

Gender-Based Violence: The Romanian Public Agenda and its Missing Points

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Abstract

The current article examines recent trends in the development of public policies addressing gender-based violence in Romania. By undertaking an analysis of the legal and institutional framework from a gender perspective, we seek to understand how and if the new developments have the potential to promote women's rights and actively support gender equality. As a contextual reading is key to understanding the current dynamics, specific references to the Romanian background will be made along the way. While recent legal progress in this area could indicate a promising perspective, our article will point out the inconsistencies and missing points of current policies, inviting to a cautious and vigilant approach. Potential avenues for improvements, as well as key challenges in how we address violence against women will briefly be discussed.

Keywords

Gender; Violence; Public Policies; Democracy

“Hidden in plain sight”¹, violence against women remains often undocumented and invisible to the public eye. In fact, a recent report of the EU was referring to violence against women and girls as the most widespread form of violence, affecting all layers of society.² But despite its permanence and multiple faces, the topic had rarely made it to the national public agenda in the first years after the fall of the communist regime. Still, the latest five years have witnessed a new trend. Once the Istanbul Convention was signed, which is the most comprehensive treaty addressing violence against women, it seems that Romania has made significant progress in the area of fighting and preventing violence against women. The trend seems confirmed by Romania joining UNICEF Global Partnership against Violence, as well as the development of new alliances among public and non-governmental organizations fighting for gender equality. Recent years have also witnessed the development of national NGO coalitions fighting domestic violence, a positive step

1 UNICEF, „Hidden in Plain Sight: A statistical analysis of violence against children”, (2014) http://www.unicef.org/publications/index_74865.html#, accesat 01.07.2017.

2 European Union, „Annual Report on Human Rights and Democracy in the World”, (2013), <http://www.eeas.europa.eu>, visited on 01.07.2017.

for dialogue, setting the premises for a common agenda of the institutionalized civil society.

As part of my PhD thesis devoted to understanding the current dynamics of civil society supporting gender equality, the current article is looking at the new developments affecting public policies on violence against women. And while we should celebrate the progress mentioned before, we would also like to better understand what this could mean in terms of drafting a „new contract for gender equality“³. Since it is only within the social context of their production that we can fully understand political changes, in the first part of the article we will share some data on the situation of women victims of violence in Romania, as reflected by administrative data and international reports. Tacking this data as a starting point, we will then reflect on the public response to violence against women, considering current tendencies of the enabling environment in terms of legal and institutional framework regulating the issue of gender violence.

As a research topic, the complexity of it requires an interdisciplinary approach that could support an in-depth understanding of the phenomenon. Political science, sociology or psychology are only some of the key disciplines that could shed some light on the way violence is produced, managed or publicly discussed. At the same time, once politicized, the subject becomes a cross-sectoral topic, requiring interventions from multiple stakeholders, such as law enforcement agencies, social or medical services, etc. As a result, we consider that only a cross-sectoral approach could guide the devise of effective and efficient public policies. Based on the current assumption, it becomes essential to also investigate the potential for collaboration at the level of public policies, considering it as a pre-requisite of good governance in the field of fighting and preventing violence against women.

While different perspectives acknowledge the richness of the topic, in this article we have chosen to look at violence against women mainly as a gender issue, reflecting unequal power relations between women and men. In fact, throughout the article, we will often use the concept of gender- based violence, as simply defined by the Istanbul Convention as „violence that is directed against a woman because she is a woman or that affects women disproportionately“.⁴ Reasoning on the dynamics of legal discourses and public practices, we also look at these changes through the lenses of social constructionism, considering that „the collective knowledge or acknowledgement of conjugal and family violence (...) appears as a collage of selective attentions, complaisant silences, recurrent discoveries and omissions, media peculiarities of evanescent outrage episodes. More concisely, it turns out that this reality –without being systematically hidden as it has previously been, is still far from being presented and perceived in a transparent, non- biased, global and direct manner...It is rather suggested, conjured, anticipated, assessed“.⁵

Legal regulations, national strategies and action plans, as well as administrative data and reports will inform the current analysis of the national public policies carried out for the period 2012-2017.

In recent years, the topic of violence against women reached the Romanian public agenda mainly through exceptional media stories devoted to spectacular scenes of sexual violence. While generally reproducing stereotypes about women and men, the new narratives brought to the public eye on the one hand the permanence of violence and on the other hand the inadequacy of the institutional

3 Gosta Esping-Anderson, *Why we need a new welfare state*, (Oxford: Oxford University Press, 2002).

4 Council of Europe, Convention on preventing and combating violence against women and domestic violence, article 3 (d), www.coe.org, accesat 01.07.2017.

5 Daniel Tremblay, „La problématique de la violence en milieux de vie conjugal et familial: la part du secret et celle du spectacle“, *Déviance et société*, Vol.23, Nr. 3, (1999): 275-289.

response. Within these narratives, violence against women is rarely portrayed as gender-based violence, most likely being presented under the umbrella of the more neutral term of violence within the family. As a result, a considerable proportion of Romanians still consider that sexual violence is justified under certain circumstances.⁶

In their public use, concepts remain in fact unstable, contributing to an unclear picture of the multiple faces of violence, its presence and effects. The way the intimacy of the couple is organized barely makes it to the public attention in favor of a more homogenous discourse, commonly shared today by most of the stakeholders. Discursively, an abusive psychologization of the topic, as well as the focus on poverty as the main explaining factors tend to obscure individual responsibility, while attaching a certain paralysis to potential preventive interventions from public authorities. Therefore, singular stories of gender-based violence reappear from time to time in the public space but they barely manage to shake the new conservative discourse devoted to family. Although 36% of Romanians have recently declared that violence against women is very common at national level, gender stereotypes and traditional attitudes towards gender roles seem difficult to overcome.⁷ In fact, despite recent readjustments of the Romanian family following the transition to post communism⁸ and the strong presence of violence within the family (according to recent data presented by the National Agency for Equal Opportunities between Women and Men, 76.9% of cases of domestic violence take place within the family) the social value of the ideal, harmonious and traditional family remains quite strong. State interventions, if not aiming at reinforcing the family unit through public benefits or the maintenance of the ideological status quo⁹, are still not welcomed at this point. The organization of intimacy, specifically pointing out at power relations within the couple, is therefore rarely questioned when family violence is discussed. While national statistics reflect an increase in reported cases of family violence between 2008 and 2011, they fail to reflect the gender dynamics of the aggression. And although no comprehensive studies were made by public institutions at national level, a recent study done by a coalition of Romanian NGOs acting against violence, reflects that 91.8% of the protection orders issued by judicial authorities were requested by women.¹⁰ The trend was confirmed by a new study published by the coalition of national NGOs fighting domestic violence, according to which women represent 88% of the persons requiring a protection order.¹¹ Moreover, a study done by the Fundamental Right Agency showed that 30% of the Romanian women that responded to the survey were in fact victims of violence.¹² An increase in the request for protection orders, a new measure introduced by law

6 European Commission, Eurobarometer 449 Gender Based Violence, <http://ec.europa.eu/COMMFrontOffice/publicopinion/index.cfm/Survey/getSurveyDetail/instruments/SPECIAL/surveyKy/2115>, accesat 24.07.2017.

7 European Commission, Eurobarometer 449 Gender Based Violence.

8 Anca Dohotariu, *Le couple non marié. Du politique au social dans le postcommunisme roumain*, (Iași: Institutul European, 2014).

9 See recent debate on family definition, as well as initiatives carried out by Family Coalition.

10 Rețeaua pentru prevenirea și combaterea violenței împotriva femeilor, „Studiu exploratoriu cu privire la implementarea ordinilor de protecție și a prevederilor referitoare la violența în familie din Codul Penal al României”, (2015), www.violentaimpotrivafemeilor.ro, accesat 01.07.2017.

11 Rețeaua pentru prevenirea și combaterea violenței împotriva femeilor, „Studiu exploratoriu cu privire la implementarea ordinului de protecție și a prevederilor referitoare la violența în familie din Codul penal al României în perioada 2012 – 2016, (2017), www.violentaimpotrivafemeilor.ro, accesat 24.07.2017.

12 Fundamental Rights Agency, „Violence against women: a EU wide survey”, (2014), <http://fra.europa.eu/en/publication/2014/violence-against-women-eu-wide-survey-main-results-report>, accesat 24.07.2017.

in 2011, would therefore point at the need for consistent public intervention in this area. According to the data provided by the Romanian Government, the number of requested protection orders almost doubled in a three year period, from 2538 in 2013 to 5165 in 2016, only 20% of them being fully admitted in courts.¹³ But what could then explain the absence of gender references when we address violence against women, especially as policies addressing violence could be a key entry point for a gender mainstreaming approach?

A short overview of how the institutionalization of gender equality happened in Romania could be a starting point in this direction. Mainly imported as a soft issue in order to respond to the requirements of EU accession, the topic became a marginal subject afterwards. The communist legacy, coupled with a weak political culture and limited public claims concurred in attaching little legitimacy to the principle of equal opportunities between women and men. As a result, the state response to gender- based violence remained inconsistent and vague.

Within this context, at the end of March 2017, Romania was convicted by the European Courts of Human Rights for failing to respond to its positive obligations of effective investigation of a violence case, reflecting the failure of the state to prevent and react to domestic violence.¹⁴ According to the European Court, we witness a 'national frame deprived of its purpose', on account of public authorities' downright passivity. The latter laid emphasis on the victim's behavior, therefore considering the whole case a minor crime. Considering the whole picture, our analysis of governmental programs, national strategies and action plans dealing with violence against women in a direct (National Strategy for the Prevention and Fight against Family Violence 2013-2017) or indirect manner (National Strategy for Equal Opportunities between Women and Men 2014-2017, National Strategy for the Protection and Promotion of Child Rights 2014-2020) reflects a rather formal and diluted approach of the subject, mainly if we seek to identify how gender dimension is considered in their design of public policies. At the same time, activity reports of the accountable institutions mirror the lack of political will for translating the legislation into practice, while incorporating a gender perspective and challenging the private-public divide. With the ratification of the Istanbul Convention in 2016 and several changes to law no.213/2007 regulating family violence, Romania has recently made significant steps for improving the legislative framework in the field. But despite its apparent engagement to develop and share good practices on gender -based violence, the state maintained an extremely low capacity of intervention for the main institutions responsible with preventing and responding to violence. As we could see from the analysis of the national strategy for preventing and combating family violence and its action plan, no clear budget is attached to the measures foreseen in this strategic paper. In fact, most of the interventions were to be put into practice with external funding, or they were dependent on the availability of funds. In the last year of implementation (2017), several fundamental measures mentioned in the strategy (eg. Institutional guidelines and mechanisms for intervention in cases of domestic violence, identification of risks, etc.) are still missing. Moreover, in Romania, we can find only 2 centers for perpetrators and shelters for the victims are to be found only in 14 counties out of a total number of 42. The National Interest Programs, that were to respond to these situation, were canceled by the Government at the beginning of 2017. In fact, the only 2 significant interventions the agency carried out in the field of domestic violence and that

13 Seventh and eighth period report of Romania to CEDAW, CEDAW/C/ROU /7-8, http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fROU%2f7-8&Lang=en, accesat 24.07.2017.

14 European Court of Human Rights, Case of Balsan vs. Romania, <http://hudoc.echr.coe.int/eng>, visited on 31.03.2017.

were listed in the 7th periodic government report to the CEDAW Committee were carried out with the support of the European Social Fund 2007-2013 (Project START) and the Norwegian Funding Mechanism 2009-2014 (an information campaign). No impact assessment, follow up mechanisms or evaluation of the two interventions were done in order to inform us on their efficiency and results.

The lack of a monitoring system and of an inter-institutional coordination process for collecting and analyzing data on gender-based violence maintains a veil of ignorance and public tolerance on violence, as „the application of institutional statistic tools is not without consequences when it comes to the perception of the phenomenon“.¹⁵ At the same time, we know that „there are no natural borders between private and public topics and the subjects become public only through discursive contestations“.¹⁶

When looking on when and how the topic made it through the national agenda, we notice the importance of circumstantial elements such as the international engagement (the Istanbul Convention, European directive on security and minimum standards) and opportunity for the use of the European funds (mainly the financial exercise for 2007-2013). The current gaps between legislation and public practices, as well as the limited allocation of national funds to fight and prevent violence against women testify for the missing points of the national agenda.¹⁷ In fact, the National Agency for the Protection of Family, who was in charge with devising public policies on family violence, was among the first public bodies to be dismantled in 2009 (in the framework of institutional adjustments generated by the financial crisis of 2008), together with the National Agency for Equal Opportunities between Women and Men. Today (2017), two national institutions are sharing overlapping responsibilities in this area, while the potential for dialogue and active collaboration appears quite limited. As a result, without significant investment and common priorities, policies on gender-based violence remain fragmentary and weak. Although the National Agency for Equal Opportunities between Women and Men is the main central body responsible with fighting violence since 2015, the institution has no similar counterpart at county or local level, making the implementation of national programs and strategies extremely difficult. Partnership with the civil society, as a prerequisite of good governance is circumstantial, while a mechanism for the quality control of public services, not to mention an approach focused on the participation of interested parts in the design of services, is absent today. Speaking for the victims, public and private institutions rarely take into consideration their voice.

Considering all of the above, our analysis points out that the public agenda for gender-based violence could be reduced to the English version of „tea and sympathy“. While recent legislative changes could induce signals of optimism, we should maintain a critical and vigilant approach on how all these provisions are translated into practice in the upcoming future. In the current context, challenges should address the tendencies for a moralizing and humanitarian approach of the issue, evacuating a reading of the situation in terms of gender violence and human rights. In the same direction, the fashionable tendency to bring forward the neo-liberal approach outlining the economic costs of violence could also obscure the human rights dimension of the phenomenon.

15 Dominique Fougeyrollas, „Représentations de la violence envers les femmes dans le couple: mesures du phénomène – Le cas français“, *Santé, Société et Solidarité*, vol.7, nr.1, (2008): 109-116.

16 Nancy Fraser, „Rethinking the Public Sphere: A Contribution to the Critique of Actually Existing Democracy“ in: Craig Calhoun (editor), *Habermas and the Public Sphere*, (Cambridge: Massachusetts Institute of Technology Press, 1994), 109-143.

17 Although in the last quarter of 2016, the Government was announcing the national programs of interest for fighting violence against women, no funds were allocated for this in 2017.

Understanding gender-based violence as a form of discrimination and following the perspective proposed by Nancy Fraser¹⁸, we consider that it could only be tackled by combining efforts that address two main dimensions of the phenomenon: redistribution and recognition. In practice, we think this could translate into more public services addressed to victims and perpetrators, but also a critical questioning of the social norms that perpetuate an unequal power relation between women and men. Empowerment of victims is therefore essential for a substantial exercise of their rights.

At the level of public policies, new evidence, more resources and increased inter-institutional coordination efforts could translate into significant changes for the victims of violence. At the same time, fresh research on the topic (eg. ethnographic studies on everyday violence experienced by women, or studies promoting intersectionality and reflecting the diversity of experiences) could generate public awareness and challenge tolerance and impunity of violent acts. In fact, 'social facts could be noisy if they take the shape of explosions or riots, but they remain silences without translators or spokespersons.'¹⁹

Coming back to the role of gender, not only as an analytical tool reflecting power relations, but also as an element strongly connected to the phenomenon of violence against women, we consider that no solution could be effective without the consideration of gender relations on the diagnosis and response level.

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¹⁸ Nancy Fraser, Axel Honneth, *Redistribution or recognition: a philosophical exchange*, (London: Verso, 2003)

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