

WHAT ARE THEY DOING IN THE SHADOWS? IMPRINTS OF THE PREVALENCE OF INTIMATE PARTNER VIOLENCE*¹

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The coronavirus epidemic has also opened a new chapter concerning cases of domestic violence – social and economic tensions, isolation, the difficulty of accessing external help, and the increase in alcohol consumption seemed to fill the gaps in the walls that had widened due to years of hard work. To illustrate, in several cases around the world, an increase of up to 25% was observed in countries with signalling systems (UN Woman 2020), while in Brazil, the number of domestic violence cases increased by 40–50%, in Cyprus and Spain, according to the reports of the respective states helplines received 20–30% more calls in the first days of the quarantine. In the United Kingdom, after strict curfews were introduced, the authorities received 25% more calls related to domestic violence (Sharma & Borah 2020, 759).

Introduction

However, intimate partner violence is no longer shrouded in obscurity despite the tense circumstances. The appreciation of the criminal offence in question has changed radically due to the support from the government and the civil sphere during the epidemic (Kormány.hu 2020; NANE.hu 2022), and the cases are becoming more and more visible towards the tenth anniversary of the criminal offence, with almost nine years of law enforcement practice behind us.

The paper endeavours to outline the current picture of intimate partner violence by processing and analysing statistical data, which project the image of a criminal offence that is increasingly emerging from invisibility.³ The examination opens with some thoughts on domestic violence as a phenomenon, which provides the framework of the examined criminal offence, and its *raison d'être*. Subsequently, reflecting on the ideas cited in the present part of the paper, it is followed by a summary of the nine years of intimate partner violence and a collection of the impressions of its prevalence, processing the latest statistical data according to the set criteria. Considering that the paper was written in the spirit of displaying the greater or lesser results of the accumulated experiences with regard to intimate partner violence, the criminal offence that arises from its invisibility, it will be closed with a shorter conclusion, similar to this introduction.

1. Thoughts on domestic violence

* DOI 10.21868/PGnG.2022.1.5.

¹ Supported by the ÚNKP-21-3 New National Excellence Program of the Ministry for Innovation and Technology from the source of the National Research, Development and Innovation Fund.

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³ „...this criminal offence is mostly invisible as if it does not exist.” Garai 2017, 186.

The concept of domestic violence is basically used to denote acts of violence between family members and intimate (sometimes former) partners, typically – but not exclusively – taking place at home; however, the diverse definitions interpret the scope of the phenomena deemed to belong here quite differently (Virág 2006, 380; Szöllősi 2005, 23–39). The narrower perception refers to the abuse within a partnership. At the same time, a broader interpretation encompasses all violence between people living in a joint household or between relatives, including those brought up in a ‘family-like situation’, and also covers the so-called also systemic abuse, which affects those living in institutions; besides, the ‘middle way’ approach classifies abusive behaviours that appear in this ‘arrangement’ (by which we mean the family)⁴ as the expressions of domestic violence (Virág 2006, 380–381). In terms of classification, it is customary to categorize certain types of domestic violence according to the nature of the abuse⁵ and the victims.⁶

The conceptual and classificational uncertainties are a good indication of the fundamental peculiarity related to the recognition of domestic violence (Virág 2006, 382): based on the acquired experience under several types of research, the individual types of domestic violence seldom appear separately, but usually appear together, alternating each other, as parts of a process;⁷ as the abuses occurring in the family as a system are difficult to separate from each other. Besides other arguments (Kanyuk 2016, 32–33; Kanyuk 2018a, 216–224; Kanyuk 2018b, 20–32), this view is also justified by the fact that domestic violence should be viewed as a sociological phenomenon, a criminological entity: although it can be regarded as one single entity by criminology, which examines criminality as a social phenomenon, substantive criminal law, which operates with normative categories, cannot, or would only be able to do so with difficulty (Pápai-Tarr 2017, 66; Virág 2006, 379).

As a consequence of the just discussed nature of domestic violence, it can therefore be stated that it – as a concept developed by criminology – covers a vast range of behaviours that violate human rights, which differ both in terms of their danger to society and their prohibition under criminal law (Váradi & Gilányi 2013, 515). The sanctioning of these acts was already present in our penal system (Gilányi 2015, 178–179); however, due to the pressure of civil movements and the catalyst-like role of the increasingly large number of research results, the criminalisation of domestic violence took momentum coloured by new elements in Hungary, as in other countries as well (Virág 2006, 394).

In several strategies, the legislator committed to developing legal institutions and provisions outside substantive criminal law. One example of this is Parliamentary Resolution No. 45/2003 (IV. 16.) on developing a national strategy for preventing and effectively treating domestic violence, adopted by the Hungarian National Assembly on

⁴ The following study points out the difficulties of defining the concept of ‘family’ in a legal sense: Madai 2021, 338.

⁵ Physical violence, neglect, emotional abuse, sexual violence or abuse and economic or social abuse. For more details, see Virág, Kulcsár & Rosta 2019, 584.

⁶ Abuse of children – in some cases, former – spouse or partner, abuse of the elderly and other relatives. See more *ibid.*

⁷ „The ‘wife beating’, for example, is usually coupled with continuous mental torture and is often accompanied by sexual violence.” Morvai 1998, 14.

February 14, 2003. This considered the more careful application of the existing criminal law regulations and the introduction of some new legal institutions belonging to other branches of law (e.g., restraining order) to be a viable option; however, it did not consider the creation of a sui generis criminal offence to be justified. National non-governmental organisations (hereinafter: NGOs) representing the cause of action combating violence against women⁸ saw in the creation of Act C of 2012 on the Criminal Code (hereinafter: Criminal Code, effective Criminal Code, CC) a good opportunity for the ideas represented by themselves – and those of international organisations⁹ – to achieve to appear in domestic criminal law as well. Therefore, at the end of a period of more than a decade full of disputes and listing proposals for solutions, within one month before the entry into force of the Criminal Code, the Hungarian National Assembly adopted Act LXXVIII of 2013 on the amendment of specific regulations concerning criminal law. Section 19, Subsection (5), which piece of law defined the sui generis criminal offence of intimate partner violence,¹⁰ which was incorporated in Section 212/A of the Criminal Code.

2. Nine years of intimate partner violence – observed through the prism of statistical data

The innumerable factors influencing the low registration of intimate partner violence are undeniable: the anomalies in the formulation of the criminal offence, such as conflicting opinions about the requirement of regularity, as well as the uncertainties concerning the questions regarding the classification and cumulation of different criminal offences that still exist to this day, supplemented by the natural latency arising from the nature of the phenomena itself, definitely could lead to the emptying of the criminal offence under examination.

⁸ All along, NGOs have advocated the creation of a complex, comprehensive criminal offence. Finally, the popular initiative of Pálma Halász, the head of the Élet-Érték Foundation, led to a result: „the Hungarian National Assembly should put on the agenda that there should be a sui generis criminal offence of domestic violence in Hungary.” See national popular initiative No. H/7685., adopted by the Hungarian National Assembly on September 17, 2012.

⁹ Committee on the Elimination of Discrimination against Women (CEDAW), in its concluding comments in its Sixth Periodic Report concerning Hungary, acknowledged that the State Party had taken specific measures to combat domestic violence (see UN CEDAW 2006) but expressed concern about the lack of a sui generis criminal offence regarding violence against women and domestic violence (see UN CEDAW 2007). This direction was strengthened by the Council of Europe Convention on preventing and combating violence against women and domestic violence, better known as the Istanbul Convention (see Conseil de l'Europe 2011). The essence of the Convention is discussed in more detail in the following paper: Sebestyén 2018. In connection with the Convention mentioned above, it should be noted that the process of ratification is not without obstacles at the domestic and EU level as well. On several occasions, the European Parliament has called on the Member States that have not yet accepted the Convention, including Hungary, to ratify it without delay (see Europarl.europa.eu 2019; Europarl.europa.eu 2020). However, the Hungarian National Assembly expressly rejected the Convention's ratification in May 2020 (see Euronews 2020).

¹⁰ It should be noted that even the naming of the criminal offence caused controversy. Among others, it was suggested that the term ‘violence’ should be defined as ‘domestic’, ‘intimate’, ‘between cohabitants’, or – based on the English sample – connect them with the expression ‘at home’. Blaskó 2018, 217.

In addition to – and despite – all of the factors mentioned above, the trend in the number of registered criminal offences of intimate partner violence has been continuously increasing since its ‘introduction’ in July 2013 and looking at the most recent data processed in 2021, the trend shows an unbroken and increasingly marked increase (see Figure 1). The increase under the described circumstances is an absolute miracle and testifies to the necessity of the criminal offence in question. Furthermore, it is given particular emphasis by the fact that the number of registered criminal offences in total has started to decline since the introduction of the effective Criminal Code, and the total crime rate is decreasing to an unprecedented extent in Hungary (see Figure 2).

Figure 1

Registered intimate partner violence (2013–2021)



Source: Unified Criminal Statistics of the Investigation Authorities and the Prosecution Service (a), registered criminal offence: intimate partner violence

Figure 2

Registered criminal offences in total (2013–2021)



Source: Unified Criminal Statistics of the Investigation Authorities and the Prosecution Service (a), registered criminal offences in total

In parallel with the increasing number of intimate partner violence – in the ‘favor’ of the criminal offence becoming visible – the number of certain criminal offences mentioned in the discussed one is gradually decreasing, for which we will attempt to show some illustrative examples.

3. Imprints of the prevalence of relationship violence

The finding mentioned above is clearly ‘visible’ in the case of duress.¹¹ The number of criminal offences gradually decreased after the entry into force of intimate partner violence in 2013 (see Figure 3).

Figure 3

Registered duress (2010–2021)



Source: Unified Criminal Statistics of the Investigation Authorities and the Prosecution Service; Handout of the Office of the Prosecutor General (b), registered criminal offence: duress

All this cannot be clearly stated when analysing the development of the number of abuse of a minor,¹² which may be since, due to the nature of the criminal offence, it is often in cumulation with intimate partner violence¹³ (see Figure 4).

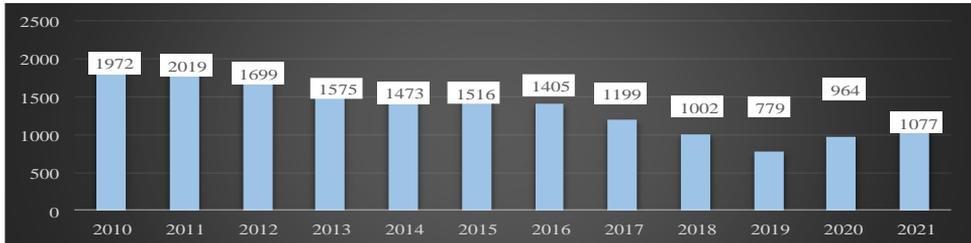
¹¹ Section 195 of the CC.

¹² Section 208 of the CC.

¹³ See, for instance, the following judicial decisions: Debreceni Ítéltábla Bf.4.339/2019/6.; Kúria Bfv.878/2019/9.; EBD2017.B.16.

Figure 4

Registered abuse of a minor (2010–2021)

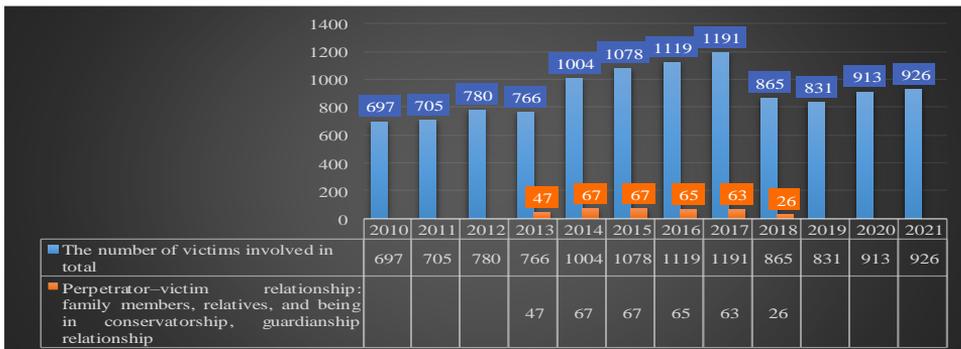


Source: Unified Criminal Statistics of the Investigation Authorities and the Prosecution Service; Handout of the Office of the Prosecutor General (b), registered criminal offence: abuse of a minor

An illustrative example is the analysis of the number of victims involved in the crime of slander,¹⁴ as by analysing the victims – rather than the criminal offence itself –, the statistical system enables a narrowing based on the relationship between the perpetrator and the victim.¹⁵ In this way, it is visible that although slander – similarly to intimate partner violence – betoken an increasing number of registered crimes compared to the decreasing overall crime rate; narrowing it down to the range of victims of intimate partner violence, we have to consider a definite – although reversing in 2020 – decrease following the entry into force of ‘competing’ intimate partner violence in 2013, as of 2014 (see Figure 5).

Figure 5

Registered victims involved in the crime of slander (2010–2021)



¹⁴ Section 227 of the CC.

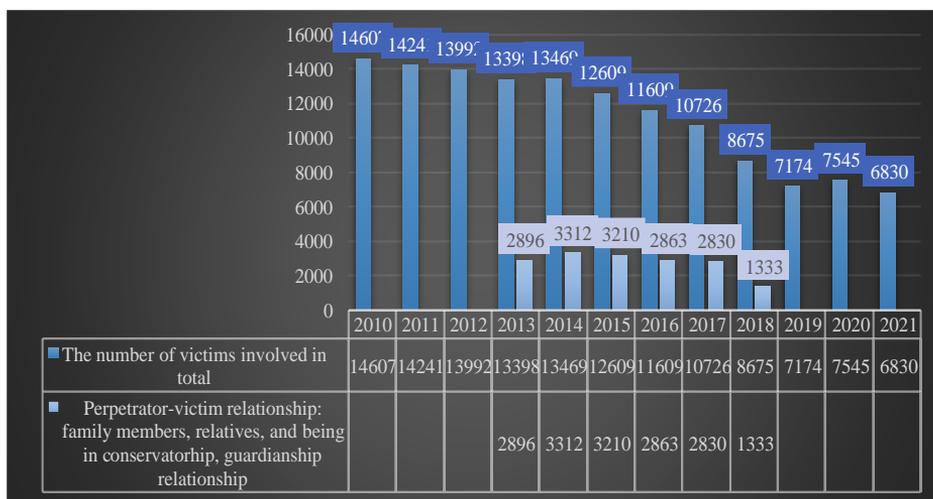
¹⁵ It should be noted that this kind of narrowing is only possible between January 1, 2013, and June 30, 2018, due to changes in the statistical system that started in the second half of the year 2018. In this way, 2018 only contains the data for the year’s first half concerning the relationship between the perpetrator and the victim.

Source: Unified Criminal Statistics of the Investigation Authorities and the Prosecution Service; Handout of the Office of the Prosecutor General (c), registered criminal offence: slander

The same experiences can be drawn concerning battery,¹⁶ which shows the same statistical trends, but has a much higher number of victims than those involved in slander. In the present case, the decrease to the detriment of intimate partner violence due to the more significant numbers is even more visible in the statistical data as of 2014 (see Figure 6).

Figure 6

Registered victims involved in the crime of battery (2010–2021)



Source: Unified Criminal Statistics of the Investigation Authorities and the Prosecution Service; Handout of the Office of the Prosecutor General (c), registered criminal offence: battery

Closing remarks

At the end of our analysis, it can be concluded that intimate partner violence certainly raises many dogmatic and classificational questions and difficulties in interpretation (Pápai-Tarr 2015; Kanyuk 2016), and in the nine years that have passed, legal practice has not yet revealed all the problems. It also should be noted that in the ‘mission’ that intimate partner violence can be integrated into legal practice, the National Institute of Criminology gained invaluable merits by the preparing Research Report No. 2018/III.B/1.28. The report assessing the practical experience of intimate partner violence, based on criminal statistical data, round table discussions and professional

¹⁶ Section 164 of the CC.

focus group consultations, prosecutor's questionnaires, and criminal document reviews, involved the processing of a total of 556 prosecution files (see Garai 2018).

Conscious of the anomalies regarding the criminal offence in question, the revealed statistical analyses are given even more weight. It attests to the fact that, despite all its difficulties, the situation of intimate partner violence produces increasing statistical presence even among the decreasing overall crime; the creation of the criminal offence was necessary despite the initial doubts, and there is a real need at its application. However, this finding also leads us to conclude that solving the problems surrounding the examined criminal offence has substantial significance. Intimate partner violence created in the sensitive area of the fight against domestic violence should serve as an accurate tool for those in need to fulfil their mission, and the dreams of those who patronise the criminal offence can also become a 'visible' reality.

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