

# Partner-related domestic violence against adult women

The RoSa-factsheets aim to familiarise you with the scope of equal opportunities in Flanders. Each factsheet probes the situation in a specific area. Broad themes as well as specific ones are put into the spotlight, depending on the relevance and/or availability of information and numerical data. We do not intend to offer exhaustive information, our primary aim is to sketch the position of women in Flanders in a surveyable and accessible way.

Since its founding in 1978, RoSa is the place in Flanders to look for information and documentation about equal opportunities, emancipation policy and women's studies.

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*Research proves that one out of four women between twenty and sixty years old in heterosexual relationships ever suffered or is suffering unilateral violence from her boyfriend or husband. There is hardly any link between social class and violence. It occurs in all demographic layers, in all age-groups, with every philosophy of life and in all kinds of relationships.<sup>1</sup>*

## Introduction

The notion of ill-treatment of women may be defined in a wide sense as well as a restricted sense. If we consider all kinds of violence conducted against women, then we speak not only of relational violence, such as physical mistreatment, psychological cruelty or sexual abuse in the domestic circle, but also about rape, sexual harassment and intimidation at work, bullying, stalking, structural violence, systematic rape as an act of war and genital mutilation. The present Fact Sheet concentrates mainly on partner-related domestic violence against adult women.

## Relational violence before and now

Violence within personal relationships has only recently been recognized and acknowledged as a social problem, as a phenomenon which exceeds private life.

The issue of violence against women started to get political and social attention in several countries during the eighties. Politicians as well as scientists grew aware of the fact that the actual extent of the problem was much larger than surmised. Scientific research showed an evolution in attitude towards the victim. The initial suspicion changed into apprehension of the victim. Only later grew a better understanding of the structural aspects of violence against women. Yet it appears from fairly recent research<sup>2</sup> into police intervention in the case of domestic violence

<sup>1</sup> RÖMKENS R. Gewoon geweld? Omvang, aard, gevolgen en achtergronden van geweld tegen vrouwen in heteroseksuele relaties. Amsterdam, 1992.

<sup>2</sup> KORF, MOT, MEULENBEEK, VAN DEN BRANDT. Economische kosten van thuisgeweld tegen vrouwen. Utrecht, 1997.

against women, that guilt induction is still a fact, in other words, the victim is still held responsible for the violent behaviour of the offender.

At every new step in the evolution of the societal attitude towards relational violence, a “new” form of violence was highlighted, ushered in by the appearance of a new “problem formulator”<sup>3</sup>.

The first form of acknowledged domestic violence was *child abuse*, with *physicians* as problem formulators. In 1962, Kempe<sup>4</sup> mentioned the “battered child syndrome” for the first time. Professional aid was brought about, first in hospitals, later at “confidential medical centres”, authorized to take the matter into court if necessary.

The next phase came some ten years later, when another form of violence within personal relationships was revealed: the *ill-treatment of adult women*, who suffered violence in an enduring partner relationship, not accidentally or exceptionally but frequently and over a long period. This time, the bell-ringer was the *feminist movement*, that looked upon women’s ill-treatment as the tip of the iceberg of feminine oppression. Assistance was organized on a voluntary basis. Refuge houses were set up all over the country and all of them had to cope with overcrowding and financial problems.

From 1975 onwards, *sexual violence* was made debatable in Belgium. This time, *victim groups* were the problem formulators, such as “Women Against Rape”, later “Against Her Will”. Because of their strong emotional involvement, getting social recognition was less easy. Yet it was the first form of violence to attract government attention. In 1982 there was a first bill to change the rape legislation in favour of the victim (Smet and Remacle) . In 1984 the Belgian government ordered research into sexual violence in personal relationships, and in 1985 into sexual harassment at work.

But it was not until 1997 that the Belgian legislation<sup>5</sup> recognized partner violence as a criminal offence and not until 1998 that the offence was made punishable by law.

### Violence against women: a perfect babel of tongues ?

In our society there is no generally accepted definition of what is violence and what is not. What do we call violence? What are the consequences for those concerned? What are the factors causing people to use violence and making people stay in a violent situation? What are the strategies used by people being confronted with violence? The new ideas need to be adequately described and explained.

The new way of looking upon relational violence as a social problem causes former notions to be no longer acceptable. One can’t call domestic violence a private matter any more, a problem to be solved indoors, because it doesn’t tally with the growing awareness of the fact that violence within personal relationships is a social problem assuming large proportions and bearing severe consequences. Relational violence can no longer be trivialized, or blamed on some scapegoat such as alcoholism, financial problems, the wife’s “unwillingness” ...

<sup>3</sup> R. BRUYNOOGHE, S. NOELANDERS & S. OPDEBEECK. Geweld ondervinden, gebruiken en voorkomen. Rapport ten behoeve van de Minister van Tewerkstelling en Arbeid en Gelijke-Kansenbeleid M. Smet. L.U.C., 1998.

<sup>4</sup> KEMPE, SILVERMAN, STEELE, DROEGEMVELLER and SILVER. The Battered-Child Syndrome. Journal of the American Medical Association. July 7, 1962.

<sup>5</sup> The Act of November 24th, 1997 to the effect of combating violence between partners.

In short, there is no consensus about the boundaries and concrete interpretation of the notion of violence. Different sectors accept different criteria. In a legal environment the evidential value is important, in the field of welfare a subjective definition suffices. In public opinion there are as many definitions of violence as there are people. Therefore, many a debate on violence wrecks due to a confusion of ideas and to conceptual disputes. In academic definitions a distinction is often made between *intentionality*, *legitimacy* and the *far-reaching nature* of violence<sup>6</sup>.

As for **intentionality** a distinction is made sometimes between instrumental and expressive violence. Instrumental violence is believed to be purposeful, with the aim of influencing someone's behaviour, or in order to obtain something or for self-assurance.

*Expressive* violence is then believed to be an emotional release of negative feelings, provoked by all sorts of frustrating situations, in combination with some incident which elicits aggression.

The latter seems to clear the offender of responsibility. Still, expressive violence too is directed to cause damage to someone who is not a threat to the aggressor.

Therefore the nature and degree of intentionality is not workable as a selection criterion whether or not to denominate an act as violence.

**Legitimacy** points to the social aspect of the problem. All societies know forms of legitimate violence, or rather violence which is accepted in that particular society, for instance preserving public order in a heavy-handed way, or even waging war, or in the field of personal relationships, when marital rape is looked upon as impossible, or when corporal punishment of children is accepted.

As for the **far-reaching nature** of violence, there exists a certain social consensus about the fact that not all forms of violence are equally bad. Being raped is much worse than being confronted with an exhibitionist, for that matter. In research some scientists keep distinguishing between light and heavy violence, although it has already been proven that there is a connection between the two. Violence carries an innate tendency to escalate. According to the stepping stone theory, less serious violence often leads to very heavy forms of violence.

## Definitions of researchers

What is partner-related violence against adult women and what isn't? Let us overview the definitions in a number of reports from the past decennium.

According to a paper from **1990** of the "*Werkgroep Vrouw en Maatschappij*" (linked to the political party CVP, now called CD&V, which stands for "Christen-Democratisch & Vlaams"), violence is :

**"every act (or threat to act) which harms the right of self-determination, self-development and the physical integrity".**

<sup>6</sup> R. BRUYNOOGHE, G. BERODES, J. EERDEKENS, S. OPDEBEECK, C. PANNIER. Doelgroepen voor de geweldbestrijding. Een afbakening op basis van levensomstandigheden en geweldervaringen bij vrouwen. Kabinet van de Staatssecretaris voor Leefmilieu en Maatschappelijke emancipatie M. Smet. L.U.C., 1990.

Violence against women is an extreme way of oppression, an expression of the non-equivalent position between partners, when the man's powerful position and the woman's powerless position is intensified. All has to do with power.

In **1994**, the Dutch association "*Blijf van m'n Lijf*" (*Keep your hands off me*) defines the notion of violence as follows:

**"An event whereby someone's right to physical integrity and/or right to self-determination is harmed by one or more persons; we're talking about recurrent, unilateral violence within a hetero-sexual relationship."**

Violence is entrenched in a relational pattern in which threats and violence by the man on the one side and fear by the woman on the other go along. That violence may be psychological, physical or a combination of both.

*Psychological ill-treatment* is defined by "*Blijf van m'n Lijf*" as:

**"a situation in which someone is systematically being humiliated, belittled and denounced."**

They define *physical ill-treatment* as:

**"a situation in which the woman's body is not spared, either".**

In a scientific research report from **1998**, R. Bruynooghe<sup>7</sup> defines violence in personal relationships as:

**"All forms of violence occurring in an inter-personal contact, regardless of the relationship's nature within which that contact is situated".**

Under violence in personal relationships it is understood here both domestic violence and violence committed within the larger family context, as well as violence inflicted upon each other by friends, colleagues, club members, neighbours, acquaintances and violence by an unknown offender.

*Structural violence* could be blamed on social systems rather than on persons or groups of persons. The present investigation doesn't define that as "interpersonal violence". Structural violence is the social and especially economical oppression of women. It creates or confirms unequal power relations between man and woman and therefore reduces her chances to escape from a violent relationship.

### Concrete examples of partner violence

**Physical** violence concerns acts such as locking in or out, dangerous driving, ripping off clothes, pulling the hair, throwing against the wall or against the furniture, hitting with hand or fist, kicking, biting, pushing down the stairs, causing burns, hitting with a sharp object, hitting the head against the wall, attempted strangulation and using a firearm.

<sup>7</sup> R. BRUYNOOGHE, S. NOELANDERS & S. OPDEBEECK. *ibidem*.

**Sexual** violence is defined as being peeped at or touched against her will, being forced to talk about sex, to look at pictures, to pose nakedly, to show genitals, having to watch someone else being assaulted, to watch masturbation, genitals being hurt, being forced to satisfy orally, attempted sexual intercourse with or without penetration against her will.

Practical examples of **psychological** violence are the fact that the offender is always criticizing, demands perfection, has unexpected outbursts of anger, reacts differently every time so that she never knows how to please him, attacks her verbally on matters in which she excels, distorts the facts, controls the money, humiliates her in front of friends. The offender allows her no freedom or living space, whereas he allows himself everything. Only recently the notion of stalking has been added to psychological violence.

## International organisations at stake

### THE UNITED NATIONS

According to the definition of the World Health Organisation, health is a condition of complete physical, mental and social well being and not merely the absence of illness or handicap. Those principles are acknowledged in the United Nations Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) dated 1979, the Convention of Vienna on human rights and the elimination of violence against women dated 1993, the Beijing Declaration and Platform for Action of the fourth World Conference on Women held in September 1995.

The Closing Statements of the Beijing Conference state that violence against women is a barrier to equality, development and peace. It is a violation of human rights as well as of fundamental liberties. Those rights and liberties of women have to be protected and supported by all nations. Beijing has come to the conclusion that in all societies, regardless of culture, class or income level, girls and women are subject to physical, sexual and psychological abuse.

The definition in the Closing Statements<sup>8</sup> of the Beijing Conference with regard to violence against women is large and sounds as follows<sup>9</sup>:

**“The term “violence against women” means any 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 EUROPEAN COMMUNITY

The European Parliament and the European Council stipulate<sup>10</sup> that physical, sexual and psychological violence against children, young persons and women is an offence against

<sup>8</sup> Vierde Wereldvrouwenconferentie. Nederlandstalig verslag van de Vierde Wereldvrouwenconferentie te Peking, 4-15 september 1995: Het Actieplatform van Peking. Gelijke Kansen in Vlaanderen. Ministerie van de Vlaamse Gemeenschap.

<sup>9</sup> REPORT OF THE FOURTH WORLD CONFERENCE ON WOMEN Gopher://gopher.undp.org/00/unconfs/women/off/a-20.en, paragraph 113.

<sup>10</sup> BESLUIT Nr. 293/2000/EG van het Europees Parlement en de Raad van 24 januari 2000 tot vaststelling van een communautair actieprogramma (het programma Daphne) (2000-2003) betreffende preventieve maatregelen ter bestrijding van geweld tegen kinderen, jongeren en vrouwen. Publicatieblad van de Europese Gemeenschappen, 9.2.2000, 5 p.

their right to life, to security, to safety, to dignity to physical and emotional integrity. Violence is a serious threat to the physical and mental health of the victims. The consequences of that violence are so widespread in the Community that they constitute a heavy threat to public health.

### The DAPHNE - programme

The DAPHNE - initiative<sup>11</sup> started early 1997, because of the growing concern of the European Commission about violence against children, young persons and women in Europe.

Violence was interpreted in the widest sense, **from sexual abuse to domestic violence, from commercial exploitation to badgering at school, from smuggle to discriminatory violence against people with a handicap, minorities, migrants of other vulnerable sections of the population.**

The current DAPHNE-programme (2000-2003) supports financially projects that contribute to assuring a high level of **protection** of the physical and mental health of children, youngsters and women. The supported projects aim at the prevention of violence, the assistance of victims and at preserving them from further exposure to violence. It concerns transnational actions that smoothe collaboration between NGOs and government bodies at a national, regional and local level across the national borders.

It is also the aim to exchange **information** about violence prevention and protection through multidisciplinary networks. In order to be able to integrate information in all relevant information systems of the member states as well as of the EER-states, a public information centre will be established for the entire Community to which NGOs and public bodies turn for all available information, that has been delivered by universities, NGOs and public instances with regard to violence, the means of preventing violence and aid to victims.

Apart from that, the programme finances scientific research which constitutes the basis for **government measures** to prevent violence, to support victims and to prevent frequent exposure to violence.

Besides, the European programme concentrates on raising **public opinion** as well as helping the media to form an opinion through stimulation of information campaigns in all member states. The aim is to generate alertness to potential danger and ways of evading violence, by means of knowledge of the legislation, health education and training in combating violence.

### Belgium against partner violence

In Belgium there is a new law since 1997 allowing criminal prosecution against partner violence for the first time. The act of November 24th, 1997 "to the effect of combating violence between partners" published in the Belgian law gazette<sup>12</sup> on February 6th 1998, contains the adaptation of a number of articles in the Penal Code. The amendment refers to violence committed against women as well as against men.

<sup>11</sup> [http://europa.eu.int/comm/justice\\_home/project/daphne/nl/](http://europa.eu.int/comm/justice_home/project/daphne/nl/)

<sup>12</sup> [http://194.7.188.126/justice/index\\_nl.htm](http://194.7.188.126/justice/index_nl.htm)

First of all the legislator added a paragraph to article 410 of the Penal Code, by which the partner relationship between offender and victim becomes a new **aggravating circumstance**.<sup>13</sup>

**“The same applies in the event that the culprit committed the crime or the offence against his/her spouse or the person with whom he/she cohabits or has cohabited and with whom he/she has or had an enduring affective and sexual relationship.”**

If so, the minimum punishment will be doubled in case of imprisonment and increased by two years in case of criminal punishment. That stipulation applies also when blows and injuries are inflicted after a separation or a divorce assuming there existed a cohabitation and an enduring affective and sexual relationship before that.

Secondly the act changes the **procedure** of criminal prosecution for partner violence. From now on, judicial authorities have the power to catch the offender in the act at the victim's request, if that offender is the spouse or the person living together with the victim and with whom the victim has an enduring affective and sexual relationship. The public prosecutor or the judicial police may without the offender's consent, search his house. They are allowed to arrest him as well.

Contrary to the previous stipulation, this procedural change applies only when aggressor and victim are still living together and the enduring affective and sexual relationship still exists. It is for the judge to decide whether both conditions are fulfilled, on the basis of testimonies, interviews with local residents, existing police records, the victim's earlier contacts with social services or with associations for battered women.

Then the law also gives the right to relief organizations to take legal action. The legislator aims at removing the case from the passionate atmosphere by punishing the aggressive partner without the need for the victim to be confronted with him in court. The victim still has to grant permission to the organization to institute legal proceedings in her name. She can withdraw her permission at any moment. Women's associations question the use of that stipulation because “women who don't institute legal proceedings for fear of reprisals, will no doubt hesitate to give their formal consent to a relief organization to do so in their place”.

Finally the 1997 Act does not apply to cases of murder or manslaughter between partners. It does not concern sexual violence, either. So, in case of rape between partners, penalties will not be augmented on the basis of that Act.

Whereas the Penal Code speaks of “*blows and injuries*”, the penal acts meant by the Act of November 24th, 1997 are “*deliberately inflicting bodily harm*”. Harm doesn't merely imply blows and injuries, but also administering substances with the intention of killing, and withholding food or care.

Contrary to the French legislation, the Belgian law doesn't take into account any mental injuries such as a nervous breakdown or a nervous shock, except when they cause physical damage.

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<sup>13</sup> KUMPS, VAN BEEK. Het Strafrechtelijk Beleid inzake Partnergeweld. Rapport in opdracht van de Vice-eerste Minister en Minister van Werkgelegenheid belast met het gelijke kansenbeleid Mevrouw L. Onkelinx. KUL & ULB, 2002.

Yet, since 1998, criminal justice takes into account just one aspect of psychological violence, viz. “**stalking**”. The Act of October 30th, 1998 inserted an article 442bis in the Penal Code with the aim to penalize stalking. But the partner relationship is no aggravating circumstance in this case.

The original purpose of that act was to penalize “stalkers who have developed an obsessional love or fixation towards a person with whom they have no personal relationship (imaginary loves) or else against stalkers who have had a personal or a love relationship with a person and who can’t accept that the relationship has ended (frustrated loves).

The final text of the law stipulates that

**“He who has beset a person while he knew or should have known that through his behaviour he would seriously disturb that particular person’s peace, will be punished with imprisonment of fifteen days to two years and with fines of fifty francs to threehundred francs or with only one of those punishments.”**

The offence implied in the present article can only be prosecuted in case of complaint by the person who claims to be beset.

In that case a relief organization can’t take legal action, as opposed to the Act of November 24th, 1997.

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