

## PRONATALIST OPERATING PROCEDURE IN COMMUNIST ROMANIA. A FEMICIDE CASE

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### ABSTRACT

The paper analyses the abusive practices against the safety of women's life used in the Romanian state in the period 1966–1989 within its pro-natalist policy management. In those 23 years, an yet unknown number of women brought to the emergency medical services with miscarriage or self-inflicted abortion died as a result of obstruction of medical intervention by the investigative bodies belonging to the state security department (i.e. *Securitate*). Another yet unknown number of women died or their lives were endangered as a results of the abusive decisions of the so called “Medical Evaluation Comissions” that have rejected in their cases the medical recomandation for legal abortion, although their health condition would have been demanded it. The phenomenon has so far remained unstudied, both in terms of the consequences and magnitude, and institutional or decision-making accountability. The article includes the conclusions of a qualitative research on the abusive practices experienced by women with health risks in case of a pregnancy or in a life-threatening danger as a result of miscarriages or self-inflicted abortions.

**Keywords:** *Romanian communist pronatalist policy, communist regime in Romania, Securitate, femicide, abortions.*

### INTRODUCTORY ARGUMENT

In 1966, by the Decree No. 770, the Romanian Government under the communist regime had declared the termination of the pregnancy (except for five special conditions provided by the law) misdemeanour, punishable by imprisonment up to 3 years under the Penal Code (Article 185). More than three decades after the law was abolished, the literature provided a consistent set of

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studies about the pronatalist policies in communist Romania showing the extent of the self-induced abortions and illegally termination of pregnancies performed in improvised and improper conditions, indicating the large number of women who have died as a result of wounds, haemorrhage or infections caused by inappropriate abortion procedures. (Doboş 2010, Beta 2004, Deletant 2016, Massino 2019, Shapiro and Shapiro 2015)

But the Decree No. 770 had more types of victims, some of them less visible. Our paper approaches another side of the dangerous effects on women's lives and health brought by this law, not focusing on the social effects generated by what the Decree forbade, but instead on the consequences from the legal operating procedure itself.

The law did not affect only women who chose the termination of their unwanted pregnancies (by self-inflicted abortions or by agreeing to perform curettage in precarious medical conditions), but also exposed the women with miscarriages, whose lives were put in danger by a legally biased approach of any obstetric problem as an a priori suspicion of a crime. The common practice was that, once the women arrived at the hospital in precarious medical condition with miscarriage to undergo interrogation before being medically assisted, in order to force a self-denouncement (admitting self-inflicted abortion, or the intervention of a clandestine midwives), and get a quick confession scene. The practice was established by the Article 6<sup>th</sup> of the Decree No. 770. The Article constrained the doctors confronted with the cases of women arriving at the emergency room with pregnancy problems that endanger their lives, to notify the prosecutors before performing the medical intervention and wait until the investigation is complete. The article stated: "In cases of extreme medical urgency, when the termination of the pregnancy must be performed immediately, the doctor has the obligation to ask for the prosecutor, and when it is not possible, to notify him in writing within 24 hours from the intervention, who is to ascertain, on the basis of the forensic doctor's opinion and any other data, whether the intervention for the interruption of the course of the pregnancy was necessary".

Another category of women the Decree No. 770 exposed to severe risks and death were the women with health problems, whose lives were threatened by pregnancy. Those women were often left to a hazardous decision from a very often biased commissions of medical evaluation. According to the Decree, the abortion procedure was legally permitted under six circumstances, three of them corresponding to medical conditions: if the pregnancy threatened the life of the pregnant woman (fact that had to be concluded by the medical evaluation commission), in the case of a congenital defect, or if the pregnant woman had severe physical, mental, or sensorial disabilities. The other three circumstances were one legal (if the pregnancy was a result of rape or incest) and two social (if the woman already had minimum four children, or she were older than the age of 45). Our research covers only the experience of women whose pregnancies were

life-threatening for medical reasons, and the lack of accountability related with the legal procedures made them victims of corruption and remoteness of the authorities regarding their sufferance or fears. The women in situations exempted by law were not automatically in a state of medical protection, but were left to the discretion of an apparatus that did not always act responsibly and rightful, according to its own ethical criteria, and instead gambled with their safety.

### CONCEPTUAL REMARKS

The purpose of our research was to deepen the knowledge about this chapter of Romanian social history, by accessing the memory of the women who directly experienced the abuses related with the legal procedures of the communist pronatalist policies. We approached their personal testimonies using a theoretical perspective that integrates the concept of *femicide* as analytical category, and we will explain below why.

The quantitative studies have shown that between 1966–1989 the overall mortality in Romania from unsafe abortion had reached 147 deaths per 100 000 birth, more than double than before the abortion was restricted. (Horga et al 2012, 2) It was estimated that 87% of all maternal deaths from these 23 years were caused by abortion, Romania constantly recorded in that time the highest maternal mortality among European countries. (Hord, 1991) Researchers on the topic estimated that during the two decades and a half the pronatalist law was effective an absolute number of 10 000 women died from post-abortion and miss carriage haemorrhage and sepsis. (Deletant, 2016) This number includes not only the women who died after abortions at home or in clandestine and improvised obstetrics clinics, but a consistent segment of women brought to the emergency room of the hospitals, that could have been saved if the medical intervention would have been promptly, without the delays introduced by the investigation procedure.

Both in terms of the extent of the consequences and their severity, the implementation of pronatalist policies during the communist period in Romania falls into the class of femicide phenomena. The concept of *femicide* indicates the killings of women, drawing attention to conditions, factors or social actions that produce exclusively or predominantly female victims. (Radford and Russel 1992, Kramare and Sender 2004, Weil and Corradi 2018) The case we discuss in this paper supplements the range of types of femicide, falling into the category of femicides generated and fueled by state action, through decisions, normative frames, institutional behaviour, and patterns of social intervention.

The femicidal dimension of this pronatalist operating procedure originates in a complex of social attitudes and patterns of ossified social behaviour that epitomise the quality and the nature of the consolidated relations between the state apparatus and the citizens, the public policy representing only a context for this

social relational content between the state administration and the civil population to come into prominence. We are talking about femicide in this case, not because the law itself has explicitly aimed to commit crimes against women, but because the legislative framework provided an opportunity window in which an institutional approach on women, and their needs, vulnerabilities, rights, and sense of dignity was revealed and become visible.

#### METHODOLOGY AND ETHICS

The objective of the research was to describe and to study the factors of social pressure that led to the abusive decisions affecting women with health conditions or in need of emergency care, in the context of the pronatalist measures taken in communist Romania during 1966–1989, using the information provided by the victims or other types of witnesses (spouses or other family members), in order to reconstruct the image of one traumatic episode in the recent history of Romania. Considering the fact that the occurrences of this particular thematic content in the official documents or in the sources recording the social memory is poorly represented, and the topic did not exceed the exploratory stage, we considered the method of qualitative research through semi-structured in-depth interviews the best methodological option for our investigation.

We opted for semistructured in-depth interviews based on the two-component advantage provided by this methodological frame. The *structured* dimension allowed the exploration of the thematic content through a set of focused topics, facilitating the comparisons between types of social contexts and factors and the analytical extraction of the main features and patterns of social interaction investigated within the research. The *in-depth* dimension gave us the opportunity to be flexible in the approaches used to explore the topics, and to have access to the feelings of the subjects and to their perceptions and memory content, exploring more deeply the thematic points. Using an open-ended interview guide we were able to explore the subjects' special understanding on events and circumstances that affected their lives and read the meanings behind these social experiences. (Arksey and Knight 1999, 4)

Within the interview guide we included several thematic points: the pattern of interaction between women and the commissions of evaluation, or the investigators, the social atmosphere of these interrogations and how they were conducted, the attitude and the profile (both human and moral) of the officers put in charge with this mission, the traumas and fear felt by the woman or her family, the consequences of the decisions taken by the "evaluators" for the women's health and safety.

During 2012–2020, we had conducted twenty research interviews structured under the following typological scheme:

- Seventeen interviews were conducted with women victims of abuses from the executive apparatus assigned with pronatalist policy tasks, of whom: eight with women having medical conditions admitted for legal abortion by the law, five with women that suffered miscarriage and four with women that suffered complications after self-inflicted abortion.
- Three support interviews with family members (one husband, one sister and one mother) of women deceased in the hospitals after birth, miscarriage, or abortion.

We had established the number of the interviews according with two methodological requirements: extracting of rich data and reaching a quasi-saturation of the information provided by the subjects (Guest *et al.* 2006), and therefore achieving a reasonable level of understanding and knowledge on the topics of study.

The respondents were mainly women (nineteen women and only one man) with the age between 59–82 years old. They were selected mainly from two locations, each with a distinct profile: Bucharest (the capital city) and Tulcea (a medium size city, located in the Eastern part of the country), in order to allow potential comparisons and to identify possible different patterns of institutional conduct (hypothesis that has not been confirmed by the results). The interviews were conducted face to face, in a friendly personal environment, the meetings with the respondents involving lengths of minimum three and up to six hours. Given the emotional content associated with the research topic, we used the help of private facilitators for accessing the women or family members eligible for our research, which ensured the transfer of trust to the researcher, so that a close personal contact had been established with each interviewee.

The interviewees were correctly and completely informed about how the information they provided will be integrated in the research analysis and in the dissemination papers, and the researcher had assumed the protection of the interviewees' identity and personal data. The interviews were freely agreed, in full compliance with the research ethics and deontological requirements.

## MAIN FINDINGS

The image of the last decades of communist regime, as it was sketched through the memory of all twenty interviewees, is a land of the unprotected. The hazard is the one who writes the fate of the people left outside of a predictable and responsible system of solutions to their needs and difficulties.

Romanian society, like any social place that has not developed yet a real regime of *rule of law*, based on functional rules and not on the balance of power

between the networks of influence in society, is hall-marked by a *politics of privilege* (Bossenga 2002), the communist regime (ironically, if we are judging by his own ideological narrative) reaching perhaps the highest level of social stratification in classes of privilege. As Bossenga highlights, a social order splited by privilege is both easy to theoretize and identify, the content of the concept being indicated in its lexical semantics: “the world privilege” he says “stemmed from the Latin *private laws*, that is, laws allowing members of one particular group or territory to enjoy advantages that others did not possess.” (Bossenga 2002, 5) The communist regime did not had officialised this status quo in the society, but embraced it as a valid social principle and facilitated its installation as *de facto* rule at the informal (unwritten law) level of all institutional processes and interventions in the society. In communist Romania, a wide range a social sub-categories were empowered with the function of *granting access*: acces to the resources, to the consumer goods, and to the solutions for various social needs. “*Knowing someone*” was (and in some degree it still remains) the golden formula of any individual solution in a society organised in the logic of multistratified layers of privileged.

What the Decree No.770 did was to drag a very personal dimension of people’s life in this logic, exposing it to the arbitrary system of power exerted by some new constituted social structures and rules for *granting access*. What have in common all the individual cases brought in our attention through the interviews is “*not knowing someone*” social condition, thus remaining those among whom the social effects of a system that does not include and do not address them are randomly discharged.

Both the women brought to the emergency rooms in desperate situations, threatened with both death and imprisonment, as well as those who pass through all the legal steps for gain the acknowledgement of the fact that their medical condition is incompatible with the pregnancy, were not among the women who had the opportunity to intervene through channels of influence, above the rules, for solving their problems.

One of the main findings we had extracted from the interviews was how the corruption of the members from the medical evaluation commissions, or from the medical staff, had indirectly affected the life and the safety of the women without the social contacts with possiblity to intercede in their favour.

The Decree No. 770 operation procedure stated that the abortion recommendations from specialty physicians needed to be approved/authorized by a committee of doctors and security officers, called “Medical Evaluation Comision”, established by the Article 5 of the Decree, an institutional body whose members were appointed by one of the two main networks of power and influence in those decades: the Romanian Communist Party and the State Security Department (*Securitate*). The membership in these commissions automatically implied the openness to assume and fulfill the requests coming through the networks of influence that contributed to the appointment of the members. The Medical

Evaluation Commission were, therefore, an inevitable corrupt decision-making body, being part of what social theorists have called *executive sub-apparatus*, i.e., structures integrated in and derived from a consolidated system of state administration, with its own institutional logic, its own corpus of representations, approaches and behavioural patterns of relations with the population over which it exercises its functions, and its own informal but ossified system of internal privilege distribution. (Gordon and Dear 2021)

At the request of the networks of influence in the county, the “Medical Evaluation Commission” had to cover a consistent number of medical files abusively approved, without any real medical reason for an exemption from pregnancies and giving birth, and one practice used to cover this unjustified high number of falsified files was by rejecting a quasi-equivalent number of valid cases, thereby gambling with the life of random women that could have been saved.

This was the case of one woman we interviewed. She suffered from a severe form of congenital myopia, falling into the category of women exempted from the abortion ban. The woman was in the risk of ending up with dystrophy, bleeding, and permanent disability. In her medical case, the trauma was usually caused by high physical mobilization, that being the reason that she was completely forbidden to give birth. Despite the evidence and a solid medical record that covered all three types of exemption for medical causes provided by the law, the Medical Evaluation Commission rejected her case as proofless. The woman gave birth to a severely disabled son, and her state of health deteriorated at birth, remaining blind of one eye.

This vulnerability condition was recurrent in other two interviews, in one of the cases, the young woman (21 years old), having a congenital heart defect, had died at birth from the high blood pressure. The mother presented to us the episode of rejection of her file by the Medical Evaluation Commission, highlighting the mocking and the unprofessional attitude from the members of this commission, epitomised in the statement “*you don't look sick at all*”.

In the Romanian communist regime, the abortion ban was accompanied by the lack of contraceptives on the market, their distribution being restricted to the clinics and hospitals. Similar with the process presented above, the distribution of contraceptives repeated the pattern: although these contraceptives (mainly intrauterine devices) were brought to hospitals for use mainly by women whose lives were endangered by a pregnancy, they were usually distributed by corruption to the women connected to social influential networks, leaving exposed to the health risks or death a significant number of women who needed them for their safety.

The femicidal circumstances were not entirely the results of the mechanism of corruption, a substantial contribution to this systemic vulnerability for women being played by the terror. The social atmosphere of terror in a society are not always a result of the physical and direct acts of violence, but more often is generated by the level of the structured violence exerted at the societal level through the institutions and the normative codes. (Galtung 2004)

The randomization of the women's exposure to life-threatening risks had been enhanced by the co-optation of the investigation bodies, and especially of the State Security department, in the management apparatus of the pronatalist measures. The terror installed in the society was fueled by the involvement of the Security in the inquests, even though, conforming the 6<sup>th</sup> Article of the Decree No 770, the prosecutors were the only investigative body indicated. In the practice, the state security officers and not the police were in charge of handling the identification and the inquire of women who were suspected of violating the abortion ban law. More than half of the women interviewed stated that instead of prosecutors, the state security officers were the ones taking the decisions in the hospitals regarding the medical intervention in case of miscarriage, genital bleedings, or sepsis, and they were also the ones giving the approvals and rejections in the medical evaluation commissions.

The security officers fueled in society a state of permanent denunciation, causing women with miscarriages and genital haemorrhage to be treated as criminals. Three of the women that accepted the interview recalled the psychological violence and intimidations they were exposed in the inquires that took place in the hospital. The pattern of the interrogations was similar to that of the investigation under torture, the officers acting for obtain a forced extraction of confessions, or of accusations of doctors or midwives, inducing fright in the investigated women by letting them to feel that they will be left to die if they not confess.

In the case of one woman we had interviewed, who received the approval of the medical commission for legal abortion, the curettage was not correctly performed by the doctor, and after the termination of the pregnancy she had hemorrhage and had to return to the hospital in the next day for another curettage intervention. In her case, the doctor performed the intervention immediately, without consulting the prosecutor, knowing that the woman had the official approval given by the medical evaluation commission. The woman had recounted that after two weeks from this incident, she received a summons at the state security department regarding a criminal investigation into her for illegal abortion. Coincidentally, the investigator was the security officer who chaired the commission that evaluated her medical file and granted the exemption. The woman recalled that the criminal investigation opened into her was based on information provided by an informer from her social environment, who had denounced her based on the assumption that she had an abortion, without knowing her medical condition and the fact that she had a legal abortion.

The example mentioned above clearly reveals the direct and fast connection between the State Security department and the networks of whistleblowers in society, and their active role in the "witch hunting" of the women starting from any external clue that could indicate that they violated the Decree. Two cases of women deceased by hemorrhage because of the interrogation conducted before the emergency medical intervention are included in our research. The depositions of



the family members described a timorous medical staff, unable to impose the correct order of priorities against the prosecutors or state security officers. The medical staff was required by law to cooperate with the investigative bodies, being forced to violate medical ethics regarding doctor-patient confidentiality. Obstetric and gynecology doctors and nurses were the most controlled and supervised from all medical professional body, the atmosphere of extreme pressure being managed well either by the doctors with high professional probity, or by the doctors who have agreed to become collaborators of this system.

Through the 6<sup>th</sup> Article of the Decree No 770, the law had established a context of major pressure on doctors and had induced a conflict between the precepts of medical ethics and the professional and personal security of the healthcare personnel, who were exposed as well to arbitrary assessments from the prosecutors and security officers and to self-interested vendettas from institutional whistleblowers. In the interviews conducted are mentioned only one case of an obstetric gynecology doctor that opposed to the practice of interrogate women in life-threatening medical conditions. The two women that mentioned the doctor recalled that he was disciplinary transferred in another city under the pressure from state security department of that county.

#### CONCLUSIONS AND CLOSING REMARKS

The social effects of the pronatalist policy in communist Romania are far from being entirely studied and understood. A deep comprehension of the levels of control and social pressure exerted by the infernal state apparatus, through its state security departments (the infamous *Securitate*) and their ubiquitous network of whistleblowers, and its involvement or influence in the functioning of the evaluation commissions in charge with attesting the medical condition of the women and granting the exemption, or in the decisions taken by the prosecutors, requires a massive investigation of the social memory of that time, for revealing how the corruption and the lack of responsibility of the executive and decisional chains involved in the management of the individual cases has generated casualties. Unfortunately, the time window for the data field collection related with the social memory of the women victims of abuses, and of other types of witnesses, is a narrow one, given the fact that 33 years had passed since the fall of the communist regime and fewer women with a direct experience are still alive today.

Our research aimed to highlight some categories of victims of pronatalist operating procedures that have not been so far an explicit topic of researches, and to reconstruct an episode of social history in Romania, by accessing their social memory and testimony on aspects they witnessed directly. Finally, the research aimed at critically expose the official narrative in relation with the social reality experienced by the victims. Our research effort has been to enrich our knowledge

of the subject and to extract and preserve a sample of the living memory on a particular historical period.

One important conclusion drawn from the research is that a public policy should not and cannot be analyzed in accordance with its declared narrative, but in relation with the specific profile of the socio-political system that put it into practice. The operating procedures associated with a policy management and the way they are functioning, are an expression of the way the state administration perceives and internalised its own citizens, an image of the socio-political behaviour of elites. The femicidal character of the communist pronatalist policy in Romania derived from an unethical approach of the state administration. The fact that the policy intervention in a specific dimension of the women's lives (conjugal life and maternity) is left to a hazardous management has its roots in the absence of the social consideration for the "unprivileged" populations, who lacks the connections with the influential strata of society, the only one who can ensure the protection of personal rights and dignity of people in an oligarchic multilayered dictatorship regime.

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