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VIOLENCE AGAINST WOMEN AND THE HUNGARIAN CRIMINAL LEGISLATION IN LIGHT OF INTERNATIONAL STANDARDS

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I. Summary of the Aims and Objectives of the Research

The aim of my PhD dissertation is to analyze the Hungarian criminal law, especially substantial law, from the point of view of compliance with international standards concerning violence against women, and offering useful propositions to the legislator in respect of the revealed deficiencies.

While violence against women existed throughout history, it only became regarded as a social problem requiring legal response in the 20th century. The international organizations urged the state parties to take appropriate measures, requesting them to consider inequality between men and women created by traditional gender roles as one of the main causes of violence against women. Nowadays, it is generally accepted that gender-based violence constitutes a violation of human rights and must be eliminated.

The relevance of the topic is strongly supported by the national and international tendencies hallmarked by the expected ratification of the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention).

The thesis is made up of three large parts. The ***first part*** presents violence against women as a social and legal phenomenon, dealing with such aspects as gender roles and changes in the social and legal situation of women. This part also describes the development of the institutes and instruments of international organizations (United Nations, Council of Europe, European Union) influencing the Hungarian legislation from the aspect of the rights of women. The aim of this description is to show the progress resulting in the recognition of violence against women as a human rights problem and the building of a broad definition, which established the legislative processes of state parties. This part of the thesis is also dealing with the criminological aspects of the phenomenon, on the base of relevant national and international research studies.

The Declaration on the Elimination of Violence against Women of the UN General Assembly defines violence against women as any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life. According to the Declaration such acts are including but not limited to physical, sexual and psychological violence occurring within the family, general community or perpetrated by the state. The Istanbul Convention amends the definition with the economic harm or suffering.

As the Declaration and the Istanbul Convention deliberately constitute extensive definition of violence against women, there are numerous crimes in the Hungarian Criminal Code closely linked to such violation of human rights of women. The thesis focuses on three topics, in respect of their historical roots or contemporary relevance:

- sex crimes, violating the sexual integrity of the victim, committed without consent
- prostitution, exploitation of prostitution and sex trafficking
- intimate partner violence.

The ***second part*** aims to present the history of Hungarian legislation in the field of the selected forms of violence against women, with main focus on the regulations of criminal substantial law. As crimes against sexual freedom, prostitution and the exploitation of prostitution have deep historical roots, the starting point of the analysis is the Act V of 1878, the first Criminal Code of Hungary called "Csemegi Code." In case of the intimate partner violence, the starting point is the Act IV of 1978 on Criminal Code, because the social need for its criminalization appeared only at the end of the 20th century. Regarding this topic, the analysis covers many provisions outside the Criminal Code, given that the legislator refused for a long time to create a criminal offence and preferred to utilize other measures.

The aim of the ***third part*** is the critical analysis of the Hungarian regulations in force concerning the three topics in light of international documents and national legal literature. This part of the thesis contains my *de lege ferenda* propositions which are complying with international standards, and, as much as possible, preserving the traditional Hungarian criminal law terminology.

I do not intend to carry out a comprehensive analysis of the whole regulation system which allows effective elimination, prevention and victim protection concerning violence against women, urged by international organizations. My primary focus is the criminal substantial law; other aspects are concerned only in relation with the development of criminal legal instruments.

II. Description of Research Methods

The first part of my thesis examines violence against women as a social and legal problem. This complex phenomenon required an interdisciplinary approach.

The overview of the psychological, social and legal interpretation of femininity is based on literature review including sociological and psychological studies, using descriptive method and historical analysis.

Regarding the process of the development of women's rights and the actions to combat violence against women, the primary sources were the relevant instruments of international organizations (United Nations, Council of Europe, European Union) including legally binding and soft law documents. The secondary source was the domestic and foreign professional literature.

The criminological analysis of violence against women has been carried out on the basis of relevant international and national research studies aiming to map the prevalence and effects of the phenomenon.

The second part of the thesis presents a historical overview of the Hungarian legislation regarding the selected forms of violence against women, focusing on criminal law, using descriptive, historical and legal-dogmatic analysis and, in relation to the international obligations, legal-comparative methods. Taking into account the relevant current international standards, a retrospective critical appraisal was applied. Professional literature, domestic law, international instruments and numerous statements of NGOs were used as sources of research material.

The third part of the thesis focuses on the legal-dogmatic analysis and critical appraisal of the Hungarian regulations in force concerning the specified forms of violence against women, in light of international instruments and domestic professional literature. This part of the text also contains *de lege ferenda* propositions have been prepared on the basis of the traditional Hungarian criminal law terminology, taking also into account the professional literature, the standards established by international instruments, and the statements and recommendations of domestic and international NGOs

III. Summary of Research Findings

Part I - Identification of the Main Issues and an International Outlook

The first part of the thesis describes violence against women as a social and legal phenomenon thus establishing the necessity of the analysis of the Hungarian criminal law and laying out its framework.

The ***first pillar*** of this part explores the background of gender inequalities through the key concepts of gender issues (e.g. sex and gender, gender stereotypes, gender ideologies) and briefly discusses the changing roles of women in law and society and the effects of feminist movement.

As it has already been pointed out, the standard-setting activities of international

organizations established the necessity of legislation in the field of violence against women. According to that, the ***second pillar*** of this part is dedicated to the analysis of the activities of the relevant international organizations concerning women's rights, with special regard to the legally binding instruments ratified by Hungary.

The UN Charter in its Preamble declared faith in equal rights of men and women. During the first decades of functioning, objectives and institutional system were established for the amelioration of the status of women. By the end of the 1990s the issue of violence against women has become a major concern in the UN system. In 1993 the Vienna Declaration and Programme of Action as a result of the World Conference on Human Rights declared that the human rights of women were an inalienable, integral and indivisible part of universal human rights, and all forms of gender-based violence were incompatible with the dignity and worth of the human person, and had to be eliminated. In the same year, the General Assembly adopted its above-mentioned Declaration defining the notion of violence against women.

These instruments were the starting points of the process of identifying more and more aspects of violence against women and demanding various measures aimed at preventing and eliminating them.

The thesis places particular emphasis on the legally binding instruments with significant effect to Hungarian legislation. These are:

- the Convention for the Suppression of Traffic in Persons and the Exploitation of the Prostitution of Others,
- the Convention on the Elimination of All Forms of Discrimination against Women,
- Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.

Equality between women and men has also a great importance to the ***Council of Europe***. A comprehensive legal and policy framework has been developed in order to realize de facto gender equality. From the 1990s, violence against women became an outstanding issue. The Parliamentary Assembly and the Committee of Ministers of the Council of Europe encouraged preventing and combating violence against women by issuing recommendations until the early 2000s, and subsequently legally binding instruments were also created. I examined the provisions of the following documents:

- Convention on Action against Trafficking in Human Beings,
- Convention on the Protection of Children against Sexual Exploitation and Sexual

Abuse,

- Convention on preventing and combating violence against women and domestic violence.

Equality between women and men is also one of the founding values of the ***European Union***. In the work of the EU the focus has gradually changed from de jure to de facto equality. The Maastricht Treaty provided theoretical opportunity to the fight against violence towards women by establishing judicial cooperation in criminal matters under the "third pillar" of the EC. In the beginning, only community strategies and action programs dealt with this issue. The Amsterdam Treaty widened the perspective allowing the establishment of minimum rules concerning certain criminal acts via framework decisions. The Treaty of Lisbon significantly reshaped the organization. After the abolition of the "3-pillar structure", criminal judicial cooperation has become a field in which the European institutions might legislate by adopting directives.

The following relevant legally binding instruments were examined:

- concerning trafficking in human beings, the Framework Decision 2002/629/JHA and the Directive 2011/36/EU,
- concerning victims of crimes in criminal proceedings the Framework Decision 2001/220/JHA and the Directive 2012/29/EU,
- in relation with protective measures provided for victims of violence the Directive 2011/99/EU and the Regulation (EU) No 606/2013.

In conclusion, the development process under the auspices of these international organizations has led to the recognition that inequality between men and women created by traditional gender roles is one of the main causes of violence against women. It is therefore necessary to eradicate prejudices, customs, traditions and all other practices which are based on the idea of the inferiority of women or on stereotyped roles for women and men, in order to prevent and eliminate violence against women.

The ***third pillar*** of this part reviews which types of acts are considered as forms of violence against women and how they are defined by international organizations. These definitions, with special regard to the Istanbul Convention, provide a basis for critical analysis of the Hungarian legislation. This part of the thesis is also dealing with the criminological aspects of the phenomenon on the basis of relevant international and national research studies aiming to map the prevalence and effects of the phenomenon. According to the available literature, the exact characteristics of violence against women have not been determined yet, due to multiple factors, including:

- the lack of common definitions,
- the lack of reliable, comprehensive statistical data, suited for international comparisons,
- a high proportion of latency,
- the lack of a standardized methodology for victim surveys.

Part II - Historical Overview of the Hungarian Legislation Concerning Certain Forms of Violence against Women

The chapter about the ***historical overview of the Hungarian legislation concerning crimes of sexual violence*** analyzes the topic from the perspective of the fight against violence towards women. Nowadays, regarding criminalization, from this perspective the main requirements are:

- defining sexual assault as a violation of bodily integrity and sexual autonomy instead of a crime against morality, public decency and honor,
- criminalizing all non-consensual acts of a sexual nature; not only acts committed by violence, threat or coercion,
- criminalizing sexual assault within a relationship (i.e., "marital rape") specifically.

Based on these requirements the analysis is focusing on the protected legal interest, the victim, the statutory conduct and the way of perpetration regulated in the provisions of three former Criminal Codes, the Csemegi Code, the Act V of 1961 and the Act IV of 1978.

The first Criminal Code of Hungary defined the examined sexual crimes (rape and sexual assault) as the violation of morals and public decency. The honor of the family was considered more important than the harms of the victim. These crimes might only be prosecuted upon private motion of the injured party, and in this respect, the husband of the victim was also considered to be one.

The behaviors which met the criteria of the statutory conducts in case of these violent sexual crimes consisted of two interdependent parts. The objective action was some kind of sexual act (sexual intercourse or sodomy), the instrumental action was coercion. In case of these criminal offences the legislator also defined a second expression which could be realized by the sexual act itself by exploiting the victim's condition (unconscious, unable to express her will, or unable to protect herself). In case of coercion the legislator specified two ways of perpetration, force (which had to exceed the level of sexually intrusive behavior, suited for overcome a serious resistance, but not had to be irresistible force) or threat (direct threat against the bodily integrity of the victim or her present family member).

The crimes could not have been committed against males or the spouse of the perpetrator. The marriage of the perpetrator and the victim before the end of the trial dissolved the criminal liability.

According to the Act V of 1961, in case of rape and sexual assault the protected legal interest was the sexual freedom, although they located in Chapter XV, Crimes Against Sexual Morality. The behaviors which fulfilled the criteria of these statutory conducts were regulated similarly to the Csemegi Code. The objective action was sexual intercourse or sodomy, the instrumental action was coercion by the means of force or threat. In case of the second expression the statutory conduct was the sexual act realized by the exploitation of the victim's condition (unable to protect her/himself or unable to express her/his will). In case of coercion the force had to be a physical effect that is suited for overcome a serious resistance, the threat had to be a direct threat against life or bodily integrity of the victim or other person ("qualified" threat).

The rape could have been committed only by a man against a women with the exception of his wife during their life together. In case of sexual assault either the perpetrator or the victim could have been a man or a woman, with the exception of same sex persons and spouses during their life together. In case of separated spouses, the perpetrator could have been accountable.

The Act IV of 1978 in its original form practically inherited these regulations. Over the decades the provisions were frequently amended. A broader range of victims had been defined, extending the category to men and spouses living together. In adjudication and legal literature a flexible interpretation in relation with the level of force and resistance, depending on circumstances and the characteristics of the victim, became generally accepted. However the fact that the Supreme Court in its adjudication-orienting documents (BK 154 and later BKv 56) considered "provocative behavior" of the victim as a mitigating circumstance in sentencing in rape cases gave reason for serious concern.

By the end of this era, after several amendments, the statutory provisions of "rape" and "sexual assault" became quasi-identical, except for the statutory conduct (sexual intercourse or sodomy) and the relation between the sex of the perpetrator and the victim (the criteria were different sexes in case of rape, same sex in case of sexual assault).

In view of this, certain scholars suggested the re-regulation of these acts in common statutory provision. The change in social attitudes toward sexuality and the international obligations also confirmed the need for a fundamentally revised regulation.

The development of the regulation concerning prostitution and the so-called

"parasitic crimes" can be divided into three phases. In the first phase, from the middle of the 19th century, legislation followed a *regulatory* model. In favor of the protection of public morality and public health, local regulations ordered the mandatory registration and regular administrative and medical supervision of harlots.

The Csemegi Code did not define prostitution as a crime, and right after coming into force only one type of the so-called "parasitic crimes", a special form of pandering called "seduction" was criminalized. According to the Act XL of 1879 harlots breaking the rules determined by local regulations committed "contravention". Act XXXVI of 1908 amended the Csemegi Code criminalizing further forms of pandering. In accordance with the provisions of international instruments combating human trafficking, further amendments occurred.

In the 1950s, there had been a radical change. The demand for *prohibition* appeared. Socialist regime regarded prostitution as inappropriate and immoral activity. The legislator declared prostitution a crime, and also constructed a misdemeanor.

The regulations of the Act V of 1961 were also based on this approach. The Criminal Code penalized either the prostitution or the so-called "parasitic crimes" (persuasion for prostitution, promotion of prostitution, living on earnings of prostitution, pandering). However, the ministerial reasoning of this act referred to the New York Convention, the provisions did not fulfill the requirements of this international instrument.

The Act IV of 1978 in its original form contained similar provisions, but after the Change of Regime a new approach emerged. In the spirit of a *limited abolitionist model* prostitution had been removed from the criminal code (but the misdemeanor form still existed).

The fundamental re-regulation of prostitution was based on the Act LXXV of 1999 on combating organized crime. This law laid down rules for the protection of the public order, defining certain prohibited conducts, and authorizing local authorities to designate zones for permitted prostitution ("tolerant zone"), and extending the protected zones which were also defined by the law. The provisions of the act on misdemeanors were harmonized with these rules.

The statutory definition of trafficking in human beings has been in force since 1999 in the Criminal Code. As a basis for the regulation the legislator marked the Universal Declaration of Human Rights and the 1926 Slavery Convention. The rules of the New York Convention had not been taken into account.

Although domestic violence covers a broad range of conduct and affects several types of victims, my thesis is focusing on the ***regulation concerning intimate partner violence***

because it affects women disproportionately. The historical overview also takes into account provisions outside the Criminal Code.

In Hungary domestic violence was recognized as a social problem only in the 1990s, with frequent legislative attempts from the 2000s. According to the legislator there was no need either for specific statutory definitions in the Criminal Code or a comprehensive law because those types of acts might be adequately condemned by the correct application of general provisions of the Criminal Code and/or the Code of Misdemeanors, supplemented with some new legal instruments like restraining orders.

In 2003, in order to promote the effective implementation of law, the legislator created a strategy specifically on domestic violence, and one of the chapters of the national strategy on crime prevention was also dedicated to this topic. In order to improve the effectiveness and facilitate the uniformity of practice in the police work, the Chief Commissioner of the Hungarian National Police created internal regulatory instruments.

As a part of the legislative process, after more unsuccessful attempts, restraining order became part of the Hungarian legal system. Firstly, in 2006, the restraining order as a coercive measure in criminal procedure. Secondly, in 2009 two additional forms were regulated in a specific law, as protective measures applicable by the police or by the judge.

Harassment, which is, according to research studies, mostly perpetrated by males against female victims, has been criminalized in 2008, also after multiple legislative attempts. The relevance of this criminal offence from the perspective of intimate partner violence is that legislator determined as a qualified case if harassment was committed against the actual or former spouse, cohabitant or registered cohabitant of the perpetrator.

Following the creation of the strategy on domestic violence at the end of the decade, the need for a new Criminal Code has emerged. NGOs promoting the fight against violence towards women recognized the opportunity to implement of a human rights-based approach represented by them and also by the international organizations.

Part III – Analysis and Critique of the Current Hungarian Rules Concerning Selected Forms of Violence against Women

In the third part of my thesis, ***concerning the current rules in respect of crimes of sexual violence,*** I pointed out that in the new Criminal Code, the Act C of 2012, in view of changing attitudes, obsolete terminology and international obligations, the relevant provisions have been re-regulated either structurally or substantially. In respect of the laid out framework of the thesis, two criminal offenses, “sexual violence” and “sexual exploitation” had been

analyzed. The protected legal interest regarding these crimes is sexual freedom which also appears in the title of the relevant chapter of the Criminal Code.

The criminal offence called “sexual violence” had been created by merging the former “rape” and “sexual assault”, the objective action of this new crime, called “sexual act”, basically contains the former notions “sexual intercourse” and “sodomy”. Other statutory elements remained the same.

“Sexual exploitation” is a new statutory definition. According to the ministerial reasoning of the act, it has been created with regard to the Istanbul Convention, and therefore encompasses all conducts when the victim did not give voluntary and freely consent to the sexual activity, but under constraint. The statutory conduct of this crime also consists of two interdependent parts, the objective action is the “sexual act”, and the instrumental action is “coercion”, but the law, unlike in the case of “sexual violence”, in this respect does not describe the way of perpetration.

In order to determine whether the current provisions comply with the relevant international standards, it is indispensable to clarify what kind of behaviors can fulfill the statutory elements of “coercion” in relation with “sexual exploitation”. I had to examine two factors. Firstly: where can we draw the line between “sexual violence” and “sexual exploitation”. Secondly: what kind of conducts make the threshold for the “sexual exploitation”, and whether they cover all types of non-consensual acts of a sexual nature.

Analyzing the relevant Hungarian legal literature, I found controversies about the interpretation of the notion of coercion in relation to “sexual exploitation”. Therefore the current regulation does not fulfill the requirements of the Istanbul Convention and the principle of legal certainty is also breached.

In my opinion the analysis of statutory elements “coercion” and “without the consent” applied in the provisions of the Hungarian Criminal Code in force may help determine how the current regulation could be amended in order to create a legislative environment defending the sexual freedom as well as possible, in accordance with applicable international obligations.

As a result of the analysis, I found that Hungarian criminal law does not cover those types of non-consensual acts of a sexual nature which are committed

- against a victim who is mistaken or deceived whether it was caused by the perpetrator or by other person,
- against a victim who did not give explicit consent or gave it posterior to the sexual act, if it was against his/her free will assessed in the context of the surrounding

circumstances,

- against a victim who is legally incapacitated adult (in case of he/she is not unable to self-protection or unable to express her/his will, but incapable to demonstrating consent)
- by means of minor physical and psychical effects able to influence the behavior of the victim, beneath the level of force and threat (in domestic legal literature there are controversies concerning this type of conduct).

In respect of the revealed deficiencies, I developed two versions of **de lege ferenda propositions**.

1. I proposed the extension of the notion of "coercion" in relation with "sexual exploitation" by an interpretative provision under which coercion covers all acts of a sexual nature without the freely given consent of the victim.

This solution allows us to apply the statutory definition in those cases when the sexual act was committed against a mistaken or deceived victim, or by the exploitation of his/her condition influencing the capability of self-protection or the expression of the will, or without the victim's explicit consent. It requires minor amendments regarding the current regulation, but it is not suited for the purpose of drawing a line between "sexual violence" and "sexual exploitation".

2. Therefore, I propose another amendment which consists of two components:

- The introduction of a new, less grave offence than "sexual exploitation" called "violation of sexual freedom" which is applicable in case of a perpetrator engages in non-consensual sexual activities with the victim, or makes the victim to engage in sexual activities with a third person.
- The introduction of two ways of perpetration to the statutory definition of "sexual exploitation"
    - "non-qualified threat" as defined by section 459, paragraph (1) point 7 of the Criminal Code,
    - "by acting in any other similar manner" which covers the types of coercion beneath the level of force and threat, e. g. minor physical and psychical effects able to influence the behavior of the victim.

In this chapter, I also pointed out that certain forms of sexual harassment defined by Istanbul Convention can be judged under section 205 of Criminal Code, called "indecent exposure". The verbal and non-verbal acts (e.g. creating a humiliating environment by remarks or gestures, drawing indecent symbols) are not covered by this statutory definition.

Therefore, I drew up a **de lege ferenda** proposition to introduce a new statutory definition on sexual harassment to the Act II of 2012 on misdemeanors based on the definition of harassment of paragraph 10 of the Act CXXV of 2003 on equal treatment.

Analyzing the ***current rules concerning prostitution and the so-called "parasitic crimes"***, I pointed out that the Criminal Code applies some new terms. Prostitution itself is still not punishable under criminal law, however the administrative regulation creates a number of problems. The local authorities' fail to designate zones for permitted prostitution ("tolerant zones"), the too expanded protected zones and the changed procedural rules led to an extended application of administrative actions against prostitutes

The provisions concerning so-called "parasitic crimes" (pandering, promotion of prostitution, living on earnings of prostitution, exploitation of child prostitution) have been amended, mainly in respect of relevant international instruments on elimination of child sexual abuse and exploitation. The legislator introduced "exploitation of child prostitution" to the Criminal Code as a new statutory definition, but the wording is not coherent, because several conducts connected to child prostitution remained part of statutory definitions of other criminal offences.

The statutory definition of trafficking in human beings was amended. The inclusion of exploitation as a statutory purpose of the perpetrator is an important new element, although its forms are not included explicitly (e.g. exploitation of the prostitution of others or other forms of sexual exploitation); however, according to the results of relevant domestic researches, in practice typically the prostitution-related human trafficking occurs.

Analysis of the ***current regulations from the perspective of intimate partner violence*** showed that the Act C 2012 in its original form as the Parliament accepted it, did not contain a specific crime. Domestic NGOs urged the creation of a comprehensive criminal offence concerning domestic violence, and in favor of it, there was also a popular initiative. In this part of the thesis the process of legislation in respect the statutory definition of "violence in a relationship" had been described in details. Two relevant criminal offences, "harassment" and "violence in a relationship", also had been analyzed from the aspect of compliance with international standards and practical applicability, and the amendment of these provisions had been proposed *de lege ferenda* on the basis of the results.

The main issues concerning harassment (section 222 of Criminal Code):

- In paragraph (1), the subjective nature of "pestering" as statutory conduct complicates to determinate in legal practice the kinds of conducts which make the threshold for this criminal offence. There are also ambiguities concerning the judgement of the

behavior of the perpetrator if it also affects the relatives of the "target" person.

- The features of this statutory conduct, according to certain positions the ways of perpetration, are the regularity and enduringness. The common interpretation of regularity in this respect is "repetitive acts within a short period of time", and of enduringness is "acting within an extended time period", but according to legal practice the perpetrator is not held accountable for pestering the victim with multiple attempts of making contact with her/him on the same day.

- The statutory purposes of the perpetrator (intimidation, arbitrarily disturbing the privacy) in reality typically the consequences of this conduct.
  - The category of victims: according to the paragraph (2) the threat has to be directed against the victim or the relatives of the victim in order to meet the criteria of the provision, with the exclusion of other people; the paragraph (3) point a) which defines a qualified case only applicable in case of the crime is committed against actual or former spouse, cohabitant or registered cohabitant of the perpetrator.
- Many types of harassing conducts are not included in the statutory definition as prohibited behaviors.

De lege ferenda

I propose the amendment of the paragraph (1) with a new way of conduct, "serious" pestering which provides the applicability of the statutory definition in cases of ad hoc, but serious disturbances.

I propose to declare "arbitrary disturbance of privacy" and "intimidation" as the way of perpetration instead of statutory purpose, the latter in the form of "by intimidation adequate to result in serious fear". According to my proposition, conducts perpetrated by these ways may only constitute crimes if one of the above-mentioned ways of perpetration (repetitiveness, enduringness or seriousness) conjunctively occurs.

I also propose to remove the purpose of intimidation from paragraph (2), because in my opinion the effect of the conduct to the victim should be emphasized.

I propose to expand the category of "the target of threat" in paragraph (2) beyond the victim or the relatives of the victim to any other person.

I propose to expand the category of victims in paragraph (3) point a) to the actual or former intimate partner of the perpetrator beyond actual or former spouse, cohabitant or registered cohabitant of the perpetrator.

The main issues concerning "violence in a relationship" (section 212/A of Criminal Code):

- In paragraph (1), the statutory conduct is defined as "violent conduct" which, in

respect of paragraph (2) can only be force directed against an object, and additionally it should be deeply damaging to the human dignity and simultaneously humiliating; this wording excludes the implementation of this provision in case of several types of conducts.

- The regulation concerning economic violence is very narrowly drawn, because the statutory result of the offence is "serious deprivation" which means inability to satisfy basic human needs.
- In relation of the way of perpetration, "regularity", there are convergent opinions in the legal literature about the required number of occasions and time interval, or even the necessity of regularity, and according to certain scholars, this criterion should be removed.
- The law excludes certain relevant groups of victims by the nature of the relationship (e. g. intimate partners who do or did not live in a same household with the perpetrator, unless they have a common child).
- Sexual violence is not included as a category.

De lege ferenda

I propose to transfer the statutory definition from chapter XX (Offenses against children and against family law) to chapter XXI (Crimes against human dignity and fundamental rights), regarding that the regulated behaviors violates the human dignity and fundamental rights of the victims who has specific relationship with the perpetrator.

In this case, the expansion of the category of victims to persons who are in certain emotional, dependent or power relations with the perpetrator (e. g. who is in the care or under the supervision of the perpetrator) beyond family relationship will not lead to legal-dogmatic problem.

I also propose to remove the criteria of living in a same household, and include those victims who are in a so-called "living apart together" relationship with the perpetrator.

Concerning paragraph (1) point a), I consider the legal-dogmatic restructuration of certain statutory elements, and the introduction of a new element necessary. I propose to regulate the element "deeply damaging to the human dignity" as way of perpetration instead of a feature of the statutory conduct, and the introduction of enduringness also as a way of perpetration. In my opinion it might be appropriate to regulate the two other features of statutory conduct "humiliating" and "violent" as alternative elements, allowing the implementation of this criminal offence in case of humiliating acts which are repeated,

enduring or having serious consequences, namely psychological violence. This wording allows implementing the criminal offence also in cases of violation of reproductive rights.

Regarding paragraph (1) point b) on economic violence, I propose to remove the criterion of regularity and the modification of the statutory result from "serious deprivation" to "substantial injury of interest".

I also propose to criminalize the different forms of commitment of sexual abuse or violence on a regular basis, since these acts represent significant danger to society and require more severe sanctions. In my opinion, it is necessary to supplement the statutory definitions of crimes against sexual freedom in this respect with qualified cases providing more severe penalty.

Practical Application of Research Findings

The practically applicable results of the research are the *de lege ferenda* propositions described above. These propositions have been prepared on the basis of the traditional Hungarian criminal law terminology, taking also into account the professional literature, the standards established by international instruments, and the statements and recommendations of domestic and international NGOs. These propositions could be easily incorporated into the Criminal Code, contributing to the harmonization of the Hungarian provisions and the international obligations.

IV. List of Publications Related to the Dissertation

1. A családon belüli erőszak és a magyar szabályozási törekvések *(társszerző: Csemáné Dr. Váradi Erka)* In: Stipta István (szerk.) Miskolci Doktoranduszok Jogtudományi Tanulmányai 12. Miskolc, Gazdász-Elasztik Kft., 2013. 497-530.o.
2. A családon belüli erőszakkal kapcsolatos jogszabályalkotás Magyarországon. In: Miskolci Egyetem Doktoranduszok Fóruma, Miskolc, 2004. november 4., az Állam- és Jogtudományi Kar szekciókiadványa; a Miskolci Egyetem Innovációs és Technológia Transzfer Centruma, Miskolc, 2005. 109-115.o.
3. A családon belüli erőszakkal kapcsolatos jogszabályalkotás Magyarországon. Collega, 2005/2. 98-102.o.
4. A családon belüli erőszakra vonatkozó magyar jogi szabályozás a nők elleni erőszakkal szembeni fellépés szemszögéből. In: Csemáné Dr. Váradi Erika (szerk.): Current Questions and European Answers in the Field of Law and Justice in Romania and Hungary. A Miskolci Egyetem, Állam- és Jogtudományi Kar és a Nagyváradi Egyetem, Állam- és Jogtudományi Kar közös kiadványa, Miskolc, 2015. 67-79.o.
5. A nemi erkölcstől a nemi önrendelkezésig – a szexuális bűncselekmények szabályozástörténete Magyarországon a nők elleni erőszak szemszögéből. In: Szabó

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