



SARA Law Research Center

International Journal of Legal and Social Order, <https://www.ccdsara.ro/ijlso>

ISSN 2821 – 4161 (Online), ISSN 2810-4188 (Print), ISSN-L 2810-4188

Nº. 1 (2024), pp. 1-10

VIOLENCE AGAINST WOMEN IN THE UNITED KINGDOM AND ROMANIA AS A SOCIAL PHENOMENON AND DEFECTIVE APPLICATION OF LAW

A.C. RATH-BOȘCA

Received 25.02.2024; accepted 03.05.2024

<https://doi.org/10.55516/ijlso.v4i1.183>

Albert Camil RATH-BOȘCA

University of Oradea

E-mail: camilend@yahoo.com

ORCID ID: <https://orcid.org/0009-0004-6815-9509>

Abstract

In today's world we observe the rise of misogyny as a social phenomenon. This rise in anti-woman sentiment is directly linked to the appearance of Andrew Tate as a figurehead for the hatred of women. Even after he was banned on most online platforms a slew of copycats has appeared to continue his evil crusade. As one head of the hydra is cut off, another one is appearing. The law, being made without the digital space in mind and not fully being operational beforehand is obviously insufficient in trying to stop this phenomenon. A dry and efficient legal analysis of the law and legal process is not enough in order for us to have solutions. Both in Romania and the UK we observe the violence being propagated and even being on a steady rise. In order to understand the "why" we must look at society through a philosophical lens. In this article the subject was the law but it was analysed under the microscope of feminist philosophy and semiotic readings of mythology.

Key words: *violence against women, Sexual Offences Act of 2003, feminism, misogyny, semiotics in legal scholarship.*

INTRODUCTION

Whenever we think about criminal acts committed against women, we may encounter many thoughts as built by different human sciences. We may think of sociological structures, we may attempt to understand the psychological aspects that give birth to the abuser and the abused. The UK and Romanian societies are almost diametral opposites at first glance. In the case of the UK, we see a liberal society that gives the impression of more inclusivity and acceptance. In the case of Romania, we primarily see an ex-soviet country that experienced turbulent

periods and still maintained a visibly traditionalist and conservative point of view. In this article we will focus on the legal and sociological aspects, also, we will use continental philosophy to understand why we still observe such a virulent growth of violence against women both in real life and in digital spaces.

I. LEGAL FRAMEWORK

When it comes to the legal framework, we must analyse the Sexual Offences Act of 2003 in the UK and Law 286/2009, also known as the Criminal Code of Romania. In both legislations we observe certain gendered aspects of how the law is applied. In the UK the act of rape can only be committed by a man¹. In the Criminal Code there are such offences as the harm brought to the pregnant woman and the foetus². For the most part, both the UK and Romania have similar laws that operate in the absence of gender. Both legal systems have similar offences. When it comes to jail sentences, we observe in England that the sentences are by far harsher³ than those of the Romanian system.

The laws in themselves do not present clear insufficiencies but we still see that in most cases women are the main victims of violent crimes in a domestic setting⁴. The real issue arises in two aspects that mostly relate to how laws are applied and how the population approaches reporting crimes. In regards to how the law is applied a few separate issues appear.

Firstly, the difficulty of proving not only rape but also proving the identity of the perpetrator. In the UK, there is a long and argues bureaucratic process, as in every country, to prove rape or sexual violence (*Nick Dawney, Kayleigh Sheppard, p.210*). Whenever one of such links fails to properly function the possibility of punishment falls apart and shatters.

Furthermore, the issue of this bureaucratic machinery that, yes, is quite steady and rigorous is also a lumbering giant with a questionable rate of success. The cold approach of all real sciences hits the irrational and twisted forms of the human brain, be it the mind of the legislator, a prosecutor or a policeman. In England and the UK at large only about 4 to 11% of rapes that were reported ever resulted in any sort of conviction⁵.

¹ Sexual Offences Act of 2003, para. 1, (1). Rape is defined as an act of penetration with the use of the penis. By this definition we can assume that for the most part only men can be the perpetrators of rape.

² Codul Penal art.199 and art.200 define the crimes of abortion and damages brought forward to the foetus. In most cases only a woman or her newly born child can be the victim of such actions.

³ While in Romania a person found guilty of rape may serve between 3 and 10 years, in the UK the sentence would be lifelong imprisonment.

⁴ <https://www.ncdv.org.uk/domestic-abuse-statistics-uk/>. Even if by some metrics men are the principal victims of violent crimes, the women tend to be the primary victims of domestic abuse and sexual violence.

⁵ *Idem*, p. 222

VIOLENCE AGAINST WOMEN IN THE UNITED KINGDOM AND ROMANIA AS A SOCIAL PHENOMENON AND DEFECTIVE APPLICATION OF LAW

The second aspect that is more so relating to the UK is the high percentage of policemen involved in violent actions against women. The most recent data shows that an estimate of 1500 policemen were perpetrators of violence against women⁶. Out of the 1500 an estimate of 10% were the subjects of any further investigations⁷. Even if the data in itself is considered insufficient by the authorities, the mere idea that such a big number of policemen are even suspected of committing violence of a sexist nature is concerning.

This doesn't only create an unsafe environment for women that may wish to report any type of violence that they were the victim of, but it also creates a barrier between the initial complaint and the creation of an actual investigation. In both countries⁸, the vast majority of violent acts against women, be it rape or any forms of physical or mental aggression were perpetrated by family members. This gives birth to the issue in how such crimes may be reported. If the woman is financially dependent or afraid to talk about their experiences it will be virtually impossible for her to report to the police or in some cases even to admit that she is a victim of domestic abuse.

In general terms, rapes and domestic abuse tend not to be reported in either country. In 2019 Romania was the country with most people believing that non-consensual sex can be sometimes justified, furthermore, 23% of respondents believe that women gravely exaggerate rape allegations and that any domestic abuse is a family matter that should be solved internally⁹. The UK has reached a new high in regards to the amount of rapes reported, as previously stated this is a grandiose issue. If not all rapes are reported to the police then how many instances of such vile acts happen in reality, both in Romania and in the UK¹⁰.

II. SOCIOLOGICAL FRAMEWORK

When it comes to the societal aspects of this issue, we have in front of two extremely different cultures existing almost in a perfect antonymous relation *prima facie*.

Observing Romania, we notice a more traditionalist and conservative society that has had a great deal of progress when it comes to women's rights, in an ironical twist of faith, under the repressive communist regime (*Claudia Florentina Dobre, p.43*). In the case of the UK, we observe a society that has started an irreversible process of secularisation starting in the 1960's with the

⁶ *Tackling Violence Against Women and Girls – Policing Performance and Insights Publication*, released by the NPCC and College of Policing on March 2023, p. 6

⁷ *Ibidem*, p.7

⁸ <https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/bulletins/domesticabuseinenglandandwalesoverview/november2022>.

⁹ <https://www.gds.ro/politica/europa/2019-08-07/romania-pe-primul-loc-in-ue-in-cazul-violurilor/>.

¹⁰ <https://www.bbc.com/news/uk-62258162>.

Christian population slowly decreasing and more materialist and liberal values taking a hold of societal functions (*Sam Brewitt-Taylor, p. 326*).

The UK has a long history of feminist actions starting with the Suffragettes and going on today with the push for LGBTQ rights and MeToo. Even if such pushes are historically important and a necessity in order to diminish the violence women have to endure the progress was slow and gruelling.

In the case of Romania, women have gained equal footing with men when it comes to the right to participate in the economical, political, social and cultural life of the time. Even with this social leap, the fundamental issues faced by women did not disappear overnight. In contemporary times, we have two different paths taken for the purpose of emancipating women, both have proven effective only to a certain degree (*María Paz Bermúdez, Montserrat Meléndez-Domínguez, p. 380-385*). It is still a disturbing occurrence that even after numerous advancements women still don't have the plenitude of freedoms awarded by society to men.

We may be able to find some semblance of clarity in the work of Simone de Beauvoir, specifically, her book, *The Second Sex*. In this book, she presents the issues that were faced by women historically utilizing psychoanalysis, historical materialism and all other tools at her disposal in order to properly understand the struggles of women both academically and phenomenologically. She does not present the woman as a metaphysical category or as an easy to define biological construct, her analysis is more so a comprehensive look for the time at the psychoanalytic, historical, biological and dialectical dimension of women all through a phenomenological lens.

She dismantles the proposition made by Friedrich Engels. In the conception of Engels, before the discovery of metal, women would work with men in the gathering of resources. After the dissolution of tribal family formations in antiquity, the woman became secondary to the labour and endeavours of the man. Her role was to raise children, prepare food and rule over the dimension of domestic duties (*Simone de Beauvoir, p.84*). Ultimately, de Beauvoir admits the insufficient nature of the material dialectic in understanding the role of the woman, deeming it a useful but insufficient tool.

She also dismantles the ideas that at the time were taken for granted in the 20th century. Both Freud and Adler considered the patriarchal model just as a natural occurrence of human existence (*Simone de Beauvoir, p.69*). They have deemed the female faith as a tragedy, a woman is stuck between the rebellion against patriarchy reaching a "viriloid" form that may be unappealing to the male or to succumb and be feminine as she is "expected to be" (*Simone de Beauvoir, p.70*). Even so, she still finds some usefulness in the conceptions that many psychoanalysts have articulated in regards to how men exist. Mainly, the idea that sticks with de Beauvoir is the nature of women being *the Other*, but she makes it clear that there is no clear reason as to why (*Simone de Beauvoir, p.102*).

VIOLENCE AGAINST WOMEN IN THE UNITED KINGDOM AND ROMANIA AS A SOCIAL PHENOMENON AND DEFECTIVE APPLICATION OF LAW

As she discusses the role of women in antiquity, she reaches a synthesis of all three aspects initially dismantled. In the discovery of new tools made of metal and tailored to men's physique, women were left behind in the field of labour. This first factor combined with the different thought patterns that women unavoidably created as a subjugated class resulted in the start of her oppression.

All three aspects, the biology of women, the psychological position as the other and the exclusion of women from the labour force has resulted in her not being included as equal since the times of Sumerian and Roman mythos (*Simone de Beauvoir, p.102*). Even before any written law the woman was made to be a secondary aspect of men, never the subject, but the adjective to a man's needs and wants (*Simone de Beauvoir, p.104*).

Women held an ambivalent and paradoxical place in society, both as the necessary for furthering the species but also seen as "imbecilic" in the Roman codes or the doorway of the devil in Canon law (*Simone de Beauvoir, p.105*). This state of affairs will continuously be perpetrated until the current times, be it in lesser or more hidden manner.

With this information, we can re-evaluate the idea of Romania and the UK being antonyms when it comes to the way women are treated. We can observe the fact that they are mostly 2 sides to the same coin. Even if there was obvious progress which lessened the violence against women, be it in a sudden event or by a slow-paced fight, the fundamental status of women did not change. Women, in a subconscious manner have remained secondary.

This perpetuated secondary nature creates the conditions for women to be the main victims of domestic violence, of an authority that is being societally challenged by a gathering of *others* uniting in solidarity.

III. ANDREW TATE AND MESSIANIC MYTHOLOGY

To further problematise what was said and add a new layer, we must look at the digital dimension of humans. Before the internet humans had 3 melding and intermingling dimensions: the physical, the intellectual and the emotional dimensions. The internet has added a fourth dimension that is superstructural in nature. It could elicit harsh reactions of all other 3 dimensions. We may feel physical disgust at what we see online, we may feel great anguish or happiness or we can be drawn in intellectually or repulsed by information.

A bizarre phenomenon that appeared primarily out of the digital spaces but has become a real threat to most European societies are incel communities. Incel is an abbreviation for involuntary celibates. Such people have gathered in online spaces under the veil of anonymity in order to bemoan their hardships in finding not only a suitable partner, the lack of community that the modern man seems to be suffering from. Such people have created a culture of their own with rules, hierarchies and of course mythology. Such communities are a den of impenetrable

nihilism with no logical exit other than the death of the believer or violence against the other. Such ideals are typical of suicide cults¹¹. Under some unspeakable circumstance, tragedies such as mass shootings are born out of these communities. The infamous case of the Isla Vista killings is one example of what can be defined an incel has come into the real world and resulted in 6 deaths, 7 when counting the suicide of the perpetrator, Elliot Roger¹². The man himself became a hero in incel communities.

In this closed circuit a new figure has arrived in the digitalised global subconscious, that is Andrew Tate. Regardless of what any person may think of the man himself we are still talking about a person with immense amount of influence¹³ and quite vile and virulent messaging. This man became almost a messianic figure to all the various incel communities. He represented the perfect male fantasy of having physical power, social status, copious amounts of money, luxury items and women`s attention. This image is digested as it comes by the media and by most people, but it comes with a secondary meaning.

Roland Barthes in his book *Mythologies* uses the science of semiotics to explain how mythology is created and how to analyse anything from this angle of myth, he talks about wrestling as a theatrical performance (*Roland Barthes, p.13*), in the analysis of detergent he concludes that linen is deep (*Roland Barthes, p.36*).

This is an important tool in our quest to understand how and why violence against women is still perpetrated. The way mythology is described by Barthes is as a tri-dimensional structure¹⁴. A myth is constructed from the signifier¹⁵, the signified¹⁶ and the sign¹⁷, but the terms gain and loose value along the equation. In the first reading of a myth, we are doing the basic semiotic interpretation, in the secondary reading the sign itself becomes a signifier. Another way of understanding this concept is skipping stones on a lake, a stone is thrown and it will jump off the surface of the water a few times. Progressively, the circles it

¹¹ *A Study of Religious Obedience*, by Winston Davis published in *Nova Religio: The Journal of Alternative and Emergent Religions*, Vol. 3, No. 2 (April 2000) describes the many facets of the Heaven`s Gate cult. There are striking similarities regarding the way incel communities gather around ideals personified by charismatic sexist gurus and the way adepts of the Heaven`s Gate cult operated. In both scenarios there is the use of linguistic tricks and games to mask the real meaning, there are clear hierarchies and beliefs constructed on pre-existent concepts but rehashed in a short-circuited manner, making them useful tools for what may be called brain washing.

¹² <https://www.bbc.com/news/world-us-canada-43892189>.

¹³ <https://www.euronews.com/culture/2022/12/28/actors-scammers-criminals-who-were-the-most-googled-people-of-2022>. In 2022 A. Tate was the 8th most searched person according to data provided by Google.

¹⁴ Roland Barthes, *MYTHOLOGIES*, The Noonday Press - New York, Farrar, Straus & Giroux, 1991, p.113

¹⁵ The signifier is any physical thing that signifies, such as a picture or a word on a page.

¹⁶ The signified is the concept indicated by the signifier.

¹⁷ The sign is the smallest possible unit of meaning, such as a later or a corner of a painting or picture.

VIOLENCE AGAINST WOMEN IN THE UNITED KINGDOM AND ROMANIA AS A SOCIAL PHENOMENON AND DEFECTIVE APPLICATION OF LAW

makes get smaller until the rock sinks. In this manner, we can use this system to reduce the myth of A. Tate to its practical conclusion.

If we are to think of A. Tate as a messianic figure to communities of incels he is the Signified of the first semiotic analysis, the Signifier for incels is the attitude he presents in any form of media apparition, a brash and uncaring demeanor of the typical brute. The Sign is the language and aesthetic he indulges in, this specific mixture is appalling as a whole to society. The first semiotic reading points that the language A. Tate uses is the thing that gives incels the messianic call to rally around him. On a second semiotic reading the language becomes the mere Signifier, the Signified is the messianic figure and the Sign is the fundamental reaction from civil society. A short-circuit happens in the second semiotic reading, the language used by A. Tate is sometimes codified in order to make it palatable or it's also divided in its consistency ¹⁸.

He never is clear in regards to his beliefs, in some interviews he claims to joke, in some interviews he openly praises misogynistic points of view. This ironic and flimsy attitude is a veil of self-protection, it's a method to claim plausible deniability. If the man cannot be decisive in his stance of either being a misogynist or just being an edgy entertainer, it shows a lack of ideological and personal security. With the new added information, we must go back and modify the first semiotic reading. If the Sign of the first semiotic reading is insecure language that is appalling to the majority of people, then the Signifier becomes the insecure machismo and the signified becomes an insecure messianic figure. In this insecure messianic figure, insecure men and young impressionable children can find their idol.

IV. THE SYNTHESIS OF THE LEGAL, FEMINIST AND MYTHOLOGICAL ANALYSIS

Now that we have embarked on a journey to analyse the law that in theory protects women but in practice still has major failures for various reasons, we have looked at a feminist analysis of the way women are viewed by society as a secondary class and have dismantled the mythology of modern-day sexism we can finally synthesise the ideas to come to some resolutions.

We must go back to look at the Sexual Offences Act of 2003. Section 1 of the law specifies that rape is the act of penetration with a penis, hence, only man can be the perpetrators of such crimes. This in itself should not raise suspicions as in the second section there is the crime of assault by penetration ¹⁹ which is virtually identical except for the necessity of the perpetrator to have a penis. If we

¹⁸ <https://www.bbc.com/news/uk-64125045>. On occasion he may self-identity as a sexist, for another interview he may just claim that he thinks that "misogyny is a hateful ideology that cannot be tolerated"

¹⁹ Sexual Offences Act of 2003, section 2

are to glare at these differences through the lens of women as secondary to men, we can assume that this is not a measure to protect women, it's a silent declaration of the "natural right" (*Simone de Beauvoir, p.105*) of the man to be so cruel. In a semiotic reading the law works as signifier, the sign is the gendered concepts and the signified is the concept of rape. When going to the level of mythology rape, as it is defined in the UK, becomes a dark possibility of the male indulging in his violent libidinal expression. By both analysis we can now realise a hidden truth, as reflected by law, that only men are allowed to develop such violent tendencies as to become rapists.

In the Romanian legislation we don't observe such semiotic finesse but we still see the paternalistic urge of the legislator. It harkens back to the idea of women being secondary and not being able to fully live as subject, but only as the object or the other. It is the other that must be kept in parameters in order to remain subjugated. Even if the intention in itself is good, to protect the perpetuation of life, the form does not fit society. Abortion in Romania is not a form of progress or emancipation, it's the result of a trial and an error in the communist era. The cruel reality is that Decree 770/1966 banned abortion, instituted regular gynaecological checks for women to prove pregnancy. The most intimate of dimensions was invaded²⁰. Immediately after the fall of communism the abortion ban was lifted, but the fundamental social stigma of abortion was never whipped from the social subconscious²¹.

CONCLUSION

We have sadly observed that in both countries there are deep seeded tendencies that encourage the violence perpetuated against women on the basis of their womanhood. Even if the laws are made with the best intentions and the lawmakers truthfully had the protection of women as the goal, the fundamental structures and social perceptions we hold from time immemorial will keep women as the secondary class to men. Unless both societies are ready to deal with the inner subconscious perception of womanhood and approach to law making the status of woman will not exceed the otherness or the objectified status. Even Simone de Beauvoir agrees that the status of women in the 1950s has improved there are still issues today. Both in the UK and Romania the emancipation of women was done in a contextual manner in the absence of clear analysis or purpose. It was a concentrated effort on the part of women but it was not sufficiently well implemented in order to achieve a fully ethical and non-aesthetic liberation.

²⁰ <https://historia.ro/>.

²¹ <https://www.npr.org/2021/09/01/1021714899/abortion-rights-romania-europe-women-health>. In current times, Romania has started to be affected by the pendulum's wing of anti-progressive formations, mostly funded by U.S. think-tanks. Due to this new dynamic a relatively simple procedure like abortion is becoming harder and harder to obtain.

VIOLENCE AGAINST WOMEN IN THE UNITED KINGDOM AND ROMANIA AS A SOCIAL PHENOMENON AND DEFECTIVE APPLICATION OF LAW

This is a task of herculean difficulty but it is necessary for women to be enabled to become masters and subjects of their own faith if we ever wish to achieve equity in living.

BIBLIOGRAFIE

1. Claudia Florentina Dobre, *Comunismul și drepturile femeii*, Revista Memoria, nr. 68-69 (3-4/2009);
2. Criminal Code of Romania;
3. Domestic Abuse Act of 2021;
4. <https://historia.ro/>. Accessed on 20.10.2023;
5. <https://www.bbc.com/news/uk-62258162>. Accessed on de 20.10.2023;
6. <https://www.bbc.com/news/uk-64125045>. Accessed on 20.10.2023;
7. <https://www.bbc.com/news/world-us-canada-43892189>. Accessed on 20.10.2023;
8. <https://www.euronews.com/culture/2022/12/28/actors-scammers-criminals-who-were-the-most-googled-people-of-2022>. Accessed on 20.10.2023;
9. <https://www.gds.ro/politica/europa/2019-08-07/romania-pe-primul-loc-in-ue-in-cazul-violurilor/>. Accessed on 21.10.2023;
10. <https://www.ncdv.org.uk/domestic-abuse-statistics-uk/>. Accessed on 19.10.2023;
11. <https://www.npr.org/2021/09/01/1021714899/avortion-rights-romania-europe-women-health>. Accessed on 20.10.2023;
12. <https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/bulletins/domesticabuseinenglandandwalesoverview/november2022>. Accessed on 21.10.2023;
13. Law 217/2003 For the prevention of Violence Against Women (RO);
14. Sexual Offences Law of 2003;
15. María Paz Bermúdez, Montserrat Meléndez-Domínguez, *Epidemiological analysis of gender violence in the European Union*, *anales de psicología / annals of psychology* 2020, vol. 36, nr. 3, Servicio de Publicaciones de la Universidad de Murcia, Spain;
16. Nick Dawney, Kayleigh Sheppard, *From crime scene to courtroom: A review of the current bioanalytical evidence workflows used in rape and sexual assault investigations in the United Kingdom*, *Science & Justice* 63 (2023) 206–228, School of Pharmacy and Biomolecular Sciences, Liverpool John Moores University, Byrom Street, Liverpool L3 3AF, United Kingdom;
17. Roland Barthes, *Mythology*, *The Noonday Press - New York*, Farrar, Straus & Giroux, 1991;
18. Sam Brewitt-Taylor, *Notes toward a Post secular History of Modern British Secularization*, *Journal of British Studies*, Volume 60, Issue 2, April 2021;

19. Simone de Beauvoir, *The Second Sex*, Jonathan Cape Publishing, London, 1956;
20. Tackling Violence Against Women and Girls – Policing Performance and Insights Publication, published by NPCC and the College of Policing in March 2023;
21. Winston Davis, *A Study of Religious Obedience*, *Nova Religio: The Journal of Alternative and Emerge*.



This work is licensed under the Creative Commons Attribution-NonCommercial 4.0 International License.