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Intimate Partner Violence and UN activity on women rights protection

ABSTRACT

There are many types of violence. This article has been dedicated for the problem of intimate partner violence, as a one of the type of the domestic violence. Searching through the typology of domestic violence and taking into account the person who is a victim, we can find violence against women, against the elderly or children. Among the types of violence we find physical, sexual, psychological and economic violence, as well as violence through neglect. The catalogue of forms of violence is still open and enriched by new forms of abuse. Undoubtedly, violence against women is one of the most common forms of violence, affecting women of any culture, country or religion. Among the different types of violence against women, the author of this article had found special need to describe and make a research on a phenomenon of intimate partner violence, also known as a domestic violence¹. The World Health Organization estimates that even 61% of women who have ever been in a partnership have experienced intimate partner violence. This article is dedicated to defining the phenomenon of intimate partner violence, statistics on this problem, and describing United Nations activities to protect rights of women.

KEYWORDS: *violence, violence against woman, UN, women's rights, human rights*

¹ The term 'domestic violence' is used in many countries to refer to partner violence but the term can also encompass child or elder abuse, or abuse by any member of a household. https://apps.who.int/iris/bitstream/handle/10665/77432/WHO_RHR_12.36_eng.pdf?sequence=1 (access: 18-08-2019).

Definition of intimate partner violence

At the beginning of the contemplation on the phenomenon of intimate partner violence, it should be noted that it concerns not only violence used against women by men, but also (in a much smaller extent) violence used against men. This phenomenon also occurs in homosexual relationships².

Violence against women is defined as “any act of gender-based violence that results in, or is likely to result in, physical, sexual, or mental harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life”³. WHO estimates that even a third of women around the world have experienced physical or sexual violence in their lives. What’s more, violence is the cause of further health problems for women, causing mental disorders, developing HIV or leading to the need for an abortion. Statistics therefore put violence against women as the most important health problem for women and a violation of their rights.

There is a type of violence, which is called in the literature: ‘violence in a close relationship’. Within this type, we can distinguish violence that we experience from the people who are in close relations with us, formal or informal, even if it is not associated with living together⁴.

Intimate partner violence is a complex phenomenon that occurs in all cultures, societies, among partners representing all religions, skin colours and geographical origin. From this point of view, we can say that intimate partner violence is a global phenomenon. It equally affects women from both developing and developed countries.

In general statistics it should be shown that about 30% of women around the world in their lives have experienced the act of physical or sexual violence by their partner at least once. In European countries, 22% of women admit to being a victim of violence by an intimate partner, and 43% admit to

² Ali, P.A. Dhingra, K. McGarry, J. *A literature review of intimate partner violence and its classifications. Aggression and Violent Behavior*, ISSN 1359-1789, 2016, pp. 16–25.

³ Declaration on the elimination of violence against women, New York, UN, 1993.

⁴ Lipowska-Teutsch A., *Rodzina a przemoc*, Warszawa 1993, p. 6.

being abused from the age of 15. It is also observed that there is a correlation between financial dependence on a man and phenomenon of intimate partner violence. In the case of women dependent to the financial support of their partners, about 58% admit that they have experienced physical and psychological violence. Fear, but also emotional allegiance to a partner closes down the problem of intimate partner violence in domesticity. Approx. 75% of women experiencing this type of violence admit that they have never reported and did not use the help of available institutions⁵.

The study on intimate partner violence and the fact that it affects women in countries around the world, representing every religion or culture, is strengthened primarily by the emotional commitment and economic dependence of a woman on her husband or partner. The fact that a woman experiences violence from the person who is her host, as well as a feeling of love or commitment to a relationship, causes that a woman is convinced of the justification of the violence against her. This situation applies primarily to developing countries. An example is Bangladesh, where almost 68% of women surveyed believe that marriage gives their husbands the right to use violence against their wife, under certain circumstances, such as when women “disobey” a husband or partner. Similar situation we notice in countries such as Ethiopia, the provinces of Peru or Samoa, where this ratio is equally high or even higher (Samoa – 80%, provinces of Peru 60.5%, provinces of Tanzania 85.4%)⁶.

In addition it's worth to mention about social acceptance of violence against women. This phenomenon has a cultural roots and largely it's based on the conviction of the social roles assigned to women and men. In the traditional view of many cultures, a woman is responsible for caring for the home, children, caring for her husband, showing him proper respect and obedience. The man is responsible for maintaining the family and ensuring safety against threats from the outside. However, if husband or partner

⁵ Scott E., *A brief guide to intimate partner violence and abuse*, Edinburgh 2015, p. 5

⁶ Garcia-Moreno C et al. *WHO multi-country study on women's health and domestic violence against women: initial results on prevalence, health outcomes and women's responses*, Geneva: World Health Organization, 2005.

notices the act of disobedience of his wife or wants to fulfil his assigned role of satisfying reproductive needs, even if it involves the use of violence or coercing his wife into sexual intercourse, he has the right to do so⁷.

Physical violence

The phenomenon of intimate partner violence takes various forms. The most popular is physical violence, which includes all actions that cause a woman's injury, including among other: hits, blows, kicks and acts with the use or threat of using weapon, including firearms, but also other tools. Data carried out by the World Health Organization between 24000 women representing different countries of origin, latitudes, inhabiting both rural and urban areas, shows that up to 61% of women surveyed experienced physical violence from their partner in their lives⁸.

Due to the conviction of subordination to men, women very often (20–70%) do not tell anyone that they experience physical intimate partner violence. And if they decide to confide in someone about violence caused by their partner, they are more likely to do so in relation to other family members than people from outside of it⁹.

Sexual Violence

The second most common form of intimate partner violence is a sexual violence. The World Health Organization defines this phenomenon as “any sexual act, attempt to obtain a sexual act, unwanted sexual comments or advances, or acts to traffic, or otherwise directed, against a person's sexuality

⁷ Krug E. G., Dahlberg L.L., Mercy J.A., Zwi A.B., Lozano R., *World report on violence and health*, Geneva 2002, pp. 94-95.

⁸ *Understanding and addressing violence against women. Intimate partner violence*, World Health Organization, https://apps.who.int/iris/bitstream/handle/10665/77432/WHO_RHR_12.36_eng.pdf;jsessionid=853F4F7D6AB5BF7FD640D93F932333C6?sequence=1 (access: 18.08.2019).

⁹ *Ibidem*, p. 96.

using coercion, by any person, regardless of their relationship to the victim, in any setting, including but not limited to home and work”¹⁰.

Sexual violence has a very broad dimension and is not just about coercing into sexual intercourse or other sexual act. It also includes other activities to satisfy sexual urge such as demonstrating jealousy, mocking and commenting on the appearance of a partner, or forcing to watch pornographic content¹¹ and also hurt during the sexual intercourse or forced unprotected sex¹².

In many countries, the sexual violence in marriage is not considered as a crime at all. The prevailing belief is that satisfying the husband’s sexual needs is the responsibility of the woman and the forms and abuses occurring during sexual intercourse are a matter of husband’s preference, which should remain between the spouses.

The sexual violence and the fact that women become victims of marriage are based on childhood and parental treatment. Girls who experience insults from their parents and other forms of vulgarity in childhood have a lower sense of self-esteem, which affects the wrong assessment of future partners. Such a woman accepts vulgar and objective treatment, including acts of sexual violence¹³.

The phenomenon of sexual violence used by an intimate partner is classified as one of the most difficult victimization issues. The fact that violations of the sexual sphere are made by a loved one, lead, in addition to satisfying sexual needs, to forcing to obey. The victim who is constantly exposed to this type of behaviour has limited ability to defend herself and in addition there is a woman’s fear of sharing this problem with others due to the intimate nature of the problem. For this reason, specialists dealing with

¹⁰ Jewkes, R., Sen, P., & Garcia-Moreno, C., *Sexual violence*. [In] Krug E.G., Dahlberg L.L., Mercy J.A., Zwi A.N., Lozano R. (edit), *World report on violence and health*, Geneva: World Health Organization, 2002 pp. 149-181.

¹¹ Ciesielska M. *Rodzaje, formy i cykl przemocy w rodzinie* [w:] „Zeszyty Naukowe Państwowej Wyższej Szkoły Zawodowej w Legnicy”, no 12(3)2014, p. 5.

¹² World Health Organization, *Health care for women subjected to intimate partner violence or sexual violence: a clinical handbook*, 2014.

¹³ Szlauer M. *Zjawisko przemocy domowej wobec kobiet*, Katowice 2010, pp. 34–35.

the legal assessment of acts of sexual violence used by an intimate partner assess that this crime should be classified as the use of special cruelty, which should have an impact in assessing the social harmfulness of the act and the punishment¹⁴.

Psychological Violence

Another form of intimate partner violence is psychological violence. This form of domestic violence is often closely linked to physical violence and covers many forms of abuse against a woman, including influencing on another person's behaviour and thinking, humiliation, mocking, controlling life and behaviour, isolation from the world, scaring and disturbing, checking personal belongings, controlling correspondence and contacts with other people, insulting, calling off, revealing secrets and many other forms¹⁵.

The phenomenon of psychological violence is difficult to diagnose because it is often not visible to outsiders, as opposed to acts of physical violence. In the case of physical violence, in the most cases, the effects of its use are visible, in the form of bruises, wounds, broken limbs or other injuries. The mental violence can have many effects, including non-clinical ones. We can talk here about the mental disorders closely related to the use of violence by an intimate partner, such as post-traumatic stress disorder or depressive disorder. On the other hand, however, many of the consequences of using psychological violence by a partner are manifested by symptoms not immediately visible: the difficulties in establishing relationships with people, the problems with managing their own time, the inadequate responses to everyday problems or the difficulties in solving everyday situations¹⁶.

¹⁴ Helios J., Jedlecka W., *Współczesne oblicza przemocy. Zagadnienia wybrane*, Wrocław 2017, p. 57.

¹⁵ Ciesielska M. op.cit, p. 10.

¹⁶ Echeburúa E. , Muñoz J.M., *Boundaries between psychological intimate partner violence and dysfunctional relationships: psychological and forensic implications*, Murcia, 2017, p. 19.

Economical Violence

The sources of economic violence, similar the general phenomenon of violence against women, should be traced in the patriarchal system and in generally existing social consent to unequal treatment of women, their discrimination and the assigned social roles of women and men. Of course, today in developed countries, the classic patriarchal family is rarely met but still in the social mentality it is the man who is obliged to support the family and in this sense is responsible for making decisions and exercising power in the family. The woman remains responsible for the emotional sphere, maintaining relationships, etc.¹⁷.

In the case of intimate partner violence, we are always talking about personal and emotional involvement between a person experiencing violence and using it. For women who are victims of intimate partner violence, the economic violence is a commonly used as a form of psychological violence. By using the woman's financial dependence on her husband or from a partner, the latter is allowed to manipulate her behaviour, control the acquisition, maintenance and use of economic resources. The consequence of such action is creating a threat to economic security and a sense of its independence¹⁸.

Consequences of the intimate partner violence

The intimate partner violence has its near and far-reaching consequences for a woman's health. On a global scale, as much as 38% of women's murders are committed by an intimate partner. In the 15-44 age range, the domestic violence is the most common cause of death. In this classification, the women's mortality caused by domestic violence is higher than the cancer, the road accidents or the war¹⁹. Studies made

¹⁷ Lisowska E., *Przemoc ekonomiczna wobec kobiet*, ISBN: 978-83-7689-194-1, pp. 7-8.

¹⁸ Kędzierska G., *Kobieca przemoc ekonomiczna w Polsce*, DOI 10.15290/cnisk.2017.01.02.07 (access: 03.08.2019).

¹⁹ Helios J., Jedlecka W., op.cit. p. 49.

in countries such as Canada, Israel, Australia, South Africa and the USA show that 40–70% of female murder victims were killed by their husbands, ex-husbands or boyfriends²⁰.

While talking about health consequences other than death, we should start with the injuries in the most vulnerable places, such as face, neck, upper torso, and chest. Then, further consequences in the form of problems with the nervous system, chronic head and back pain and the entire catalogue of infections and diseases directly or indirectly related to the injuries the woman experiences as a result of intimate partner violence should consider²¹. Women experiencing violence from their partner are also exposed to unplanned pregnancy, consequences for pregnancy (miscarriages, early termination of the pregnancy, etc.), HIV and other sexually transmitted diseases²². Of course, here we are talking about the consequences for physical health, while some women indicate that the consequences for their mental health, such as social withdrawal, falling into addiction, eating and sleeping disorders, chronic stress, depression, suicidal thoughts, feelings of helplessness, phobias and panic attacks, are much more severe than physical wounds²³.

The financial dependence of a woman on a man, together with the need to ensure the safety of children, causes that women rarely decide to leave their partner, despite experiencing intimate partner violence. Studies show that women most often develop a strategy to maximize their and children's safety, activate mechanisms that allow them to limit acts of violence against them, but because of the fear of partner's revenge, the lack of an alternative source of income, the care for children and connected with this the fear of

²⁰ Krug E. G., Dahlberg L.L., Mercy J.A., Zwi A.B., Lozano R., *World report on violence and health*, Geneva 2002, p. 93.

²¹ Campbell J., Jones A.S., Dienemann J., Kub J., Schollenberger J., O'Campo P., Gielen A.C., Wynne C., *Intimate partner violence and physical health consequences*, S. <https://jamanetwork.com/journals/jamainternalmedicine/fullarticle/211435> (access: 18.08.2019).

²² Krug E. G., Dahlberg L.L., Mercy J.A., Zwi A.B., Lozano R., op.cit. pp. 101–102.

²³ Spitzberg B., *Intimate partner violence*, https://www.researchgate.net/publication/292887443_Intimate_partner_violenceec (access: 18-08-2019).

losing the right to have a contact with a child, lack of support from family and friends, as well as because of love and hope that the partner will change, they decide to stay in a relationship²⁴.

The intimate partner violence has a huge impact on a woman's life. Starting from the inflicted wounds, through mental health, suicidal thoughts, falling into addiction or self-harm, it has a huge impact on the lives of children who come from such relationship. Research shows that the observation of intimate partner violence by children is one of the main reasons for men using violence against their loved ones in the future²⁵.

United Nations in the fight against intimate partner violence

The fight against violence against women has become one of the most important UN initiatives. This violence affects women of every race, skin colour, age, in every culture, society, regardless of social status.

The Universal Declaration of Human Rights has confirmed that one of the most important principles of the United Nations is gender equality. Then, in 1966, this fact was legally sanctioned in the International Covenant on Civil and Political Rights and in the International Covenant on Economic, Social and Cultural Rights. These documents confirm that states party to the convention have an obligation to ensure equal treatment for persons under their jurisdiction, including an obligation to ensure equal enjoyment of civil, political and freedom rights for women and men²⁶.

²⁴ Understanding and addressing *violence against women. Intimate partner violence*, World Health Organization, https://apps.who.int/iris/bitstream/handle/10665/77432/WHO_RHR_12.36_eng.pdf;jsessionid=853F4F7D6AB5BF7FD640D93F932333C6?sequence=1 (access: 18.08.2019).

²⁵ Ibidem.

²⁶ International Covenant on Civil and Political Rights adopted and opened in New York for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16th December 1966; International Covenant on Economic, Social and Cultural Rights adopted and opened in New York for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16th December 1966.

In 1975 United Nations had adopted the World Plan of Action adopted by the first World Conference on Women in Mexico in 1975. This plan emphasized the need to pay attention to the issue of equality and dignity in the family and the fight for the safety of all family members. In 1979, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) was adopted and opened for ratification. This document entered into force on 3rd September 1981. This document was a response to the growing awareness of the mechanisms behind the inequality of women and men. It was a time of activity of the feminist movements but also at that time the huge work was done by the Commission on the Status of Women established in 1946 by the UN. The CEDAW comprehensively described the phenomenon of discrimination against women but also described how human rights should be interpreted in order to take into account the problem of inequalities between women and men and ensure the implementation of policies to eliminate discrimination against women²⁷.

Ten years later, during the Nairobi World Conference (15–26 July 1985), it was clarified that violence against women is becoming an urgent problem and requires a strong response from the international community. The organization has received many examples of abuse against women, both related to domestic violence as well as with the discrimination and inequality in public life. The Nairobi World Conference delegates agreed that it is necessary to step up efforts to protect and to care for women who are victims of violence. The necessity of taking actions to create the shelters, the legal aid schemes and other services for such victims was established²⁸.

In the following years, many activities were undertaken to counteract violence against women. In 1985, the General Assembly Resolution on domestic violence was adopted. It was a response to the recommendations

²⁷ Convention on the Elimination of All Forms of Discrimination against Women New York adopted by the UN General Assembly on 18th December 1979.

²⁸ *Report of the World Conference to review and appraise the achievements of the United Nations decade for women: equality, development and peace*, Nairobi, 15–26 July 1985, <https://www.un.org/womenwatch/daw/beijing/otherconferences/Nairobi/Nairobi%20Full%20Optimized.pdf> (access: 18.08.2019).

of the Commission on the Status of Women and the Economic and Social Council as well as to the outcome of the Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders²⁹.

In 1986, the Expert Group Meeting on Violence in the Family was held in Vienna. During the meeting, the provisions of recommendations from 1985 were implemented along with the specific actions, such as the legal reform, the training for institutions involved in helping women affected by domestic violence (police, prosecutor, health sector), and the developing a support system for victims. The adopted provisions placed particular emphasis on the situation of women in the general problem of domestic violence³⁰.

In 1989, the United Nations issued a publication entitled *Violence against Women in the Family*, in which the general context of the phenomenon of violence against women was undertaken. It emphasized that the social, economic or social development within UN member states must be reflected in helping the women who are the victims of domestic violence.

In 1993, during the World Conference on Human Rights, the Vienna Declaration and Program of Action was adopted, which became a milestone in the protection of women's rights. The Vienna Declaration and the above-mentioned Action Plan confirmed that women's and girls' rights belong to the human rights protection system and as such are protected by the international community. So far, there has been a belief that human rights have their historical, social and political background. The Vienna Declaration was the result of a long-term review of the state of human rights in various countries and also it highlighted the universality of human rights. The conference also decided on the need to adopt a joint act that comprehensively treats the protection of women's rights and creates a system to prevent violence against women and girls³¹.

²⁹ Jutta M. J., *Agenda Setting, the UN, and NGOs: Gender Violence and Reproductive Rights*, Georgetown 2007, p. 116.

³⁰ *Understanding and addressing*, op.cit.

³¹ Vienna Declaration and Programme of Action, adopted by the World Conference on Human Rights in Vienna on 25 June 1993.

In 1993, the Declaration on the Elimination of Violence against Women was adopted. The declaration primarily defines the concept of violence against women: “violence against women” means 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 “(the article 1 of the Declaration on the Elimination of Violence against Woman). The article 2 specifies that as the acts of violence against women should be considered:

- physical, sexual and psychological violence occurring in the family, including battering, sexual abuse of female children in the household, dowry-related violence, marital rape, female genital mutilation and other traditional practices harmful to women, non-spousal violence and violence related to exploitation;
- physical, sexual and psychological violence occurring within the general community, including rape, sexual abuse, sexual harassment and intimidation at work, in educational institutions and elsewhere, trafficking in women and forced prostitution;
- physical, sexual and psychological violence perpetrated or condoned by the State, wherever it occurs.

The Beijing Declaration and Platform for Action was another very important step towards eliminating violence against women. The declaration adopted in 1995 identified 12 critical areas in which action is needed in order to achieve the gender equality. These areas include: the poverty, the education and training, the access to medical services and health conditions, the armed conflicts, the economics, the power and decision making, the institutional mechanisms for the advancement of women, the human rights, media, the environment, and the period of adolescence. The violence against women has also been indicated as one of the areas, and the declaration has identified three strategic objectives to eliminate this phenomenon, namely:

- a) integrated measures to prevent and eliminate violence against women;
- b) the study of the causes and consequences of violence against women, as well as the effectiveness of preventive measures;

- c) the elimination of trafficking in women, and the provision of assistance of victims of violence due to prostitution³².

The activities for the protection of women's rights could not end only with the publication of the Declaration. In 2000, during the twenty-third special session of the General Assembly on "Women 2000: gender equality, development and peace for the twenty-first century", it was decided to establish the so-called Beijing+5, which was to be a set of further actions and initiatives necessary to implement the Beijing Declaration and Platform for Action. The main goal of the action was to collect information from UN member states on the status of implementation of the Platform for Action in the 12 critical areas of concern. In October 2015, 153 Member States and 2 observing countries showed the following changes in the area of protection of women's rights and equality:

- a) status and role of women have occurred in the years since the start of the United Nations Decade for Women in 1976, some more markedly since the FWCW.
- b) Women have entered the labour force in unprecedented numbers, increasing the potential for their ability to participate in economic decision making at various levels, starting with the household.
- c) Women, individually and collectively, have been major actors in the rise of civil society throughout the world, stimulating pressure for increased awareness of the gender equality dimensions of all issues, and demanding a role in national and global decision making processes.

It was realized that much more work was still needed to be done to fully implement the Platform for Action, in particular regarding poverty and inequality between women and men³³.

³² Beijing Declaration and Platform for Action, The Fourth World Conference on Women, Beijing 4–15 September 1995.

³³ *Five-year Review of the implementation of the Beijing Declaration and Platform for Action (Beijing + 5) held in the General Assembly, 5–9 June 2000*, <https://www.un.org/womenwatch/daw/followup/beijing+5.htm> (access: 18.08.2019).

The gender equality and women's and girls' empowerment are one of the most important points of the 2030 Agenda for Sustainable Development. This Agenda has been set on 25-27 September 2015 in New York as a plan of action for people, planet and prosperity and strengthen universal peace in larger freedom³⁴. The Agenda includes 17 Sustainable Development Goals, which will stimulate action over the next 15 years in areas of critical importance for humanity and the planet. These 17 Sustainable Development Goals are mentioned below:

- Goal 1. End poverty in all its forms everywhere;
- Goal 2. End hunger, achieve food security and improved nutrition and promote sustainable agriculture;
- Goal 3. Ensure healthy lives and promote well-being for all at all ages;
- Goal 4. Ensure inclusive and equitable quality education and promote lifelong learning opportunities for all;
- Goal 5. Achieve gender equality and empower all women and girls;
- Goal 6. Ensure availability and sustainable management of water and sanitation for all;
- Goal 7. Ensure access to affordable, reliable, sustainable and modern energy for all;
- Goal 8. Promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all;
- Goal 9. Build resilient infrastructure, promote inclusive and sustainable industrialization and foster innovation;
- Goal 10. Reduce inequality within and among countries;
- Goal 11. Make cities and human settlements inclusive, safe, resilient and sustainable;
- Goal 12. Ensure sustainable consumption and production patterns;
- Goal 13. Take urgent action to combat climate change and its impacts
- Goal 14. Conserve and sustainably use the oceans, seas and marine resources for sustainable development

³⁴ *Transforming our world: the 2030 Agenda for Sustainable Development*, Resolution adopted by the General Assembly on 25 September 2015.

- Goal 15. Protect, restore and promote sustainable use of terrestrial ecosystems, sustainably manage forests, combat desertification, and halt and reverse land degradation and halt biodiversity loss
- Goal 16. Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels
- Goal 17. Strengthen the means of implementation and revitalize the Global Partnership for Sustainable Development

The fight against violations of women's rights, including in particular the fight against violence against women is still a very current topic. The proof of this is a fact of creating the joint initiative of the UN and the European Union. On 20th September 2017, during the General Assembly meeting in New York, a new initiative – Spotlight Initiative – was announced, which aims to eliminate all forms of violence against women. The budget of this initiative was set at EUR 500 million³⁵. The goal of the initiative is to make the investments, also outside the EU, such as in Asia, Africa, Latin America, the Pacific and the Caribbean, aimed at achieving improvements in the lives of women and girls and hence the achievement of all the Sustainable Development Goals.

Summary

According to the author, the sustainable development is impossible without achieving protection of women's rights and elimination of violence against women. Women play the most important role in the life of each of us, all over the world, regardless of the religion, the culture or the skin colour. Maltreatment of women, including in addition to physical abuse, committing other forms of intimate partner violence, causes changes in the life of

³⁵ Joint communique between the United Nations and European Union on the launch of the Spotlight Initiative – to eliminate violence against women and girls, https://europa.eu/rapid/press-release_IP-17-3323_en.htm (access: 18.08.2019).

a woman, but also her children and the whole family. The violence used by a partner, including also an ex-partner, should not find any justification. As the international community, our task is to promote Sustainable Development Goals, to promote human rights and to protect women against domestic violence. Just a look at the statistical data which states that about 35% of women have experienced violence in their lives led us to realize that it is almost certain that women living next to us, every third of them who could be our sister or friend, experiences the cruelty of domestic violence.

Further efforts taken by the United Nations are necessary, in particular in consultation with smaller, regional international and national organizations, to promote the protection of women's rights and to promote the elimination of violence against women. These activities should be particularly intensified in developing countries.

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Communication in family relationships and parental responsibility

ABSTRACT

Parents are obliged to carry out tasks related to satisfying the emotional, physical, social and psychological needs of their children. Parenthood should adapt to the needs, which change along with the child's development, and the satisfaction of which is a condition for his proper development. This determines the continuity of the parenthood process, consisting in the fact that it takes the form of developing social and emotional relations in the parent-child relationship. Family communication is a specific communication area, where parents can teach their children, through appropriate communication tools, how to communicate properly with the environment, how to obtain, process and use information. The home is a place where children gain their first communication lessons, acquire and develop communication skills, including by imitating older family members.

KEYWORDS: *family, child, communication, parental responsibility*

Introduction

This paper presents reflections on the communication between family members and its influence on parental responsibility. It will show the fact that parental responsibility also results in shaping communication within the family.

The family "is the most common environment of human life – from it begins, the history of every human being. The family accompanies him

throughout his life and it is the family that has a significant and important influence on the behaviour of individuals, their attitude towards others, the world, values, standards and patterns of behaviour. Family life includes a long period of time. It begins before other environments in human life appear and family members are connected by blood and emotional bonds.”¹

Parents are obliged to fulfill tasks related to satisfying emotional, physical, social and psychological needs of their children. Parenthood should adapt to the needs that change along with the child’s development and the satisfaction of which determines his proper development. This determines the continuity of parenthood process, consisting in the fact that it takes the form of developing social and emotional relations in the parent-child relationship².

In particularly close relationships, a large part of communication may take place almost or completely unconsciously. Usually, verbal language has a fundamental role in communication. However, in relations between relatives, e.g. between parents and children, non-verbal means of communication are no less important: facial expression, gestures, touch, silence, etc. Every family has its own characteristics of communication, because it is impossible not to communicate; even avoiding communication is a form of communication.

I

The determining factor in the life of each family is the communication skills of family members, on whom the ways of solving conflicts and problems will depend, as well as the ability to understand the needs of people close to them. V. Satir emphasizes that “communication is the most powerful factor determining the type of relationship with other people and own development.”³ It should be noted how important communication is in building satisfactory relations with family members, as well as how much com-

¹ J. Maciaszkowa, *From the theory and practice of custodial pedagogy*, Warsaw 1991, p. 49.

² Kwak, A. (2008). *Social and individual dimension of parenthood*. In: A. Kwak (ed.), *Parenthood between home, law, social services*. Warsaw: APS. p. 31–33.

³ V. Satir, *Family. This is where the man is created*, GWP, Gdańsk 2002, p. 56.

munication skills determine the way in which a person seeks the sense of life, how they perceive intimacy issues.

Family communication is a special area of communication, as through appropriate communication tools parents and relatives can teach the youngest members of the family how to communicate with the environment, how to obtain information, process and use it. The home is a place where children gain their first communication lessons, acquire and develop communication skills, including by imitating older family members.

As W. Grant points out, "only within the safe four walls of our own home can we learn how to respond, develop beneficial discussion strategies, and learn to keep emotions in check."⁴ In the family home, children learn how to use language and non-verbal behaviour, as well as how and for what purposes to use a variety of modern communication tools. The home and adult family members become role models for children in the communication sphere. Children imitate adults, e.g. in terms of watching TV, using the Internet or mobile phones. As D. Lemish rightly points out, watching television programmes is often the result of adaptation, negotiation, compromise and imitation of other family members, and not the result of an individual's own choice⁵.

Considering the above, it should be emphasized that family communication cannot be avoided, and knowledge of its principles will allow for building satisfactory bonds, understanding the problems, feelings and expectations of close people, and will also enable the development of communication competences, allowing for proper and appropriate communication also outside the family home. Therefore, it is important to know the models, styles and patterns of communication characteristic of specific families.

Thus, family communication can be considered as a first lesson in communication for young people or as a factor for the elimination or escalation of conflict situations. The style of family communication will determine the choice of appropriate communication tools and hence how family members

⁴ W. Grant, *Conflict resolution. Turn conflict into cooperation*, KDC, Warsaw 2008, p. 99.

⁵ D. Lemish, *Children and TV. Global perspective*, Jagiellonian University Publishing House, Cracow 2008, p. 11.

will communicate with the environment in the future. Undoubtedly, it should be emphasized that family communication is an extremely important and at the same time a wide area of scientific research. Diversity of approaches to issues related to family communication causes that it is impossible to refer to all dimensions of family communication.

Interpersonal communication in a family is the way in which its individual members communicate with each other. It is the sum of interactions of actions, behaviors, verbal and non-verbal communication.

The upbringing process, acquisition of personality traits, which are already formed in childhood and which ultimately have a great influence on shaping the attitude one has in adulthood, is of great importance. Raising is a complex process defined by Schaller as “a set of ways and processes that help the human being, especially through interaction, to realize and develop own humanity.”⁶ It is worth noting that attitude is a certain indicator of personality. “The formation of a child’s personality is first and foremost influenced by the family and, above all, by the parents. This influence lasts for many years – because despite the changes in the family itself as it goes through various stages of development – it is a constant educational environment for the child.”⁷

Taking into account the cultural context in shaping attitudes, it is worth emphasizing that “the family is an integral and extremely important element of any society, including those societies of the European cultural circle, which exist within the contemporary post-industrial civilization, subject (depending on the country) to its greater or lesser influence.”⁸

According to S. Minuchin, the great importance of communication is best illustrated by the systemic approach to the family. In this approach, the individual is treated as an element of the family system (a system of mutual relations and interactions), and its functioning depends on the remaining persons and the relations that each person enters with it⁹.

⁶ B. Śliwierski, *Modern theories and trends of education*, Cracow 2005, p. 68.

⁷ M. Ziemska, *Family and child*, Warsaw 1979, p. 155.

⁸ T. Pilch, I. Lepalczyk, *Social pedagogy*, Warsaw 1995, p. 151.

⁹ S. Minuchin (1975), *Families and family therapy*. London, Cambridge.

A family based on agreement, kindness and love is not created on its own, without the participation of its members. "We are responsible for the shape of life we give to our family. Intuition does not guarantee this task. "Good intentions" are not enough either. It is not enough to love, it is necessary to know how to love and teach all family members."¹⁰

"Contemporary family (...) is still a permanent community, irreplaceable in satisfying the needs, especially the emotional needs of its members. It has always been and still is a special place of communion of the closest people. This communication takes place on the level of direct, spontaneous, very specific contacts between parents and children, between siblings through a constant dialogue between them."¹¹ A dialogical form of contact can be learned mainly, or perhaps only, through its experience, which is why it is so important for adults to be able to conduct this dialogue with children, grandchildren and themselves. Adults shape the attitudes of their children through their behaviour, attitudes, shaping relationships, the way they address other members of the family and society.

II

Parents are responsible to their children for the very fact of bringing them into the world, they have a psychological and legal responsibility for their children. They shape the child's world, the immediate environment and conditions in which he develops, it is also a responsibility for the development of the child's personality.

This responsibility has also been recognized and regulated by legislation such as the Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Cooperation in respect of Parental Responsibility and Measures for the Protection of Children, which was concluded on 19 October 1996 and is intended to replace, in relations between the Contracting States, the Convention concerning the Regulation of Care for Minors,

¹⁰ J. Maciaszkowa, *On family life*, Warsaw 1980, p. 6.

¹¹ J. Izdebska, *Contemporary child and the image of his childhood – new educational opportunities and threats*, [in:] L. Adamowska, J. Uszyńska-Jarmoc (ed.), *The welfare of a child in the family*, Białystok 2005, p. 18.

drafted at The Hague on 12 June 1902¹², and the Convention on the Competence of Organs and the Law Applicable to the Protection of Minors, drafted at The Hague on 5 October 1961¹³.

The Convention is a legal instrument that comprehensively regulates the matter of child protection in relation to previous conventions¹⁴. The Convention consists of 63 articles in seven chapters: scope of the Convention to be applied, jurisdiction, applicable law, recognition and enforcement, cooperation, general provisions, final provisions. Taking into account the provisions of the Convention on the Rights of the Child¹⁵, adopted by the United Nations General Assembly on 29 November 1989, the preamble to the Convention identifies the best interests of the child as the primary criterion for making specific decisions. It is noteworthy that the Convention introduced a definition of ‘parental responsibility’ (Article 1(2)), defining it as parental authority or any other similar relationship of authority which defines the rights, entitlements and duties of parents, guardians or other legal representatives in relation to the person or property of the child. This definition extends the definition in Article 18 of the Convention on the Rights of the Child of the ‘parental responsibility for the education and development of the child’ by conferring on both parents and others, by virtue of and under the conditions determined by their respective national laws, the rights, entitlements and duties of care, development, education, residence and guardianship of the child and its property. The Convention also determines the law applicable to parental responsibility, which means that its provision (Article 16, exercise of parental responsibility – Article 17 and withdrawal – Article 18) is a common conflict-of-law rule indicat-

¹² Journal of Laws of 1929 No. 80, item 596.

¹³ Journal of Laws of 1995 No. 106, item 519.

¹⁴ The Convention entered into force on 1 January 2002. In accordance with the Decision (2003/93/EC) of 19 December 2002. The Council of the European Union authorizing the Member States, in the interest of the Community, to sign the Convention, signed on 1 April 2003 by all the States which at that time were part of the European Union. The Republic of Poland signed the Convention on 22 November 2000.

¹⁵ Convention on the Rights of the Child, Journal of Laws of 1991, No. 120, item 526 and 527.

ing the substantive law of a particular country (the child's habitual residence) without the need to study the country's conflict-of-laws rules.

The draft prepared by the Children's Rights Ombudsman of 12 July 2018 in Article 21(10) states that parental responsibility is a task, attitude and relations of parents with a child, performed with respect for the child's dignity and rights, in accordance with the social and legal order. It is aimed at taking care of the child and satisfying its needs, preparing for life in the family and society and fulfilling the maintenance obligation. It is performed in particular by performing duties and rights in the scope of care over the person and property of the child, representation, maintaining personal relations, determining the child's origin, name and surname, place of residence. It applies accordingly to persons who, by virtue of a court decision, are liable towards the child in the same way as the parents. The proposed change from 'parental authority' to 'parental responsibility' is in line with the provisions of the Convention on the Rights of the Child. Parental responsibility is a much broader concept than parental authority, it removes from parents the form of authority over a child, indicates an emphasis on the subjectivity of a child in the family.

Provisions on parental authority refer to the category of duty and rights of parents not only in Article 95 § 1 of the Family and Guardianship Code¹⁶ outlining the general content framework of this institution, but also in the provisions treating the exercise of parental authority. In Article 96 § 1 sentence 2 of the Family and Guardianship Code, the legislator emphasized that parents are obliged to take care of the child's physical and spiritual development and prepare him properly to work for the good of society according to his talents. However, in accordance with Article 101 § 1 of the Code of Criminal Procedure, they are obliged to exercise due diligence in the management of the child's property. In Article 103 of the Family and Guardianship Code, on the other hand, an obligation was imposed on the parents to handle the pure income from the child's property – generally – for the justified needs of the whole family functioning together. Only in

¹⁶ Family and Guardianship Code, i.e. of 9 March 2017 (Journal of Laws of 2017, item 682).

Article 97 § 1 of the Family and Guardianship Code, the legislator referred simultaneously to the obligation and right of each parent to exercise parental authority. However, in the previous considerations, it has already been emphasized that the recently mentioned provision aimed, among others, at emphasizing the rights of each parent in relation to the other parent. In all the above mentioned provisions, the legislator primarily highlights the category of the parents' obligation. At the same time, it seems that on the basis of these provisions, the duty of parents may be perceived not necessarily as a theoretically differentiated element of specific normative relations. The reference to this category was also intended to draw attention to the need to undertake actions in the exercise of parental authority. If the legislator's intention is interpreted in this way, the assertion that the category of duties and rights of parents is functionally associated within the parental authority¹⁷ seems to be justified, especially with regard to the actual exercise of those duties and rights.

The legislature has rightly given priority to the duty. Tasks arising from parental responsibility legislation are a heavy burden, for all parents, who try to carry them out as diligently as possible. Duties towards children often exceed almost always the capabilities of parents. The burdens entailed by the process of indiscriminate exercise of parental authority are probably the main reason why some parents resign from the "rights" granted to them in this respect. This in turn leads to negligence, resulting in a need for the guardianship court to take appropriate forms of interference provided for by law.

On the other hand, at least the correct implementation of the right to exercise parental authority is very satisfactory. It allows every adult to realize and verify his parental vocation. The closeness of a child, a beloved being, to whom parents are sometimes able to make boundless sacrifices, is a great pleasure. Undoubtedly, each parent is satisfied with the observation of positive effects of the efforts made, which is proved by the correct,

¹⁷ *Winiarz J., Gajda J.*, Family Law, Cracow 2001, LexisNexis Publishing House, p. 204. See also *J. Kosik*, Problem of restoring parental authority in the light of the Family and Guardianship Code, NP 1973, No. 10, p. 1464.

harmonious psychophysical development of the child, which is a result of such efforts. Every success of the child, regardless of the field and size of achievement, is enjoyed. Parents' satisfaction is complete if the environment also perceives positively the consequences of their efforts to shape the child's personality, giving clear recognition to their efforts, fully accepting the attitudes presented by the child, his conduct and skills used also for the benefit of others.

It is in the parents' interest to instill in their child the correct patterns of attitudes, behaviour and functioning in society, because such a shaped child will support them when it is necessary to help the parents.

It is worth noting that while recognizing the importance of this issue and its impact on the correctness of preparing a child for independent life, the legislator took into account the postulate to include in the provisions on parental authority a provision corresponding to Article 158 of the Family and Guardianship Code (in the wording valid until 12 June 2009), which supplemented the constitutional obligation of parents to listen to a child before taking decisions in all important matters, if his mental development and state of health allow it, and to take into account, as far as possible, his reasonable wishes¹⁸. Introduction of such a solution in Article 95 § 4 of the Family and Guardianship Code – defined in the newer subject literature (including the principle of the child's obligation to listen to opinions and recommendations formulated by parents for the child's benefit – Article 95 § 2 of the Family and Guardianship Code as "a rational partnership of parents and children"¹⁹

¹⁸ Postulate *de lege ferenda* was formulated by *A. Cisek, J. Mazurkiewicz, J. Strzebińczyk*, On changes, p. 75–78. Similarly *M. Śladkowski*, Taking into account the child's will in exercising parental authority, *Jur.* 2000, No. 6, p. 9–12. It was supported by *A. Nowak*, Tasks of the family in bringing up children in the context of family and guardianship legislation, in: Is there a need for a change in family and guardianship law in Poland? Materials from the National Scientific Conference organized on 21–22.9.1995 in Katowice, ed. *B. Czech*, Katowice 1997, p. 459.

¹⁹ See *J. Ignaczewski*, Child's origin, p. 161–162; *Ignaczewski*, the Family and Guardianship Code comments, p. 568–569; *J. Ignaczewski*, in: Parental authority and contacts with a child (edited by *J. Ignaczewski*), Warsaw 2010, p. 59–60; *Ignatowicz, Nazar*, Family law, 2010, p. 315.

– enabled to adjust the Polish regulations on parental authority to the European standards, with which they were not consistent in this respect²⁰ (until 13.6.2009) and to other legal and family solutions emphasizing the child's influence on the determination of his own legal situation²¹. However, for a more complete implementation of the right provided for in Article 12(2) of the Convention on the Rights of the Child and Article 72(3) of the Constitution of the Republic of Poland, it still seems necessary for our legislator to clearly determine also the issue of the status of a minor as a party to proceedings, also in matters concerning parental authority. The existing line of jurisprudence in the interpretation of Article 573 § 1 of the Civil Procedure Code – especially in cases concerning the removal of a child and cases concerning the deprivation of parental authority – is unstable, and the postulates of recognizing a child as a party to any proceedings, the outcome of which concerns him, as well as the personal and property interests of a child, are becoming more numerous²².

Both the mother and father are responsible for ensuring the best possible conditions for the child's proper development by undertaking actions aimed to protect his life and health, and to refrain from threatening behaviors which

²⁰ *W. Stojanowska*, Recommendation No. R (84) 4 on parental responsibility and the legal status in force in Poland, in: Standards, p. 224, assessing the compliance of Polish law with principle 3 of Recommendation No. R (84) 4 on parental responsibility.

²¹ Cf. *T. Smyczyński*, The child's personal rights, (in:) Convention on the Rights of the Child and Polish law, Materials from the scientific conference organized in the building of the Sejm of the Republic of Poland on 19–20.3.1991 (edited by *A. Łopatki*), Warsaw 1991, p. 105 and 107.

²² See in particular post. SN of 16.12.1997, III CZP 63/97, OSP 1999, No. 5, item 87 with partially critical comments *H. Dolecki*. Cf. also *A. Gersdorf*, Court proceedings in cases concerning parental authority, Pal. 1972, No. 4, p. 46 et seq.; *B. Dobrzański*, Review of the jurisprudence of the Supreme Court regarding the family and guardianship code, Supreme Court 1974, No. 3, p. 340; *H. Dolecki*, Legal situation of a minor in proceedings before the guardianship court in cases concerning parental authority, NP 1976, No. 11, p. 1154; *ibid.*, Intervention, p. 81–83; *W. Stojanowska*, *A. Strzembosz*, New rules of organization and proceedings before the guardianship court, ZNIBPS 1978, No. 10, p. 263; *W. Stojanowska*, Child in court proceedings, Jur. 1997, No. 5, p. 9 and *A. Rydzewski*, Problems of minors' participation in proceedings before the guardianship court in cases concerning "parental authority", Rej. 1997, No. 11, p. 88.

have far-reaching and irreversible consequences. The optimal situation is the preparation of both parents for the birth of a child, surrounding the child with love, care, acceptance, interest, establishing relations with him, and thus creating a special kind of bond and educational work.

“The influence of family environment on the development and shaping of the child’s personality proceeds in two ways: as a conscious educational work and as an unintended influence. It is an influence through the course of activities and events taking place in the family, through the way adults react to these events and activities, as well as through the conduct of adult family members or siblings, and especially through the way family members relate to each other and their attitude towards the child.”²³ In the course of educational process, a number of different attitudes towards the child can be observed, which are decisive for the development of adult personality in the person’s future.

M. Earth defines parental attitude as “a tendency of parents to feel, think about and act – verbally or non-verbally – in a certain way towards a child. Each attitude contains three elements: mental, emotional and action elements. A thought component can be expressed in words in the form of a view of attitude object: an example of such a form of element can be a statement about the child within the scope of our deliberations. The action-oriented component manifests itself in active behaviour towards the attitude object, e.g. when the mother hugs the child or punishes him. The emotional component is a kind of expression that accompanies both statements and behaviour.”²⁴ It can be stated that parental attitudes may be correct, stimulating and building the individual, but they may also be abnormal, negatively and adversely influencing the formation of child’s personality, and sometimes even inhibit development and cause destruction in adulthood. Therefore, it is worth noting that “parental attitudes have such a deep impact on the child, among others, because the emotional attitude of parents towards the child is expressed in almost every word addressed to

²³ M. Ziemska, *op. cit.*, p. 156.

²⁴ 77 *Ibid.*, p. 168–169.

the child, in every activity related to its care and support, and is also a component of every educational procedure. A relatively persistent emotional attitude, which is imbued with parental behaviour, triggers a reaction in the child in a form of specific behaviour.”²⁵

Conclusion

The reflections on communication and parental responsibility clearly lead to the conclusion that the scope of parental responsibility includes the proper shaping of the child’s communication competence as it is an essential element of life of every person in every group in which the child will have to live and find its own place. Parenthood is not achieved in a social vacuum. It has a rich social aspect, subject to social and cultural, civilization and demographic changes. In the context of human life is a lifelong task, as well as a multifaceted one, which includes among others “undertaking various forms of activity, the need to solve problems of different nature (moral, religious, social, cognitive, emotional, school or peer problems), the ability to cooperate in the marriage divide, taking care of their own educational competences.”²⁶ As L. Bakier rightly stated, parenthood implemented in the area of family life is based on the gene created by the mother and father. Therefore, it is based on fulfilling the role of mother and father, whose influence on the child’s development is different²⁷. The presence of both parents is equally important in the child’s upbringing. In their parental functions they complement, supplement and strengthen²⁸ each other, which allows for the creation of a proper educational climate in the family.

²⁵ 78 M. Ziemska, op. cit., p. 156.

²⁶ Opozda, D. (2007). Introduction. In: D. Opozda (ed.), *Parenthood. Selected issues of educational contexts in the situation of family disorganization and possibilities of supporting parents*. Lublin: KUL, p. 9.

²⁷ Bakiera, L. (2013). *Involved parenthood and auto-creative aspect of adult development*. Warsaw: Difin, p. 62.

²⁸ Izdebska, J. (2015). *Child – childhood – family – family education. Categories of family pedagogy from the perspective of personalistic pedagogy*. Białystok: Non-public Higher School of Pedagogy in Białystok, p. 113.

The communication role, both as an indicator of the development regularity in family environment and as a determinant of responsible, upbringing influence of parents, justifies the need for special, more precise concentration on it in research on the family tradition sharing, values or ideals. In particular, the search for a connection between parents' communication with their children and their identification with their families, societies and countries is justified and important.

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Winiarz J., Gajda J., Family Law, Cracow 2001, LexisNexis Publishing House, p. 204.

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