

Forensic and psychiatric perspectives in domestic violence

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Abstract. Domestic violence is a major problem commonly encountered at national level. Abused people are part of the vulnerable group and are represented by women and children. The purpose of this study is to highlight the extent of this problem. From a forensic point of view, will present the injuries and their extension and from a legal point of view the problem is represented by the underreporting of the violence cases. Material and method. The cases of domestic violence during January-December 2017 were considered. The inclusion criteria was represented by persons who were victims of intra-family aggression, who presented themselves for the issuance of a medico-legal certificate, necessary in the justice process. The results have highlighted cases of abuse of children and women. The lesions were made largely by the mechanism of hitting, with the fist or tough object, and traumatic lesions were largely restricted to injuries of the soft tissue. Also the number of days of medical care was up to 10 days. Discussions. Domestic violence is a problem that, at this time, is not treated sufficiently, particularly from a psychological point of view, with possible negative results for the victims future. We consider such a study is necessary in order to find, together with the competent institutions, a solution to this growing problem at national level. Conclusions: Domestic violence is a serious public health problem. Victims of violence are, in principle, women, especially married, coming from urban areas. From the forensic point of view, the traumatic injuries are superficial and do not endanger the life of the victims but can have a psychological effect on them.

Key Words: aggression, abuse, forensic expertise, domestic violence.

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Introduction

Domestic violence is a serious violation of human rights both at national and international level. It is also an important public health issue with serious consequences for women and children's health. In Romania, as in many other countries, domestic violence is underrepresented or unrecognized by the responsible authorities. Studies conducted at the National Institute of Legal Medicine “Mina Minovici” in the years 2003, 2007 and 2008 revealed a slight decrease in the number of people who have addressed the institution of Forensic Medicine for establishing domestic violence. (Curca et al 2008). In 2017 the National Police Departments reported 20,531 deeds of violence and other violence among family members. Men were aggressors in 92% of cases, and women were victims in 76% of cases. In the same year, 46 women, 26 men and 12 children died due to domestic violence. The highest number of cases has been reported in urban areas. The number of cases increased compared to those in the year 2016 (18,531 cases), either due to the real increase in the number of cases or because of the increase in the reporting rate in the general population. (Romanian Police, n.d.).

Legal Framing

According to Law 217/2003 on the Prevention and Combating of Domestic Violence, republished in 2014, Chap. I, Art. 3, paragraphs 1 and 2, in Romania the domestic violence is defined as

“any intentional act or inaction, except for acts of self-defense, manifested physically or verbally by a member of the family against another member of the same family, who causes or can cause physical, psychological, sexual, emotional or psychological assault or suffering, including the threat of such acts, coercion or arbitrary deprivation of liberty. Preventing women from exercising their fundamental rights and freedoms it also constitutes domestic violence.” (Romanian Parliament 2014a)

Child abuse

“Child neglect is considered to be the omission, whether voluntary or involuntary, of a person who is responsible for raising, caring for or educating the child to take any measure that is needed to prevent life-threatening situations, physical, mental, spiritual; moral or physical integrity, physical or mental health of the child, and can take on several forms: food, clothing, neglect of hygiene, medical neglect, educational neglect, emotional neglect or abandonment of the child, the most serious form of neglect.” (Romanian Parliament 2014b)

It was found that children 2-4 years of age, unwanted children, children with disabilities or low-development backgrounds and neglected children, are at high risk of abuse (Dettmeyer et al 2014).

Lesions that have a high probability of being inflicted to the child due to violence are:

- The central nervous system: subdural hemorrhage with retinal haemorrhages and brain injuries; retinal haemorrhages; retinal detachment; vitreous haemorrhage;
- At the skin level: bites; contusions of a certain shape: hand traces, striae, belt marks, stick strokes; burns of a certain shape: cigarette, stove, iron; Immersion injuries: sock or glove form;
- Abdominal: intramural duodenal hematomas; organ perforations; Lesions that have a medium probability of being inflicted to the child due to violence are:
- In the central nervous system: subdural hematomas, subarachnoid hematomas;
- At the skin level: multiple contusions, retroauricular contusion, lesions of the lingual or labial frenum, burns/scars in the hands, legs or external genital region;
- In the digestive tract: perforations of the hypopharynx;
- Abdominal: lesions of the left liver lobe; kidney damage; pancreatic lesions, pancreatic cysts; (Sanbar & American College of Legal Medicine 2007)

Fractures with high specificity in the case of violence are: metaphysis fractures, dorsal costal fractures, scapular fractures, spinous processes, sternal fractures, fractures occurring in children during the first 6 months of life or in the pre-term period. Fractures with medium specificity are considered to be multiple fractures, bilateral fractures, fractures at various healing stages, Salter-Harris fractures, vertebral fractures or subluxations, finger fractures, hand or foot, complex skull fractures, mandibular fractures, specific infant fractures. (Dettmeyer *et al* 2014; Love 2011).

There are two types of lesions due to heat exposure: scalds - characteristic of wet heat, with hot liquids or steam and burns - characteristic of dry heat (Trancă *et al* 2016). Characteristic thermal lesions have the shape determined by the object that caused the lesion, glove or sock (when immersed in hot liquids), are well delimited by healthy tissue and have a uniform depth throughout the lesion. In case of forced immersion in the face, the traces of contact are missing. Most common burns are caused by a cigarette, lighter, iron, heater, hair dryer, sweeper, hot pot or oven. The areas most affected by scalding are hands, feet or buttocks. In the case of immersion injuries, the hair is not burned, but the area might be bald due to hair loss. The damage caused by exposure to cold is more common in cases of negligence (Dettmeyer *et al* 2014).

Changes in the behavior of the children is also a sign of physical abuse. Changes such as: anger, isolation, non-compliance, retard in acquisitions, lack of separation anxiety (Helfer *et al* 1997). In the hospital, behavioral changes are: hyperactivity or aggression, antisocial or destructive, anxious, inhibited and passive (Dettmeyer *et al* 2014).

The consequences of family violence among children are related to medical problems, substance abuse, suicide, nightmares, fear of being abused, loneliness, enuresis and delinquent behavior, such as street violence, prostitution, murders, homelessness, drop out of school, cognitive changes and reduced self-esteem (Helfer *et al* 1997).

Domestic violence against women

According to current legislation, the Penal Code, Law 286/2009, Chapter 2, Articles 193, 194, 195, there is a classification of types of injuries according to the number of days of medical

care required for recovery, thus: hitting or other violence requires a maximum of 90 days of medical care for recovery; (Chis & Vaduva 2017a) bodily injury requires more than 90 days of medical care for recovery, or when the act has caused a disability, serious aesthetic and permanent injury, abortion or life endangerment; (Chis & Vaduva 2017b) injuries or death-causing injuries represent any of the previous lesions that led or are linked to the death of the person (Chis & Vaduva 2017c). Women at risk of being subjected to domestic violence are: single or recently divorced women, women who have recently requested a restraining order, women under the age of 28, women who abuse alcohol or drugs, pregnant women, women whose husbands are possessive or jealous, (Covaliu *et al* 2017) women who have witnessed or have been physically or sexually abused in childhood, women with low levels of education and lack of knowledge of human rights, women with an antisocial personality, women who have relationships with more partners, or women who accept discrimination (Ratiu *et al* 2016; Armean *et al* 2015).

It has been shown that women living in a family or in an abusive relationship may present psychiatric pathologies or stress-related behavioral changes from chronic psychogenic pain, insomnia or changes in appetite, fatigue, concentration and sexual dysfunction, chronic headache, abdominal pain, palpitations, atypical angina, dyspnoea, vertigo, paraesthesia. ("American Medical Association Diagnostic and Treatment Guidelines on Domestic Violence" 1992)

In this study we will present some theoretical aspects regarding domestic violence and we will compare the aforementioned above mentioned data with a practical analysis of such cases from within the Institute of Legal Medicine Cluj-Napoca.

Material and method

The present study is a retrospective and observational one, the data being gathered from the medico-legal activity of the Institute of Legal Medicine, Cluj-Napoca from January to December 2017.

The inclusion criteria encompassed: patients who specified in the request form for the Medico-Legal Certificate that they were victims of domestic violence or abuse; patients with typical domestic violence injuries that did not specify in the request for the Medico-Legal Certificate that they were victims of domestic violence; patients who had not specified in the request for Medico-Legal Certificate that they have been victims of domestic violence but who have stated in the forensic documents attached (observation sheets) that they were abused; deceased persons who, according to the autopsy report suffered injuries secondary to domestic violence and those lesions were to some extent related to the patient's death.

Results

We included 308 patients who met the inclusion criteria. Out of the total Medico-Legal Certificates issued for cases of violence, domestic violence was accounted for 18.95% of them, mainly 279 patients were females and 29 were male patients. The women's ratio to men was 9.62:1.

The average age of abused persons was 41.54 years \pm 15.3 years, while the age interval was between 5 months and 87 years.

68.18% of the total number of victims of domestic violence ranged between 19-49 years, 4.54% of the abused were under the age of 18 and 91% were women of all ages.

Young women are being more often victims of domestic violence as they start their marital relationship. The peak of incidence in domestic violence cases related to the female gender was in the 30-39 years age group. According to the National Institute of Statistics data base, in the urban area in 2017, most women get married between 25 and 35 years of age (National Institute of Statistics 2017). Thus, married women are more affected by domestic violence (Damian & Miclutia 2013; Suciuc *et al* 2017). Among men, domestic violence cases had two age peaks - in children and in between 30-39 years of age, corresponding to the age of getting married. The lowest number of cases occurred after the age of 70 years.

About 69% of the population was from urban areas, but we must take notice on behalf of rural areas where domestic violence is under-reported most likely due to religious implications and the desire to maintain family's "good image" or social integrity. This subreporting is a national problem, and it is also due to low levels of living and education. Romania is ranked internationally as a patriarchal state, in the Romanian families the girls learn to obey and the men to rule (Rada 2014).

Most of the victims of domestic violence have Romanian ethnicity, followed by Hungarian and then by Romany. One patient was Portuguese. This distribution may be due to the fact that the Hungarians accounted for 14.98% of the county's population and the Romany represented 3.26% of the population, compared to 75.36% of the Romanians. ("Census results" 2011) No case of child or man of Romany origin was reported of domestic violence. Studies show that in the case of Romany women, 95% of them are victims of a form of domestic violence ("Bending the Bow: Targeting Women's Human Rights and Opportunities," 2002). In this case, in the present study, the data related to Roma patients could be under-represented because the victims didn't report domestic violence.

The maximum days of medical care in this study were 70 days, after being hit multiple times (in the case of a man) or falling (in the case of a woman) and the minimum of 0 days when the victim did not have traumatic injuries. 284 of the patients were enrolled between 0-10 days of medical care because they did not suffer serious injuries. In the current study, we reported a case of death-related to blows, which shows that domestic violence can cause death even if the number of deaths due to domestic violence is decreasing. Out of total registered cases, 5 patients presented themselves at the Institute of Forensic Medicine Cluj-Napoca accusing affirmative repeated abuse over the same year. This shows that repeated studies on these matter could find cases of recurrent abuse in more than one year, and this could emphasize the theory that a singular abuse is an exception, and most of the new discovered cases of violence have an old history of systematic abuse.

The main mechanism of injuries was by striking in 54.22% of cases, followed by associated mechanisms of striking, falling or compressing between two harsh plans in 29.87% of cases. Tough hitting is the main mechanism because it is within reach of everyone. Women are at increased risk of being attacked by hard hitting ($p < 0.05$), compared to men at increased risk of

scratched ($p < 0.05$). These differences can be explained by the fact that the men are more powerful than women.

Discussion

The present study has reached the goal of presenting an overall picture of the domestic violence in the county of Cluj in the year of 2017. The results obtained correspond to the results of other similar studies performed in Romania (Buhaş *et al* 2007; Popa *et al* 2007).

The main limit of the current study is the over-appreciation or under-estimation of the number of cases. Some cases of domestic violence may have been excluded because they did not show typical injuries of domestic violence or the cases were not registered in forensic records as victims of domestic violence, other cases were treated as domestic violence, although this information was not validated.

Physical violence is most often preceded or accompanied by emotional or psychological violence (Buhaş *et al* 2007; Selic *et al* 2011) which could not be proved in the current study. Emotional or psychological violence is more frequent than physical violence, (Selic *et al* 2011) in Romania the most common types of violence being insults, swearing and humiliation. (Rada 2014) A survey conducted at the level of the European Union attests to the fact that intra-marital rape is a real problem, 31% of women have been violated in the marriage, being repeatedly violated (European Union Agency for Fundamental Rights 2014). The current study did not assess these additional aspects of domestic violence, because the documents analyzed do not make any reference to these types of domestic violence. Abused children account for 4.54% of the total number of people who presented to attend the Institute for having issuing a medico-legal certificate issued. This constituted a small number compared to the national statistics, which reported for the year 2016 reported 13,019 cases of domestic violence, of which 10,798 were under the age of 17 (The National Agency for Equality between Women and Men 2017). In the County of Cluj, violence against children may be under-reported.

This study requires further additional data to determine the applicability of risk factors for domestic violence and to develop effective methods of detecting and combating domestic violence. The additional data needed for a larger study are the socio-economic level; schooling level; the reasons for abuse (alcohol, other drugs); a history of abuse - in both children and adults; frequency of abuse; the presence of children at the time of abuse; psychological evaluation of the effects of abuse.

In Romania, the activity of preventing and combating domestic violence has been reduced so far. There is no way of assessing the aggressive behavior of the persons involved, and there are no tests approved for such an assessment (Ureche *et al* 2018). In 2017, there were no Programs for the Prevention and Combating Domestic Violence, because in 2016 there were no funds allocated for this matter. (The network to prevent and combat violence against Women, n.d.), although a Government Decision that included these programs was adopted (Ministry of Social Justice 2017). The program provided centers for combating domestic violence, centers for emergency reception and for the recovery of victims of domestic violence and information campaigns ("Atena Delphi" Association 2014).

The victim of domestic violence can be protected by some measures provided by Law 217/2003 republished on July 21, 2018 where it is mentioned that the victim can file an application or a complaint to the court, to the police or the social service institution. The case is often handled by the police, which, based on the forensic records and other evidence filed in the case, may dispose a provisional injunction order, for emergency situations, or a direct protection order. By doing so, the following actions can be taken against the aggressor: the obligation to keep a minimum distance from the victim's place of residence or temporarily leaving the dwelling; the obligation not to contact the victim or his children; prohibiting any contact with the victim or ordering the aggressor to wear a surveillance device. All these measures may be interpreted as appropriate, and if they are violated for any reason, countermeasures will be applied. These counter-measures can also be applied by the representatives of the social services.

Currently, from a legal point of view, the victim can only seek help from the above-mentioned institutions, as they are solutions that will be applied after the event. There are no regulations regarding the victim's active defense options, the possibility of using non-lethal weapons, this issues are provided in the law regarding legitimate defense.

Conclusions

Domestic violence is a public health problem that is often directed against women. Most are married women aged 19 to 49 coming from urban areas were the educational level higher. Also, most victims did not file a complaint against the aggressor in an attempt to save their marriage. Aggressions are usually caused by repeated blows with either fist or some blunt objects. We highlight the repeated abuses to which some victims are subjected in the same year.

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