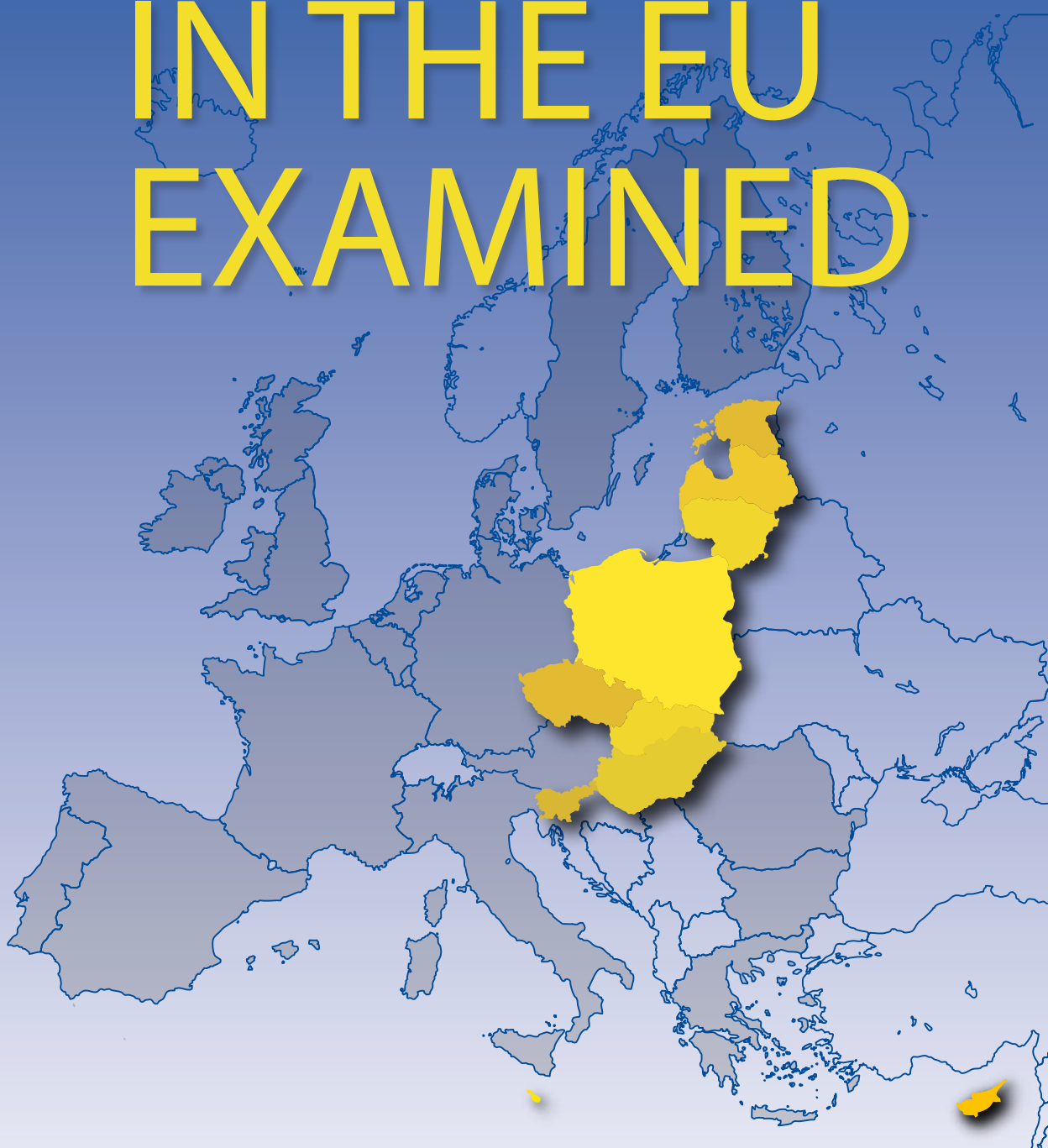
VIOLENCE IN THE EU EXAMINED



VIOLENCE IN THE EU EXAMINED

Policies on Violence against Women, Children and Youth in 2004 EU Accession Countries

Edited by Milica Antić Gaber

CIP - Kataložni zapis o publikaciji
Narodna in univerzitetna knjižnica, Ljubljana

364.632:061.1EU(082)

VIOLENCE in the EU examined : policies on violence against women, children and youth in 2004 EU accession countries / edited by Milica Antić Gaber. - 1st ed. - Ljubljana : Faculty of Arts, 2009

ISBN 978-961-237-301-6
1. Antić, Milica G.
246712064

VIOLENCE IN THE EU EXAMINED
Policies on Violence against Women, Children and Youth in 2004 EU Accession Countries

Edited by: Milica Antić Gaber

Reviewed by: Matjaž Ambrož; Vesna Leskošek; Rosa Logar
Proof reading: Scribendi
Coordinating editors: Tina Romih, Iztok Šori

Published by: University of Ljubljana, Faculty of Arts
Issued by: Department of Sociology, Faculty of Arts
For the publisher: Valentin Bucik, Dean of the Faculty of Arts
Financed by: Daphne II Programme, European Commission
Ljubljana, 2009
1st edition
Circulation: 1.100
Cover design: Studio Signum
Interior design: Studio Signum
Printed by: Birografika Bori

Publication is free of charge.

Content

Editor's note

The book **Violence in the EU Examined** consists of several rather different parts. However, all address the issue of violence against women, children and youth.

The first part of the book includes papers written by researchers working on the project titled, **Ways of Implementing the EU Directives on Violence against Women, Children and Youth: Good Practices and Recommendations.** First, the project and recommendations are presented, followed of a paper by Milica Antić Gaber, Mojca Dobnikar and Irena Selišnik, who try to put the efforts of combating and researching violence against women, children and youth in comparative perspective. The book continues with papers by Irena Selišnik, Sara Rožman, Iztok Šori and Tina Romih, which present their findings from the above-mentioned research project. The authors concentrate mainly on the legislation changes in the ten 2004 accession countries regarding EU recommendations, and they try to identify key actors of change, with good practices on the one side and deficiencies on the other. The issues they address are gender-based violence, sexual harassment, trafficking in persons, sexual exploitation in prostitution and pornography and children as victims of violence in the family.

In the second section, three theoretical inputs came from Carol Hagemann-White, Katja Filipčič and Jeff Hearn, whose papers (as well as Liz Kelly's) were first presented at the Conference in Ljubljana in March 2009. The authors analyse different policies on violence against women from legal and sociological perspectives, suggest new approaches and solutions and are critical of current legislation and practices combating with violence against women. The last paper in this part concentrates on the new research developments on men as perpetrators of violence and suggests some new policies and practices.

In the third part, Abigal Stepnitz, Dalida Rittossa and Milana Trbojević Palalić present two interesting research studies. In the first study, the author analyses the practice of mail-order brides and labels it as an industry and form of trafficking. In the second, the two authors present their research on secondary victimisation of children in Croatia.

In the last part, Rada Grubić presents her work experiences in the Intercultural shelter (Interkulturelles Frauenhaus) in Berlin, in which she discusses the issues of intercultural work with migrant women and children exposed to domestic violence.

In this book, the issue of violence against women, children and youth is discussed from different theoretical perspectives and analysed using different methodological approaches. The authors have different backgrounds; some are

from universities and research institutes, while others are working with victims of violence on a daily basis.

This, we believe, will only enrich the knowledge of the reader.

We would like to express thanks to our partner organisations, all individuals and institutions, who cooperated with us during the last two years in the project either with their expert knowledge and suggestions at the meetings, round tables, workshops and conferences, or by helping us in other ways.

Milica Antić Gaber,
Project leader

WHAT THE PROJECT HAS TO SAY

The Project and the Recommendations

The following recommendations are the results of the project **Ways of Implementing the EU Directives on Violence against Women, Children and Youth: Good Practices and Recommendations** in ten 2004 EU accession countries.

The project was conducted by the research team at the Department of Sociology, Faculty of Arts, University of Ljubljana, in co-operation with 10 partner organisations from 10 countries that accessed the EU in 2004: the Czech Republic, Cyprus, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia.

The main goal of the research has been to analyse legal mechanisms related to violence against women, children and youth in respected member states, expose good practices and form recommendations. Changes in the legislation were followed chronologically in the time period from 1991–2006, but some later activities were also considered. During this time period, most of the 2004 accession countries were going through an intensive period of transition in their political and economic systems, and all of them went through a period of intensive adoption of the EU legislation. This enabled the research team to identify the influence of the Community legislation on the adopted regulations clearly.

To achieve the objectives set, the research team collected available literature and previous research studies on this issue and analysed EU documents and Slovene legislation on violence against women, children and youth. In the preparation phase, the team also organised several expert meetings and round table discussions on the topic. Finally, a comprehensive questionnaire (with 112 questions) was drafted.

The questionnaire was discussed with partner organisations (experienced research institutions and NGOs) at the workshop. After it was finalised, partner organisations were to provide answers by using different sources: national legislation, official institutions, NGOs, statistics, reports, research etc.

The research team supervised the work on providing answers to the questionnaires and prepared a preliminary analysis by focusing on four aspects of violence against women, children and youth: gender-based violence, sexual harassment at the workplace, trafficking in persons and violence against children in the family. The preliminary results were again discussed at the workshop with partner organisations and at the following international conference in Ljubljana in March 2009.[1] The conference provided a wide platform on the latest developments, in which more than 100 experts from all over Europe took part in

[1] The project team was consulted by experts in law, research, international and national policies or NGO work: Primož Šporar, Matjaž Ambrož, Mojca Dobnikar and Rosa Logar.

the discussions. Some of the most interesting issues were discussed by keynote speakers (Liz Kelly, Carol Hagemann-White, Katja Filipčič and Jeff Hearn) whose papers (except Kelly's) are published in the second part of this volume. There were also interesting panel presentations, three of which we published in the third and fourth parts of this book. The final analysis of the project's research results is published in the first part of the book.

In these recommendations the following issues are addressed: physical, psychological, economic, sexual, interpersonal, domestic and intimate partnership violence, sexual harassment, female genital mutilation, crimes in the name of honour, trafficking in persons, sexual exploitation, child prostitution, and child pornography and corporal punishment.

Recommendations are structured into two parts: **general recommendations** with recommendations on legislation, secondary legitimisation, services and support, trainings, data collection, national plans, campaigns and researches and **specific recommendations** with some recommendations on violence against women, children and youth, trafficking in persons and sexual exploitation.

General recommendations

Legislation

Gender perspective should be integrated into the legislation. Therefore, gender-based violence should be recognized in the provisions and taken into consideration when different laws are drafted and implemented.

Intersections of different forms of violence against women, children and youth and different social groups should be considered. Economical and psychological violence or neglect should be addressed with the same seriousness as physical violence. The special situations of migrants, the disabled, addicts, Roma and other groups should be recognized and tackled in an anti-discriminatory manner.

Mandatory prosecution for all forms of violence against women, children and youth should be implemented.

The **mechanisms for funding and including NGOs** in policy shaping and the provision of services should be transparent and regulated by legislation. If legal binding documents are missing, decision making actors can show their commitment by signing special cooperation agreements with NGOs, which should contain transparent rules of cooperation.

New technologies represent a new realm for violence and should be considered in the legislation, especially in regard to bullying, filmed child sexual abuse and stalking. In order to be able to understand these problems, better education and awareness raising on new technologies is essential.

The **implementation** of all adopted laws and policy papers should be continuously monitored and evaluated. In the ensuing stages, existing policies should be changed in line with the outcome of the evaluation.

When implementing obligations from **EU legislation** and international conventions, decision makers should be aware that they represent only minimal standards, and should be **upgraded** and **elaborated into comprehensive, cross-sectoral cooperation strategies** that should encompass legislation, media campaigns, research, training and services for the victims.

Secondary victimisation

In order to prevent secondary victimization, the rights of the victim in legal proceedings should be emphasized. The victim — regardless a child or an adult — should have the right to be **questioned only once** (through the use of recorded testifying), the right **not to be confronted with the perpetrator** and the right to be questioned in the presence of an **appropriate expert**.

Services and support

Competent authorities should establish a central **data base on services** for victims of violence, starting with disposable accommodations, help lines and other support programmes in different regions for victims of different forms of violence, which should be dealt with separately.

Safe and accessible **accommodation** for victims of violence should be provided by the State as well as by NGOs, as it is of the highest importance for more effective empowerment and rehabilitation of the survivors.

The state institutions should gather **data on accommodations provided for adult victims of violence per units** (beds and rooms) per 10.000 people. EU recommendations should also be changed in this manner.

Well publicised, free **24-hour help lines** for women, children and youth victims of violence should be established, with highly skilled staff available to offer psychological and legal support. For victims of trafficking and migrant women, the

support should be provided in the language of the victim; in this regard, an EU wide help line would be welcome.

Continuous and independent evaluation of support programmes for victims of violence should be initiated and common national and EU standards for service providers should then be developed.

The **participation of survivors** in the development and evaluation of policies and services should be encouraged and promoted.

Inter-agency strategy should be developed in order to provide a coherent response to the needs of all victims of violence against women, children and youth.

Trainings

Regular and **mandatory** training for different institutions on different forms of violence should be initiated, targeting employees of the police, the prosecutor's office, and judiciary, social care, education and health care institutions in particular.

Gender perspective should be included in training, educational and awareness raising programmes targeting wide a range of institutions, including government agencies and offices.

Data collection

Centralised data collection on violence against women, children and youth should be conducted on the national level and should include data from the police, prosecution, judiciary, schools and social care and other institutions. Effective data collection can be used as a reference point for the creation and evaluation of the effectiveness of measures adopted to combat violence.

At a minimum, data should be gathered according to **gender, age, education, citizenship, relationship between victim and perpetrator and type of violence**. **Attrition rates in jurisdictional procedures** should also be monitored.

National action plans

Regular national action plans and reports on different forms of violence against women, children and youth should be adopted, implemented and monitored. The main objectives, priorities, strategies and responsibilities of the specific institutions as well as evaluation mechanisms and ways of reporting progress should be integral parts of these plans.

Campaigns

Campaigns targeting violence against women, children and youth should be more focused on **legal literacy** and **the rights of victims**. Particular forms of violence should be targeted in a more significant manner, such as violence against children in the family, child sex tourism, prostitution, sexual violence against young women, sexual harassment, rape, forced/arranged marriages, female genital mutilation and femicide.

Research

Specialised and focused research studies should be conducted and adequately funded. There are a number of poorly researched areas: the quality and outcome of services provided to victims, spousal rape, dating violence, violence in same-sex partnerships, economical and psychological violence, violence and ethnicity, violence on elderly and young people, arranged and forced marriages, crimes in the name of honour, female genital mutilation, sex tourism, mail-order brides, military personnel on missions and trafficking, the demand side of prostitution, the trafficking of minors, unaccompanied minors, sexual harassment, children as direct and indirect victims of violence and ongoing violence against women and children after the divorce/separation.

The case of mandatory prosecution of **spousal rape** should be carefully examined from the perspective of the benefit to the victim and as the results of this examination recommendations should be drafted.

Specific recommendations

On violence against women

Women survivors of violence and their children need empowering support from **specialized women's services**. The counselling service and the administrative power over the victim, such as the power to regulate contacts between a parent and a child, should not fall under the umbrella of the same institution.

Women survivors of violence should have the right to **free legal aid**, **special social support mechanisms on the labour market, permanent housing and additional financial support.**

In regard to sexual harassment at workplace the enforcement of the **Code of Practice** adopted by the European Commission should be promoted in the business and trade union environments.

Help and support to migrant women survivors of violence should be provided by **interculturally competent** workers.

Migrant women victims of violence should have the right to **residence permits** that does not depend on their violent spouse and access to the **labour market**.

On violence against children

Legally **binding EU documents** on violence against children in the family should be adopted.

A child who is a **witness of violence** in the family should be legally considered as a victim of domestic violence.

Internet providers should be obliged to inform competent authorities about any distribution of illegal content through their servers.

On trafficking in persons and sexual exploitation

The criminal responsibility of legal persons (such as marriage broker agencies, travel agencies, night clubs, etc.) for trafficking offences should be strengthened and effectively implemented.

Procedures for the identification of victims should be developed and common protocols set involving all parties that could potentially encounter victims of trafficking in persons (schools, social care services, NGOs, embassies, military missions abroad, police, prosecution bodies, the judiciary).

All victims of trafficking and all women in prostitution should be entitled to **basic services**, which are not conditioned on their citizenship and cooperation with the police and prosecution (housing, medical treatment, psychological and social support, information on their rights and support programmes as well as legal representation).

Exit routes for victims of trafficking and women in prostitution should be devised and resourced.

Milica Antić Gaber, Mojca Dobnikar, Irena Selišnik

Gendering Violence against Women, Children and Youth: From NGOs via Internationalization to National States and Back?

1. Violence—an old practice within a new perspective

Violence against women, children and youth exists in all countries in all cultures and in all social strata. It is a universal problem that exists everywhere and among all of us: rich and poor, educated and uneducated, high socially respected and marginalised. Blindness to this problem has persisted also in the ten 2004 accession countries included in our research. For far too long violent behaviour, especially in the private realm, was not considered a problem but rather as an ordinary, normal, culturally acceptable way of solving problems—making children and wives obedient, making women subordinate. Women in particularly were often physically or in other ways punished for not meeting specific cultural norms and expectations (being either too visible or too active in public/politics) or taking part in activities that were not deemed suitable for women (such as writing, practicing methods for birth controlling, and healing) in the public sphere (Heinsohn & Steiger, 1993; Duda & Pusch, 1995) or not obeying the rules set by their husbands or fathers in the private sphere (Dobash & Dobash, 1992; Corrin, 1999).

In the short history identifying violence as something wrong and intolerable, we would expect attitudes to change from "point zero" with high tolerance to different forms of violence to the "point of zero tolerance" to any form of violence against women, children and youth (as well as of other social groups).

It is not easy to estimate the prevalence of violence against women, children and youth. Many authors found the research on violence against women in the past problematic as there was a lack of documents, data or statistics on this issue through the history (Radford & Russel, 1992; Kelly, 1996; Hagemann-White, 2001).

Many factors, including values, beliefs, judgments and stereotypes of a woman's role and position in the public and private spheres had to change before violence against women could be identified as a social problem that deserved special attention in the legislation and in research (Dobash & Dobash, 1992). One of the first identified problems in dealing with violence was problem of naming (Kelly 1996), and it seems that this problem (in a different context) still exists (see Hearn in this volume). It is important whether to say family violence, domestic violence or violence in intimate

relations. Labelling violence against women and children in the family the stress is on the side of victim; labelling the violence as family violence does not clearly identify who the (most frequent) victim is and who is the (most frequent) perpetrator.

Understanding violence as physical violence only persisted and "new" types of violence such as psychological, sexual, or economic, have not been considered as violence. Giddens, for example, stating that domestic violence is "physical abuse directed by one member of the family against another or others" (Giddens, 2006, p. 220) only referenced violence as physical abuse. On the other hand, some violent acts to women and girls have often been justified on cultural or religious grounds (e.g., female genital mutilation, selling the brides, pre-arranged marriages) and not recognised as violent acts. In another context "does rape inside marriage relationships exist?" is an often heard question. As our research highlighted, not long ago there was complete blindness to the existence of sexual harassment, which was considered (at least in Slovenia) as an imported Western issue not pertinent to these countries. In summary, it is obvious that a number of misunderstandings on violence against women, children and youth still exist, even among scholars not just the wider public.

Violence suffered by women and children in the family was usually hidden from outsiders, meaning that not only state or public institutions but also the general public was often blind to the violence around them. Even when neighbours or others knew what was going on behind another's doors, too often did not and still do not want to intervene, seeing this as a private matter, as shown in a recent study in Slovenia (Sedmak & Kralj, 2006). Because there were no interventions by others and no police or social worker reports, there is little available data on the facts and figures of violence against women and children in the family.

This is the reason for the vast increase in police activities addressing domestic violence in the last years (Mušič in Sedmak & Kralj, 2006). Prior to this time, only estimations of the prevalence of violence were available. In Slovenia, for example, the prevalence of violence against women was calculated from a survey conducted by the Institute for Criminology and published in the magazine *Jana* in 1989 and from the statistics from different women's NGOs on the number of calls made to them seeking help. Only after 1999 was there data on the relationship between the victim and the perpetrator in police statistics.

2. Researching violence in the ten 2004 accession countries

The aim of the research **(Ways of Implementing EU Directives on Violence against Women, Children and Youth; Good Practices and Recommendations)** conducted in ten 2004 accession countries (Hungary, Slovakia, Czech Republic,

Poland, Estonia, Latvia, Lithuania, Cyprus, Malta and Slovenia) was to identify how, when and under which influences the legislation on violence against women, children and youth in these countries has changed. Our research is based on data collected through a qualitative questionnaire filled out in these countries and other data sets (official and other country reports) as well as research and studies done in this field.

Due to the fact that the problem was first recognised as an issue in some countries in West Europe (and in the USA) by the women's movement in the 1960s and 1970s, addressing and studying this problem also started first in these countries (Dobash & Dobash, 1970; Brownmiller, 1975; Kelly, 1988). It is no surprise that the first researchers on violence against women (as is the case in many other aspects of women's lives) were women themselves (Liz Kelly, Susan Brownmiller, Catherine MacKinon) and only recently men (Jeff Hearn, Michael Kimmel). These studies stressed the need to understand violence against women as gender-based violence, as violence that women suffer because they are women and because men have the power (social, physical, political, economic) to control their lives. Organisations, such as Women against Violence Europe (WAVE), United Nations Population Fund (UNFPA), and United Nations Development Fund for Women (UNIFEM), have now published several volumes of studies underlining this fact.

Researching violence against women, children and youth is recognised as a critical issue and has been highlighted through EU recommendations since the 1980s. However in the ten countries of our study, the first were done only toward the end of the 1990s, which is two decades later compared to studies for Western Europe, and for the most part the studies from ten countries examined are done from the perspective of social work or criminology along with some survey statistics or public opinion surveys.

Our study found that scholarly research in these countries is rare. The most common problem is a basic one: a lack of data of facts and figures about violence against women, children and youth. There is a problem that official information (statistics) is not regularly collected by some important institutions, such as police, the court, and centres for social work. There is also a problem of financing of these studies in the respected countries as there are no special funds or public money available.

Our research also identified several poorly researched areas (also stressed in our recommendations). These are: quality and outcome of services provided to victims, spousal rape, dating violence, violence in same-sex partnerships, economic and psychological violence, violence and ethnicity, violence and the elderly, violence and youth, arranged and forced marriages, crimes in the name of honour, female genital mutilation, sex tourism, mail-order brides, military personnel on missions and traf-

ficking in persons, demand side of prostitution, trafficking of minors, unaccompanied minors, sexual harassment, children as direct and indirect victims of violence, and ongoing violence against women and children after a divorce/separation.

As far as the future of national and international research on violence against women, children and youth, comprehensive interdisciplinary research in the social sciences and in comparative perspective is essential. This will lead to a better understanding of this topic, better suggestions for the legislators and better recommendations for all others dealing with this problem.

3. Women's movement against violence

In most of the countries investigated in our research, there was no civil society movement against violence against women and children prior to the major social changes marked by the fall of the "iron curtain". Women activists in most of the 2004 accession countries[1] initiated actions against violence at the time of international women's movement for the recognition of women's rights as human rights. This topic was a major issue at the World Conference on Human Rights in 1993 in Vienna (and the subsequent Declaration on the Elimination of Violence against Women: Resolution 48/104 of 20 December 2003) and the Fourth World Conference on Women in 1995 in Beijing.

By that time the feminist groups in Western Europe had already undergone the so called NGO-ization: in order to fulfil the conditions for public financing they had to formalize and professionalize their organisations. Of course, there were some exceptions to this trend. For example, women who ran the shelter in Bielefeld, Germany, did not accept public financing until the mid 1990s because they did not want to professionalize their work in the shelter (Asel, 2007). However important such exceptions were, they did not stop the mainstream developments. After 25 years of the ongoing struggle for recognition of the problem of violence against women and children, the feminist movement was also facing a wave of charity organisations' shelters with little or no awareness of gender-specific dimensions of violence.

When women in the 2004 accession countries started to organise themselves against violence, they did it in the manner of NGOs, often with conceptual and financial support from foreign countries—Western European countries or the USA.

[1] One of the exceptions is certainly Slovenia where feminist activists started to draw public attention to the problem of violence by the late 1980s, in intense collaboration with feminist activists and groups from Croatia and Serbia. At the so called First Yugoslav Feminist Meeting in 1987 in Ljubljana, Slovenia, they already addressed important demands to the state concerning legislation against violence against women and children and services for victims.

Some groups were not interested in help from Western women's projects, which "sometimes were even experienced as patronizing" and they "rather turned to women's projects in their own region (…). The model for women's helpline in Budapest Hungary, was not a Western women's organisation but the SOS helpline in Belgrade" (Logar, 2008a). Most of them started their work in an atmosphere of antifeminism, which was very common in the countries with the history of the so called state feminism. In some countries, like Poland or Malta, women's organisations were (also) confronting an influential (catholic) charity approach by financially and otherwise powerful organisations.

The struggle for recognition of the problem of violence against women was much different in the 2004 accession countries than in Western Europe. Whereas the "old feminists" in western countries had to fight for the recognition and they did it in an openly feminist way, pointing out that violence against women is an aspect of structural oppression of women, the "new feminists" in the Central and Eastern European countries, more than two decades later, had to fight also the fear of a return to excessive state regulations and interference in private lives and the new conservative ideology; the later used to equate referring to violence in the family with annihilation of the family. Negotiating the naming of violence women used different terms from "wife beating" and "wife abuse" to "spousal violence" and "partner abuse", until the less-relationally focused term of "domestic violence" emerged victorious' (Fábián, 2006, p. 123).

Indeed, looking at the WAVE's list of the services for women victims of violence, we find that in the 2004 accession countries the majority of organisations in this field have gender-neutral names. Even in Slovenia where the feminist groups, as already mentioned, initiated the work in the field much earlier, all shelters founded after 1997 were named "safe houses" without marking the targeted group. The only exception is the first NGO shelter founded in 1997 by the first women's group active in the field (named "shelter for women and children – victims of violence"). So we could say that women's NGOs in the 2004 accession countries succeeded in breaking the opposition of the (catholic) conservative ideology, which fought for the "sacrosanctity" of the family but they did not manage to achieve public recognition of the gender dimensions of violence.

4. Tackling violence against children

We can affirm that the development of the work against violence against women was pretty successful when compared to the work against violence against children and youth. Although the organised endeavours for protection of children from abusive parent(s) go back at least to the second half of the 19th century

(Gelles, 1997) and although the protection right of the state is much more widely accepted when it comes to the violence against child than in the cases of violence against an adult (woman), in the 2004 accession countries we can notice a tremendous lack of services to help the abused. Most of the accommodation facilities for children are meant for children in different states of distress. This means that in many cases it depends on luck whether the child will receive appropriate help to overcome the consequences of experienced violence. Hagemann-White and the co-authors state something similar for children witnessing violence: "Almost all member states claim to offer protection and assistance to children witnessing violence against their mothers. This contrasts sharply with research results in selected countries; possibly the question was understood to refer to child protection services in general. (...) Outside refuges,[2] specifically trained services supporting children who witness domestic violence are rare" (Hagemann-White, Katenbrink & Rabe, 2006). Our research confirmed these findings for all children who were victims of violence.

How is this possible? It is surely surprising in the face of the persistent response of the state institutions to the feminists' calls to address violence against women; as a rule, the states reply with emphasizing children as victims of violence. It is even more surprising if we take into consideration that the modern state understands itself as the ultimate responsible party when the child's welfare is endangered. It takes for itself the right to restrict or even deprive parental rights. However, if we look carefully we can see how much support for a child's right to life without violence the feminist movement has provided. Most women victims of violence experience violence from their partner, in family or kin relationships; as a rule, children are also affected—directly or as witnesses. Also when children experience violence in the family, three out of five times their mothers are victims too (Hester, 2007). Research has already shown that when we identify one victim of violence in the family we have to be careful not to overlook other victim(s) (Gelles, 1997). The women's movement against violence has focused on the problem of violence against women as one of the basic obstacles to gender equality and equity, but services for victims, when organised by women themselves, also offer help and support to children. In some cases we have even witnessed the development of special services for children out of the services for women.[3] Considering these developments it is not sur-

[2] Refuges / shelters for women victims of violence.

[3] In Slovenia many NGOs that support children and young people who are victims of violence were founded by former activists of NGOs for women. As a more recent example, we could mention the call to attention to the harm that children experience as a result of shared parenthood after a divorce and the overlooked question of the appropriateness of the man as a father if he has been violent against the child's mother (Eriksson, 2005).

prising that the movement for protection of children from violence has gained real international breakthroughs only in connection with the movement against violence against women.

5. The role of the NGOs

There are some significant similarities between the endeavours of NGOs in all EU countries. Probably in all countries NGOs (or before naming them as such, women's groups) were the first to initiate and organise services for victims; to gather data on the prevalence of violence against women, children and youth; to conduct at least small-scale research and studies; to propose necessary improvements in legislation; to carry out awareness-raising campaigns; to pressure international organisations to change their policies worldwide; to initiate a multiagency approach; and even to conduct the first training of professionals in state institutions.

In spite of this, in 2004 accession countries the role of NGOs has not received the appropriate acknowledgment as have almost all of partners in our research stated. For example, the states did not for the most part regulate the role of NGOs in the preparation of legislation, and even when they did, they did not follow their own regulations. For example, in Hungary NGOs protested against the appointment of the NGOs' representative to the Council for Representation of Women because the Minister for Equal Opportunities made the appointment without consulting with the NGOs; as a consequence the Minister boycotted the establishment of the Council. Another example comes from Cyprus where in 2007 a multi-disciplinary team to combat trafficking in persons was established; the NGOs appointed to the team are not active in fighting trafficking in persons and they consider the work of the team to be bureaucratic and unlikely to have any real impact on this issue. NGOs from Slovakia also report that ministries publish legislative drafts on the Internet but give limited time (usually 10–14 days) to submit comments.

The other similarity between the NGOs in all EU countries is, of course, their constant struggle for survival. Several shelters in Germany have had to be closed because of the cut in funding (Logar, 2008a). According to our findings the most important funding sources for most of the NGOs working in the field prior to the accession were foreign funds, and only after the accession both EU and state funds became more important. Foreign and EU funds do not provide long-term funding and this is also often the case with state funding. So the NGOs work against violence is very much dependent on its skilfulness in fund raising.

And this is the point where we ultimately reach the question of the state's responsibility. We cannot deny that looking at past developments the problem of

domestic violence against women, children and youth seems to be a weak point of the welfare state. As Banaszak, Beckwith and Rucht would put it, "the relationship between the state and civil society has undergone fundamental changes insofar states have offloaded responsibilities by simply withdrawing from particular functions and/or by delegating tasks to actors in civil society" (Banaszak, Beckwith & Rucht, 2003, p. 7). This is certainly the case with domestic violence and with trafficking in persons. It is obvious from many different sources that, generally speaking, the state has left the problem outside its responsibilities. In spite of legislative changes and financing of services, most of the work is still left to—and done by—women's NGOs and other civil society organisations.

This, however, does not mean that we evaluate such developments as negative. We would rather understand it as an ongoing opportunity—completely aware of the unusual syntax—to retain freedom. We of course advocate for more stable and abundant funding for all necessary activities (e.g., services and their development, research, awareness-raising campaigns) and also for regulated and regular involvement of NGOs in policy procedures; but on the other hand our voice stands for autonomy of NGOs, which we understand as the minimal guarantee for further development in the field. In spite of very different past developments in the EU countries, we can affirm that the autonomous NGOs have been the crucial actor promoting the major changes to improve policies against violence. We certainly hope that they will be in position to continue to play such an important role.

6. The role of nation states in the international arena

The perception of domestic violence and sexual crimes has changed considerably since the second wave of feminism in the 1970s and 1980s when public awareness was raised on the issues of violence against women (Logar, 2008b, p. 2). Domestic violence is no longer accepted as a problem of the private sector but as an international phenomenon that has to be adequately addressed by the state (Filipčič, 2002, p. 87). The state remains the political reality and the central political institution as the principal collective instrument through which power is organised to achieve collective goals for the society as a whole. Even the strong states of the EU successfully adapt and respond to new conditions (Le Galès, 2006, p. 397). Yet it is undeniable that the national legal systems are under the influence of international institutions that developed under the influence of globalization, dynamics of internal differentiation and changing forms of politics after the Second World War. In the classic understanding of state sovereignty, there is no legal power superior to states. However, a significant proportion of new legislation now

originates at the EU and international level, and national institutions are less able to impose their logic (Le Galès, 2006, p. 397).

The first international institution that framed the protection of human rights was the United Nations (UN). The UN system protects human rights through the creation of specific treaties, declarations and resolutions yet failed to deal with protection of women in a comprehensive way. With the persistent work of women through the UN mechanisms and with the resurgent women's rights movement in the 1970's, the situation changed rapidly (Offen, 2000, p. 376). International documents, such as the Declaration on the Elimination of Discrimination against Women, which was proclaimed in 1967, was upgraded with obligatory international documents, such as the 1979 Convention on Elimination of All Forms of Discrimination against Women (CEDAW), which had been ratified by numerous states (UNHCHR). In the 1979 convention, violence against women was not specifically mentioned, but human trafficking and prostitution were. Trafficking of women and children for sexual exploitation is actually to date the only form of violence against women, children and youth, where significant progress in building international pressure on national governments has been made. In 2000 the Palermo protocol and in 2005 the Council of Europe Convention on Action against Trafficking in Human Beings had been accepted, both framing trafficking in persons under violation of human rights. Combating trafficking in persons, especially of women and children, is however not on the top of the priority lists of national governments as an gender issue, but because it is considered as part of the combat against illegal migrations and organised crime. The situation is similar in regard to EU regulations.

For the purpose of following the implementation of the CEDAW, a UN Committee was established in the 1980s. By the end of the 1980s, the Committee adopted general recommendations in which violence against women was first mentioned (General Recommendation No. 12, eighth session, 1989). In 1992, the Committee wrote in its general recommendation that "Gender-based violence is a form of discrimination that seriously inhibits women's ability to enjoy rights and freedoms on a basis of equality with men" (General Recommendation No. 19, eleventh session, 1992).

Yet the UN is not the only institution that influences the policies and practices of national governance concerning violence against women. Particularly in Europe international human rights institutions, such as the Council of Europe, and in the last decade supranational institutions, such as the EU, have contributed to the development of new policies against gender-based violence. In Slovenia, for example, when the Office for Women's Politics (now the Office for Equal Opportunities) was established in 1992, it dealt with the problem of violence against women on the basis of documents from the Council of Europe (Bratina, 2001, p. 13). These

international documents influenced the intensive campaigns and debates in the EU and were used for framing important national policy papers concerning violence against women. Particularly in the last 10 years, developments in the EU have been very rapid (Hester, 2004, p. 1432).

States are facing substantial pressure from above (international documents ratified by the states) but also from below (women's grassroots movement). Globalization has had a positive effect as it has stimulated recognition of the violence against women as a public issue and has mobilized people on a global level and helped to frame the agenda of the international players. Violence against women (beside the reproductive rights of women) was the main issue for mobilizing the women's movement (Roth, 2007, p. 468). Changes in legislation are the result of the activities of international feminist organisations that have emphasized the problem of women's rights and have succeeded in stipulating this problem in numerous international documents (Ergas, 1998, p. 528). For example, in 1993 at the UN World Conference on Human Rights in Vienna, women's groups lobbied for acknowledgment of women rights so intensively that the Declaration on the Elimination of Violence against Women was accepted that year. This Declaration was the first UN document entirely dedicated to violence against women. The Conference also took new steps forward as it supported the creation of a new mechanism, a Special Rapporteur on Violence against Women. By ratifying UN treaties and documents, state parties recognized that violence against women is a human rights violation. Particularly through the reporting of the Committee for the CEDAW on the progress made with respect to women in each country, the UN has been critical to efforts to raise awareness about domestic violence, articulate the state responsibility for domestic violence and identify strategies to combat domestic violence (STOPVAW). The trend to look beyond national boundaries will inevitably continue and will have important consequences for all of those working on this issue. As Hester (2004, p. 1437) writes this aspect will be even more important as local initiatives to develop policies and laws to protect women are to be drawn on the experiences from other nations and regions.

Numerous recommendations and other policy papers have been published by international organisations to be used as guidelines by countries in developing a framework for addressing gender-based violence. Measures in international papers, such as empowering the victim, ensuring special training for the experts, interdisciplinary approach to deal with the victim, prevention of secondary victimization and other measures are all in some way part of the new changes in legislation. However on the national level, laws and protocols vary considerably. Some domestic violence laws, for example, criminalise domestic assault, others create civil remedies, and yet others do both. Despite their diversity, these laws can serve as useful models for new legislative and policy reform efforts (STOPVAW).

7. European Union and its role in regulating violence

Regional institutions already mentioned above, such as the Council of Europe and EU, have been paying increased attention to the issues of violence in recent years. As regional human rights institutions and the EU will become key actors in the future process of framing legislation combating violence will probably become an important issue on political agenda.

The evolution of an EU gender equality policy in the last decades reveals a broadening of the EU gender equality agenda to encompass new issues, such as domestic violence, violence against children or trafficking in persons. This has been obvious from official EU documents. In European Community programmes in the 1980s and even in the1990s, there are no references to violence against women,[4] with the exception of the issue of trafficking in women for sexual exploitation. Yet the publication of a European Parliament Resolution in 1986 on violence against women, known also as A2-44/86, emphasized the problem. This resolution remained the only initiative on violence against women until the latter half of the 1990s, and in 1997 the EU launched the Daphne initiative – EU programme to combat violence against children, young people and women. The programme relating to the Community framework strategy on gender equality (2001–2005) already admits that for promoting human rights of women, it is necessary to address violence against women. EU policy papers have since then mentioned violence against women as an important problem, many of them were entirely dedicated to the issue.[5] The fact that the EU has included violence against women in the policy framework has had a number of positive effects, such as that violence against women is taken more seriously, funding opportunities are improved, spousal abuse and female genital mutilation have been placed on the EU agenda (Roth, 2007, p. 470).

However many experts warn that in general the broadening of the EU political discourse on gender equality to these new areas has not necessarily led to a deeper framing of the issues in terms of gender equality (Lombardo & Meier, 2008, p. 102). In the area of domestic violence, the EU still operates only through soft law measures as violence against women still does not fall under EU remits,

[4] Medium term Community programme 1986–1990; Equal Opportunities for Women and Men – The Third Medium-Term Community Action Programme 1991–1995.

[5] Resolution on the need to establish a European Union wide campaign for zero tolerance of violence against women (A4-0250/1997); Conference of Experts – Police Combating Violence Against Women, Baden, 1998; Conference of Experts – Police Combating Violence Against Women, Cologne, 1999; Conference of Experts – Police Combating Violence Against Women, Jyväskylä, 1999; Resolution on the report from the Commission to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions on the state of women's health in the European Community (COM(97)0224 C4-0333/97).

write Lombardo and Meier (2008, p. 110). Despite the overwhelming focus on soft law, and especially the open method of coordination, "hard law" in the form of directives still remains a major instrument of European social policy development (Falkner, Treib, Hartlapp & Leiber, 2005). Even though the EU gender equality agenda has broadened, the EU has not provided legally binding measures necessary for enforcement of the policy on domestic violence,[6] and the result is that violence against women is represented as a public health problem (economic costs to the society) and in most cases very stereotypically. Men are not part of the political discourse on violence or are included only as perpetrators, while women are associated with the victims; a deeper framing of gender is still missing (Lombardo & Mair, 2008, p. 115). Or as Hemment argues, the negative effect of transnational policy can also be the fact that domestic violence was "left" to the NGO-ization and was taken away from the problem of social justice. There were also other negative consequences as "the radical critique of patriarchy and gender based economic inequality that was fundamental to the battered-women's movement in the United States and Western Europe has fallen out of the transnational campaigns" (Hemment, 2004, p. 821).

8. Conclusion

Our findings on violence against women, children and youth and on the changes of legislation in the ten 2004 accession countries are the following. In all countries NGOs are the pioneers in this field and the first actor to deal with this issue. NGOs have gone through different phases in their work from learning from their Western or regional counterparts to taking over state activities (such as drafting legislation, organising workshops for employees in state institutions, collecting data) to the NGO-ization of the field itself. The state institutions were latecomers in this respect and were apparently quite happy that somebody else had taken on the responsibility and that they were not being approached by different organisations to take on the issue. Only when international pressure became important (such as the process of accepting *acquis communautaire*) and harmonization of the legislation with that of EU did some of these questions become important for the nation states.

It seems that each of the important actors (NGOs, nation states, international organisations) in this field has a different job to perform and different responsi-

[6] Where legally binding documents do exist (trafficking in persons, sexual harassment), they were initiated from other reasons, such as cooperation of national states in criminal matters or protecting of free market.

bilities to be aware of. NGOs are expected to provide innovations in the development of different services and to deepening awareness of the sensitivity towards vulnerable groups in new situations and problems. On the other hand NGOs can critically follow and evaluate the work of state institutions and policies and cooperate with state institutions by providing information from their work that state institutions cannot.

Nation states need to put more effort into drafting legislation that emphasises that violence against women, children and youth is an important social issue that needs to be addressed. Effective measures, a multiagency approach and a proactive approach are needed (see Hagemann-White in this volume). It is also obvious that legislation itself is important but can only do part of the job (also stressed by Filipčič in this volume). It is also important to create conditions so that the legislation can be implemented in practice, which in many cases means that more human and financial resources need to be transferred to these activities. The state also needs to ensure NGOs as part of the network of institutions addressing this issue.

International institutions, such us the UN, EU and Council of Europe, have already contributed remarkable work in this field. Without their conventions, declarations, directives and recommendations combating violence against women, children and youth would be much more difficult. However, their work is not complete. Some of the problems mentioned in our paper can only be solved by accepting new binding legislation.

Our conclusion, therefore, is no different from other authors who have concluded that the competence of the EU labour market still represents a major constraint on a broader and deeper gender equality approach (Lombardo & Meier, 2008, p. 119). What our research found is a need for new binding mechanisms and recommendations (for the whole text of our recommendations, see also in this volume) for addressing violence against women and children as victims of violence in the family. The measures proposed should be formed from the victim's perspective, taking into consideration the protection of the victim, preventing secondary victimization, guaranteeing social and economic rights of the victim and helping to her reintegration into the labour market. In this regard we return to the starting point of the EU—to stimulate economic prosperity and to the contemporary EU actions concentrated on improving women's participation in the economic sphere of employment.

References

Asel, K. von (2007). *Mehr als erwartet oder weniger als erhofft? 30 Jahre Autonome Frauenhäuser in Deutschland.* Retrieved June 25, 2009 from http://www.autonome-frauenhaeuser-zif.de/pdf/autonome/af_02_kva_0704.pdf.

Banaszak, L. A., Beckwith, K., Rucht, D. (2003). *Women's Movements Facing the Reconfigured State.* Cambridge: Cambridge University Press.

Bratina, N. (2001). Nasilje nad ženskami. *Socialni izziv* Vol. 7, No. 14, 13–15.

Brownmiller, S. (1975). *Against Our Will.* Simon and Schuster, Fawcett Columbine 1993.

Hagemann-White, C., Katenbrink, J. & Rabe, H (2006). *Combating violence against women. Stocktaking study on the measures and actions taken in Council of Europe Member States.* Strasbourg: Council of Europe, Directorate General of Human Rights. Retrieved June 25, 2009 from: http://www.coe.int/T/E/Human_Rights/Equality/PDF_CDEG(2006)3_E.pdf.

Corrin, C. (1999). *Feminist Perspective on Politics.* London and New York: Longman.

Dobash, R. E. & Dobash, R. P. (1970). *Violence against Wives.* New York: Free Press.

Dobash, R. E. & Dobash, R. P. (1992). *Women, violence and change.* London and New York: Routledge.

Duda, S. & Pusch, F. L. (1995). *Nore ženske.* Ljubljana: Krt.

Ergas, Y. (1998). Feminisms of the 1970s. In M.Perrot & G.Duby (Eds.*), History of Women. Toward a cultural identity in the Twentieth Century* (pp.527–547). Harvard: Belknap University Press.

Eriksson, M. (2005). A visible or unvisible child? In Eriksson, M., Hester, M., Keskinen, S. & Pringle, K. (Eds.), *Tackling men's violence in families* (pp.119–35). Bristol: Policy Press.

Fábián, K. (2006). Against domestic violence: The interaction of global networks with local activism in Central Europe. In *European Responses to Globalization: Resistance, Adaptation and Alternatives. Contemporary Studies in Economic and Financial Analysis.* Vol. 88, 111–152.

Falkner, G., Treib, O., Hartlapp, M. & Leiber, S. (2005). *Complying with Europe? The Impact of EU Minimum Harmonisation and Soft Law in the Member States.* Cambridge: Cambridge University Press.

Filipčič, K. (2002). *Nasilje v družini.* Ljubljana: Bonex.

Gelles, R. J. (1997). *Intimate Violence in Families* (3rd. ed.). London: Sage Publications.

Giddens, A. (2006). *Sociology 5th edition*, Fully revised and updated, London: Polity.

Hagemann-White, C. (2001). European Research on the Prevalence of Violence Against Women. *Violence against women*, Vol.7, No 7, pp. 732–759.

Heinsohn, G. & Steiger, O. (1993). *Uničenje modrih žensk.* Ljubljana: Krt.

Hemment, J. (2004). Global Civil Society and the Local Costs of Belonging: Defining *'Violence* Against Women' in Russia. *Signs*, Vol. 29, No. 3, 815–840.

Hester, M. (2004). Future Developments: Violence against women in Europe and East Asia. *Violence against women*, Vol.10, No.12, 1431–1448.

Hester, M. (2007). *Making an impact: children and domestic violence: a reader.* London: Jessica Kingsley Publishers.

Kelly, L. (1988). *Surviving Sexual Violence.* Cambridge: Polity Press.

Kelly, L. (1996). *Spolno nasilje in feministična teorija.* In Zaviršek, D. (Ed.), *Spolno nasilje. Feministične raziskave za socialno delo.* (pp. 69 – 97). Ljubljana: Visoka šola za socialno delo.

Le Galès, P. (2004). A New Phase of the State Story in Europe. In Nash, K. & Scott, A. (Eds.), *The Blackwell Companion to Political Sociology* (pp. 396–406). Oxford: Blackwell Publishing.

Logar, R. (2008a). *The European Women's Shelter Movement and its contribution to change: New challenges and future perspectives.* Retrieved June 25, 2009 from: http://www.wave-network.org/start.asp?ID=23039.

Logar, R. (2008b). *Good Practices and Challenges in Legislation on Violence against Women.* Vienna: UN.

Lombardo, E. & Meier, P. (2008). Framing Gender Equality in the European Union Political Discourse. *Social Politics: International Studies in Gender, State & Society*, Vol. 15, No. 1, 101–129.

Offen, K. (2000) *European Feminisms 1700–1950. A Political History*. Standford; Standford University Press.

Radford, J. & Russell, E. H. D. (Eds.) (1992). *Femicide. The Politics of Woman Killing*. Buckingham: Open University Press.

Roth, S. (2007). Sisterhood and Solidarity? Women's Organisations in the Expanded European Union. *Social Politics: International Studies in Gender, State & Society*, Vol. 14, No. 4, 460–487.

Sedmak, M. & Kralj, A. (2006). Nevarna zasebnost – nasilje v družinah v Sloveniji. *Družboslovne razprave*, Vol. 22, No. 53, 93–110.

Internet Sources

UNHCHR: http://www.unhchr.ch/html/menu3/b/21.htm

WAVE: http://www.wave-network.org/start.asp?extra=dbkarte&b=3.

STOPVAW:

http://www.stopvaw.org/UN_Treaties_and_Conventions.html

http://www.stopvaw.org/Domestic_Violence_Law_and_Policy.html?Type=B_BASIC&SEC={0F8E22D9-2971-4C81-AD34-80D9864AAED2}

Irena Selišnik

Missing Measures against Gender-Based Violence

1. Introduction – appearing on the agenda

In the last five decades, the emergence of the new transnational or supranational EU mechanism, which has stimulated the integration of European member states and provided new policies, has been more than evident. The backbone of these supranational institutions is, of course, the supranational legal regime, which is no longer solely connected with free trade issues, but, among other issues, covers women's human rights (Cichowski, 2004, p. 490). In 1958, when the European Economic Community was formed, women's human rights were not on the agenda. Yet some member states feared that unfair competition due to wage disparities of men and women would put states which have this kind of provision in their legislation in unfair competition. Because of that the provision of equal pay for equal work was put in the Treaty of Rome. When the European Court of Justice ruled on behalf of individual women who were taking complaints and when the feminist movement raised its voice, this provision was inserted into the directives (Booth & Bennet, 2002, p. 436).

In that time the equal treatment perspective was elaborated in the EU legislative framework and as Booth and Bennett (2002, p. 436) write, the result is that "In contrast to many national legislative frameworks, EU legislation is more advanced in conceptualizing women's rights". Later, the recommendations to improve women's working lives were encouraged during Delors presidency of the European Commission (1989–95). The perspective of equal treatment was partially replaced by women's perspective, which was defined as initiatives to recognize women as a special, vulnerable group (Booth & Bennett, 2002, p. 437). Some authors also consider gender perspective as new EU policy, noting that gender perspective promotes actions that aim to transform society so that there is a fairer distribution of human responsibilities, with a great deal of emphasis placed on valuing differences equally as well as on how to include men in a more gender-sensitive society (Booth & Bennett, 2002, p. 435).

Future developments in EU legislation ensured that measures addressing other aspects of women's lives were introduced. In addition as part of women's perspective the first European Parliament Resolution on Violence against Women (Doc. A2-44/86) was enacted in 1986. Later, the most influential recommendations on violence against women were the ones accepted in 1998–1999; in those years, three meetings of experts were held in Baden (Austrian Presidency of the Council

of the European Union, July – December 1998; Conference of Experts – Police Combating Violence Against Women, Baden December 1998), in Cologne (German Presidency of the Council of the European Union, January – June 1999; Conference of Experts – Police Combating Violence Against Women, Cologne March 1999) and in Jyväskylä (Finnish Presidency of the Council of the European Union, July – December 1999; Conference of Experts – Police Combating Violence Against Women, Jyväskylä November 1999). In 1997, a Resolution on the need to establish a EU-wide campaign for zero tolerance of violence against women (A4-0250/1997) was accepted and measures against gender-based violence were proposed as in the Resolution that resulted from a report from the Commission to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions on the state of women's health in the European Community (COM(97)0224 - C4-0333/97). In 2000, a European Parliament resolution on the follow-up to the Beijing Action Platform (2000/2020(INI)) was accepted and in 2004, a European Parliament resolution on combating violence against women and any future action (2004/2220(INI)) was published. The women's perspective is also represented in the Daphne programme, which was initiated as a new budget line in 1997 and adopted by the European Parliament. Daphne aims to facilitate transnational action and support NGOs working against gender violence.

Until now, the EU had passed only non-obligatory documents on violence against women, even if consistent lobbying for accepting directives on violence against women existed and in spite of the effort of NGOs, which emphasized the fact that property is better protected in the EU than women are (EWL, 2003, pp. 16, 19; Tsaklanganos & Strid, 2007, p. 5; WAVE, 2008, p. 15). Yet it must be mentioned that with the help of soft measures, the EU also successfully extended its economically based, legal pre-eminence to the field of violence against women. And there is yet another important influence; because there is no binding legal basis for common EU policy against gender-based violence, the national states enforce the protection of women via the international legislation that EU member states have committed to, such as CEDAW or the Beijing Platform for Action. In this article, we will present the findings from our research project, titled **Ways of Implementing the EU Directives on Violence against Women, Children and Youth: Good Practices and Recommendations**. The report outlines the measures recommended by non obligatory EU papers as well questions which of those measures were the most accepted by 2004 accession countries. The research establishes the national differences that should be taken into consideration when common binding policy papers are being drafted. We will also discuss whether those measures consider women's perspectives and we will place these developments in the broader context of current European trends.

2. Penalization – sexual violence

Even though our research considers different types of violence, the gathered data emphasised sexual violence, which was also the focus of EU recommendations that mention Criminal Code regulations on sexual violence. Yet we need to establish that recommendations that intervene in criminal law are not among the most common. There are more elaborate recommendations for the measures that are focused on supporting the victim of violence and engaging in primary prevention of violence against women. Awareness raising, for example, was recognized as such an important issue in the 1980s that the European Community established a special unit in the frame of Directorate General named the "Unit for Women's Organisations and Publications". Yet Measures that criminalize violence are important signs of government policy that tries to regulate and condemn such behaviour. Measures on how to change criminal legislation to help support women victims of violence were recommended already in the Resolution on Violence against Women (Doc. A2-44/86). In this Resolution and in the next ones (A4-0250/1997; 2004/2220(INI)), the European Commission and the member states were asked to consider all forms of sex-based violence as a crime. One of the topics they addressed was marital rape.

The first resolution on violence against women passed by the EU in 1986 (A2-44/86) included a special chapter on sexual violence. This resolution stated that there should be no difference between rape and marital rape. It called "for the same treatment by the law of forced sexual acts, within and without marriage" (A2-44/86). Yet those recommendations have still not been fulfilled, as the research carried out on ten 2004 accession countries revealed. In two countries, Slovenia and Malta, the differences between rape and marital rape in the marriage still exist in terms of prosecution. In Slovenia and Malta, rape is prosecuted ex officio but marital rape is prosecuted on the basis of a complaint from the victim.

Further research findings asserted that rape is not prosecuted ex officio in all countries. In Hungary, Poland and Latvia, rape in all relationships is prosecuted on the basis of a complaint by the victim. However, the EU recommendations clearly state that public prosecution started by public authorities is needed for all forms of sexual violence.[1] The trend in other 2004 accession EU countries is obvious: public prosecution, which requires the state to commence any public prosecution, per the Criminal Code. The legislation changed in Slovenia in 1995 when, for spousal rape, prosecution on the basis of complaint was enacted in place of

[1] "Calls for sexual violence, whether individual or group violence, to be considered a crime for which proceedings may be brought in all cases, not only by the injured party, but also by the public authorities" (A2-44/86). "There should be a consensus that all acts of violence perpetrated in the private sphere must be prosecuted ex officio by the state" (Baden, 1998, p. 3).

private prosecution. In the Czech Republic in 2006, a victim complaint was no longer needed to start public prosecution for rape, and the same shift occurred in Slovakia in 2004.

Initiatives to improve criminal justice systems by recognizing marital rape are important, as some studies show that in 43 percent of rapes, the perpetrators have a relationship with the victim (Investigating and Prosecuting Rape, 1999). Some studies indicate that more than three-quarters of women who were raped and/or physically assaulted from the age of 18 were assaulted by a current or former husband, cohabiting partner or date. Sexual violence is primarily intimate-partner violence. Yet the number of reported spousal rapes remains very low (Filipčič, 2002, p. 110; Kennedy Bergen, 1999, p. 5).

The lift of the marital exemption on rape became a trend, asserted in this and other studies (Regan & Kelly, 2003, p. 15). Yet huge time differences exist between the states that have criminalized rape in the marriage. Slovenia stipulated this in its marital rape legislation of 1977, but most of the accession countries featured in this study did not do so until 20 or 30 year later. In that regard, old EU states are also no exception. Germany passed the stipulation in 1997. Austria criminalized rape in marriage in 1989 (Korošec, 2008, p. 130). But the earlier changes in legislation did not lead to increased reports of rape or even more successful conviction rates (Regan & Kelly, 2003, p. 10). As Regan and Kelly (2003, p. 4, 14) argue, in many countries, domestic violence and trafficking has been added to the agenda and rape remains a forgotten issue. During the 1990s, Europe made few financial, intellectual or political investments in the field of sexual assault. This is most evident in countries that haven't made special provisions about marital rape until now. In Hungary, Poland, Latvia, Lithuania, Estonia and Czech Republic, spousal rape is not specially or separately defined. Rape and marital rape are both covered by the same provision, which still makes recognizing such a crime more difficult, as the traditional definition and perception of rape is "sexual intercourse with a female who is not his wife" (Kennedy Bergen, 1999, p. 2).

The trend of implementing ex officio prosecution probably reflects the other legislation changes pertaining to sexual crime in the 2004 accession countries. We can assume that the changes are at least partially connected to the trend towards penalization. In nine of ten countries, punishment for sexual violence became more punitive and stricter, with the only exception being Hungary. In all of these countries, new definitions of sexual offences were also introduced and sexual violence became more strictly defined. Different fragments of actions are now grouped under the category of sexual violence. This kind of development is not characteristic of sexual violence sanctions; it can be also identified in changes to

domestic violence legislation. In Cyprus[2] and Malta,[3] violence in the family can be treated as a particularly aggravated circumstance. Under the law, certain crimes are defined as more strictly punitive if they are committed by a family member. This is interesting, as Eurobarometer (1999) showed that 91 percent of respondents believed that stricter application of existing laws would be effective in the fight against violence. Ninety-four percent thought that tougher punishment was an appropriate response to violence (Eurobarometer, 1999). In addition to the EU recommendations that prosecutions for sexual crimes must be brought ex officio in all cases, we can also find the emphasis that the consent and autonomy of injured party is important.[4] The dilemma of the victim's autonomy and her or his personal or civil right to decide what is in her/his best interest is not considered in those trends. Therefore, the threat paternalistic state should be considered when that kind of mechanism is applied. At the same time, criminal law also has to be supported by effective measures that support the victim, as criminalizing violence against women doesn't necessarily result in high incidences of reporting, low attrition rates or high conviction rates (Logar, 2008, p. 17).

3. Secondary prevention

The protection and assistance of the victims is a high priority in all EU recommendations. To implement the appropriate standards, special legislative measures have to be accepted and social services need to be improved. In some cases, a special legal foundation is required to ensure the aforementioned recommendations. As in previous EU countries, in new EU states, one of the most visible trends has been to implement measures to ensure the physical separation of the victim from the perpetrator and to prevent re-victimization.

3.1 Barring order and preventing re-victimization

At first, legal measures were prepared throughout the EU to restrict the perpetrator's proximity to the victim (EU, 2002, p. 110). It should be emphasized that protec-

[2] Following offences: indecent assault on females, indecent assault on males, defilement of girls under 13, attempt to defilement of girl under 13, defilement of girl between 13–15, unnatural offence, unnatural offence with violence, attempts to commit unnatural violence, grievous bodily harm, wounding and similar acts and common assault.

[3] Following offences: rape and abduction with the intent to abuse of the victim.

[4] "Criminal proceedings should, to the greatest possible extent, take into account the interests of victims of violence, with a view to encouraging them to participate in the proceedings voluntarily as active parties" (Baden, 1998, p. 2).

tion orders are among the most influential legal remedies available to victims and are now provided in most of the states of the world (UN, 2008, p. 51). Our research showed that of the 2004 accession countries, the only exception to this norm was Latvia, where prohibitions do not emphasize the perpetrator.

Subsequent protection orders were broadened in emergency orders. The first recommendation for such a protection measure was mentioned in 1998 in an expert meeting held in Baden and later in Cologne. The proposal was meant to ensure the autonomy of the victim and that the harmful effects of the crime were kept to a minimum. In 1990s Ireland (1996) and Austria (1997), measures that made it possible for the police to evict the perpetrator were introduced. The geostrategic position of Austria in Central Europe made its good practice one of the most important influences on changes in the national legislation of the 2004 candidate countries. This measure influenced changes in Slovenia legislation in 1998 and 1999 and certainly stimulated changes in police law in 2003, when restraining orders were introduced (Sedmak, Kralj, Medarič & Simčič, 2006, p. 15). The Austrian model was also influential in Slovakia and the Czech Republic (Open Society Institute, 2007, p. 15; Magurová, 2008, p. 7). Hungarian NGOs also followed the Austrian example; however, the implementation of such a model was not realized there.[5] In those countries, police may issue ex officio orders that remove perpetrators from a shared dwelling for ten days (UN, 2008, p. 53). Yet our research asserted that altogether, eight countries (Slovakia, the Czech republic, Cyprus, Slovenia, Poland, Malta, Lithuania and Hungary) included an eviction order directed at the other partner being a perpetrator from the joint abode in their legislation.

GOOD PRACTICE

In **Slovenia** in 2008, with the new Family Violence Prevention Act, it is possible to transfer accommodation in common use. The victim can propose that the court enacts a decision on the transfer of accommodations in common use. Upon the victim's proposal, the court can issue a decision to charge the perpetrator of violence who lives in the same household as the victim, who he or she physically harmed or injured her in some way or whose dignity or other personal rights he or she offended in any other way, to transfer the accommodation to exclusive use by the victim.

These kinds of changes are all made with the goal of preventing additional victimization of the victim. This policy is also designed to prevent the re-victimization

[5] National correspondent gave us this information on the workshop. Also see Open Society Institute, Violence against Women: Does the Government Care in Hungary? 2007, Budapest: p. 66.

of the victims when they are taking part in official procedures in various institutions. Already in the first Resolution of the EU parliament (A2-44/86) a whole variety of special measures for police, medical institutions and juridical proceedings are recommended. Yet it seems that measures preventing re-victimisations mostly pertain to police in the new member states. The collected data showed that encompassing guidelines for police on how to deal with victims of all forms of violence are in place in five countries. Yet their policy papers are gender-blind; there is no discernible gender-sensitive approach. Policy papers are written with so-called gender neutral language, and the necessity to change this is emphasized in other studies (Hearn, Pringle, Müller, Oleksy, Lattu, Tallberg, Chernova, Ferguson, Gullvåg Holter, Kolga, Novikova, Ventimiglia & Olsvik, 2002, p. 1999; Logar, 2008, p. 16). Only in Slovakia and Estonia do special guidelines for women exist. The gender aspect is part of the Estonian Guidelines for work with victims of sexual violence and Slovakian guidelines on how to handle women victims of violence. In Slovenia, general guidelines for police on how to treat victims of family violence are currently being prepared.

GOOD PRACTICE

In **Slovakia**'s National Action Plan on the Prevention and Elimination of Violence Against Women during the years 2005–2008, there is also a measure for the police to design an investigation methodology in order to protect women victims of violence from repeated trauma. Victimization was defined as well. On the basis of this methodology, training is permanently provided.

3.2 Women's NGOs against VAW

NGOs offer specific support for victims of violence from women's perspective. This help is often formed by the grassroots movement, which is especially concentrated to help empower victims or is meant for special groups of victims. NGOs are mentioned in numerous EU recommendations. They were mentioned in the first recommendation from 1986, as well as the ones that were passed later. In all of them, we can find references on how important women NGOs are and the call that support (financial and political) by national governments should be provided to them. Yet in practice, there are many deviations from these instructions.

The results of the research discover that in the pre-accession period, the number-one funding source were foreign funds, followed by state. These findings are no different from the findings of other scholars, which all emphasize the importance of foreign donors (Roth, 2007, p. 467). In the post-accession period, the state and EU funds are both categorized as the most important allocation funds,

which is probably also the case because international donors withdrew financial support from women's NGOs and moved their sources further east (Roth, 2007, p. 473). Yet the state's more prominent role can also be interpreted as the state that is slowly prepared to acknowledge the place of women's NGOs. Yet as Roth (2007, p. 470) warned in the case of the Czech Republic, sometimes the state is prepared to acknowledge the problem of domestic violence as long as it is no longer considered a feminist problem. In the comparison of the 2004 accession states, the state is the weakest financer in Latvia, Hungary and Slovakia, where its role has even decreased compared with the pre-accession period. The 2004 accession countries did not stabilize the funds for NGOs and the states did not create new opportunities for NGOs to be social service-orientated or the initiators of new, alternative programmes. It should be mentioned that funding problems also existed in other member states which were not included in the study and also there the problems were not related only to inadequate funds, but to the fact that the funding is given on a year-to-year basis, which makes long-term commitment impossible (Tsaklanganos & Strid, 2007, p. 41).

However, EU recommendations do not advise only systematic financing, but other measures that would stabilize the third sector of NGOs. For example, Baden's recommendation calls for NGO involvement in the legislative decision making process and in law enforcement. NGO involvement in policy making is very important and in most countries, NGOs are involved in policy, either through expert councils or interdepartmental groups or by preparing a novel of the laws. At first, it seems that women NGOs benefited from the window of opportunities opened by accession to the EU. As Roth (2007, p. 475) argues, "sandwich pressure" from the top (international pressure) and below (NGOs) was effectively utilized, especially during the accession period.

Later, the national governments realized that the power of NGOs and the monitoring of the EU is limited, and their role diminished (Roth, 2007, p. 476). Our research findings also demonstrated that the way to include NGOs in policy making is still very unclear. In Hungary, a special law exists stating that NGOs have to be included, while in Poland, Slovenia and Latvia, cooperation between the government and NGOs is emphasized only in non-obligatory policy papers. The problem is the un-transparent selection of NGO partners, as only loyal NGOs can be chosen and used as an excuse for legitimization. Transparent civil dialog should be developed, and it should be emphasized that this is not only a problem for 2004 accession countries (Rolandsen Agustin, 2008, p. 507; Fazi & Smith, 2007, pp. 80, 84). Transparent rules should be established for financing as well as for policy making.

The lack of NGO involvement in policy making and inadequate funding is reflected in practice by the failure to satisfy the EU recommendation that supporting institutions should be run by women's NGOs. This recommendation is not fully

adopted in, for instance, Cyprus, where shelter for women is run by the church, not elsewhere where supporting institutions are run also by state and not exclusively by women's NGOs.

GOOD PRACTICE

Czech Republic — From 2001 to 2007, the NGO White Circle of Security (Bílý kruh bezpečí — BKB) implemented a project aimed at changing legislation and practice in the area of domestic violence protection. BKB was very intensively involved in preparing the new Act on combating domestic violence, which was passed on January 1, 2007. BKB adapted unique diagnostic methodology from Canada and Sweden into the Czech conditions in 2006; the Czech version's name is SARA DN and it is used as risk assessment tool.

3.3 Accommodation for victims of violence – still missing minimum standards

The aforementioned recommendation that shelters should be run by women's NGOs is just one of many standards presented in EU Resolutions and Recommendations from expert meetings. One of the standards referenced most often in that context defines how many spaces in shelters should be available for victims of violence — yet another objective that hasn't been yet fulfilled in any of the 2004 accession countries. In Europe, the exceptions that have reached those standards are Liechtenstein, Luxemburg, Malta, Netherlands and Norway, according to some studies (Webhofer, 2008, p. 7). One place per family was designated as the standard for a women's shelter serving a population of 10.000 in a resolution from 1986 (Doc. A2-44/86). The majority of the 2004 accession countries did not publicly disclose the number of family spaces available, making it very difficult to gather any data on this practice (Cyprus, Hungary, Latvia, Lithuania, Czech Republic and Slovakia). In some cases, there is an evident difference between the data gathered from other studies (Webhofer, 2008; Hagemann-White & Bohn, 2007) and the data sent to us by our national correspondents, as was in the case of Malta, where the gathered data revealed that Malta still doesn't meet the standards. In Slovenia, the government includes beds in maternity homes and shelters in accounting for the number of available beds. However, if we consider only the number of beds available in shelters, Slovenia still does not meet the 1986 standard. As in Poland and Estonia, there is lack of space in the shelters. Another problem we encountered in gathering data was that every room usually has several beds, but due to minimal privacy standards, only one person or one family was placed into each room. As a result, the data on the number of beds is limited and EU standards cannot be applied to this information. This is also the case with standards for short-term ac-

commodation. As with gathering comparable data for long-term accommodation, problems arose in collecting data for short-term accommodation. Three countries seem to satisfy the standards for short-term accommodation (one family space per a population of 50.000), the Czech Republic, Malta and Poland.

The EU recommendations also detail other standards. The recommendation from Cologne demands 24-hour service; safety for women and children in the shelter; that the shelter staff should be women; guaranteed confidentiality; and no time limitations on how long women and children can stay. All of the shelters should be run by women NGOs with feminist perspectives, according to the EU resolutions, and concept of empowerment and the self-help model should be taken into account when working with women. Shelters should be open to all women who are victims of violence, including migrant women, black and ethnic minority women. The staff in the shelter should be paid and trained.

However, the above standards have not all been implemented; shelters for women victims of violence are still not available for all groups of women and in all regions; there are problems with accommodation for women who are addicted to drugs or alcohol; and in Slovenia, Estonia and Poland, there are also problems with accommodations for handicapped women. In fact, EU standards have not been fully enacted in any 2004 accession country, except in Malta. However, according to the gathered data, most of these standards are now a part of shelters' operational policies. The research proved that the quality of the service varies considerably among the states, which is why the proposal on combating violence against women through minimum standards for support services (Kelly & Dubois, 2008) represents the lowest common denominator that all states should aim to achieve.[6] Some of the EU recommendations also contradict one another, as some emphasize a feminist approach, while others emphasize other principles of work for the shelters (Jyväskylä, 1999).

3.4 Reintegration of the victim into society

The recommendations that are least likely to be implemented in the legislation of the 2004 accession countries are those that assist in reintegrating the victim of violence into society. A recommendation to offer permanent re-housing for victims of violence was emphasized in 1986, together with the possibility of financial

[6] Working from a gendered perspective of violence against women, safety, security and human dignity, specialist services, diversity and fair access, advocacy and support, empowerment, participation and consultation, confidentiality, a coordinated response, holding perpetrators accountable, governance and accountability and the last standard of challenging tolerance.

Minimum standards for provision are: one family place per a population of 10.000, one specialist on violence against women in each shelter in each region, and women with additional needs have to be accommodated.

independence and participation on the labour market. To implement those kind of special measures, protective legislation must be accepted to provide women with minimum income or conduct special employment action programmes. Some of the recommendations also mention housing rights and other financial support. However, our results show that no such measures were reflected in the 2004 accession countries' legislation, with the only exception being Slovenia.

GOOD PRACTICE
Slovenia: The Housing Act from 2003 introduced an important practice in allowing the municipalities, state and public housing to fund, or the non-profitable housing organisations to rent, a unit as a provisional solution to the housing needs of socially unprivileged persons. Such a dwelling is based on the list of persons eligible for such allocations. This category includes victims of domestic violence.

4. Primary prevention: precluding the emergence of violence

4.1 Awareness raising

Calls to stimulate media campaigns on violence against women were included in the Recommendations of the European Community already in the 1980s (A2-44/86). In 1997, the European Parliament prepared a resolution on the need to establish a European Union-wide campaign for zero tolerance of violence against women, which resulted in a 1999/2000 European campaign to raise awareness on violence against women. The campaigns were an opportunity to emphasize unequal gender power and relationships and draw attention to the secrecy surrounding violence in society, especially intimate partner violence. Some research indicates that the European Community has made substantial progress in this area (EU, 2002, p. 19). However, the 2004 accession countries were not yet members of the EU at this time.

Nevertheless, the importance of those recommendations was also echoed in prospective member states. The majority of them organised media campaigns against violence already in the 1990s, all of which were meant to prevent domestic violence. The only exceptions were Cyprus, Hungary, Lithuania and Slovakia, where no significant media campaign was carried out prior to 2000. In Cyprus, the first important media campaigns were organised in 2006–2007, while in Slovenia, the first awareness raising campaign was organised in 1992. In countries where the first important media campaigns were organised after 2000, the important role of the state or EU was obvious from the available data. In the EU, carrying out

awareness campaigns became part of the political process and the need to include them as a provision in the legislation, as some other non-European states did, is absent (UN, 2008, p. 31). However, the provision of sufficient funds and government support is necessary to ensure an obligation to national campaigns against gender-based violence, which should first be reflected in soft policy papers.

Transnational initiative is more than evident in one of the most modular collective action: media campaigns. Slovenia joined the White Ribbon Campaign as part of the 16 Days of Activism against gender-based violence held in 1999 (Report Kaj ti je deklica, 2000). Malta was also part of the global White Ribbon Campaign in 2007. On the EU level, Slovenia, Belgium and Netherlands prepared the campaign "Each Fifth Woman Falls over the Stairs" in 2002. In most cases, these campaigns were carried out by NGOs, which gathered funds from donators. In some cases, there were also important foreign donors, such as Body Shop, which initiated important media campaigns under the slogan Stop Violence in the Homes. In 2004, Latvia joined this global campaign; in 2005,[7] Malta and Estonia also associated. Altogether, eight countries participated in the international 16 days of activism against gender violence, enacting their own national campaigns, as Slovenia had done in 1994 and Latvia a year later. Most of the influential 16-day national campaigns were sponsored by the Open Society Foundation.[8] In most cases, national campaigns were part of international initiatives, but were regionally adopted to suit the national character. In the future, media campaigns should be more focused on raising awareness of national laws and exposing some particular forms of gender-based violence. Until now, no campaign in 2004 accession countries has been organised about femicide, young women and sexual violence, rape, traditional practices that include violence against women, violence against women in minority groups and sexual harassment.

4.2 Research on violence against women

Research is required to facilitate a complete understanding of the problem of violence in its specific circumstances and to legitimate policy measures. Research has been recommended by the EU since the 1980s (A2-44/86). The first influential research[9] on violence against women in all of the ten new member states was carried at the end of the 1990s. This is relatively late in comparison with Western

[7] "When Love Hurts!" was the name of the campaign in Estonia and "Stop Domestic Violence Campaign" was the name of the campaign in Malta.

[8] This small grants programme supports NGOs in the Soros Foundation's network to organise national public awareness campaigns on violence against women in conjunction with the global "16 Days of Activism Against Gender Violence" campaign (soros.org).

[9] We also considered expert evaluations, preliminary research and small-scale studies.

countries, where pioneering work on violence against women that focused on rape, intimate partner violence and incest had already been conducted at the end of the 1970s. The prevalence of the criminal justice perspective (which had already been introduced in the 1980s in the West) and the framing of violence against women as a public health problem was widespread in western European countries in the 1990s, and was part of an analysis conducted in 2004 accession countries. However, those two 1990s perspectives were lacking in Cyprus, Latvia, Estonia, Lithuania, Poland, Slovakia and Slovenia. It is interesting to note that among most influential research studies only in Malta and Poland none adopted a sociological approach. In Malta, we could only find studies based on social work, statistical data and criminology. In Poland, mainly public opinion data was gathered, along with research from the field of legal sciences. Yet in both new and old member states, the tradition of critical social research is important. Research conducted in the USA differs in that it is more treatment-orientated and as a consequence, large-scale quantitative studies proliferate there (Hester, 2004, p. 1439).

In the 2004 accession countries, scientific research is most commonly financed by the state, with the second-most important source of financing being other institutions, especially the Open Society Foundation (Estonia, Hungary, Slovakia). In analyzing the data, we can recognize the Open Society Foundation as important actor in primary prevention, not only in terms of initiating studies, but in initiating media campaigns. The state served as an important source of funding because most of the research was carried out with the goal of drawing up legislation or other policy plans.

Comparable data is required to facilitate more effective research on violence against women. This problem was recognized by the EU in its 1986 and 1997 recommendations, with the latter stating that comparable statistics are lacking in most EU member countries. On the basis of the Spanish Presidency's preparatory work concerning violence against women, the Danish Presidency drew up the following seven indicators in 2002:

1. profile of female victims of violence;
2. profile of male perpetrators;
3. victim support;
4. measures addressing the male perpetrator to end the circle of violence;
5. training of professionals; and
6. state measures.

Based on this document, the EU encouraged member states to consider producing national data and progressively updating it, so that regular examinations and comparisons could be conducted. When we asked the 2004 accession countries if comprehensive official data about violence against women existed, we

received negative answers. In all of these countries, such data is gathered by the police. However, the different dimensions of gender-based violence are not taken into consideration, yet alone EU indicators. The same is also true for the EU member states before 2004 accession, but in the context of transnational EWL (European Women's Lobby – European women's organisation), some members tried to use the list as a guide to data collection, although critics estimated that those indicators are too vague and do not relate to existing data sources (Ertürk, 2008, p. 49).

4.3 National action plans and national reports

The data gathered in research and reports should represent the "soft" or non obligatory policy papers prepared as national action plans (NAP). In the spirit of the recommendation of the expert meeting held in 1998 in Baden, we must argue that the policy papers express the political will to combat domestic violence against women. No other instrument to eliminate violence is more evident, besides legislation, than the policy papers that serve as national plans and strategies. Yet only five countries had prepared national action plans (Hungary, Lithuania, Poland, Cyprus and Slovakia) by the end of 2006 and all of them were prepared after 2003. After 2007, Slovenia, Czech Republic and Latvia were also to prepare national plans against domestic violence. Yet a national report on gender-based violence had been prepared in Malta in the 1990s, but it was not prepared on the basis of NAP.

Only the Slovakian and Lithuanian national plans emphasize gender-related violence and both plans were only prepared after accession in 2004. However, we can observe some aspects of gender being included in the national documents when domestic violence and sexual violence is part of the broader national action plan, as in the case of the Czech Republic's "NAP on Government priorities and procedures for enforcement of quality of men and women" or with Slovenia's "Resolution on the National programme for Equal opportunities for women and men 2005–2013," and part of the Periodical plan for the Implementation of the National programme for equal opportunities for women and men, 2006–2007". Violence against women is also part of Cyprus' "National Action Plan for equality between men and women", Latvia's "Programme for implementation of gender equality" and Poland's "National Action Plan for women". The fact that a gender-sensitive approach on violence can be identified in some of the 2004 EU member states means they are comparable with other EU member countries. Yet we can also agree with the EWL study, which established that there are an embarrassingly few countries in EU with special plans on violence against women: only five[10] (Tsaklanganos & Strid, 2007, p. 7).

[10] Denmark, France, Germany, Spain and Sweden

The mere existence of NAP does not tell us much. The question is whether the holistic approach is taken into consideration in NAP, if sufficient funding is provided or if deadlines are established for a particular action. In that context, the European Women's Lobby recommends that five elements representing minimum NAP standards should be included when drafting and accepting NAP (Tsaklanganos & Strid, 2007, p. 19).[11]

Any assessment of important policy papers should also include governmental reports. The gender aspect of domestic violence is, without a doubt, represented in CEDAW reports, which all of the 2004 accession countries have prepared. On the basis of a national plan against domestic violence, reports were prepared in Poland, Cyprus and later in Slovakia. In Latvia, violence against women was part of the report "Violence and Health" from 2007. Monitoring violence against women is essential yet it should not be sporadic and biased.

Our findings show gaps between institutional and NGOs reports in some cases, which, for example, was also the case with the EWL study (Tsaklanganos & Strid, 2007). Cooperation between both actors should be developed in the future, as stated in the UN recommendations (2008, p. 23).

GOOD PRACTICE
In August 2005, the **Slovakian** government passed the National Action Plan on Prevention and Elimination of Violence Against Women for 2005–2008. The National Action Plan emphasized violence against women as a gender-based form of violence and listed particular provisions to be enacted in the following areas: criminal justice and civil justice, help and assistance, prevention, and research.

5. Conclusion

We can establish that many of the measures recommended by the EU in non obligatory papers are still not implemented and that women's perspective is missing when states implement policies against violence. Yet the 2004 accession countries are not a monolith group; they have very different and, in some cases, long traditions that emerged from dealing with violence against women prior to their 2004 accession. Some countries accepted laws on protection against domestic violence (the Czech Republic, Malta, Poland, Slovenia, Cyprus), while others used

[11] 1) Necessary preconditions for the development of a NAP, 2) Content of the NAP, 3) Implementation of the NAP, 4) Monitoring of the implementation, 5) Evaluation of the above.

a gender-sensitive approach in soft papers, such as Slovakia or Lithuania. Some countries are completely gender-blind in their legislation on domestic violence, as is the case in Poland, Estonia or Hungary. Some small countries, such as Malta, have almost fulfilled their obligation to considering space in shelters, while other bigger countries like Hungary conducted hardly any significant domestic violence research with a gender component. However, no generalization is possible, as there was significant progress in some areas regarding the enactment of measures against gender-based violence and no progress in others.

In spite of late starts in dealing with violence against women, the implementation problems that emerged with EU recommendations in the 2004 accession states were quite similar to the ones in previous EU countries. The EU standards for service providers still haven't been fulfilled, NGOs are still not considered important actors, and some states still implement gender-blind legislation. There are a lot of reasons why the situation is like this, as for example traditional attachment of national legal system on neighbouring states that can offer or lack successful regional models for changing legislation or the absence of some political actors as NGOs. For the most part, EU recommendations haven't been implemented, because of an evident lack of political will, which can also be interpreted as a structural problem and can probably be overcome with binding EU legislation. But it is necessary to add that in some cases, EU recommendations are also not taken into consideration because their definitions are too vague, as in the case of family spaces or research indicators.

Policy framing is a process that includes different stakeholders for different aspects of that process, which has to be continuously evaluated, as the implementation of human rights policies is becoming an important priority in the EU

Documents

1986
European Parliament Resolution on Violence against Women (Doc. A2-44/86).

1997
Resolution on the need to establish a European Union wide campaign for zero tolerance of violence against women (A4-0250/1997).

1998
Conference of Experts – Police Combating Violence Against Women, Baden, 1998. Austrian Presidency of the Council of the European Union, July – December 1998.

1999
Conference of Experts – Police Combating Violence Against Women, Cologne, 1999. German Presidency of the Council of the European Union, January – June 1999.

Conference of Experts – Police Combating Violence Against Women, Jyväskylä, 1999. Finnish Presidency of the Council of the European Union, July – December 1999.

Resolution on the report from the Commission to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions on the state of women's health in the European Community (COM(97)0224 C4-0333/97).

2000
European Parliament resolution on the follow-up to the Beijing Action Platform (2000/2020(INI)).

2004
European Parliament resolution on the current situation in combating violence against women and any future action (2004/2220(INI)).

References

Booth, C. & Bennett, C. (2002). Gender Mainstreaming in the European Union: Towards a New Conception and Practice of Equal Opportunities? *European Journal of Women's Studies*, Vol. 9, No. 4, 430–446.

Cichowski, R. (2004). Women's Rights, the European Court, and Supranational Constitutionalism. *Law & Society Review,* Vol. 38, No. 3, 489–512.

Ertürk, Y. (2008). *The next step: Developing transnational indicators on violence against women.* New York: UN. Retrieved from: http://www2.ohchr.org/english/bodies/hrcouncil/docs/7session/A.HRC.7.6.Add.5.pdf

EU (2002). *Good Practice Guide: To Mitigate The Effects Of And Eradicate Violence Against Women.* Madrid: Institute of Women, Autonomous Organism assigned to the Spanish Ministry of Labour and Social Affairs. Retrieved from:
http://www.eurowrc.org/01.eurowrc/05.eurowrc_es/ES_SPAIN/EN_Spain-Good%20Pratice%20Guide%20violence%20women.pdf

EWL (2003). *Material of EWL from EWL Seminar Capacity Building for gender equality in view of European Union enlargement.* Brussels, 18–20 May 2003.

Fazi, E. & Smith, J. (2007). *Civilni dijalog.* Zagreb: Ured za udruge.

Filipčič, K. (2002). *Nasilje v družini.* Ljubljana: Bonex.

Hagemann-White, C. & Bohn, S. (2007). *Protecting women against violence. Analytical study on the effective implementation of Recommendation Rec (2002)5 on the protection of women against violence in Council of Europe member States.* Strasbourg: Council of Europe.

Hearn, J., Pringle, K., Müller, U., Oleksy, E., Lattu, E., Tallberg, T., Chernova, J., Ferguson, H., Gullvåg Holter, Ø., Kolga, V., Novikova, I., Ventimiglia, C. & Olsvik, E. (2002). Critical Studies on Men in Ten European Countries: The State of Law and Policy. *Men and Masculinities*, Vol. 5, No. 2, 192–217.

Hester, M. (2004). Future Trends and Developments. Violence Against Women in Europe and East Asia. *Violence Against Women,* Vol. 10, No. 12, 1431–1448.

Investigating and Prosecuting rape (1999, 46). *Probation Journal*, 46, 195–196.

Kelly, L. & Dubois, L. (2008). *Combating violence against women: minimum standards for support services.* Strasbourg: Council of Europe.

Kennedy Bergen, R. (1999). Marital Rape. Retrieved from: http://www.hawaii.edu/hivandaids/Marital%20Rape.pdf

Korošec, D. (2008). *Spolnost in kazensko pravo. Od prazgodovine do t.i. modernega spolnega kazenskega prava.* Ljubljana: Založba Uradni list.

Logar, R. (2008) *Good practices and Challenges in Legislation on Violence against women.* Vienna: UN.

Magurová, Z. (2008) Legislation concerning violence against women in Slovakia. Retrieved from:
http://www.stopvaw.org/sites/3f6d15f4-c12d-4515-8544-26b7a3a5a41e/uploads/Slovak_legislation.doc

Open Society Institute (2007) *Violence against women does the government care in the Czech Republic?* Budapest: Open Society Institute.

Regan, L. & Kelly, L. (2003). Rape still a forgotten issue. London: Metropolitan University. Retrieved from: http://www.rcne.com/downloads/RepsPubs/Attritn.pdf

Report Kaj ti je, deklica? (2000). Socialna akcija proti nasilju nad ženskami. Slovenija, 16. november – 15. december 1999. Poročilo o poteku akcije. Pripravljalni odbor akcije. Ljubljana.

Rolandsen Agustin, L. (2008). Civil Society Participation in EU Gender Policy – Making: Framing Strategies and Institutional Constraints. *Parliamentary Affairs,* Vol. 61, No. 3, 505–517.

Roth, S. (2007). Sisterhood and Solidarity? Women's Organisations in the Expanded European Union. *Social Politics: International Studies in Gender, State & Society,* Vol. 14, No. 4, 460–487.

Sedmak, M., Kralj, A., Medarič, Z. & Simčič, B. (2006) *Končno poročilo CRP, Nasilje v družini pregled dobrih praks in priporočila.* Koper.

Tsaklanganos, G. & Strid, S. (2007) *Reality Check: When Women's NGOs Map Policies and Legislation on Violence against Women in Europe.* EWL.

UN (2008). *Report of the expert group meeting Good practices in legislation on violence against women,* Expert group meeting organised by United Nations Division for the Advancement of Women United Nations Office on Drugs and Crime. Vienna: UN.

Webhofer, R. (2008). *Country Report 2008 Reality Check on European Service for Women and children victimes of violence. A Right for protection and support?* Vienna: WAVE.

Internet sources

Eurobarometer (1999). Attitudes to violence against women and children from http://www.eurowrc.org/13.institutions/1.ec/ec-en/06.ec_en.htm

Open Society Institute, Violence against Women from http://www.soros.org/initiatives/women/focus_areas/h_violence

Sara Rožman

Sexual Harassment at Work

1. Introduction

"The term sexual harassment is relatively new, originating only in the 1970s, but the experience has been an intrinsic part of women's experiences in the workplace at least since the beginning of the industrialization at the turn of the twentieth century" (Degen, 1991; Segrace, 1994 in Zippel, 2006, p. 11).

In the late 1970s and early 1980s, feminists of the second-wave women's movement took issue with unwanted sexual behaviour in the workplace. These feminists considered sexual harassment to be foremost a "gendered" problem, an abuse of power by men who held higher status as supervisors than women (Zippel, 2006, p. 14).

In a consciousness-raising group in 1974, Lin Farley discovered that each member of the group had "already quit or been fired from a job at least once because we had been made too uncomfortable by the behaviour of men" (Farley, 1978, p. xi). Farley's consciousness-raising study on working women's experiences with unwanted sexual attention brought the problem to public attention and invented a label for it. This kind of behaviour eventually required a name and "sexual harassment" seemed to come about as close to symbolising the problem as language would permit (Farley, 1978, p. xi). Once the term was coined, sexual harassment became a topic of much public discussion and many publications addressed the prevalence of this form of harassment (Timmerman & Bajema, 1999, p. 419). "In the years that followed, 'sexual harassment' was transformed from a problem with no name to a body of law, first in the United States and then in countries across the globe" (Saguy, 2002, p. 249).

Especially noteworthy is the US Supreme Court's June 19, 1986, ruling in its first sexual harassment case: Meritor Savings Bank, FSB v. Vinson (USMSPB, 1988, p. 11). This decision made it clear that sexual harassment can result from a hostile working environment that can be created by offensive behaviour directed towards a person because of his or her gender.

According to several authors, the implementation of sexual harassment laws is, in many ways, a feminist success story (Thomas & Kitzinger, 1997). Second-wave feminism succeeded in redefining women's so-called personal experiences into a public and political issue.

In 1985, the French feminist association L'Association européene contre les violences faites aux femmes aux travail (AVFT: the European Association against Violence towards Women at Work) was established to fight, as their name sug-

gests, "sexual violence against women at work" (Ibid., p. 250). At the same time, the AVFT built upon an established French feminist agenda of denouncing sexual violence, including rape, sexual battery and domestic violence. French feminist associations were the first to call for legal sanctions against sexual harassment in 1990, putting forward a definition inspired by European Community documents and North American ideas.

On behalf of the European Commission, Michael Rubinstein conducted the first review study in 1987 (Rubenstein, 1987). From this early pioneering work, it became evident that many women experience some form of unwanted sexual attention in their work environment in the member states.

Through the years, the European Commission has undertaken a variety of initiatives to prevent and combat sexual harassment in the workplace, including: a Council Directive on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions (76/207/EEC); the European Parliament Resolution on violence against women (Doc A2-44/86); the Council Resolution on the protection of the dignity of women and men at work (90/C 157/02); the Commission Recommendation on the protection of the dignity of women and men at work (92/131/EEC); the Council Declaration on the implementation of the Commission Recommendation on the protection of the dignity of women and men at work, including the Code of Practice to combat sexual harassment (92/C 27/01); the Council Directive amending Council Directive 76/207/EEC on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions (2002/73/EC); and the Directive on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast) (2006/54/EC).[1]

The Council Directive on equal treatment (76/207/EEC) is the basis of European Union law and policy in the area of gender equality in employment. Since the Resolution on the dignity of women and men at work (90/C 157/02) was enacted, the Community institutions have been actively working towards raising the level of awareness about the negative consequences of sexual harassment. The European Union has taken concrete steps to address sexual harassment in its member states. In May 2002, it amended the Council Directive on equal treatment (76/207/EEC) by introducing two forms of harassment: harassment related to sex and sexual harassment. They are both recognised as a form of discrimination on the basis of sex and are thus contrary to the principle of equal treatment of men and women.

[1] This EU Directive is a recast directive that puts previous directives and case law on equal treatment for women and men in employment in one single text.

The Directive on equal treatment (2002/73/EC) defines harassment as existing "where an unwanted conduct related to the sex of a person occurs with the purpose or effect of violating the dignity of a person, and of creating an intimidating, hostile, degrading, humiliating or offensive environment" and sexual harassment as existing "where any form of unwanted verbal, non-verbal or physical conduct of a sexual nature occurs, with the purpose or effect of violating the dignity of a person, in particular when creating an intimidating, hostile, degrading, humiliating or offensive environment". The definition of sexual harassment reflects the definition of sexual harassment adopted by the European Commission in 1991 in its recommended "Code of Practice on measures to combat sexual harassment". The Directive characterizes sexual harassment as both a form of sex discrimination and a violation of dignity in the workplace. It is important to note that the directive prohibits both "quid pro quo" and "hostile work environment" harassment.

With reference to the prevention of sexual harassment, Article 2(5) of Directive 2002/ 73/ EC specifies: "Member States shall encourage, in accordance with national law, collective agreements or practice, employers and those responsible for access to vocational training to take measures to prevent all forms of discrimination on grounds of sex, in particular harassment and sexual harassment at the workplace".

It also makes provisions in relation to the establishment of procedures for enforcement purposes, the compensation for victims of discrimination and harassment. The Directive on equal treatment (2002/73/EC) seeks to harmonize the member states' laws regarding the equal treatment of men and women. European Union directives are legally binding for member states. The provisions of the Directive on equal treatment (2002/73/EC) will become directly applicable if the member state does not adopt adequate domestic legislation within the set time frame. EU member states were required to implement legislation meeting the objectives described in the Directive on equal treatment (2002/73/EC) by October 5, 2005.

2. The legal situation

Due to persisting stereotypes, there has been a strong resistance to recognizing sexual harassment as a common phenomenon in the ten studied countries, and reluctance on behalf of the states to guarantee the respective legal protection. Sexual harassment has not been identified as a specific policy area to be addressed and did not receive serious attention in any of the studied countries before they began their negotiation process with the European Union. At that time, there was no clear understanding of what constituted sexual harassment and there was no adequate domestic legislation policy prohibiting it in the workplace. The Daphne research

showed that legislation which explicitly regulates sexual harassment is relatively new in all of the countries. Sexual harassment is usually addressed through different types of provisions — labour law, antidiscrimination law or Criminal Code.

Since the adoption of the Directive on equal treatment (2002/73/EC), the governments in the ten studied countries have made significant progress in setting policy prohibiting sexual harassment. Clearly, though, the first step to combating the phenomenon is to recognize its existence and provide a national legal definition. In our analysis, eight countries — Cyprus, the Czech Republic, Estonia, Hungary, Lithuania, Malta, Poland and Slovenia — stated that by 2006, they had legislation that dealt with sexual harassment. Slovakia[2] and Latvia did not have employment legislation that dealt with sexual harassment in place.[3]

Due to the fact that EU member states were required to adopt legislation meeting the objectives described in the Directive on equal treatment (2002/73/EC) by October 5, 2005, most of the changes in new member states occurred between 2002 and 2005 (Cyprus, Lithuania and Slovenia adopted the legislation in 2003, while the Czech Republic, Estonia and Poland implemented it in 2004). There are, however, some exceptions. In Lithuania, we can find the definition of sexual harassment in the Law on Equal Opportunities for Women and Men, which dates back to 1999. Hungary brought their national legislation in line with the requirements of the Directive on equal treatment (2002/73/EC) in 2006, amending its Act on Equal Treatment and the Promotion of Equal Opportunities.[4]

3. Legal remedies

The sexual harassment experienced by women in the workplace has been recognized as a widespread and damaging phenomenon. "Prevalence rates across a wide range of industries, occupations, and locations have been cited as high as 50 percent" (Crocker & Kalemba, 1999 in McDonald, Backstrom & Dear, 2008, p. 174) "and the effects include job dissatisfaction, absenteeism, low self-esteem, and elevated

[2] Sexual harassment was not explicitly dealt with in Slovak law (legislation only covered harassment in general).

[3] In Slovakia and Latvia, sexual harassment was included in legislation in 2008. In Slovakia, we can find provisions regarding sexual harassment in Antidiscrimination Law and Labour Code and in Latvia's Labour Law.

[4] Concerning sexual harassment, a professional dispute occurred around the Act on Equal Treatment and the Promotion of Equal Opportunities. The Act contained the concept and prohibition of harassment in general but did not specifically mentioned sexual harassment. According to the experts who developed the Act conceptually, it is meant to cover sexual harassment as well. This standpoint has been repeatedly criticized both by experts and by feminist NGOs on the grounds that sexual harassment has several specific aspects, a distinctive coverage of which requires its regulation in a separate paragraph. Reference has also been made to EU requirements, specifically those concerning sexual harassment (Krizsán & Pap, 2005, p. 53).

stress" (Kauppinen-Toropainen & Gruber 1993; Schneider, Swan, & Fitzgerald 1997 in McDonald, Backstrom & Dear, 2008, p. 174). However, the specific patterns of behaviour reported in alleged sexual harassment cases and the factors influencing the lodgement of formal legal complaints have received little attention.

The Directive on equal treatment (2002/73/EC) establishes guidelines for sanctioning and taking legal action against those responsible for sexual harassment and requires EU member states to allow interested third parties (non-governmental organisations or NGOs) to engage "either on behalf or in support of the complainants, with his or her approval, in any judicial and/or administrative procedure provided for the enforcement of obligations under this Directive". The Directive on equal treatment (2002/73/EC) states that "persons who have been subject to discrimination based on sex should have adequate means of legal protection. To provide a more effective level of protection, associations, organisations and other legal entities should also be empowered to engage in proceedings, as the Member States so determine, either on behalf or in support of any victim, without prejudice to national rules of procedure concerning representation and defence before the courts".

The legal tools by which sexual harassment can be controlled or penalised are not limited to provisions that expressly regulate harassment in the employment context. The results of our research show that it is impossible to draw out any consistency of practice in relation to the remedies for sexual harassment or regarding the bodies to which complaints of work-related sexual harassment may be brought. This diversity is understandable because the system of governing and the enforcement of employment rights generally differ across the member states.

Eight countries stated that they had legal remedies in place. In the Czech Republic, Cyprus, Hungary, Lithuania, Malta, Poland and Slovenia, we found provisions in the Criminal Code that could be applied to the cases of sexual harassment. In Lithuania, under the amendments to the Criminal Code, which came into force on May 1, 2003, sexual harassment of a person may invoke criminal liability. A range of penalties are available under the Code, including imprisonment, fines and deprivation of the right to perform certain duties or to engage in certain activities. Moreover, a prohibition to sexually harass a person was laid down in Article 92 of the Statute of Military Discipline, which is applicable to the military servicemen of Lithuania.

In Cyprus, the Czech Republic, Estonia, Hungary, Malta and Poland, legal remedies include financial compensation of the victim of sexual harassment. Other remedies in the Czech Republic, Lithuania and Poland include dismissal from work and, in Slovenia, the denouncement of the employment contract and disciplinary sanctions (warning, penalty or dispossession of the profit). In the event of a dispute, the Czech Republic, Cyprus, Hungary, Lithuania and Slovenia provide a pro-

vision that shifts the burden of proof if the worker states facts that justify the assumption of sexual harassment.

3.1 Codes of Practice

Code of Practice was issued in accordance with the Resolution on the dignity of women and men at work (90/C 157/02), and to accompany the Recommendation on the dignity of women and men at work (92/131/EEC). It was issued in accordance with the resolution of the Council of Ministers. The purpose is to provide guidance as to how sexual harassment can be prevented and how it ought to be dealt with when it occurs. Its purpose is to give useful guidance to employers, trade unions and employees on the protection of the dignity of women and men at work. The Code is intended to be applicable in both the public and the private sector. The aim is to ensure that sexual harassment does not occur and, if it does occur, to ensure that adequate procedures are readily available to deal with the problem and prevent its recurrence. The Code thus seeks to encourage the development and implementation of policies and practices which establish working environments free of sexual harassment and in which women and men respect one another's human integrity.

There is only limited evidence of the existence of Codes of Practice dealing with the issue of sexual harassment across the surveyed countries. Only one country, Malta, stated that such a code was in place.[5] The other nine countries stated that they did not have Codes of Practice in place.

GOOD PRACTICE

Malta can be highlighted as an example of good practice since not only does this country's document sensitise employers to the issue of sexual harassment, it provides information to employers while, at the same time, providing a specimen policy.

On one hand, in countries that have legislation dealing with sexual harassment, and providing detailed definitions of sexual harassment, Codes of Practice

[5] The National Commission for the Promotion of Equality (NCPE) has undertaken to prepare draft policies on sexual harassment and gender equality, which it disseminates to employers. The aim of the policies is to provide employers with a sort of manual and drafted policy and guidelines on how they can design their own policy. Alternatively, they could also adapt the draft policy for their situation or amend accordingly. Of course, these policies, especially the draft policy, are not obligatory by law and are not binding at law either. However, when an employer already has a policy in place which is brought to the attention of the employees then that employer may plead diligence should a claim on harassment at the place of work be made. The policy also provides for an internal (in house) consideration of the complaint whereby employees may present their complaint to the person in charge at the place of work and an internal machinery of investigation is initiated. This helps to address complaints immediately and more effectively.

are less necessary in definitional terms. On the other hand, Codes of Practice can be of great value to the employers and employees in providing guidance on how sexual harassment can be prevented and how it ought to be dealt with when it occurs. Where the legislation upon which the Codes are based does not explicitly define sexual harassment, Codes of Practice can help to give real-world meaning to abstract legislative provisions, particularly in cases in which they can be taken into account by courts and tribunals (Report on Sexual Harassment in the Workplace in EU Member States, 2004, p. 112).

4. Policies

4.1 National action plan

A national action plan dedicated exclusively to the problem of sexual harassment is not obligatory for the member states, but it would be very constructive in terms of the moral and political commitments undertaken by the states regarding this problem.

There is no national action plan dedicated exclusively to the problem of sexual harassment in any of the ten studied countries. In 2005, Slovenia passed the Resolution on the National Programme for Equal Opportunities for Women and Men 2005–2013. One chapter, "Labour Market and Employment", discusses qualitative working surroundings without any form of harassments. As a special goal, it foresees better prevention and proceedings for sexual and other harassment at work.

4.2 Governmental reports

A governmental report on sexual harassment was carried out only in Malta (2002). All of the 2004 accession countries signed The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), and have thus committed to submit national reports at least every four years on the measures they have taken to comply with their treaty obligations. The countries that have included the report on sexual harassment were Slovenia (1999, 2002, 2006), Hungary (2000), Latvia (2003) and Malta (2002).

5. Research

Although sexual harassment is a relatively new area of research, the importance of research is crucial in dealing with the problem. The first comprehensive national survey was conducted in the US in 1981. According to the results, 42 per-

cent of all female and 15 percent of all male governmental employees reported experiences with unwanted sexual attention in the workplace during the previous two years (USMSPB, 1981). The survey was repeated in 1987 and in 1995 with similar results. In 1981, the first surveys were conducted in Britain (Thomas & Kitzinger, 1997), followed by France (1985), Greece and Portugal (1988). Timmerman and Bajema (1997) write that the 1990s mark a new stage in studies of sexual harassment because surveys and samples to establish the scale of the phenomenon were abandoned and research instead focused on analysing its roots and the consequences of sexual harassment on the victims' working and private lives. Another novel aspect was that men were included in some studies, enabling other aspects of the problem to be tackled for the first time.

In the ten new member states, the first analyses were made in the 1990s in Cyprus (Women's Experiences of Sexual Harassment and Domestic Abuse – the Case of Cyprus, 1999); Slovenia (Sexual Harassment at Work, 1998; Slovenian Public Opinion, 1999; Sexual Abuse and Harassment against Nurses at their Workplace in Slovenia, 1999); and Poland (Sexual Harassment in the Workplace, 1999).

After 2002, research in other countries was conducted, mostly in the field of sociology, followed by the fields of law and social work in: Malta in 2002 (Sexual Harassment at the Workplace in Malta Report); Lithuania in 2004 (Psychological Violence and Sexual Harassment in National Defence System); Estonia in 2005 (Sexual Harassment at Workplace: A Case of Estonian Nurses); and in Slovakia in 2006 (Bulling and Sexual Harassment at Work). In the Czech Republic, the Ministry of Labour and Social Affairs commissioned research in 2004, titled Analysis of the Incidence of Harassment on Grounds of Sex and Sexual Harassment to the Institute of Sociology of the Academy of Sciences. The research conducted by the Czech daily newspaper *Lidové noviny* in 2003 showed that two-thirds of Czech women have encountered sexual harassment in the workplace. A 2000 opinion poll conducted by the GfK agency for the daily newspaper *Mladá fronta Dnes* suggested that 30 percent of employees have experienced sexual harassment and 4 percent have been forced to sexual intercourse under pressure (Havelkova, 2005, pp. 39–40).

6. Training activities

Providing training activities to elucidate the policy for employees and other parties is helpful in terms of raising awareness about both the issue and the company's procedures for tackling the problem. A substantial number of countries have taken steps to communicate their sexual harassment policies in one way or

another. According to a Dutch national study, two-thirds of the surveyed companies that already had policies have developed information activities (Amstel & Volkers in Timmerman & Bajema, 1997, p. 35). The 1996 UK study found that just over half of the employers with policies providing staff training were involved in the sexual harassment policy (Timmerman & Bajema, 1997, p. 35).

However, the results of the Daphne research project have shown that there is generally no systematic mandatory training on sexual harassment integrated for employees in certain institutions in ten of the studied countries. Training is provided on an on-and-off basis only. Of the ten countries included in this research, Poland is the only one that provides (non-mandatory) training for the judiciary and prosecutors' office personnel. This training is provided by National Training Centre. Regular training for police staff has only been conducted in Poland since 1990 and is also carried out in Lithuania, but is not mandatory. Training for personnel in health care institutions, social care institutions, drop-in centres and counselling centres can be found only in Poland.

Along with introducing the sexual harassment Code of Practice in 2005, Malta organised a seminar on sexual harassment at the workplace for human resource managers and employers.

7. Media campaigns

Despite the recommendations proposed by the European Commission in its 1991 Code of Practice on measures to combat sexual harassment, the Report on Sexual Harassment in the Workplace in the European Union (Brussels, 1999), which was published eight years later, further study showed that the perceived changes in this regard are scarcely significant. The report cites a series of difficulties that could be circumvented through appropriate sensitisation campaigns, such as:

I. An unawareness and lack of understanding, in broad segments of the population, of the concept of sexual harassment, particularly among men, but among women as well;
II. The difficulty of eradicating stereotypes that contributes to maintaining the problem; and
III. The obstacles that still exist to report such incidents and the reluctance of companies to acknowledge them.

Such difficulties indicate that different media activities are crucial to heighten understanding of the problem and scope of sexual harassment and, at the same time. Regrettably, only a few countries have taken steps to communicate their sexual harassment policies through different types of media. In Poland, the problem

of sexual harassment was part of the larger national campaign "16 Days of Activism against Gender Violence", which has been carried out yearly since 1995. In 1998, Slovenian NGOs, state institutions and unions launched the campaign "How to Say NO to the Boss". In 2006, Lithuania and Latvia (together with Greece, Poland and Finland) launched an international campaign known as "Work – Safe Place for Women". There are no specific public campaigns related to sexual harassment in Slovakia, Estonia or Hungary.

The overall picture is that the issue of sexual harassment is not often visible since by 2006, there had been only a few media campaigns regarding sexual harassment.

8. Conclusion

Although we do not believe that legislative policy in and of itself is a sufficient remedy to combat sexual harassment, the adoption of EU Directive (2002/73/EC) has had a significant effect on the national level. It is not possible to overlook the importance of change in the area of sexual harassment in the ten studied countries and the key external forces behind this change. The European Union has been the most significant external actor in the arena of sexual harassment policies because it has both the authority and influence to affect the national legislation of candidate countries and a body of binding, equal opportunity Directives.

The European Union successfully encouraged the adoption of laws regulating sexual harassment in the ten studied states that joined the Union in May 2004. Laws prohibiting sexual harassment have been passed, Criminal Codes have been amended and media campaigns and research have been carried out. Yet a comparison of the studied countries shows that the speed and depth of domestic compliance with EU recommendations varied.

Although legislation and policy can provide guidelines as a basis for prevention and action, sexual harassment persists as a problem for high numbers of women and for their employers, whose obligations extend to establishing, maintaining and enforcing guidelines for appropriate practices and behaviours. The best policies for solving the problem of sexual harassment are those linked with a general policy of promoting equal opportunities and improving the position of women, since sexual harassment goes hand-in-hand with inequality at work and the unjust distribution of power between men and women. The European Commission should therefore strengthen existing measures to promote equal opportunities.

The research has demonstrated that none of the ten countries has a policy covering the entire spectrum of sexual harassment. Our findings show that legislation in several member states does not include definitions of harassment and sexual harass-

ment in a suitably clear and explicit way, as provided in Directive (2002/73/EC). Due to the fact that only a small number of gender equality proceedings and complaints have been filed, the member states, NGOs and employers should strengthen their efforts to inform women of the possibilities open to victims of sexual harassment under national legislation and raise their awareness of their rights under Directive (2002/73/EC).

Measures that are intended to raise the profile of sexual harassment and legitimize complaints therefore need to be envisaged. It is essential to promote a policy that takes effect at an earlier point in time because the research results have shown that there is still a lack of preventive measures.

Documents

1976

Council Directive 76/207/EEC on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions.

1990

Council Resolution of 29 May 1990 on the protection of the dignity of women and men at work (90/C 157/02).

1991

Commission Recommendation of 27 November 1991 on the protection of the dignity of women and men at work (92/131/EEC).

Council Declaration of 19 December 1991 on the implementation of the Commission Recommendation on the protection of the dignity of women and men at work, including the Code of Practice to combat sexual harassment (92/C 27/01).

2002

Council Directive 2002/73/EC of the European Parliament and the Council amending Council Directive 76/207/EEC on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions.

References

Crocker, D. & V. Kalemba (1999). The incidence and impact of women's experiences of sexual harassment in Canadian workplaces. *Canadian Review of Sociology and Anthropology*, Vol. 36, No. 4, 541–59.

European Commission (1999). *Sexual Harassment at the Workplace in the European Union*. Brussels: European Communities.

Farley, L. (1978). *Sexual Shakedown: The Sexual Harassment of Women on the Job*. New York: Warner.

Havelkova, B. (2005). *Equal Opportunities for Women and Men. Monitoring law and practice in Czech Republic*. Open Society Institute.

Krizsán, A. & Pap, E. (2005). *Equal Opportunities for Women and Men. Monitoring law and practice in Hungary*. Open Society Institute.

McDonald, P. Backstrom, S., & Dear, K. (2008). Reporting sexual harassment: Claims and remedies. *Asia Pacific Journal of Human Resources*, Vol. 46, No. 2, 173–195.

Rubinstein, M. (1987). *The Dignity of Women at Work*. Part I and II, COM, V/ 412/87. Brussels: European Commission.

Saguy, A. (2002). International Crossways: Traffic in Sexual Harassment Policy. *European Journal of Women's Studies*, Vol. 9, No. 3, 249–267.

The Government of Ireland (2004). *Report on Sexual Harassment in the Workplace in EU Member States*, The Irish Presidency of the European Union in association with FGS Consulting and Professor Aileen McGolgan.

Thomas, A. M. & Kitzinger, C. (1997). *Sexual Harassment: Contemporary Feminist Perspectives*. Milton Keynes: Open University Press.

Timmerman, G. & Bajema, C. (1997). *Sexual Harassment in European Workplaces. A review of research in 11 Member States (1987–1997)*. European Commission.

Timmerman, G. & Bajema, C. (1999). Sexual Harassment in Northwest Europe: A Cross-Cultural Comparison. *European Journal of Women's Studies*, Vol. 6, No. 4, 419–439.

USMSPB (United States Merit Systems Protection Board) (1981). *Sexual Harassment in the Federal Workplace: Is it a Problem?* Washington, DC: US Government Printing Office.

USMSPB (United States Merit Systems Protection Board) (1988). *Sexual Harassment of Federal Workers: An Update*. Washington, DC: US Government Printing Office.

Zippel, K. (2006). *The Politics of Sexual Harassment: A Comparative Study of the United States, the European Union, and Germany*. Cambridge University Press.

Iztok Šori

Trafficking in Persons and Sexual Exploitation in Prostitution and Pornography

1. Perspective(s)

It has been more than a decade since the European Union has put child pornography, child sex tourism and trafficking in women for sexual exploitation on its agenda (COM (96) 483; COM (96) 487; COM (96) 567; COM (96) 547). Since then, several instruments have been adopted on the Community level, among them binding documents.[1] This paper examines the EU policy[2] on trafficking in persons, prostitution and pornography and its implementation in the legislations of ten countries that accessed the Community in 2004.

There is a worldwide consensus on the definition of trafficking in persons (TIP). It is stated in the Palermo Protocol,[3] which was signed by 147 parties, including the EU, and represents the most influential string of mechanisms to combat trafficking in persons. The Protocol pays particular attention to women and children and considers TIP first as violation of human rights, but does not limit it to women victims, sexual exploitation or trafficking in persons across national borders. With the introduction of this generic definition new aspects were brought into the global understanding of trafficking in persons, similar as when terms like "gender-based violence" were adopted. The enactment of a global strategy is therefore inevitable.

However, it is also necessary to target different forms of trafficking in persons with specialised (but integrated) policies. This paper focuses primarily on trafficking of women and children for sexual exploitation and is conceptualised on the connections between prostitution, pornography and trafficking of women and children. Several facts speak in favour of such approach. First, trafficking in women for sexual exploitation in the sex industry remains the most dominant form of traf-

[1] The review of EU (and other) documents on these topics is published at the end of the article.

[2] The goal of the analysis has been to provide a comprehensive overview of this field. However, because of the limits of the research, not all mechanisms could be considered, among them the problematic of data collection and victim compensation.

[3] "'Trafficking in persons' shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs" (Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organised Crime, 2000).

ficking in persons in Europe today (Nordic Baltic Network, 2008, p. 4). Second, there are few countries in which the sex industry is shrinking (Raymond, 2004, p. 1). And third, the amount of pornographic material available, including filmed child sexual abuse, escalated since the introduction of the Internet. Consequently, trafficking in persons has to be addressed as a gender issue — but not exclusively.

In recent years, EU documents (for example European Parliament resolution on strategies to prevent the trafficking of women and children who are vulnerable to sexual exploitation) have defined trafficking in persons as violation of human rights and have stressed the importance of gender mainstreaming and a child-sensitive approach in developing strategies to counteract the drivers of TIP, such as poverty, social exclusion, unemployment, lack of education, corruption, discrimination and violence against women (2004/2216(INI)). In explaining the root causes of TIP, the Brussels Declaration on preventing and combating trafficking in human beings (2002), among others, also raises the question of the relation between migrations and trafficking in persons, emphasizing the importance of examining ways to increase opportunities for legal, gainful and non-exploitative labour migration in order to reduce the usage of irregular means. Similar needs are expressed in current research on the phenomena, where, in addition to gender, criminal, migration, human rights and labour perspectives can also be identified.

2. Prosecution

In countries examined, the process of changing criminal legislation on trafficking in persons and related offences between 1991 and 2006 was intense; specially after police and judicial co-operation between EU member states in this field was stipulated in the 1999 enacted Amsterdam treaty. The intensification in the process of legal change can be observed during the negotiations and soon after accession to the Community. The objective of harmonization of the legislations was fulfilled satisfactorily, especially in terms of binding EU stipulations and crimes against children. However, improvements to the existing national legislations cease at this point.

2.1 Trafficking in persons

Trafficking in persons is in eight of ten countries that accessed the EU in 2004 prosecuted within a separate article of the Criminal Code: in Lithuania (since 1998), Poland (1998), Hungary (1999), Latvia (2002), Malta (2002), Czech Republic (2004), Slovenia (2004) and Slovakia (2005). These articles fully reflect the definition provided by the Palermo Protocol in five cases. The definition was in 2007

by a special law included also in the Cypriot legislation (before some TIP offences were subject to the law on "trafficking in human beings and sexual exploitation of young persons").

In the Czech Republic and Lithuania, the article on TIP does not include trafficking in persons for the purpose of removing organs, human tissue or blood. Poland hasn't introduced the definition of trafficking in persons in its legislation yet; however, the offence can be prosecuted according to Article 253 of the Criminal Code. Estonian legislation does not provide a comprehensive law or article on trafficking in persons, which can be prosecuted within approximately 15 different articles. The situation was similar in other countries before separate articles or laws were passed.

Imposed punishments vary. The most severe are in Cyprus, where trafficking in persons offences are punishable by up to 20 years of imprisonment; however, the legislation does not impose a minimum punishment in this country. In Hungary, trafficking in persons ("basic case") of adults is punishable by the lowest penalties: up to three years of imprisonment. Other countries mainly impose up to ten years.

National legislations are stipulating stricter punishments for trafficking of underage persons and for other aggravating circumstances, such as for members of criminal associations or when serious violence was used. In such cases, all countries impose imprisonment punishments with a maximum penalty that is not less than eight years and are in this regard fulfilling the obligations of the Council framework decision on combating trafficking in human beings (2002/629/JHA). The document is also followed in regard to investigations into or prosecution of trafficking offences, which are not dependent on a report or accusation made by a person subjected to the offence.

2.2 Prostitution

2.2.1 Women

Among researchers and activists, the debates on trafficking in persons are dominated and polarised by different understandings of prostitution. First, there are those who consider all prostitution to be violence against women, analogous to sexual abuse (Barry, 1984; McKinnon 1993; Coalition Against Trafficking in Women). Legally, the best example of such a position can be found in Sweden, where prostitution is officially acknowledged as a "form of exploitation of women and children which constitutes a significant social problem, harmful not only to the individual prostituted person, but also to society at large" (Ministry of Industry, Employment and Communications, 2003, p. 1). This conception resulted in the criminalisation of clients of prostitution. The argument for such regulation is quite simple: "Prostitu-

tion concerns masculine sexuality and not feminine sexuality. Without the male demand for prostitution, there wouldn't be any women prostitutes" (Månsson, 2005, p. 13).

The predominantly feminist understanding of all prostitution as violence is often subject to criticism, especially by researchers advocating for the recognition of prostitution as sex work. "Radical feminist view represents universalistic and essentialist reasoning that is not consistent with the canons of social science, which cautions against ahistorical and global generalizations and predictions," argues Ronald Weitzer (2005, p. 213). Associations of prostitutes regard this approach critically as well, and are also speaking in favour of regulation of prostitution, as it is believed to be the only way to assure the social rights of prostitutes or "sex workers". As Johanna Sirkiä, president of the United Sex Professionals of Finland, evaluates, criminalisation of clients moves prostitution indoors and makes the living situation of the prostitutes more difficult (Sirkiä, 2003). Official Swedish statistics (Magnusson, Bjorling & Pappila, 2005, p. 6) indeed favour this opinion: street prostitutes – that is, those who experience the highest level of oppression worldwide – are affected most by the law.

Viewed from the perspective of social real-politics, advocacy for prostitution as the right to work is an interesting alternative to stereotyping and also victimisation (Pajnik, 2008, p. 139). Many feminists disagree, supporting the argument that "Women are prostituted in order to be degraded and subjected to cruel and brutal treatment without human limits; the legal right to be free from torture and cruel and inhuman or degrading treatment is therefore violated for women engaged in prostitution" (MacKinnon, 1993). What is more, implementation of the regulation model of prostitution proved to be a "pull factor" for traffickers, as estimations from the Netherlands and New South Wales show increased legal and illegal prostitution in the wake of legalization (Bindel & Kelly, 2003; Hughes & Roche, 1999).

Fact is that only the Swedish legislation on prostitution has achieved the goal of policy makers: reduced the number of prostitutes and trafficked women. But it is also the only widely known model that was adopted as part of a more global agenda of combating violence against women and which's implementation was supported by institutional training and significant funding to provide exit routes for prostitutes. Most approaches to prostitution namely lack a coherent philosophical underpinning, from which specific short- and longer-term aims and objectives could be drawn out and evaluated (Bindel & Kelly, 2003, p. 30).

The polarisation discussed above is also reflected in the conceptualising of trafficking in persons. Trafficking in women and children is today an integral part of the worldwide struggles to combat violence against women and children (Jeffreys, 2006; Hughes, 1999). However, critics, among them Jo Doezma (2000), argue

that the current focus on trafficking for sexual exploitation diverts attention from real problems of prostitutes and is more of a "cultural myth". Doezma draws parallels between the anti-white-slavery campaigns that occurred at the beginning of 20th century and the contemporary trafficking in persons movement. Both are driven by the same agenda — the abolishment of prostitution — and both feature the image of innocent victims who were lured or forced into sex industry as the strongest argument when lobbying for new policies. She indicates that both movements ignore the fact that many female migrants decide to work in the sex industry to achieve some type of financial autonomy (Doezma, 2000) Following the argumentation, many groups active in the field of violence against women simply do not distinguish between women who are "forced" and those who are "migrant sex workers". If we are interested in making a difference in the lives of women and girls, it is a wrong debate, Liz Kelly argues. "Just as with domestic violence and child sexual abuse, most trafficking is more mundane, involving everyday, routine power and control relationships." (Kelly, 2003).

The debates on the right approach towards trafficking in persons and prostitution are obviously intense and often accompanied by political and ideological agendas. However, all of the arguments must be considered when shaping policies on TIP. An integrated approach must address the criminal aspects and the needs of women in the sex industry. As studies show (The Immigrant Council of Ireland, 2009; Brunovskis & Tyldum, 2004), the majority of prostitutes in some European countries are migrants. Therefore, the strategy must also target migration policies and the situations of women and children prior to their involvement in trafficking in persons. Current financial crisis must also be considered, as it can be expected that more women will try to escape poverty by trying to migrate to wealthier countries and that the walls around "Fortress Europe" will be drawn even higher than they are today. The result of this development could be an additional increase in trafficking in persons.

Since EU member states adopted different legislation models on prostitution, the Community documents are limited to criminalising "sexual exploitation". This happened first with the Joint Action (97/154/JHA) in 1997, however all countries examined forcing women into prostitution had been a criminal offence since before 1991. The prosecution is conducted mandatory, except in Poland, where the victim's report is required.

The activism of women's groups has obtained results in the form of EU recognition of the connections between demand on the one side and trafficking in persons, prostitution, child sex tourism and child pornography on the other. The European Parliament resolution (2004/2216(INI)) called in 2006 on the member states to prosecute clients who knowingly make use of the services of forced prostitutes. Until

the year 2008, however, this was not the case in any of the examined countries. In Lithuania, all clients of prostitution can be prosecuted and punished by 300 to 500 LTL (approx. 87–145 EUR) since 2005. But Lithuanian legislation does not follow the principles of the Swedish, as it is criminalising also prostitutes. However in countries where prostitution is criminalised, there is always the risk that victims of trafficking can be prosecuted for prostitution offences, which can be a powerful tool of pressure in the hands of traffickers.

Among the examined countries, prostitution is also prohibited in Malta. Most of the countries (4 of 10) adopted an abolitionist model (prostitution is tolerated, while profiting from another person's prostitution is criminalised). Cyprus and Estonia adopted a so-called "new" abolitionist model (outdoor and indoor prostitution are not prohibited, but the law explicitly intervenes against the existence of brothels). Prostitution is partly regulated as sex work in Hungary and Latvia (Di Nicola, Orfano & Conci, 2005, p. IX).

2.2.2 Children

Criminal legislations in countries examined are far more harmonized for child prostitution, as there is a high level of consensus that prostitution of persons under 18 in any form or place constitutes abuse. In all ten of the examined countries, the following acts are criminalised:

a) coercing a child into prostitution or otherwise exploiting a child for such purposes; and
b) recruiting a child into prostitution.

In this respect all ten countries implemented the Council Framework Decision on combating the sexual exploitation of children and child pornography (2004/68/JHA) on time, that is, by 20th January 2006. However, the prostitution of minors and children was subject to Criminal Codes prior to 1991 in all of the countries, whereas most of the activities conducted to supplement the existing legislation were carried out in the 1990s.

With the introduction of new or supplemental criminal laws, in most countries the imposed prison punishments were raised. They are now the highest in Cyprus (up to 20 years of imprisonment for all child prostitution-related offences, with no minimum punishment set) and do not exceed ten years of imprisonment in other countries. In Latvia, a penalty in form of a fine is possible for coercing a child into prostitution. This stands in the opposition to the Decision (2004/68/JHA) stipulation that such crimes have to be punished with criminal penalties of a maximum of at least between five and ten years of imprisonment.

Regarding engagement in sexual activities with a child, where money or other forms of remuneration are given as payments, the legal situation is unclear in ma-

jority of the examined countries (except for Lithuania and Poland). Thereby, such a stipulation is of special importance for combating child sex tourism, which is also subject to several EU documents (2004/68/JHA; COM (96)0547 C4-0012/97). As there has also been an increase in sex tourism to both long- and short-haul destinations involving both children and adult women (O'Connell Davidson, 2002, p. 17) and because criminals move their activities to countries with more favourable legislation, the principle of ex-territoriality is another important tool to prosecute both – users and organisers. Offenders who have committed child sexual abuse abroad can be prosecuted in their home countries in all of ten countries examined.

2.3 Pornography

2.3.1 Women

The dispute on pornography is similar to that on prostitution, as it is considered violence against women by some and sex work by others. In the countries we surveyed, pornography is illegal only in Malta (since 1975) and the sexual exploitation of an adult in pornography explicitly defined in the Cypriot Criminal Code.

2.3.2 Children

The legislation on child pornography is much more harmonized in comparison with that concerning adult victims. EU member states agreed that the following intentional conduct should be punishable:

a) coercing a child into participating in pornographic performances, or profiting from it or otherwise exploiting a child for such purposes;
b) recruiting a child to participate in pornographic performances;
c) producing child pornography and distributing, disseminating or transmitting child pornography;
d) supplying or making child pornography available; and
e) acquiring or possessing child pornography (2004/68/JHA).

None of the countries we examined explicitly criminalised child pornography before 1991, but to date all of them introduced listed offences in their Criminal Codes. The majority of changes were passed before their accession to the Community. In respect to the introducing of new criminal offences and severer punishments in the last two decades this was one of the liveliest fields. This development can be understood as a response to new technologies, which made the production and distribution of and access to child pornography much easier.

The criminalisation of child pornography acquisition or possession seems to represent a problem in 2 of the 10 countries, as this has only been criminalized in the Czech Republic since 2007 and in Slovenia since as late as 2008. That possession became punishable at all in these two countries can be considered as a result

of Council framework decision on combating child pornography (2004/68/JHA), but also of the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse.

2.4 Other measures

Many ways to become a victim of trafficking and sexual exploitation lead through registered companies, such as employment agencies, night clubs, so-called dating agencies, etc. Travel agencies offering arrangements for sex tourists, who then use services of forced and trafficked women or children abroad, should also not be overlooked. This problem was recognized already in the first Communication on child sex tourism (COM (96) 547), wherein the Commission suggested tightening-up of codes of conduct and self-regulatory mechanisms in the tourism industry.

The Council decision to combat child pornography on the Internet (2000/375/JHA) calls on member states to examine measures that would place Internet providers under a duty to report to competent entities about child pornography material which is distributed through them. Internet providers are explicitly obliged to do so in 2 of 10 countries examined (Lithuania and Poland). By enforcing this simple measure, the dissemination of child pornography and, as a consequence, its production could be terminated in a more effective manner.

GOOD PRACTICE

Lithuania: Service providers are required to inform the Information Society Development Committee without delay about any suspected illegal activities by a user or if the user of services has provided information that can be obtained, created or modified in an illegal manner. (Law on Information Society Services (V/15), Responsibility of Internet providers)

Following the same Council decision (2000/375/JHA), member states shall also take the necessary measures to encourage Internet users to inform law enforcement authorities, either directly or indirectly, about suspected distribution of child pornography material on the Internet, if they come across such material. In this regard, the INSAFE project, cofounded by the EU, has to be pointed out, currently enacted in 9 of 10 examined countries.

GOOD PRACTICE

EU programme INSAFE: The EU co-funded programme INSAFE was established in the majority of member states. Regardless of national legislative stipulations, the programme provides web sites and telephone lines for reporting illegal content on the Internet.

3. Victim protection and support

For a sufficient number of trafficking victims, involvement in the assistance programme can represent a bad experience. As a recent study showed, for some the assistance can even have parallels with trafficking experience since they are transported to another location (shelter) with the promise of a better life. To avoid such situations, clear guidelines for and monitoring of organisations providing assistance, as well as regular trainings for employees are crucial (Brunovskis & Surtees, 2007, p. 92). The research in 2004 accession countries uncovered significant deficits in the provision of training and protocols for all institutions that come into contact with victims. Help lines that operate free of charge, 24 hours a day, do not exist and there are no reliable figures on accommodation facilities available. Reflection period and the possibility of a short-term residence permit were adopted in all of the examined countries, but the last with the condition on cooperation of the victim with competent authorities.

3.1 Institutions which are in contact with (possible) victims

3.1.1 Multiinstitutional approach

Multidisciplinarity is one of the fundaments of successful combat on trafficking in persons and is especially important in the process of victim identification and assistance. Several documents (97/154/JHA; Brussels Declaration; 2004/2216(INI)) call on member states to appoint an external group of experts on the national level which would support regular evaluation, monitoring and improvement in the implementation of national policies. Such expert groups exist in 5 of 10 of the countries examined.

3.1.2 Protocols

Following the Brussels Declaration (2002), protocols of minimum standards should be drawn up between law enforcement services and IOs and NGOs on the immediate treatment of trafficked victims. Even the minimum standards have already been established, but as the Declaration is a non binding document this obviously doesn't bother the decision makers in the examined member states. The absence of specific procedures for victims of trafficking within institutions is obvious in all ten examined countries. Where protocols do exist, they were introduced after the year 2000, but still not for all respected institutions.

GOOD PRACTICE

To case approach in **Lithuania and Slovenia:** Some of the institutions in these countries signed special agreements with NGOs stipulating cooperation when dealing with possible victims of trafficking. Such an action can significantly improve the position of the victim and is a good opportunity for ministers and heads of the police, general prosecutor's office, social care institutions, asylum centres and others to show a clear commitment to suppressing trafficking in persons and sexual exploitation.

3.1.3 Training

Following the Brussels Declaration (2002), specialised, joint trainings should also be set up in member states, involving police investigators, prosecutors, IO, IGO and NGO personnel. The intention of these trainings sessions should be to improve the conduct of counter-trafficking operations, the identification and rescue of trafficked victims and their subsequent treatment by the police and criminal justice system. Similar needs are expressed in European Parliament resolution (2004/2216(INI)). These recommendations, however, are not properly followed in the 2004 accession countries. In some countries there are no trainings for officials on trafficking in persons, where they do exist (all initiated after 2000), they are carried out irregularly and often only on the initiative of NGOs.

3.2 Reflection period and short-term residence permit

The reflection period is a special mechanism passed by the Directive[4] in 2004 (2004/81/EC) allowing third country nationals victims of trafficking a period to recover and escape the influence of the perpetrators so that they can make an informed decision about whether to cooperate with the competent authorities. During that period, it is not possible to enforce any expulsion order against the victim.

All ten countries included this mandatory provision in their legislation after their accession to the Community, whereas this measure has been subject to EU and other international documents since at least 1997 (97/154/JHA; Brussels Declaration; Palermo Protocol).

[4] Council Directive 2004/81/EC of 23 April on the residence permit issued to third country nationals who are victims of trafficking in human beings or who have been the subject of an action to faciliate illegal immigration, who cooperate with the competent authorities.

Table 1: *Reflection period in ten EU member states: year of introduction, duration and legally granted rights for victims in 2008.*

Country	Cyprus	Czech Republic	Estonia	Hungary	Latvia	Lithuania	Malta	Poland	Slovakia	Slovenia
Since	2007	2004	2007	2007	2006	2004	2007	2005	2007	2006
Duration	1 m + 6 m	up to 60 d	30–60 d	30 d	30 d	up to 6 m	up to 2 m	up to 2 m	40 d	3 m + 3 m
Emergency medical treatment	*	*	*		*	*	*	*	*	*
Translation/ interpreting services	*	*	*				*		*	*
Free legal aid	*	*					*			
Housing		*	*		*	*			*	
Money support		*	*		*	*		*		*
Psychological and social support	*	*						*	*	
Information on rights	*		*							*
Access to labour market	*					*			*	
Access to education	* for minors				*	*				* for minors

There is no minimum duration stipulated by the EU for the reflection period. Considering the control and abuse inherent in prostitution environments, the Nordic Baltic Network recommended a reflection period of a minimum of three months, but six months is a more adequate period (Nordic Baltic standards, p. 5). Only three of the countries we examined had introduced a period of six months in their legislation.

In accordance with the Directive (2004/81/EC), member states shall ensure that third-country nationals who do not have sufficient resources are granted standards of living ensuring their subsistence and access to emergency medical treatment. The state must also provide translation and interpretation services and inform the victim of the possibilities offered under the Directive. These stipulations are followed only partly. For details on the reflection periods of the examined countries, please see Table 1.

The results of a recent study based on interviews with more than 200 victims of trafficking in 7 countries showed that women suffer an extremely wide

range of health problems, of which many are severe and enduring (60 percent reported some form of violence prior to being trafficked and nearly one-quarter were both physically and sexually abused). It is essential for women to have the appropriate assistance and support available that fosters their well-being, independence and reintegration (Zimmerman, Hossain, Yun, Roche, Morison & Watts, 2006, pp. 3, 9, 22). In contrast to these findings, in 2008 in the examined member states, only basic or emergency health care was provided.

Even worse is the situation considering non binding stipulations of the Directive, such as the provision on free legal aid during the reflection period, which is legally granted in only three countries. Appropriate housing is legally granted in 5 of 10 countries, money support in 6 of 10, psychological and social support in 4 of 10, access to the labour market in 3 of 10 and access to education system for adult victims in only 2 of 10 of the countries examined.

The Directive (2004/81/EC) also stipulates that member states may terminate the reflection period at any time if the competent authorities have established that the person concerned has actively, voluntarily and on his/her own initiative renewed contact with the perpetrators. This stipulation was introduced in the legislation in six of ten of the examined countries (not in Hungary, Latvia, Lithuania and Slovenia). Countries may also drop the reflection period for reasons relating to public policy and to the protection of national security. This is partly or fully the case in seven of ten examined countries, with the exceptions being Latvia, Lithuania and Hungary. Slovakian legislation on third-country nationals who are victims of trafficking contains only one provision on when the state is allowed to terminate the reflection period. On the other hand, Slovenian decision makers found seven reasons to make this termination possible.

In addition to the reflection period, all ten countries introduced the possibility of a short-term residence permit for victims, an optional measure from the Directive. The document stipulates that the victim should show a clear intention to cooperate with competent authorities in order to be entitled to prolonging the reflection period or gaining a short-term residence permit. This provision is followed without exception in all ten countries.

The introduction of the reflection period was undoubtedly of tremendous help for many victims; however, its overall estimation is critical. Not only do the national legislations leave the impression that they are designed to protect from the victims instead of granting protection to them, the Directive itself is pervaded by the fear of immigrants.

If victims after the reflection period is over decide not to cooperate with competent authorities, they gain the status of illegal immigrants and can be deported to their country of origin without consideration for the danger such a step can

introduce into their lives. The perpetrators who recruited the victim are probably still active in their home environment and could revictimise the survivor again. NGOs are trying to avoid such situations by searching for holes in the legislation, for example, by including victims in the educational system, but no legislative solutions have been passed to ensure victims long-term protection in the examined countries.

Conditioning of legal stay and entitlement to services with victims' willingness to cooperate with the police is itself a violation of victims' human rights. Moreover, even if the victim is prepared to testify against traffickers, she/he has to leave the country after the trial is over. After being exploited by traffickers, the victims are exploited again — this time by the state.

In fear that traffickers could think they are cooperating with the authorities, many victims decline any kind of assistance abroad and at home (Brunovskis & Surtees, 2007, p. 93). Among women who reported their traffickers to the police, experiences are mixed. The most important factors that minimise trauma in this regard are that the women are provided with satisfactory level of information about the progress of their cases, and that they are protected from the traffickers. This protection must last longer than the duration of a trial. It should, however, be noted that witness protection programmes entail some very negative consequences for the women in question as well. They may be isolated from their former network, and have to start their lives all over again (Brunovskis & Tyldum, 2004, p. 14). It is about time that policy makers on the EU and national levels stop ignoring these facts and start to shape policies focused on the needs of the victims.

3.3 Services

3.3.1 Accommodation for victims of trafficking

Data on accommodation facilities for victims of trafficking in persons are in majority of examined countries not available in the form of centralized statistics provided by the state and unreliable in all of the 2004 accession countries. Regardless of the special needs of victims of trafficking, states and NGOs grant accommodation provisionally, placing them among others in shelters for victims of domestic violence. Existing accommodation facilities are mainly dependent on NGOs, the pioneers in providing services to victims of trafficking.

3.3.2 Accommodation for unaccompanied minors

Unaccompanied minors might already be victims of trafficking when they come to another country or can become victims during the asylum application process or while waiting to be returned to the home country. A Directive outlining minimum

standards for the reception of asylum seekers (2003/9/EC) stipulates four possibilities for the accommodation of unaccompanied minors applying for asylum:

— with adult relatives;
— in foster families;
— in accommodation centres with special provisions for minors; or
— in other institutions suitable for children.

These stipulations are satisfactorily followed in the examined countries. However, the standards set in the document are low, as they allow placement of unaccompanied minors over 16 in accommodation centres for adult asylum seekers. Even when unaccompanied minors are accommodated in parts of the centres with special provisions for children (as is the case in six countries), this can represent a greater threat that they will become victims of TIP, since other asylum seekers usually have access to them. Special shelters offering all of the necessary support would be much more adequate.

In addition, none of the EU documents stipulates the type of accommodation that should be provided to unaccompanied minors who do not apply for asylum. They are, in practice, often placed in detention centres with limited possibilities for movement.

To prevent additional risk from trafficking, especially for unaccompanied minors who leave or disappear from asylum homes, better protection could be provided by extending the possibilities of staying through permits and temporary residence, as recommended by another Daphne project in 2007 (Zavratnik & Gornik, 2007, p. 20).

3.3.3 Free 24-hour help lines for victims of trafficking

EU documents call on member states to establish well-publicised telephone hotlines for victims of trafficking in persons and prostitution (Brussels Declaration; 2004/2216(INI)). The Porto's Declaration (2007) recommended the establishment of a European emergency "hotline" with a common number. However, a 24-hour free help line for victims of trafficking or prostitution did not exist in any of the examined countries, nor is this the case for a help line on European level. Some partner organisations were referring, that other help lines advise also victims of TIP, but such lines do not meet their needs, beginning with appropriate foreign language skills. Lines that do not operate 24 hours a day or are not free of charge, but are specialized for victims of trafficking, nevertheless exist in three of ten of the examined countries and are all provided by NGOs.

4. Prevention

Prevention measures on trafficking in persons are not subject to any binding stipulations in the EU documents, but they are also not ignored by them. In the respected member states, a series of activities in this field can be observed, especially in regard to national action plans and media campaigns. Research on trafficking in persons and sexual exploitation is, however, still at its beginnings, thematically speaking. Considering different forms of violence, little attention is drawn towards child pornography and child sex tourism.

4.1 Governmental reports and national action plans

Governmental reports on trafficking in persons that were not initiated by international obligations have been adopted in no more than four of ten of the examined countries: the Czech Republic (2002), Lithuania (for underage victims in 2004), Poland (2007) and Slovenia (2002, 2003, 2004, 2005, 2006, 2007). Different forms of violence against children, among them sexual exploitation, comprise the Latvia's "Reports on the Situation of Children". Separate reports on the sexual exploitation of children were published in Czech Republic and Malta. In Malta, a report on protecting children from abuse over the internet was also enacted.

Reports are fundamental links in the chain of successful policy creation, but should also be accompanied by national action plans with clearly stated tasks, institutions that will perform them, terms and sources of financing. Trafficking in persons and sexual exploitation are often subject to different laws (on migration, aliens, health care, Criminal Code, etc.) and measures passed heterogeneous, therefore holistic view over the complexity of the phenomena is crucial.

In this regard, the situation in the 2004 accession countries is satisfactory. National action plans focusing only on TIP have to date been passed in nine of the ten examined countries (except Malta). The first two countries to enact such plans were Lithuania and Poland (both in 2002). Other countries passed respected national action plans after their accession to the EU. In three countries (Lithuania, Poland and Slovenia), action plans are being passed regularly every few years, which has to be recognized as good practice since combating sexual exploitation and trafficking in persons is not a condition, but a process. In Cyprus, the action plan is limited to trafficking in persons for the purpose of sexual exploitation. In the Czech Republic and Lithuania, special national action plans on combating the sexual exploitation of children were found to exist.

4.2 Research

In order to understand and combat trafficking in persons and sexual exploitation successfully, research is also exposed in the EU documents (Brussels Declaration; 2004/2216(INI)). However, a vast majority of current reports and publications rely on secondary data and estimations on the number of victims (Tyldum, Tveit & Brunovskis, 2005, pp. 21–23).

Important research on TIP had been conducted in nine of ten of the examined countries, all after the year 2000 and mainly after their accession to the EU. Reports of one research study exist also for Hungary, but it is not publically accessible. The fields of research in countries examined were mainly sociology, followed by law, social work and criminology. Some of the research was carried out for the purpose of drawing up legislation and other policy plans. Research was funded by national and international funds as well, but only two studies were funded by EU funds.

Research on trafficking is still in its beginning stages, at this point mainly mapping the phenomenon in general. We did not obtain any reports about important research conducted on child sex tourism, despite the fact that men from all of the examined countries travel to regions known for the sexual exploitation of children and that some of the examined countries serve as destinations for men seeking sex with children. As pointed out by the European Parliament (2004/2216(INI)) and confirmed by our research, there is a lack of research on the demand side of trafficking in persons and sexual exploitation. Similar as in the USA (Clawson, Small, Go & Myles, 2003), there are no indications that any research on the services provided to victims of trafficking in persons existed in the 2004 accession countries between 1991 and 2006.

4.3 Media campaigns

Media and information campaigns are an important part of prevention activities in the area of trafficking in persons and sexual exploitation, as recognized by the Brussels Declaration (2002), which recommends to the member states to support awareness raising and information campaigns which should be an ongoing process, not limited to "on-off" activities.

To date, in all ten of the examined countries, media campaigns aimed to prevent trafficking in persons have been conducted. They were carried out in different forms, mainly funded from foreign funds, conducted by NGOs and supported by different media, among them MTV. Campaigns carried out on a national level, which received different kinds of media coverage, were conducted before the year 2000 only in Poland (La Strada Foundation, 1995). Altogether, in seven of ten examined countries, important media campaigns were carried out before their accession to the Community. Malta conducted the lowest number of activities in this area.

5. Conclusion

EU documents define trafficking in persons as violation of human rights and also consider the phenomena to be a gender issue — but only on a declarative level. When it comes to binding stipulations, trafficking in persons is framed under migration and organised crime. That is, on one hand, the reason why trafficking in persons is the only form of gender-based violence regulated by obligatory EU documents (except sexual harassment). But in regard to implementation, such framing is also highly problematic. Binding stipulations are namely being implemented by the member states without exception, but are rarely upgraded or incorporated in coherent policies targeting trafficking in persons, prostitution and pornography and violence against women, children and youth in general. It seems that the national governments which are setting EU competence limits forget about their competences in terms of protecting human rights in their home countries.

The Criminal Codes of examined member states in regard to trafficking in persons and related offences are harmonised to a great extent, especially those stipulations pertaining to child pornography and child prostitution. This demonstrates a significant role of the EU as well as other international documents, such as the Palermo Protocol and the Convention on the rights of a child, in the process of supplementing the laws. However considering all legislative measures, the concentration on legal regulations in criminal and migration legislation is evident, what can be interpreted as another result of the diligent, but blind for a global perspective implementation of international mechanisms.

This disproportion is balanced by the NGOs, the main providers of services for victims and also the most active initiators of awareness rising campaigns — regardless of the national legal framework they are working in. Women's organisations are especially strong in this field, being predominantly committed to help women and children victims of trafficking for sexual exploitation. Without the intention to put the gender perspective of the examined phenomenon in question, it should be considered how much support do EU-wide victims of other forms of trafficking receive, victims who are not in the privilege to have so good organised advocacy, as it is provided by women's organisations. A more integrated approach is therefore needed for both the governmental and nongovernmental sector. And not just Community and state policies must be continuously reflected; the same holds for activities of NGOs and other service providers and last but not least the research.

As opposed to binding EU regulations, recommendations are followed much more arbitrarily, regardless of whether they were passed by the Council, Commission, Parliament or any other body. The political will to actively combat sexual exploitation and trafficking in persons without outside pressure is obviously

weak. Especially problematic is the (non)provision of trainings for employees in institutions dealing with (possible) victims and (non)setting of protocols. It is too optimistic to expect from institutions and employees to act in accordance with humanitarian principles on their own initiative; human rights must become an integral part of enacting official policies against violence. The national action plans that were initiated in recent years in nearly every country we examined raise hopes that in future these deficiencies will be put out of the way in a greater manner. The impact of non binding stipulations, however, should not be underestimated, especially if they are supported by other measures, such as the Daphne programmes.

Many of the measures adopted in recent years would obviously not have been discussed and implemented without pressure from the EU. However, policy makers must be aware that the standards established in such documents are usually nothing more than a minimum compromise between member states. Good practices are always found in countries where the national government has upgraded the existing EU legislation, as is the case with the right to short- and long-term residence permits for victims of trafficking in Italy. In addition, legislation mechanisms must be incorporated in coherent policies that are supported by campaigns, trainings, education and follow-ups.

Documents

1996

Communication from the Commission to the Council, the European Parliament, the economic and social committee and the Committee of the regions on illegal and harmful content on the internet (COM(96) 487).

Green Paper on the protection of minors and human dignity in audiovisual and information services (COM(1996) 483).

Commission communication of 20 November 1996 to the Council and the European Parliament on trafficking in women for the purpose of sexual exploitation (COM (96) 567).

Communication from the Commission of 27 November 1996 on combating child sex tourism (COM (96) 547).

1997

Joint Action of 24 February 1997 adopted by the Council on the basis of Article K.3 of the Treaty on European Union concerning action to combat trafficking in human beings and sexual exploitation of children (97/154/JHA).

Resolution on the Commission communication on combating child sex tourism (COM(96)0547 C4-0012/97) and the aide- memoire on the European Union's contribution to reinforcing the prevention of the sexual abuse and exploitation of children (C4-0556/96).

1998

Communication from the Commission to the Council and the European Parliament For further actions in the fight against trafficking in women (COM (1998) 726 final).

1999

Communication from the Commission to the Council, the European parliament, the Economic and Social Committee and the Committee of the Regions on the implementation of measures to combat child sex tourism (COM/99/0262).

Council Conclusions of 21 December 1999 on the implementation of measures to combat child sex tourism (1999/C 379/01).

2000

Charter of Fundamental Rights of the European Union (2000/C 364/01).

Communication from the Commission to the Council and the European Parliament – Combating trafficking in human beings and combating the sexual exploitation of children and child pornography (COM(2000) 854 final).

European parliament resolution on child sex tourism (30 March 2000).

Council Decision of 29 May 2000 to combat child pornography on the Internet (2000/375/JHA).

Council Decision of 8 December 2000 on the signing, on behalf of the European Community, of the United Nations Convention against transnational organised crime and its Protocols on combating trafficking in persons, especially women and children, and the smuggling of migrants by land, air and sea (2001/87/EC).

Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organised Crime (2000). Palermo: United Nations.

2001

Resolution on the contribution of civil society in finding missing or sexually exploited children.

2002

Brussels Declaration on preventing and combating trafficking in human beings.

Council Framework Decision of 19 July 2002 on combating trafficking in human beings (2002/629/JHA).

2003

Council Directive 2003/9/EC of 27 January 2003 laying down minimum standards for the reception of asylum seekers.

Council Resolution of 20 October 2003 on initiatives to combat trafficking in human beings, in particular women.

Council Framework Decision 2004/68/JHA of 22 December 2003 on combating the sexual exploitation of children and child pornography.

2004

Council Directive 2004/81/EC of 29 April 2004 on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities.

2005

Council of Europe Convention on Action against Trafficking in Human Beings and its Explanatory Report (2005). Warsaw: COE.

Communication from the Commission to the European Parliament and the Council – Fighting trafficking in human beings: an integrated approach and proposals for an action plan (COM(2005) 514 final).

EU plan on best practices, standards and procedures for combating and preventing trafficking in human beings.

Decision 854/2005/EC, of the European Parliament and of the Council of establishing a multiannual Community Programme on promoting safer use of the Internet and new online technologies.

2006

Report from the Commission to the Council and the European Parliament based on Article 10 of the Council Framework Decision of 19 July 2002 on combating trafficking in human beings (COM(2006) 187 final).

Annex to the Report from the Commission to the Council and the European Parliament based on Article 10 of the Council Framework Decision of 19 July 2002 on combating trafficking in human beings (SEC(2006) 525). Commission staff working document.

Commission Decision of 7 August 2006 setting up a group of experts on the policy needs for data on crime and criminal justice (2006/581/EC).

European Parliament declaration on child help lines in Europe.

European Parliament resolution on strategies to prevent the trafficking of women and children who are vulnerable to sexual exploitation (2004/2216(INI)).

2007

Commission decision of 17 October 2007 setting up the Group of Experts on trafficking in human beings (2007/675/EC).

Communication from the Commission – Towards an EU strategy on the rights of the child (COM/2006/0367).

Porto's Declaration (2007).

References

Augustin, L. (2006). The Disappearing of a Migration Category: Migrants Who Sell Sex. *Journal of Ethnic and Migration Studies*, Vol. 32, No. 1, 29–47.

Barry, K. (1984). *Female sexual slavery.* New York, London: New York University Press.

Bindel, J. (2006). *No Escape? An Investigation into London's Service Provision for Women Involved in the Commercial Sex Industry.* London: POPPY project. Retrieved February 20, 2009 from http://www.eaves4women.co.uk/POPPY_Project/Documents/Recent_Reports/poppysurveyfinal.pdf.

Bindel, J., & Kelly, L. (2003). *A Critical Examination of Responses to Prostitution in Four Countries: Victoria, Australia; Ireland; the Netherlands; and Sweden.* London: Child and Woman Abuse Studies Unit, London Metropolitan University. Retrieved March 1, 2009 from http://www.glasgow.gov.uk/NR/rdonlyres/C19E010B-1A4F-4918-97BD-F96AF7D7F150/0/mainreport.pdf.

Brunovskis, A., & Surtees R. (2007). *Leaving the past behind? When victims of trafficking decline assistance.* (Fafo report 2007: 40). Oslo: Fafo. Retrieved March 2, 2009 from http://www.fafo.no/pub/rapp/20040/20040.pdf.

Brunovskis, A., & Tyldum, G. (2004). *Crossing Borders, An Empirical study of transnational prostitution and trafficking in human beings.* (Fafo report 426). Oslo: Fafo. Retrieved March 2, 2009 from http://www.fafo.no/pub/rapp/426/426.pdf.

Clawson, H.J., Small K.M., Go E.S., & Myles B.W. (2003). *Needs Assessment for Service Providers and Trafficking Victims.* Fairfax, Virginia: Caliber. Retrieved April 11, 2007 from http://www.ncjrs.gov/pdffiles1/nij/grants/202469.pdf.

Čurin, S. (2006). *Uveljavljanje mednarodnopravnih dokumentov s področja boja proti trgovini z ljudmi.* Ljubljana: Ministrstvo za notranje zadeve Republike Slovenije.

Di Nicola, A., Orfano, I. & Conci, N. (2005). *Study on national legislation on prostitution and the trafficking of women and children.* Brussels: European Parliament.

Doezma, J., (2000). Loose women or lost women? The re-emergence of the Myth of White slave traffic in contemporary discourses of trafficking in women. *Gender Issues*, Vol. 18, No. 1, 23–50.

Dottridge, M. (2007). *Measuring Responses to Trafficking in Human Beings in the European Union: An Assessment Manual.* Brussels: Directorate General, Freedom, Security and Justice European Commission.

Global Alliance against Traffic in Women, Foundation against Trafficking in Women & International Human Rights Law Group (1999). *Human Rights Standards for the Treatment of Trafficked Persons.* Retrieved February 20, 2009 from: http://www.globalrights.org/site/DocServer/IHRLGTraffickin_tsStandards.pdf?docID=204.

Hughes, D. (2004). *Best Practices to Address the Demand Side of Sex Trafficking.* Washington D.C.: USA Department of State. Retrieved January 15, 2009 from http://www.uri.edu/artsci/wms/hughes/demand_sex_trafficking.pdf.

Hughes, D.M., & Roche, C. (1999). *Making the Harm Visible, Global Sexual Exploitation of Women and Girls, Speaking Out and Providing Services.* Kingston, Rhode Island: Coalition Against Trafficking in Women.

International Organisation for Migration (2001). *Victims of trafficking in the Balkans: A study of trafficking in women and children for sexual exploitation to, through and from the Balkan region.* Vienna, Geneva: IOM.

International organisation for Migration (2005). *Identification and Protection of Victims of Trafficking, Summaries of the country research reports.* Brussels: International Organisation for Migration.

Jeffreys, S. (2003). Sex tourism: do women do it too? *Leisure Studies*, Vol. 22, No. 3, 223–238.

Jeffreys, S. (2006). The traffic in women: Human rights violation or migration for work? In A. Agrawal (ed.), *Migrant women and work* (pp. 195–217). New Delhi: Sage Publications.

Kelly, L. (2002). *Journeys of Jeopardy: A Review of Research on Trafficking in Women and Children in Europe.* London: Child and Woman Abuse Studies Unit, University of North London.

Kelly, L. (2003). The Wrong Debate: Reflections on Why Force is Not the Key Issue with Respect to Trafficking in Women for Sexual Exploitation. *Feminist Review*, Vol. 73, No. 1, 139–144.

Kempadoo, K. (2005). *Trafficking and prostitution: new perspectives on migration, sex work, and human rights.* Boulder, London: Paradigm Publishers.

Kukolj, A. & Obran, N. (2007). *(Re)integracija žrtev trgovine z ljudmi.* Ljubljana: Društvo Ključ – center za boj proti trgovini z ljudmi.

MacKinnon, C.A. (1993). Prostitution and Civil Rights. *Michigan Journal of Gender & Law*, Vol. 1, No. 1, 13–31.

Månsson, S.A. (2005). *The practices of male "clients" of prostitution: Influences and orientations for social work.* Retrieved June 15, 2008 from www.sosfemmes.com/english_sexwork/docs/manson_english.pdf.

Magnusson, B., Björling, M. & Pappila M. (2005). *Illegal activities – experimental calculations of prostitution, narcotics and smuggling of alcohol and tobacco.* Stockholm: Statistiska centralbyrån. Retrieved May 8, 2008 from http://www.scb.se/statistik/NR/NR0102/illegal.pdf.

McKinnon, C.A. (1994). *Feminism unmodified: discourses on life and law.* Cambridge (Mass.), London: Harvard University.

Ministry of Industry, Employment and Communications (2003). *Fact sheet on Prostitution and Trafficking in Women.* Stockholm: Ministry of Industry, Employment and Communications. Retrieved March 2, 2009 from http://www.altlawforum.org/Resources/sexwork/110ab985.pdf.

Nordic Baltic Network (2006). *International regulations, Standards for implementation.* Retrieved September 20, 2008 from: http://nordicbaltic-assistwomen.net/IMG/pdf/NB_standards_6_key_areas_of_assistance_Final.pdf.

Nordic Baltic Network (2008). *Working together: Trafficking in women for sexual exploitation, Assistance and prevention.* Retreived: February 20, 2009 from http://nordicbaltic-assistwomen.net/IMG/pdf/Working_Together_Nordic_Baltic_Network_publication-2.pdf.

O`Connell Davidson, J. (1998). *Prostitution, power and freedom.* Cambridge: Polity Press.

O'Connell Davidson, J. (2002). The Rights and Wrongs of Prostitution. *Hypatia: A Journal of feminist philosophy*, Vol. 17, No. 2, 84–98.

Pajnik, M. & Kavčič, U. (2007). *Vzpostavitev in spremljanje mednarodno primerljivih kazalcev o trgovini z ljudmi (Končno poročilo o raziskavi).* Ljubljana: Mirovni inštitut.

Raymond, J.G. (2004). *The Impact of the sex industry in the EU* (Public Hearing at the Committee on Women's Rights and Equal Opportunities, European Parliament, January 19, 2004). Retrieved March 2, 2009 from http://action.web.ca/home/catw/readingroom.shtml?x=53795&AA_EX_Session=8bffbc74ba3003b1b5729702a5f0c0e9e.

Recommendations from the UNECE Forum of NGO's Trafficking Workshop (2008). Retrieved March 2, 2009 from http://www.awid.org/eng/Issues-and-Analysis/Library/Recommendations-from-the-UNECE-Forum-of-NGO-s-Trafficking-Workshop.

Right to temporary or permanent residency, Article 18 of the Italian immigration law (Law 286/98). Retrieved May 15, 2008 from http://nordicbaltic-assistwomen.net/IMG/pdf/Art._18_Italian_Immigration_Law_-_Right_to_residency.pdf.

Sex on screen, The parameters of permissible. (Background paper of the 9th EPRA Meeting, Vevey, 6 and 7 maj 1999). Retreived February 20, 2009 from www.epra.org/content/english/press/papers/epra9902.doc.

Sirkiä, J. (2003). *Prostitution in Finnland und Schweden* (Contribution on the seminar "Sexarbeit in Europa zwischen Diskriminierung und Legalisierung"). Retrieved May 15, 2008 from www.sexpert.fi/pro/lefo2003d.rtf.

Šribar, R. (2006). *Regulacija pornografije: Projekt nevladnega sektorja.* Ljubljana: Društvo za uveljavljanje enakosti in pluralnosti Vita Activa & Združenje proti spolnemu zlorabljanju.

The Immigrant Council of Ireland in collaboration with the Women's Health Project (HSE) and Ruhama (2009). *Globalisation, sex trafficking and prostitution: The experiences of migrant women in Ireland.* Dublin: The immigrant council of Ireland.

Towards a regional model for assistance and support (A Norwegian guide to identification of victims of trafficking). Retrieved March 2, 2009 from http://nordicbaltic-assistwomen.net/IMG/pdf/A_Norwegian_guide_to_identification_of_VOTs-2.pdf.

Tyldum, G., Tveit, M. & Brunovskis, A. (2005). *Taking Stock, A review of the existing research on trafficking for sexual exploitation.* (Fafo report 493). Oslo: Fafo.

UNICEF (2006). *Guidelines on the protection of child victims of trafficking.* New York: United Nations Children's found.

Weitzer, R. (2005). New directions in research on prostitution. *Crime, Law & Social Change*, Vol. 43, No. 4/5, 211–235.

Zavratnik, S. & Gornik, B. (2007). *Country report Slovenia.* Daphne II Project The Risk Group of Unaccompanied Minors: Protection Measures in an Enlarged European Union. Retreived May 15., 2008 from http://www.zrs-kp. si/EN/Projekti/Daphne/MinOrs_Slovenia.pdf.

Zimmerman, C., Hossain, M., Yun, K., Roche, B., Morison, L. & Watts, C. (2006). *Stolen smiles: A summary report on the physical and psychological health consequences of women and adolescents trafficked in Europe.* London: The London School of Hygiene & Tropical Medicine. Retrieved May 15., 2008 from http://www.lshtm.ac.uk/hpu/docs/StolenSmiles.pdf.

Tina Romih*

Children and Youth Victims of Violence in the Family

1. Introduction

No violence against children and youth is justifiable and all forms of violence are preventable were the two main principles and a central message of the UN Study on violence against children as well as that violence against children and young people exists in every country and is too often socially approved or legally authorized (UN, 2006, p. 5). In the year 2002, almost 53.000 children died worldwide as a result of homicide, up to 80 to 98 percent of children suffered physical punishment in their homes and 150 million girls and 73 million boys under the age of 18 were forced into sexual intercourse or other forms of sexual violence (WHO, 2002, p. 9–10). Violence has a devastating impact on children and although the consequences can vary according to the nature and severity of violence, it almost inevitably leads to short- and long-term repercussions, such as social, emotional and cognitive impairments, as well as behaviour that cause diseases, injuries and social problems (UNICEF, Inter-parliamentary Union, 2007, p. 11; Dorne, 1989, pp. 201–206).

The countries of the European Union are no exception to the rule when it comes to the prevalence of violence against children and young people. As stated in the Opinion of the Committee of the Regions on local and regional cooperation to protect children and young people from abuse and neglect in the European Union, violence against the most vulnerable group represents a widespread social problem.

Over the years, the institutions of the European Union have issued a number of documents on this issue, but most of them form the non binding legislation. Their implementation is therefore often dependant on the political will and public awareness of the subject in the individual member or applicant state.

2. Prosecution

An area in which the state plays a key role in preventing violence is in the enactment of necessary legislative provisions to define criminal offences and the accompanying sanctions for the perpetrators and to provide victims with adequate protection (Appelt & Kaselitz, 2000, p. 11).

* This article was written on the basis of preliminary analysis of Tina Ban, PhD., a researcher on the Daphne Project.

Research have proven that in Europe, there is still a great diversity of legislation concerned with child protection, with power and authorization divided between the institutions when it comes to protecting the rights of the child and the extent to which the judiciary system is child-oriented and child-friendly (2000/C 57/07). Therefore, there is a great need for the establishment of an EU-wide legislative framework for the protection of children and to combat violence against children and youth. This framework should also be legally binding for all member and applicant states.

The actions undertaken to address the issue of violence against children (VAC) are predominantly legislative and take the form of enacting legislation to address the issue and harmonize domestic legislation with some international documents. However, the focus of legislators is too often narrow, rather than comprehensive; for instance, legislation concentrates on sexual or physical violence, but does not take psychological violence into account (UN, 2006, pp. 22–23). This is wrong since psychological violence is an extremely prevalent form of violence against children and also because violence is a complex concept and types of violence often overlap (UNICEF, 2005, p. 8).

This "legislative vacuum" is reflected in the legislations of the 2004 accession countries for physical, psychological and economic violence against children, which was not explicitly legally defined in any of these countries between 1991 and 2006. Still, such offences were prosecuted under the umbrella of broader legal definitions of criminal offences. Instead of the term "physical violence", the national legislations used other terms, such as "causing bodily harm" or "causing physical pressure", while psychological violence could be prosecuted for "causing a serious damage to health which results in severe mental disorder" or "emotional abuse", etc.

Sexual violence against children and youth is commonly defined as an act by which the perpetrator intentionally uses the child with the intent of sexual arousal and/or sexual gratification. Sexual violence encompasses not only the act of intercourse, but also touching the child's sexual organs, forcing the child to touch the sexual organs of the adult, masturbating in front of the child, forcing a child to watch pornographic material, child prostitution, etc. (Frei, 1996, pp. 12–13; May-Chahal & Herczog, 2003, p. 3). The victims of such offences are more often young girls, although until the age of 7, the ratio between sexually abused girls and boys is balanced; after that age, the percentage of abused girls rises. About half of these victims will have to face impaired mental health and will experience a wide range of disorders (Brogi & Bagley, 1998, p. 316; Dorne, 1989, pp. 201–206; UNICEF, 2005, pp. 9–11).

It may not be possible to make any general statements regarding sexual violence in the countries of the European Union due to the existing variations in

their approaches to the problem, but the fact of the matter is that sexual violence against children and youth is high on the European Union's agenda. In the past few years, several documents were issued to tackle the problem of sexual exploitation of children and child pornography, to combat child pornography on the Internet and to promote safer use of the Internet and new online technologies. Still, in the eyes of the public, sexual violence against children that occurs in the home still seems to be a private matter (May-Chahal & Herczog, 2003, p. 5) and represents a grey area in the European legislation.

Present research substantiates the results of past research (Asquith, 2003, p. 47) and has shown that important strides were made to strengthen legal and Criminal Codes when it comes to prosecuting sexual violence against children and youth. In all of the 2004 accession countries, child sexual violence is publicly prosecuted and with the exception of Hungary, these countries also all reported legislative changes regarding sexual violence against children between the years 1991–2006. The ways in which Criminal Codes have been amended vary from country to country, but some common features can be identified, such as: changes in legal sanctions for offenders; changes regarding the age limit of children victims of sexual violence; the introduction of new definitions of sexual violence against children and youth; and correction of already established definitions. In regard to changes to legal sanctions, penalties were increased in the majority of the analyzed countries and some countries even adopted life imprisonment sentences for perpetrators who cause death by rape. The corrections to the age limit of children victims of sexual violence were introduced in Estonian and Slovene legislation. While the Slovenian Criminal Code raised the age limit of children from 14 to 15 years of age, Estonian reduced it from 16 to 14. Five of the 2004 accession countries introduced new criminal offences into their legislation, like, for example, "paedophilia through the use of photographs, film, video or electronic image", "inducement of minors to participate in pornographic performances" and "trafficking for purposes of sexual exploitation" with special provisions for trafficking in children and youth. In addition, changes to the existing definitions were enacted. Most often, the definitions of such acts and even who can be considered victims (e.g., the inclusion of male children in Estonia) were clarified and improved and regulations concerning pornography were extended and set apart as a separate Article with special consideration for child victims of such acts.

Another form of violence against children and youth is the use of corporal punishment, which is defined as "the use of physical force with the intention of causing a child pain, but not injury for purposes of correction or control of a child's behaviour" (Straus & Donelly, 1993, p. 420). Past research has proven that negative consequences result from such disciplinary measures, such as violent

behaviour on the part of the child, negative social interaction and even suicidal thoughts (Turner & Finkelhor, 1996, p. 156). Recently, progress has been achieved in attempts to prohibit corporal punishment in all settings as a result of the Council of Europe initiative. There are three 2004 accession states that fully prohibit corporal punishment in their legislation, while in others, prohibition is not yet stipulated by a special law, but the states are committed to the cause. In most cases, corporal punishment is not prohibited in the home and in some cases, in schools and alternative care settings. Malta and Poland are the only two 2004 accession countries where the prohibition of corporal punishment is incomplete and there have been no commitments to reforms.

In recent years, progress has also been made towards acknowledging that a child who witnesses domestic violence to be a direct victim of violence, as many EU countries have entered such provisions into their legislation. Nevertheless, controversy arose due to the claims of several authors that these provisions put mothers in a position of being held accountable for the exposure of their child to domestic violence, even when they were the sole victims of violent acts (Kaufman Kantor & Little, 2003, pp. 339–344).

However, the facts remain: children who witness domestic violence are likely to experience severe and lasting effects, such as feelings of helplessness and guilt, the inversion of the roles of parents and children, and trauma. Additionally, children who are removed from the home due to incidences of domestic violence suffer the loss of a familiar environment and people who are important to them. These children are also more likely to become victims of violence themselves during their childhood and as adults. They are also denied the basic human right to a stable and safe environment (UNICEF, Body Shop, 2006, p. 1; Kavemann, 2004, p. 4; Kaufman Kantor & Little, 2003, p. 338; UNICEF, 2005, p. 7).

Based on this fact, various EU and international documents call on the states to adopt legislation by which a child who witnesses domestic violence should be considered a victim of violence to raise awareness of the impact of domestic violence on children, to create public policies and laws that protect children, and to enhance social services that address the impact of violence in the home on children (UNICEF, Body Shop, UN, 2006, p. 11). As we can ascertain based on our findings, legislation in this area is still relatively insufficient. Only three of the 2004 accession countries have specific legal Articles that stipulate the recognition of the child as a victim of violence when witnessing violence, while in other countries, such offences can be prosecuted under other provisions. According to the reports by our partner organisations in Estonia, Malta, Lithuania and the Slovak Republic, these countries did not adopt any laws or other provisions on the issue.

Changes in the legislation regarding prosecution of the violence against children are therefore evident in all 2004 accession countries and important strides were made. However, the effectiveness of the reforms enacted to address such violence remains to be seen.

3. Victim protection and support services

Every parent has the fundamental right to raise his or her child as he or she sees fit, and society presumes that parents will act in their child's best interest. When parents fail to protect their children from harm, as in violent family settings, society has a responsibility to intervene in order to protect welfare of that child. Any intervention must be guided by legislation, the best interest of the child and professional standards for practice (Crosson-Tower, 2003, p. 7; WHO, 2006a, p. 52). Such decisions are often difficult since professionals working in the field have to find a balance between potentially competing demands, such as the need to protect the child and the need to keep the family intact (WHO, 2006a, p. 64).

The present analysis has shown that in all of the 2004 accession countries, social care institutions are given the legal right to intervene when a child is exposed to domestic violence. The types of intervention vary from simply assisting a child when he/she requires help to monitoring the situation in the family and, when it is in the best interest of the child, permanently or temporarily removing the child from home and placing him or her in a state children's home, a crisis centre, with a foster family, in the care of a close relative or in other social care institutions. In some countries, police officials also have the legal right to observe, monitor and, if necessary, remove the child from his or her family and place him or her in the proper social care institution. In Slovenia, the police may impose a restraining order on the perpetrator of domestic violence. Courts are authorized to intervene for child victims of domestic violence in Cyprus, Lithuania, Estonia and Malta. In Cyprus and Estonia, a legislative provision enables the court to issue an order wherein contact between the child and the suspect is prevented. In Lithuania and Malta, the court is given the legal right to order the parent perpetrator of domestic violence to live separately from the child, while in Lithuania and Estonia, the court can issue an order to temporarily remove the child from his or her family and place him or her into a suitable institution, into the custody of close relatives or into foster care.

Closely connected to the issue of intervention in cases of sexual violence against children and youth is the question of parental rights. Various EU documents, the EP Resolution on violence against women (A2-44/86), the Opinion of the European Economic and Social Committee on children as indirect victims of domestic violence

(SOC/247 – CESE 1577/2006 DE/SL VK/MT) and the Opinion of the European Economic and Social Committee on Domestic Violence Against Women (SOC/218 – CESE 416/2006) call on the member states to adopt special legislative measures, which ensure that the parental rights of parents convicted of sexual violence against their child are immediately taken away. Only in Slovakia were these recommendations transferred into national legislation. Namely, Slovakian legislation explicitly mentions sexual abuse of a child as one of the reason to restrict parental rights. In other countries, the national laws might not explicitly mention sexual violence as a reason to restrict or deprive parental or custody rights, but still allow for interpretation based on which restrictions may be realized.

On the EU level, the issue of prevention of secondary victimization of children and youth during criminal procedures is also high on the agenda. To achieve this on a national level, a Resolution on measures to protect minors in the European Union (A4-039/96) was issued. Criminal procedures are usually very stressful, traumatic and confusing for the child (Mellor & Dent, 1994, pp. 165–166; Sells, 1994, p. 133; Westcott & Page, 2002, p. 138) due to the lack of preparation, delays and adjournments at court. In addition, the professionals appointed to offer support to the child cannot always fulfil their role adequately, while court personnel are not always trained to deal with children (Mellor & Dent, 1994, pp. 165–166). A child's competency as a witness is often questioned. This view has been challenged by recent research, which has proven that children as young as five can provide reliable and useful testimony. Their accounts of staged events are accurate, although they generally provide less information than older witnesses (Graham, 1992, p. 35). The child experiences additional strain when the perpetrator of the violence is a family member. After the trial and possible conviction, the child's whole world will change: the child is removed from the home and is often placed in foster care, his/her loved one can be incarcerated or at least punished in some way and other family members will almost inevitably be affected (Sells, 1994, p. 131). Therefore, measures to prevent children from experiencing secondary victimization are important in terms of the child's resocialization and reintegration into society.

These measures were adopted in the national legislations of the majority of the 2004 accession countries in the late 1990s and in the beginning of the century. The last country to adopt such stipulations was Malta in 2006. Malta is also the only country in which the implementation of the aforementioned recommendations was not conducted sufficiently.

The measures adopted include:

1. Interrogation of the minor in the presence of the appropriate expert, such as a psychologist, social worker, child protection officer, etc., which is stipulated in all national legislations, with the exception of Maltese legislation.

2. The most commonly adopted measure to prevent secondary victimization of the minor is the use of audio-visual equipment, which is stipulated by the legislation in almost all of the 2004 accession countries. Audio and video tapes of the main interrogation are used as evidence against the perpetrator in the court. In this way, confrontation between the victim and the perpetrator is avoided.

3. Another important factor is the right of a child not to testify in court and not to be confronted with the perpetrator. Such provisions were introduced in the legislations of all of the 2004 accession countries, with the exceptions of Estonia and Hungary.

4. The use of special interrogation rooms is an example of good practice that should be implemented in all countries, but in the analyzed period between 1991 and 2006, only Poland and Estonia had done so.

GOOD PRACTICE
Poland and Estonia: The use of special interrogation rooms that are furnished, child-friendly and properly equipped with the necessary audio-video appliances to record the testimony of the child.

Although there is a general consensus on the need to combat violence against children and youth, little work has been conducted to address the minimum standards that governments and service providers should meet (CoE, 2008, p. 8). This state of affairs can be also monitored within the field of providing adequate accommodation for children and young people who are the victims of violence.

According to the documents issued by the EU (A2-44/86 and 2004/2220(INI)) the member states should ensure a proper number of shelters, where child and youth victims of violence in need of safe accommodation can be placed. All of the 2004 accession countries have established different types of accommodation; however, these are not intended exclusively for children and young victims of violence. We have also noted that not all of the states provide national statistics on the number of shelters and beds available for children and youth victims of violence and even if they do, state statistics are often quite different from those collected by NGOs.

According to the standards for shelters issued by the Finish Presidency of the Council of the European Union in 1999 (Jyväskylä, 1999), shelters should be available to all victims of violence and should also be easily accessible. As we can ascertain from the gathered data, in most of the 2004 accession countries, no exclusion criteria exist for admittance into shelters, although such limitations do exist in Slovenia and Poland. In Slovenia, they do not accept alcohol and drug addicts, children with suicidal tendencies and, in some shelters, chil-

dren with physical or mental disabilities, while in Poland, the only exclusion criteria is a tendency to violence. When it comes to the question of whether shelters exist in all regions of the country, the answer was positive in only four of the analyzed countries. The reasons for this deficit are the lack of financial means to establish and run such shelters and the lack of human resources, meaning a lack of properly trained staff for such shelters.

Violence against children and young people often remains hidden and unreported due to fear, stigma, social acceptance of violence and the lack of safe or trusted ways to report violence (WHO, 2002, pp. 8–9). In this manner, the growth of telephone help lines is a significant development in child welfare services. Children and young people use the telephone, which enables them to speak to someone without a face, without a name, when and where they wish about painful, difficult issues and, even more importantly, this mode of communication gives them the feeling that talking about these issues will not make things worse (Williams, 2003, pp. 196–198).

According to the findings of the present research, which are corroborated by the available, published data on child sexual abuse in Europe (COE, 2003, pp. 195–206), special help lines for child and youth victims of violence were established in a majority of the states in question between the years 1991 and 2006. However, in Cyprus and Malta, there were only help lines for all potential victims of violence. The only country with no available free help lines for child victims of violence was Estonia. In some countries, help lines for children already existed in the early 1990s, while in others, they were established after the year 2000. When it comes to the question who provides such services, NGOs prevail (in some cases in cooperation with international institutions, such as UNICEF), followed by state institutions, which most commonly finance help lines.

Programmes for perpetrators comprise another important aspect of the prevention of violence against children and youth. Previous research has shown that most sexual abusers of children have a number of victims or repeatedly abuse the same victim and recidivism rates for untreated sexual abusers of children are high (Allam & Browne, 1998, pp. 15–16). The European Union has tackled the problem by issuing the Recommendation of EU-Expert Meeting in Jyväskylä in 1999, where it is stated that the first priority in programmes for perpetrators is that they meet victims' safety needs and develop the proper measures to monitor and evaluate how this predisposition is fulfilled. Programmes cannot serve as a replacement for effective action against perpetrators under criminal law, as perpetrators must be held accountable for their violent and abusive behaviour. Programmes for perpetrators should therefore comprise one part of a multiagency approach that requires the involvement of the police, the criminal justice

system and social welfare agencies. The minimum length of the programme is supposed to be one month with minimum frequency of meetings being one per week.

Most of these programmes were launched in the mid 1990s and only a few countries have developed regular, institutionally based programmes (Appelt & Kaselitz, 2000, p. 14). Present research has shown that almost all of the 2004 accession countries, with the exception of Latvia, Lithuania and Slovakia, have established some form of the programme for the perpetrators of violent crimes. In most cases, the programmes are run by the NGOs. Perpetrators are most commonly directed to attend such programmes by the court or by their own decision. However, there are some indirect legislative stipulations that permit the court, social care institutions and public prosecutors to enact such sanctions for the perpetrators.

We would like to emphasize that regulations in the Czech Republic are in direct opposition to the guidelines written in the Recommendation since attendance at such programmes can serve as a basis for the dismissal of the criminal prosecution or a replacement for the stipulated punishment. This provision prevents perpetrators from being held accountable for their abusive ways.

GOOD PRACTICE
In **Malta** a therapeutic programme has been established that is based on the "cognitive-behavioural model". Through the programme, men learn to become more aware of their violent behaviour and gain insight, recognize the symptoms leading up to this behaviour, change their attitudes about this behaviour and learn methods of controlling their violent behaviour, among other lessons. After the programme, the men can attend an ongoing support group.

When it comes to providing support and assistance to children and youth victims of family violence, all of the analyzed countries have set up a network of services to promote victim safety and offender accountability. Much still remains to be done, especially in the field of setting up standards and evaluating the effectiveness of these programmes. A more effective and comprehensive system of data gathering also needs to be established in order to monitor progress in this field.

4. Prevention of violence against children and youth

Prevention research on violence came into being only recently as a result of medical practice in the field. From this perspective, violence can be classified as

a disorder, as a dysfunctional outcome of an interaction between the person and the environment. Based on this assumption, preventive measures can be directed at the social environment through an attempt to correct or eliminate harmful factors in the society or at the individual level in the effort to minimize dysfunctional influence (Appelt & Kaselitz, 2000, p. 4). While reviewing the existing literature and research on prevention of all forms of violence against children and youth, one can come to the conclusion that violence against children and youth in the family is still too often addressed in connection with domestic violence against women, rather than as a separate issue.

The Resolution on Violence against Women (A2-44/86) and some international documents concerning child welfare call on the states to provide children with information about the various types of violence to which they can be exposed and the help they can receive at the primary-school level onwards. The majority of children and young people in the analyzed countries are supposed to be provided with general information about the issue of violence as well as with more specific information about where to seek help in the event that they become victims of violence. On the other hand, in the Czech Republic, Cyprus and Latvia, that information is not widespread and it is supposed to reach only a small circle of school children. Some countries have even issued national action plans, subsidiary legislative acts or other national documents that make informing children about these issues obligatory for public and private schools. However, it is still difficult to supervise how these stipulations are implemented or even if they are put into practice at all. The dissemination of such information often still depends on the initiative of individual teachers and schools. Schools in some countries also invite external experts to lecture about the issue of violence; these experts are mostly employed in the field and come from specific police departments, counselling centres, NGOs and other institutions that deal with the issue of violence.

The above-mentioned national action plans (NAP) and national strategies are an important component of attempts to combat violence against children and youth, especially when they are prepared through the cooperation of governmental institutions and NGOs and sufficient financial means are provided to implement projects that result from these plans, as required in the 1999 Recommendation of the Expert Meeting in Cologne. Such national plans and policies should incorporate prevention programmes, child protection strategies, therapy for the effective resocialization and reintegration of the survivors, criminal justice processes that are child-friendly, better information availability and control over the outcome of disclosure (Taylor-Brown, 1997a, p. 4).

In the 2004 accession countries, all of the governments, with the exception of the Slovenian and Hungarian governments, implemented the aforementioned

recommendation and prepared national actions plans to protect children's rights, combat the sexual exploitation of children, prevent any form of violence against children and youth and provide victim support. The first national plan was issued in 1999 by the Maltese government, with the emphasis on child protection procedures for schools. The majority of national action plans were adopted for a period of two years, such as the NAP on combating sexual exploitation and care for children at risk living outside of their families in the Czech Republic and the National programme against the commercial sexual exploitation and sexual abuse of children in Lithuania. Some of the action plans are issued periodically, like, for example, the Action plan of strategy to ensure the rights of the child in Estonia (every year since 2004) and the National programme for the improvement of families' and children's situations in Latvia (every year since 2005).

In order to really understand the extent of the problem of VAC and the factors that provoke such action and to prepare effective prevention policies and proper legislation, research at the national level is of the utmost importance. They were executed in the majority of the 2004 accession countries between the years 1991 and 2006, with the exception of Lithuania and the Czech Republic. Research was most commonly financed by the States and served as a platform for drawing up legislation and policy plans. Most of the research was carried out in the field of sociology, followed by psychology and law, while the issue of domestic violence was emphasized among the research topics, with children and young people as a focus group. Other important topics were violence against children and youth as a social problem and the institutional treatment of children survivors.

Another important factor in the effective fight against violence is awareness raising through media campaigns. Public relations and media campaigns represent one of the most extensively developed fields in primary prevention measures (Appelt & Kaselitz, 2000, p. 9). This was also established in the present research since of the 2004 accession countries, Malta is the only one to report that no media campaign with children as the target group was launched. In comparison to media campaigns on violence against women, campaigns to combat violence against children were launched relatively late, specifically after 2001 in most countries, with the exception of Slovenia and Poland, where the issue of domestic violence was raised in the late 1990s. The aims of the campaigns were to counter violence against children, sensitize the society and encourage a response to the issue.

However, media campaigns are seldom a part of a more comprehensive strategy for combating and eliminating violence in society (Appelt & Kaselitz, 2000, p. 9), although the issue of child victims of domestic violence is emphasized, along with human trafficking and safe Internet use. The latter became especially evident as a theme after the year 2004, when an awareness of the dangers of new information

technologies was raised among the member states of the European Union. In most cases, the campaigns were carried out by NGOs, while the main funding sources were donors who supported the efforts of the aforementioned organisations, followed by state institutions and the European Commission. These campaigns were conducted on the national level.

GOOD PRACTICE

Poland: In Poland, several media campaigns were conducted with the cooperation of NGOs and state institutions that led to the establishment of new institutions to combat violence against children, such as, among others, free help lines, emergency and counselling centres for victims and new support groups.

A two-stage campaign, conducted in the years 2004 and 2007 and titled "Child: Witness with Special Needs" was carried out by Nobody's Child Foundation and the Ministry of Justice. Its main aim was to sensitize the vocational groups (judges, prosecutors, police officers) to the issue of VAC, to broaden the psychological and legal help for young victims and witnesses of violence, to improve the standards of existing child interrogation rooms ("blue rooms") and to initiate the creation of new ones.

One can assess that the preventative measures adopted in the field of violence against children and youth most commonly consist of measures for early identification of violent incidences and interventions to protect the children involved. The measures are also commonly focused on victims and perpetrators. Although these measures are necessary, they do very little to prevent incidences before they occur or to reduce number of incidences. In order for fights against any form of violence to be effective, they need to address causes and contributing factors and enforce protective factors. (WHO, 2006b, p. 41)

5. Conclusion

Violence against children and youth is a violation of basic human rights that has devastating consequences. While EU institutions issued a number of documents on the problem, there is still a great diversity in the field of legislation, services and prevention measures concerning the protection of children's rights and welfare among the member states.

Unified legal definitions of physical, psychological and economic violence are still absent; however, in all of the countries, there are special provisions by which

such offences can be prosecuted. Sexual violence, especially when it occurs in a family setting, represents a grey area in the legislation of the 2004 accession countries. However, important strides forward were made to strengthen the legal system's prosecution of such offences. In other EU countries, the provisions that recognize that a child who witnesses domestic violence is a direct victim of violence have already been adopted. Nonetheless, legislation in this area is still relatively insufficient in the researched countries.

Social institutions, police officers and the judicial system of the 2004 accession countries have the right to assist a child, monitor the family situation, impose a restraining order on the perpetrator and temporarily remove a child from his home and accommodate him in a safer environment. Connected to this issue is the question of the restriction of parental or custody rights for the parent convicted of sexual violence. The related recommendations written in the various EU documents were transferred only into Slovakian national legislation, while other countries do not have explicit stipulations on restricting parental rights in such cases. However, sanctioning is legally possible by applying broader legal provisions from the field of child welfare.

The most significant progress has probably been made in the prevention of the secondary victimization of children exposed to violence, as since the late 1990s, all of the countries have adopted special legislative measures that would prevent the re-victimization of the child during court proceedings. The most commonly adopted measures are interrogation in the presence of the appropriate expert, the use of audio-visual equipment and the use of special interrogation rooms.

On the other hand, the situation is quite worrying in regard to the accommodation of child and youth victims of violence. All of the researched countries have established different types of accommodation, but none have been explicitly enacted for child and youth victims of violence. In addition, it is virtually impossible to assess whether the number of beds available for long- and short-term accommodation meet the requirements. Shelters do not exist in all regions and are most often situated in large cities due to the lack of human and financial resources. The available financial resources are also required for the establishment of free telephone help lines, which are the most effective way to ensure that incidences of violence do not remain unreported. Of the 2004 accession countries, only Estonia did not provide such services in the given period.

In the last part of the present research, the focus was the prevention of violence against children and youth. On the basis of past research and the available literature, it can be ascertained that preventive measures designed to facilitate the early identification of violent incidences and interventions to protect the affected child are

too often focused on the victim and perpetrator, instead of addressing causes and contributing factors, enforcing protective factors and raising awareness. Children in the 2004 accession countries are adequately provided with basic information about violence and where to seek help; however, the spread of such information still depends on the initiative of the individual teacher and school.

The dissemination of such information is, in some cases, a part of a NAP to combat violence. NAPs were issued in almost all of the 2004 accession countries between 1991 and 2006. However, the NAPs are often focused on only one issue and lack a more comprehensive approach. There is also the issue of monitoring the implementation of NAP. A focus on narrow issues can also be observed on the part of those who conducted research and launched media campaigns on the topic of violence against children and youth in the aforementioned countries. While research was used as a platform for drawing legislation and policies, the main aims of the campaigns were to sensitize society and encourage responses to the issue of violence against children and youth.

As we can ascertain, much remains to be accomplished at all levels of prevention. Factors that limit the adopted measures on combating violence include a lack of knowledge and understanding of violence against children and youth and its origins, fragmented strategies, insufficient resources and the narrow focus of the policy makers, all of which need to be addressed so that the commitments can be fulfilled. While prevention is almost universally proclaimed to be an important social policy, surprisingly little work has been conducted to actually investigate the effectiveness of preventive measures.

Documents

1986
European Parliament resolution on violence against women (A2-44/86).

1997
European Parliament resolution on measures to protect minors in the European Union (A4-0393/96).

1999
Recommendations of EU-Expert Meeting, Cologne, March 1999.

Recommendations of EU-Expert Meeting, Jyväskylä, November 1999.

Opinion of the Committee of the Regions on local and regional cooperation to protect children and young people from abuse and neglect in the European Union (2000/C 57/07).

2004
European Parliament resolution on the current situation in combating violence against women and any future action (2004/2220(INI).

2006
Opinion of the European Economic and Social Committee on children as indirect victims of domestic violence (SOC/247 – CESE 1577/2006 DE/SL VK/MT).

Opinion of the European Economic and Social Committee on domestic violence against women (Opinion SOC/218 – CESE 416/2006).

References

Allam M., J. & Browne D., K. (1998). Evaluating Community-Based Treatment Programmes for Men who sexually Abuse Children. *Child Abuse Review,* Vol. 7, No. 1, 13–29.

Appelt, B. & Kaselitz, V. (2000). *Prevention of domestic violence against women.* Vienna: WAVE Office.

Arnold, E. & Cloke, C. (1998). "Society Keeps Abuse Hidden – the Biggest Cause of All": The Case for Child-Friendly Communities. *Child Abuse Review*, Vol. 7, No. 5, 302–314.

Asquith, S. (2003). Addressing sexual exploitation in the pan-European community. *Child sexual abuse in Europe.* Strassbourg: Council of Europe.

Council of Europe. *Eradicating violence against children – Council of Europe actions.* Strasbourg: CoE Publishing, 2008.

Crosson-Tower, C. (2004). *Exploring child welfare: A practice perspective* (3rd Edition). Boston, MA: Allyn and Bacon.

Dorne, C. (1989). *Crimes against children.* New York: Harrow and Heston.

Frei, K. (1996). *Spolna zloraba: z odkrito besedo do varnosti.* Ljubljana: Kres.

Graham, D. (1992). Protecting the Child Witness in the Courtroom. *Child Abuse Review,* Vol. 1, No. 1, 33–41.

Kaufman Kantor, G. & Little L. (2003). Defining the boundaries of child neglect: When does domestic violence equate with parental failure to protect?. *Journal of interpersonal violence,* Vol. 18, No. 4, 338–355.

Kavemann, B. (2004). Children and domestic violence. *Fempower,* Vol. 1, No. 8. (2004): 3–5.

May-Chahal, C. & Herczog, M. (ed.). *Child sexual abuse in Europe.* Strassbourg: Council of Europe.

Mellor, A. & Dent R., H. (1994). Preparation of the Child Witness for Court. *Child Abuse Review,* Vol. 3, No. 3, 165–176.

Straus, M. & Donnelly, D. (1993). Corporal punishment of adolescents by American parents. *Youth and society*, Vol. 24, No. 4, 419–442.

Taylor-Browne, J. (1997a). Obfuscating Child Sexual Abuse I: The Identification of Social Problems. *Child Abuse Review*, Vol. 6, No. 1, 4–10.

Taylor-Browne, J. (1997b). Obfuscating Child Sexual Abuse II: Listening to Survivors. *Child Abuse Review*, Vol. 6, No. 2, 118–127.

Turner, H. A., & Finkelhor, D. A. (1996). Corporal punishment as a stressor among youth. *Journal of Marriage and the Family,* Vol. 58, No. 1, 155–166.

UN. *Study on violence against children: Report for the independent expert for the United Nations study on violence against children.* New York: UN, 2006.

UNICEF, Body Shop, UN. *Behind Closed Doors: The impact of Domestic Violence on Children.* London: UNICEF and The Body Shop International Plc., 2006.

UNICEF, Inter-parliamentary Union. *Handbook on strategies to protect children.* New York: UNICEF, Inter-parliamentary Union, 2007.

UNICEF. *Violence against children in Europe. Preliminary review of research.* New York: UNICEF, 2005.

Westcott l., H., Page, M. (2002). Cross-Examination, Sexual Abuse and Child Witness Identity. *Child Abuse Review,* Vol. 11, No. 3, 137–152.

WHO. *The World Report about the violence and health.* Geneva: WHO, 2002.

WHO. *The World Report about the violence and health.* Geneva: WHO, 2006a.

WHO. *Preventing child maltreatment: a guide to taking action and generating evidence.* Geneva: WHO, 2006b.

Williams S. (2003). Telephone helplines for children and young people. *Child sexual abuse in Europe.* Strassbourg: Council of Europe.

WHAT THEORIES SUGGEST

Carol Hagemann-White

Development of Policy on Violence against Women in Germany: From the Shelter Movement to Policies for a "Chain of Intervention"

Violence against women was neither recognized as a significant problem, nor studied empirically, until women's political action in the 1970s and 1980s. In particular, the success of grassroots feminist activism in creating hotlines, shelters and counselling centres for women made men's violence visible as a widespread social problem and a structural element of gender relations. Thus, in much of Western Europe, addressing violence against women began by creating places of safety and support for victims. This was followed by educating the public and disseminating the knowledge acquired from practice to professionals. Only after many years of experience with the needs and problems of women and their children did new legislation become an issue.

This is particularly the case in Germany, where feminist activists understood violence against women as a key foundational element of patriarchal power. This view was reinforced by the hostility and ridicule that activists encountered: it was at that time an act of defiance to claim that violence against women even existed. Thus, feminists in Germany distrusted all institutions and organisations that were dominated and controlled by men – governments, political parties, traditional welfare organisations, and of course, the European institutions and the UN. If women oppressed by violence were to regain their self-respect and their basic rights, they had to be supported by organisations founded and run by women only (Hagemann-White, 1998).

Insisting on women's autonomy proved, on the whole, a surprisingly successful political strategy in Germany. On one hand, without knowing it, feminist were tapping into a long tradition of women's movements based on the conviction of gender difference; on the other hand, recent German history had made it impossible to justify violence and created a subconscious tendency to recoil from any accusation of collective guilt, as implied in the accusation that men in general tolerate and thus collaborate with the perpetrators of violence against women. By the early 1980s, shelters and hotlines established themselves – of course, struggling with local resistance and lack of sufficient funding all the time – as the experts and responsible providers of services for victims. While building an infrastructure of women's aid was fundamental to the policy developments I am discussing here, one of the lessons that has been learned since then is that it is equally essential to draw on human rights frameworks.

1. Two stages in German policy development

Overall, we might describe two stages in addressing violence against women. The first stage consisted of establishing new forms of support to raise awareness and challenge stereotyped attitudes and practices. During these first 15 years, from about 1975 to 1990, activists in the women's movement against violence discovered more and more different forms and patterns of violence and brought them successfully to the fore. An early demand for change criticized the lack of respect shown by the police and the justice system towards rape victims, and by the mid 1980s, guidelines on how the police should respond to rape were being issued and feminist activists were being called in to give them training. Soon after, sexual harassment in the workplace was brought into the public eye and became a hot issue within trade unions. In the late 1980s, the sexual abuse of girls and boys began to surface and the feminist movement was able to generate widespread concern. Against the background of a whole series of such issues, to which we can add, for example, trafficking, forced prostitution and rape within marriage, it was no longer easy to treat any of these problems as localized and limited. By 1989, Germany had a wide network of shelters for battered women and women's counselling centres; this network was rapidly expanded to the eastern districts after unification.

During this first period, it is fair to say that practically no one was interested in using international institutions – so prominently represented by men – or employing human rights frameworks, and neither the first three UN World Conferences on Women nor the CEDAW (which has included violence against women as a form of discrimination since 1979) was noticed or discussed within the German feminist movement. Human rights were seen as a problem in the Third World and dictatorships, not as a relevant issue for Western Europe.

Yet if there was a "success story" in the locally based feminist support services, there was also growing frustration at their limits and this is what led to the second stage, which can more properly be labelled policy development. It is vital to have competent centres and safe places to which women can be referred, but referring women to specialized agencies does not solve the problem in society and it can even serve to normalize it. Society had recognized the problem of violence, but delegated it to women's NGOs, due at least in part to their own claim to be the only legitimate and knowledgeable voices on the issue. The success of this claim was its isolation: if a woman had a problem with violence, she should go to a shelter; if there was any training need in other organisations, a women's advocate should provide it. This effectively let the rest of society "off the hook", while those confronting violence daily while working in shelters, hotlines or counselling centres gradually lost the vision

that the point was to eliminate violence, not to manage its consequences. Violence against women was increasingly seen as a social work issue, so that the police perceived themselves as helpless to intervene.

All of this began to change after 1989. The need for new approaches had become a concern in German feminism at the same time that a sudden and unexpected re-unification confronted women with new realities. For East German women, private violence became a public issue almost overnight. The German government presented shelters and equality offices as model elements of a modern progressive democracy and provided funding to establish them; there was no time for a grass-roots movement to emerge. West German feminists had to realize that they needed to overcome the habit of "knowing better", and at the same time, that their "old" movement was in danger of reaching a dead end. Feminists were looking for ways to revive the political aims of their movement and in doing so, they had to rethink their relationship to the state. This was difficult, as German feminism was shaped by a history of legal subordination in the home: even in the West German democracy, it was not until 1977 that married women gained the right to earn or spend money as they chose or to leave an abusive husband without being penalized for desertion. The shift to framing feminist politics was slow and hesitant, but inevitable.

2. From feminist autonomy to shaping good governance

Germany looks back not only on 30 years of feminist activism and services, but, unlike most other Western countries, on continuity as well in the department on violence against women within the federal government. A major instrument of change has been the federal funding of innovative activities as model projects, beginning with the first shelter for battered women in 1976; in the following years, such projects were set up to address other areas and issues, such as rape, sexual harassment at work, trafficking and the sexual abuse of girls. Each such project was accompanied by evaluation research that was designed to include both feedback to improve practice and dissemination to facilitate the spread of good practices. This approach grew from the federal structure of Germany and perhaps has transfer value for European policy, which also faces the dilemma of how to move forward while respecting local conditions.

Moving beyond such individual projects, women's organisations discovered a need to cooperate with other agencies. This first crystallized around the sexual abuse of children since children could not just seek shelter on their own. It began in the form of local roundtables to discuss concerns and procedures, consult

with outside experts and develop a common understanding of what needed to change.

Thus, as the feminist shelter movement began to look for ways out of the trap of defining domestic violence as women's problem, they adopted the model of inter-agency roundtables. A survey of my research group in 1991 found that roundtables were emerging specifically about domestic violence and that their numbers had grown rapidly by our second study in 1996. The early ones tended to be mutual support groups for professional women in different institutions, who were each struggling to make their colleagues recognize and respond to domestic violence. Later, the goals shifted to achieving specific changes in agency procedures. Roundtables often worked best if they had dual leadership: one from feminist advocacy and the other from some statutory agency, such as the police. This gave all of the participants the feeling that their "side" was being represented. The early aims were often modest, for example, to raise public awareness, because such coalitions needed time for each to understand the background perspective of the other and to agree on some goal for change to be able to work together at all. These local roundtables were the foundation upon which a more systematic, planned concept of intervention projects was developed.

As experience with dialogue was gathered, and trust and respect between the representatives of very different kinds of organisations grew, the goals became more ambitious. During this second 15-year period, from about 1991 to 2006, both women's advocacy projects and policy makers moved towards interagency cooperation and networks, pushed forward by model projects and evaluation research. A leading role fell to the Berlin Intervention Project against Domestic Violence [BIG], whose federal funding was conditional on a commitment of the city of Berlin (which is a state of the German Federation) to participate with its top political decision makers (Kavemann, Leopold, Schirrmacher & Hagemann-White, 2001). The project required about two years of preparatory work, with meetings to set the ground for the structure, the issues to be worked on, and the tasks of specific working groups. Issues such as the power differences between statutory agencies and NGOs also had to be addressed. For example, it was agreed that all decisions of the central political roundtable must be made by consensus. So, when authorities from ministries of justice or home affairs met with small NGOs working with immigrant women, or in a rape crisis centre or shelter, no decision could pass if any one said no. This meant that NGOs had to learn to negotiate with statutory agencies and learn their language, but they could be certain that any decision they opposed would not be passed. It worked because both government authorities and NGOs were in the public eye (the statutory agencies were also being pressured by the feminist organisations and the media). Over time, the project successfully provided a forum for defining common

ground, competences, the limits of each institution, contacts for cooperation and perspectives on continuing statutory-NGO cooperation. It became a model for German policy based on government-NGO partnerships.

The difference between these intervention projects and the earlier roundtables was the new explicit commitment to changing the practice of the various participating institutions to arrive at coordinated community responses. This required recognition that there are limitations to everyone's work – violence against women is a problem that no one agency can solve – and that each organisation must bear criticism from the others and consider if they needed to change some of their practices. The participants also had to be officially delegated from their institutions.

The aim of intervention projects was to achieve a coordinated community response; they sought to design measures so that different institutions complemented each other. Agreements were reached on police intervention, such as requiring the police to record and label every visit to a scene of domestic violence and using police power to protect to expel perpetrators from the home, as well as training "multipliers" within each police unit to ensure a consistent understanding of their role and duty. Once these methods had been tried and tested and a framework had been designed to ensure that women's safety and self-determination would be a priority, the Berlin Project suggested legislation to give coordinated response a firm legal foundation. The result was the Protection Against Violence Act of 2002 and thereafter, coordinated intervention became a key element of German policy. Since then, cooperation between services for victims and the police and justice system has increased, police procedures have been effectively changed, legal changes have been implemented and new services have been created (Grieger, Kavemann, Leopold, & Rabe, 2004).

3. Human rights and legal frameworks

The move towards community-level responses had to necessarily depart from the radical feminist insistence on women as the only true agents of change in this field. Thus, it is no coincidence that it was precisely in the transition period from 1989 to 1993 that feminists began to use international organisations and their human rights frameworks to challenge violence against women and demand that all of society, the state, the police, the welfare organisations and trade unions, as well as the supranational structures and contracts, should take positive action to eliminate violence. Thus, while, in one sense, Germany and Western Europe were 15 years "ahead" of the new members of the European community in dealing with violence, we entered this second stage, the new era of measuring our states against international standards of good practice, at the same time.

For Germany, this meant that after the UN World Conference of Women held in Beijing in 1995, the German government accepted responsibility for formulating and implementing a comprehensive "Plan of Action" to combat violence against women in a systematic and coordinated manner. This has helped to ensure that new fields of action have not supplanted the existing structures and achievements, but that there is at least a serious effort to weave them in and create a closer net of intervention and support. Thus, programmes to work with and change the behaviour of perpetrators of domestic violence were introduced with the support of the multi-agency intervention projects, which insisted – successfully, on the whole – that such new measures must not be funded by cutting back funds to support services for women, but from additional funds; indeed, that it is vital to the work with violent men that provides their women victims reliable and continuing support.

More recently, attention in Germany has turned to the medical and health care system. Again, a specially funded model project in a hospital has played a key role, but since 2002, there has also been an upsurge of interest and concern within the health care professions, as well as in communities, and we are seeing roundtables and working groups aiming to make health care more responsive to the needs of women who are victims of violence.

In this policy development process, legal reforms have generally not been aimed at passing specific laws on domestic violence. In criminal law, the prime goal was equal treatment: any act that would be penalized if done to a stranger or a neighbour should be considered every bit as punishable when it is done within the family or to an intimate partner. For example, the German reform of rape law finally (in 1997) did away with the "marital exception" that defined rape only as forced sexual intercourse outside of marriage; at the same time, it broadened the definition of rape to include all kinds of penetration without consent and in doing so, made the rape of men punishable for the first time. There is little sympathy in Germany for the idea codified in Spanish law that a man's violence against a woman should be punished more severely than in the reverse case, and even less sympathy for the notion that violence within the family or against a partner should be an aggravated case. Violence against women cuts across the lines of family, work or public life and German feminists would not want to concede, even indirectly, that a women on her own is somehow less deserving of protection and redress than a woman in the home.

The 2002 law improved the option for civil injunctions and the 16 states of federal Germany agreed to review their police law to include the power to ban a person who poses a threat of violence in the home. This does not depend on the wishes of the victim: if the police have reason to believe that violence has oc-

curred and might continue, they intervene to ensure safety. It is also not, in itself, a criminal sanction, although, of course, criminal procedures will follow if the police find sufficient evidence of a crime. The victim is given time to seek information about her options, to ask for a court order ensuring further protection or to prepare to take other steps. It is important that the first action is taken directly by the police on the spot because victims are usually quite reasonably afraid to make the perpetrator angry. The coordinated approach thus requires that the police, proactive information and advisory services and courts that can prolong the police ban, as well as child welfare authorities, are all well-informed, able to act effectively within the ten-day period and share an overall strategy of ending victimization by empowering women. Under this approach, which emphasises safety and civil law, rather than criminal prosecution, women are conceptualized not as sufferers in need of care, but as citizens with rights.

The "joint overall strategy" approach has now been extended to numerous cities throughout Germany. Such "intervention projects" are institutionalized, cooperative alliances that work on an inter-institutional and interdisciplinary basis. They try to bring together representatives of all agencies, institutions, projects and professions in a given region that work specifically with domestic violence or carry social responsibility for it. Participants do not take part as individuals, but as delegates sent and mandated by their institutions. The guiding ideal has been to create and maintain an unbroken "chain of intervention" to offer to every victim (Grieger, Kavemann, Leopold & Rabe, 2004).

This "unbroken chain" does not mean that a woman is obligated to proceed from one step to the next. In a democratic society, it is her fundamental right to choose whether to ask the courts for further protection, whether to accept the offer of counselling and if and when she seeks divorce or separation. Ideally, the chain of intervention means that at every stage, further protection and support is available without barriers or delay if needed.

4. Dilemmas of the "chain of intervention"

Due to the federal structure of Germany, the national law could only regulate the court protection and eviction orders. In the process of adapting police law in the 16 states, it was often argued that police needed the power to evict the perpetrator from the home so that women who are dominated by their violent husbands could make use of the new court orders. When experience showed that the majority of women did not actually go to court, doubts were expressed and many police officers became confused. As has been the case with

anti-discrimination law, framing individual women as citizens with rights created the expectation that they should act to claim those rights. A protective measure by which the state fulfils its duty to protect the lives and safety of all citizens becomes transformed into a pedagogical measure towards the victim: we are doing this for you so that you will act wisely and leave the man who has done you violence. The "deserving" victim will act as advised.

This expectation ignores the fact that police intervention typically comes in a situation of emotional crisis, where a victim may not be prepared to make a long-term decision about her relationships and her life; often, she hopes that the man will change when the police take a firm stand and even impose a "penalty". While women may go to a refuge out of a decision to change their situation, they call the police in response to an immediate and acute threat. There is no reason to assume that the moment when police arrive and expel the man from the home will be a personal turning point for the woman, at which she is ready to make a far-reaching change in her life. Thus, women might go to the police the next morning and beg them to lift the ban and let the man return home. The notion of a functional link between the elements of intervention – we send the man away and inform the intervention centre so that she will get a court protection order – takes the focus away from the needs of the victim. Evaluation has identified an additional paradox: when women are ready to act decisively when the police arrive, as some are, they are suspected of merely "using" the police ban to obtain a divorce more easily. Women who claim their rights do not look like "real victims". Thus, they are damned if they do and damned if they don't.

Research on how clients use social services and legal systems has shown that strategic calculations are a normal feature of this usage. This is true of abused women as well as of anyone else. Thus, a woman who has experienced violence in the home may indeed use the protection measure as a tool to pursue her perceived interests and needs. Police and legal intervention against the perpetrator increases her negotiating power. I have known a woman to refuse – at the last minute, in court – to testify on a rape charge against her husband (after separation, but before divorce) and then, immediately afterwards, instruct him on the conditions that he must meet – in essence, she set up a banning order of her own, he was not to be seen in the entire area of town where she lived – under threat of a new charge of rape and active testimony. This was not what the justice system had in mind when prosecuting a rape charge, but it was very effective in securing her safety. She calculated that he would be more compliant to her safety demands when he was in fear of a possible prison sentence than he would after serving such a sentence and I must admit that I had to agree with her. (She also avoided having to tell her daughter that her father was a rapist.)

One could call this a form of what Deniz Kandiyoti (1988) has called patriarchal bargaining.

5. Sharing experience, lessons learned

Although the multi-agency coordinated approach was developed in the UK, Germany, Switzerland and Austria only after many years of establishing shelters and advocacy services by women for women, during which experience was gathered on how and why violence affects women's lives and their ability to act, it is now being adopted in countries with more recently developed democratic institutions. On the one hand, this is an advantage: "Newcomers" are able to profit from accumulated knowledge and know-how. On the other hand, there may be a risk of superimposing the mere appearance of similar intervention commitments without the necessary infrastructure to make it work. For that reason, I would like to cite three important "lessons learned" from evaluation research in several countries (for more detail, see Grieger, Kavemann, Leopold & Rabe, 2004).

1) Multi-agency approaches can only be as good as the professional practice of the various agencies and institutions involved, each of which has to have a clear understanding of its own specific mandate and tasks. The police cannot do social work or psychological counselling, nor can social workers function as police investigators. Again and again, faced with intimate partner abuse or sexual violence, professionals seem to forget what they know about their jobs and to act as if they were in the private sphere. For example, they talk about who is at fault, how the perpetrator might feel (will he be angry?) or whether the woman has made the right choices in her life. The police are obliged to protect citizens from violations of their rights and to pursue and investigate crime, and violence is just as much a crime when it is sexual or when it happens in the home. Social workers should help people deal with difficult situations and ensure that children are safe from harm. Multi-agency cooperation will only work well if all of the necessary agencies are in place and included and each is willing to do their own job, not that of the others.

2) All of the participating organisations in a cooperation network need to be open to learning from the others. This both improves the quality of the work they do and increases job satisfaction since the frustration of being unable to stop the violence, to help the victim, or to change the behaviour of the perpetrator often results from the gaps between what different agencies do. A main task of cooperation is to bridge these gaps. If you treat a woman's cuts and burns in the hospital, but let the husband who caused them pick her up, she will be back with worse injuries before long. Emergency wards in hospitals need links to social work and

to the police to ensure that advice and protection are available when needed. Learning to understand such connections by listening to other professions is essential to the intervention chain.

3) All measures towards ending violence against women must be founded on the principle of empowerment, in itself, the direct opposite of violence. There is reason for serious concern on this count and we see this in Germany as well. When a number of institutions coordinate their work, they tend to expect that those who benefit should also cooperate in their own interest. This becomes a problem when the issue is violence against women. After all, it is not the woman who has done something wrong and needs to be corrected. Nonetheless, policy makers and many participants in coordinated intervention are inclined to demand that the women take the steps being made available. This is, I think, a long-term effect of women's delayed access to citizenship: Europe has a long tradition in which the state paternalistically "guides" women towards their "proper" spheres and actions.

The second National Action Plan in Germany, with a focus on the gaps in support and responses, came into force in 2007. A study of violence against women with disabilities is underway, the needs of minority women are being more closely examined. More ambitious projects have not been funded in the past few years. While in policy development, the government has worked in cooperation with NGOs und supported cooperation, there is too little monitoring of models and methods. Once a project, law or model has been established, there is hardly any follow-up to see if it is having the desired effects three or five years later.

The policy area of violence against women is situated in the ministry responsible for the family, women, senior citizens and youth. After the successful six-year funding of evaluation projects and a national prevalence study, all completed in 2004, the focus shifted to family policy. This also addresses the problem of gender equality since the present government has actually put publicly funded child care onto the political agenda and restructured parental leave to favour women's return to the labour market, contrasting with the older housewife model. One must agree that a policy that only aimed to help victimized women, but did nothing to reduce their economic dependence on their husbands, would be short-sighted. At the same time, it is not enough to frame good policies or practices; they must be broadly implemented, re-assessed and maintained. Ending violence against women requires a sustained effort and major resources; it cannot be done "on the cheap". Thus, the open question for policy development is: When and how will it come back onto the central agenda with major funding for new actions?

References

Grieger, K., Kavemann, B., Leopold, B., Rabe, H. (2004). *From local interventions to standards of good practice: Intervention projects and their work.* Final report of evaluation research, 4. Retrieved from http://www.wibig.uni-osnabrueck.de/wibig1.htm

Hagemann-White, C. (1998). Violence without end? Some reflections on achievements, contradictions, and perspectives of the feminist movement in Germany. In R.C.A. Klein (Ed.), *Multidisciplinary perspectives on family violence*, 176–191. London: Routledge.

Hagemann-White, C., Gloor, D., Hanmer, J., Hearn, J., Humphreys, C., Kelly, L., etal. (2008). *Gendering Human Rights Violations: The case of interpersonal violence.* Brussels: CAHRV, EU.

Final Report (2004–2007) of the Coordination Action on Human Rights Violations (CAHRV). EUR 23336, Brussels. Retrieved from www.cahrv.uniosnabrueck.de.

Kavemann, B., Leopold, B., Schirrmacher, G., Hagemann-White, C. (2001). *Modelle der Kooperation gegen häusliche Gewalt.* Stuttgart: Kohlhammer.

Katja Filipčič

Legal Responses to Domestic Violence: Promises and Limits

1. Introduction

Domestic violence is violation of human rights and the state is obliged to protect victims and reduce such behaviour through legal responses; the fundamental tools of any state are the legal rules and constraints applied when these rules have not been observed. State legal responses to domestic violence can be divided into three basic groups:

- in the first group are criminal legal responses, which are directed towards the punishment of perpetrators;
- protective legislation (civil and criminal) is the second group – restraining orders are directed towards the protection of victims; and
- legal rules concerning the activities of different institutions (such as social services, health-care institutions, schools, etc.) and how to help victims comprise the third group.

All three response strategies to domestic violence are important and necessary, although they encounter certain limitations that should be considered when adopting legal amendments. The very extent of legal changes in a country is often an indicator of the level of social recognition of domestic violence issues. However, one needs to be very careful when making such assessments because a significant number of legal changes does not necessarily mean that domestic violence measures are in fact effective. The legal responses from the different fields of law (criminal, civil law) have to be linked and most importantly, in addition to changing law, the state is obliged to provide the conditions necessary for their implementation; the difference between the law in books and law in action has to be considered.

I will analyze some high expectations and limitations related to responses to domestic violence through legal changes, based also on the Slovenian experience. To begin, here are some basic data on efforts related to the assistance provided to victims of domestic violence in Slovenia:

- the first non-governmental organisation in the field of violence against women became active in 1989, when a helpline for victims of domestic violence was set up;
- the first shelters were established in the mid-1990s (some were founded by the state and some by non-governmental organisations); and

— the first legal change whose goal was to deal more effectively with domestic violence was the amendment to the Criminal Code enacted in 1999 and the second major amendment followed in 2008.

Even though the first legal amendment had not been introduced into the Criminal Code until 1999, this does not mean that domestic violence had not been considered a criminal offence before that time. It should be stressed that in Slovenia, the relationship between the perpetrator and a victim of domestic violence had not previously been a reason for exculpation. The same was true of sexual violence between partners; Slovenia was among the first countries in Europe which explicitly, in 1977, wrote into the Criminal Code that rape was a criminal offence, even when it was committed between spouses or unmarried partners. The difference between this and "classic" rape was that the initiation of the procedure was up to the victim's decision. It is impossible to determine whether this provision had any effect on the extent of sexual violence as a form of domestic violence, as the victims of these acts did not report them to the police; the case law reports only a few such procedures. The symbolic significance of such a provision is obvious regardless of the non-responsiveness of the victims; with a legal definition of rape, the state clearly expressed its attitude towards sexual violence as a form of domestic violence.

2. Criminal legislation

Twenty years ago, the primary focus of social policy for victims of domestic violence has been the mobilization of institutions to increase the range of formal and informal controls. Social control through criminal law dominated theories on how to best reduce domestic violence, focusing on the effect of increasing the risks and punishment costs of violence (Fagan, 1996, p.3). This approach to domestic violence was rooted in the assumption that people will avoid violent behaviour because they fear sanctions. This assumption implies the traditional distinction between general and specific deterrence. General deterrence refers to the impact of sanctions, either imposed or avoided, on someone known to a potential perpetrator of violence, that is, to the impact of sanctions on others. Specific deterrence refers to the impact of imposed or avoided sanctions on the actual perpetrator of violence, that is, to personal sanction experiences. The fundamental argument is that would-be or actual perpetrators will be less likely to engage in violence if they perceive sanctions as certain and severe (Kirk, 2005, p. 663).

A belief that heavy penalties reduce violence is still firmly rooted in policy. For example, sentences prescribed in Slovenia in the last ten years for minor forms of

domestic violence have doubled from a one-year to a two-year prison sentence in 1999 and finally to a five-year prison sentence in 2008.[1] These legal changes can also be assessed as significant in terms of the state's attitude towards condemning domestic violence. A lot of studies have tried to prove that heavy penalties deter perpetrators and reduce violence, but no statistically significant effects of harsher penalties were found, with just a few of them found to have very modest effects (Sherman, 1992a; Sherman, 1992b; Fagan, 1996; Davis & Smith, 1995). Several studies suggest that some perpetrators may be more sensitive to the threat of sanctions than others (Kirk, 2005, p. 667); perceptions about the severity of punishment are more strongly associated with the perceived social and personal costs of punishment, such as the disapproval of family and friends, the loss of a partner, the loss of a job and self-disapproval, than the perceived legal costs, such as time in prison.

More important than severe punishment for the reduction of violence is whether the perpetrators perceive sanctions as certain, as something that they will not be able to avoid. As long as the perpetrators feel safe, believing that their victims will not report them and count on the neighbours not to tell on them, either, the violence shall continue. But courts could impose sanctions only during criminal procedures, so more criminal procedures against perpetrators will be initiated, more penalties will be imposed and the certainty of penalties will be higher. For that to occur, several conditions must be fulfilled: (1) police officers should define intimate violence as a criminal act and not as a private matter, (2) social workers, doctors, teachers and neighbours should recognize the symptoms of domestic violence and report the violence to the police, and (3) most importantly, victims should believe that the criminal procedure and punishment would be effective (would stop the violence) and because of that belief, they will not only report the violence, but will be prepared to take an active role in criminal procedure. The state can also increase the certainty of punishment by changing the rules about initiating a criminal procedure. In Slovenia until 1999, the initiation of a criminal procedure against perpetrators of domestic violence was left to the victims of minor forms of domestic violence who did not suffer serious injuries. The same applied to other minor violent criminal offences. With the amendment

[1] In 2008, a special, independent criminal offence was formulated in Slovenia: "domestic violence". It was something we had long been striving for, both for symbolic and pragmatic reasons. The separation of violent offences into a special criminal offence clearly shows that, due to the particular dynamics of domestic violence, this form of violence has specific features and should be subject to especially careful and sensible consideration in court. The pragmatic aspect of our endeavour was that a special criminal offence would finally facilitate the management of statistical data on the number of domestic violence cases in court and on the sanctions imposed as well as on reoffending. In addition, we hoped that the introduction of a special criminal offence would mean a step forward to the specialisation of judges for the field.

of the Criminal Code in 1999 and 2008, the state prosecutor obtained the authority to initiate prosecution *ex officio* in all cases of domestic violence (regardless of their intensity) and victim did not have the power to drop the charges. This solution can have two meanings:

(1) the state pronounces domestic violence a serious problem, regardless of its intensity and by doing so, practices zero tolerance on violence; and
(2) in contrast, this solution also implies that the state does not recognise the victim's autonomy in deciding to initiate the criminal procedure on the grounds that he or she is incapable of making the right decision, constituting a paternalistic attitude towards victims of domestic violence.

We are familiar with the results of studies which established that in almost two-thirds of criminal procedures, victims of domestic violence became passive or started to defend their violent partners, even if they initiated the criminal procedure (Hoyle, 1998, p. 183). This proportion is bound to rise if the state prosecutor initiates the procedure without their prior consent or even at their express opposition. Because of that, in the majority of these cases, the state prosecutors will have to drop the charges – it is very hard or even impossible for state prosecutor to find other evidences for violence. Some authors go as far to say that women had a significantly lower chance of being battered again (in the six-month follow-up period) if they were given the power to drop the charges, but chose to continue with prosecution (Kirk, 2005, p. 675). The investigators speculated that women were empowered by their ability to drop charges and by the alliance they developed with criminal justice agencies. We can note that state paternalism towards victims of domestic violence (in criminal law) should have its limits and that it would be more effective to empower victims, strengthening their position vis-à-vis their partners.

Based on what I have already presented here, we could conclude that the relationship between sanctions and behaviour is complex and subject to multiple mediating influences, only one of which is deterrence. Of course, this doesn't mean that the criminalisation of domestic violence is not important, but we have to be aware of the limited effects of criminal law in reducing domestic violence through deterrence. The expectations of criminal law are also too high because we forget what the main goal of criminal procedure is: to punish the perpetrators. Criminal law cannot solve the victims' problems, like how they should change their lives, come out from under the perpetrator's influence, solve the housing problem, live without their partner's salary, etc. Criminal law can only indirectly contribute to the solution of these problems through the declaratory effect of condemning domestic violence, which helps make the community more sensitive to the domestic violence. Sanctions may be central in mobilizing community resources to

support and protect victims, such as hotlines, shelters, counselling; the network of agencies could be set up to provide the opportunity for victims to re-think their situation and the empowered victims supported by such a network could then decide to start a new life without their violent partner (Kirk, 2005, p. 675). So, the criminalisation of intimate violence may not have a significant direct impact on perpetrators, but is still very important because sanctions can produce violence reduction by empowering victims.

In Slovenia, the importance of criminal law in reducing domestic violence first became the subject of public debates in 2003, when the police proposed that restraining orders for perpetrators of violence should be introduced into the Police Act. I participated in these discussions and was against the introduction of this measure in the form in which it was proposed, which was as a police measure without appropriate procedural safeguards (such as judicial control). It was difficult to break through with the idea that police procedure should protect everybody's rights, even the perpetrator's (what I have in mind is setting limits on the state in the implementation of its repressive function) and that it is exactly the treatment of those who break the rules that proves the state to be democratic and governed by the rule of law. Members of the general public often pointed out that a perpetrator of violence had lost all rights by practising violence within the family and causing other people to suffer and thinking about the protection of their rights is not "zero tolerance" politics. It is definitely true that a perpetrator has lost the right to be respected in the community and it should not be any other way. However, losing the right to fair treatment during the criminal procedure is unacceptable, no matter how condemnable the perpetrator's actions may have been. These are the cases that put a state governed by a rule of law to the test.

3. Protective legislation

Many countries adopted restraining orders in criminal and/or civil legislation. There are two types of orders available: occupation orders, which regulate the occupation of the family home, and non-molestation orders for protection against all forms of violence and abuse (Hagemann-White, 2006, p. 15). In 2003, Slovenia changed the Police Act and introduced a restraining order, which may be issued to a perpetrator of violence by the police (the police may impose the order for up to 48 hours, which the judge may extend to up to ten days and, based on the victim's proposal, for another 60 days). Even more importantly, the police are obliged to immediately inform social services of the issuing of the restraining order. Social services' job is to make contact with the victim and offer counselling and assistance. This is how proactive counselling was introduced in Slovenia for the first

time; social services professionals no longer wait for the victims to make the next step and seek their help, but offer help themselves.[2] After this measure had been adopted, police training began and the results followed: while in 2005 the police issued 180 restraining orders, the number jumped to 553 in 2008. Such growth is definitely not due to increased violence, but to two factors: (1) the police have become more sensitive to domestic violence; and (2) victims call the police more frequently because they believe they will be understood and helped.

In 2008, the same measure (restraining order) was also adopted in civil legislation in the framework of the new Domestic Violence Act. This measure has to be proposed by the victims in civil court. The victims also have to produce evidence of violence against them. Victims put forth such a proposal mostly when the police decide not to issue one or after the period of 60 days, which is the longest period that the (criminal) judge can issue a restraining order for. The court decides in a civil procedure; different rules apply than in a criminal procedure. This requires a great deal of engagement and determination on the victim's side, which can be very discouraging due to the complexity of the procedure. The law therefore stipulates that the state provide an attorney (free legal aid) for victims who propose these measures in civil procedures. I believe this was an important step for the state as it really brought legal protection closer to the victims. Whether the victims take advantage of this assistance depends on their trust in the legal system and their readiness to stop the violence being waged against them.

In the Slovenian legal system (like in many others European systems), we have civil and criminal police restraining orders; civil orders are available as a form of protection before, during and after criminal proceedings. In my opinion, the unsolved question is how to link protective legislation (civil and criminal restraining orders) and criminal legislation. The breach of such orders (criminal or civil) is not a criminal offence — the perpetrator may only be issued a fine. This is an example of the separation of the civil and criminal legal systems and what we need is a holistic thinking across several areas of law.

In addition to that problem, we don't know how effective protective orders are in stopping violence. For the time being in Slovenia, we have no analysis of the effectiveness of such measures, nor do we have a record of their violations. In the United States, few studies have examined the effectiveness of restraining orders

[2] "Reservations that women affected by domestic violence would reject a proactive approach or that it could have a destructive effect because the women would feel disempowered or made to feel like victims again have proven to be unfounded. On the contrary: proactive counselling has contributed to empowering the victims by expanding their scope for making decisions or taking actions, by increasing their personal power and helping them to regain control over their own lives" (Federal Ministry for Family Affairs, Senior Citizens, Women and Youth, 2004, p. 21).

in reducing the incidence of domestic violence and those few studies have been nonexperimental or quasi-experimental, with designs that weaken any conclusions about their effectiveness (Fagan, 1996, p. 24).

4. Multidisciplinary approach

I have described two types of legal responses to domestic violence: criminal and civil responses. But we could also talk about the third group of legal rules: how different institutions, such as social services, health-care institutions and schools, should treat victims, what kind of help they should provide and, most importantly, the rules concerning their cooperation. In Slovenia, we became aware of the significance of the multidisciplinary approach in 2003, when restraining orders were adopted by the Police Act. Through this amendment, social services were given the obligation to help victims of domestic violence. Although this was not a new obligation, it had been "hidden" in the assistance offered to anyone in need and was not specifically emphasised by any legal rules. Public discussions in this period also stressed the importance of other institutions, such as health-care centres, schools and municipalities, in helping the victims and, in turn, in preventing domestic violence. This highlighted the need to not only strengthen the performance of these services, but to facilitate their cooperation. This led us to start shaping a special act on the prevention of domestic violence that would incorporate the activities of different institutions and therefore focus on ways to help the victims. The proposed act was drafted in 2004 and it was enacted at the beginning of 2008.

In addition to the first legal definition of domestic violence, the Domestic Violence Act also introduced the following innovations:

- it adopted a wider definition of domestic violence against children: a child is a victim of domestic violence not only when subject to direct violence, but also in cases when he or she lives in a family where violence is caused to other members of the family, not only to him or her directly;
- it was stipulated that anyone working in health care or schools is obliged to report violence against children to social services or the police and when the victim is an adult, everyone is obliged to report those forms of violence that are otherwise persecuted as criminal offences *ex officio*;
- the competent institutions are social services; no special services have been established in Slovenia for dealing with domestic violence, but we did make good use of strategic geographical distribution and, in turn, of the availability of the 62 existing social services. Furthermore, with this Act, regional services were established to facilitate the monitoring of domestic violence and the cooperation of different organisations within regions;

— the Act established the obligation of all organisations to cooperate with social services in multidisciplinary teams with the basic task of drafting a concrete help plan for the victim, comprised of the different activities conducted by competent organisations;
— ministries of social affairs, interior, health and education are obliged to adopt protocols for dealing with victims, which should unify professional approaches to the treatment of victims;
— everyone working in social services, the police department, health care and schools has to participate in regular annual training on domestic violence to increase their professionalism;
— Parliament is obliged to adopt a national plan for the prevention of domestic violence every five years and an action plan for concrete measures to help the victims of domestic violence every two years; and
— the Act adopted two new civil measures for the safety of victims: a restraining order and the eviction of the perpetrator from the family home.

Single-agency responses to protect women against violence have encountered numerous limitations and cooperative multi-agency approaches have been developed in a number of countries (Hagemann-White, 2006, p. 24). The Slovenian Domestic Violence Act is a good example of such an approach because it attempts to connect all of the relevant statutory and voluntary agencies from which victims seek help and support. The Act was enacted in 2008 and one year is too short of a period to conclude whether coordinated policy and practice has been successfully developed in Slovenia.

5. Conclusion

In the last 20 years, a significant emphasis has been placed on creating civil and criminal legal responses to domestic violence in the majority of European countries. Following the others, Slovenia has introduced a restraining order and an occupation order, formulated domestic violence as a special criminal offence, prescribed heavy penalties for perpetrators and a special law on preventing domestic violence has been enacted (Domestic Violence Act). All of these legal reforms hold great promise to reduce domestic violence and protect the victims and, at the same time, they play an important symbolic role in offering a clear message from the state that domestic violence is no longer a private matter. While legislation on paper is important, however, the effectiveness of the law relies on its implementation. So, in addition to the legal reforms, it is necessary to at least ensure the following:

— free legal aid to support women in pursuing protection orders;
— mandatory and specialized training for those who are obliged to implement the law
— proactive counselling;
— the linking of civil and criminal legal responses; and
— coordination between social services, NGOs, police, courts, health organisations and schools because only a holistic approach can be effective.

Such legal implementations will not only help the victims, who will be able to seek help, but will also empower everyone else and increase the sensibility of the entire society towards domestic violence.

References

Davis, R.C., & Smith, B. (1995). Domestic Violence Reforms: Empty Promises or Fulfilled Expectations? *Crime & Delinquency*, Vol. 41, No. 4, 541–552.

Fagan, J. (1996). *The Criminalization of Domestic Violence: Promises and Limits.* USA Department of Justice, National Institute of Justice, Research Report.

Federal Ministry for Family Affairs, Senior Citizens, Women and Youth. (2004). *Working together to combat domestic violence: Cooperation, intervention, research – Findings of the evaluation research assessing intervention projects against domestic violence.* Berlin. Retrieved from www.bmfsfj.de.

Hagemann-White, C. (2006). *Combating violence against women.* Strasbourg: Directorate General of Human Rights. CDEG (2006).

Hoyle, C. (1998). *Negotiating Domestic Violence: Police, Criminal Justice and Victims.* Oxford: Clarendon Press.

Kirk, R. W. (2005). Arrest and intimate partner violence: Toward a more complete application of deterrence theory. *Aggression and Violent Behavior,* Vol. 10, No. 6, 660–679.

Sherman, L.W. (1992a). *Policing Domestic Violence, Experiments and Dilemmas.* New York: The Free Press.

Sherman, L.W. (1992b). The Influence of Criminology on Criminal Law: Evaluating Arrests for Misdemeanor Domestic Violence. *The Journal of Criminal Law and Criminology*, Vol. 83, No. 1, 1–45.

Jeff Hearn

Men as Perpetrators of Violence: Perspectives, Policies, Practices

1. Introduction

When there is discussion of men as perpetrators of violence, it has become rather usual to speak of such men perpetrators as a distinct and separate group from the mass of men. This is especially so in terms of men as perpetrators of violence against women, children and youth. In this paper I wish to reverse that tendency and consider how focusing on men as perpetrators of violence concerns not only male perpetrators as a separate group. To be more direct, this issue concerns all men, not only those specifically identified as perpetrators, as clearly important as that is. This more inclusive approach suggests that changing men's use of violence means changing men, masculinities and men's practices, sexualities and identities more generally.

Seen within this framework, men are and often can be seen as an "absence presence" (Hearn, 1998b). An interesting example of this in fact contained in the EU Decision 779/2007 (Daphne III Programme), which aims: "… to contribute to the protection of children, young people and women against all forms of violence … to prevent and combat violence against children, young people and women and protect victims and groups at most risk". In that document, there is talk of "children, young people and women", but they are constructed as objects — in this case, as objects of violence. The subjects, the primary doers, of violence – which are very much men – are absent, an absent presence. The only place where men feature in this document is, ironically, in stipulating "equal treatment for men and women" in the Programme.

Violence takes many forms. It includes physical violence; sexual, emotional and psychological degradation and threat; rape, sexual assault and sexual harassment; incest; sexual coercion; homicide; damaging property and pets; pornography, prostitution, trafficking; inhuman and degrading treatment; slavery, forced labour, child labour; coercion and arbitrary deprivation of liberty; and war or militarism. Violence can be minimal or extensive and life-threatening; one-off or persistent; sporadic or constant; more or less damaging; and random or highly systematic. It is a social process, not a "thing".

In this paper, I focus more on the level of men's interpersonal violence to women, children and youth. There is a vast international research and policy

literature, in the form of official records, social surveys, national crime surveys, dedicated domestic violence surveys, victim/survivor report studies and policy studies that chronicles its extent and pervasiveness of violence worldwide. Having said that, it is important not to separate interpersonal violence from institutional violence, war, the sex trade and trafficking, as these are also largely 'done' interpersonally.

To bring this down to earth, allow me to provide some flavour for how men talk about violence to women, with this quotation from an interview with a man from a research project I directed in the UK in the early 1990s (Hearn, 1998c):

"I wasn't violent, but she used to do my head in that much. I picked her up twice and threw her against the wall, and said 'Just leave it'. That's the only violence I've put towards her. I've never struck a woman, never, and I never will... When I held her, I did bruise her somewhere on the shoulder, and she tried making out that I'd punched her, but I never did. I never to this day touched a woman".

To my mind, this quote is interesting for several reasons. First, it was given by a man who had had no contact with the criminal justice system or indeed other agencies in relation to his violence. Second, it is very mundane and in some ways undramatic, and in that lies some of its power and impact: it normalises violence. Third, it is contradictory in parts, or to put this differently, it is complex at the linguistic level in presenting several different definitions, inclusions and exclusions as to what violence is, what counts as violence. So, now I turn to some more general issues in terms of considering what it is that supports men as perpetrators.

2. What supports men as perpetrators?

2.1 Connections

To consider this question means examining some of the multiple links that there are between men, masculinities and violence. These include a range of overlapping connections:

- men are members of a social category invested with power, if only by association;
- men can be understood as specialists, experts in violence, the main doers of violence to women, children, each other, animals and ourselves;
- being violent can be an accepted, if not always an acceptable, way of being a man; violence can act as a reference point for being a man or boy – there are numerous examples from sports and from the intertwining relations of men's sexualities and men's violence;

— men's domination of violent institutions, including the military, police and the criminal justice system; state control of violence continues;
— violence can be theorised as a possible centre of patriarchies and patriarchal relations;
— violence and masculinity are routinely implicated with each other, in mass media, film, imagery, symbolism, "fantasy" and the realm of representation;
— having said all that, it is very important NOT to see men and violence as equivalent: men are not naturally violent. The violence of British imperialism or of the Holocaust or of the more recent post-Yugoslavian conflicts was not "natural". Nor is there a "natural" explanation for the huge variations worldwide in the levels of homicide – for example, in the Russian Federation, the figures are about 25 times the rate in, say, Norway (Barclay & Tavares, 2003); and
— finally, some men are explicitly anti-violence, and not only in peace movements, or at least say so publicly that they are.

2.2 Tendencies

There are also a variety of social tendencies in practice, policy, politics and research that support men's violence:

— not gendering men, avoiding naming men, doing the violence as men (Hanmer, 1990);
— denying, minimising and misnaming men's violence, for example as "family violence";
— defining violence narrowly, limiting it to certain physical violences;
— seeing men's violence as primarily an individual problem;
— seeing men's and women's violence as symmetrical;
— explaining violence in ways that excuse men;
— separating violence from the rest of social life; and
— seeing current relations between men and women as "natural".

2.3 Gendered understandings of what violence

The very question of what counts as violence is part of the problem of men's violence, as already noted in relation to the interviewee quotation above. In the course of earlier research,[1] one of the things that became quite apparent was the very different ways in which women experiencing violence from known men talked about that violence compared with how men using such violence to known women talked about it.

[1] This research was conducted at the University of Bradford with Professor Jalna Hanmer as co-director.

To summarise, how women who experienced men's violence viewed this violence, one of the primary issues was the vast range of violence: physical, threats, sexual, emotional, verbal, psychological, economic, food, reproductive, medical, social (control of friends, telephone, Internet), spatial, temporal and representational. Together, violence involves the pervasive process by which "… violence and abuse suffuse every aspect of women's lives …", which "… makes it difficult for women to emerge from abusive systems of social relations" (Hanmer, 1996).

This contrasts with the views of men who used violence against women on what counts as violence. In interviewing over 60 men who have used such violence, what was striking as how most were well able to describe that violence as they understood it, and why they had used if from their point of view. For most men it was much more difficult to give a relatively comprehensive account that mirrored women's accounts. Instead, the men engaging in this violence tend to separate violence from the rest of life, from their domestic, sexual and intimate relationship, their children, housework and so on. Their descriptions of their own violence, though frequently explicit and detailed, were generally in the form of specific violence at certain times and places as particular snapshots, incidents, even "highlights", not as part of a process that pervaded their life and that of their (ex-)partner. Accordingly, the violence was generally constructed as:

- physical violence that is more than a push – holding, restraint, use of weight/bulk, blocking, and throwing (things and the woman) were often excluded;
- legal convictions for physical violence;
- physical violence that causes or is likely to cause damage, violence that is visible or considered physically lasting;
- physical violence that is not seen as specifically sexual;
- sexual violence is seen as separate; and
- separation of violence against women and child abuse (Hearn, 1998c).

In conducting these interviews, two phrases recurred: "I'm not a violent man…" and "… just… "or"… only…". I came to dread both!

3. The "gender (a)symmetry" problem in "domestic violence"

A particularly important issue that also seems to recur from time to time in different countries – but now at the level of national policy making and media discourse – is the problem of so-called "gender (a)symmetry". There have been a range of studies arguing that men and women, especially in young couples, use "force" with partners in roughly equal numbers. These studies have often

used different versions of the Conflict Tactics Scale (CTS), an approach that has been strongly criticised on a number of grounds for its failure to: contextualise violence, attend to the meanings of violence, accurately quantify violence, consider the extent of damage from violence and inadequate attention of the power dimensions of gender, sexual and other social divisions, such as racialisation.

Interestingly, in the 2003–2004 British Crime Survey, half the men reporting "domestic violence" sustained "no injury" from the "worst incident" (Walby & Allen, 2004). Michael Kimmel (2002), a USA professor of sociology and expert on gender systems, in his meta-review of the research evidence, originally commissioned by the Irish Government, estimates that three-quarters of women's violent acts in close interpersonal relationships are made in self-defence. Perhaps most importantly, men use the overwhelming majority of planned, instrumental, repeated, heavy, physically damaging, non-defensive, non-retaliatory, sexual (or "sexual sexual"), institutional (Hearn & Parkin, 2001), military, virtual (Hearn, 2006), global (Ferguson, Holter, Jalmert, Kimmel, Lang, Morrell, & de Vylders, 2004) and multiple forms of violence. Moreover, not "noticing" this or misrepresenting the gender distribution of violence is one part of the reproduction of men's violence, whether this is in men's individual accounts, the understandings of professionals, the media, policy making or research.

4. What might prevent men's violence?

4.1 Some baseline issues

Having briefly reviewed some of the key issues in the perpetuation of men's violence, there is the fundamental question of what might prevent men's violence. An invaluable resource here is the collection of reports produced by the EU Framework 6 Coordination Action on Human Rights Violation summarising the current state of European research on this matter (http://www.cahrv.uni-osnabrueck.de).

At this point, and before going further, I want to stress that, while my focus here is on men, all of what I say is premised on the urgent need for financial and policy support for: women-centred services (e.g., women's refuges, rape crisis centres, incest survivors groups); criminal justice reforms; safer housing alternatives for women and children; income support for women and children; inter-agency, integrated policy development and coordination; education, training and publicity; the recognition of differences, including services for black and minority ethnic women, lesbians and women with disabilities; and creating safer public spaces.

At the same time, and in relation to men, the prevention of violence needs to proceed at all levels and in all forums by changing: male self/selves; men's personal, intimate and sexual relations; men's living, family and household relations;

men in groups and men's support for men; men through education; men in agencies; men through campaigns and public politics; men through anti-poverty and reducing inequalities; and men in societal structural relations.

This means developing anti-violence policies and practices in all agencies, workplaces and communities, not only the criminal justice system. It means not relying simply on one set of interventions or innovations. One crucial area is the question of men's support for men and the ambiguities that may surround that area in terms of either support for violence or acting against violence (Hearn, 1998a). A complex challenge is how to encourage and develop close intimate friendships between men, but in ways that do not implicitly or explicitly condone or excuse violence. I would also like to highlight the importance of educating men (and boys) against violence as a lifelong, principled process, from a young age — say, kindergartens — through the entire life course, and not just something to be delivered 'as advice' for older children in secondary schools (Hearn, 1999). One set of policy reforms that has attracted much attention in recent years is men's programmes and I will now address them in a little more detail.

4.2 Men's programmes

Men's programmes are especially interesting in that they are one of the few agencies specifically aimed at reducing or stopping men's violence to women and children. In 2002, the Council of Europe (2002, p. 12) recommended that "(m)ember states organise intervention programmes designed to encourage perpetrators of violence to adopt a violence-free pattern of behaviour by helping them to become aware of their acts and recognise their responsibility". On the other hand, while such programmes address men's violent practices, that, in and of itself, is no guarantee of effectiveness. Indeed, promoting such social interventions as a blanket policy regardless of their quality can be dangerous.

One of the longest evaluative research studies, which was over four years in duration, was conducted in the USA by Edward Gondolf (1998), the foremost researcher of men's programmes. This found mixed results. Nearly half (47 percent) of the men (both those who completed and did not complete the survey) used violence during the first 30 months. Only 21 percent of men were reported by their partner to have been neither verbally or physically abusive in the period. The USA National Institute of Justice (NIJ) (Jackson, Feder, Forde, Davis, Maxwell & Taylor, 2003) has summarised the state of international evaluation research on men's programmes. The lead author of the meta-review, Shelley Jackson (2003), wrote: "Early evaluations consistently found small programme effects; when more methodologically rigorous evaluations were undertaken, the results were inconsistent and disappointing. Most of the later studies found that treatment effects were lim-

ited to a small reduction in reoffending, although evidence indicates that for most participants (perhaps those already motivated to change), 'batterer intervention programmes' may end the most violent and threatening behaviors".

In the NIJ team's own research, they found no significant differences between men who battered in the men's programme and the control group in one case. In the other case, men completing the 8-week programme showed no differences from the control group, while men completing the 26-week programme had significantly fewer official complaints lodged against them than the control group, but no significant change in attitudes towards domestic violence. From this, and with the wide variation in the methods and approaches that are used, international evidence on the effectiveness of these programmes is such that they cannot be evaluated or recommended in general.

This is not to dismiss men's programmes but rather to develop priority measures when they are considered or implemented – in the following ways:

- ensuring that the highest priority is devoted to the safety of women and children through contact between programme staff and the women, and the staff working with them; such professional contact is especially important when the man is living with or in contact with the woman;
- not avoiding the legal consequences of criminal behaviour; linking programmes to court-mandating; not replacing legal sanctions;
- clear principles: recognition men's violence to women is power and control in the context of dominance;
- working in cooperation/coordination with programmes dealing with the protection of women and including women victims' own assessments in evaluations of men's programmes;
- recognising men as being responsible for their violence;
- examining the effectiveness of programmes and whether this effectiveness justifies the cost, which includes recognising problems in comprehensive, long-term evaluations of programmes;
- resourcing programmes must not divert funding from women's projects and services;
- improve programmes, including considering co-leadership by women and men, the full training of leaders and gender power analysis;
- recognizing the dangers of overstating effectiveness claims and offering false hopes to partners, ex-partners and affected parties, who may make plans on that basis, but also making it safe for partners to leave/separate; and
- in addition, great care must be taken in risk assessment and selection, as such programmes are unlikely to be effective for the most dangerous men (Mullender & Burton, 2001; Edwards & Hearn, 2004).

Significantly, USA research has found that women's – that is, women victims' or survivors' – predictions of violence from their partners or ex-partners substantially improved prediction compared with established risk factors alone, and were by themselves better predictors than several established psychological measures of the risk of violence (Gondolf & Heckert, 2003; Heckert & Gondolf, 2004).

These questions of interventions in men's programmes and related anti-violence work need to be placed in a broad political, policy and research context. In a recent policy paper, Bob Pease (2008), the Australian professor of social work and expert on violence, has commented on the relative ease of acceptance of men's programmes, usually without evaluation; the relative ease of gaining praise; and the longer-term implications of men's programmes, including the dangers of men taking over the field and diluting the feminist orientation. I have, at times myself encountered strong advocacy of men's programmes by some, when there has been no evidence of their effectiveness.

There is a strong need to link both men's violence prevention to gender equality promotion and feminist analysis, and focused interventions to the wider problem. Pease continues on the need for men to understand men's privilege, men's interests, men's resistance to change, men's backlash responses to change and the limitations of strength-based and male-positive approaches to working with men. He advocates that men's involvement in men's violence prevention should be linked to the promotion of gender equality and social justice movements, with a feminist analysis as the central underpinning. The primary prevention of men's violence should be refocused to system interventions: locating men in their specific context, interrogating masculinity, and ensuring that men's violence prevention work is accountable to women. In particular, he argues for a far wider scope of intervention, namely, this should be directed towards non-violent men, as it is their silence which maintains men's violence (Pease, 2008).

One useful way that I have found of understanding men's programmes and putting them into a more realistic social context is in terms of concentric "circles of men". These may begin with the men in men's programmes, which deal with relatively small numbers, but then there are also: men in the criminal justice system; men in agencies contacted regarding violence; men in agencies contacted regarding other issues, such as addiction or psychiatric problems, but who may mention the violence "in passing" to, say, local doctors; men using violence but not in contact with agencies; men supporting other men's violence, but not using violence directly themselves; men who are not supporting violence; and men opposing violence. These different circles of men are all important in stopping violence. The involvement of all of them is necessary, even if rather different methods and forms of engagement may be possible for these different groups.

4.3 Violence = inequality = violence

To stop men's violence means considering how violence produces inequality which can in turn lead to violence. Sylvia Walby, the UK professor of sociology and European expert on gender and violence, and her research colleague, Andy Myhill (Walby & Myhill, 2001), have reviewed some of the more general factors that seem to be associated with greater tendencies towards men's violence. They include the impact of lower household income, financial difficulties of households, women's and children's poverty, and women's lower employment status upon men's violence. This is the case even though men's violence occurs across all sectors and classes. It also does not suggest excuses or simple causes and effects. Yet men's violence may be linked to gendered material circumstances; these, along with changing patriarchal practices, attitudes and family and marital inequalities, need to be addressed in policies against men's violence. To put this simply, (gender) inequality causes violence, and violence causes – in fact, is – (gender) inequality.

4.4 Learning from peaceful societies

To broader this even more – what can be learned from peaceful societies? The anthropologists Signe Howell and Roy Willis (1989) reviewed links between a propensity to violence (or lack of it) and more general societal features, especially in peaceful societies. They conclude that the societal definition of masculinity had a significant impact on men's propensity towards violence. In societies where men are permitted to acknowledge fear, levels of violence are lower. Where masculine bravado, repression and denial of fear were defining features of masculinity, where bravado was prescribed for men and where masculinity and femininity are highly differentiated, violence is likely to be higher. Such broad societal themes need to be borne in mind when working to stop men's violence.

5. Some ways forward

To conclude, there are a variety of social tendencies – in practice, policy, politics and research – that might act against men's violence:

- gendering men, naming the men doing violence as men;
- recognising, not denying or minimising, men's violence;
- defining violence broadly; not limiting it to certain kinds of physical violence;
- seeing men's violence as a social, rather than primarily an individual, problem;
- seeing men's and women's violence as asymmetrical;
- refraining from explaining violence in ways that excuse men and instead making men responsible;

— observing the relationship of violence to the other aspects of social life; and
— not perceiving current social relations between men and women as "natural".

Men's violence is not a "thing"; nor is it simply a collection of "incidents". It is social structures and social processes, sometimes over a long period of time. To understand this entails engaging with the relationship of men's violence, sexualities, gender relations and other social inequalities, including war and militarism. As stated, gender violence ≠ gender inequality ≠ gender violence. Stopping men's violence means not only developing good specific policies, programmes and procedures; fundamentally crucial as they are, they are not enough. Stopping violence means changing men, masculinities and men's practices to different kinds of people who do different, gender-equal things and have different, gender-equal priorities and sexualities within different and equal gender structures.

Acknowledgements

I would like to thank the researchers who have cooperated in research projects on violence that I have been involved in for: the Council of Europe, EU Framework 5 CROME network, EU Framework 6 CAHRV, UNICEF, SIDA, Nordic Council of Ministers, Sexual Violence Research Initiative, Global Action on Health, UK ESRC, Swedish Research Council, Academy of Finland and, in particular, Professors Susan S.M. Edwards, Linda McKie and Bob Pease.

Documents

Decision No 779/2007/EC of the European Parliament and of the Council of 20 June 2007 establishing for the period 2007–2013 a specific programme to prevent and combat violence against children, young people and women and to protect victims and groups at risk (Daphne III programme) as part of the General Programme 'Fundamental Rights and Justice'

References

Barclay, G., Tavares, C., Kenny, S., Siddique, A. & Wilby, E. (2003). *International comparisons of criminal justice statistics 2001.* London: Research Development & Statistics Bulletin, Home Office, Issue 12/03. Retrieved from: http://www.homeoffice.gov.uk/rds/pdfs2/hosb1203.pdf

Edwards, S.S.M. & Hearn, J. (2004). *Working against men's "domestic violence": Priority policies and practices for men in intervention, prevention and societal change.* Strasbourg: Council of Europe. IP2 (2004) 32.

Ferguson, H., Holter, Ø.G., Jalmert, L., Kimmel, M., Lang, J., Morrell, R. & de Vylders, S. (2004). *Ending gender-based violence: A call for global action to involve men.* Stockholm: SIDA. Retrieved from: http://www.sida.se/sida/jsp/sida.jsp?d=118&a=3108&searchWords=ferguson

Gondolf, E.W. & Heckert, D.A. (2003). Determinants of women's perceptions of risk in battering relationships. *Violence and Victims*, Vol. 18, 371–386.

Hanmer, J. (1990). Men, power and the exploitation of women. In Hearn, J. & D. Morgan (eds.) *Men, masculinities and social theory*. London and New York: Unwin Hyman/Routledge.

Hanmer, J (1996).) Women and violence: Commonalities and diversities. In B. Fawcett, B. Featherstone, J. Hearn & C. Toft (eds.) *Violence and gender relations*. London: Sage.

Hearn, J. (1998a). 'Men will be men: the ambiguity of men's support for men who have been violent to known women'. In J. Popay, J. Hearn and J. Edwards (eds.) *Men, gender divisions and welfare*. London: Routledge.

Hearn, J. (1998b). Theorizing men and men's theorizing: men's discursive practices in theorizing men. *Theory and Society*, Vol. 27, No. 6, 781–816.

Hearn, J. (1998c). *The violences of men: How men talk about and how agencies respond to men's violence to women*, London: Sage.

Hearn, J. (1999). Educating men against violence to women. *Women's Studies Quarterly*. Vol. 27, No. 1–2, 140–151.

Hearn, J. (2006). The implications of information and communication technologies for sexualities and sexualised violences. *Political Geography*, Vol. 25, No. 8, 944–963.

Hearn, J. & Parkin, W. (2001). *Gender, sexuality and violence in organisations*. London: Sage.

Heckert, D.A. & Gondolf, E.W. (2004). Battered women's perceptions of risk versus risk factors and instruments in predicting repeat reassault. *Journal of Interpersonal Violence*, Vol. 19, No. 7, 778–800.

Howell, S. & Willis, R. (1989). Introduction. In S. Howell & R. Willis (eds.) *Societies at peace*. London: Routledge.

Jackson, S. (2003). Batterer intervention programmes. In S. Jackson, L. Feder, D.R. Forde, R.C. Davis, C.D. Maxwell and B.G. Taylor (eds.) *Batterer intervention programmes: Where do we go from here?*, Washington DC: National Institute of Justice. Retrieved from: http://www.ncjrs.org/txtfiles1/nij/195079.txt

Jackson, S., Feder, L., Forde, D.R., Davis, R.C., Maxwell, C.D., & Taylor, B.G. (2003). *Batterer intervention programmes: Where do we go from here?* Washington DC: National Institute of Justice. Retrieved from: http://www.ncjrs.org/txtfiles1/nij/195079.txt

Kimmel, M.S. (2002). "Gender symmetry" in domestic violence: a substantive and methodological research review. *Violence against Women*, Vol. 8, No. 11, 1332–1363.

Mullender, A. & Burton, S. (2001). Dealing with perpetrators. In J. Taylor-Browne (ed.) *What works in reducing domestic violence*? London: Whiting and Birch.

Pease, B. (2008) Engaging men in men's violence prevention: Exploring the tensions, dilemmas and possibilities, *Australian Domestic & Family Violence Clearinghouse*. Issues Paper 17. Australian Domestic & Family Violence Clearinghouse, Australia. Retrieved from: http://www.adfvc.unsw.edu.au/PDF%20files/Issues%20Paper_17.pdf

Walby, S. & Allen, J. (2004). *Domestic violence, sexual assault and stalking: Findings from the British Crime Survey*. London: Home Office Research, Development and Statistics Directorate.

Walby, S. & Myhill, A. (2001). Assessing and managing risk. In J. Taylor-Browne (ed.) *What works in reducing domestic violence*? London: Whiting and Birch.

Electronic sources

CAHRV, Coordination Action on Human Rights Violations
http://www.cahrv.uni-osnabrueck.de/

WHAT OTHER PROJECTS FOUND

Dalida Rittossa, Milana Trbojević Palalić

Suppressing the Secondary Victimisation of Sexually Abused Children: A Croatian Perspective

Sexual crimes against children have been considered some of the most serious crimes in general. Once the crime is discovered, there is a strong need not to acknowledge the incident. According to scientific researchers, the fear of the child's secondary victimisation can prevent parents and guardians from reporting the crime.

Bearing this in mind, the aim of this paper is to research the incidence of the heaviest sexual crimes against children in Croatia in the last 15 years, to detect statistical deviations and to see whether the Criminal Code and Criminal Procedural Code Amendments could have influenced such oscillations. Special attention will be given to the provisions of the 2009 Criminal Procedural Code governing new methods to suppress child secondary victimisation. The proposed solutions will be evaluated according to the analysis of the Supreme Court and three county courts SAC cases in the period from 1993 to 2005.

1. The problem statement

The permissibility of certain sexual behaviour is ethically and legally dependent upon the overall presuppositions and standards of any given community. As societal beliefs and moral standards changed over time, they brought changes to the rating of serious criminal acts of immoral behaviour. History indicates that it was never questionable to punish sexual acts against children (Phipps, 1997, pp. 6–7; Hirjan & Singer, 1998, pp. 17–18; Rittossa, 2007, p. 8). However, despite historical legal protection of children and overall consensus regarding the necessity to prescribe criminal acts, the research indicates that little has been done to strengthen the public's and victims' confidence in the legal system and the protection it provides. A small number of convictions that end up with legally binding sentences (Grozdanić & Rittossa, 2007, pp. 3–4) automatically reduces the people's confidence about reporting new cases (Sarre, 1999, pp. 190–191). Other factors also influence victims' reluctance to speak up about the abuse, such as long legal proceedings, the victims' vulnerability and exposure during the process, a sense of shame, discomfort, pain, guilt, especially if the offender is a close person, and the fear of an inappropriate reaction from the family (Lievore, 2003, pp. 26–35). Such negative treatment leads to a secondary victimisation of the victim.

Secondary victimisation is the abuse to the victim that occurs not as a direct result of the criminal act, but through the response of institutions and individuals to the victim (Miers, 1992, p. 490; Patsourakou, 1994, p. 45; Wolhuter, Olley & Denham, 2008, pp. 47–48; Council of Europe, 2006). In the scientific literature, secondary victimisation has also been known as a "phenomenon of the second assault" or a "second wound" (Meintjies-Van Der Walt, 1998, p. 163; Washington, 1999, p. 713). These injuries can be caused by friends, family and, most often, by the law enforcement officers, prosecutors, judges, social service workers, the media and mental health professionals that victims encounter as a result of reporting the crime. Those individuals may lack the ability or training to provide the necessary comfort and assistance to the victim (Bond & Sandhu, 2005, pp. 80–86) or even blame the victim for the crime. Such a scenario is present in certain child sexual abuse cases in which the perpetrator is a close member of the family. Usually, child victims' closest relatives react negatively to disclosures of abuse in an attempt to prevent family shame. Negative reactions intensify the immediate consequences of crime by prolonging or aggravating the child's trauma (Ellison, 2007, pp. 180–181). Research and professional experience shows that secondary victimisation causes stronger consequences for young victims (Egger, 1994–1995, p. 45). The younger the victim, the more serious the consequences. Experiencing suffering can leave children feeling both isolated and insecure, causing them to lose faith in the help available from their parents, teachers, friends and classmates.

Croatia currently does not have any programmes designed to prevent the sexual abuse of children or projects focused on reducing secondary abuse. The latest amendment to the Criminal Code confirms that this strategy of combating sexual crimes at the expense of children is built solely on the application of the criminal law of repression (Amendments of the Criminal Code, 2006, Article 53). Such legal policy is insufficient, however. In fact, research indicates that the threat of punishment has the least significant impact on preventing sexual crimes against children (Cossins, 2006–2007, p. 300). Obstacles to the suppression of sexual crimes do not owe to the mild punishment of perpetrators, but to their limited reporting and significant number, as well as the secondary victimisation. The research to verify a connection between the negative effects of secondary victimisation and the incidence of sexual crimes against children was conducted at the Croatian State Institute for Statistics and at the Supreme Court of the Republic of Croatia and three county courts (Zagreb, Rijeka and Split) with the largest territorial jurisdictions.

2. Phenomenological findings – incidence of the heaviest sexual offences against children on the state level

The incidence of the heaviest sexual offences against children has been tracked in two periods, with the first one extending from 1993 until 1997, and the second one from 1998 until 2007. The ratio of dividing data in the two periods is enacted by the 1998 Criminal Code and Code of Criminal Procedure, which are still in effect. The provisions of the Criminal Code have substantially altered the criminalization of sexual crimes in general. The provisions have also given a wide range of protection to children, forbidding anyone to influence a child in any corruptive manner, to harm a child by affecting his innocence and lack of knowledge about sexuality and sexual intimacy, to inappropriately and lustfully touch a child, and to commit sexual acts and intercourse with a child (Criminal Code, 1997, Articles 192, 193, 194). The accepted procedural solutions have additionally protected children as victims during the court procedure. By separating the data, we can also verify whether legislative amendments have influenced the incidence of the offences prescribed by new provisions.

According to the research findings, the prevalence of sexual offences against children in Croatia is stabile and has not significantly changed over time. The number of cases oscillated between 7 and 14 in the first period. The lowest number of cases was detected in 1996 (7 cases), 1994 and 1995 (8 cases), while the highest number occurred in 1993 (13 cases) and 1997 (14 cases). There was a considerable increase in offences during the second period. Only 9 cases were detected in 1998; however, in coming years, the average number of cases would be 22. No matter the increase, the number of cases does not go over 33 per year, which constitutes a rate of approximately 0.74 per 100,000 Croatians. What is intriguing is the fact that most of these cases were condemned in the first and the last year of the first period. The following two years, 1998 and 1999, show a considerable drop-off in cases (9 and 11 cases). Even so, a positive trend in the prevalence of crime was reduced during the time. This statistical anomaly was caused by the Criminal Code amendments. Bearing in mind the incoming legislative modifications, judges did their best to resolve cases in 1997. On the other hand, due to a lack of criteria to interpret newly promulgated provisions, especially the institute of an equivalent sexual act, they postponed the pronouncement of judgments. In addition, procedural provisions on questioning the child victim raised certain concerns about how to implement them in practice. It was particularly doubtable whether the filmed and recorded child victims' statements should be a part of court records and thus reproduced during the trial when summing up the evidence gathered during the investigation or whether it was sufficient to read a written transcript

of this evidence (Petö-Kujundžić, 2004, pp. 111–118). During this time, criteria have been established, influencing statistical dynamics as well. Moreover, the intensified flow of pending cases from the previous years resulted in statistical increases during the second period.

State-level data of the heaviest sexual offences against children reflect a dogmatic interpretation of proscribed offences and the efficiency of crime prevention policies. The recent public request to impose heavier sanctions for so-called "paedophile cases" could only be justified in cases reflecting disproportional increases in sexual offences committed against children in relation to sexual offences in general (Croatian Ministry of Justice, 2008). According to the research findings, amendments to the Criminal Code and Criminal Procedural Code have also affected the prevalence of the offences committed against minors and adult victims. For example, a significant increase in all sexual offences, as well as those against children, occurred in 1997 (14 sexual assaults against children and 99 cases in total). On the other hand, judges delivered only 7 judgments for sexual assaults against children and 61 judgments for all sexual assaults in the previous year. For the same reasons explained above, judges hastened the court proceedings with adult victims and delivered their final decisions. The percentage of offences against children of the total number of sexual offences varies over time; however, the oscillations are minor and insignificant from the standpoint of prevention. Children were assaulted the least in 1999 (6.60 percent) and 2004 (8.70 percent). They suffered the most assaults in 2001 (17.90 percent), 1997 (14.10 percent) and 2002 (13.80 percent). Statistical relativity is particularly evident in the last year of the research. Although the highest incidence of sexual offences against children was noted in that year (33 cases), it only comprised 11.50 percent of all sexual offences, which is the average proportion of child sexual assaults against the total number of sexual offences. Consequently, phenomenological findings do not support the notion that there is an urgent need for heavier sentencing.

3. Secondary victimisation of sexually abused children

3.1 The phenomenon of secondary victimisation in court practice

To verify scientific findings on the secondary victimisation of sexually abused children in Croatia and to detect its modes all 42 of the final court judgments of the Supreme Court of the Republic of Croatia and county courts in Zagreb, Rijeka and Split from 1993 to 2005 have been analysed in detail. Judges paid special attention to secondary victimisation in only 6 cases. The fact that traces of secondary

victimisation could only be found in 14 percent of all cases raises a great concern. Undoubtedly, the second assault phenomenon has incidentally been raised as an issue in Croatian court practice. For the most part, secondary injuries were identified while evaluating the testimony of a child victim or gathering evidence on the gravity of the criminal act in question.

In an August 2004 case in Zagreb, the court found that the child victim of sexual crimes was further traumatized because her immediate environment failed to react. Family members learned about the abuse, but did not discuss it with the child. The atmosphere of silence left the child isolated. This led to feelings of shame and guilt and over time, the child developed mechanisms to suppress the traumatic events (County Court in Zagreb, I Kzm-8/04). In cases where the offence is not revealed or where the environment discovers the crime and acts excessively, the child will experience the same trauma. Just as the lack of reaction adds to the trauma, so do excessive emotional reactions by family members or those in the victim's social environment (Schneider, 2001, p. 541).

Secondary victimisation also occurs in cases where the child is not believed to have been sexually abused. In the K-19/03-51 judgement of the County Court in Slavonski Brod, the court concluded that the girl suffered a sense of guilt caused by the lack of protection, which resulted in verbal aggression and impulsiveness. The primary cause of this behaviour was her mother's lack of protection against her father's sexual advances. Her mother did not believe her and threw away her written note revealing the abuse (County Court in Slavonski Brod, K-19/03-51). Another case conducted in the County Court in Zagreb involved two girls who complained to their mother about abuse and were dismissed by her. Because of their father's abuse, the unhealthy family environment, and a lack of protection from their mother, the girls have developed depression, anxiety and post-traumatic stress disorder. Such victimisation resulted in lasting negative emotional, sexual and social consequences (County Court in Zagreb, I Kzm-6/00). In another case from 2000, a 17-year-old victim found protection from her fiancée, who extended the support that was lacking from the victim's mother, who believed the stepfather more than her daughter. The abused girl was additionally damaged by the distrust of her mother, who accused and rejected her. With the fiancée's support and acceptance, she was able to speak about and deal with the trauma for the first time (Psychiatric expert opinion, County Court in Zagreb, I Kzm-3/00). Secondary victimisation will be particularly evident in cases where children are pressured to withdraw their accusation on charges of breaking up family (Taylor, 2004, pp. 5–6, pp. 29–30). According to the research, there is no known evidence of any case in which a family has manipulated the victim to protect family integrity, but experience shows otherwise.

The work of parties such as the police, prosecution and judge in criminal proceedings can be misinterpreted by the child and lead to a feeling of distrust, which brings about further consequences of secondary victimisation. Frequent testing and testing by untrained personnel cause the child to relive the sexual assault. Undeniably, any examination and court visit disturbs the child (Fulcher, 2004, pp. 81–82). Repeated examinations have a traumatizing effect in light of the tendency to suppress painful experiences (Ellison, 1999, pp. 30–32). Such data was found in the verdict of the Zagreb County Court in 1998. Even the thought of re-examining the details of abuse caused the victim extreme anxiety. Her behaviour visibly changed after she was told about the need to give testimony in court. The girl began to weep and then shut down and refused to communicate. Only after a prolonged conversation about unrelated topics did the girl agree to briefly retell the event, during which she was visibly disturbed. It was obvious that she wanted to skip that part of the testimony and it was not possible to gain further details regarding the abuse (County Court in Zagreb, I Kzm-5/98). Bearing in mind the intensity of the pain felt by the child when giving testimony, psychologists recommend that a conversation about sexual abuse with the child should not last more than 30 to 45 minutes, of which only 10 minutes should refer to the actual abuse (Zorić, 2004, p. 121).

One of the triggers of secondary victimisation is the examination of the child in the presence of the perpetrator (Simon, 2006, p. 59). This extremely traumatic situation was experienced by a boy in criminal proceedings in a June 1998 case tried at County Court in Zagreb. After initial improvement, his conditions drastically worsened after he testified in court in the presence of his abuser. He experienced anxiety attacks, discomfort and problems taking public transportation (Psychiatric expert opinion, County Court in Zagreb, I Kzm-6/98). It is essential to determine a child's ability to testify in criminal proceedings in order to determine whether the child can testify about the criminal event at all. It is necessary to examine child's self-perception and his perceptions of the world around him, as well as the child's ability to distinguish between reality and fantasy and good and evil. Following that assessment, it may be possible to obtain testimony regarding the event. Unfortunately, this preliminary examination can be understood as an attack and generate distrust on the part of the child. Criminal law cannot directly reduce the consequences of secondary victimisation that result from family reactions. However, by applying special procedural solutions, the negative experiences resulting from the child's active participation can be kept to a minimum. Special measures regarding the reduction of secondary victimisation have been established in Croatian criminal proceedings.

3.2 Measures to reduce secondary victimization of sexually abused children in criminal proceedings

In the last twenty years, guaranteeing rights to victims of criminal offences ceased to be an issue that was discussed exclusively at the national level (Harding, 1994–1995, p. 27). Understanding the importance of victims from the perspective of achieving criminal and political goals influenced the development of the idea of the so-called "victim policy" ("Viktimistische Politik") (Steinert, 1998, pp. 12–22) or "victims' emancipation" (Doak, 2003, p. 2), as opposed to traditional crime policy focused on the perpetrator of the criminal offence. In the framework of this criminal legal policy, raising awareness of the need to guarantee the rights of victims in criminal proceedings has become a political priority (Daems & Robert, 2006, pp. 256–270).

If the set requirement is considered in the framework of the contemporary historic development of Croatian legislation, it indicates that until 2002, there was no systematic monitoring of the development and changes in the rights of victims and their protection during criminal proceedings, especially when it comes to children (2002 Amendments of the Criminal Procedural Code). The above conclusion is derived from the following: a) analysis of the flow of changes of the provisions of the law on criminal proceedings, and b) results of the research of court practice views about ways of preventing secondary victimization during criminal proceedings in cases of sexually abused children between 1993 and 2007. The paper will continue with the analysis of provisions of the following legislative acts: the 1993 and 1998 Criminal Procedural Codes and the new 2009 Criminal Procedural Code (further in the text: 1993 CPC, 1998 CPC, 2009 CPC).

The 1993 CPC devoted almost no attention to the need to prevent exposing the victim to distress during criminal proceedings. Specifically, calling a minor who is under sixteen as a witness was conducted through parents or legal representatives, except in cases where it was impossible to do so because of the need to act urgently (1993 CPC 220/II). During the hearing of a minor, especially if he was the injured party, he should have been treated with consideration in order to avoid having a harmful influence on his mental state (1993 CPC 221/IV). If necessary, the hearing was performed with the help of a pedagogue or some other qualified professional. From the opening session until the end of a trial, the council could, at any time, be it *ex officio* or upon proposal by the parties, exclude the public during the entire hearing or part of it, if considered necessary for the protection of the interests of the minor (CPC, 1993, Article 278). However, according to Article 159, paragraph 4, in addition to the prosecutor, the hearing of a minor might have been witnessed by the defendant and the defence attorney. From the perspective of protection from secondary distress, this provision is quite questionable, especially with regard to the Criminal Court findings described above.

The first progress towards the development of a system of protection for victims of criminal offences in Croatian criminal law was made in 1998 by enacting the CPC and Law on Juvenile Courts. In relation to the question of preventing secondary victimization of children as a special category of vulnerable witnesses, the 1998 CPC proscribed that:

a) the hearing of a child victim of a criminal offence had to be carried out with the help of a psychologist, pedagogue or qualified professional, and
b) during the hearing, a minor had to be treated with consideration (1998 CPC 238/V) (Hrabar, 2000, pp. 221–230).

Furthermore, there was the possibility of excluding the public throughout the main hearing or part of it for the protection of the personal or family life of the injured party or some other participant in the proceedings, or to protect the well-being of the minor (CPC, 1998, Article 293). Such an arrangement reflected the fact that the Croatian legislators became aware of the issue of protecting children victims and/or witnesses from the secondary abuse they have been exposed to during proceedings. However, complete, systematic protection of victims in criminal proceedings, including children, was not introduced until 2002 through the amendments of the 1998 CPC and the adoption of the Law on Witness Protection.

According to these amendments, the following measures were envisaged:

a) the obligatory presence of a psychologist, pedagogue or some other qualified professional during hearing and the absence of a judge and parties in the room where the child is situated;
b) the parties may ask the child questions through the judge, psychologist, pedagogue or some other qualified professional (1998 CPC 248/V; Law on Juvenile Courts 119/II);
c) children and minors shall be interrogated in order not to experience harmful effects to their mental health (1998 CPC 248/IV); and
d) in order to protect the wellbeing of the minor, the court council may exclude the public throughout the trial or a part of it (1998 CPC 310/V).

For the most part, the aforementioned measures are in line with the new victim protection policy. However, it was only with the adoption of the new Criminal Proceedings Code in 2009 that a new and principally different approach to criminal proceedings and the position of the victim was expressed.

The practice of the Supreme Court highlighted some basic problems with obtaining a statement from a child, victim of a criminal offence, according to the criminal law provisions currently in force. Obtaining a witness statement in this manner has traditionally been possible in all modern criminal proceedings as a general means of gathering the most important evidence in practice. However, the 2009 CPC contains significant novelties in this area. The new law attempts to

regulate the victim's right to privacy as a person who has already suffered a shock from the commitment of a criminal offence, and thus to prevent or at least reduce secondary victimization triggered by the inappropriate treatment of the victim during proceedings. With that aim, the 2009 CPC regulates in detail a special way of obtaining a statement from a child or a minor. The child shall testify:

1) only once, as a rule;
2) exclusively in front of the court;
3) by means of audio-video conferencing;
4) in the presence of an expert (psychologist or pedagogue), and, depending on the circumstances, in the presence of a parent or a guardian.

These measures are welcomed, as scientific research indicates that children who are more involved in criminal procedures are more traumatised and suffer psychological consequences for a longer period of time (Gutman et al., 2001, p. 174). Moreover, according to Article 292, if not otherwise proscribed by a special law, the questioning of a child as a witness shall be carried out by the investigating judge. The questioning will be carried out without the presence of a judge or parties in a room where the child is located by means of technical picture and sound transmitting devices operated by qualified professional. The questioning will be performed with the help of a psychologist, pedagogue or other qualified professional and unless it is against the interests of the proceedings or the child, the parent or guardian may be present at the questioning. The parties may pose questions to the child-witness upon the approval of the investigating judge by way of a qualified professional. The hearing shall be recorded with an audio-video recording device and the recording shall be sealed and enclosed with the court records. In exceptional cases, a child may be re-examined in the same way. In addition, if a child is the victim of a criminal offence against sexual freedom and sexual morals, CPC proscribes that the victim has the right, among other things, to:

1) talk to a counsellor or authorized person before his or her questioning, at the expense of budgetary resources, if he or she participates in the proceedings as the injured party;
2) be questioned by a person of the same sex at the police and public prosecutor's office;
3) refuse to answer questions relating to the strictly personal life of the victim;
4) personal secrecy; and
5) demand the exclusion of the public from the trial.

From this brief overview of procedural provisions designed to prevent secondary victimization, it can be concluded that the 2009 CPC has in its greater part implemented appropriate measures to protect child victims from troublesome and

distressful secondary attacks in the aftermath of the crime. However, in addition to the legal amendments, a whole series of other conditions have to be provided, which would guarantee safety and protection from secondary victimization to the victims and witnesses.

4. Conclusion

According to the research findings and comprehensive analysis of the 1998 and the most recent Criminal Code and Criminal Procedural Code amendments, it can be concluded that criminal law cannot directly reduce all of the consequences of secondary victimisation, especially those resulting from family reactions. However, by applying special procedural solutions, the negative experiences resulting from the child's active participation in the case can be kept to a minimum. It is our belief that newly enacted procedural provisions will significantly reduce the secondary victimisation of children in the court. Nevertheless, victimisation outside the court still remains an issue. Further legislative measures are needed to protect the child victim from indirect secondary victimisation. There are no prescribed obligations to inform the child about his position, criminal case and possible outcomes in a way that the child can understand. Therefore, future positive steps in this direction should be taken to further protect the child before, during and after the criminal procedure.

Documents

Amendments of the Criminal Code, *Official Gazette,* 71/06.

Amendments of the Criminal Procedural Code, *Official Gazette*, 58/02.

Council of Europe (2006). Recommendation Rec(2006)8 of the Committee of Ministers to member states on assistance to crime victims.

County Court in Slavonski Brod, K-19/03-51.

County Court in Zagreb, I Kzm-5/98.

County Court in Zagreb, I Kzm-6/98.

County Court in Zagreb, I Kzm-3/00.

County Court in Zagreb, I Kzm-6/00.

County Court in Zagreb, I Kzm-8/04.

Criminal Code, *Official Gazette,* 110/97, 27/98, 50/00, 129/00, 51/00, 111/03, 190/03, 105/04, 84/05, 71/06.

Criminal Code of the Republic of Croatia, *Official Gazette,* 32/93.

Criminal Procedural Code, *Official Gazette,* 34/93, 38/93, 28/96.

Criminal Procedural Code, *Official Gazette,* 110/97, 27/98, 58/99, 112/99, 58/02, 143/02, 115/06.

Criminal Procedural Code, *Official Gazette,* 152/08.

Law on Juvenile Courts, *Official Gazette,* 111/97, 27/98, 12/02.

Law on Witness Protection, *Official Gazette,* 163/03.

Psychiatric expert opinion in case I Kzm-3/00 of the County Court in Zagreb.

Psychiatric expert opinion in case I Kzm-6/98 of the County Court in Zagreb.

References

Bond, T., & Sandhu, A. (2005). *Therapists in Court: Providing Evidence and Supporting Witnesses.* London: Sage Publications.

Cossins, A. (2006–2007). Prosecuting Child Sexual Assault Cases: Are Vulnerable Witness Protections Enough. *Current Issues in Criminal Justice,* Vol. 18, No. 2, 299–317.

Croatian Ministry of Justice (2008). *Oštrije kazne za dilere, pedofile i kamatare.* Retrieved December 21, 2008 from: http://www.pravosudje.hr/default.asp/

Daems, T., & Robert, L. (2006). Victims, Knowledge(s) and Prisons, Victims Entering the Belgian Prison System. *European Journal of Crime, Criminal Law and Criminal Justice,* Vol. 14, No. 3, 256–270.

Doak, J. (2003). The Victim and the Criminal Process: An Analysis of Recent Trends in Regional and International Tribunals. *Legal Studies,* Vol. 23, No. 1, 1–32.

Egger, S. (1994–1995). Victimisation, Moral Panics and the Distortion of Criminal Justice Policy: A Reply to Richard Harding. *Current Issues in Criminal Justice,* Vol. 6, No. 1, 43–53.

Ellison, L. (1999). The Protection of Vulnerable Witnesses in Court: An Anglo-Dutch Comparison. *The International Journal of Evidence and Proof,* Vol. 3, 29–43.

Ellison, L. (2007). Witness Preparation and the Prosecution of Rape. *Legal Studies,* Vol. 27, No. 2, 171–187.

Fulcher, G. (2004). Litigation-Induced Trauma Sensitisation (LITS) – A Potential Negative Outcome of the Process of Litigation. *Psychiatry, Psychology and Law,* Vol. 11, No. 1, 79–86.

Grozdanić, V., & Rittossa, D. (2007). *Fenomenologija suvremenog kriminaliteta - Reader.* Rijeka: Faculty of Law University of Rijeka.

Gutman, J., Tonge, B., King, N., Myerson, N., & Wollner, A. (2001). The Psychological Impact of the Legal System on Sexually Abused Children. *Psychiatry, Psychology and Law,* Vol. 8, No. 2, 174–179.

Harding, R. (1994–1995). Victimisation, Moral Panics, and the Distortion of Criminal Justice Policy: A Review Essay of Ezzat Fattah's "Towards a Critical Victimology". *Current Issues in Criminal Justice,* Vol. 6, No. 1, 27–42.

Hirjan, F., & Singer, M. (1998). *Komentar Zakona o sudovima za mladež i kaznenih djela na štetu djece i maloljetnika.* Zagreb: Ministry of the Interior.

Hrabar, D. & Kocijan-Hercigonja, D. (2000). Dijete - žrtva i svjedok u kaznenom postupku. *Hrvatski ljetopis za kazneno pravo i praksu / Croatian Annual for Criminal Law and Practice,* Vol. 7, No. 1, 221–230.

Lievore, D. (2003). *Non-Reporting and Hidden Recording of Sexual Assault: An International Literature Review.* Canberra: Commonwealth Government of Australia.

Meintjies-Van Der Walt, L. (1998). Towards Victims' Empowerment Strategies in the Criminal Justice Process. *South African Journal of Criminal Justice,* Vol. 11, No. 2, 157–172.

Miers, D. (1992). Responsibilities and the Rights of Victims of Crime. *The Modern Law Review,* Vol. 55, No. 4, 482–505.

Patsourakou, S.N. (1994). *Die Stellung des Verletzten im Strafrechtssystem: Eine rechtsdogmatische, rechtsphilosophische und rechtspolitische Analyse.* Bonn: Forum-Verl. Godesberg.

Petö-Kujundžić, L. (2004). Dijete kao svjedok / Child as a Witness. *Hrvatski ljetopis za kazneno pravo i praksu,* Vol. 11, No. 4, 111–118.

Phipps, A.C. (1997). Children, Adults, Sex and the Criminal Law: In Search of Reason. *Seton Hall Legislative Journal,* Vol. 22, No. 1, 1–141.

Rittossa, D. (2007). *Seksualni delikti na štetu djece.* Zagreb: Croatian Association for Criminal Sciences and Practice & Croatian Ministry of the Interior.

Sarre, R. (1999). Who's on Trial? The Slow Journey down an Important Road to Victim-Centred Law Reform in Sexual Assault Cases. *Psychiatry, Psychology and Law,* Vol. 6, No. 2, 189–196.

Schneider, H.J. (2001). Victimological Developments in the World during the Past Three Decades: A Study of Comparative Victimology-Part 2. *International Journal of Offender Therapy and Comparative Criminology,* Vol. 45, No. 5, 539–555.

Simon, J. (2006). Pre-Recorded Videotaped Evidence of Child Witnesses. *South African Journal of Criminal Justice,* Vol. 19, No. 11, 56–78.

Steinert, H. (1998). Täter-, Opfer- oder andere Orientierungen in der Kriminalpolitik. *Sozialarbeit und Bewährungshilfe,* Vol. 20, No. 3, 12–22.

Taylor, C. (2004). *Court Licensed Abuse: Patriarchal Lore and the Legal Response to Intra-Familial Sexual Abuse of Children.* New York: Peter Lang Publishing.

Washington, P.A. (1999). Second Assault of Male Survivors of Sexual Violence. *Journal of Interpersonal Violence,* Vol. 14, No. 7, 713–730.

Wolhuter, L., Olley, N. & Denham, D. (2008). *Victimology: Victimisation and Victims' Rights.* London – New York: Routledge-Cavendish.

Zorić, J. (2004). Forenzični (postupni) intervju (metode i tehnike intervjuiranja djeteta za potrebe kaznenog progona i postupka. *Hrvatski ljetopis za kazneno pravo i praksu / Croatian Annual for Criminal Law and Practice,* Vol. 11, No. 1, 119–142.

Abigail Stepnitz

The Mail-Order Bride Industry as a Form of Trafficking for Sexual and Labour Exploitation

1. Introduction

This paper[1] explores the concept of servile marriage and the ways in which it overlaps with trafficking and violence against women and girls, especially those brought to the United Kingdom. Reviewed are the social, political and economic contexts in the UK and on a global scale that have contributed to the development and proliferation of the mail-order bride (MOB) industry, the trends that can currently be observed and the ways in which the industry promotes trafficking, slavery, prostitution, pornography, exploitation of vulnerable groups and racial and ethnic stereotyping.

A servile marriage will be understood here to be any situation wherein a woman is in a marriage that is either legally binding or sanctioned by her community in such a way that she has no reasonable possibility of asserting that the marriage is invalid; and wherein the woman is held in domestic and/or sexual servitude that defines her role as a wife.

The internationally recognised definition of trafficking, as established in the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against transnational organised crime (The Palermo Protocol) and quoted in the Council of Europe Convention on action against Trafficking (ECAT), states:

"'Trafficking in persons' shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs."

[1] The paper is drawn from a report published by the POPPY Project in 2009 Male Ordered: The mail-order bride industry and trafficking in women for sexual and labour exploitation.
Available at: http://www.eaves4women.co.uk/POPPY_Project/Documents/Recent_Reports/Male-ordered.pdf.

The dominant understanding of trafficking in persons at the moment reflects connections between what can be called "supply and demand", but does little to highlight the fact that it is a unique crime due to its ability to overlap in public and private spheres, often simultaneously, making it harder to prevent, identify and eradicate.

In the context of mail-order brides, a woman promised a marriage and family who is forced into domestic and sexual servitude has been trafficked in part for forced labour because she is legally bound to her "employer" (husband), has a vulnerable immigration status in the UK because of this arrangement, cannot access public funds, possibly cannot work outside the home and often has little or no English language ability or community support.

The exploitation suffered by trafficked women, for example, has thus been far less difficult to identify when it occurs in the public sphere or in the grey areas between the public and the private. Women trafficked into domestic servitude in private homes are very much in the private sphere, but are still "employees", so we are comfortable quantifying their exploitation in labour or employment terms. It is also easier to see that a woman has been trafficked into sexual exploitation when she is forced into prostitution — there is a direct and quantifiable economic benefit to the person selling her and the men who pay for sex are strangers, so we are more comfortable identifying the violation.

Despite progress being made with regard to identifying trafficking for forced labour, it seems more difficult to recognise that a woman has been trafficked into domestic servitude when the person she is forced to serve is her husband, particularly when she lives in a community that fosters gendered divisions of labour and the relegation of women to the domestic sphere. This may also be the case for women who enter a marriage for predominantly socio-economic reasons, many of whom are fleeing conflict and poverty. The men "rescuing" these women with marriage will often expect a certain level of domestic and sexual "labour" on the part of these women as a form of repayment. Social pressures which regard women as primary providers of domestic labour as well as presume gratitude or debt ensure that women in situations of servile marriage often find themselves in similar situations to women in prostitution with regard to ability to consent and fear of violence, immigration complications or other repercussions if they refuse to offer this consent.

When a woman is deceived or coerced into marriage, moved away from her home and exploited as a wife in domestic and sexual servitude, that woman has been trafficked, her 'husband' reaping the personal and economic benefits of both.

2. Political context

More than just marriages in which women are expected to remain in the home, servile marriages are characterised by gross power imbalances and high levels of control, sexual and labour exploitation and violence. These high levels of violence have been observed in situations of domestic and intimate partner violence, trafficking, prostitution, and exploitation of domestic workers.

Control of the women in these situations generally involves control over her movement such as not being allowed to leave the home without her husband; control of activities; control of identity and travel documents; control of all financial resources; monitoring of communication with others; control of clothing, food, water and medical treatment; and threats of deportation to women with vulnerable immigration statuses, among others.

Servile marriage, when understood correctly as a type of slavery, will be seen as prohibited in the UK, initially with the 1833 Abolition of Slavery Act.

With the rise of human rights activism, law and policy have come several other declarations and conventions that provide additional protections from the abuses of servile marriage. Among these are the Universal Declaration of Human Rights (1948), which states that "Marriage shall be entered into only with the free and full consent of the intending spouses", The Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages (1964),[2] The International Covenant on Civil and Political Rights (1968),[3] The Convention on the Elimination of All Forms of Discrimination against Women (1979),[4] the Beijing Platform for Action (1995)[5] and the UN Convention on the Rights of the Child (1999).

National legislation on marriage also now often focuses on the equal rights of men and women to marry and to do so legally and of their own free will. The absence of such will makes the marriage null and void in many jurisdictions.

---

[2] Article 1.1 states that "No marriage shall be legally entered into without the full and free consent of both parties, such consent to be expressed by them in person after due publicity and in the presence of the authority competent to solemnize the marriage and of witnesses, as prescribed by law".

[3] Article 23 states that: »1. The family is the natural and fundamental group unit of society and is entitled to protection by society and the State. 2. The right of men and women of marriageable age to marry and to found a family shall be recognized. 3. No marriage shall be entered into without the free and full consent of the intending spouses. 4. States Parties to the present Covenant shall take appropriate steps to ensure equality of rights and responsibilities of spouses as to marriage, during marriage and at its dissolution. In the case of dissolution, provision shall be made for the necessary protection of any children«.

[4] Article 16 states that: "The betrothal and the marriage of a child shall have no legal effect, and all necessary action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory".

[5] In Paragraph 274 (e), the Platform urges governments to "[e]nact and strictly enforce laws to ensure that marriage is only entered into with the free and full consent of the intending spouses".

No specific legislation exists in the UK with regard to mail-order brides, but some protective legislation has been developed in the Philippines and the United States, focusing predominantly on informing women about life abroad, limiting the number of women married to foreign spouses, regulating international marriage brokers and creating safeguards for women who suffer domestic violence or other exploitation in the their spouse's country.

3. Economic context

The most often overlooked component of servile marriage is the economic context. In general, there is a severe lack of research and data regarding the economic value of unpaid domestic labour performed predominantly by women in their own households or those of their families. In the 2007–08 Human Development Report, the United Nations Development Programme (UNDP) collected data on "Gender, work and time allocation". In the UK, women who also work outside the home (for an average work day of 7:41) spend an average of 187 minutes per day on non-market reproductive labour, such as cooking, cleaning and caring for children (United Nations Development Programme, 2008, p. 342).

Predictions about the exact monetary value of this labour are difficult to calculate, given that there are no universally accepted guidelines by which to evaluate the worth of domestic labour, neither by task nor by time commitment. At 187 minutes per day, the average woman in the UK spends nearly 50 days per year working for free.[6] The current British national minimum wage is £5.52 per hour, meaning that each woman could contribute more than £6,279 worth of reproductive labour per year. Based on nearly 20,000,000 women of working age, this is a potential annual national total of more than £124bn[7] or 11.3 percent of the country's gross domestic product. According to the Economics and Social Research Council, the UK GDP in 2006 was $1.93 trillion or approximately £1.09 trillion (ESRC, 2007).

Men who also work outside the home (an average day of 7:32) spend an average of 71 minutes per day on these same domestic tasks. A survey of domestic workers in London showed many reporting 16 to 20-hour workdays (Kalayaan, 2007, p. 5). It is reasonable to conclude that women in servile marriages would be forced to keep similar work hours, in addition to fulfilling their husbands' sexual demands.

6 187 minutes per day amounts to 47 days 9 hours and 35 minutes of labour per year, based on a 365-day year.

7 19,571,500 women earning £6279.46 each = £124,028,754,190.00

When we attempt to quantify the labour of women in the home, we can see how reliant the UK is on this "voluntary" contribution. While we cannot characterise all, or even most, of this labour as forced, it gives us an indication of the value that should be assigned to the work done by women in the home and provides guidelines for the compensation that should be available to victims of servile marriage.

4. Analysis

The underlying "push factors" that contribute to greater levels of demand and supply are similar to those of the "war brides" of the last century. High rates of poverty often combined with slow and arduous post-war reconstruction periods lead to high rates of unemployment and few prospects for the future. When this is juxtaposed with media images of wealthy lifestyles, particularly in Western Europe and North America, many women feel that a kind of 'escape' is their only hope. Yet while many women seek the freedom and opportunity they see on their television screens and billboards, they are often pursued by Western men in search of so-called 'traditional' wives, prepared for a life of subservience, obedience and deference. These men, acting as "consumer-husbands" hold all of the power in the marriage transaction and therefore will demand that they are happy with the terms of their purchase — in other words, once bought, a woman will compromise her marriage and therefore often her immigration status, economic security and personal safety if she deviates from the behaviour desired by the consumer-husband.

As Marie-Claire Belleau has shown in her research, in addition to relying on this kind of economic and social inequality to fuel a supply of women, the mail-order bride trade feeds on highly unrealistic and contradictory expectations about marital relationships. The so-called 'First World husband' is typically looking for a docile, submissive and subservient bride whom he can control and dominate.

> "He seeks a MOB specifically because of sexist sentiments, and his hatred and fear of the feminist movement. He rejects women of his own nationality as wives because he considers them to be aggressive and egotistical. He believes they are too ambitious, make excessive demands in marriage and have expectations of equality with their husbands. He criticizes the desire of women for autonomy, independence and equality" (Langevin & Belleau, 2000, pp. 85–89).

Racial and ethnic stereotypes are fuelled by the descriptions and promises made by the MOB websites.

> Singlebrides.com promises: "Each foreign man who has ever met a Ukrainian or Russian woman knows that the phenomenon of a Russian bride consists of simple things, as it may seem – femininity, beauty, her heart open for feelings, extreme devotion to children and, family-orientation".

Frantana, owner of Frantana.ru, which specialises in amputees, promises to find you a "pleasant, with well-amputated stumps woman, who is ready to realize your cherished dream".

These men spend thousands of dollars or pounds to obtain a wife who meets their specifications—a process replete with images of women as sexual commodities who will assume a submissive role toward their husbands (Brocato, 2004, p. 230).

In their study of mail-order brides, Glodava and Onizuka conducted several interviews with consumer-husbands and the wives they purchased. The desire for a better life is reflected by Sue Cormick's comments on her marriage to Jim: "Here I am appreciated. And here I have many appliances". Finally racialisation and "othering" are necessary to sustain these arrangements. As Don Springer (age 46) says, "The Philippines are loaded with homemakers. A man like me is not going to find a woman like this (his 26-year-old wife) here" (Glodava & Onizuka, 1994, p. 38 & p. 72).

In addition to values, appearances and attitudes, however, one cannot underestimate the role of economics in these transactions. While the transatlantic slave trade concealed the gendered and sexualised components of slavery under a conspicuous layer of economics, the mail-order bride industry hides economic inequality under the erotic, or the alleged pursuit of romantic bliss.

It is clear that the great amount of money that is spent on acquiring a wife, subscriptions costs, overseas visits, telephone calls, translation fees, legal fees for marriage and immigration purposes and gifts, cause consumer-husbands to believe that they have purchased and now own their foreign-spouse (Vegara, 2000, p. 1555) These men believe that because they have purchased their wife they are entitled to place very specific demands on her behaviour and to exert much higher levels of control than they may be willing to attempt with a woman from their own community.

Some sites feature links titled "Order Now", "Check Out" or "Shopping Cart".

On the popular discussion site russianwomendiscussion.com for men in search of or married to Eastern European women (all of the quotes below are available from Russian Women Discussion, 2008), two of the most common topics of discussion include the characteristics they attribute to mail-order brides from what they call the "FSU" (Former Soviet Union) and the reasons that they do not want to pur-

sue relationships with Western women. Many will readily admit to a physical preference, a desire for a woman with a pale complexion and hair tone, in part, they argue, so that these women will assimilate more readily into their communities.

> "To be politically incorrect and totally honest I was looking for a white European featured woman, hence the FSU".

> "Back in the early 80's, I got my first taste of "Mail Order Brides" as I received catalogues in the mail from several different companies. Most as I recall were Asian and South American. I found no interest in them and did not pursue them farther than the trash can".

> Some are more interested in the "attitude" of their future wife: "[Russian women] are very attractive to me because of their physical beauty, the likelihood of a high education, their increased femininity (over Western women), and their great sense of culture. It also doesn't hurt that they have a better grip on the roles that men and woman should play in a relationship".

> Some men claim to be disinterested in women in their home countries and their complaints betray their marital intentions quite clearly: "I think that the clue is that Western women, they try to compete with men, they fight with them, they try to show who is stronger in this or that way which is wrong, women should remain women... [They] no longer want to be mothers and so to say behind their hubbies, they want to be independent, business like, possessing some sort of power...they refuse their nature and are becoming like men".

> An infantilising tone is also quite evident: "Women are wonderful to watch as they walk and talk and play. Men are blessed to be able to enjoy this process of observation and interaction. It appears that men are lucky to be blessed with being men".

As expressed by the comments quoted above, and reinforced by the research conducted on consumer-husbands, Western women are typically seen as less fit to be mothers and wives because of their "non-traditional" values and it is, in part, these very stereotypes make the husbands' racially and sexually oppressive behaviours towards MOBs acceptable by casting them as natural and desirable when they are imposed on a given racial or ethnic group.

5. Mail-order brides and violence against women

Research undertaken in the United States has indicated that a significant number of mail-order bride agencies are connected to commercial sex trafficking operations. As noted in this research, the websites that catalogue mail-order brides are venues for pornography and prostitution, including sexually exploitative images of children (INS, 1997, p. 3). Further research has also shown that mail-order brides become victims of violence, sexual exploitation, and sex trafficking.[8]

While little attention has been paid to the purchase, transfer and treatment of mail-order brides in the UK, a report prepared for the USA government in 1999 highlighted that attention to mail-order marriages reflects growing concern about the global recruitment and transportation of women in a variety of exploitative ways. The information on trafficking suggests that mail-order brides may become victims of international trafficking in women and girls. The global magnitude and impact of this traffic in women is already well-documented (INS, 1997, p. 7). It is necessary for the government of the United Kingdom to take an interest in the purchase of these women and their subsequent entry into and treatment in the UK.

While no national figures exist on the abuse of immigrant wives in the UK, there are several factors that suggest the incidence is higher in this population than for the nation as a whole – language barriers, isolation and no recourse to public funds for the first two years of their marriage to British men make these women exceptionally vulnerable. They are also much less likely to access support services.

We can draw on statistics from the United States, which is also a primary destination country for MOBs, in terms of evaluating the prevalence of violence against immigrant women. According to a comprehensive health study conducted in 1998, nearly 31 percent of all USA women are physically abused by their husbands or male cohabitants at some point in their lives (The Commonwealth Fund, 1999, p. 28) and 23 to 26 percent of British women experience some form of domestic violence as well (Sen & Kelly, 2007, p. 17). Incidents of domestic violence have constituted the largest increase in violent crime in the UK since 1981 (Chantler, Burman & Batsleer, 2003, p. 37).

Married immigrant women in the USA experience higher levels of physical and sexual abuse than unmarried immigrant women — 59.5 percent compared to 49.8 percent, respectively (Dutton & Hass, 2000, p. 7).

8 "[A]vailable information suggests not only that mail-order brides may become trafficking victims, forced into sex work or domestic service, but also that the IMB industry per se constitutes a form of sex trafficking" (Lindee, 2007, p. 554) "[R]ather than simply facilitate trafficking in women, the IMB industry might per se constitute trafficking in women" (INS, 1997, p. 562).

Abuse of married immigrant women is therefore nearly twice as high (192 percent higher). No official national figures exist for rates of domestic violence among immigrant women (married or unmarried) in the UK, but if the rates are similar to those observed in the USA, we can estimate that 44 to 50 percent of immigrant women in the UK are suffering physical, psychological and sexual abuse.

According to the government's National Delivery Plan, less than 24 percent of domestic violence crime is reported to the police. Findings from the 1998 British Crime Survey indicated a 35 percent reporting rate (Mirrless, Budd, Partridge, & Mayhew, 1998, p. 40) and in 2004, the same survey indicated a 23 percent reporting rate (Walby & Allen, 2004, p. 76). As mentioned above, women with vulnerable immigration statuses, limited English skills and whose husbands intentionally isolate them will be even less likely to report their abuse. It is thought that abuse against immigrant wives tends to be particularly violent and often includes "the drugging, isolation, stalking, sexual abuse, mental abuse, physical abuse, and, in some instances, even the murder of the female, immigrant spouse" (Fox vs. International Encounters, 1996).

Women who arrive in the United Kingdom to join their husbands are subject to a two-year probationary period. During this period, the immigrant spouse has "no recourse to public funds". According to the 2008 Southall Black Sisters and Amnesty UK report, "No Recourse No Safety: The Government's Failure to Protect Women from Violence", those subject to the requirement cannot claim most social security or housing benefits and cannot access domestic violence refuges. In addition to housing, "public funds" includes benefits under the Social Security Contribution and Benefits Act 1992, such as child benefit and severe disablement allowance, among others (Southall Black Sisters, 2008, p. 6).

6. Willingness of MOB agencies to work with violent men

In 1999, Equality Now undertook an undercover research experiment to examine the willingness of MOB companies to provide services to violent men. Posing as men with histories of violence and marital problems, they sought the extent to which such men would be "readily accepted and assisted in their search for foreign brides" (Equality Now, 1999, p. 1).

The Equality Now research project sent mail-order bride companies an e-mail that was purportedly from a man seeking an MOB. In the email, he states that he pled guilty to disorderly conduct in the context of criminal charges of assault brought by his two ex-wives. The e-mail also mentioned that he had substantial alimony and child support obligations and asked if any of these facts would prevent him from using their services. Sixty-six responses were received.

Three companies refused the fictitious customer service; four requested additional information and fifty-nine were willing to accept him as a customer. Only one of the companies that refused him service said they did a background check to assure their female clients that the male customer has "no prior criminal history and most importantly no domestic abuse history".

> One respondent stated: "As far as sponsoring your alien fiancée, the government couldn't care less if you're Jack the Ripper as long as you're out of jail and free to marry" (Equality Now, 1999, p. 2).

> The annex of responses reveals high levels of misogyny and dangerously dismissive attitudes towards the women advertised, for example: "As far as bitches go, I think I understand. They assert that 'No' means 'No' except when they're nagging, in which case 'No' means, 'Keep nagging and try to get beaten'. I think the language barrier actually helps here; it's hard to squawk through a language barrier" — Tom Alciere (service not indicated) (Equality Now, 1999, p. 2).

> "Having also been accused of assault by Western women, who are usually the instigators of domestic violence, I can tell you: A) don't let it bother you and B) most Thais avoid confrontation, Buddhist philosophy, so they are not likely to start something that may end in violence," Noy and Wayne of Loveasia.com (Equality Now, 1999, p. 2).

7. Conclusion

The very existence of an industry designed to market and sell human beings, such as the mail-order bride industry, is a form of exploitation and degradation. This is true regardless of any alleged consent on the part of the person being sold.

The inclusion of exploited mail-order brides in the concept of trafficking is an important step both in ensuring that the current protections are made available to a heretofore-unidentified group of victims and in encouraging greater regulation of an industry that exploits vulnerable women and children for financial gain.

References

Brocato, V. (2004). Profitable Proposals: Explaining and Addressing the Mail-Order Bride Industry through International Human Rights Law. *San Diego International Law Journal,* Vol. 5, 225–266.

Chantler, K., Burman, E. & Batsleer, J. (2003). South Asian Women: exploring systemic service inequalities around attempted suicide and self-harm. *European Journal of Social Work,* Vol. 6, No. 1., 33–48.

Commissioner of the Immigration and Naturalization Service and the Director of the Violence against Women Office at the Department of Justice (1997). *International Matchmaking Organisations: A Report to Congress.* Washington D.C.: INS

Economic and Social Research Council (ESRC) *Society Today.* Retrieved 18 August, 2008 from http://www.esrcsocietytoday.ac.uk/ESRCInfoCentre/facts/UK/index27.aspx?ComponentId=7102&SourcePageId=18129.

Equality Now (1999). *The Willingness of "Mail-Order Bride" Companies to Provide Services to Violent Men Summary of Research Results.* London: Equality Now.

Fox v. Encounters Int'l, (1996). No. 05–1404. Untied States Court of Appeals for the Fourth Circuit.

Glodava, M. & Onizuka, R. (1994). *Mail-order Brides: Women for Sale.* Fort Collins: Alaken, Inc.

Järvinen, J., Kail, A. & Miller, I. (2008). *Hard Knock Life, Violence against women: A guide for donors and funders.* London: New Philanthropy Capital.

Kalayaan (2007). *Annual Report 2006–2007.* London: Kalayaan.

Langevin, L. & Belleau, M.-C. (2000). *Trafficking in Women in Canada: A Critical Analysis of the Legal Framework Governing Immigrant Live-In Caregivers and Mail-order Brides.* Ottawa: Research Directorate, Status of Women Canada.

Lindee, K. M. (2007) Love, Honor, or Control: Domestic Violence, Trafficking, and the Question of How to Regulate the Mail-Order Bride Industry. *Columbia Journal of Gender and Law,* Vol. 16, No. 2, 551–601.

Mirrlees-Black, C., Budd, T., Partridge, S. & Mayhew, P. (1998). *The 1998 British Crime Survey: England and Wales.* Home Office Statistical Bulletin 21/98. London: Home Office.

Sen, P. & Kelly, L. (2007). *Violence against Women in the UK: CEDAW Thematic Shadow Report on Violence against Women in the UK.* London: London Metropolitan University, Child and Woman Studies Unit.

Southall Black Sisters and Amnesty International (2008). *No Recourse, No Safety: the UK Government's failure to protect women from violence.* London: Amnesty UK.

United Nations Development Programme (2008). *Fighting Climate Change: Human Solidarity in a Divided World.* Human Development Report 2007/08. New York: United Nations.

Vergara, V. B.M. (2000). Abusive Mail-Order Bride Marriage and the Thirteenth Amendment. *Northwestern University Law Review,* Vol. 94, No. 4, 1547–1599.

Walby, S. & Allen J. (2004). *Domestic violence, sexual assault and stalking: Findings from the British Crime Survey.* Home Office Research Study 276. London: Home Office.

WHAT PRACTICE IS TELLING

Rada Grubić

Intercultural Work with Women and Children Exposed to Domestic Violence

1. Introduction

The following paper discusses the concept, work and experiences of the Intercultural Shelter (Interkulturelles Frauenhaus) from Berlin. Established in 2001, it was the first shelter in Germany focused on the situation and needs of immigrant women and children who experienced domestic violence. The background for the conceptualization of this shelter lies in experiences of the project initiators[1] in an autonomous shelter in Berlin Mitte, where the proportion of immigrants among the residents was between 60 and 80 percent.[2] Consequently concrete political and conceptual requirements for work with women victims of violence were identified. In this paper special attention will be focused on standards of such antiviolence work and the referring political and legal framework.

2. Facts, statistics and socio-political framework

Workers offering support in shelters were the first who recognized the problem of inadequate services for immigrant victims of domestic violence, the first to bring the issue into public awareness and the first to develop concepts for working with victims. The first large representative study[3] on violence against women in Germany has shown a large presence of domestic violence in the lives of women and particularly in lives of immigrants (Schröttle & Müller, 2004). The importance of proportional services and a sensible support system for all women exposed to domestic violence, including immigrants, was subsequently pointed out as necessary by the authors. Violence against immigrant women was recently addressed also on the political level and is one of the key issues in the second Federal Government's Action Plan for the Fight against Do-

[1] Louise Baghramian, Nadja Lehman and Rada Grubić.

[2] Officially in Berlin up to 50% of those who seek help and support in projects against violence have an immigrant background (Senatsverwaltung für Wirtschaft, Arbeit und Frauen in Berlin, 2002).

[3] 'Life Situation, Security and Health of Women in Germany', undertaken on behalf of the Federal Ministry for Family, Seniors, Women and Youth.

mestic Violence (Bundesministerium für Familie, Senioren, Frauen und Jugend, 2007).

Despite the progress being made, the experiences from the Intercultural Shelter show that the situation of women placed in shelters is still substantially affected by structural inequalities in the form of uncertain residence status, daily racial discrimination, limited chances on work market, intercultural differences, insufficient knowledge of language and bad or no medical and psychological services provided to them. However, these issues have been addressed on the political level in the Berlin Senate's Administration for Economy, Technology and Women Framework Programme on Equality (Senatsverwaltung für Wirtschaft, Arbeit und Frauen, 2002). The programme stipulates that intercultural perspectives should be included in all measures being implemented, that projects working with immigrants should be included in the development of measures against domestic violence and that intercultural openness should become one of the most important working criteria for all parties involved.

3. Legal framework: Disadvantages and good practice

Aside from some improvements in regard to public and political interest on the situation of immigrant women affected by violence, the legal framework is still rigid and not suited to their needs.

The structural inequality of migrant women is fuelled most by paragraph 31 of the Residence Law.[4] Namely, immigrants who have obtained their residence status through marriage with a German citizen or with an immigrant with permanent residency can lose their residency status if they separate before the completion of 2 years of marriage. If a woman separates due to suffering domestic violence before expiration of this term, she must convince the Foreigners Department about the violence experienced and has to prove that termination of residency presents a special hardship. Since in the past the period for residency status based on a spouse's nationality was set at 4 years, changes in Article 31 of the Residence Law were initially celebrated as a step toward an improvement for immigrant women victims of violence. However seeking refuge in a shelter still represents a danger in that the victim could lose her residency status.

In order to enable victims a normal life immediatly after reporting the violent spouse, in 2002 the Law on Protection against Violence[5] came into force. It stipu-

[4] Gesetz über den Aufenthalt, die Erwerbstätigkeit und die Integration von Ausländern im Bundesgebiet.

[5] Gesetz zum zivilrechtlichen Schutz vor Gewalttaten und Nachstellungen.

lates that the perpetrator must (until the legal settlement) leave the victim's apartment, and in this regard empowers victims to take effective legal actions against the perpetrator. Unfortunately, this law does not optimally support immigrant women as its evaluation has shown that only one-quarter of immigrant women affected by violence use this legal mechanism.

But good practices exist also as demonstrated by the distribution of informational material in native languages during police interventions in cases of domestic violence. This measure allows the victims to better orient themselves and to seek counselling and other services.

4. The fundament: Intercultural competences

The work in the project Intercultural Shelter is based on an intercultural concept and model, which are not rigid dogmatic creations but reflected, controlled and developing methods. All co-workers and women belonging to the project are, from the beginning, involved in development of the concept[6] and must possess intercultural competences, which are 'competences, based on certain attitudes and views as well as on special managing and reflection abilities, to interoperate in effective and appropriate manner in an intercultural situation' (Deardorff, 2006, p. 89). This approach is improving reintegration of immigrants in clear antiracist and nondiscriminating ways.

The following is understood to be included under intercultural competences:

a) managing competence (based on knowledge of and learning about women of other cultural backgrounds as well as on critical observations of own culture, socio-political position and associated privileges);
b) professional competence (knowledge about women-specific migration conditions, associated living conditions of the female immigrants, knowledge about residence law, asylum rights and language competences [multilingual abilities and openness to forms of nonverbal communication]);
c) methodological competence (flexibility and creativeness in regard to implementation of the methods directed at the needs and living situation of affected woman);
d) learning competence (the multilayers and complexity in the case of immigrant women affected by violence require a sensitive differentiated approach and the ability to work without clear guidance in complex situations);

[6] In order to evaluate and to be able to further develop the conceptual adjustments of the Intercultural Shelter, the project 'Quality Management in the Work with Female Immigrants Affected by Violence', with a subproject 'Concept for Advanced Training of Multipliers' has been implemented. It was conducted under scientific supervision and finalized on November 30th 2006 with the conference at the Alice Salomon University of Applied Sciences, Berlin, and with publishing of the manual under the same title.

e) social competence (ability to change the perspective, understanding different views and behaviours, analysing the perception of emancipation);
f) utopian ability (not only to believe in changes but to work on them, structuring of future conceptions). (Castro Varela, 2006).

5. Intercultural Shelter: Praxis, challenges, answers

Experience from daily work with immigrant victims of domestic violence has shown that their needs have to be met in a different way than has to date been applied. The most evident is the need to involve immigrants with intercultural competences in working with women and children who have experienced violence. But there is also the need for professionalization of co-workers, specialization and development of sensibility toward in- and outside issues of immigrants, provision of language courses and courses for other skills and creation of possibilities for long-term residence.

Immigrant women who decide to leave violent relationships are confronted with an unclear financial situation, complete loss of social networks, threatening situations, lack of orientation and missing language competences. In order to address these problems and needs, the Intercultural Shelter project conducts three closely connected subprojects:

— A publicly accessible counselling centre as the initial step for helping women affected by violence, women that still have not decided to leave violent relationships and their relatives. Co-workers and multipliers from other organisations are involved in offering help, providing counselling, help on the telephone line and free legal advice.
— A relatively small 'classical' shelter as a provisional admission point for women and children. It offers a quiet atmosphere for searching for a way out of the crisis (low profile, 24-hour accessible, private rooms).
— After the initial crisis intervention and analyses of the legal and social situation, there is the possibility for a resident to move into private completely equipped flats that belong to the project. Women can stay there for up to 2 years. This period of time offers the possibility for working out negative experiences caused by violence, clearing legal issues, pedagogical work with children and attendance at language and integration courses.

The important part of the shelter's work is evaluation of its own concept through questioning of and feedback from the residents of the shelter and by using the acceptability analyses. The results show that due to different, often bad, experiences with institutions (for example asylum homes) the residents wishes

less bureaucracy and less of an institutional atmosphere in the shelter. Immigrant women also express a need for more time and support by the co-workers in the psychological processing of and dealing with experienced violence. Their individual needs for intensive counselling cannot always be met because of limited time resources of the co-workers who have to deal with bureaucratic demands on insecure residential status and associated complications.

Standardization of offered services in the anti-violence area is an important measure for providing quality services to victims of violence; however it also represents a rising problem for the work of the Intercultural Shelter. The increase in bureaucracy and the decrease in working space is of major concern. For example, the current funding agreement obliges the shelter, which has only 25 'classic' units, to provide help to 150 women and children victims of violence. In the year 2005, 218 women and children were accommodated — in consequence of the agreement only for 40 days. Besides the number of apartments where victims can move to after leaving the shelter is not meeting the demand. The prescribed number of women in shelters is therefore a burden for workers and residents of the shelter.

Because most of the residents have none or only a poor knowledge of the German language and cannot navigate in Berlin, accompanying them to official institutions and doctors is necessary. However with the current employment structure of the project, this is not possible. We are trying to address these demands by involving state-sponsored employees, which again requires a large bureaucratic demand.

Due to the intercultural conceptual adjustments, the help is almost exclusively sought by immigrants with little or no knowledge of the German language. The team of the Intercultural Shelter consists exclusively of multilingual co-workers with an immigration background, but in order to establish proper communication, regular external interpreters are also needed. It is often impossible to direct immigrants seeking help to other institutions or projects as many of them reject counselling of women with little or no German language ability, officially because of the overloaded capacities. Many immigrants even report that when seeking psychological help their psychic and psychosomatic problems are exclusively treated with medications prescribed by psychiatrists and neurologists and that their wish for therapeutic psychoanalysis is not or cannot be met.

Furthermore, also in a shelter organised in accordance with the intercultural model there are discriminations and exclusions between the residents. A female immigrant can often feel excluded by a larger group of women that are connected through the same or similar language. Due to this and similar developments is the shelter community differently accepted by the residents. Among the reasons are

different expectations with respect to the form of counselling, quantity of support or level of independence. Some of the immigrants may express a wish/need for more other services, such as language courses or child care, as they expect this would additionally help them in processing their problems. It is clear that immigrant women affected by violence do not represent a homogeneous group and that a more flexible spectrum of services shaped to their needs must therefore be organised.

Another problem that the shelter is confronted with is a high number of immigrant women that are not informed about their rights, existing services and possibilities. Nevertheless the situation is improving, mainly because of recent public discussions on 'murders in the name of honour' and forced marriages. Better awareness, however, also affects the work in the shelter. What has been observed lately is a considerable rise in the number of young women and women from other parts of the country seeking refuge and anonymity in a large city. They represent a completely new target group and their needs differ to a great extent from the needs of other residents of the shelter. Different forms of counselling, different services and accompaniment are required.

6. Evaluation applied—new concept developed

Considering the results of the evaluation and several years of experience in the implementation of presented conceptual requirements, a new concept has been developed in the Intercultural Shelter within the project titled 'Empowerment against Violence'. It is based on the necessity to offer support to women and children locally. With the support of donations, the Intercultural Shelter is, for a limited period of time, in the position to realize this concept.

The concept has been implemented on different levels of services provided. In the social housing project women live together but can stay longer on their own in allocated flats and at the same time receive counselling, support and care from social workers, pedagogues and other co-workers locally.

The project team is organised as a "pool" and in possession of intercultural competences, which in certain situations allows counselling and accompaniment by the same co-worker, as well as the continuity of counselling even in the absence of some workers.

The project provides language and integration courses and counselling on education and work. Due to massive threats women are namely not in a position to take other external offers. Children are taken care of during the mother's absence due to external appointments, attendance of courses or training. Women in

the social housing project also have the option of having male children older than 14 years with them.

The possibility of establishing intensive relations and exchanging experiences with other female residents leads toward mutual support building. The meetings with the ex-residents are organised on a regular basis as are meetings with professionals with an immigration background (social workers, coordinators, pedagogues, translators etc.). These contacts offer a stimulating experience to immigrant women affected by violence. Because of their common immigration background, they can identify with women in different professions. This can serve as an example for further personal development.

The results of the concept implementation speak for itself: Approximately 98 percent of women that were accommodated in the social housing project Intercultural Shelter developed their own life perspectives before leaving. They took part in language and integration courses, used the qualification possibilities, have found jobs and last but not least their children were integrated in kindergartens and schools.

7. Conclusion

The situation of immigrant women victims of domestic violence in Berlin shows that omissions in integration policies have a direct effect on all aspects of life of immigrants. To address the problem areas, intervention and prevention work with an intercultural understanding – whereby the individuality of immigrant women is taken into account — are necessary. There should be no doubt that this is first of all a political question — essentially a question of willingness to provide more funds for innovative programmes.

In addition there is a need for supporting psychological counselling of immigrant women and children traumatized by violence, provided by native speakers or female interpreters. A crisis centre for psychologically unstable immigrant women affected by domestic violence is also needed.

It is necessary that counselling services, crisis centres, hospitals and all relevant institutions and projects provide their services in an intercultural manner. They should not reject clients when language skills are insufficient for problem-free communication. Intercultural competences must be acquired by institutions and their employees in order to extend the spectrum of offered services and to adapt them to the needs of victims. This should not depend on the individual engagement of the personnel but must – again – be a political decision.

Documents

Bundesministerium für Familie, Senioren, Frauen und Jugend (2007). *Aktionsplan II der Bundesregierung zur Bekämpfung von Gewalt gegen Frauen.*

Gesetz über den Aufenthalt, die Erwerbstätigkeit und die Integration von Ausländern im Bundesgebiet. 25. Februar 2008, BGBl. I S. 162.

Gesetz zum zivilrechtlichen Schutz vor Gewalttaten und Nachstellungen. 11. December 2001, BGBl I S. 3513.

Senatsverwaltung für Wirtschaft, Arbeit und Frauen in Berlin (2002). *Berliner Aktionsplan zur Bekämpfung von Häuslicher Gewalt (2002–2006).*

Senatsverwaltung für Wirtschaft, Arbeit und Frauen (2002). *Gleichstellung von Frauen und Männern in Berlin: Frauenpolitische Schwerpunkte der Senatsverwaltung für Wirtschaft, Arbeit und Frauen.* MzK 15/507 from 31. May 2002. Retreived 2. June, 2009 from http://www.berlin.de/sen/gender/downloads/index.html#4.

References

Attia, I. (2006). *Akzeptanzanalyse im Rahmen des entimons-Pojekts "Qualitätsmanagement in der Arbeit mit Gewalt betroffenen Migrantinnen".* Unpublished manuscript.

Castro, Varela, M. (2006). *Qualität in der Arbeit mit von Gewalt betroffenen Migrantinnen.* Berlin: Interkulturelle Initiative e.V.

Deardorff, DK. (2006). Identification and Assessment of Intercultural Competence. *Journal of Studies in International Education*, Vol. 10, No. 3, 241–266.

Schröttle, M. & Müller, U. (2004). *Sicherheit und Gesundheit von Frauen in Deutschland. Eine repräsentative Untersuchung zu Gewalt gegen Frauen in Deutschland.* Bonn: Bundesministerium für Familie, Senioren, Frauen und Jugend.

Authors

Milica Antić Gaber is Professor of Sociology of Culture at the University of Ljubljana, Faculty of Arts, Department of Sociology. She had been teaching at the Gender Department at Central European University in Budapest. She publishes widely on gender and politics, political representation and quotas in Slovene and international journals, edited volumes and monographs. She is an author or co-author of three books: Women in the Parliament, Women – Politics – Equal Opportunities, Prospects for Gender Equality Politics in Central and Eastern Europe and Women in Parliamentary Politics: Hungarian and Slovene Cases Compared. Her present research focuses on the following topics: feminism and politics, citizenship and gender identity, gender and body, violence against women and gender and globalisation.

Mojca Dobnikar is one of the founders of the first Slovenian help lines for women and children victims of violence (1989) and of the first Slovenian NGO shelter for women survivors of violence (1997). She has written numerous articles and information material and is co-author and co-editor of several training manuals and books on violence against women and children.

Katja Filipčič is Associate Professor at Faculty of Law, Ljubljana. She is head of the Chair of Criminal Law. Her research fields are juvenile criminal law, criminal law, criminology, domestic violence, children's rights, victimology and misdemeanour. She published and co-edited several books on domestic violence and juvenile crime and is one of the co-authors of the Slovenian Family Violence Prevention Act.

Rada Grubić is one of the initiators and coordinator of the Intercultural Initiative e.V. Berlin, an NGO that conducts Intercultural Safe House for Women. Between 2005 and 2006, she was the head of the project "Quality Management in the Work With Female Immigrants Affected by Violence", which was initiated by the Federal Ministry for Family, Seniors, Women and Youth in Germany. She is author of several articles on intercultural work with immigrant victims of domestic violence.

Carol Hagemann-White is Professor of gender studies and educational theory at the University of Osnabrück in Germany. Her work covers a broad range of topics, including gender socialization over the life course, gender and organisation in work and politics, and women's health. She is a distinguished researcher in

the field of violence against women and a founder of the European Network on Conflict, Gender and Violence. She is author of many studies and publications on this topics.

Jeff Hearn is a Professor at the Hanken School of Economics (Finland), Linköping University (Sweden), and University of Huddersfield (UK). He has previously been Research Professor at the University of Manchester, and Visiting Professor at ten universities in five countries. In the early 1980s he initiated ground rules for studies of men and masculinity, and has published many books and articles on critical studies on men, including men's violence against women and children; organisations and management, including gender, sexuality and violence in and around organisations; globalisation and transnationalisation; social theory; and the sociology of culture.

Dalida Rittossa is a professor's assistant at the Department of Criminal Law at the University of Rijeka and a PhD Candidate at the University of Zagreb in Croatia. She was enrolled in LL.M. comparative constitutional law studies at the Central European University in Budapest and worked as a young legal counsellor at the Constitutional Legal Policy Institute in Budapest. She is executing the project "Legal, Social and Economic Position of Women in Croatia". Since 2007, she has also been taking part in the project on "European Perspectives of Criminal Legal Status of Women".

Tina Romih graduated with a degree in history and sociology from the Faculty of Arts at the University of Ljubljana, where she works as a researcher on the field of violence against children and youth. In her postgraduate studies she focuses on policies of equal opportunities within the European Union.

Sara Rožman graduated with a degree in sociology of culture and pedagogy from the Faculty of Arts, University of Ljubljana in 2006. She is a PhD student and assistant researcher at the Department of Sociology, Faculty of Arts. Her research is focused on the question of motherhood and the reproductive rights of women.

Irena Selišnik has a PhD in Sociology and is assistant of Sociology of Culture and researcher at the Faculty of Arts in Ljubljana. She has been involved in a number of research studies dealing with women, politics and the status of the non-government sector in Slovenia. She published several articles and a book on female suffrage in Slovenia. Her research interests are gender mainstreaming, the history of the 19th and 20th century and politics.

Abigail Stepnitz is the POPPY project coordinator at Eaves Housing for Women in London. She has experience in research and policy analysis related to counter-trafficking measures in the U.K. and Europe, including local, national and international lobbying, campaigning and in-depth research, and is involved in report writing, training and providing policy guidance to statutory bodies and civil society.

Iztok Šori, a sociologist and anthropologist, is researcher and assistant of Sociology of Culture at the University of Ljubljana, Faculty of Arts, where he currently conducts his PhD research, focusing on social and individual contexts of staying single as a way of life in Slovenia. He has been involved in several research studies on gender mainstreaming, prostitution and trafficking in persons.

Milana Trbojević Palalić is a PhD candidate at the University of Vienna, Austria and a professor's assistant at the Department of Criminal Procedural Law, University of Rijeka. In 2002, she started to work at the Faculty of Law in Rijeka as a young legal researcher executing the project "Transition of Criminal Procedure Systems". Since 2007, she has been taking part in the project on "European and Croatian Judicial Procedure and Human Rights".

Questionnaire[1]

Ways of Implementing the EU Directives on Violence against Children, Young People and Women: Good Practices and Recommendations

Instructions

Aims of the research

The aim of the following questionnaire is to identify and explore the process of changing the legislation concerning violence against women, children and youth that has been introduced in your country in the period from 1991 to 2006. The questionnaire will identify laws or other legal instruments that have been introduced and political actors that have contributed to the changes. The results, which should enable the improvement of the implementation of the EU policies against violence in the future EU enlargement processes as good practices and recommendations, will be recommended to the member States.

Definitions valid for the purpose of the questionnaire

Before you start to fill in the questionnaire we would like to highlight the content of terms which frequently appear in the questionnaire.

First, the term **"violence"** is primarily addressed to violence against women, children and youth. It includes physical, sexual and psychological violence; it also includes threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private life. It constitutes a breach of their right to life, safety, freedom, dignity, physical and emotional integrity, and a serious threat to the physical and mental health of the victims of such violence, as defined in *Decision No. 803/2004/EC of the European Parliament and of the Council of 21 April 2004 adopting a Programme of Community action (2004-2008) to prevent and combat violence against children, young people and women and to protect victims and groups at risk (The Daphne II programme).*

As evident, the questionnaire uses the broadest definition of violence as it is used in numerous UN documents. For example, the *Declaration on the Elimination of Violence against Women Proclaimed by General Assembly resolution 48/104 of 20 December 1993 or Recommendation No. R (2002) 5 of the Committee of Ministers and Explanatory Memorandum of Council of Women* defines "**sexual violence**" as that which constitutes a violation of that person's physical, psychological and/or sexual freedom and integrity, and not solely a violation of morality, honor or decency.

In the same document the definition of **psychological violence** is given as taunts, jeers, spiteful or humiliating comments, threats, isolation, contempt, bullying, and/or public insult. We can also include other forms of violence, such as for example violence against pets, coercion of any kind, blackmail, or forced marriage. This kind of behaviour is usually experienced as damaging to self-image and self-confidence, especially if it is persistent. **Economic violence** is defined as inequitable control over access to shared resources, for example denying/controlling access to household money, preventing the partner's access to employment or further education, or denial of the wife's right to property.

Physical violence is defined as pushing, shoving, hair-pulling, hitting, beating, kicking, burning, biting, strangling, stabbing, genital mutilation, torture, murder. Severity of injury ranges from minimal tissue damage, broken teeth and bones to permanent injury and death (*Recommendation No. R (2002) 5 of the Committee of Ministers and Explanatory Memorandum of Council of Women).*

Domestic violence – Violence occurring within the family or domestic unit, including, *inter alia*, physical and mental aggression, emotional and psychological abuse, rape and sexual abuse, incest, rape between spouses, regular or occasional partners and cohabitants, crimes committed in the name of

[1] This is only a short version of the questionnaire used in the research. The complete questionnaire, including tables, can be downloaded from the project´s internet page (http://www.ff.uni-lj.si/fakulteta/Dejavnosti/ZIFF/DAPHNEeng/home.html) or obtained by contacting the research team (daphne@ff.uni-lj.si).

honour, female genital and sexual mutilation, and other traditional practices harmful to women, such as forced marriages. ***(Recommendation Rec(2002)5, Council of Europe)***

Crimes in the name of honour — "Crimes of honour" encompass a variety of manifestations of violence against women including "honour killings," assault, confinement, imprisonment, and forced marriage, where the claimed motivation, justification or mitigation for the violence is attributed to notions of "honour" (related to family [natal], conjugal or community "honour") requiring the preservation of male control of women, particularly women's sexual conduct whether real or perceived. The overwhelming majority of victims of "honour killings" and "crimes of honour" in general are women and girls, and the greater proportion of perpetrators are male.

Corporal punishment – Any punishment in which physical force is used against a child and intended to cause some degree of pain or discomfort, however light.

Bullying – We understand it in the broadest sense as a variety of deliberately hurtful behaviour, caused by children and minors and directed against children and minors, which can occur in various social circumstances (such as schools, streets, youth organizations, etc.). Bullying can take different forms of physical or psychological violence and most commonly evidences as threats and/or extortion, theft and other forms of damage to someone's belongings, hitting, kicking and other forms of damage to other person's body, etc.

Trafficking in persons shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability, or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs (from the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children).

Defilement – Any course of conduct that harms a minor's sexual integrity which does not necessarily involve physical contact.

Sexual harassment — Where any form of unwanted verbal, non-verbal or physical conduct of a sexual nature occurs, with the purpose or effect of violating the dignity of a person, in particular when creating an intimidating, hostile, degrading, humiliating or offensive environment.

Child – Every human being below the age of 18 years unless, under the law applicable to the child, majority is attained earlier.

Minors – Every human being below the age of 18 years unless, under the law applicable to the child, majority is attained earlier.

In general the EU documents use the terms "child" and "minor" as synonymous; this is why both terms are also used synonymously in the questionnaire.

Youth – All persons between the ages 15 and 24.

Young people – All persons between the ages 15 and 24.

The EU documents use the terms "youth" and "young people" as synonymous; this is why both terms are also used synonymously in the questionnaire.

Migrants – Persons entering a country which is not their country of nationality or citizenship.

Third-country nationals – Persons who are nationals of a non EU Member State.

Unaccompanied minors shall mean persons below the age of 18 who arrive in the territory of the Member States unaccompanied by an adult responsible for them whether by law or by custom, and for as long as they are not effectively taken into the care of such a person; it shall include minors who are left unaccompanied after they have entered the territory of Member States (Council Directive 2003/9/EC of 27 January 2003 laying down minimum standards for the reception of asylum seekers).

Legal Persons – Any private or public organization or entity, established for commercial or not-for-profit purposes, that has legal personality in accordance with the national legislation

Legislation – In the questionnaire this term has a broad meaning. It concerns all acts of Parliament, all acts of subsidiary legislation (such as legal notices) and all executive acts used by the authorities or public bodies (such as guidelines, recommendation policies and formal procedures).

Special instructions

First, you will find some questions in the questionnaire whose aim is to trace the chronological development of the legislation or of certain practices. When we ask "Since when," we want to know when a specific law or mechanism came into force, not when it was approved in the parliament. In such a case, please write the year of the introduction of the legislation. If it was introduced before 1991, write "before 1991" as your answer.

Second, because legislative definitions and practices differ from country to country, some questions allow for additional remarks. Please feel free to expand upon your answers.

Third, where there are evident discrepancies between implementation and legislation, please use the remarks option and explain this discrepancy.

Fourth, if there are differences between the legal status of married and non-married couples, please use the remark field to point out this difference.

Fifth, if there are any exemplary good practices in your country that can be recommended for the purpose of this research, please use the remarks option and briefly describe them.

Sixth, also use the remarks option if important changes took place after the year 2006 and you think they should be mentioned.

Thank you very much for your cooperation!

Section I – Raising Awareness

In this section we are interested in knowing more about media campaigns, as they are important part of the prevention actions against violence.

Campaigns against violence

1. Firstly, we would like you to list the most important national media campaigns for the prevention of violence (between 1991 and 2006). The criteria are the following:
   - the campaign was carried out on a national level
   - the campaign received different kinds of media coverage by the national media (press, electronic media, billboards, leaflets, visual media, audio media, etc.)

   We would like you to provide the information on the following dimensions of each listed project in the table:

   I. Content of the campaign: Please indicate the type of violence the campaign was focused on: a) sexual violence, b) domestic violence, c) sexual harassment, d) trafficking in persons, e) traditional practices that include violence (crimes in the name of honour, forced marriages, female genital mutilation), f) bullying, g) other: _____. If there is more than one campaign prepared for the specific type of violence, please split the table cell with a line.

   II. The year of the campaign: Please indicate when the campaign was carried out.

   III. Who carried out the campaign? Please mark one of the answers: a) an NGO, b) a state institution, c) other: _____.

   IV. Target group: Please mark which group of victims the campaign was focused on: a) children in general, b) children within families, c) young people, d) women, e) victims of trafficking in persons, f) migrant women, g) other: _____.

   V. Media: Please mark which media mainly covered the campaign: a) press, b) radio, c) television, d) posters, e) other: _____.

   VI. Level of the campaign: a) national, b) EU, c.) international (multilateral cooperation on campaigns), d.) other: _____.

   VII. Sponsor: Here we ask for information on the funding of the campaign. If you know the source which sponsored more than 50% of the campaign, please mark which of the following groups the source belongs to: a) national funds, b) EU funds, c) funds of NGOs, d) funds provided by donors, or e) don't know.

   VIII. Remarks: _____

Providing information at school

2. Are children/minors within the school system informed about the issue of violence against women, children and youth? (In the remark field, please provide us with information as to what kind of schools [public or private] and at what level of schools [primary, secondary, etc.] children/minors receive this sort of information.)

   1 – yes in most cases (more than 80% percent)

   2 – yes in some cases (less than 20%)

   3 – no

   Remarks: _____

3. Do children/minors within the school system get any information about where to seek help in case of violence? (In the remark field, please provide us with the information in what kind of schools (public or private) and at what level of schools (primary, secondary etc.) children/minors receive this sort of information.)

   1 – yes in most cases (more than 80% percent)

   2 – yes in some cases (less than 20%)

   3 – no

   Remarks: _____

Section II – Data Collection

Different European documents recommend gathering of statistical data about violence and call for further processing of the data. We would like to find out how these recommendations are followed in your country.

Statistics

4. Do any of the state institutions have comprehensive institutional data about violence against women, children and young people which can fully present the problem of violence towards a particular already-mentioned group of victims?
   1 – yes
   2 – no
   Remarks: _____
5. If yes, which data this database contain?

   _____

   _____

Research

6. We would like you to define the five most influential scientific evaluation studies on specific laws, programs or representative studies on violence against women, children and youth. Please take into account all forms of violence.
   We would like you to provide information on the following dimensions of each listed example of research in the following table:
   I. Title of research: Please give the title of the research.
   II. Research topic: Please mark which type of violence the research was focused on: a) sexual violence, b) physical violence, c.) psychological violence, d.) sexual harassment, e.) trafficking in persons, f.) traditional practices that include violence (crimes in the name of honour, forced marriages, female genital mutilation), g.) child sex tourism, h.) bullying, i.) domestic violence, j.) other: _____
   III. Target group: Please mark the group of victims the research was focused on: a) children, b) young people, c) women, d) families, e) victims of trafficking in persons, f) migrant women.
   IV. Year of completion: Please write down the year when the research was completed.
   V. Field of the research: Please mark which field the research belonged to: a) sociology, b) psychology, c) law, d) social work, e) other: _____
   VI. Sponsor of the research: Please write down the name of the main sponsor who financed more than 50% of the research.
   VII. The purpose of the research: Please state whether the research was carried out for the purpose of drawing up legislation and other policy plans and mark one of the following answers: a) yes, b) no.
   VIII. Remarks: _____

Section III – Institutions

Governmental institutions (police, public prosecutors, medical institutions, etc.) as well as NGOs can contribute significantly to improving national policy against violence, as well as to the implementation of good practices against violence. The questions in the following chapter ask for information on the work, efficiency and organization of the institutions which deal with the issue of violence.

Reports and action plans

7. Were there any governmental reports on violence against women, children and youth as a single/only topic prepared by governmental institutions between 1991 and 2006?
   Theme of the Report: Please mark which type of violence the report was focused on: a) sexual violence, b) physical violence, c.) psychological violence, d.) sexual harassment, e.) trafficking in persons, f.) traditional practices that include violence (crimes in the name of honour, forced marriages, female genital mutilation), g.) child sex tourism, h.) bullying, i.) domestic violence, j.) other: _____
   Please write your answers in the table:

8. Were there any national/governmental action plans against violence adopted between the years 1991 and 2006?
   Theme of the Action Plan: Please mark which type of violence the report was focused on: a) sexual violence, b) physical violence, c.) psychological violence, d.) sexual harassment, e.) trafficking in persons, f.) traditional practices that include violence (crimes in the name of honour, forced marriages, female genital mutilation), g.) child sex tourism, h.) bullying, i.) domestic violence, j.) other: _____
   Please write your answers in the table:
9. Which institutions are bound by the law, by the national action plan or by other entity as internal agency policy procedures to facilitate specific procedures for the treatment of victims of violence?

Institutions — Training/Agency protocols/guidelines

10. Training of employees in particular institutions: The following table asks whether the institutions which come in contact with violence against women, children and youth provided any regular training programs for their employees, so that they can react properly when they come across instances of violence. The table also asks if this training is stipulated by the legislation (the term "legislation" is here used in a broad sense and includes executive acts such as internal police regulations, internal regulations of health care institutions or other internal policy guidelines).
    I. Mandatory training: Is the training mandatory, and since when? Please answer this question with a) yes, b.) no, and if yes, please indicate since when.
    II. The actors of training: Please indicate who provides the training by marking the following answers: a.) NGOs, b.) public institutions, c) other: _____
    III. Continuity of training: Is the training ongoing? Please answer this question with a) yes, b.) no.
    IV. Type of violence: Marking the following answers, please tell us which type of violence the training is specialized for: a) sexual violence, b) physical violence, c) psychological violence, d) sexual harassment, e) trafficking in persons, f) traditional practices that include violence (crimes in the name of honour, forced marriages, female genital mutilation), g) child sex tourism, h.) bullying, i.)domestic violence, j.) other: _____.
    V. Remarks: If there is no regular training, please provide us with information as to whether any occasional training is taking place at least in some units, or at the local level, or in some departments of institutions.

Co-operation among institutions

11. Is a multi-institutional approach stipulated in the legislation dealing with cases of violence?

    _____

    _____

Health care

12. Does the legislation provide free medical care for non-citizen or non-national victims of violence without insurance? Please state the answers in the following table:

Prosecution

13. Please explain how the legislation defines different types of violence.
    I. Type of prosecution: Please use one of the following answers to indicate how different types of violence are prosecuted: a) public prosecution (ex officio), b.) Other: Please explain (for example civil proceedings, prosecution on complaint of victim, etc.)
    II. Remarks: _____

Social care institutions

14. Does the child/minor protection legislation enable national institutions to intervene in order to protect the child/minor in cases when he/she is exposed to domestic violence?
    1 — yes
    2 — no

15. If yes, briefly describe how: _____

NGOs

16. What are the main funding sources for the work of the NGOs which deal with violence against women, children and young people (foreign funds, state, private donors)? Please rank them, from the most (1) to the least important (4) (write the number on the line).
17. Please describe the role of the NGOs (which deal with violence against women, children and youth) in the processes of political decision making related to changes in the field of legislation dealing with violence against women, children and young people between 1991 and 2006 (co-operation in drafting legislation, participating in interdepartmental groups, providing initiatives for changing the legislation, project funding, etc.) Min. 200 words

Section IV – Victim Support

Numerous EU documents call for greater empowerment and support for the victims of violence. They encourage the member states to adopt special measures to provide better care for the victims of violence. The questions in the following chapter ask for information on various forms of victim support, such as shelters, drop-in centres (i.e. short-term accommodation), free help lines, as well as different legal measures.

Support for the victims and witnesses of violence during the criminal procedures conducted by public institutions

18. Does any law or document explicitly state that the victim has the right to be accompanied by a trusted person of her/his choice during the criminal procedure?
    1 – yes Since when? _____
    2 – no
    Remarks: _____
19. Does the legislation provide measures which ensure that the child/minor victim of violence does not have to go through the traumatic experience several times during the criminal law procedure?
    1 – yes Since when? _____
    2 – no
    Remarks: _____
20. If yes, please indicate what kind of help the legislation offers to a child/minor victim during the criminal procedure (questioning in the presence of a psychologist, using video records of the questioning in the court, etc.)?
21. Does the legislation provide measures which ensure that the adult victim of violence does not have to go through the traumatic experience several times during the criminal law procedure?
    1 – yes Since when? _____
    2 – no
22. If yes, please indicate what kind of help the legislation offers an adult victim during the criminal procedure (questioning in the presence of a psychologist, using video records of the questioning in the court, etc.)?

Reflection period and short-term residence permit for victims of trafficking

23. Does the law provide third-country nationals who are victims of trafficking in persons with a reflection period allowing them to recover and escape the influence of the perpetrators of the offences, so that they can take an informed decision as to whether to cooperate with the competent authorities?
    1 – yes Since when? _____
    2 – no
    Remarks: _____

Third-country nationals – persons who are nationals of a non-EU Member State.

24. How long is the period referred to in the previous question?

    _____

25. What kind of rights are the victims entitled to during the reflection period?

    _____

26. Under which circumstances might the state drop this reflection period?

    _____

    _____

27. Could third-country nationals who are victims of trafficking in persons gain a short-term residence permit?
    1 – yes Since when? _____
    2 – no
    Remarks: _____

28. If yes, under which criteria?

    _____

    _____

Rights of female immigrants who are victims of violence

29. Are migrant women who are dependent on their husbands for their residence permits faced with the danger of losing it when separating?
    1 – yes
    2 – no
    Remarks: _____

Legal assistance

30. Are the victims of violence entitled to free legal aid?
    1 – yes Since when? _____
    2 – no
    Remarks: _____

31. What are the criteria for such entitlement?

    _____

    _____

32. What kind of free legal aid are victims entitled to?

    _____

    _____

Accommodation for victims of violence

33. Accommodation capacities: Please indicate what kind of accommodation exists in your country for particular groups of victims of violence. In the case of children and youth, please indicate the age limit (from – to).
    I. Number of beds for long-term accommodation/number of shelters: Please provide the number of beds available for long-term accommodation for victims of violence, and also the number of shelters.
    II. Number of beds for short-term accommodation/number of crisis centres: Please provide the number of beds available for short-term placement for victims of violence (such as drop-in centres or crisis centres where accommodation is possible for a few days or weeks) and the number of sites for such short-term accommodation.

III. Regions: Please tell us whether shelters exist in all regions of the country by marking the answer: a) yes or b) no.

IV. Exclusion criteria: Who is not admitted to the shelter? Please list some of the criteria for admittance in the table below.

V. Remarks: _____

34. Why are there are no shelters in particular regions?

_____

_____

35. Is there any special accommodation available for victims of violence who are members of particular groups within the population (e.g. non-citizens who are not victims of trafficking in persons, Roma, drug addicts, etc.)?

1 – yes

2 – no

Remarks: _____

36. If yes, what kind of accommodation and for which group of victims?

_____

_____

37. Are there different types of accommodation for women victims of violence in your country (such as maternity homes, safe houses, shelters, drop-in centres, crisis centres, etc.)? Please explain the differences and tell us whether in most cases they are run according to standards listed below.

_____

_____

Standards for shelters/refuge:

- *Empowerment of women is essential*
- *Victims' confidentiality must be guaranteed*
- *No victim's right to stay in a shelter/refuge should be dependent on her financial situation, and the stay should be as long as needed for the woman to evaluate her options*
- *Shelters/refuges should be open to all women, including women with no children and women of minority groups, who are victims of any form of violence*
- *Children must be protected from violence and from the perpetrators of violence*
- *Shelters/refuges should be run by women's NGOs that have a feminist perspective and believe in women helping women. However, there are also other models organised from the perspective of women's and children's rights*
- *Refuges/shelters for victims of men's violence should be easily accessible*
- *The staff working in shelters should have an understanding of the dynamics of domestic violence and receive ongoing training*
- *The staff should be properly remunerated for their work*
- *Among staff there should be one qualified child care worker for each shelter/refuge (as at any given time about 2/3 of all residents at a shelter/refuge are children)*

Finnish Presidency of the Council of the European Union, July – December 1999, Conference of Experts – Police Combating Violence Against Women, Jyväskylä, November 1999

38. Does the law provide female victims of violence with any advantages?

39. Which types of accommodation for children and underage victims of violence exist in your country (crisis centres, foster placement, housing communities, orphanages)? Please briefly explain the differences among them.

_____

_____

24-hour free help lines for victims of violence

40. 24-hour free help lines for victims of violence: Please indicate what kind of free help lines for victims of violence exist in your country.
    I. Name of the help line: Please list the names of the 24-hour free telephone help lines for victims of violence.
    II. Provider: Please use the choices in the chart below to tell us who offers the help line: a) NGOs, b.) state institutions, c) other: _____.
    III. Target groups: Please use the choices in the chart below to tell us which group of victims the phone line is intended for: a) women, b) children, c) young people, d) victims of trafficking in persons, e) migrant women, f) other: _____.
    IV. The year of establishment: Please write down the year when the line was established.
    V. Funding: Is the funding for the help line provided by the state? Please answer with a) yes or b) no.
    VI. State funding: If the state provides funding, does it also ensure co-financing of the help line over 50%? Please answer with a) yes or b) no.
    VII. Remarks: _____
41. Are there any other free programmes offering help to women, children and young people as victims of violence besides shelters and free help lines (e.g. counselling centres, advocacy, self-help groups, psychotherapy, etc.)?
    1 – yes
    2 – no
42. If yes, please name some:
    _____
    _____

Section V – Special Measures for Violence Perpetrators

EU documents have also provided standards for programmes for re-socialization of perpetrators of domestic violence.

We would like to know if these standards are taken into account in your country.

43. Are there any programs for perpetrators of violence?
    1 – yes
    2 – no
    Remarks: _____
44. If yes, who directs perpetrators of violence to these programs? Please answer by marking the following answers. Mark all answers that are true in your country.
    1 – court
    2 – social care institutions
    3 – their own decision/choice
    4 – other (indicate): _____
    Remarks: _____
45. Which special measures for violence perpetrators are stipulated by legislation?

Release of the abode from the perpetrator's single ownership to the victim's right to use – Includes cases where national legislation enables the victim to use the abode owned by the perpetrator. Court also decides in which way the abode can be used (usually separate use only for the victim).
Eviction order to the other partner from the joint abode - Includes cases where national legislation enables the court to forbid the perpetrator's approach to or use of the abode in joint ownership with the victim.

Section VI – Definitions of Criminal Offences in National Legislation

Legal distinctions and legal recognition of sexual violence are extremely important for the improvement of legislation related to general issues of violence. In this section the definitions of sexual violence provided by national legislation will be taken into consideration.

Sexual violence against an adult

46. Which types of sexual violence are stipulated as criminal offences by criminal law/code?

47. Does the legislation treat these kinds of criminal offences differently if they were committed within marriage?
    1 – yes
    2 – no
    Remarks:

48. If yes, please explain the differences:

49. Did the legislation that regulated sexual violence change in any way between 1991 and 2006?
    1 – yes
    2 – no

50. If yes, please briefly explain in what way and indicate the years when those changes took place.

Different types of violence

51. Are the following types of violence defined legally?

Sexual exploitation of an adult in prostitution

52. Is forcing into prostitution a criminal offence?
    1 – yes Since when?
    2 – no
    Remarks:

53. If yes, how is it defined?

54. What sanctions are available?

55. Can clients who knowingly make use of the services of forced prostitutes be prosecuted?
    1 – yes
    2 – no
    Remarks:

56. If yes, briefly state how.

Sexual exploitation of an adult in pornography

57. Is sexual exploitation of an adult for pornography a criminal offence?
    1 – yes Since when?
    2 – no
    Remarks:

58. If yes, how is sexual exploitation of an adult in pornography defined?

59. What sanctions are available?

Sexual violence against children

60. How is sexual violence or abuse of children defined in the legislation?

61. Did the legislation that regulates sexual violence against children change in any way between 1991 and 2006?
    1 – yes
    2 – no

62. If yes, please briefly explain in what way and indicate the years when those changes took place.

63. What legal sanctions are available against any parent/person having custody of a child who was charged with sexual violence against that child (regarding custody rights)?

Different types of violence against a child

64. Are the following types of violence defined legally?

Corporal punishment – any punishment in which physical force is used against a child and intended to cause some degree of pain or discomfort, however light.

65. Does the legislation determine special measures (such as a temporary or permanent ban on working in one's profession, not being allowed to have contact with children, etc.) against persons who were violent against a child whom they educated/looked after (educators, teachers, doctors, ministers/priests, etc.) if they were convicted for:

Child pornography and prostitution

66. How does the national legislation define "child pornography"?

67. What legal sanctions are provided?

68. Does the country have a national database which contains data on persons who had been found guilty of child sexual abuse activities?
    1 – yes
    2 – no
    Remarks:

69. Who has access to this database?

70. Please indicate whether the following intentional acts are punishable in your country.

Defilement – any course of conduct that harms a minor's sexual integrity, which does not necessarily involve physical contact.

71. Are offenders prosecuted in your country in the following cases?

Legal Persons – any private or public organization or entity, established for commercial or not-for-profit purposes, that has a legal personality in accordance with national legislation.

72. Does your country encourage its Internet users to inform prosecuting authorities about alleged distribution of child pornographic material?
    1 – yes
    2 – no
73. If yes, briefly describe how:

74. Are Internet providers obliged to inform public authorities in the case that they were informed of the existence of child pornographic material or about the distribution of pornographic material through them?
    1 – yes
    2 – no
75. If yes, state how:

Trafficking in persons

76. Is the term "trafficking in persons" used in the legislation?
    1 – yes Since when? _____
    2 – no
77. If yes, how is "trafficking in persons" defined?

78. What sanctions are available for such offences?

79. Do the following sanctions apply to legal persons convicted of trafficking offences?

Unaccompanied Minors

80. Does the national asylum legislation contain special provisions for unaccompanied minors?
    1 – yes
    2 – no

Unaccompanied Minors – shall mean persons below the age of 18 who arrive in the territory of the Member States unaccompanied by an adult responsible for them whether by law or by custom, and for as long as they are not effectively taken into the care of such a person; it shall include minors who are left unaccompanied after they have entered the territory of Member States *(Council Directive 2003/9/EC of 27 January 2003 laying down minimum standards for the reception of asylum seekers).*

81. If yes, please indicate:

82. By filling in the table below, please state:
    I. Accommodation before the asylum: Where do unaccompanied minors stay before they apply for asylum?
    II. Accommodation while the asylum application is being considered: Where do unaccompanied minors stay while their asylum application is being considered?
83. Are unaccompanied minors aged 16 or over placed in accommodation centres for adult asylum seekers?
    1 – yes
    2 – no
    Remarks: _____

84. By filling in the table below, please explain how the state ensures legal representation of unaccompanied minors.

Sexual harassment

85. Does the legislation include a legal definition of "sexual harassment at work"?
    1 – yes Since when? _____
    2 – no
    Remarks: _____
86. What sanctions are available for persons convicted of sexual harassment?

    _____

    _____
87. With whom does the burden of proof lie?

    _____
88. Does the legislation prescribe that employers should have special rules or codes of conduct regarding sexual harassment at work?
    1 – yes
    2 – no
    Remarks: _____

Equal opportunity

89. Is the concept of gender-based discrimination provided for in the national legislation?
    1 – yes Since when? _____
    2 – no
    Remarks: _____
90. Please provide the definition as stated.

    _____

    _____

Traditional practices

91. Does the definition of "female genital mutilation" exist in the national legislation?
    1 – yes
    2 – no
92. If yes, please provide the definition as stated.

    _____

    _____
93. If not, is it possible to prosecute such practices by means of other legal provisions? If so, what are they?

    _____

    _____
94. Does the definition of "crimes in the name of honour" exist in the national legislation?
    1 – yes
    2 – no
95. If yes, please provide the definition as stated.

    _____

    _____
96. If not, is it possible to prosecute such practices by means of other legal provisions? What are they?

    _____

    _____

97. Please briefly describe whether there were any publicly known court or police decisions where violence against women, children and/or youth was justified by officials referring to special practices traditional to the culture to which perpetrator or victim belonged (for example: forced marriages, physically violence against female spouse, female genital mutilation).

_____

_____

Section VII – Special Rights of Children

Children are an especially vulnerable population group and should receive special legislative protection according to EU documents. The legislation is supposed to protect both children who are victims of violence as well as children who are violence offenders. In this section we would like to determine whether the children in your country are given certain rights.

98. Does the institution of national ombudsperson for children exist?
    1 – yes Since when? _____
    2 – no
99. If not, is there any other national independent entity for protection of children's rights?
    1 – yes
    2 – no
    Remarks: _____
100. If any other national independent entity for protection of children's rights (but not an ombudsperson) exists, please provide us with a brief description:

    _____

    _____
101. Is a child who is a witness to domestic violence legally considered to be a victim of violence?
    1 – yes Since when? _____
    2 – no
    Remarks: _____
102. How does the legislation determine the age limit of criminal responsibility of minors?
    1 – Maximum age of criminal responsibility of minors is _____
    2 – Minimum age of criminal responsibility of minors is _____
    Remarks: _____
103. Does the legislation provide a specific system of penalties and measures for minors convicted of violent offences?
    1 – yes
    2 – no
    Remarks: _____
104. If yes, please briefly describe the penalties and/or measures.

    _____

    _____
105. Can penalties and measures available for minors under certain conditions also be used for majors?
    1 – yes The maximum age to use punishments for minors is _____
    2 – no
    Remarks: _____
106. Was the trend during 1991 to 2006
    1 – to increase the age limit for criminal responsibility of minors?
    2 – to decrease the age limit for criminal responsibility of minors?
    3 – no change.
    Remarks: _____

Section VIII – Best Practices

We would like to know more about the legislative practices/solutions which regulate the issues of violence against women, children and youth in your country. In this section, please provide us with a basic impression of how the legislation in your country has improved over time and who were the main political actors responsible for the introduction of good legislative solutions.

107. Please provide three examples of good legislative solutions, if any, in the field of violence against women, children and young people that were in force before the year 1991:

_____

_____

108. Are they still in force?
1 – yes
2 – no

109. Provide three examples of good legislative solutions in the field of violence against women, children and young people that were introduced into the national legislation after the year 1991. Are they still in force?

_____

_____

110. In your opinion, which stakeholders contributed to the introduction of good legislative solutions in the field of violence against women, children and young people?

_____

_____

111. If there is anything that we have not asked but it's in your opinion very important for the purpose of our survey, please feel free to right down:

_____

_____

112. Final comments:

_____

_____

WAYS OF IMPLEMENTING THE EU DIRECTIVES ON VIOLENCE AGAINST WOMEN, CHILDREN AND YOUTH: GOOD PRACTICES AND RECOMMENDATIONS

FUNDING

European Commission

Daphne II Programme

COORDINATING ORGANISATION

University of Ljubljana
Faculty of Arts
Department of Sociology
Slovenia

The University of Ljubljana practices basic, applied and development research, striving for excellence and quality of the highest standard in all fields of science and arts, such as the humanities, social sciences, linguistics, arts, medicine, natural sciences and technology.

Project leader:
Milica Antić Gaber

Team:
Tina Ban
Andreja Končan
Tina Romih
Sara Rožman
Irena Selišnik
Iztok Šori
Mojca Žaberl

PROJECT CONSULTANTS

Matjaž Ambrož, Slovenia (law)
Mojca Dobnikar, Slovenia
Rosa Logar, Austria
Primož Šporar, Slovenia (law)

PARTNER ORGANISATIONS

Blind Assistance Foundation, Poland

FPN
Fundacja Pomocy Niewidomym

The Blind Assistance Foundation (Fundacja Pomocy Niewidomym) is an NGO from Lomianki near Warsaw. It is committed to social and work rehabilitation of the blind and partially sighted. Members are also organising educational seminars and publishing booklets on violence-related issues.

Person responsible: *Magdalena Kielczewska*

Center for Equality Advancement, Lithuania

Center for Equality Advancement

Center for Equality Advancement **(**Lygių galimybių plėtros centras**)** is a public institution based in Vilnius. It was founded in July 2003. The CEA's activities are a continuation and expansion of the Open Society Fund — a Lithuanian women's programme that was active between 1997 and 2002 — in an attempt to unite the activities of governmental and non-governmental organisations working in the field of gender equality in Lithuania.

Person responsible: *Vilana Pilinkaite-Sotirovic*

Institute of Philosophy and Sociology, University of Latvia, Latvia

FSI

The University of Latvia integrates diverse fields of research and studies with creative initiative in order to provide a higher education that meets European standards and to cultivate the Latvian language and traditions of cultural cooperation. The main areas of research of the Institute of Philosophy and Sociology (Latvijas Universitātes aģentūra Filozofijas un socioloģijas institūts) are, among others, social structure, social exclusion, equality, regional development, labour market, youth, families and women.

Person responsible: *Ilze Trapenziere*

National Center for Equal Opportunities, Slovakia

NCR

An independent NGO, the National Center for Equal Opportunities (Národné centrum pre rovnosť príležitostí) was established in 1998 under an agreement between the United Nations Development Programme and the Slovak government. The Center is carrying out a long-term project entitled "Prevention and Elimination of Domestic Violence", which is built on the partnership of non-governmental, governmental and professional organisations. The objective is to introduce information and materials to Slovakia that are aimed at legislative and systemic solutions for violence against women, children and youth.

Person responsible: *Anna Klimáčková*

Organisation for the Promotion of Human Rights, Malta

OPHR
ORGANISATION FOR THE PROMOTION OF HUMAN RIGHTS

The objective of the Organisation for the Promotion of Human Rights is to advance measures and take such steps as it shall deem necessary for the defence, promotion, protection and enforcement of human rights and fundamental freedoms in Malta, within Europe and the Mediteranean. Board members are qualified in human rights, some being legal consultants and others working in human rights advocacy.

Person responsible: *Therese Comodini Cachia*

PATENT – Association of People Opposing Patriarchy, Hungary

PATENT (an acronym based on the group's Hungarian name, Patriarchátust Ellenzõk Társasága – Association of People Challenging Patriarchy) was established in 2006 by a group of professionals experienced in working with victims of gender-based violence. The Association's mission is to replace the current patriarchal social order with one characterised by the equality of women and sexual minorities.

Person responsible: *Julia Spronz*

Reconciliation/Uzlasma, Cyprus

Symfiliosi/Uzlasma (the Greek and Turkish words for "reconciliation") is a non-profit, non-partisan organisation based in Cyprus that is committed to promoting a culture of reconciliation, tolerance, peace, democracy and cooperation. Its mission is to engage Cypriot society in an active dialogue on reconciliation between the two larger communities of Cyprus, the Turkish-Cypriots and Greek-Cypriots, as well as to play a role in the fight against racism and discrimination.

Person responsible: *Corina Demetriou*

University of Cyprus, Cyprus

The University of Cyprus (Πανεπιστήμιο Κύπρου) was established in 1989 and follows the vision of becoming an innovative, pioneering and effective institution with a European orientation and high standards of excellence, acting as a catalyst for change and progress in Cypriot society.

Person responsible: *Andreas Kapardis*

University of Tartu, Institute of Sociology and Social Policy, Estonia

The University of Tartu's (Tartu Ülikool) mission is to lead the development of a knowledge-based society and guarantee its sustainability in Estonia. The university aims to fulfil this mission through world-class research and high-quality education, working in international collaboration as well as carrying responsibility for the development of the Estonian nation and culture as the country's national university. The Institute of Sociology and Social Policy (Sotsioloogia ja sotsiaalpoliitika instituut) is a structural unit of the Faculty of Social Sciences.

Person responsible: *Kadri Soo*

Vita Activa, Association for Promotion of Equality and Plurality, Slovenia

The mission of the Association Vita Activa (Društvo za uveljavljanje enakosti in pluralnosti Vita Activa) is to promote the equality of human rights and basic freedoms regardless of gender, sexual orientation, religion, language, political or other belief, ethnicity, social background, education or other personal characteristics. Its goal is to increase public awareness on equality, especially on gender equality.

Person responsible: *Mojca Dobnikar*

Index

A

B

C

D

E

F

G

H

I

J

K

L

M

N

O

P

R

S

T

U

V

W

Y

Z

"With the critical overview of the national states and EU legislation the recommendations were formed that call to reassess some of the well establish and obvious standards on different types of violence in EU. With that kind of reassessment also the implementation of the policies can be improved."

Rosa Logar,
WAVE

"The book proves that the necessity of an interdisciplinary approach to tackle the problem of violence against children, youth and women is not only one of the ground recommendations of present research, but at the same time, the principle to which the authors of this book were committed."

Matjaž Ambrož,
Faculty of Law, University of Ljubljana

"Yet the book does not only shed new light on those theoretical questions but it also brings concrete proposals how to improve implementation of policy against gender based violence, prevent secondary victimization of children or organize work with male perpetrators or migrant victims of domestic violence."

Vesna Leskošek,
Faculty of Social Work, University of Ljubljana