

Shortcomings in Rape Survivor Care – Quality of Services for Rape Survivors in the Czech Republic

Summary

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RAPE SURVIVOR ASSISTANCE – ANALYSIS

The project *"Stop Rape: The Program for Rape Survivors' Protection"*¹ started in response to the inadequate levels of appropriate and comprehensive care for rape survivors in the Czech Republic. Its goal is to support open communication about violence and power imbalances in the most intimate area of life. In order to set the terms for a professional discussion on the critical issues, we have carried out a basic assessment of the state of services and aid currently available to rape survivors in the Czech Republic. The main focus was to identify situations in which rape survivors do not receive appropriate care or in which their human rights are infringed upon. An essential part of the study was also to compile a list of service providers that serve survivors of rape. The sources of our analysis were public documents, studies, case studies, publications, methodologies, internal documents, the law and the practical experience of the staff at the Persefona NGO. In addition, in the course of our research, we conducted interviews² with experts from the police force, government offices, the courts, the medical field and the staff of social services NGOs.

The following text summarizes the main findings³ focusing on the areas that beg the interest of the relevant professionals and their close cooperation so that the human rights of rape survivors are fully protected.

Our analysis has a qualitative character. We hope it will provide an impulse for at least partial changes in the system or constitute the groundwork for other research. Knowing the limits of the analysis, we believe it should later be updated beyond the scope of the *"Stop Rape: The Program for Rape Survivors' Protection"*.

IDENTIFYING THE SHORTCOMINGS IN SECURING THE RIGHTS OF SURVIVORS OF VIOLENCE

The level of attention given to addressing rape is as low as the minimum rate of cases reported even though we know that this grave offence often goes unreported.

Rape is the most thoroughly researched crime committed by individuals, and we know a lot about the problems surrounding it. Yet, rape survivors do not receive appropriate care and their human rights are not well protected. To discover the reasons why, we need to take a

¹ The project is a joint effort of the Gender Studies NGO and Persefona, a civic association in June 2009 – June 2010.

² Interview quotes have been integrated into the body of the text. Edited versions of interviews are available upon request with the coordinating organizations.

³ Czech version of the analysis is available to the public and can be downloaded at http://www.feminismus.cz/download/analyza_stop_znasilneni.pdf.

critical look at the system of survivor services. Naturally, the psychology of the survivors and their relationships with the aggressors play a role. So does the level of awareness of rape among professionals and the general public. However, the statistics collected by the Czech police force, medical institutions, NGOs, research and international experience offer many suggestions for systemic improvement.

For example, drawing on the statistics quoted in our study, we see that sexual offenders, or rapists, usually do not display personality disorders and they usually know the survivor or are close to the survivor. This means that, to potential sexual violence survivors, family and friends represent the greatest threat. The aggressor is, thus, usually perceived as a normal person by those in his environment including the survivor. Rape survivors rarely report the crime for the following reasons: their relationship with the aggressor, the secondary trauma caused by the response of others, low awareness of human rights, a sense that the evidence is insufficient, and/or fear of the criminal process (confronting the aggressor, frequent and repeated interrogations, etc.) and of its results (no prosecution, prosecution, parole). According to police statistics, once a crime is reported, the chance of a successful investigation is high. However, closer examination reveals that the investigations defined as "closed cases" are often cases of repeat offenders, false accusations, and investigations that have been postponed, stopped or not initiated for prosecution. The final number of sexual aggressors who have been successfully prosecuted is extremely small in relation to the real rate of occurrence of the crime (including unreported cases of rape). The majority of sexually aggressive persons are never detained in any way.

On one hand, there is a high risk that the sexual offender will be sexually violent again in the future, and on the other hand there is the fear and shame of the survivors and their desire to forget (rather than testify against the perpetrator). Therefore, it is necessary to help rape survivors manage their trauma through appropriate counseling and therapy while creating the conditions to support the survivor's ability and willingness to participate in a prosecution with the feeling that the law is on their side and that they will be protected. How can we better help rape survivors if they decide not to contact the police? And how do we improve the help given to the rape survivors who do contact the authorities?

Searching for answers to these and similar questions has led us to examine the work of the police, the process of detainment of sex offenders, court procedures, expert witnesses, the position of the public prosecutor and monetary compensation of survivors. We have also looked into the quality, forms and availability of appropriate medical care, therapy and counseling, and at issues of awareness among professionals and the general public. Finally, we have considered the need for joint efforts to address rape across sectors and professions (inter-disciplinary cooperation).

Coordinated cross-sector efforts tend to be complicated by the mutual lack of trust between the governmental and the non-governmental non-profit sectors (NGOs) for instance. With respect to survivor care, this is unfortunate. By their nature, governmental and non-governmental institutions and services complement each other and disregarding this fact only harms the survivor. State authorities sometimes see NGO counseling centers as having a radical or activist nature and suspect them of a certain naiveté and of a lack of professionalism. With respect to violence against women, NGOs are viewed as too feminist and as a priori anti-men-oriented. This perspective unfortunately demonstrates a lack of understanding of gender issues, feminism, activist organizations and the nature of

counseling providers on the part of the officials. Another obstacle to effective cooperation is the fact that NGOs often comment on the work of the state institutions and make suggestions for their improvement. These comments then tend to be perceived as "unfair attacks", especially when the positive aspects of the work of state institutions is overlooked or underappreciated. The attitude of court or police officials toward NGOs and vice versa typically tends to be adversarial and disrespectful. Among NGOs and other civic associations themselves, the weak link in their group action consists of their own rivalry which is reinforced by the competitive NGO funding system in which some NGOs have claimed monopoly in their fields. Finally, inefficiencies in the cooperation of the authorities rests not in the lack of mutual appreciation but in their low competency, lack of awareness, or too casual attitude toward sexual violence. In addition, cross-sector efforts are not well established in the systems of service and care.

All of these problems lead to the fact that important information that can help survivors of rape or other sexual violence does not reach them. The levels of cross-sector collaboration in relation to survivor care vary, however. In some regions we can see great motivation to work together and in others the above-mentioned issues are a case in point. If survivor care is to improve in the future, effective information exchange and experience sharing and the support of cross-sector efforts will have to play an important role. For example, our analysis showed that there is little sharing of important contact information and that the awareness of appropriate methods of working with survivors is very low among gynaecologists.

Ill-suited approaches to rape survivors on the part of experts or the survivors' families and friends can reinforce and multiply their trauma. Raising awareness and education within these social groups is, thus, essential. Experts succumb to the myths and prejudices surrounding rape just as often as the lay public. Unfortunately, insufficient knowledge has grave negative effects on the process of addressing specific cases of rape. According to our study, the educational opportunities for professionals that are there are not utilized (due to lack of motivation, financial means or insufficient support by the employer). As far as the general public is concerned (including potential rape survivors and their family and friends), the levels of awareness of rape are extremely low and are also subject to stereotypes. Widespread myths make protection, care and help for survivors all the more difficult. The general public in particular has very little access to clear and authoritative information that would help them understand sexual violence. Czech society is not sensitized to gender-based violence including rape and the lack of rape prevention efforts is closely related to this. We must conclude that a comprehensive effort to raise awareness, to educate or to increase competencies of people who potentially deal with survivors, or potential rape survivors, is currently non-existent.

Our experience, which is backed up by our research, shows that securing **legal counsel for rape survivors** is a common problem. For survivors, it is vital to have clear and understandable legal information at their disposal, both at the moment of reporting a crime (representation) and when making the decision to report it or not. Here, depending on the stage of the process, the (free) counseling centers, the police, the public prosecutor and the judge play a key role. Medical professionals are also important in this process. They tend to be the first (and sometimes the last) point of contact for a rape survivor. Points of medical care represent the space when it is crucial to provide the survivor with information about

where to turn for legal and psychological counsel. Unfortunately, there is no automatic guarantee of financial help for rape survivors in the Czech criminal system. Later in the text, we make suggestions for improving this situation. Besides legal counsel on crime reporting and legal guidelines, survivors should be counseled on the system of compensation and financial aid in the criminal system.

Other problems identified in the study that need to be discussed and addressed follow. In particular, they concern secondary trauma and the insufficient protection of the rights of the survivors. The issues are first listed briefly and later they are discussed in context and greater depth in the body of the analysis.

The Police Force: The presence of more than one person during questioning and repeated witness hearings are often sources of trauma. Both problems can be prevented. Technologies for documenting testimonies offer a solution but they are rarely used in practice. The use of recorded testimony as evidence during trial is another way to prevent secondary trauma. Unfortunately, the latter has not yet been permitted by the law. With respect to police officers, who may possibly question rape survivors, the researchers have noticed inadequacies in their training as well as in their personal predispositions. Good practice assumes that the myths about rape are dispersed. This is not the case. It is the duty of police officers to maintain a professional attitude regardless of the type of violence that is reported, of the type of relationship between the survivor and the offender, or of the circumstances of the crime. They should be trained in basic psychology of survivors. They need to understand why survivors might act the way they do and why they may report rape with a delay. But in practice, the usual techniques to raise the survivor's sense of safety and comfort such as the presence of a close, supportive person or a psychologist, or assuring the survivor of confidentiality, are not used. The police typically issue only verbal instructions as a point of procedure, not paying much attention to whether the survivor really understands the information. The survivors are usually not informed of the steps in the prosecution process and may be confused. A particularly frequent issue is not being given a long enough notice of the release of the perpetrator from prison. Another problem is that sometimes the police do not have or do not use the lists of follow-up care contacts. As a result, the survivors are not referred to services specialized in helping them such as to legal or psychological counseling centers for violence survivors or to gynaecologists.

Public Prosecutor: The law does not provide the prosecutor with the opportunity to work closely with the survivor.

Court: Repeated court hearings that require the survivor to give repeated accounts of the crime in public and in front of the defendant strongly contribute to secondary survivorization. This may be a result of the fact that the Czech criminal system views the aggrieved person merely as a witness. Survivors are rarely well-informed about their rights and free legal help is not easily available. Other problems arise when the defendant and the plaintiff are separated due to the lack of proper technical equipment in older court facilities. Finally, we have recorded instances of a lack of willingness to maintain witness confidentiality. Expert opinions and reports, for instance, have revealed personal information of witnesses to defendants.

Medical Treatment: The study has shown that ensuring that all survivors are treated equally by all medical doctors is very difficult; many have little or no practical experience with rape

survivors. The risk that the important evidence of injury and harm might not be well recorded is fairly high. The attitude of medical staff to patients who happen to be survivors of rape varies greatly from one institution to another. There are differences in treating survivors with respect, in levels of interest in what has really happened to survivors, as well as in the condition of medical facilities in regard to confidentiality, for instance. We have also noticed a range of attitudes among medical staff about the right way of communicating with survivors; whether it comes to the course of a medical (gynaecological) examination, inquiring about their needs or about referrals to follow-up care.

Expert Witness Opinions: Court-appointed experts do not often express survivor-sensitive attitudes or communication techniques. There are also great differences in how well their facilities can accommodate the needs of survivors with respect to space (quiet room, confidentiality). Expert opinions are also hard to produce and the needs of survivors might not always be the expert's primary concern. In addition, the time period that elapses between the crime and the date that an expert opinion is requested can be quite long. (It is preferable that experts carry out their work in the early stages of the prosecution as studies carried out in retrospect or in hindsight can lead to problems.) Finally, the process of appointment of experts in the fields of education and health care in the Czech Republic whose opinions is authoritative in criminal justice matters also begs attention.

Counseling and Therapy for Rape Survivors: In the Czech Republic, there are very few specialized providers of comprehensive care that provide free direct psychological and legal counsel to rape survivors in emergency situations. Unfortunately, even the few institutions that exist do not cooperate as well as they could. The competency of the staff may pose a risk if they do not always fully understand the specific needs of each survivor. Finally, both the general and expert publics are not familiar enough with the specialized centers and their services and more promotion is needed.

Detainment and Services for Sexual Aggressors: The practice of prosecuting sexual offenders with imprisonment and therapy and the way it is implemented in terms of institutions and legal provisions is at present very unsatisfactory. Expert opinions about sexual aggressors are typically requested late or not at all. There is practically no medical care or therapy for sexual aggressors. The options that are in place are too difficult to utilize in practice and thus they are usually ignored.

All the practical problems listed above are the results of our analysis which focused on gaps in rape survivor care. We understand the bias this narrowly-defined focus carries. In the research we did not forget to note the good practices and the successes we came across, however minimal. We have also seen an interest in improving the current deficiencies on the part of many organizations and their staffs. Good practice – quality care and appropriate support - typically relies on empathy and an individual approach, as well as on time-tested cooperative relationships between particular individuals in other institutions and organizations.

It is a fact that the majority of rape survivors who come to our counseling center do not want to address their violation via the criminal justice system. Usually, they report the following reasons: fear of upsetting their personal relationships, aggressor's retaliation, unwillingness to discuss their experience with many strangers (policemen, court officials, the

defendant's attorney, experts, gynaecologists). Feelings of shame and guilt play an important part in the survivor's decision-making process. Sometimes they mention they would like to focus on other problems first. Survivors have little faith that the aggressor will be found and prosecuted, especially in cases of rape by a stranger. When rape is committed by somebody close or a friend but when there is little evidence (and sometimes even if there is enough evidence), the survivor wishes to deal with it promptly and without much "ado" (by forgetting, moving away, or through a divorce). Clients who have come to us for help rarely report only rape that is not accompanied by other types of violence. Once survivors decide to report the violent behavior of a close friend or relative, they do not report sexual violence or rape even if it is rather serious. If the perpetrators are prosecuted, they are usually prosecuted for another crime. Moreover, even when sexual violence is mentioned as a part of a crime, it is sometimes subsumed under another crime (violent assault, for example).

Our counseling practice suggests that even if the aggressor is prosecuted, the survivors feel very ambivalent about it, just as they do about the entire process of prosecution. They are essentially happy that justice has taken its course to protect them and others but they worry about what is going to happen. In the long and exhausting process of prosecution, supportive and encouraging responses and treatment are of immense importance to the survivors and serve as source of strength. These positive moments may include active but sensitive reception or intervention by the police, being referred and accompanied to a medical doctor, having a supportive investigator who acts in their interest against an aggressive defense attorney, an inquiry by the judge about whether the survivor is able to speak in front of the offender, close attention to identifying the gravity of the crime and potentially changing its legal type, a calm and assuring demeanor of the public prosecutor, a chance to repeatedly ask questions about the legal aspects of the situation and so on. We must keep in mind that most survivors do not appear in the court to testify about the crime of an aggressor. They deeply feel that they are there to defend themselves, and their experiences have usually reinforced this position. They are afraid of being misunderstood and condemned. In their eyes, the prosecution is an extremely stressful and sometimes a demeaning process. The following aspects have been reported as the most stressful: repeated interrogations, repeated expert examinations, facing the aggressor in the court room and insufficient information about what is coming next in the criminal process. Insensitive and judgmental behavior or remarks on the part of officials or staff involved is also perceived rather negatively. Rape survivors who have not reported the crime to the police often have bad experiences with gynaecologists or counseling centers. A lack of interest in what has happened, not observing the principles of confidentiality of sensitive information and making judgmental remarks based on myths about rape are the most hurtful to the survivors. It is, therefore, necessary that the quality of service improves not only in the institutions in the criminal justice system but in other organizations serving potential rape survivors as well.

THE POSITION OF THE INJURED PARTY IN THE PROSECUTION - SUGGESTIONS FOR IMPROVEMENT

Even though the interest in expanding the rights of the injured party in the prosecution process is on the rise in the society, it is unfortunately not possible to respond to all these calls. Rather, it is becoming clear that trying to practice all the rights the law affords the injured party with diligence is more relevant than trying to change the legislation. In the current legal system, the plaintiff continues to be viewed essentially as a source of evidence,

a witness. Her or his needs for protection and support are neglected in practice. Legislative changes come next.

Changes in current practice are certainly due. Let us start with the police, for example. The police are only trained to work with survivors of crime in the initial phase of their professional education. Unfortunately, the theoretical aspect of this basic training has now been reduced to six months; for police officers with university education it lasts only three months. The learning period in which officers should absorb all the information and skills required for their profession is obviously extremely short. In this situation, there is too little time to go in depth into topics such as techniques of working with crime survivors, psychological aspects and model situations. The professional training period for the police has been reduced due to economic reasons; another factor was the need to quickly fill empty positions left by a wave of departures in the police force in recent years. However, a consequence of cutting down training time is the drop in the quality of knowledge among new recruits. They have not been given the opportunity to learn more than the minimum requirements of the course. Therefore, the chance to improve the current state of affairs in the area of professional police training is clear - the basic professional training ought to last at least one year. This measure would allow for more training in the area of working with crime survivors. Continuing education opportunities and access to information for all police officers once their training period is finished are other ways to improve their readiness to work with survivors of crime.

Another potential change for the better with respect to secondary victimization is also related to the police force. There is no selection procedure determining which police officer ought to work with the survivor and who is to deal with the aggressor; factors such as the officers' personalities, psychological profiles, educational background, or how well their skills and natural abilities fit certain types of work are not taken into account in the hiring process. It is, thus, perfectly possible that an officer who deals very well with the aggressors in the field may lack the empathy and social skills necessary to work with survivors. Such an officer may quite unintentionally harm survivors in the process of interrogation, for instance. A **placement procedure** could be implemented in the police force that **would match the roles of the officers with their skills** and abilities to sensitively work with survivors or with offenders, or possibly **designate other staff for working with survivors**. For example, the presence of a psychologist at the first questioning and during follow-up contact with the police may also something to consider.

Continuing education in this area is needed within the police force. Requiring staff at all the levels of the crime department to attend further training to maintain their qualification, for instance, may also be helpful. This system would require all staff involved in investigation and prosecution who deal with survivors and criminals to take **special courses in techniques in working with survivors and aggressors**.

Finally, we recommend **closer cooperation between NGOs** that help survivors and the police. Letting survivors know that there are NGOs that focus on helping them and informing them about the types of help available (legal, psychological counsel) is especially vital on the part, in our opinion. We also believe the practice of giving referrals is not difficult to implement and crime survivors would benefit greatly from this. Survivors often seek out the police hoping to obtain legal help or to get a sense of comfort and relief. They do not realize this is not the role of the police. Although the police cannot provide these services, they can

provide a referral to counseling centers that are able to help. Let us not forget that survivors of crime may be in a state of stress and shock and do not know where to turn for help. The police may be the first place they think of contacting. Moreover, a person with little legal education may not know the scope of authority or the role of the police and does not know what to expect. Explaining exactly what the police can do for these people and in what way, and **referring them to other institutions that can help** is the best thing to do. Better cooperation between the police and these institutions is key. Police officers need to be familiar with these organizations and their services so that they can make the best possible referrals.

Further, the condition of **the technical equipment in criminal institutions** allows a lot of room for improvement, particularly the recording devices used to record the actions of officers at police stations. At present, most facilities are equipped with cameras in at least some interrogation and questioning rooms. They are unfortunately not fully utilized in practice. We understand the police themselves are concerned about the legal aspects of camera use and about possibly being held accountable for their actions by an attorney. Apparently, it is also easier for the officers to record an interrogation or questioning of a survivor on paper only. The police in the field do not see any obvious benefits of recording interrogations or questioning sessions with a camera over recording them on paper. Another reason is the common practice of repeating the interrogation or questioning process with the aim of adding information and adjusting the final record. Our call for reducing the number of repeated questioning sessions is irrelevant for them. On the other hand, some police stations do use recording devices to their satisfaction. In Ostrava for example, questioning carried out by one or two officers in one room are broadcasted in another room in which it can be watched by attorneys or public prosecutors. With the help of the officers present in the first room, the attorneys are even able to ask their own questions. The person being questioned is thus spared the stress of facing an increasing number of people. Another way to keep the number of people present to a minimum is to use one-way mirrors that look like mirrors from one side and a window from the other side. This allows people in the next room to be essentially present at the questioning as well. In summary, these devices enable the participation of as many people as needed in the questioning and protect the survivor from unnecessary trauma as well as make a precise record of the process. The barriers in utilizing these methods effectively seem to be found in the willingness of the police force to actually use them when needed, rather than in installing and managing the equipment itself.

If these methods were implemented with the help of appropriate legislative provisions, **questioning the survivor only once** could become the standard protocol. The record would serve as evidence at all the stages of the criminal process including the trial. The use of recordings, or at least reports based on the recordings, as evidence in court would strongly contribute to the prevention of secondary victimization, for which public court hearings where the defendant is present are the main source. In cases, when it is necessary to expand the initial record - add details because new evidence have been found for example - the interrogation would only focus on these new facts and the survivor would not be forced to repeat the entire account. This is particularly important with survivors at-risk (details follow). To further prevent secondary victimization, a provision that **prohibits survivor hearings in front of the defendant** should be created. This provision would require that the defendant's attorney represent the defendant at this stage of the process. Current practice also suggests the possibility that, at the survivors request or on the recommendation of court-appointed

experts, the defendant need not be present for the survivor's testimony. The problem is that, in practice, the courts do not always observe these recommendations and requests.

Finally, there is the possibility of having a concealed witness and separating the witness/injured party and the defendant during court hearings. New police and court facilities are already taking this into account. In Brno, the new buildings are going to have separate corridors and separate waiting and hearing rooms, for example. Older buildings unfortunately do not meet these standards. The judge determines whether requests to protect survivors will be accommodated or not. What is more, survivors and witnesses are often not informed about these options in practice. The concealed witness provision is not utilized in cases of sexual violence. Our counseling practice shows that, even though survivors do receive some basic instruction both at the police station and in court, due to the stress they are under, they forget most of it. They usually remember they must not lie and that they can claim witness allowances. Perhaps the **survivors could receive instructions in writing** as well so that they can come back to it later when they have calmed down. They should also be given **referrals to organizations or lawyers providing legal counsel** (free or fee-based) that would help them better take advantage their rights.

Furthermore, the possibility of concealing the identity of the witness must be put in practice in cases of sexual violence. For instance, in situations when the aggressor is unknown and chooses his survivor practically at random, there is no reason why the survivor's personal information (name, date of birth, address) should be revealed to him. He may know how she looks and does not need to know more. The survivor's fear of retaliation is often justified and adding more stress is certainly not warranted. (By law, the plaintiff and the defendant both have the right to view the files but the law does not give the defendant the right to know the personal details of the plaintiff unless there is a good reason; the files also often contain intimate details of the survivor's life (sexual and family life, reports by psychologists, ...) and name and address; providing all this information to the perpetrator constitutes a great breach of the survivor's right of privacy.) The possibility of concealing their identity should therefore be stressed to the survivors while they are at the police station, and if the provision is used it should be done so with diligence. This, of course, would not block the defendant's or the plaintiff's access to the evidence, but the evidence should be safeguarded in such a way that sensitive information is not directly available. If this is not possible in practice, the content of the files would only be mediated to them.

The law could prohibit publishing information disclosing the survivor's identity when it is not necessary for the prosecution or not in the survivor's interest. Breach of this prohibition would be sanctioned by law.

The model of **cooperation between the public prosecutor and the survivor** in the legal system in the U.S.A. offers further inspiration. In Czech practice, the first time the public prosecutor typically meets the survivor is at the court. Sometimes they meet in the course of the trial preparation phase but it is quite unusual. The survivor would benefit from closer contact with the public prosecutor, particularly outside the court or the police station. The prosecutor would work with survivor, explain the criminal process and better inform the survivor of her rights. This would reduce the stress levels of the survivor and help prevent secondary victimization. Moreover, closer contact between the prosecutor and the survivor would **raise survivors' and witnesses' awareness of the law** which is a problem in the process of criminal prosecution in general. Rape survivors are extremely vulnerable and

must be protected. Appropriate legal aid must be provided not only by counseling centers but also by the state. Legal representation of the plaintiff in criminal prosecution would be a good example of the state's support.

CONCLUDING REMARKS

Our analysis identified the critical gaps in the process of addressing rape that underlie and reinforce the negative experience of rape survivors. The analysis shows that essential legal norms are in place but they are not implemented. It is necessary to foster an emphatic and well-informed approach of all the professionals who come in contact with rape survivors. Training all relevant professionals would prevent secondary victimization. Existing legal norms must be better utilized and some need to be improved. Other inadequacies are found in the successful detainment of the aggressor.

The vital issue for survivors is trust. Survivors are first violated by sexual aggressors and consequently, they are hurt by the inadequate means used to help them in their situation. It is clear that changes in the law, in the system and in awareness are not only necessary but possible so that trust in all the institutions meant to serve rape survivors is established. Survivors must believe that help is available to them whether they decide to report the crime or not. The notion that rape is an offence that is indefensible must be accepted in the entire society independently of specific institutions. For this to be true, we must carefully protect the rights of rape survivors and offer them quality help.

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