confidentiality or of the security of the victims, may block the previous steps that were carried out. As regards the attitude of the police officers, their neutrality, the lack of diplomacy and empathy, their lack involvement are seen as an obstacle in the way of continuing the legal steps, Rarely, the are still attitudes of considering the victim directly responsible for the acts of violence committed by the partner. Other professionals suggested that women ask for mediation. The women who benefited from mediation sessions, perceived them as an inefficient intervention with regard to identifying the situations of abuse or stopping violence.

As for the *support factors* for overcoming the victim status of being a victim, individual factors such as persistence, courage, will, determination, faith and religious beliefs are listed. Active techniques such as leaving the home, avoiding conflict, safety plans, as well as seeking for help formally and informally contributed to overcoming the victim status. It was noticed that women are active agents when it comes to maintain their safety and that of their children. Regarding the interpersonal support factors, the relationship with the children, support from the family, colleagues and friends played an important role. Community factors such as access to psychological counselling or social assistance, aces to women shelters and specialised counselling centres were mentioned as being the most important.

As regards social factors, the women's perception of the legal interventions was the following. Concerning the response of the police, rapid and immediate intervention, the ability to evaluate danger, the monitoring of the situation, had an impact on the development of feelings of safety and trust. In some cases the fine, but especially taking the perpetrator into custody were considered as being interventions which offer the safety and the protection needed. The actions of the police officers had the purpose of ensuring protection, pro-active actions, as well as their involvement, were appreciated by the women. Some examples of good practice are the following: the fact that they were not interviewed in the same rooms as the perpetrators, they have been accompanied to IML (Forensic Medical Investigation Institute), they were escorted home to take documents, clothes, they stayed with them until the risk of violence decreased, they sent the victim to a specialized shelter, they interviewed the children and they assessed their risk situation, they assessed the context and the history of the abuse, they accompanied the victim to the hospital, etc. All these actions have been seen by the women as having a positive character. As regards the role of the lawyers, the information they gave about the women's rights, about the procedural steps to be taken, helped the women in the process of taking a decision. Having access to legal support and being represented in court for free have been considered of major importance.

As for the *criminal prosecution phase*, this helps them bring collateral proofs (for example, psychological reports). Regarding the *judgment phase*, the involvement of the witnesses, their preparation for trial, have been mentioned as being efficient

interventions. At the same time, they mentioned the importance of psychological counsellor or social worker who helped them during the trials. One of the most important results is that women who followed all the steps of the legal intervention benefitted from permanent collaboration and support from several professional, which draws attention to the importance of multi-disciplinary collaboration and of coordinated intervention.

With regard to *the attitude of the professionals*, accepting the women's decisions, showing them respect, empathy, the fact that they were believed have been mentioned as factors that facilitates the collaboration with the women during the legal interventions.

We have also analysed women's expectations with the purpose of creating an image of their perception of an efficient legal intervention. Most of the women have expectations regarding the procedural aspects. Women use the criminal justice system when they want violence to stop and they don't have the resources they need in order to create a safe environment and they draw attention on importance of having safety measures that prevent violence (for example restraining orders etc.). Regarding the initiation of criminal prosecution, women want the state in favour of accusing and sending the perpetrator to trial, with the involvement of the victims during the entire legal intervention. They agree with the obligatory character of the ex-officio intervention. They argue that it is extremely difficult to take such a decision due to the level of danger and to the ambivalence of the situation they are in. They however highlight the fact it is essential that they be involved during the whole legal intervention. Rapid and immediate intervention is seen as another aspect that brings safety, as well as monitoring the situation by police officers in serious cases. They show that the situation of the mother and of the child should not be approached separately, but together, that the interventions and the court decisions should take into account the needs of the children, suggesting an improvement of the exchange of information between the criminal and the civil justice system. Some compulsory services for the perpetrators have also been mentioned. At the same time, they want to benefit from credibility and a correct justice process. Women's satisfaction increased in the cases where the police gave a prompt answer and that made the perpetrator aware of his responsibilities. Women from ethnic minorities draw attention on an intervention that should take into account their specific cultural needs

(professionals who speak their language, shelters for women with many children etc.) and on the importance of having a non-discriminatory attitude.

Chapter 6. The results of the research bring new elements in the specialised literature first of all on a theoretic level, by checking and completing feminist models of approaching domestic violence with aspects regarding the way in which *the institutional system may influence the human capacity of exercising its own freedom.* The success or the lack of success of the legal actions can be the cause of very different factors, but no matter what they are or how they intersect with one another, the role played by the justice system and by the police in the women's decision to give up trial or to continue with the legal actions initiated is undeniable.

We can however state that, in general, the policies, the legislation in Romania, don't properly serve the interests of the women and are not suited to their specific condition of victims of domestic violence, transforming them in a social category which is excluded and underserved. Important institutions of society (the justice system, the police etc.) encourage and perpetuate domestic violence by trivialising violence against women, by having a lenient community response, or by having tolerant laws against perpetrators and minimizing violent deeds (we find similar results in the specialized literature, see Campbell, 1992; Haj-Yahia, 2000). The "justice gap"[6] is enormous. Many cases are lost at different levels of the criminal justice system (see similar results, Hester, 2005). Thus, in order to decrease this justice gap, obvious changes are necessary at all the levels of intervention, on an individual level (by making people more responsible) as well as on the level of the policies and methodologies which govern the criminal justice system.

By focusing on "success" cases (4 out of 78) we observed that bringing the trial to completion had an empowering effect in the life of the women. This result shows that the criminal justice system has the capacity (or can contribute) to women empowerment

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[6] Justice gap – the difference between the number of offences registered and the number of perpetrators sent to court. It is the key measure of the efficiency of the criminal justice system, and an essential indicator of the succes in reducing crime (The Crown Prosecution Service, UK)

and help them exercise their rights. This result is of major importance as the productive power of the system is also aimed at not only the repressive power.

Secondly, the research leads to a series of conclusions with a practical value which reveal the effects of the legislative institutions on the women's capacity of exercising the rights and autonomy of an adult and mature person, and especially the ways in which these institutions and the professionals working there should support the women victims of violence in order to help them become stronger having the law on their side.

The criminal justice system is perceived by the women as a colossal, passive mechanism which is difficult to set in motion, which follows the "automatic" bureaucratic procedure where the women's voice and involvement is lost. The legislation is perceived through the behaviour and the interventions of the agents of law enforcement mechanisms. This aspect draws attention to the importance of non-legal factors such as the respect towards the victim, offering appropriate information, involving women in the legal intervention etc.

We observed that there is a significant difference between the cases where women who followed all the steps of the criminal justice system and those who did not succeed. We realised that in the success cases, a series of support factors is added to the decision and the wish of the women "for justice to be made": family support, shelter services, counselling support, the support of other professionals (lawyers, police officers) during the whole legal intervention. Their *continuous and coordinated collaboration and their pro-active attitude* led to the mobilization of the criminal justice system. As we can see, a cumulation of support factors contributes to maintaining the safety of the women in a domestic violent situation.

Analysing the results of the research, based on the experiences of the victims, we can configure some ways of supporting women in exercising their rights and show some future directions for intervention:

- *Offering safety* is essential.
    - The assessment of the risk and of the danger of the situation by a multi-disciplinary team

- o The creation of shelters accessible to the victims
- o The enforcement of the interdiction to go back to the family home
- o Restraining order and protection order
- o Ex officio referrals
- o Take the perpetrator into police custody

- *Ensuring the necessary conditions* for the involvement and the participation of the women during the legal intervention,
    - o Free access to forensic medical reports
    - o Interview the victim and the perpetrator separately in order to avoid the confrontation of the parties (during the period when violence is reported, a complaint is files and an investigation is initiated)
    - o Use alternative evidence (psychological and medical reports, psychological evaluations on dynamics and consequences of domestic violence etc.)
    - o Properly inform the victims
    - o Monitor the situation after the violence was reported to the police
    - o Ensure access to specialised services (psychological, social, legal counselling, shelter services, escort the victims to IML (Forensic Medical Investigation Institute, police, court)
- Validating the victim and making the perpetrator take his responsibilities
    - o Professionals should adopt a "0 tolerance" attitude
- Coordinated collaboration of the professionals
    - o Horizontal organisation of the multi-disciplinary team
- Trainings for the professionals
    - o Ensuring the training and the continuous supervision of the professionals
- Interventions that take into account the effects on the children
    - o Ensuring the exchange of information between the criminal and the civil justice system (e.g. custody, visiting hours, etc.)

The public services, non-governmental organizations could be able through their services, to offer the support needed by the women in a domestic violence situation, or to help them take decisions according to their needs. According to the data, the coordinated answer of the legal and social institutions offers the best results. Many studies highlighted the fact that coordinated community answers lead to impressive results, consequence of the fact that non-governmental organizations, public social services and from the criminal justice system work together regularly in order to elaborate strategies of protecting the victims (Robinson, 2006). International studies with regard to the perspective of the victims concerning the efficiency of the interventions show that there are a certain number of benefits in having a coordinate community response, For example, they have been aware of the fact that the agencies exchanged information regarding their situation and considered the consistency of the information hold by different agencies this to be a positive aspect. The results of the study indicate that women appreciated the fact that as a result of these interventions, the agencies had a "full image" of what happened in their life and thus managed to offer them the support they needed (NGOs, public services, the criminal justice system). Moreover, the victims considered that the interventions were more efficient when they were powerful enough to distance themselves from the violent partner (Robinson and Tregidga, 2007). Comparing the results of our study with the results of the international study we observe that in spite of a different legislation, the problems women have to face when they need to collaborate with the criminal justice system are similar. As regards the differences between the studies, they are related only to the *number* of women who report violence and follow all the steps of the legal intervention, the number of those who report violence being higher in Spain, United Kingdom, Italy (Creazzo, 2011, Bodeon and Casas, 2011, Pallida, 2011) than in Romania. As we stated before, the laws are a representation of the power structures. Changing the laws will not bring a radical change in the legal interventions as long as the power structures remain the same.

As regards the ethical aspects, even though I personally have an experience of over 10 years in working with victims of domestic violence, within study I tried to put in place an objectivity framework. As a result, the interviews were conducted only with women in domestic violence situation with whom I did not have a counsellor – client

relationship. As for the analysis of the data, the codification of the women's names contributed to the objectivity of the data obtained. However, this objectivity did not prevent me from expressing criticism with regard to the current situation, and from presenting arguments and proofs with regard to the needs and the possibilities to change.

The limitations of the research

An important limitation of this research refers to the selection of the participants. Given that we selected women in a domestic violence situation who benefit from different social services, we did not manage to capture the situation and the perspective of the women who do not benefit from institutional support. Thus, the support they benefit from as well as the obstacles they face and their experience is not presented in this study.

As regards the high number of participants to this study, as well as the high number of themes and codes used, they offered a high amount of information, a part of which was analysed in the present paper, focusing on the support factors and the obstacles faced by the women in their collaboration with the criminal justice system.

Another limitation of the research was the fact that in the case of some women belonging to ethnic minorities, it was not possible to conduct the interview in their mother tongue which resulted in loosing some important subtleties, such as a precise account of the experiences, of their feelings, even of the discrimination felt during the interventions.

The fact that we only presented the perspective of women victims of domestic violence is a unilateral approach of the way in which the criminal justice system functions and as a result we cannot draw pertinent conclusions with regard to its overall image. However, this approach offered me the possibility to understand in detail the perspective of the women.

Having focused on the women's experiences with regard to their collaboration with the criminal justice system, we obtained fewer data on their experiences with the civil justice system, even though most of the women used this system as well.

Future directions for research

The information obtained following the interviews can be also analysed from the perspective of the women's experiences with the civil justice system and in the end make a comparison between the two systems.

The comparative analysis of the results obtained during the national research: Interviews with the victims, with professionals from the social services (social workers, psychologists) and with the agents of the criminal justice system (police officers, prosecutors, judges) together with the results of the ethnographic observations conducted in courts and with the results of the analysis of criminal case file in two counties of Romania (Cluj and Iaşi).

Another important chapter in understanding the phenomenon will be represented by the comparison of the data coming from the countries that participated in this project: Romania, Spain, Italy and the United Kingdom.

Following the changing of the legislation, both of the criminal and of the civil code, an analysis having the purpose of seeing the effects of these changes in the lifes of the women, becomes pertinent.

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