



## Domestic Violence of Women in Hungary

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## **Executive Summary**

Gender violence threatens the well-being of men and women all over the world. Additionally, women and girls suffer the most from gender violence. One of the biggest threats that women face is violence within the home. Even in, what people believe to be, well-developed countries domestic violence still lurks within the private walls of homes. In Hungary, there is an inadequate status report of domestic violence and police response. The statistics of battered women, homicides, and poor intervention by authorities creates concern for Eastern European countries like Hungary. Therefore, the purpose of this study is to examine the issue of domestic violence of women in the state of Hungary. This analysis aims to evaluate Hungary's actions and obligations as a country, and whether or not Hungary meets international standards in the field of violence against women. In order to have a well-rounded study of the question in point, the study will also look at Germany's legal framework and police actions in reference to domestic violence. It is important to keep an open discussion about gender violence in order to improve on reducing the risks that women face daily. In an effort to draw attention to changes that countries need to make to combat domestic violence against women, the following academic work focuses on international standards, national legal frameworks, police action, societal views, and even gender politics. The ultimate aim is to find most effective route in the attempts to reduce the harms of domestic violence of women.

## **Acknowledgements**

I would like to dedicate this thesis to my late professor and mentor from The College of New Jersey, Dr. Morton Winston, who inspired me to further pursue my higher education in human rights and supported me in my endeavors.

I would also like to thank all of the wonderful professors and faculty of Central European University for showing me all of my true potential as a scholar. A special thank you to the following professors: Dr. Mathias Möschel, Dr. Eszter Polgári, Dr. Andrea Pető, Dr. Andrea Krizsán, and Dr. Bernard Rorke.

Last but not least I would like to thank my family for their immense support and love. I would not be where I am today without my family and friends.

## Chapter 1: Introduction

In our ever developing world, the rights of women have become increasingly important on both an international and domestic level. Providing women with equal opportunities promotes and maintains female empowerment, female leadership, and international norms on equality. However, women suffer from a wide range of abuses in this modern world, all the way from domestic violence to human trafficking. It cannot go unsaid that men do not face such violence in partnerships and families as well, however statistically women are still in the forefront of gender violence.<sup>1</sup> Gender-based violence is an epidemic that grips almost every country in the world. The conversation of gender-based violence is especially important when it comes to the violence of women, because of the aforementioned fact that women are one of the most targeted groups of such violence. “One in three women worldwide have experienced physical or sexual violence — mostly by an intimate partner.”<sup>2</sup> This data of the global estimate of around 35% of women suffering abuse at the hands of intimate partners has also been noted by the World Health Organization.<sup>3</sup> In an effort to promote equality and to end violence against women, international human rights standards have been set forward by the UN and other international organizations. However, we have yet to see any drastic changes towards improving the issue. One of the key issues within the matter of gender-based violence that needs to be focused on is the violence that women face within the home and family through intimate partner violence. “Intimate partner

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<sup>1</sup> "Violence Against Women – End the Cycle of Violence." Amnesty International USA. <https://www.amnestyusa.org/themes/womens-rights/violence-against-women/>

<sup>2</sup> "Infographic: Violence against women." UN Women. November 06, 2015. <http://www.unwomen.org/en/digital-library/multimedia/2015/11/infographic-violence-against-women>

<sup>3</sup> "Violence against women - Intimate partner and sexual violence against women." World Health Organization Fact Sheet. November 2016. <http://www.who.int/mediacentre/factsheets/fs239/en/>

violence is any behavior by a current or former partner or spouse that causes physical, sexual or psychological harm. This is the most common form of violence experienced by women globally.”<sup>4</sup> The reason a focus on domestic violence is important presently in the realm of human rights is not only because it adds progress to the women’s rights movement, but also because of the amount of extreme abuse cases and homicides that result from such violence. “Worldwide, 1 in 2 women killed were killed by their partners or family in 2012.”<sup>5</sup> This type of violence affects women emotionally as well as physically, regardless of their class or background.<sup>6</sup> In addition, improving upon the issue of domestic violence could create a road to improving other areas of violence against women, such as genital mutilation, trafficking, and sexual assault. There needs to be a high goal set for improvement due to the high risks associated with violence against women, such as the negative impact violence can have on “women’s physical, mental, sexual and reproductive health, and may increase vulnerability to HIV.”<sup>7</sup>

In an effort to shed an academic light on domestic violence, a feasible approach is to analyze the domestic abuse laws, if any, in place within a country while making sure to include the social and non-governmental influences. Often people have the perception that the countries of Europe do not have such large gender-based violence issues compared to other regions, such as the Middle East or Asia. The perception allows people to believe that since Europe is so well

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<sup>4</sup> "Infographic: Violence against women." UN Women. November 06, 2015. <http://www.unwomen.org/en/digital-library/multimedia/2015/11/infographic-violence-against-women>

<sup>5</sup> Ibid.

<sup>6</sup> "Zero Tolerance of Violence Against Women" Gender Equality. European Commission. [http://ec.europa.eu/justice/gender-equality/gender-violence/index\\_en.htm](http://ec.europa.eu/justice/gender-equality/gender-violence/index_en.htm)

<sup>7</sup> "Violence against women - Intimate partner and sexual violence against women." World Health Organization Fact Sheet. November 2016. <http://www.who.int/mediacentre/factsheets/fs239/en/>

developed there is no need to talk about, and aim to fix, anything related to gender violence. However, this is not the case. Countries from both Western and Eastern Europe struggle with the equality of the sexes in all fields ranging from the workforce all the way into the home. The internationality of this issue is what qualifies it to be recognized as a human rights concern by international organizations and their conventions.

For research purposes I have chosen to analyze the country of Hungary. The reason for choosing Hungary is due to the continuing lack of proper responses to gender violence, which Human Rights Watch has drawn attention to through multiple reports on Hungarian domestic violence. In addition, Hungary is in the heart of Central Europe and often times the forefront of Central European history<sup>8</sup>, therefore it would be interesting to see how they are leading by example in regards to how women in the country are treated. In order to have a well-rounded analysis, it would be beneficial to compare Hungary to a Western European country. Since there is not one country that stands out with any type of excellent form in regards to dealing with domestic abuse, an acceptable Western country chosen for comparison would be Germany, due to the laws that exist on the subject and the process of their implementation.

The main purpose of this analysis and comparison is to improve the current situation of domestic violence against women in Hungary, and to create a clear outlook on how other countries can benefit from this analysis. The purpose here is to highlight the inequality, unfairness, and most of all violence that exists for Hungarian women. First and foremost,

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<sup>8</sup> For example, the Hungarian Revolution of 1956 which lead to other countries behind the Iron Curtain to follow lead and revolt against Soviet Union as well. This domino effect is explained by Johanna Cushing Granville in their book *The First Domino: International Decision Making During the Hungarian Crisis of 1956*.

discussion and exposure of the topic is already a step towards progress, due to the lack of dialogue and awareness around the subject. Additionally, this research is of significance since many of the research or discussions available on domestic violence is mostly done within the US framework or rooted in North American standards and law. Furthermore, when research is done on an international level researchers concentrate on traditional “non-Western”<sup>9</sup> countries where patriarchal culture and religion play a large role in oppressing women’s rights, such as some countries in Asia. There is a lack of, or at least an insufficient amount of, research and discussion about the domestic abuse that takes place in the societies of Eastern Europe. These Eastern European countries have only recently become independent of the Eastern bloc, a large time period of their political history. Therefore, it is important to discuss the kind of violence women face in these newly democratic countries and how it is handled legally as well as socially. This can provide a platform for discussing whether the newly democratic countries are making equal and progressive decisions and taking proper actions to protect women’s rights.

The existing laws on domestic violence in Hungary are weak, especially in comparison to international standards and the standards of Germany. More importantly, Hungary still suffers from the failure to protect women from domestic abuse due to poor enforcement of laws and policies. Is the answer in changing the current situation to improve the existing laws or does the answer lie instead within the correction of the enforcement of laws and policies?

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<sup>9</sup> For research purposes, “non-Western” will refer to countries that some scholars would state as “under-developed”.



In order to fully comprehend the threat that women face and how this can be combatted, I aim to analyze the existing laws, societal views, and police actions taken on the issue of violence against women in Hungary. Furthermore, it is best to create a comparison between Hungarian law and efforts, German law, and international standards. I hope to be a piece of the puzzle that helps find a road to a solution, not just for Hungary but for other countries in the world since this issue of violence of women within the home plagues the entire world.

### 1.1 *Definitions, Methodology & Limitations*

To begin, what exactly is domestic violence? Domestic violence is usually experienced within the home and between intimate partners or family members. A pattern violence including physical, sexual, emotional, psychological, and economical abuse all constitute as forms of domestic violence.<sup>10</sup> These forms of violence restrict freedom and harm one's dignity. Both emotional and physical abuse can instill extreme fear in victims to the point that they have difficulty removing themselves from the abusive environment. Physical violence includes hitting, kicking, punching, biting, and more. Emotional abuse consists of constant attacks to one's personality or attempts at belittling the other person's self-worth through criticisms and cruel name-calling.<sup>11</sup> Economical abuse means the perpetrator attempts to make the victim reliant on the perpetrator financially. This means the perpetrator has control over finances and determines how much or little money the victim can have access to. Sexual violence in short consists of coercing a victim into sexual acts without their consent. This type of violence includes marital

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<sup>10</sup> US Department of Justice. Office of Violence Against Women. *Domestic Violence*. updated June 16, 2017 <https://www.justice.gov/ovw/domestic-violence>

<sup>11</sup> Ibid.

rape. Lastly, psychological abuse is defined by the intimidation from perpetrators by threatening to harm friends, family, or themselves if victim does not comply. Psychological violence can also include destroying property, harming pets, and oppression of victim through isolating them from the world.<sup>12</sup> Finally, a key point to highlight is that domestic violence can happen to anyone no matter what gender, race, class, religion, or age. In addition, domestic violence does not only harm the direct victim, but it can also harm people indirectly — mainly children. Children are at high risk of exposure to seeing the violence between intimate partners or family members, which then psychologically harms the children or at times directly physically harms them as well.<sup>13</sup> The main goal of perpetrators is to gain a sense of power and control.<sup>14</sup> It is this main goal of gaining power that drives their violent behavior through a system of patterns, which can manifest itself through a physical or psychological manner.<sup>15</sup>

When starting the research on this topic it is critical to answer relevant key questions, or aim to answer these questions with the research itself. The following questions will be a part of the underlying themes throughout the dissertation: If international law has been established in regards to domestic abuse, then why do women keep suffering? Is the continuing numbers of domestic violence a result of poor national laws or poor enforcement? Or is it poor international law that fails to examine societal influence in such issues? What steps should countries, such as

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<sup>12</sup> Ibid.

<sup>13</sup> John W. Fantuzzo, and Rachel A. Fusco. "Children's Direct Exposure to Types of Domestic Violence Crime: A Population-Based Investigation." *Journal of Family Violence* 22, no. 7 (October 1, 2007): 543–52.

<sup>14</sup> Bonnie Brandl. "Power and control: Understanding domestic abuse in later life" *Generations*. San Francisco Vol. 24, Iss. 2 (Summer 2000): 39-45.

<sup>15</sup> Bonita C. Meyersfeld, "Reconceptualizing Domestic Violence in International Law," *Albany Law Review* 67, no. 2 (2003): 371-2

Hungary, take in order to improve the safety and well-being of the female population in relation to domestic violence? Where is the point when an issue should no longer be considered a private family issue? Why should abuse at all be filed under a private family matter, simply due to the violence taking place under the roof of a private home?

Once these questions have been established, the next step is to pay attention to the factors that are necessary to discuss when it comes to domestic abuse. Meaning, that factors such as race, class, family life, and sexuality all need to be considered in the evaluation of the domestic abuse situation. These can be further elaborated upon within the realm of social perceptions of gender identity.

A key part of methodology is being able to recognize the limitations present during the research. These roadblocks make it easier to understand not only the subject but also provides explanation for possible lack of evidence or data while in the process of researching. A primary example of a limitation in the methodology would be the language barrier while conducting research. I am able to read and write in English and Hungarian, however I have no knowledge of the German language. This lack of ability to understand German limits the amount or quality of research that I am able to do when investigating German culture and the German legal framework.

One of the limitations that exists is the large taboo that surrounds domestic violence. In a majority of countries it is not socially acceptable to discuss domestic abuse publicly. However, exposure to the subject as well as to crucial information, such as telephone numbers or locations of shelters, are not as evident in most cultures or media. A good example of such exposure could be how sometimes, in the US, after a movie or television episode is over the screen presents the

viewer with a telephone number or website link related to the theme issue of the movie or television episode. This kind of contact with the public can benefit anyone who is suffering and aid them in taking the right step towards seeking help. Since domestic violence is a large taboo in societies, it is difficult not only to spread awareness but also to collect data. The reason it is difficult to collect data is because of the reluctance of women to step forward and speak up.<sup>16</sup> So not only are many women unaware of the aid available to them, but they are also afraid to speak up about the violence that they face. During research, data is needed in order to support other findings. Therefore, the reluctance of speaking up or taking issues to court pose as a limitation in research. This limitation is further analyzed in an upcoming chapter.

Next, another limitation that this analysis faces is privacy. What this means is that majority of domestic violence cases happen within the private walls of a home, or within the intimate circles of family members.<sup>17</sup> This is a limitation because it brings up concerns of when a state may interfere or how they can enforce laws and policies that are directed at what is seemingly just a family matter. Many may debate that they have a right to private life, however that debate should end with the harm of any persons. Yet, the existence of these concerns or debates can pose as a limitation for government, but also for researching the subject, and shows up as a theme consistently throughout this discussion of domestic violence. “By turning a public

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<sup>16</sup> Mary Ellsberg, Lori Heise. “Researching Domestic Violence Against Women: Methodological and Ethical Considerations” *Studies in Family Planning*. Volume 32, Issue 1 (March 2001) p. 1-16

<sup>17</sup> "Violence against women - Intimate partner and sexual violence against women." World Health Organization Fact Sheet. November 2016. <http://www.who.int/mediacentre/factsheets/fs239/en/>

eye toward violence against women in the intimate sphere, activists created a space beyond the public or private.”<sup>18</sup> Which is one of the main goals of this thesis analysis.

Lastly, there is the limitation of people and scholars challenging the idea that women’s rights should not be separate from overall human rights. Luckily, in the academic world there are large criticisms against that idea.<sup>1920</sup> The idea that to have real equality would be to include men’s and women’s rights under one large umbrella of human rights is one that cannot go ignored if there is to be a true understanding of how justice can be given for those affected by gender-based violence. The aforementioned idea challenges the truth, which is that women are statistically overrepresented as targets of violence motivated by the views towards the female gender.<sup>21</sup> Therefore, to comprehend the status of current international standards this criticism of having a spotlight on women’s rights needs to be kept in mind during the research.

## 1.2 Thesis Structure

This paper has been divided into three major parts in addition to a critical assessment and recommendations. After establishing the direction of the analysis in the first chapter, the Introduction, the analysis will continue to the second chapter of Legal Framework of Domestic Violence. This chapter highlights relevant laws and the legal frameworks of violence against

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<sup>18</sup> Katalin Fabian. *Contemporary Women’s Movements in Hungary: Globalization, Democracy, and Gender Equality* (Woodrow Wilson Center Press 2009), 224

<sup>19</sup> Dorothy Q. Thomas and Michele E. Beasley. “Domestic Violence as a Human Rights Issue.” *Human Rights Quarterly* 15 (1993): 36–62.

<sup>20</sup> Janice Wood Wetzel. *The World of Women: In Pursuit of Human Rights* (Springer, 2016)

<sup>21</sup> "Violence against women - Intimate partner and sexual violence against women." World Health Organization Fact Sheet. November 2016.

women and domestic violence within international standards, in Hungary, and in Germany. Next, the third chapter of Enforcement of Laws and Policies examines the roles of enforcement authorities, and how these roles affect the current statistics in both Hungary and Germany. Then, the fourth chapter concentrating on social aspects and gender politics aims to analyze the views on women and violence against women in Hungarian culture and in German culture. This chapter is crucial in creating a further understanding of the inner workings of the legal frameworks and the law enforcement authority actions outlined in the previous chapters. Within the this chapter the role of Non-Governmental Organizations (NGOs) are additionally highlighted to showcase the roles of society in a non-governmental framework.

Lastly, in the fifth chapter, the Conclusion, the three chapters are examined together to see how these three components come together. This chapter aims to answer the questions posed in the Methodology section of the Introduction by creating a comprehensive link in the analysis. Furthermore, the Recommendations section of chapter is intended to provide recommendations for the country of Hungary on what actions to take towards improving the national situation of domestic violence against women based off of noted analyses. Finally, the structure is rounded out by the Overview section and Bibliography.

## Chapter 2: Legal Framework of Domestic Violence

Achieving equal rights in every country is still difficult, even though we are all human regardless of all our other labels and deserve all the rights under what is defined as “human rights”. Interestingly, when it comes to man versus woman, women are not equal to men neither legally or socially.<sup>22</sup> Equality between the sexes seems to be guaranteed by law, however in regards to gender-based violence this guarantee seems to be widely ignored and lacks the proper social response needed in achieving successful implementation of such laws. This can be seen by looking at what international frameworks have outlined as state obligations, and how these are adopted by the countries. Many countries have trouble with balancing their obligations set forth by international human rights and their responsibility to protect the privacy of their citizens. This issue is a large part of the discussion that needs to happen surrounding violence against women within the home and how this is approached on an international and national level. The following pages highlight this legal relationship.

Internationally, there is a need for more intervention on domestic violence. As is mentioned in the upcoming chapter and chapters, it is evident that there is caution around how violence against women is framed legally. To understand these frames and the inner workings of domestic law of violence against women, the international standards set forward on the topic need to be established. However, while examining these laws it is crucial to keep in mind that there are many limitations of authorities that emerge on the international level as well as on the national level. This means that even though international institutions set forth standards, there are

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<sup>22</sup> Catharine A. MacKinnon. *Butterfly Politics* (The Belknap Press of Harvard University Press, 2017), 295

limitations as to how much and when these institutions may interfere.<sup>23</sup> So, this chapter lays out the international protocols, Hungarian law, and German law surrounding domestic violence. Finally, an extensive analysis of the case of *A.T v. Hungary* provides for a better understanding of the expectations that Hungary was ordered to meet.

## 2.1 *International Law and Standards*

The Convention that stands out the most and is many times referred to as an “international bill of rights for women”<sup>24</sup> is the Convention on the Elimination of All Forms of Discrimination against Women (1979), or in short known as CEDAW. In 1999, an Optional Protocol was added to the original Convention. This body of legislation is crucial internationally due to the detailed focus on all areas concerning women’s rights issues, and holds state parties responsible for what has been written forth. Of course, this international framework like others cannot stand on its own. There needs to be effective implementation after the country signs and ratifies the framework agreeing to their obligations for there to be true progress and success. In order to understand how such policy affects domestic policy and law, the international document can be analyzed and grouped into different frames, as outlined by the article *Frames in*

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<sup>23</sup> Andrea Krizsan and Violetta Zentai. “Gender Equality Policy or Gender Mainstreaming? The Case of Hungary on the Road to an Enlarged Europe” *Central European University* v. 27, iss. 2 (June 2006): p. 135-51

<sup>24</sup> Women Watch List of UN Resources on Gender and Women’s Issues  
[http://www.un.org/womenwatch/directory/instruments\\_treaties\\_1003.htm](http://www.un.org/womenwatch/directory/instruments_treaties_1003.htm)



*Contestation: Gendering Domestic Violence Policies in Five Central and Eastern European Countries.*<sup>25</sup>

To begin, definitions present in the language of these international documents is key in comprehending the directions in which law progresses in relation to gender-based violence. So looking at the frames, as previously mentioned, helps in understanding definitions such as “domestic violence.” When discussing the different forms of framing in gendered policy CEDAW is considered to fit into the “structural gender equality frame”, according to Krizsán.<sup>26</sup> This frame is specifically and solely represented by CEDAW and by General Recommendation 19 of CEDAW.<sup>27</sup> More importantly, the significance of this frame is the way it defines domestic violence in a legal framework, meaning it “sees domestic violence as a form of gender-based discrimination.”<sup>28</sup> In reference to Article 1 of the Convention, General Comment 19 points out that “[t]he definition of discrimination includes gender-based violence, that is, violence that is directed against a woman because she is a woman or that affects women disproportionately.”<sup>29</sup> This additional comment supports the definition of domestic violence within the *structural gender equality frame*. It additionally supports the claim that women’s rights needs to be

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<sup>25</sup> Andrea, Krizsan and Raluca Maria Popa. “Frames in Contestation: Gendering Domestic Violence Policies in Five Central and Eastern European Countries.” *Violence Against Women* 20, no. 7 (July 2014): 758-82

<sup>26</sup> *Ibid.*, 762.

<sup>27</sup> *Ibid.*

<sup>28</sup> *Ibid.*

<sup>29</sup> UN Committee on the Elimination of Discrimination Against Women (CEDAW), CEDAW General Recommendation No. 19: Violence against women, 1992 <http://www.un.org/womenwatch/daw/cedaw/recommendations/recomm.htm>

extendedly paid attention to under all human rights.<sup>30</sup> Furthermore, it is in section 9 of General Comment no. 19 that the issue of violence within private spheres is emphasized.

*“Under general international law and specific human rights covenants, States may also be responsible for private acts if they fail to act with due diligence to prevent violations of rights or to investigate and punish acts of violence, and for providing compensation.”*

Therefore, not only does the obligation lie with the state in public and national affairs, but also needs to extend into providing effective remedy and protection within private spheres as well.

Besides the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), there is also Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence, also known as the Istanbul Convention. The number one objective of the Convention is to, “protect women against all forms of violence, and prevent, prosecute and eliminate violence against women and domestic violence.”<sup>31</sup> Other purposes of the Convention are to provide a framework for policies and ways to measure the violence that women may face, as well as provide assistance for law enforcement to be able to cooperate to achieve the goal of eliminating violence against women.<sup>32</sup> “This Convention shall apply to all forms of violence against women, including domestic violence, which affects women disproportionately.”<sup>33</sup> The Convention outlines every possible form of violence, as well as

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<sup>30</sup> As mentioned in the ‘Limitation’ section within the Introduction chapter of this paper about how this idea is challenged, however not supported due to what is written in General Comment no. 19

<sup>31</sup> Council of Europe, Council of Europe Convention on preventing and combating violence against women and domestic violence (11 May 2011) p. 7

<sup>32</sup> Ibid.

<sup>33</sup> Ibid.

outlining how to train professionals and raising awareness. Factors such as training professionals, knowing the proper way to raise awareness, requiring a telephone helpline, and proper education around violence against women are all beneficial for a country's progress in eliminating violence against women. For example, in America, the National Domestic Violence Hotline is called over 20,000 times a month.<sup>34</sup> Besides having access to police, victims also have access to this hotline, which they might prefer if they are afraid of police or if they are afraid of their spouses being arrested. Hotlines provide resources, such as shelters in the area, or can assess the violence to help the victim plan their next step.<sup>35</sup> Unfortunately, Hungary does not have such a hotline, and this could possibly be a result of the fact that Hungary has not ratified the Istanbul Convention. Germany on the other hand has had a hotline even before they ratified the Istanbul Convention, which they recently have done and will enter into force in 2018.<sup>36</sup>

Lastly, since the two countries of comparison — Hungary as the main point with comparison to Germany — are in Europe, it is also important to mention the role of the European Court of Human Rights in domestic violence cases. Relevant Articles of the European Convention on Human Rights would be Articles 2 (Right to Life), 3 (Prohibition of torture), and 8 (Right to respect for private and family life)<sup>37</sup> which poses as a controversial article when discussing domestic violence cases. This controversy stems from what the judges can see as hard

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<sup>34</sup> “National Statistics on Domestic Violence” NCADV, <https://ncadv.org/statistics>

<sup>35</sup> “The National Domestic Violence Hotline” <http://www.thehotline.org/>

<sup>36</sup> “Chart of signatures and ratifications” Council of Europe Treaty Office <https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/210/signatures>

<sup>37</sup> Articles 2, 3, 8. European Convention of Human Rights.

fact of a case and the balancing of Article 3 and 8, and this balancing is shown through upcoming cases.

International standards push a country to amend their laws and policies, which can be seen through international cases that have appeared in front of Courts and Committees. As mentioned previously, a hurdle that many lawmakers meet with domestic violence cases is the issue of privacy versus public affairs when it comes to violence of women. To better understand this, it is useful to examine the cases of *Valiuliene v. Lithuania*<sup>38</sup>, *Maria de Penha*<sup>39</sup>, and *Rumor v. Italy*<sup>40</sup>. In the case of *Valiuliene v. Lithuania*, the applicant mentions the case of *Tyrer v. UK*<sup>41</sup> since that case sets a precedent to finding a violation of Article 3 due to embarrassment and humiliation from the physical violence are degrading treatment because it effects the individual's human dignity (as mentioned on page 11 of the case, "physical integrity"). Therefore, the applicant's argument that even though there are no long-lasting injuries it does not mean that there was no emotional damage, is a sufficient argument as is recognized by international law due to *Tyrer v. UK*. This is important to note because finding the scope of the level of severity in order to find a violation of Article 3 is relative due to unseen damage, as well as due to the "trivial nature" of how these injuries were attained. However, the Court took into consideration the factor of gender and the duration of the violence. And since the treatment was gender related and spanned across hours of treatment, the Court found that there was physical and mental

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<sup>38</sup> ECtHR: *Valiuliene v. Lithuania*, no. 33234/07 (26 March 2013)

<sup>39</sup> IACommHR: *Maria da Penha v. Brasil*, Case 12.051 (16 April 2001)

<sup>40</sup> Ronagh J. McQuigg, "Domestic Violence as a Human Rights Issue: *Rumor v. Italy*" *European Journal of International Law* (2016, vol 26, no. 4) pp. 1009-1025

<sup>41</sup> ECtHR: *Tyrer v. the United Kingdom* 5856/72 (25 April 1978)

anguish suffered by the applicant. After reading the dissenting, it became really evident that this question of public and private matters is once again understood varying among the legal community. There is no question over whether there has been a domestic violence abuse, but the question of privacy remains controversial. If it is a human rights violation, plain and simple, then why does the integrity of the man/violator have to be protected by the walls of their home?

The case of *Maria de Penha* and *Valiuliene v. Lithuania* are similar in that the domestic authorities and judiciary did not effectively follow through with their state obligations. However, in the case of *Rumor v. Italy* the Court points out that the state has a proper legal framework, and reading the facts of the case it is evident that the state remedy is sufficient in accordance to the situation. Unlike in *Valiuliene v. Lithuania*, the state was able to distance and punish the perpetrator. In addition, the applicant of *Rumor v. Italy* was receiving psychological help in order to deal with the mental anguish, and so was her son who witnessed the violence. However, the ECHR is not equipped to deal with such issues;

“[T]he enforcement of the ECHR depends primarily on litigation. A litigation strategy can of course be problematic when dealing with an ‘unseen crime’ such as domestic violence, which victims are often reluctant to report. In addition, judges must confine themselves to dealing only with the specific question in the case that is before them”<sup>42</sup>

After reading these cases it becomes apparent that international standards and courts are limited in their jurisdictions, yet are still able to spark a change in national laws and policies. It also becomes evident how much more progress is needed in regards to possibly creating a law(s)

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<sup>42</sup> Ronagh J. McQuigg, “Domestic Violence as a Human Rights Issue: *Rumor v. Italy*” *European Journal of International Law* (2016, vol 26, no. 4) p 1023

specifically aimed towards domestic violence. The limitations towards progress is the controversial problem of privacy, and the lack of laws that address domestic violence. At first glance the courts addressed the violations to the best of their abilities. However, there needs to be more “gender-sensitive interpretations” and more effective positive obligations.<sup>43</sup> So in conclusion, international law standards provide an effective basis for countries to follow in relation to domestic violence, with room to grow.

## 2.2 Relevant Hungarian Law

Hungary, like all other countries, is always slowly progressing and therefore there are a few examples of legal steps that they have taken to meet the international standards set forth in gender equality and in protecting women’s rights. Improvements can be seen in revised Constitutional sections, specific sections of the Hungarian Criminal Code, additional Resolutions, the case of *A.T v. Hungary*, and finally amendments to the Criminal Proceedings. Definitions and wording are extremely important when fabricating laws, therefore it is effective to read between the lines and question what has been written.

Hungary’s Constitution has been revised to contain additional sections on preventing violence against any person’s, especially the type of violence suffered by women such as genital mutilation and involuntary sterilization. It is in Article III, amended in 2013, which includes the following specifications;

*“(1) No one shall be subject to torture, inhuman or degrading treatment or punishment, or held in servitude. Trafficking in human beings shall be prohibited.*

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<sup>43</sup> Ibid.

*(2) It shall be prohibited to perform medical or scientific experiment on human beings without their informed and voluntary consent.”<sup>44</sup>*

There is an interpretation of this provision that can create a link between the term domestic abuse and torture or degrading treatment. With the power of these interpretations of the provisions, one can argue that domestic abuse cases can be filed as a violation of Article III Section (1) and hence be protected from further suffering. However, those interpretations would be up to the authorities examining a specific case.

It is within legislation targeting violence against women that the most progress can be seen. In 2007 it was in Section 176/A of the Hungarian Criminal Code that there was some type of protection outlined for those abused within familial circles. Under this section of the Criminal Code at the time, anyone who harasses, or constantly tries to make contact with a person through telecommunications or interfering with their private life is then guilty of a first degree misdemeanor and punishable only up to one year. Since then there have been amendments made to the Criminal Code. Now, it is in Act C of 2012 under Section 212/A of the Hungarian Criminal Code, labeled “Domestic Violence”, that extensively addresses the crime.<sup>45</sup> This section is established by Section 19 subsection 5 of the 2013 Act LXXVIII.<sup>46</sup> A key aspect of the domestic violence section of the Criminal Code is the references made to different relevant sections of the Criminal Code, such as Section 164 on “Battery”, which would be applicable in a case of

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<sup>44</sup> Article III Section 1 & Section 2. *Constitution of the Republic of Hungary* (amended 2013)

<sup>45</sup> Act C Section 212/A *Hungarian Criminal Code* (2012)

<sup>46</sup> Ibid.

domestic violence. To elaborate, Section 212/A specifically highlights the violation of human dignity through battery, deprivation, and other forms of violence. So it states that anyone who:

*“a) seriously violates human dignity or is engaged in any degrading and violent conduct, b) misappropriates or conceals any assets from conjugal or common property, and thus causing serious deprivation, against the parent of his/her child, or against a family member, former spouse or domestic partner living in the same household...”*<sup>47</sup>

Then it continues further to the references of the “Battery” provision focusing on long-lasting injuries and violation of personal freedom. The main purpose of putting emphasis on long-lasting injuries is that if injuries take a long time to heal, or are persistently new, then it creates evidence of continuous violence. A link can be drawn between this part of the provision and the previously mentioned Article III of the Hungarian Constitution which outlines that no one is to be subjected to degrading treatment or torture. Establishing constant violence, especially if with intent to harm, can hold as a valid claim for a crime which is then supported not only by the Criminal Code but also by Article III of the Constitution.

From what is written in the provision of this Act it seems as though every aspect of domestic violence has been covered. Any form of violence has multiple levels of punishment ranging from 1 to 5 years.<sup>48</sup> However, an interesting fact when reading between the lines of Subsection 1(b) of Section 212/A is the violence inflicted, *“against the parent of his/her child, or against a family member, former spouse or domestic partner.”*<sup>49</sup> In this sentence there seems to

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<sup>47</sup> Ibid.

<sup>48</sup> Act C of 2012 Section 212/A, Subsection 1(b), 2(a)(b). *Hungarian Criminal Code* (2012)

<sup>49</sup> Act C of 2012 Section 212/A subsection 1(b). *Hungarian Criminal Code* (2012)



be a lack of a stated “current spouse or domestic partner”. This same absence was present in an older version which stated that perpetrators are anyone who harms their children or, “*Any person who perpetrates harassment against: his/her ex spouse or ex common-law spouse...*”<sup>50</sup> In this version, as well as the updated version, there is a mention of the ex-spouses. However, there is an absence of mentioning current spouses. Even though the current provision states “against the parent of his/her child” that does not necessarily establish a marital relationship between the two parties. So then by interpretation a question arises of how current spouses and current common-law spouses protected by law, due to the fact that “family member” can be vaguely interpreted.<sup>51</sup>

Another part of the Criminal Code that is important to highlight is a section under Chapter XIII. Specifically, Section 143 (1g) under ‘Crime Against Humanity’ states that,

*“(1) Any persons who - being part of a widespread or systematic practice (g) causes serious bodily or mental injury to others; is guilty of a felony punishable by imprisonment between ten to twenty years or with life imprisonment.”*

The reason highlighting this section is key, is because regardless of gender it is general knowledge that any type of threat to bodily harm or mental trauma may constitute as a felony. There is a clear mention of the fact that deprivation of basic rights on “the grounds of political opinion, nationality, ethnic origin, culture, religion, sex or any other reason...”<sup>52</sup> is prohibited. Therefore, when arguing for one’s rights it is can be pointed out that at the root of it all the state is obligated to provide effective protection to all regardless of gender.

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<sup>50</sup> Section 176/A Hungarian Criminal Code (2007)

<sup>51</sup> Katalin Fabian. *Contemporary Women’s Movements in Hungary: Globalization, Democracy, and Gender Equality* (Woodrow Wilson Center Press 2009) p. 232

<sup>52</sup> Chapter XIII Section 143 (1g): *Hungarian Criminal Code*

In conclusion, in an effort to adhere to international law standards Hungary has made amendments in order to protect victims of domestic violence. It is important to note that there may be deviations in the analysis due to translation. After examining the laws that may apply to domestic violence cases, it is clear that Hungary has reacted to the recommendations of international institutions. Proof of this can be seen by examining the case of *A.T. v. Hungary*. Lastly, the laws that could apply to domestic violence cases may be clear, however the laws themselves are not enough to pose as effective forms of protection for victims. Once we combine the factors of police intervention and social views, then we can fully comprehend why women still majorly suffer from domestic violence.

#### 2.2.1 *A.T. v. Hungary*

The case of *A.T. v. Hungary*<sup>53</sup> is a case that was submitted to the Committee on the Elimination of Discrimination against Women under Article 7 Paragraph 3 of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women in 2003. This case has been a noteworthy case in proving the significance of keeping up with the international standards that state parties are obligated to uphold. These obligations under CEDAW include providing a legal framework that aids and protects victims, bring justice to victims by punishing perpetrators, and an obligation to also provide support systems for victims of domestic violence. It is up to the state to provide all this through any justifications of punishment approaches, such as deterrence or retribution. It was after the case of *A.T. v. Hungary*,

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<sup>53</sup> *A.T. v. Hungary*, Comm. 2/2003, U.N. Doc. A/60/38 (2005)

that the country of Hungary reviewed their existing laws and provisions and then created improvements in order to meet the international standards.

The facts of the case are as presented. The author claims to have been suffering domestic abuses from her common law husband (L.F.), with whom she has two children. One of the children has a case of severe brain-damage, and both children have also suffered violence and threats of rape from the perpetrator. The perpetrator has repeatedly threatened to kill the author with the firearm that he owns. The author claims that she has not sought the aid of a shelter due to the alleged nature of shelters not being able to provide for a mother along with a disabled child. Since 1998 the author has been abused by her husband and in 1999 L.F. moved out of the family home. However, whenever L.F. visited his visits were filled with battery and verbal abuse. After he moved out he took many possessions from the family home and failed to pay child support for three years. In March of 2000, the author changed and glued the locks to the family home in the hopes of protecting herself and her children. L.F. then proceeded to kick down the door. Then a year later in 2001, L.F. once again used violence to break into the apartment.

Since 1998, there have been 10 medical certificates issued for the author which is connected to the physical violence of L.F. These certificates prove the violence that persisted even after L.F. had left the family home to live elsewhere. In 2001, the author suffered battery from L.F. which resulted in hospitalization. The author further states that the civil proceedings in relation to the domestic violence have not provided her with ample protection and “the author claims that her physical integrity, physical and mental health and life have been at serious risk and that she lives in constant fear.”<sup>54</sup> The Budapest Regional Court issued their last ruling in

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<sup>54</sup> *A.T. v. Hungary*, Comm. 2/2003, U.N. Doc. A/60/38 (2005)

2003 that L.F. is able to return the family home. This decision was made based on two factors the court claims as a lack of evidence for the battery by L.F, and also the based on the fact that L.F. has a right to property. Lastly, the author also submitted that she had contacted child protective services by telephone and in writing, however the authorities claimed that there is nothing they could do in her case.

Now, the claim in this case presented is that there is an alleged violation of Articles 2(a), (b), and (e), 5(a), and 16 of the Convention on the Elimination of All Forms of Discrimination against Women by Hungary against the author. The author claims that Hungary had failed in protecting her life and her rights, and that their failure to do so has allowed indirect support of domestic violence. All possible domestic remedies were exhausted by the author, and even during proceedings the author was not safe from the harm of the perpetrator.

The Committee recognizes that the State was not able to provide ample protection through the remedies that were pursued. The Committee also highlighted that, “legal and institutional arrangements in the State party are not yet ready to ensure the internationally expected, coordinated, comprehensive and effective protection and support for the victims of domestic violence.”<sup>55</sup> The recognition reveals that the State is not meeting the international standards set forth by the Committee. Furthermore, in relation to Articles 5 and 16 of the Convention the Committee recognizes that social attitudes play a large role in contributing to the domestic violence norm. The Committee mentions their periodic report on Hungary in reference, and the fact that the, “persistence of entrenched traditional stereotypes regarding the role and

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<sup>55</sup> Ibid.

responsibilities of women and men in the family ...”<sup>56</sup> promotes a harmful environment and is a reason for concern. The Committee decided that there has been a violation of the author’s rights, and for the author’s remedy and safety the Committee decided that effective measures must be taken to guarantee the author with mental and physical integrity as well as provide the author with a safe home, legal assistance, and child services assistance.

In general, for the State the Committee provides eight key recommendations. Among these recommendations is the recommendation to properly train “judges, lawyers and law enforcement officials” on the Convention on the Elimination of All Forms of Discrimination. Another crucial recommendation is to provide exclusion orders and other support services, as well as to immediately investigate all allegations. This is important because often no investigation is launched, and that can result in a continuation of the violence until it becomes life-threatening or it results in a lack of safe spaces for victims. Lastly, the Committee recommends that the victims of domestic violence be provided with immediate legal assistance, including free aid, along with effective rehabilitation. This effective rehabilitation is suggested to be extended to the offenders as well.

The case of *A.T v. Hungary* is a milestone in not just Hungarian law but also in women’s rights in respects to the CEDAW. Not only did the case establish that States need to implement specific laws or policies on domestic violence, but the case also established that exclusion orders or in other words, restraining orders, need to be available as well. After a few years, Hungary introduced restraining orders in 2009, with the Act LXXII of 2009 Concerning Restraining

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<sup>56</sup> Rebecca Cook and Simone Cusack. *Gender Stereotyping: Transnational Legal Perspectives* (University of Pennsylvania Press, 2011): 157

Orders for Violence between Related Persons.<sup>57</sup> This Act allows authorities to issue a restraining order for 72 hours, to provide immediate protection. In addition, the Act also allows for police or a victim to request for a restraining order which is then valid after the request is accepted by the court. Interestingly, this Restraining Order Act also sets up that any public establishments, such as an hospital, can report any suspicious behavior that may be suggestive of domestic violence. This Act has been met with extensive amounts of criticism, which are discussed further in the next chapter.

### 2.3 Relevant German Law

Offenders of domestic violence harm a very large percentage of women in every country, and this includes the women in The Federal Republic of Germany where 1 in 4 women are victims of gender-based violence.<sup>58</sup> However, the laws and regulations in Germany differ from those in Hungary. In addition, the laws and regulations in Germany do not provoke the attention of the CEDAW Committee or even the Human Rights Watch, as Hungary does.

Germany does not have a distinct domestic violence law, rather domestic violence cases are reviewed under Chapter Seventeen Section 223 of the German Criminal Code. This means that Germany's legal framework of domestic violence is more gender-neutral.<sup>59</sup> This section states, “(1) *Whosoever physically assaults or damages the health of another person, shall be*

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<sup>57</sup> Törvény a hozzátartozók közötti erőszak miatt alkalmazható távoltartásról, 2009, LXXII, [http://www.njt.hu/cgi\\_bin/njt\\_doc.cgi?docid=125288.223199](http://www.njt.hu/cgi_bin/njt_doc.cgi?docid=125288.223199)

<sup>58</sup> Ursula Smartt, Helmut Kury. “Domestic Violence: Comparative Analysis of German and U.K. Findings” *Social Science Quarterly*. Volume 88, No. 5 (December 2007): 1263

<sup>59</sup> Carol Hagemann-White. “Responses to Domestic Violence in Germany in a European Context” *Global Responses to Domestic Violence* (2017): 87–105. Springer

*liable to imprisonment not exceeding five years or a fine*”<sup>60</sup>, as well as making any attempts to harm another person punishable as well. Moreover, other Acts under Chapter Seventeen may also be relevant in a domestic violence case, such as Sections 224 to 226 and Section 226a. Section 224 outlines bodily harm caused by a more dangerous manner such as weapons or stealth. Section 225 states that a person is punishable if any persons abuse their power, such as in employment or against someone within their household. Lastly, Section 226 and 226a highlight the punishments for those who inflict grievous harm and whoever mutilates the genitalia of a female, respectively. Verbal abuse is also punishable under section 185 of the German Criminal Code.

Besides the Criminal Code, victims of domestic violence are able to benefit from the protection of the “Gewaltschutzgesetz” Act. This Protection Against Violence Act serves to protect victims from violent acts and even stalking. The central objective of this Act is that it is the aggressor who goes and the victim has the ability to stay.<sup>61</sup> This means that it is not the victim who has to leave the home to be protected, but rather the aggressor is the one who is required to leave the home and stay away from the victim. The matter of whether the relationship is legally established or not does not play a role in the decision of enforcing this Act, however a prerequisite is that the home must be established as “permanent in nature” but the lease/ownership does not necessarily have to be under the name of the victim for the “stay-away

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<sup>60</sup> Chapter Seventeen Section 223 *German Criminal Code (Germany)*

<sup>61</sup> Federal Ministry of Justice “Civil Law Protection under the Act on Protection Against Violence” *Germany*: 1-25.

order” to be imposed.<sup>62</sup> <sup>63</sup> These civil protection orders provides victims with the needed protection, and it also diminishes any harm to their dignity.

When a victim is required to seek protection through a shelter they may be embarrassed and have their lives uprooted due to a situation that they cannot be blamed for. Therefore, putting the pressure on the aggressor to change their way of life creates an environment where the aggressor and his behavior is more directly condemned. It puts the blame more so on the perpetrator of domestic violence, rather than on to the victim. If the civil protection order is infringed, then the infringement is criminalized and the perpetrator is punished. Since it has come into effect in 2002, many states of Germany have often made use of this Act.<sup>64</sup> This Act has proved to be useful in decreasing violence against women, and specifically the domestic violence of women.

When comparing Hungarian law and the German law, there is an obvious difference to their legal approaches to domestic violence of women. In the German Criminal Code, domestic violence is handled like any other case of torture or inhumane treatment would be evaluated, whereas Hungary needed to draft a completely different section for domestic violence in their Criminal Code because the existing sections on bodily harm were not accomplishing any

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<sup>62</sup> Ibid.

<sup>63</sup> Gewaltschutzgesetz – GewSchG Section 2 (Act to Improve the Protection by Civil Law in Violent Behaviour and Stalking) (December 2001)

<sup>64</sup> “Guide to Urgent Applications under the Protection Against Violence Act” Working Group for Intervention in Violence Against Women(2012): 2



effective results in protecting women of domestic violence.<sup>65</sup> Furthermore, even though Hungary has enacted an Act for restraining orders, Act LXXII of 2009, it is very different from Germany's Civil Protection Against Violence Act. It is under the "Gewaltschutzgesetz" Act, also known as the Anti-Violence Act, women are protected from all violence and one of the protective approaches is the "stay-away order."<sup>66</sup>

In reality, it is difficult to provide immediate protection to women under Hungary's Restraining Order Act due to the amount of time that is needed from the Court to issue restraining orders that are valid for more than 72 hours. It is especially difficult to provide immediate protection if police do not issue a 72 hour restraining order when needed, and as could be seen in the case of *A.T. v. Hungary* the domestic courts decided that the husband had the right to his property even though he had inflicted harm upon his wife and threatened his children. Whereas, in Germany the process for the "stay-away order" is has proved to be more effective since police can require the aggressor to immediately leave the premises and it does not require a victim to move around or be concerned for their children's well-being.<sup>67</sup> In Germany, since the "stay-away order" type of restraining order requires the aggressor to leave, it is easier to protect the victim and to enforce punishment on infringements of the law. Overall, both Germany and Hungary are making strides in improving their laws and regulations, as well as adhering to international standards in relation to domestic violence against women. However, their

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<sup>65</sup> "Hungary: Chronic Domestic Violence." *Human Rights Watch* (23 June 2015) [www.hrw.org/news/2013/11/06/hungary-chronic-domestic-violence](http://www.hrw.org/news/2013/11/06/hungary-chronic-domestic-violence)

<sup>66</sup> Bettina Cummerow "When it Comes to the Crunch: Public Prosecution of Domestic Violence. Results from the Empirical Analysis of Criminal Proceedings in Cases of Domestic Violence" 36. *Annual Conference of the European Group for the Study of Deviance and Social Control* (2008): 1-3

<sup>67</sup> Ibid.

approaches to improvement slightly differs, which can be seen through the different types of restraining orders, and Germany's more gender-neutral approach to drafting the laws on domestic violence.

### **Chapter 3: Law & Policy Enforcement - Police Actions**

In order to have positive results in meeting international standards and providing women of domestic violence successful protection and justice, there must be proper and effective enforcement of the laws and regulations that are put in place by lawmakers and policymakers. The most crucial factor of creating change around an issue is having effective response and actions from the police force and other authorities. To accomplish this, the state is obligated to properly train police, judges, and lawyers or prosecutors. "Changed laws... may have to be accompanied by other measures to bring about the desired changes in practice—for example, additional training for legal professionals—to shake up underlying myths and stereotypes about abused defendants."<sup>68</sup> Authorities would benefit from having specialized officers employed to assist with specific sensitive issues, such as domestic violence, because it would yield in more positive results in relation to protecting victims. One of the most important steps in providing proper aid is recognizing the dangers present. The problem with this approach is that measuring up dangers can be subjective. Therefore, even though if police are provided with formal training, while out on a call a lot of different factors may influence their actions and decisions. One of these factors includes societal views and pressures, and as presented in the following sections,

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<sup>68</sup> Kerstin Braun. "“Till Death Us Do Part”: Homicide Defenses for Women in Abusive Relationships—Similar Problems—Different Responses in Germany and Australia." *Violence Against Women* 23, no. 10 (2017): 1195.

these types of societal pressures are what create the harmful subjective approaches. First, before reviewing the societal pressures present it is crucial to assess the present situation of enforcement in Hungary and in Germany.

Often it seems as though society asks the question of why female victims do not just leave their abusive and dangerous predicament or why they do not report it to the police. The fact of the matter is that often women are afraid to seek help from authorities due to just that, fear. The fear of authorities taking custody of children, the fear of suffering more beatings from the perpetrator if the authorities do not take correct measures or the perpetrator is released early, or even the fear of not being believed or having evidence of the violence suffered can all be reasons as to why abused women would not seek the help of authorities. In the following, when examining the actions of authorities in Hungary and Germany the spotlight is put on to those reasons which answer the questions often asked by society.

### *3.1 Police Action in Hungary*

Domestic violence exists in every country, which is why when analyzing a country on the issue of domestic violence it is more useful to examine how a country's law enforcement and government responds to not only the domestic violence present in the country but also their response to the calls for action by international organizations.<sup>69</sup> First, there is the issue of Hungarian authorities trying to respect the right to family life. Furthermore, when examining Hungary's response to domestic violence, "often authorities told victims that extreme physical

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<sup>69</sup> Gauri Van Gulik. "Authorities in Hungary Leave Victims of Domestic Violence on Their Own." *Public Radio International, GlobalPost* (10 Nov. 2013, 12:34 PM) [www.pri.org/stories/2013-11-10/authorities-hungary-leave-victims-domestic-violence-their-own](http://www.pri.org/stories/2013-11-10/authorities-hungary-leave-victims-domestic-violence-their-own)

violence...was “light,” and not sufficiently serious to trigger an investigation.”<sup>70</sup> As often reported by organizations, such as Human Rights Watch, Hungary is in need of stronger police action to combat the lack of investigations and arrests.<sup>71</sup> These recommendations can also be seen in the case of *A.T v. Hungary*, where the Committee stated that there needs to be more training made available for authorities.<sup>72</sup> Those recommendations were appointed in 2003, however many changes weren’t made until years later.<sup>73</sup> Lastly, not only is there a lack of effective police action, but there is also an array of safety concerns for women and their children, if they have them.

One of the larger reasons police action in Hungary is unsatisfactory is mainly due to the fact that authorities find domestic abuse as a family matter. “Traditionally, the home has been idealized as a place of safety and security.”<sup>74</sup> Due to this traditional belief, it makes it more difficult for authorities to accept the fact that the home may not be as secure as we would like to believe. As mentioned before, there have been debates over whether persons have the right to private family life in relation to the matters within a home, such as abuse. However, even though authorities would like to believe that one has the right to privacy within their own home, domestic violence must still be recognized as a crime.

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<sup>70</sup> Ibid.

<sup>71</sup> “Unless Blood Flows | Lack of Protection from Domestic Violence in Hungary.” *Human Rights Watch* (14 Jan. 2016) [www.hrw.org/report/2013/11/06/unless-blood-flows/lack-protection-domestic-violence-hungary](http://www.hrw.org/report/2013/11/06/unless-blood-flows/lack-protection-domestic-violence-hungary)

<sup>72</sup> Committee Recommendations *A.T. v. Hungary*, Comm. 2/2003, U.N. Doc. A/60/38 (2005)

<sup>73</sup> For example, the Restraining Order of 2009: Törvény a hozzátartozók közötti erőszak miatt alkalmazható távoltartásról, 2009, LXXII, [http://www.njt.hu/cgi\\_bin/njt\\_doc.cgi?docid=125288.223199](http://www.njt.hu/cgi_bin/njt_doc.cgi?docid=125288.223199)

<sup>74</sup> Dorothy Q. Thomas and Michele E. Beasley. “Domestic Violence as a Human Rights Issue.” *Human Rights Quarterly* 15 (1993): 43

Most people tend to agree that once there is the danger of harm, the right to private family life should become irrelevant. For example, the ECHR case of *Dudgeon v. the United Kingdom*, where the applicant is concerned for his safety due to a matter of his private life which is the fact that the applicant is a homosexual male.<sup>75</sup> In the case of *Dudgeon v. the United Kingdom*, there is no claim of violation of prohibition from torture. However, the concern of safety was brought up in the case. Either way, Hungarian authorities seem to not treat cases with the belief that degrading treatment and intent to harm should trump the right to family life. As found in Human Rights Watch's research, Hungarian authorities blame victims for their predicament.<sup>76</sup> As explained in the next chapter, victim blaming is mainly due to the large part that societal views play in not only the actions of police, but also in the response of the community that the victim is a part of. This type of belief system hinders the proper response that is expected of authorities, and can obstruct the way authorities assess a case.

In almost all circumstances of domestic violence, leaving or reporting an abuser is extremely difficult due to the power and control that abusers have over their victims. This power that they have creates a fear in the victims, which drives them to staying silent or later on withdrawing complaints. For example, Katalin is a woman in her thirties in Hungary and she reported her husband to the authorities. However, she stated that she later on withdrew her complaint due to fear.

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<sup>75</sup> *Dudgeon v. the United Kingdom*. In: M. Janis – R. Kay – A. Bradley: *European Human Rights Law*. 3rd ed., Oxford, Oxford University Press (2008) pp. 421- 426

<sup>76</sup> “Unless Blood Flows | Lack of Protection from Domestic Violence in Hungary.” *Human Rights Watch* (14 Jan. 2016)

“The police asked me if I wanted to report him [my partner] and I said ‘Yes.’ The next day, he [my partner] started threatening me saying that if I don’t drop the complaint against him, it will be much worse for me. I was scared so I went to police station and withdrew my complaint.”<sup>77</sup>

Since there is already a difficulty in speaking out against an abuser, looking towards police for help should not result in dismissal, disbelief, or a lack of correct action. Unfortunately many of the women who were interviewed by Human Rights Watch were disappointed and stated that authorities had failed to protect them. Those women “who contacted the police about abusive partners said that the police justify their inaction by saying that “unless blood flows” they are not willing or able to intervene.”<sup>78</sup> This statement of “unless blood flows” appears many times throughout the report, and even though there are visible serious injuries police still showed reluctance in arrest or filing for a restraining order. Even with evidence supporting the fact that the intervention of authorities yields positive results, Hungarian authorities do not seem to be intervening to the full extent that they should. Lenore E. Walker states, “many working in the field [of psychology] believe that an arrest and incarceration for domestic violence is the most successful technique for getting violent men to stop their abuse.”<sup>79</sup>

This issue of the “unless blood flows” mentality proves that it does more harm than provide proper aid. This can be seen through personal narratives from Hungarian female

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<sup>77</sup> Ibid.

<sup>78</sup> Ibid.

<sup>79</sup> Lenore E. Walker “Psychology and Domestic Violence Around the World” *American Psychologist* Vol. 54 No.1 (1999): 25

domestic abuse victims in interviews with Human Rights Watch. For example, one woman recounted the time her husband violently beat her and the police responded weakly;

“One time in 2010, he beat me in front of the four or five police officers that arrived. He claimed that we just had a verbal fight and I said that he was lying. He then swung his fist across and hit me in the face. Police came in between but they didn’t take any action.

They only told me to report him, but I never did.”<sup>80</sup>

Instances like these result in police taking no action or ineffective action, many times stating that if there is no blood they cannot do anything. This type of inaction from police has even been reported to Human Rights Watch by shelters in Hungary. Shelter staff claim to have faced negligent behavior from police and inadequate responses. A shelter staff member stated that they went down to the police station with a victim and the police were advising the victim to not report their husband. The police claimed that if the woman reported her husband, then he will eventually find her. Due to the fear the woman was dissuaded from reporting the abuse. Another similar instance resulted in the police officer blaming the woman for being the victim of abuse.<sup>81</sup>

This mentality of police to not intervene “unless blood flows” can pose to be extremely dangerous, because there is a point where that type of severe violence can lead to murder.

Additionally, statistics show that in many intimate partner abuse cases, which are not dealt with accordingly by police even if intense physical abuse is present, there is a high likeliness of a female victim in such a case becoming a victim of murder. In an interview with Krisztina Morvai for the Central European Review she goes on to state that, “Grown women are most likely to be

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<sup>80</sup> “Unless Blood Flows | Lack of Protection from Domestic Violence in Hungary.” *Human Rights Watch* (14 Jan. 2016)

<sup>81</sup> Ibid.

murdered at the hands of their own husbands or partners.”<sup>82</sup> Krisztina Morvai has conducted research within this field, and found that “more than half of homicide victims” were related to or were in an intimate relationship with the offender.<sup>83</sup> Other scholars go on to use a coined term from gender studies called *femicide*, which refers to female homicide victims.<sup>84</sup> This term stems from feminist theory and is necessary to allude to in order to completely comprehend how dire domestic abuse cases can become. Moreover, in Hungary there is at least one woman every week that dies due to severe domestic abuse suffered from the hands of their husband or partner.<sup>85</sup> That is a very high statistic, and murder statistics are more telling of police actions than the amount of abuse reported. It is more telling due to the fact that many of the murders would possibly not occur if police responded properly to calls, or detained the perpetrator immediately. A high number of reports from women could also indicate that women are more open to turning to the police for help, and not necessarily because there is more abuse in the country. Therefore, looking at the statistic that there is at least one woman that dies every week in Hungary can lead to some conclusions.

One possible conclusion that it can lead to is that if authorities do not respond to physical violence as they should there is a higher chance of deadly consequences. Furthermore, if they do not even respond to serious physical violence then they will be even less likely to, if at all,

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<sup>82</sup> Kosztolanyi, Gusztav. “Safe Haven? Interview with Professor Krisztina Morvai on Domestic Violence in Hungary.” *CER: Central Europe Review* Vol. 3 No. 16 (7 May 2001) [www.ce-review.org/01/16/csardas16.html](http://www.ce-review.org/01/16/csardas16.html)

<sup>83</sup> Katalin Parti. “A Letter from Hungary: Raising Awareness of Domestic Violence” *Crime Prevention and Criminal Safety* Volume 4, Issue 3 (July 2002) p. 66

<sup>84</sup> Rae Taylor and Jana L. Jasinski, “Femicide and the Feminist Perspective”, *Homicide Studies*, 15:4 (2011) pp. 341-362

<sup>85</sup> Ibid.



adequately respond to any claims of mental and emotional abuse.<sup>86</sup> If it is well-known that physical abuse is not treated the way national and international laws call for, then it can be assumed that mental and emotional abuse would also be less likely to be reported and can easily go unchecked. Mental and emotional abuse may lead to physical consequences later on, or result in the victim suffering severe mental health issues.<sup>87</sup>

Mental health issues leave a mark on the victim as well as on children that they may have. The presence of children in the home are a large concern in domestic violence cases. The fear of losing custody of children is often a reason why women do not report domestic abuse. Moreover, witnessing violence in the home extremely impacts a child's psyche and well-being. Therefore, children require access to a therapist and a safe space. The access to counseling is recommended by organizations, such as the Council of Europe.<sup>88</sup> The non-governmental organization in Hungary NANE, in Hungarian known as "Nők A Nőkért Együtt", also acknowledges the importance of protecting children in domestic violence circumstances. They even state that, "victims are frequently expected to stay with their abusing partner for "the sake of the children", whereas in reality the best and safest option for the "sake of the children" is to actually not witness or be a part of an abusive environment.<sup>89</sup> In Hungary, when children are

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<sup>86</sup> Jo Richardson, Jeremy Coid, Ann Petruckevitch, Shan Chung Wai, Stirling Moorey, "Identifying domestic violence: cross sectional study in primary care" *BMJ* 2002; 324 :274

<sup>87</sup> "Violence against women - Intimate partner and sexual violence against women." World Health Organization Fact Sheet. November 2016.

<sup>88</sup> Gauri Van Gulik. "Authorities in Hungary Leave Victims of Domestic Violence on Their Own." *Public Radio International, GlobalPost* (10 Nov. 2013, 12:34 PM)

<sup>89</sup> NANE Women's Rights Association. N.d. "Mission and Goals of NANE Women's Rights Association." *Short English Description* <http://nane.hu/egyesuletunk/nane-womens-rights-association-short-english-description/>

involved police intervene at all times, reporting cases to child protective services. For example, in the aforementioned report by the Human Rights Watch, a woman in Northeastern Hungary called the police after her husband acted violently and broke furniture. When the police arrived the woman was afraid to create an official report against her husband, but when the police noticed that children were involved they reported it to child protection authorities. She recounts how that incident made her feel,

““I was called down to the office of the child welfare services and they told me that unless my husband changes his behavior or I leave, they will take my children. After that, my husband knew he could do anything to me because he knew I wouldn’t call the police in fear of the authorities.””<sup>90</sup>

As it can be seen, police action in helping female victims in Hungary is inadequate and still has difficulty meeting international standards. However, it is reassuring that police seriously intervene when there are children involved in a case, and that they are properly trained in what to do in a situation where children are in harm’s way. Often times, mothers are afraid of reporting a situation due to the presence of children, but this is not a reflection of police actions.

In conclusion, police are responsible for reinforcing the laws and policies set forth by the state, however Hungarian police approach calls with the preconceived notion of blaming the victim and therefore diminishing the protection that victims have the right to receive. In addition, police do not take reports seriously unless there is heavy physical evidence which can be extremely dangerous or too late for a victim. Often times, even if medical experts are trained

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<sup>90</sup> Human Rights Watch interview with Virág in Miskolc, April 26, 2013 (“Unless Blood Flows | Lack of Protection from Domestic Violence in Hungary.” *Human Rights Watch* (14 Jan. 2016))

well in recognizing the signs of domestic abuse, they do not recommend the victim to report the abuser.<sup>91</sup> Finally, from personal stories and from the reports by the Human Rights Watch it can be inferred just how crucial it is for all authorities in Hungary to be properly trained on understanding the laws and policies, recognizing domestic abuse signs, and properly responding to violence against women within the home.

### *3.2 Police Action in Germany*

In Germany, domestic violence is taken seriously by authorities and this can be seen through their training and their responses to calls. Like most countries, Germany has always had an issue with gender-violence. The traditional gender stereotypes have always influenced police actions all over the world. In the past, Germany struggled to intervene in gender-violence cases with a perspective of equality. An example of this would be how crime committed by the opposite sexes was dealt with: “It seems a curious irony that women who kill their sleeping abusers to “escape” domestic violence are likely to be convicted of aggravated murder, whereas men who kill their intimate partners through acts of open aggression, for example—in an escalated domestic argument—are more likely to receive a lesser conviction and a lower sentence...”<sup>92</sup> However, Germany’s determination to end such violence can be seen through the government’s actions today as well as through non-governmental actions. An example of this would be that, “[e]ach of the 16 German Länder Police Forces now has its own regulations

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<sup>91</sup> Jo Richardson, Jeremy Coid, Ann Petruckevitch, Shan Chung Wai, Stirling Moorey, “Identifying domestic violence: cross sectional study in primary care” *BMJ* 2002; 324 :274

<sup>92</sup> Kerstin Braun. ““Till Death Us Do Part”: Homicide Defenses for Women in Abusive Relationships—Similar Problems—Different Responses in Germany and Australia.” *Violence Against Women* 23, no. 10 (2017): 1185.

regarding domestic violence.”<sup>93</sup> Furthermore, like Hungary, Germany has had the main issue of domestic violence traditionally being seen as a private matter.

“‘Domestic violence against women, against men, against children is not a private affair, it is a punishable offense and must be tracked accordingly,’ Family Minister Manuela Schwesig told reporters.”<sup>94</sup> The Federal Ministry for Family Affairs, Senior Citizens, Women and Youth takes gender-violence immensely seriously, especially domestic violence. This dedication can be seen through their constant research and fight for combating gender-violence in Germany. The government works alongside NGOs, and takes into consideration the evaluations and recommendations of these organizations.<sup>95</sup> In addition, they also take quantitative and qualitative surveys in order to track the evolution of the actions of their police force in domestic violence cases.<sup>96</sup>

One main example of this is a report from the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth titled “Working Together To Combat Domestic Violence: Cooperation, Intervention, Research.” The key element of this report is to highlight the actions of police in responding to domestic violence cases, and how such intervention can be improved to yield more effective results. The first element of the report that is outlined is the facts of the privacy matter. The issue of privacy is clearly acknowledged in the report,

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<sup>93</sup> Ursula Smartt, Helmut Kury. “Domestic Violence: Comparative Analysis of German and U.K. Findings” *Social Science Quarterly*. Volume 88, No. 5 (December 2007): 1272

<sup>94</sup> Deutsche Welle. “Domestic Violence Affects over 100,000 Women in Germany” *DW News* (Nov. 22, 2016) <http://www.dw.com/en/domestic-violence-affects-over-100000-women-in-germany/a-36482282>

<sup>95</sup> “Working Together To Combat Domestic Violence: Cooperation, Intervention, Research” *Federal Ministry for Family Affairs, Senior Citizens, Women and Youth* (November 2006)

<sup>96</sup> Ibid.

“For a long time, the treatment of cases of domestic violence by the police and public prosecution services was characterised by the attitude that violence that occurred in private personal relationships should also be dealt with in private.”<sup>97</sup>

Now, with this acknowledgement the government recognizes that not only police had weak tactics in taking action to protect women of domestic violence, but also other authorities such as courts. Therefore, their main aim still is to improve the response of authorities to calls and cases. Authorities have to attend “conferences and in-service training.”<sup>98</sup> Here they learn one of the key objectives, which is to hold perpetrators accountable for their actions. The police are trained to see domestic violence as a serious crime, rather than a family matter. So, besides the “stay away” order available, police also have the option to direct cases towards proactive counseling. However, the report does recognize the fact that there is a need for more intervention programs and more “proactive services.”<sup>99</sup>

Next, it is through the government’s progress that it is evident how far Germany has progressed in combating domestic violence. An example of this is how Luxembourg authorities look to Germany as an example for how to effectively respond to domestic violence. “An exchange programme with neighbouring German Länder allows the respective police forces to compare notes on the best ways of dealing with domestic violence.”<sup>100</sup> Even though the laws may somewhat differ, comparing the intervention tactics pose as a beneficial way to validate that

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<sup>97</sup> Ibid.

<sup>98</sup> Ibid.

<sup>99</sup> Ibid.

<sup>100</sup> “Training the police to handle domestic violence.” *European Institute for Gender Equality* Luxembourg (2004-2014)

effective action is taken in combating violence against women. This type of program shows that improving intervention is taken seriously by authorities.

In addition, another example of intervention by authorities is the resources provided to women. Germany has many resources for victims as well such as hotlines that they can call. Victims are encouraged to call a helpline phone number that is in service twenty-four hours called the "Gewalt gegen Frauen", which translates to "Violence against women."<sup>101</sup> Through this helpline victims are able to receive free counseling and they are not limited to the German language, instead they have a choice of fifteen different languages to receive aid in.<sup>102</sup>

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<sup>101</sup> This helpline is currently: 08000116116

<sup>102</sup> Deutsche Welle. "Domestic Violence Affects over 100,000 Women in Germany" *DW News* (22 Nov 2016)

## Chapter 4: Social Aspects and Efforts

The legal framework of a country and the available training of authorities on domestic violence do not provide a full picture of the issue when looking to improve this human right violation. To be able to fully comprehend where the problem in question stems from we need to examine the social aspects of a community as well. Once that is established and understood then it is best to analyze the influence these societal views have on the creation of NGOs, and how communities respond. First, the beginning of this chapter aims to establish the frames and definitions that are necessary to interpret meanings when it comes to the evaluation of the social actions of communities in Hungary and Germany towards domestic violence.

When examining societal views it is beneficial to examine it through an intersectional and feminist approach. Therefore, gender politics plays a large role in the analysis of domestic violence in both Hungary and Germany. This approach aids in creating a complete understanding of the fact that human rights issues cannot simply be fixed through law, but rather requires a more extensive and thorough system of change. Mainly, examining the role that gender stereotypes take up within a society will lend the most insight. “Gender stereotypes are shaped by human evolution and societal boundaries.”<sup>103</sup> These evolutions are what make up our perceptions of gender, and specifically the role of women in society. The perception a country has on women in general provides a key understanding to how and why domestic violence is still prominent. Once there is an understanding of a how country perceives gender identity, then there

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<sup>103</sup> Esther Lopez Zafra, Rocio Garcia-Retamero. “The impact of nontraditionalism on the malleability of gender stereotypes in Spain and Germany” *International Journal of Psychology* Vol. 46 Issue 4 (August 2011): 250

can be an clearer road towards improving and finding solutions to the human right violation of the domestic violence of women.

Many scholars have acknowledged how the idea of genders and gender identity shape politics and international relations. Which could be applied to the world of human rights as well. Charlotte Hooper states, “More might be said about how masculinity or masculinities shape both the theory and practice of international relations.”<sup>104</sup> It is within this idea of masculinity shaping our international relations that it becomes evident how much women are underrepresented in politics, diplomacy, and international relations. Overall, it is important to mention female underrepresentation in politics and international relations since it is a factor that can create more effective change in the long run. Positively, in recent years there has been a rise in women running for office.<sup>105</sup> However, nominations do not guarantee that these women are voted into office, or other authoritative positions.<sup>106</sup> Importantly, the advocacy of women’s rights within the topic of domestic violence should be framed in this approach of female empowerment through two frames. Autonomy and authority are aspects that are essential in establishing a standard for women in policymaking and creating legal frameworks that support women’s rights. These frames have already been established by a previous study.<sup>107</sup> This is a factor to take into

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<sup>104</sup> Charlotte Hooper. *Manly States: Masculinities, International Relations, and Gender Politics* (New York; Columbia University Press, 2012): 2

<sup>105</sup> Jessica Fortin-Rittberger, Berthold Rittberger “Nominating women for Europe: Exploring the role of political parties' recruitment procedures for European Parliament elections” *European Journal of Political Research* Vol. 54, Issue 4 (November 2015): 767–783

<sup>106</sup> Jennifer L. Lawless, Kathryn Pearson. “The Primary Reason for Women's Underrepresentation? Reevaluating the Conventional Wisdom” *The Journal of Politics, The University of Chicago* Vol. 70 No. 1 (January 2008)

<sup>107</sup> Krizsan, Andrea, and Raluca Maria Popa. "Frames in Contestation: Gendering Domestic Violence Policies in Five Central and Eastern European Countries." *Violence Against Women* 20, no. 7 (July 2014): 761



consideration when analyzing the effect that society has on law-making, and on how laws are implemented by authorities.

Furthermore, in international cases of domestic violence there is always the issue of privacy. What this means is, as mentioned in Chapter 3, often times the domestic violence of women is not discussed due to the fact that it is seen as a private matter even by authorities, as is the case in Hungary. “The concept of privacy encourages, reinforces and supports violence against women.”<sup>108</sup> Keeping violence a private matter perpetuates behaviors that have been passed on from generation to generation. The children in a household of violence will most likely act the same way as their parents did. Majority of the time the sons will turn into the perpetrators, and the daughters will turn into the wives who feel that this matter is not only acceptable and taboo, but they deny it as a problem. Even with all the laws and organizations, it is up to society to instigate changes. Privacy can apply to many facets of family life, such as birth control choices, but violence should not fall under privacy whatsoever. Any violence, be that private or public, is a crime. Individuals essentially have the possibility of hiding behind state systems, which to this day still favors a patriarchal approach, therefore it makes it more difficult to enforce and implement policies on issues that many men (and women) think to be “private acts”.<sup>109</sup> The theme of privacy is also an important theme to remember while analyzing the influence of social aspects on domestic violence.

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<sup>108</sup> Martha Albertson Fineman. *The Public Nature of Private Violence: Women and the Discovery of Abuse* (Routledge, 2013): 43

<sup>109</sup> Catherine MacKinnon “Equality Remade: Violence against Women” *Are Women Human?* Harvard (2006): 105-07

Now that two main themes of societal views on domestic violence have been established they can be further discussed within the frames of Hungary and Germany. Most societal views on domestic violence of women are shared internationally, however there are some countries with discrepancies from other countries. For example, one might argue that Scandinavian countries are perceived to have a more positive view of the country's women due to their statistics of gender equality.<sup>110</sup> Therefore, these discrepancies need to be highlighted in order to comprehend the influence society has on law and policy-making as well as on the action of authorities in domestic violence cases.

#### 4.1 Hungary: Social Approach, Influence, and NGOs

It is difficult to help and reach out to victims of domestic violence when in countries, such as Hungary, domestic violence is taboo. Women fear the police, they fear the loss of their children to protective services, fear the retaliation of their partners, and fear the judgement of their community. These fears can be applied to the victims of domestic violence across various countries. These fears lead to the lack of reports filed against abusers and violators, and lead to outsiders unaware of the dangers that lie within a home due to the large taboo surrounding the issue. The evolution or stagnation of a culture or society has an impact on the responses towards problems, such as domestic violence, that may have not been seen as a problem in the past. In a country that is very much patriarchal like Hungary, traditions from previous generations still have strong roots within the society. These traditional views often times include factors that are

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<sup>110</sup> Jørgen Goul Andersen, Ditte Shamshiri-Petersen. "Attitudes towards gender equality in Denmark, Sweden and Norway" *Department of Political Science, Aalborg University* (2016): 2-3

now considered human right violations. Domestic violence has only in the last two decades been slowly considered and accepted as a crime, and this consideration has made countries question the power dynamics of their society.<sup>111</sup> With this recognition everything is questioned, from “traditional gender roles, perceptions of appropriate behavior...” all the way to “individual’s rights, and the state’s responsibility.”<sup>112</sup> Therefore, this chapter focuses on these cultural evolutions and gender perceptions in Hungary and Germany, and portrays the impacts these social influences leave on a state’s sense of responsibility and legal responses to domestic violence. In consideration of a sociological approach of analysis, Hungary is more traditional than Germany and seems to be less open towards changing views of gender and ending stereotypes.

As mentioned Hungary is connected to their traditions and accept the strong patriarchal customs that have been around for centuries. This includes the typical stereotypes of women’s roles as wives and mothers. Communities expect women to comply with their husbands, and if not done so it is looked down upon. When it comes to domestic violence, for example, if a community found out that a woman was being abused by her husband, they would comment on the situation simply stating that the woman is perhaps not completing her “wifely duties” to her husband, children, and home properly or adequately.<sup>113</sup> As mentioned the stereotypical gender roles of a country can reveal a fair amount about the motives and intentions behind the violation as well as the response by authorities to the violation. Hungary’s traditional views of women and

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<sup>111</sup> Katalin Fabian. *Contemporary Women’s Movements in Hungary: Globalization, Democracy, and Gender Equality*. (Woodrow Wilson Center Press 2009): 233

<sup>112</sup> Ibid.

<sup>113</sup> Nigel Swain. *Hungary: The Rise and Fall of Feasible Socialism*. (Verso, 1992): 220-2

their roles in Hungarian society prevail to label women as property of their husbands or partners.<sup>114</sup> Therefore, as mentioned in Chapter 3, the weak response of police to the battering of wives stems from their belief of the gender stereotype that women must fulfill their property-like duties in their communities.

Furthermore, due to the idea or terminology of “wife battery” used in Hungary the focus is put on domestic violence between married couples or intimate partners living together, and veering the focus away from domestic violence between those who are divorced or have broken-up.<sup>115</sup> This can pose as a road-block in helping those who are subject to abuse from previous partners, however as analyzed in Chapter 2 ‘previous spouses’ are included in Section 212/A of Act C. The term ‘family members’ is also included, but poses as a vague term open to interpretation by authorities. Terminology not only affects the perceptions that society has on this issue, but it also affects the way law-makers word any legislation meant to combat this type of violence. Which can alter the way it is interpreted by authorities. Therefore, even though laws are drawn up to meet international standards, there is still room for interpretation by authorities which is influenced by their societal views.

Before the 2000s, people and authorities in Hungary did not acknowledge that there was such a thing as domestic violence, and they would instead be “accusing women of committing violence against children and fabricating false charges against their husbands and partners.”<sup>116</sup> To be a woman in Hungary, meant and often times still means that his word is taken over the

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<sup>114</sup> “Hungary: Chronic Domestic Violence.” *Human Rights Watch* (23 June 2015) [www.hrw.org/news/2013/11/06/hungary-chronic-domestic-violence](http://www.hrw.org/news/2013/11/06/hungary-chronic-domestic-violence)

<sup>115</sup> Katalin Fabian. *Contemporary Women’s Movements in Hungary: Globalization, Democracy, and Gender Equality*. (Woodrow Wilson Center Press 2009): 232

<sup>116</sup> Ibid, 266.

woman's word. As seen personal accounts from Chapter 3, many times the police would blame the woman and believe the perpetrator's claims that there was no harm intended.<sup>117</sup> Sometimes, the male perpetrators would lash out claiming they are being unfairly reported. The self-perception of "reversed victimhood" is when the men are the one's seen as the victim due to the woman reporting them, and authorities seeing the man as vulnerable in this case.<sup>118</sup> However, in most cases authorities and communities would see domestic violence as a private matter of the home, and as something that was a natural part of marriage. Those strong ideas around gender norms within the home still linger. Gender identity in Hungary has been conservative and traditional, but ever since 1989 these ideas have slowly been changing.<sup>119</sup> This is mostly due to the emergence of NGOs that aimed to change the strict views on gender norms as well as the taboo and privacy around domestic violence.

"The problem with identity politics is not that it fails to transcend difference...but rather the opposite — that it frequently conflates or ignores intragroup differences."<sup>120</sup> It is for this reason that when discussing domestic violence of women in Hungary, intersectionality needs to be considered as well. In critical theory, such as feminist theory, intersectionality is the notion that multiple social categories — race, gender, sexual orientation, class, disability — are

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<sup>117</sup> "Hungary: Chronic Domestic Violence." *Human Rights Watch* (23 June 2015)

<sup>118</sup> D. Sullivan, M.J. Landau, N.R. Branscombe, Z.K. Rothschild "Competitive Victimhood as a Response to Accusations of In-group Harm" *Journal of Personality and Social Psychology* 102(4) (2012): 778-795

<sup>119</sup> Katalin Fabian. *Contemporary Women's Movements in Hungary: Globalization, Democracy, and Gender Equality*. (Woodrow Wilson Center Press 2009): 277

<sup>120</sup> Kimberle Crenshaw. "Mapping the Margins: Intersectionality, Identity Politics, and Violence against Women of Color." *Stanford Law Review* 43, no. 6 (1991): 1242

involved and connected to each other within the systems of discrimination.<sup>121</sup> The way Kimberlé Crenshaw explains intersectionality, a term which she coined, is by comparing it to a traffic intersection:

“If an accident happens in an intersection, it can be caused by cars traveling from any number of directions and, sometimes, from all of them. Similarly, if a Black woman is harmed because she is in an intersection, her injury could result from sex discrimination or race discrimination. . . .”<sup>122</sup>

Now, the reason this is important to note in examining domestic violence of women in Hungary is because there are many issues of discrimination towards the Roma population of Hungary. The Roma population of Hungary is highly marginalized and often ostracized due to their perceived criminality.<sup>123</sup> When discussing the protection of women it should go without saying that women of the Roma population have the same protective rights. As there is already the large determining factor of gender in domestic violence, the factor of race creates even more dangers for the women of Hungary. Police show ill treatment of people in the Roma community, and with that type of behavior added to the preconceived notions of traditional gender roles and norms it creates a dangerous environment for female victims of the Roma population. Additionally, the distrust of the police that the Roma population already has does not help.<sup>124</sup> This is due to the corruption that exists, which perpetuates the discrimination and stereotypes in society. An

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<sup>121</sup> Kimberlé Crenshaw. “Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory, and Antiracist Politics,” *University of Chicago Legal Forum* (1989) 139–67

<sup>122</sup> Ibid, 149.

<sup>123</sup> “Combating Violence Against Roma in Hungary” *Human Rights First [HRF]* (October 2010): p. 5

<sup>124</sup> Ibid.

instance that can portray this is when in 2009 a police chief in Miskolc was removed from office for blaming all street crime, specifically robbery, on the local Roma community. However, shortly after his removal he was reinstated by the Minister of Justice and Law Enforcement.<sup>125</sup>

Any which way, acknowledging this aspect of feminist theory when analyzing Hungarian societal views of gender is crucial in order to protect all women of Hungary against domestic violence. Even though, understandably, the issue of excluding women of color from the feminist theory discussions cannot simply be solved by including them in acknowledgment and “within an already established analytical structure.”<sup>126</sup>

The ideas of gender norms, victimhood, and domestic violence are being challenged by the feminist approach of NGOs.<sup>127</sup> One of the most influential NGOs that has emerged in the fight against domestic violence of women in Hungary is NANE (Nők A Nőkért Együtt), which was established in 1994. Their main purpose was to raise awareness around violence against women and children through campaigns and through a large media presence.<sup>128</sup> Today, NANE serves as not only an awareness raising campaign, but they also serve as a supportive organization for women. They have a hotline that women who are need of help can call. This number receives around 2000 calls yearly. In addition, they provide professional training, have

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<sup>125</sup> Ibid.

<sup>126</sup> Kimberlé Crenshaw. “Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory, and Antiracist Politics,” *University of Chicago Legal Forum* (1989): 140.

<sup>127</sup> Katalin Fabian. *Contemporary Women’s Movements in Hungary: Globalization, Democracy, and Gender Equality* (Woodrow Wilson Center Press 2009): 267

<sup>128</sup> Ibid, 267.

groups and activities aimed to help victims, and provide assistance in addition to the information and materials they provide on their website.<sup>129</sup>

The government, police, and social workers all recognize the work of NANE and in some counties they have even received training on protection of children in violent home situations. The reason that an NGO like NANE is able to receive the attention of authorities and is accepted by the authorities is due to the fact that NANE uses examples of what the Western countries are doing in the name of human rights.<sup>130</sup> Meaning, that authorities find the connection to the Western world advantageous, and by NANE connecting to “Western European and North American feminist women’s advocacy organizations that use human rights instruments, such as the UN’s CEDAW, to combat domestic violence”<sup>131</sup> it creates a great support and advocate for a country like Hungary to move forward in the world. Even though socially the topic of domestic violence is taboo and private in Hungary, the presence of an NGO like NANE promotes the type of awareness and progress that is positive and very much needed. Institutions like these that have a feminist approach can create the proper environment when analyzing an issue by including “gendered processes” with sociological and historical factors in the discussions of gender.<sup>132</sup> The presence of just one organization has already had such an effect on creating positive change.

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<sup>129</sup> NANE Women's Rights Association. N.d. “About Us” <http://nane.hu/erintetteknek/tudnivalok-a-nok-elleni-eroszakrol/>

<sup>130</sup> Katalin Fabian. *Contemporary Women’s Movements in Hungary: Globalization, Democracy, and Gender Equality* (Woodrow Wilson Center Press 2009): 267

<sup>131</sup> Ibid.

<sup>132</sup> M. Krook, F. Mackay. *Gender, Politics and Institutions: Towards a Feminist Institutionalism*. (Springer, 2010): Foreword x



#### 4.2 Germany: Social Approach, Influence, and NGOs

Germany differs in comparison to Hungarian social responses to domestic violence. Socially, traditional gender stereotypes exist in Germany as well. Women have all the same fears that the women of Hungary have in relation to fearing the retaliation of their partners or fearing the judgement of their community. However, Germany has become more aware of the gender inequalities as well as of the large issue of domestic violence. It is with this awareness that effective change has taken root in Germany. Germany is considered to be a part of Western Europe, and Western Europe seems to be conducting more extensive research on gender, social influences, and domestic violence which lead to more awareness and action from governments and authorities.<sup>133</sup>

Now, there has been an increase in the number of cases reported due to more awareness of the issue.<sup>134</sup> This increase in reported cases does not necessarily mean that domestic violence is more prevalent in Germany, it could simply mean that if domestic violence is less taboo and there is more awareness raised around it, then it is more likely that female victims will report the crime. Even with a rise in female representation on multiple media platforms in Germany, a positive correlation can be found in favorable perceptions of women in the workforce and in politics.<sup>135</sup> Luckily, many NGOs in Germany strive to raise awareness by creating campaigns,

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<sup>133</sup> Ursula Smartt, Helmut Kury. "Domestic Violence: Comparative Analysis of German and U.K. Findings" *Social Science Quarterly*. Volume 88, No. 5 (December 2007): 1277

<sup>134</sup> Clemens Arzt. "Domestic Violence and the Law in Germany" *Berlin School of Economics Lecture SLS* (2014)

<sup>135</sup> Advisory Committee on Equal Opportunities for Women and Men. "Breaking gender stereotypes in the media" *European Commission Employment, Social Affairs and Equal Opportunities* (December 2010)

surveys, provide training, and provide shelters. NGOs like FHK (The Association of Women's Shelters) not only provide shelters for women, but they aim to extend their networking abilities through workshops, social work, and campaigns to raise awareness.<sup>136</sup> Additionally, as mentioned in the previous chapter, German NGOs are in constant communication with the government with the goal of creating more proactive programs for offenders and to effectively protect all victims of domestic violence.

Lastly, Germany is not completely different from Hungary socially in the fight towards ending domestic violence of women. Germany also faces the issues of dealing with domestic violence of women through an intersectional approach, in a similar way that Hungary has to face the issue in regards to the female Roma population. In recent years there has been an influx of migrants to Germany, specifically of Muslim background.<sup>137</sup> This influx leads to the need to examine domestic violence cases from an intersectionality standpoint by considering not only gender but also religion and race. It seems as though, "...Germany is far from accepting Islam as part of its society."<sup>138</sup> This means that this social perception of this religion can pose as a roadblock in the fight against domestic violence. There is the danger of police becoming less likely to aid female victims of domestic violence in Muslim households due to preconceived notions of the religion, and because of the slow acceptance of Islam into the German culture. German society has positively progressed towards closing the gender inequality gap in the country, however currently German society fears the setback of this progress due to the

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<sup>136</sup> "English Summary." Startseite , Frauenhauskoordinierung (15 June 2016, 15:36) [www.frauenhauskoordinierung.de/english-summary.html](http://www.frauenhauskoordinierung.de/english-summary.html)

<sup>137</sup> Petra Rostock, Sabine Berghahn. "The ambivalent role of gender in redefining the German nation" *Ethnicities*. Sage Publications Vol 8 (3) (2008): 345-6

<sup>138</sup> Ibid, 346.

perceived notion of oppression that seems to be present in Islam.<sup>139</sup> Therefore, in Germany this societal view may cause difficulty, especially with authorities. This means that the German government should recognize the views of the people and train authorities to respond to domestic violence calls in an equal manner. It less the influence of the past, and more the influence of current political strain that may cause a less effective approach to protecting women of domestic abuse in Germany.

A clear comparison between the societal views of Hungary and Germany can be portrayed through a European survey asking women whether they have ever suffered any type of sexual or physical violence since the age of 15. The results of the survey are depicted through the map graph below.<sup>140</sup> In the graph below, looking at Hungary the percentage of women who answered yes to being a victim of physical and/or sexual violence by a partner was 28% compared to Germany's results of 35%. There is not a very drastic difference between two, however it is through this graph that we can see the proof of previously mentioned societal views of each respective country. Just because less women reported experiencing violence does not necessarily mean that that country is better at combating violence against women. In fact, it is just the opposite. Scandinavian countries and more Western European countries tend to be more active in fighting violence against women and have less of a taboo that surrounds the conversation of gender violence. The countries in the graph that are dark blue have higher percentages of reports due to the fact that they feel more comfortable answering truthfully.

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<sup>139</sup> Ibid, 346-347.

<sup>140</sup> "Survey data explorer - Violence against women survey" *European Union Agency for Fundamental Rights*. (2012)

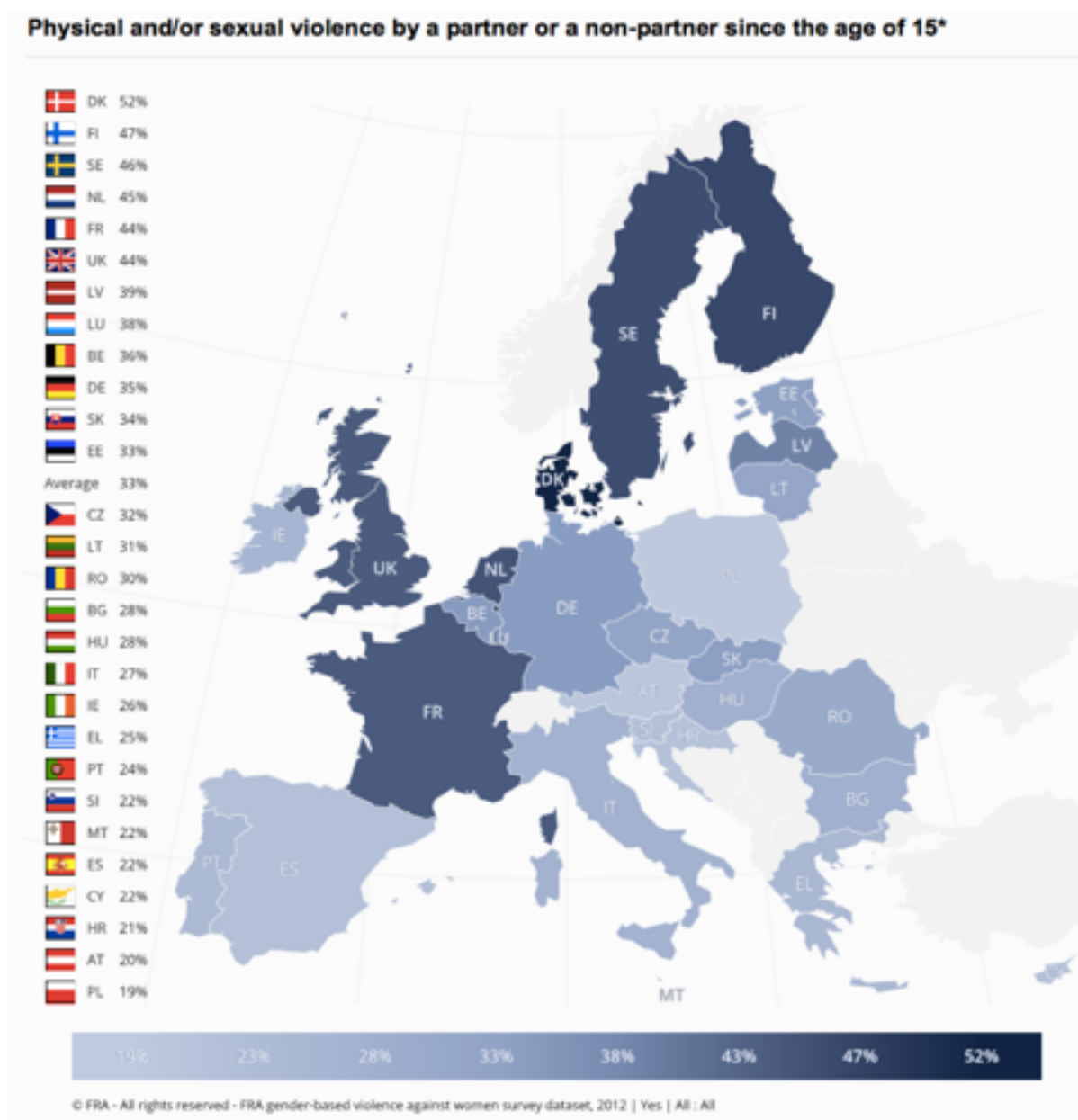


Figure 1. FRA gender-based violence against women survey dataset, 2012

Countries where ‘victim-blaming’ is a part of the culture, like in Hungary, it is less likely that women will either know that the violence that they are suffering is not acceptable or that it is not embarrassing to admit that they have suffered such abuse. Therefore, the societal views have a high influence on perception of violence, which in turn influence the actions of authorities and the way that laws are implemented into a country.

## Chapter 5: Conclusion

### 5.1 Assessment

Now, after examining domestic violence of women in Hungary in comparison to Germany through legal frameworks, police actions, and a sociological standpoint a clear evaluation may be made. In the beginning, questions arose concerning why women still suffer from domestic violence in Hungary and why countries have difficulty combating such an issue. Effectively responding to the issue of domestic violence can be costly for a state.<sup>141</sup> However, that should not be an issue in order to establish basic needs for the state to be able to meet international standards in regards to effectively protect women. One of the main questions that this research aimed to answer was whether the continuing numbers of domestic violence are a result of poor national laws or poor national enforcement? Now, looking at the Hungarian and German legal framework it becomes evident that neither seemed to be ‘poor’, rather they differed in approach. Germany’s seemingly gender-neutral approach combined with the availability of a restraining order which requires the perpetrator to leave their own home, has yielded for different responses from police. Whereas, in Hungary a specific section has had to be drafted which directly addresses the issue of domestic violence. Here we saw that terminology was slightly weak, but this could also have been a result of losing meaning in translation.

Furthermore, in comparison to Hungary, German police forces do not act as harshly with victims as Hungarian authorities seem to do. Hungarian police often times weakly approach domestic violence cases and do not take them as seriously as German police take their domestic

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<sup>141</sup> Ursula Smartt, Helmut Kury. “Domestic Violence: Comparative Analysis of German and U.K. Findings” *Social Science Quarterly*. Volume 88, No. 5 (December 2007): 1270

violence calls. The mentality of “unless blood flows” has a strong hold on the actions of Hungarian police. Hungary has difficulty recognizing the issue of “*femicide*” which more than half the time results from domestic violence. Even though domestic violence is legally recognized as a crime in Hungary, authorities seem to lack proper action. The responsibility to effectively implement the laws set forth lies with the authorities, and if this cannot be done then the state suffers the consequences. Sadly, victim blaming remains persistent in both Hungary and Germany, which depicts how much more progress still needs to be made.<sup>142</sup> Human Rights Watch has been very concerned with Hungary’s inability to properly train the police force in the field of domestic violence, whereas in Germany the government aims to research and create reports on the status of police training and its effectiveness.

Additionally, the actions of police in the respective countries could be due to the fact that Germany’s approach towards gender identity is slightly more progressive than that of Hungary. Many topics, including domestic violence, are still largely taboo in Hungary, whereas Germany has tried to raise as much awareness as possible around not only domestic violence but about all forms of violence against women. Germany aims to represent women equally in media, and even though this goal has not yet been reached completely, the goal still promotes a positive image of women in the society. If there is a positive image of women in society, it is less likely that the perceptions of gender equality will pose as harmful. Female representation is a key element that Hungary lacks, whereas Germany even has representation of women in politics with the example of their female Chancellor, Angela Merkel.

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<sup>142</sup> Enrique Gracia “Intimate Partner Violence Against Women and Victim-blaming Attitudes Among Europeans” *Bulletin of World Health Organization* 92 (5) (May 2014)

In short, it is not a question of whether poor laws or poor enforcement are to blame for the stagnation of progress. Rather, it is a combination of factors that contribute to a much bigger picture. For this reason, neither country is a perfect example of how to effectively combat domestic violence against women since the issue is still at large worldwide, but the comparison does portray that a state like Hungary can look to other countries like Germany and adopt new approaches in order to accomplish positive progress.

## *5.2 Recommendations*

After thoroughly examining the situations women face in Hungary, compared to the women in Germany, there remains an abundance of recommendations for the state of Hungary on what actions they should take in combating violence against women within private and intimate domains. The state is obligated to follow international standards, and in order to fully accomplish the protection of women against domestic violence Hungary must do everything in their power to promote gender equality in the country, completely support women, and aim to change present cultural norms.<sup>143</sup> Hungary must adopt these factors as the building blocks of change to be able to set themselves on the road to properly protecting women of domestic violence. Furthermore, I would suggest Hungary to consider and take action against domestic violence with these upcoming five recommendations.

First, the legislation on domestic violence should be reviewed again with consideration to the language and its development. This is key in providing judges and lawyers the proper materials when dealing with cases of domestic violence, so as to not create any room for

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<sup>143</sup> "Violence against women - Intimate partner and sexual violence against women." World Health Organization Fact Sheet. November 2016

discrimination or leave a victim unprotected. Meaning, that even with the ability to file for a restraining order, there should be a consideration of creating a type of restraining order that is available in Germany. Germany has what is known as a “stay away” order, where the woman does not have to leave her home, and it is the perpetrator that must leave the premises. In Hungary, however, the restraining order does not specifically state whether the victim can stay in their own home. This contributes to larger legal issues, which could be avoided if there is a type of legal material similar or equal to the German “stay away” order. In addition, the time frames in which the restraining orders are valid should be reevaluated to validate that it is an effective system of protection.

Second, authorities must receive more training on domestic violence and violence against women. Even with trainings provided by NANE, it does not yield to be enough for there to be a positive change. Therefore, there should be a yearly requirement of specific domestic violence training, like in Germany. This type of training should be done from a feminist approach, because it would aid in erasing the socially embedded sexism that many authorities tend to act upon when responding to domestic violence cases. This would not only help women suffering from violence to be able to speak up, but it would also aid in helping those men who are not believed by authorities that they are suffering from violence in the home. Besides the training for authorities, Hungary should aim to provide more proactive intervention programs the way Germany makes it their goal to provide perpetrators with intervention programs and victims with counseling programs. The availability of intervention programs and training for police creates a “spill over effect”. A ‘spill over effect’ is in some way similar to a domino effect, where the actions in one area of government or society causes a change to take shape in relevant connecting



fields or areas. This ‘spill over effect’ causes an impactful change in other relevant fields that could generate a positive change towards combating domestic violence.<sup>144</sup>

Third, there is a need for more NGOs aimed to help female victims of violence, and more specifically domestic violence. The presence of NGOs would produce a positive pressure on the government to make any necessary changes. In addition, with the presence of more violence against women oriented NGOs there could be an influx of shelters for battered women around the country. The amount of shelters in Hungary could possibly rise if more organizations like NANE are brought into existence. In addition, NGOs similar to NANE would aid in providing more training for authorities, more awareness, and more legal aid for victims. Lastly, there should be more hotlines or a main national hotline that can be available every day for almost all hours of the day.

Fourth, I believe that if Hungary ratifies the Istanbul Convention then there would be a larger push towards making more effective changes. Even neighboring countries like Slovenia, Serbia, Romania, and Austria have ratified the Istanbul Convention.<sup>145</sup> It would be in Hungary’s best interest to do so as well. By doing so, Hungary will be able to hold themselves up to higher human rights standards to provide their citizens with the best possible way of life and to create more security for their citizens as well.

Lastly, Hungary is in need of a budget for raising awareness through the media. An example of this would be if there are television shows or movies representing domestic violence

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<sup>144</sup> “Working Together To Combat Domestic Violence: Cooperation, Intervention, Research” *Federal Ministry for Family Affairs, Senior Citizens, Women and Youth* (November 2006)

<sup>145</sup> “Chart of signatures and ratifications” Council of Europe Treaty Office <https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/210/signatures>

or violence against women, an ad for a hotline or website should appear in the end. Another example could be posters and billboards illustrating statistics of domestic violence and a call to action for ending it. Another example would be to allow women to speak up in interviews or in the Hungarian news regarding violence against women, without the fear of the taboo effecting these women's reputation. These types of media presences would add to the conversation and therefore aid in lessening the taboo that surrounds domestic violence. If there is a rise in NGOs as previously mentioned, then those NGOs could be responsible for raising more awareness through media in the case that the government is not able to due to a lack of a dependable budget for such campaigns.

If the state is not successful in effectively fulfilling their obligations then another possibility could be for churches to enter the conversation as well. Hungary is a mostly Roman Catholic country (37%)<sup>146</sup>, where many people attend church. If churches would hold fundraisers in the name of violence against women or provide shelters for women suffering from domestic violence, then people would listen. With a small step like this, there could be a wave of effective change in awareness, lessening taboo, and providing successful protection. Even though it is the state's responsibility to maintain international standards, when such violence is ignored or goes unpunished like it frequently does, then other solutions need to be explored in order to protect people's human rights.<sup>147</sup>

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<sup>146</sup> "The World Factbook: HUNGARY." Central Intelligence Agency, *Central Intelligence Agency* (last update 15 Nov. 2017) [www.cia.gov/library/publications/the-world-factbook/geos/hu.html](http://www.cia.gov/library/publications/the-world-factbook/geos/hu.html)

<sup>147</sup> "End the Cycle of Violence" Violence Against Women, *Amnesty International* <https://www.amnestyusa.org/themes/womens-rights/violence-against-women/>

### 5.3 Overview

“While legislation may be enacted in a variety of countries to address domestic violence, the implementation of such legislation is peculiarly ineffective and the predominant mode of redress continues to emanate from sociologist, psychologists, and activists.”<sup>148</sup> In the beginning, when establishing that Hungary has a weak approach to fighting the issue of domestic violence of women, the following question arose: Is the answer in changing the current situation to improve the existing laws or does the answer lie instead within the correction of the enforcement of laws and policies? The question of whether it is the legislation, implementation or enforcement of legislation that affects the condition of how effective the fight against domestic violence is in a state is not simple to answer.

However, the clear analysis of the present situations in Hungary and Germany yield that a combination of factors lead to effective implementation and enforcement, which in the end are crucial in establishing a successful approach to combating domestic violence and protecting women. These factors which are key to the metaphorical equation include the high-key presence of NGOs, proper and effective training of all authorities, and attempting to shift societal views on gender through awareness raising campaigns. The main issue is not with international standards, rather the drawbacks lie within the country’s inability to address gender violence in a manner that truly invokes positive change. Hungary is held back due to the existing perceptions of domestic violence as a private issue, and by the ineffective responses of police as well.

Lastly, the analysis of Hungarian laws, police actions, and societal views emphasizes the differences between Hungary in Germany. More importantly, the differences emphasize the

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<sup>148</sup> Bonita C. Meyersfeld, "Reconceptualizing Domestic Violence in International Law," *Albany Law Review* 67, no. 2 (2003): 373

possible changes that Hungary can make in order to more effectively protect victims of domestic violence. Overall, it can be concluded that the failure to protect female victims of domestic violence is a result of weak implementation, a lack of future state goals in addressing the issue, and social perceptions of gender and feminism.

*“If we are to fight discrimination and injustice against women we must start from the home for if a woman cannot be safe in her own house then she cannot be expected to feel safe anywhere.”*

— Aysha Taryam , Editor of The Gulf Today

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