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Domestic violence in the 18th century Transylvania

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Abstract

FEHÉR, Andrea. Domestic violence in the 18th century Transylvania.

This paper examines family violence in the 18th century Transylvania with a focus on two major themes: child maltreatment and intimate partner violence. The topic will be explored based on records and documents produced by secular and ecclesiastical courts. The primary goal of the current study is twofold—to analyze the legal consequences of family violence and to investigate the construction of the narratives surrounding these trials. Emphasis will be placed on the differences in approaches to domestic violence in the aforementioned sources and a few illustrations of the way hierarchical violence was perpetuated in these documents will be provided.

The primary sources used in the research for this paper come from two major categories: the Court Protocols from Cluj (Kolozsvár/Klausenburg) and the Synodal Protocols of the Transylvanian Protestant Consistories. The bodies of these documents, produced by Protestant males, attest to the systemic, hierarchical violence which existed in the early modern family.¹

According to the secondary literary sources, in the Christian paradigm, the discipline of wives and children was perceived as a duty, which in some cases was understood as a show of love, a mutual obligation of the head of the household and a “patriarchal privilege” that justified the superiority of the man over his domain.² Most researchers therefore operate with this understanding of the concept of patriarchal violence and narrow their study to only violence committed by males. In the following pages, it will be argued that it is more appropriate to talk about hierarchical than patriarchal

- 1 The town of Cluj was the third largest city of Transylvania in the 18th century, inhabited by Saxons and Hungarians. It is particularly important to note the Protestant character of the town, with the majority of its people belonging to the Unitarian and Calvinist Church. Therefore, all sources on which this research is based were produced by Protestant males. CSETRI, Elek. Kolozsvár népessége a középkortól a jelenkorig. In DÁNÉ, Tibor – EGYED, Ákos – SIPOS, Gábor – WOLF, Rudolf (eds.) *Kolozsvár 1000 éve. A 2000. október 13–14-én rendezett konferencia előadásai*. Kolozsvár : Erdélyi Múzeum-Egyesület, 2001, pp. 9, 14.
- 2 TOIVO, Raisa Maria. Domestic violence. In BROOMHALL, Susan (ed.) *Early Modern Emotions. An introduction*. London; New York : Routledge, 2017, p. 208; FOX, Vivian C. Historical Perspectives on Violence Against Women. In *Journal of International Women's Studies*, 2002, vol. 4, no. 1, pp. 16, 18; WALKER, Garthine. *Crime, Gender and Social Order in Early Modern England*. Cambridge : Cambridge University Press, 2003, p. 49.

violence as the former definition includes all types of aggression instigated by family members in general, describing conflicts initiated by females or elder siblings toward younger members of the household equally. In the current paper, cases where family members abused their hierarchically-based moral authority and ended up before secular and ecclesiastical courts will be discussed.

From the start, attention must be drawn to the small percentage of court cases included in juridical documents involving intimate partner violence. The lack of lawsuits found here can be explained, at least partially, by the fact that patriarchal discipline and hierarchical violence were an inseparable part of the cultural landscape. Many argue that the reason for the absence of accounts of intimate violence lies in the reluctance of family members to challenge the breadwinner of the family. Children, of course, had no legal authority to initiate lawsuits nor would any legal or social representative do so on their behalf. Women, on the other hand, did not dare to complain fearing the consequences. Secondary literature shows that shame and fear were among the most important emotions that prevented abused wives from denouncing the behavior of their aggressive husbands. Shame, in that their social prestige would suffer and fear of the financial consequences of a separation, that is, fear of poverty.³ As a result, domestic aggression toward children and females is almost nonexistent in documents produced by the legal authorities of the time.

Domestic Violence towards Children

Crimes against small children are found in trial records only in extreme circumstances, such as infanticide. Cases describing older children—or young adults—are limited to sexual and severe physical abuse; other forms of negligence, like verbal and psychological maltreatment, appear only rarely. Educational violence is nonexistent in the records, despite the century in question being infamous for violent child beatings. Studies rationalize this phenomenon by the fact that early modern European society was much more accustomed to intimate violence toward children, which also occurred in private and therefore was considered a “private trouble.”⁴ It was the responsibility of the father, or in his absence, the duty of the guardian or close male relative, to educate young boys and prepare them for manhood. It was just as customary for a mother or grandmother to discipline girls. Some argue that violence was not only accepted, but also expected “in order to uphold masculine and family or kin honor;”⁵ since men believed that their wives and children should be subordinate and compliant. To ensure the former, they were allowed or even

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- 3 HEIJDEN, Manon van der. Women, Violence and Urban Justice in Holland c. 1600–1838. In *Crimes, Histoire & Sociétés/Crime, History & Societies*, 2013, vol. 17, no. 2, p. 78; HUNT, Margaret. Wife Beating, Domesticity and Women’s Independence in the Eighteenth-Century London. In *Gender & History*, 1992, vol. 4, no. 1, p. 26; HEIJDEN, Manon van der. Women as Victims of Sexual and Domestic Violence in the Seventeenth-Century Holland : Criminal Cases of Rape, Incest, and Maltreatment in Rotterdam and Delft. In *Journal of Social History*, 2000, vol. 33, no. 3, p. 636.
- 4 GELLES, Richard J. *Intimate Violence and Abuse in Families*. Oxford : Oxford University Press, 2017, p. 5; HEIJDEN 2013, p. 90.
- 5 TOIVO 2017, p. 209; HUNT 1992, p. 14.

expected to use violence.⁶ Although physical punishment was perceived as constructive,⁷ ego-documents written by the Transylvanian nobles and intellectuals of the time abound with stories of terrified children and runaways.⁸

As explained above, courts deliberated only cases of extreme violence, with the most flagrant being incidents of intimate violence involving the killing of a newborn. Cases of both voluntary and involuntary infanticide are present in court records, and they are among the most developed narratives, further proving their importance. Protocols from the 18th century Cluj mention 11 cases brought against women suspected of infanticide, abandonment and negligence resulting in the death of the child.⁹ Such investigations typically featured unmarried or adulterous women—women of ill repute, who were associated with sin and immorality.¹⁰ Of eleven females tried, three received death sentences. Erzsébeth Szatmári was sentenced to death in 1723 because she became pregnant and gave birth to “a fine and healthy boy who arrived in time” but “killed the child against her natural maternal obligations.”¹¹ Ilona Kosztin gave birth “to an innocent child,” after which she intentionally killed the baby. The description of this case portrays Kosztin as a cold-blooded murderer; she snuck out of her host’s house, gave birth in a chicken coop, killed the child and then went back to sleep as if nothing had happened. The scribe notes, without any further explanation, that “therefore the law sentenced her to death.”¹² Mária Stefán’s infanticide is the longest and most elaborated tale regarding this type of crime.¹³ She was sentenced to burial in a pit of thorns because “according to the law of God and Nature, no living man or child should be lost or killed.” It was even more inconceivable for a mother to kill “her little girl of her own flesh and blood, against the law of God, world and nature.”¹⁴

All of these statements, especially the last one, were written in such a way as to appeal to the reader’s—and presumably the audience’s—emotions.¹⁵

- 6 HARVEY, Karen. *The Little Republic. Masculinity and Domestic Authority in the Eighteenth-Century Britain*. Oxford : Oxford University Press, 2012, p. 6.
- 7 MOSCOSO, Javier. Pain and suffering. In BROOMHALL, Susan (ed.) *Early Modern Emotions. An introduction*. London; New York : Routledge, 2017, p. 48.
- 8 Ego-documents written by the Transylvanian elite depict violent and aggressive fathers, guardians and stepparents. From these narratives, it is understood that elderly males used physical punishment, verbal abuse and public humiliation in order to educate young boys. Curiously, reaching adulthood, these males reflect on their childhood in a detached manner, not seeming to have been traumatized as they believed that the rigid discipline they were exposed to had served their interest. FEHÉR, Andrea. *Sensibilitate și identitate în izvoarele narative maghiare din secolul al XVIII-lea*. Cluj-Napoca : Argonaut-Mega, 2012, pp. 244–247; FEHÉR, Andrea. Noble Lineage as Stepfamily Network: An Eighteenth-Century Noble Autobiography from the Principality of Transylvania. In *Hungarian Historical Review*, 2019, vol. 8, no. 4, pp. 708–711.
- 9 FEHÉR, Andrea. Investigating Infanticide in the 18th Century Cluj. In *Studia Universitatis Babeș-Bolyai, Historia*, 2014, vol. 59, no. 2, pp. 52–65.
- 10 FEHÉR 2014, p. 55.
- 11 Romanian National Archives Cluj County Branch, Cluj Napoca. Court Protocols (abbrev. CP). CP II/29: 22 [1723]; FEHÉR 2014, pp. 60–61.
- 12 CP II/32: 23–24 [1728].
- 13 CP II/44: 113–114 [1750].
- 14 Although Stefán “deserved the live burial” as punishment “for her evil and godless act,” the judges, “to prevent her from falling into desperation,” changed the sentence to beheading. FEHÉR 2014, p. 61.
- 15 McEWAN, Joanne. Judicial sources. In BROOMHALL, Susan (ed.) *Early Modern Emotions. An introduction*. London; New York : Routledge, 2017, p. 113.

Expressions used to describe criminal acts were chosen carefully in order to elicit moving responses. This explains why the same words were used repeatedly to refer to the circumstances of infanticide and child murder, with most scribes characterizing the women committing these crimes as “barbarous,” “horrific” and “unnatural.”¹⁶ Every attempt to violate the “natural order of things” or “God’s natural law” was considered “monstrous,” especially when it came from someone whose duty was to protect.¹⁷ These “godless,” “desperate” women acted against their “maternal instinct”, killing “innocent,” “healthy,” “beautiful” babies. The importance of this embellishment of the narrative to the outcome of these trials is well-illustrated by the case of Ilona Petro, who was also accused of child murder. She abandoned her infant to fornicate with a man, during which time her child died. Petro was not, however, charged with child murder but fornication and robbery.¹⁸ The case was recorded by Péter Endes, the same scribe who wrote the story of Szatmári’s infanticide. However, in Petro’s case, he was not sympathetic towards the deceased child, describing him as “a bastard conceived in (an) illegal bed.” The mother was not deemed “monstrous” this time, the act not “godless” and the child not “innocent,” which proves again that in this case, emphasis was on the other crimes, especially stealing, and not on negligence or child maltreatment.

Small children are identified in cases of less grave physical violence too, though rarely. Only one case was found where emotional violence was mentioned. Michael Nagy reported his ex-wife for indifference towards their child, which according to the judges, “is against the natural law [...] even more when the child is a toddler.” In this case, the father gained custody of the child in court.¹⁹ Just as in the infanticide cases, the scribe used suggestive terms such as “natural law” and “indifference” to underline how unsuitable the mother was, and to justify the court’s decision to place the child in the care of the father.

Not only small children were subjugated to violence, but young girls and boys as well. One unique case in particular that reflects the sexual abuse of young boys must be mentioned here. The defendant was a female with a bad reputation “who had in her youth intercourse with several persons [...] which did not come to light at that time.” Moreover, “she did not stop her immoral life after she married [...] but what is more severe, she fornicated with her 12 year old stepsons.” It is curious how the scribe knew so many details since “there is no evidence to prove her infidelity during the marriage,” but the document described the abuse vividly: “she laid them in her own bed, shamelessly touched their genitals, incited them to sin with shameless words, forced them and grabbed them on her naked belly.”²⁰ At first reading, the relevance of such a detailed description is not immediately understood since the woman had already been banished from town for other misbehavior; however, as in

16 McEWAN 2017, p. 113.

17 BRENNER, Alletta. ‘The Good and Bad of that Sexe’: Monstrosity and Womanhood in Early Modern England. In *Intersections*, 2009, vol. 10, no. 2, p. 174; HUNT 1992, p. 15.

18 CP II/86: 73–74 [1723].

19 CP II/41: 145 [1743].

20 CP II/35: 80 [1732].

previous cases, the judges felt compelled to defend their decision. Words like “immoral”, “infidelity”, “shamelessly”, “forcing” and “grabbing” all signify an active role by the decadent female who committed such a “shameful” crime “against her maternal instinct.”

As shown here, secular courts discussed violence toward children when the cases implied crimes against life and property,²¹ while church and parish records contain mostly indirect data regarding child maltreatment. Parish records offer descriptions of physical maltreatment of young girls around the age of marriage.²² These documents suggest that most of the unsuccessful marriages were initiated at the insistence of parents, usually the mothers. These cases are filled with “unhappily married women” recounting the “unfortunate” circumstances of their marriage and the abusive behavior of their parents in order to impress the judges. Statements like “I was forced to marry against my will;” “My mother frequently beat my back and shoulders with a baton and tore out my hair” or “my wife never loved me, she was beaten into marrying me” are often seen in the records of divorce trials.²³ Not only mothers, but fathers imposed their will as well, like Miklós Bánfi, who used “violent force, beating and shoving” to constrain his daughter to marry a man she “did not want nor in body, nor soul,”²⁴ and from whom she was finally separated because they could not consummate the marriage.²⁵ In these examples, the recollection of traumatizing childhood abuse and maltreatment was used to impress the ecclesiastical forum and gain a divorce ruling, and as such, it is necessary to be careful in their interpretation. However, the arguments used by plaintiffs do reflect contemporary attitudes toward forced marriages, and the frequency and persistence of these narratives in legal documents suggest

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- 21 Although rape and seduction are a different topic, it should be mentioned that Court Protocols from Cluj discuss these crimes as well. CP II/45: 134; CP II/49: 82; CP II/52: 81–82. From these trials, it is understood that in the contemporary perception, virginity was the most valuable asset of a girl and property of a male owner. That is why only a father, guardian or fiancé could intend a rape but never the female victim. This also explains why rape and seduction was judged as a crime against property. The emphasis was placed not on the victim, but on the crime. HEIJDEN 2000, p. 624.
- 22 The 18th century female ego-documents, such as letters and testaments, are not studied systematically. Therefore, we have mostly indirect data regarding the life of young girls, with most of the information coming through a male intermediary and only on exceptional occasions. Thus we know little on this topic from a female perspective.
- 23 SIPOS, Gábor. Református eljegyzések, házasságok és válások az erdélyi traktusok jegyzőkönyveiben. In SIPOS, Gábor. *Reformata Transylvanica. Sipos Gábor tanulmányai az erdélyi református egyház 16–18. századi történetéhez*. Kolozsvár : Erdélyi Múzeum-Egyesület, 2012, pp. 131, 137, 145.
- 24 This description is used in secular law records beginning in the 17th century and is usually employed in cases of adultery. Infidelity is typically explained this way, mostly by women, although such an argument rarely impressed judges. FEHÉR, Andrea. Women, Crime and the Secular Court in the Eighteenth Century Cluj. In *Journal of Education, Culture and Society*, 2015, vol. 6, no. 2, p. 36; FEHÉR, Andrea. Crossing gender boundaries. The trial of Andrew Ungvári (1712). In *Studia Universitatis Babeş-Bolyai, Historia*, 2012, vol. 57 (Special Issue), p. 19.
- 25 According to the scribe, the couple was “engaged in bloody scratching at night” (*egymást körmölés-sel vérbe köpülték*), an expression deliberately worded this way since biting and scratching were considered unmanly at that time (WALKER 2003, p. 27). Éva Bánfi avoided intimacy with a male she was forced to marry, and due to this her reluctance, she was banned from marrying again. It seems that for the council, her inability to live in marriage with an honorable man made her improper in general for married life. BUZOGÁNY, Dezső – ÓSZ, Sándor Előd – TÓTH, Levente (eds.) *A Küküllői Református Egyházmegye Parciális Zsinatainak végzései. I/1-2, 1638–1720* (abbrev. KPS). Kolozsvár : Erdélyi Református Egyházkerület, 2008; KPS I/2, pp. 465–468 [1712]. In BUZOGÁNY – ÓSZ – TÓTH 2008, p. 208.

an ever-present social reality.

Marital Violence

Secular courts discussed marital violence only in exceptional occasions. Only one case was found when a husband was summoned before the court and condemned for aggressive behavior. Márton Killini was convicted in 1737, not because he was violent toward his wife, but because he indirectly contributed to her death. He “beat her a few times before her death, but the deposition proved that she did not die because of that.” The judges in the case initially focused on marital negligence, “He did not treat his wife as an honorable and Christian man should but beat, abused and humiliated her, and even before the last fight, he cursed her and said that he would beat her to death.” Killini’s wife lived in constant fear and depression and in her “last despair,” she poisoned herself. The court record shows that Killini was not charged because of her death, but because he knew about both his wife’s desperation and the poison but did nothing “to cure and save her [...] proving his indifference towards her again.” As was usual in such trials, the portrait of the accused was detailed, from which we learn that Killini was not only aggressive but cursed often and had other weaknesses. He was sentenced to “live on bread and water” for three months in prison, during which time he was caned with a stick three times.²⁶ It seems that he spent more time in the tower as a few months later, he appealed and was released because he had “suffered already enough in the tower,” and as for the intimate violence, new testimony proved “the wife gave him a reason.”²⁷

The opposite scenario, aggression of a wife against her husband, was considered a capital crime, however, since it went against the existing social order.²⁸ Three women were summoned before the court because they sought to end the lives of their husbands, two with poison and one encouraged her lover to kill the husband.²⁹ Erzsébeth Pál and Erzsébeth Székely attempted to poison their partners with arsenic and nitric acid respectively, the first even attempting to push her drunken husband off a bridge into the river. They tried bribing servants and even the local surgeon with money to kill their spouses. Both females were originally sentenced to death but “after serious consideration,” the punishments were adjusted because one of the husbands survived and the other died from pharyngitis (inflammation of the pharynx/throat). A witness, probably stunned by the confidence of Székely, recounted a conversation from which we can observe how well-informed the convicted was of her chances: “I do not mind if they catch me because I know that they will put me into the tower, and if they do so, then I will pay my 66 florins, and before that, I will go to the priest and confess; I would probably fast, so I will not have any prob-

26 CP II/38: 32–33 [1737].

27 CP II/38: 58 [1737]. Secondary sources support the existence of this type of procedure as well. When maltreatment did not directly cause the death of the wife, it was not considered a major crime. HEIJDEN 2000, p. 633.

28 WALKER 2003, pp. 49–50.

29 CP II/44: 206 [1753]; CP II/54: 91–96 [1777]; CP II/49: 125–126 [1767].

lems.” She was whipped, 66 lashes in two rows, and expelled from town but her life was spared.³⁰ Székely’s general attitude was unusual, which could be the reason the scribe quoted her so often. Her confidence was so uncommon for a society which considered that female virtue implied vulnerability and passive suffering.³¹ This would also explain the severe physical punishment she was sentenced to.

The third case, that of Anna Tordai, ended in capital punishment. Her sentence was aggravated by the fact that she had a lover and because after a fight between this man and her husband, “she, contrary to her marital oaths, cried over her lover” and “wished her spouse’s death.”³² She was sentenced to death, which she appealed but lost. She finally took the case to the Supreme Court but the final decision is not known here.³³ Deliberation of the case shares similarities with Killini’s trial. Scribes articulated the indifference of the parties each time; Killini did nothing to save the life of his wife and Tordai cried over her lover, i.e. they both acted “against their marital duty.” There is no mention of affection or love, only of duty and responsibility.³⁴

The secondary literature suggests that the lack of domestic violence in secular courts can be explained by the fact that cases of marital disputes were first discussed in ecclesiastical forums. Violent and abusive husbands were more likely to be encountered in divorce trials. Since the majority of Hungarian Transylvanians were Protestants, divorce was not so unusual, despite the fact that the law made it difficult for a couple to separate. Until the 17th century, one could end their marriage for several reasons, including close kinship, a large age gap, impotence and religious differences. In the 18th century, divorce could be requested for only two reasons: adultery and willful desertion.³⁵ The reality was more nuanced of course, as illustrated in ecclesiastical court records when people attempted to divorce for other reasons but rarely succeeded.³⁶

Domestic violence alone was not enough to prove an unbearable burden in the marriage. Anna Ágoston of Szőkefalva “begged the honorable instance” to separate her from her husband who “has beaten me for several years, harmed me, undressed me and beaten me so,”³⁷ though her request was not granted and she was asked to wait until the next synod. János Czávási and Mártha Gábor lived terrible lives because of the aggressive and violent temper of the husband who often threatened his wife. The court decided

30 CP II/54: 93 [1777].

31 Self-representation by women, however, proved that they rarely considered themselves entirely passive. WALKER 2003, pp. 50–51.

32 CP II/49: 125–126 [1767].

33 FEHÉR 2015, p. 37.

34 HUNT 1992, p. 16.

35 GELEJI KATONA, István. *Egyházi kánonok melyeket részint a magyarországi, részint az erdélyi régi kánonokból egybegyűjtött s a kor kívánatához képest több másokkal is bővített és kissé jobban rendbe szedett Geleji Katona István, az erdélyi igazhitű egyházak püspöke*. Translated by KISS, Áron. Kecskemét : Szatmári Ref. Egyházmegye, 1875, pp. 35–38.

36 MÁTRON, Tünde. Az egyház normáin túl. El nem fogadott válóokok a széki egyházmegye parciális zsinatainak jegyzőkönyvében. In EGYED, Emese – PAKÓ, László – WEISZ, Attila (eds.) *Certamen I. Előadások a Magyar Tudomány Napján az Erdélyi Múzeum-Egyesület I. Szakosztályában*. Kolozsvár : Erdélyi Múzeum-Egyesület, 2013, pp. 283–287.

37 KPS I/2: 394 [1703–1705]. In BUZOGÁNY – ÖSZ – TÓTH 2008, p. 192.

to separate them for a while hoping that time and distance would rescue the marriage, though, separation was not the first attempt to save the marriage of these two: “many honorable persons worked to reconcile them but they did not succeed.”³⁸ These “honorable persons” were probably family members, neighbors and friends who were often involved in such marital disputes. Research shows that friends and family usually supported the wife and also provided evidence at trial.³⁹ These vigilant residents acted not only to support the weaker of the pair, but also to protect the good name of the neighborhood. That would explain why in some Protestant communities, neighborhoods acted as the first forum where marital disputes were discussed because they played a significant role in social control of violence.⁴⁰ Neighbors were key in the case of Anna Magyari as well, where the whole community seemed to be on the side of the abused wife. The couple was originally separated for a few years, just like in the previous case, but after returning to share a household again, the problems again escalated. Seventy people testified on the bad character of the husband who constantly humiliated his wife, spent the night with “immoral persons” and beat his naked wife with a weapon. The document concluded that “many considered it was impossible to live with Debreczeni,” therefore the Court awarded the divorce.⁴¹ The husband was forbidden from marrying again but there is no indication of any other sanctions.

In some cases, the victim of abuse “deviated from the right path.” Erzsók Tótt “behaved as a good housewife as long as she lived with her husband, but she could not bear the cruelty of her husband, the daily beatings” and his “indecent severity,” since the husband “squeezed her body, bit her body with his teeth, bit her breast and tooth marks were visible on her everywhere.” Tótt abandoned her sadistic partner but later went back to him at the insistence of her father. The husband did not give up his violent ways so she left a second time and finally, “as a weak vessel, she fell into sin,” i.e. engaged in adulterous behavior. The Court asserted that she would have deserved the death penalty, but since deviating from the Christian path was not her fault, she received only a reprimand.⁴² In this case, the violence Tótt endured was used as an excuse. Women were considered weak and in need of protection and guidance, and because Tótt did not receive any from her husband, according to her judges, it was not entirely her fault that she had fallen into sin. The rhetoric used here is well known in Transylvanian criminal justice. Many of the sentences were based on the presumption that “women are more willing [to sin] and weaker than men,” though this

38 KPS I/2: 391 [1703–1705]. In BUZOGÁNY – ŐSZ – TÓTH 2008, p. 190.

39 HEIJDEN 2000, pp. 633–634.

40 HEIJDEN 2013, p. 78; HEIJDEN, Manon van der. Domestic Violence, Alcohol Abuse and the uses of Justice in Early Modern Holland. In *Annales de démographie historique*, 2015, vol. 2, no. 130, pp. 72, 81. There is knowledge about the existence of similar communities in Transylvanian Saxon towns as well. PAKUCS, Mária. “Alle die so jnn und kreiss der Mauren women warden hermanstaedter genannt”: Neighbors and Neighborhoods in the Sixteenth Century Sibiu. In *Colloquia*, 2011, vol. 28, pp. 51–67.

41 KPS I/2: 408–410 [1710]. In BUZOGÁNY – ŐSZ – TÓTH 2008, p. 199.

42 KPS I/2: 533–536 [1713]. In BUZOGÁNY – ŐSZ – TÓTH 2008, pp. 213–214.

weakness also brought benefits because “the law is less severe with them.”⁴³ Tótt was forbidden from marrying again, just as her husband, who was also excommunicated.

Reading the accounts of these divorce trials, a pattern can be observed regarding violence management. At first, couples were advised to solve their conflict internally and to stop the aggression on their own. Neighbors, family members and clerics played a key role in this process. If the attempts of the honorable persons failed, then came the separation of bed and board.⁴⁴ After some period, the couple was forced to live together again and only in life-threatening cases was divorce granted. Aggressive partners were usually banned from other marriages and in extreme cases were excommunicated, but suffered no further legal or financial consequences.

Court records produced by the ecclesiastical authorities portray the marriages in question as being bad, the aggressive males as immoral, impossible to live with, cruel and indecent. The victim, on the other hand, was constantly humiliated and beaten, but otherwise a good housewife. In the process of making a decision, the Consistory questioned many honorable persons, who usually supported the wife. Aggression is described with references mostly to physical violence, such as biting and beating, where distinctions are made between beating a dressed person and abusing a naked one, with bare hands or with a weapon.⁴⁵ There is no mention of verbal aggression and females are usually portrayed as victims of their husband’s violence. However, secondary literature cautions us against hasty conclusions. Researchers suggest that females in violence trials deliberately presented themselves as passive victims and intentionally omitted key parts of their stories when they themselves were verbally abusive because they feared that the judges would find that they provoked their aggressor. In the contemporary, the 18th century perception, domestic violence was considered to be, in most cases, provoked by the victim. Therefore, victims of aggression intentionally left out important details because they were afraid that “the whole truth would support the idea that they deserved the violence.” They knew that showing obedience was to their advantage.⁴⁶

Legal documents produced by ecclesiastical authorities present intimate violence unilaterally with the protagonists considered either good or evil, whereas court protocols offer much more nuanced and detailed portraits. Not all women were powerless and passive victims of abuse in these trials, and some were even well-informed, self-confident females who knew how to play their roles to make a good impression.

43 CSEREI, Farkas. *A magyar és székely asszonyok törvénye*. Kolozsvár : Hochmeister, 1880, p. 14.

44 Transylvanian Protestant Court Protocols show similar attitudes in divorce trials as other Protestant communities from Europe, especially Dutch ones. HEIJDEN 2015, p. 80.

45 The law distinguished between “hitting someone with or without weapon.” WALKER 2003, p. 27.

46 HUNT 1992, p. 24.

Closing Remarks

This article was intended to offer a basic overview of how hierarchical violence and abuse were represented, interpreted and judged in legal narratives. Records produced by the secular and ecclesiastical justice system can provide insights into the behavioral expectations and norms of our ancestors. However, it must be kept in mind that they recorded only extraordinary cases, selected and subordinated to existing procedural customs. More can be learnt about procedures than about the actual stories since personal narratives such as confessions and depositions were chronicled by a scribe who then edited those accounts through omissions, comments, rephrasing, etc.⁴⁷ Therefore, there is a need to be careful when analyzing documents produced by secular and ecclesiastical courts and attributing contemporary attitudes toward negative emotions, such as shame, fear and violence. Despite the abovementioned methodological dilemma, a few conclusions can be drawn. Intimate violence among family members was considered a private matter first of all, and gained public significance only in exceptionally severe cases. Neighbors often played an important role in this process, drawing the line between what was regarded as acceptable—requiring no intervention—and what was not—when they were willing to act. The sources suggest that violence towards women and children was still considered a natural expression of patriarchal dominance and was discussed in legal forums only in extreme circumstances.⁴⁸ Although women were usually seen as victims rather than perpetrators of violence,⁴⁹ a closer look at the sources shows that women were also capable of acting abusively, especially toward infants and young girls. Otherwise, disciplinary violence was quite tolerated, and pain and suffering were ever-present in both public and private life taking several forms of social practices.⁵⁰ This may illustrate why educational methods centered around “reasonable correction,” implying that pain and fear did not draw the interest of secular or ecclesiastical courts. Until serious harm was done, none of these actions were considered a deviation from the norm. Plainly, it was not considered a crime for one to “beat the life out” of a child or wife, a phrase often encountered in the 18th century personal and legal narratives.

47 FEHÉR 2012, pp. 17–20.

48 FOX 2002, p. 15.

49 HEIJDEN 2013, p. 72.

50 MOSCOSO 2017, p. 45; GELLES 2017, p. 20.