

Resumé

Topic of the thesis: Victims of Domestic Violence and Criminal Law

In the first two sections of the thesis, the author focuses on the terms “home” and “violence”. Home, the scene of domestic violence, ceases to fulfil its role and becomes a place that is, paradoxically, less safe than the “outside world”. The thesis looks at violence both in terms of psychology, including the basic theories of aggression, and in terms of criminology and its theories of crime that have some bearing on domestic violence and its causes. Last but not least, the author also looks at violence from the perspective of criminal law or, specifically, at the approach to domestic violence found in jurisprudence.

The third section of the thesis focuses on domestic violence as such, namely on the classification of this socially undesirable phenomenon to domestic violence in the narrower and the broader sense, which is reflected both in the circle of persons that may become its victims and perpetrators, in the individual types of violence that may occur in this phenomenon and, last but not least, in the definition of the phenomenon. This thesis is ultimately based on the broader understanding of domestic violence and addresses the individual kinds of violence that may occur in the course of domestic violence, be it physical, psychological, sexual, emotional or economic violence. The thesis further focuses on the general theories that attempt to find the cause of domestic violence, including criminological, psychological, feminist or multi-factor theories. The author then sees the cause of domestic violence in the personality of both the perpetrator and the victim that subsequently have the key impact on the kind or relationship that will develop between these two individuals; domestic violence is a relationship problem, and the individual psychological makeup of its actors play an important role therein. This also explains, among other things, why domestic violence does not occur in some relationships. The thesis further reflects the statistical data on domestic violence currently available in the Czech Republic.

In the fourth section of the thesis, the author addresses the general issue of the victim or, as the case may be, victimology, and the individual victims of domestic violence in its broader sense. These include, but are not limited to, children, women, seniors and men. The thesis reflects their specific positions in a violent relationship and their possible protection by the state or other means of assistance.

The fifth sections focuses on the legal provisions that address domestic violence. On the international level, these provisions include various conventions and declarations, including EU legislation. In the Czech Republic, domestic violence falls within the realms of substantive criminal law and procedural criminal law. As regards substantive criminal law, provided for in the Criminal Code (Act No. 40/2009 Coll.), the thesis addresses the crimes that are or may be somehow related to domestic violence. These include, but are not limited to, murder (Section 140), homicide (Section 141), severe bodily injury (Section 145), bodily injury (Section 146), bodily injury on excusable motives (Section 146a), unauthorized abortion without the consent of the pregnant woman (Section 159), soliciting a pregnant woman to undergo abortion (Section 162), deprivation of liberty (Section 170), unlawful restraint (Section 171), extortion (Section 175), rape (Section

185), sexual duress (Section 186), sexual abuse (Section 187), incest (Section 188), abandonment of a child or a child entrusted in care (Section 195), neglect of compulsory maintenance (Section 196), battering of entrusted person (Section 198), battering of individuals sharing one household (Section 199), soliciting sexual intercourse (Section 202), obstructions to the enforcement of judgment and eviction (Section 337), false accusation (Section 345), severe threat (Section 353), stalking (Section 354) etc. The Czech law does not recognize the crime of "domestic violence" that would reflect all the features and signs of this pathological societal phenomenon, such as long-term duration, unidirectional nature or, as the case may be, clear division of roles to the oppressor and the victim, repeated occurrence, and escalation of violence.

As regards procedural criminal law, the provisions on the disposition right of the victim (Sections 163 and 163a of the Criminal Code) in particular seem problematic: the consent of the injured party is required to initiate prosecution for the aforementioned crime if the accused is a family relative. This has severe discriminatory effects in light of the right of the individual to protection by the state.

The thesis also briefly addresses the Act on special protection of victims and other individuals in relation to prosecution, and the Act on financial aid to victims of crime. The possibility to expel the offender from the joint household, provided for in Act No. 273/2008 Coll., on the Police of the Czech Republic, namely in Sections 44 through 47 thereof, is an important institute related to domestic violence. The issue of domestic violence is also addressed by legal provisions for less severe crimes, offences.

The author rates the existing legal provisions for domestic violence as positive, overall, especially in light of the fact that the principal problem of domestic violence, or the resolution thereof, is the inability of the victim to abandon, or leave the offender. If a victim of domestic violence decides to leave the offender, its rights can be effectively protected with sufficient means under Czech legislation. However, the sanctions of psychological violence remain problematic, similarly to the protection of victims once the offender is released from prison after its imprisonment has ended. This issue is partially addressed by the newly instituted crime of stalking (Section 354 of the Criminal Code).

The thesis also contains some *de lege ferenda* proposals and describes legal treatment of domestic violence in the United Kingdom.

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Klíčová slova – Key concepts

Domácí násilí – Domestic Violence

Oběti domácího násilí – Victims of Domestic violence

Trestní právo – Criminal Law