

Juste Une Gifle? (Just One Slap?)

Patrick Navaï : You are a lawyer and you wrote *Juste Une Gifle? (Just One Slap?)* a French creative non-fiction about Katya, an accountant in her thirties and mother of baby Zoe. Katya and her daughter, victims of domestic violence in France, experienced “a real descent into hell” for approximately 4 years before Eric was finally convicted to 6 months’ imprisonment with a stay of execution (meaning he didn’t have to actually serve his prison sentence so long as he abstained from reoffending).

In the introduction of the book you highlight the fact that “in France, 1 in 3 women is the victim of violence, but only 1 in 10 press charges”. Can we say that this book is a real legal tool for women facing this kind of violence, especially under the current laws?

Niki Konstantinidou: I am a trilingual lawyer (admitted to practise in the Supreme Court of Victoria, Australia and in the Supreme Court of Judicature of Northern Ireland) with extensive multidisciplinary experience within governmental and non-governmental organisations including private law firms and industry. I have been living in France since 1996. Apart from studying international and human rights law at university, I obtained concrete experience in the area of gender equality, both professionally and through my pro bono work.

I am the lead author of *Juste Une Gifle?*, having conducted all the legal research and 90% of the writing. I wrote the book from Katya’s point of view, but the book is also my story; in the book I am Sofia. Sofia’s role in the book is to rescue Katya from the clutches of her Prince. In reality the book is based on the true story of both these women.

I used the structure of *Sleeping Beauty* with its sleeping kingdom, to illustrate the catatonic state of our current society in the face of gender-based violence. The context is France in the 21st-century, during a time of peace not war, where even before the country’s ratification of the *Council of Europe Convention on preventing and combating violence against women and domestic violence* (Istanbul Convention) abundant laws exist to protect women; yet the system fails to protect and defend them.

Just One Slap? focuses on two forms of violence; the physical and psychological violence of Katya’s former partner, as well as the institutional violence directed against her and her infant child. The book doesn’t cover all forms of violence against women; only violence not considered serious in social terms. I refer to an extract from the first chapter of the book, in order to demonstrate the disparity between Katya’s *reality* of that violence, and the *perception of that reality* by the medico-legal system. The following scene is the scene that was later qualified as ‘just one slap’:

“Out of the blue, before I could even finish my sentence, Eric — whilst carrying Zoe in his arms — struck me across the face. The shock of that first slap rippled through every cell in my body. He screamed “slut, bitch”, grabbing my left arm and pushing me hard. His face turned blood red and his veins popped as he lunged hurling threats and insults: “I’ll rip you apart, you crazy bitch”. I told him to stop, and he slapped me again. He grabbed my other arm and squeezed it so hard, I thought it would dry up and drop off. I struggled out of his grip, but no ‘time out’; I was still against the ropes. I had no idea what to do; fight or flight? Eric is 1.82 metres... And he had Zoe in his arms! Me, I’m nothing next to him; petite 1.58. “Stop! I’m not as strong as you,” I pleaded, naively trying to reason with him. The shoving was so violent, I almost fell over... several times.

During this unbelievable *battle of the sexes*, what was mostly on my mind was snatching Zoe away from him. She was still in his arms screaming, her lungs about to burst, completely terrorised. Eric continued to rant and fire like a machine gun. It was impossible to work out what he was saying, but I clearly heard: “Don’t you dare blame my mother!” He was uncontrollable; a rabid dog! He tried to grab me by the neck; I managed to escape. His mother shouted, “Stop! Stop it!”... in vain. She squeezed herself into the middle of this havoc, trying to disarm the virile bomb... in vain.”

Zoe, child victim and child witness, is neither seen nor acknowledged as a separate entity and victim in her own right. “Child witnesses” are not only those children who are present during the violence and actively witness it, but also those who are exposed to screams and other sounds of violence while

hiding close by or who are exposed to the long-term consequences of such violence; the Istanbul Convention and its Explanatory Report, are very clear on this point. In one of the many conversations between the two protagonists Sofia and Katya, Katya says: “I cannot believe that after all your *plaintes* (criminal charges which automatically trigger a legal procedure) and *mains courantes* (declaration of abuse entered into a “daybook” as proof that an incident has occurred), Zoe remains invisible”.

In summary, this book focuses on institutional violence; the violence of the socio-economic, political, judicial system. It intends to raise public awareness and, in my view, can be a useful ‘compass’ for victims to navigate through the current institutional labyrinth. It does not intend to render any type of psychological, legal, or other kind of professional advice. It can also be used as part of a training toolkit for professionals dealing with women’s rights and gender equality (especially police officers, members of the health services, social workers, lawyers and judges).

It is up to the public at large to decide whether or not the title *Just One Slap?* should stand next to a question mark. In my view, those who find the question mark valid, will be enlightened by the perspective taken by this book; those who don’t, are (at least seemingly) comfortable with the status quo. Towards the end of *Just One Slap?* an enlightened Katya shares her new truth, as narrator distanced from the earlier more naïve Katya. In a very theatrical pirouette, referring to herself in the third person, Katya the narrator says:

“Is there really any glimmer of hope out there?”

Perhaps. But not without the Katyas of this world! Not without us!

Katya’s story may not be yours, but True Justice cannot be the prerogative of a narrow class of people. True Justice is ours; we, as a society, are its pillars.

How should this fairy-tale end?

You decide.

As far as I’m concerned, we cannot settle for less than a true happy ending. The ending must be: “True Justice awoke. At that moment, everyone and everything in the Kingdom woke up and looked around at each other with astonished eyes. And all lived happily in a world of freedom, reason, autonomy and the good life... in a Just world.

What are we waiting for? *Now* is the time to destroy the thorns and brambles of this forest!”

PN: The police and hospital response to the violence and trauma suffered by Katya is described as inadequate. And the fact that Eric is a doctor presents enormous hurdles for Katya.

N. K.: Overall, Katya’s experience with the police, is negative mainly due to disbelieving attitudes, insensitive handling, poor follow up and difficulty accessing information. Hospitals are uniquely positioned as an early point of contact for many people who have experienced family violence, yet Katya is offered no real support there either.

The medico-legal certificate makes no reference to Katya’s psychological state. It simply states: “*Erythema jugular vein left, hematoma anterior front int of the right arm, erythema localized 1.5 cm anterior side of thoracic region*”. This certificate is incomprehensible to someone who is not a health care professional. Medico-legal certificates should be written in plain language.

Having obtained a minimum level of care and support from police and hospital staff, Katya is then faced with the resistance of her own lawyers who generally advise her not to press criminal charges (*plaintes*). In any case, as she states in the book, her first criminal complaint against Eric does little to stop him from reoffending. The *mains courantes* (declarations of abuse) are useless. If nothing else, he becomes adept at cleverly manipulating the entire system. He repeatedly presses charges against her for non-presentation of the child (non-presentation of the child carries serious penalties). In spite of his multiple recidivism, when *he* presses charges, miraculously the system acts efficiently. The sexism ingrained in the system is flagrant, in this story.

PN: What tools or systems are available to women who are victims of violence?

NK: The political framework is interesting. France claims that through its cooperation policy, it supports many actions to improve gender equality in the world, particularly efforts to curb violence against women. However, with all due respect, France should get its own house in order first; and it should start with Matignon, (official residence of the Prime Minister of France) and the Elysee Palace (official residence of the president of France since 1871). Let me give an example to illustrate my point. On 25 November 2017, International Day for the Elimination of Violence against Women, in a speech in Paris, French president Emmanuel Macron said the fight against violence towards women would be “the Great Cause” of his five years in office, adding that France needed to “win this fight”. At the same time and whereas the European Union Agency for Fundamental Rights (FRA) formally supported the EU campaign of #SayNoStopVAW and the #metoo global campaign, the Prime Minister expressed his concern of opening the floodgates to a host of “excessive accusations”, while the President himself said he did not want France to become a country of “*délation*”. The French term *délation* has a negative nuance suggesting self-interest and the intent to harm another. False accusations do exist, but are rare, as several studies show. This argument, always raised but never proven, represents yet another strategy of disempowering women.

Legal tools? Many sources of law are available in France to protect women against violence. We have French law and international instruments such as the European Convention on Human Rights (ECHR), as well as EU measures that serve to combat violence against women, including the EU Victims’ Directive 2012/29/EU, and the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention). The Istanbul Convention, in particular, was ratified by France in July 2014, but we have yet to see its proper and widespread implementation. Thus, Sofia’s question is more relevant now than ever before: “Given the plethora of studies and legal tools, for example, from the World Health Organisation or the Council of Europe... or other concrete and effective solutions in the EU guidelines on violence against women and girls... or more recently the Istanbul Convention, why oh *WHY* is implementation such a big problem?”

The Istanbul Convention requires States Parties to adopt comprehensive, coordinated and effective policies at all levels (Article 7). Paragraph 2 calls for the rights of victims to be at the centre of all measures and to ensure that the policies adopted are implemented on the basis of effective inter-institutional cooperation. Paragraph 3 calls for the involvement of all relevant institutions and organisations. States Parties are also required to allocate adequate financial and human resources (Article 8)

Regarding financial resources, several feminist groups have criticised the measures announced by Emmanuel Macron. The main criticism is that the €420m for 2018 budget is misleading, because it includes budgets that are not even remotely related to fighting violence against women. In fact, only 15 per cent of this figure – around €65m – will really go towards preventing domestic abuse. Therefore, in response to your question, I will let Sofia speak in my place:

“I don’t agree Katya, I don’t believe in the *shortage of funds* spiel. It’s all about political choices. For example, we’ve seen time and time again, even in the midst of several global or national financial crises, that there’s never been a *shortage of funds* to finance wars, bail out banks or subsidise large corporations. Correct? So when it comes to this terror against women... why isn’t *that* considered a global crisis? Why would a democratic State fail to safeguard the human rights of half its population? What social, political and economic sectors have an interest in preventing, diverting, delaying the struggles of women, the struggles of the most disadvantaged group in society?”

PN: Sofia, a prominent figure in *Just One Slap?* and Katya's rescuer, rightly states that “violence against women is the most widespread and least punished crime in the world”. In the book, many pages are consecrated to the exchange of SMSs between Katya and her former partner; most of those SMSs contain threats and insults. However, neither the police nor the court system is perturbed by Eric’s SMS storms. Approximately 4 years later, Eric is ultimately convicted and ordered to pay Katya 6000 euros in damages for the psychological harm he

caused her and around 2000 euros for her legal costs. Actually, the aggregate amount of 8000 euros (damages and legal costs) is still well below the overall legal costs she incurred. Why does the judicial system fail so badly?

NK: In response, I wish to refer to a remark made by Eloise, one of the waitresses at the café near the *Comédie Française*. She says, “Ladies, in France there’s no right to abuse animals, but there’s no real barrier when it comes to women and children! Have you heard of the recent decision against France regarding corporal punishment?”

Eloise appears in the book towards the end; she gate-crashes the following conversation between Katya and Sofia:

- Sofia, I read somewhere that France is the third country in the world that best remunerates shareholders! All this during a relentless financial crisis, increasing unemployment, massive sackings. So, the human rights—of man, woman or child—
- Zapped! The law of *reality* dictates one law; the law of the jungle! We must be *realistic*, huh? There is no alternative, right? Look at what’s happening in so many countries today with this *austerity* business... Lovely word *austerity*! An ingenious euphemism sugar-coating poverty and mass extermination...
- And the protection of rights recognised by the European Convention on Human Rights? *Defenestrated*! And the Istanbul Convention, requiring that the rights of the victim be respected at all stages of criminal proceedings? Irrelevant gobbledygook! In times like these, we have to be pragmatic!
- Yes, Sofia, population control through the ever-popular theologico-political ideology of *pragmatism*... all dipped in doom, gloom, and all sorts of impossibilities for extra flavouring! You know the spiel: ‘The human being is a natural born sinner, defective by nature... and utopias are castles in the air!’
- Anyway, that’s what some people would have us believe... Say, Katya ... How did the court assess damages at 6000 euros?
- I think it’s related to my total incapacity to work (TIW), for more than eight days, as assessed by the court expert Morel. In any case, my psychiatrist Sergio Martinez explained to me that the ‘total incapacity to work’ notion is purely legal; it’s a benchmark used to assess the extent of harm suffered. Martinez prefers the terminology of ‘temporary functional deficit (FTD)’; he says it’s more appropriate.
- By the way, it’s a good thing that some *experts* alerted us to the enormous *financial* cost of violence against women! 16 billion euros a year! Good way to mobilise a senseless society that worships the golden calf above all else...
- Yes, and we see how rushed they are to fix things! This Istanbul Convention, presented as “the most comprehensive international instrument on violence against women” has taken more than 20 years to surface! At least it mentions children victims. Look at the Convention’s explanatory report; it reveals that studies have shown that children who witness domestic violence are more likely to be affected by violence as adults. Did your lawyer refer to this Convention during the hearing... at least in relation to the quantum of damages you were seeking?”

PN: You sought publication with the French publisher *Les éditions des femmes-Antoinette Fouque*, which described your book as a “highly technical and documented book, with precise references and quotations of the Criminal Code, [...] unquestionably a fine work around violence”. What is your reaction

NK: I am delighted with this feedback but disappointed that mainstream publishers felt the book was too technical for the general public. I decided to write this story (including legal references) in plain, mainly non-technical language, in the hope of mobilising civil society to fight back against patriarchal terrorism and common couple violence. I use the term ‘patriarchal terrorism’ because of the numbers presented by the FRA survey (<http://fra.europa.eu/en/news/2017/dire-non-violence-legard-des-femmes>); more than 62 million women have already suffered from physical and/or sexual violence in the EU.

In my view, it is clear that the global establishment managing this issue (since at least the year 2000) has failed miserably and has no plan B. As Sofia says: “My favourite is the UN political declaration following the event ‘Women 2000: Gender Equality, Development and Peace for the Twenty-first Century’. Because since the year 2000, we have seen nothing but equality, development and above all peace!” In addition, she says, “Billions have been spent, to do what? And where are we at today after centuries of grand questioning, grand thoughts by grand thinkers? We still haven’t worked out what to do with Adam's rib!”

Thus, since I felt that it was important to reach out to those most affected by domestic violence, I decided to publish this book on Amazon. From the beginning of the year 2018, *Juste Une Gifle?* is available on Amazon <http://www.amazon.fr/dp/B076TVJTRX>.

PN: What was the impact of the book following your presentation to the World Bank during Law, Justice and Development Week 2017 and during the visioconference you gave from Paris headquarters and its Washington office last December?

NK: The World Bank presented *Just One Slap?* during the Law Justice And Development Week 2017. Thereafter, the World Bank asked me to deliver a visioconference on the book, which I did, as guest speaker from its Paris premises to its headquarters in Washington DC. My presentation was in English and was followed by a lively discussion. Participants found the story inspiring and worthy of a wider audience. My presentation was described as extremely informative and constructive. I was also asked to translate the book into English, however that would require a financial investment that I cannot afford at this time.

Recently, UN Women (global champion for gender equality) suggested that I contact the State Secretariat for Gender Equality, in view of the French President’s “Great Cause” commitments.

PN: Would it be correct to say, that the real problem is the patriarchal culture, which despite recent laws according equal status to women, remains firmly ingrained? We must not forget that the Napoleonic Code placed women among children, lunatics, criminals, and excluded them from political rights. Recently, several actresses stepped forward to publicly denounce film producers or actors, thus emboldening more victims to speak out. Is that enough to bring about change?

NK: Katya encountered the patriarchal culture throughout the institutional maze she was trapped in: the doctor in the emergency ward, the police, her own lawyers, the criminal court, the family court, the mediators, etc. That is why she makes a list of ‘ifs’ at the end of the book:

“And IF, we could actually change the world with ‘IFs’...

Imagine for a moment what would have happened...

IF the police had taken the necessary steps to protect my rights and those of my daughter, particularly by eliminating the risk of secondary and repeat victimisation, of intimidation and of retaliation...

IF the hospital and Dr. Corbinet had provided appropriate victim support and assistance...

IF my lawyers had defended our interests with due diligence and dedication...

IF from my first criminal complaint, Eric had been prosecuted and tried according to the relevant laws, instead of getting away with a formal reprimand...

IF, Judge Blanquette (the family court judge), had taken into account the context of violence, instead of facilitating Eric's recidivism and retaliation...

IF society had really taken into account 'the best interests of the child'...

And so many other 'IFs'..."

Women don't want to eliminate men but they do want to eliminate sexism. Thus it is vital that we examine the political economy of sexism. Katya says that "according to Unicef, Women perform 66% of the world's work, produce 50% of the food, but earn 10% of the income and own 1% of the property". *Cui bono*, who benefits from the oppression of women?

P.N: Your battle, Niki Konstantinidou, is therefore a universal one. Many feminist associations continue it around the world because as soon as they cease to act, there is a regression of the rights of women. Could you tell us about the progressive measures contained in the French Decree n° 2015-148 of 10 February 2015, integrating into French law the Council of Europe Convention on preventing and combating violence against women and domestic violence, signed in Istanbul on 11 May 2011?

NK: The Istanbul Convention is the first legally-binding instrument creating a comprehensive legal framework and approach to combatting violence against women, including domestic violence. Decree n° 2015-148 of 10 February 2015 published the Istanbul Convention in the Official Gazette of the French Republic.

On 13 June 2017, the EU also signed the Convention. In spite of all signatures and ratifications, France seems to be a very slow in implementing this Convention. The extent of violence remains significant. One only has to read surveys such as "*Violence against women: an EU-wide survey. Results at a glance*" <http://fra.europa.eu/en/publication/2014/violence-against-women-eu-wide-survey-results-glance>.

Without the necessary financial and human resources this Convention and other protective laws will be nothing more than lovely poetry about an unattainable Utopia.