

The Hungarian Association of Women Judges

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History

Shortly after World War II, Hungary became a communist country under the influence of the Soviet Union. In 1989, the peaceful transition to a multiparty democracy took place. Hungary is now a member of NATO (1999) and the European Union (2004). Most of the legislative reform that has been implemented was based on the need to join the EU and to harmonise Hungary's legal system with EU norms. The Criminal Code, the Criminal Procedure Code, and other laws have been amended also.

But accession to the EU did not solve all the problems; it could not change the people's thinking or the attitudes of experts in relation to violence in the home. Many rules incorporated in several laws ensure the enforcement of human rights and generally provide adequate guarantees. But it is still important to question whether or not these legal regulations offer effective protection for victims of domestic violence. These questions have special relevance in transitional societies, like Hungary, Romania, Bulgaria, and Slovakia. In these countries, there is a general tendency to insure that everything is institutionalised. The first period of change focused on safeguarding the human rights of the offender. These rights stressed the legislators, and they later dealt with the human rights of the victims.

I am afraid the change of rule is not enough. It is rather easy to draft legislation in general, but very difficult to change social attitudes, especially on issues that have long traditions in the given country. An evaluation of domestic violence provides a perfect example of this.

Professional and social approach to domestic violence in Hungary

There is no separate legislation in force relating to domestic violence. This fact strongly determines the rights, possibilities, and procedures of the authorities in regard to such cases. Unfortunately, many judges, lawyers, and other legal practitioners generally think that domestic violence is no different from any other violent crime, like battery or homicide, only that it is committed within the family.

Since there is no separate legislation on domestic violence, there is no education for judges on this matter. This casual relationship continues; as there are no specialised cases, there are no specialised judges. In addition, the normal education judges receive does not elaborate on family law. Judges interested in further educating themselves do so voluntarily.

In the continental legal system, where written law is very important, it is imperative for the state to send a clear message on domestic violence through legal provisions. When it comes to safeguarding victims of domestic violence, Hungarian law is still inadequate even though it has made some progress.

The Hungarian Parliament accepted a resolution in which it defined a relevant strategy to deal with the problem of domestic violence (45/2003) in 2003. This act defined tasks for

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several government agencies and NGOs. Earlier the same legislative year, the Parliament had accepted a crime prevention strategy in which the problem of domestic violence was given priority, mostly from the point of view of protecting children (115/2002).

In 2006, the Hungarian Criminal Procedure Code defined a restraining order as an enforcement measure, pre-trial detention, or house arrest that can only be imposed by a judge for a period of 10-30 days. This measure can be imposed only when the offender has already committed a crime punishable by prison and a criminal procedure has already been initiated. A law enabling temporary restraining orders, in cases of violence in the family, only entered into force in 2009. Another piece of legislation on harassment (stalking) entered into force on 1 January 2008, regulating it as a criminal offense.

There is one 24/7 ministry-operated hotline and some shelters for victims in Hungary, but these are not enough to meet the need. NGOs providing services for victims do not receive state-funding, leaving them unable to support victims as effectively. Domestic violence remains hidden in Hungarian society; people do not recognise that it is a real social problem. Generally, many people think that women are not telling the truth about the situation and that NGOs sensationalise these issues.

The Hungarian Association of Women Judges

Recognising the need for reform, a few Hungarian female judges formed the Hungarian Association of the Women Judges (HAWJ) at the end of 2008. In January 2009, when the first meeting of the Association was organised, there were 52 members. Currently, HAWJ has 80 members. The fact that the HAWJ has grown is outstanding, but the organisation still has a long way to go and has many difficulties that need to be confronted. For example, there are 2800 judges in Hungary, and women make up approximately 66-70% of these, yet HAWJ membership is still quite low.

In this situation some of HAWJ's important tasks include:

- To change the education of judges and the attitudes many have towards domestic violence. The knowledge judges have on domestic violence must be increased. From 2004 to 2007, HAWJ has had five major events related to this subject.
- To promote the standardisation of professional training for judges with a focus on human rights issues, including violence against women. These training programmes are to be provided by well-known NGOs.
- To closely cooperate with NGOs that focus on issues of domestic violence.

The Association's main goal is education; informing judges about international research and international practices is integral to this process. The organisation hopes to eventually initiate research, in cooperation with other organisations, on domestic violence and discrimination. If the need arises, HAWJ will offer opinions about legal drafts.

The integral role of judges

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In the evaluation of the social phenomenon of domestic violence, judges play an important role. Since social problems are reflected in court cases, the sentences of the court send clear messages on interpretations of given questions.

Though the training of judges and the changing of attitudes within society are important developments, without effective legal provisions, they simply are not enough. In order to handle the issue correctly, we must have a complex approach. Shortcomings in one of the areas cannot be solved with remedies in another. Judicial training is useful in raising awareness but is not enough to find effective answers in adjudication to the questions related to domestic violence since the legal environment has hardly changed.

Domestic violence is much more than beating up a partner. It is very important for justices to recognise that separate incidents of discrimination are interconnected. Cases show that where domestic violence occurs, other forms of discrimination may be also present (such as violence against children or ethnic minorities).

States and populations worldwide face difficulties doing away with obstacles entrenched in strong and long-held traditions. Everyone must understand that the human rights of women are the same as those of men: safety and self-determination should not depend on gender or where women live.

The Hungarian Association of the Women Judges will organise a regional conference for Europe and the Middle East from 14-16 April 2011, in Budapest, on the 'Juncture of Legal Cultures'. One of the main questions to be discussed is the role of the justice system in national legal systems and international requirements in the struggle against racial, nationalistic, anti-minority, and gender-based violence. If you would like more information on this event, please email info.HAWJ@gmail.com.

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Dr. Agnes Galajda, a criminal judge in Hungary and the founder and president of the Hungarian Association of Women Judges, led a session on 'Domestic Violence and the Legal System' at the Stop Being Silent! seminar in Minsk in 2010.

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