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Medical-legal analysis of the syndrome of the aggrieved physician as a new type of social, etiological and legal pathology in the Venezuelan medical society

Original Article

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SUMMARY

Introduction. *The objective of this article is to investigate the phenomenon of the Aggressed Physician Syndrome generated by the physical and pshycological violence towards the medical professionals during their profesional practice in the city of Maracaibo in Venezuela.* ***Methods****: Aggressions against the medical professionals registered in the different hospital areas of the public and private sector network of the city of Maracaibo-Venezuela between June and December 2017 are analyzed. The variables studied were: profesional categories, type of aggressions, physical aggressions / different variables, possible triggers, complaints filed, legal actions executed by the victims and the establishment of preventive, administrative and legal measures.*

Results: *The great majority of the aggressions produced (90%) were verbal aggressions; they ocurred in emergency services most frequently and the aggressor was patient´s relative in 97% of the cases. Only 3.3% of the attacks were reported and 100% were unaware of the legal actions to be taken.*

Discussion: *Physicians only report those serious incidents including injuries that require medical attention, which prevents the knowledge of the violent reality with aggressions against medical professionals.*

Keywords: *Syndrome, medical, aggression, pathology, social, legal.*

INTRODUCTION

The relationship established by a physician and a patient during the disease process is extremely important. It is an interpersonal relationship (which is established between two human beings when they treat each other as persons), rich and complex, that influences the course of the disease, the efficacy of the treatment and has a curative value (Rosa, 2002).

For the medical care organization, the physician-patient relationship must be studied because it increases the quality of care. The hegemony of scientific medicine has today relegated the investigation of how to properly carry out a relationship between the physician and the patient.

The physician-patient relationship has been changing throughout history as social and cultural transformations have been presented. In ancient civilizations the assistance to the sick was carried out by magicians and sorcerers. Illness was considered a curse, sin, punishment of the gods; health was considered a gift from the gods. Illness and health were interpreted supernaturally. The treatment of the sick person was a magical rite, the exorcism, the abandonment, the death, the prayer, the sacrifice or offering to the gods. The physician had a priestly character (Rosa, 2002).

The physician-patient relationship is made up of two people and the link between them is the main part. In this interpersonal bond the behavior of the physician, especially with his words, influences the patient; in the same way, the verbal behavior of the patient can influence the physician. This relationship is formed by the physician, the patient, the illness and additionally by his or patient´s

relatives. The current crisis is due to defensive medicine, which, in order to avoid legal responsibilities, performs unnecessary practices, radically altering the relationship (Rosa, 2002, Martínez-León, 2010).

In our current situation, the principles we must take into account are: the principle of beneficence, provided by the physician; the principle of autonomy, provided by the patient; the principle of justice, which society brings. The relationship of these principles in universal medical-health care is giving rise to a more conflicting physician-patient relationship.

This millennial relationship with the passing of the years has changed drastically; at present, a crisis in this relationship as a result of legal requirements has arisen.

These conflicts or difficulties through which the current physician-patient relationship goes, are due to the increase of the economic costs in the provision of the medical assistance service due to the fact that it entails a greater request for tests, referrals or hospitalizations. This crisis has led to the emergence of defensive medicine, which, in order to avoid legal responsibilities, carries out unnecessary practices, radically altering the physician-patient relationship (Martínez-León, 2010).

The current physician-patient relationship has become problematic due to different causes: social, political, moral, psychological and technical, which have created precarious conditions for the practice of medicine, leaving aside mutual trust; the physician has simply become a "health worker" and the patient in a "user" circumscribed sometimes as an object and not as a subject (Martínez-León, 2008).

It has caused the loss of the physician-patient trust, as well as the emergence of defensive medicine; these two factors have given rise to a new type of pathology of social etiology, the so-called "Assaulted Physician Syndrome", which is defined as the physical or psychological aggressions suffered by physicians during their routine professional practice in medical institutions. hospitals, especially in the field of public medicine (Kvitko, 2010).

The physician has to face situations where the patient's objectives can not be met and often, neither the physician's goals. It implies a greater or lesser degree of frustration for the physician or the patient and tests the emotional maturity in both participants. The term violence refers not only to facts but to the interpretations of them, which supports and demonstrates the complexity of a concept difficult to delimit scientifically (Rodríguez et al, 2012). It is a ubiquitous and inescapable phenomenon that appears inherent to all societies; but paradoxically it is affirmed that violence is normal in modern society (Martínez Jarreta, 2007).

In certain countries, such as Spain, 90% of physicians, especially in the field of primary care, have suffered some kind of verbal or physical aggression during their professional activities. In addition, according to data from the Medical Association of Madrid, the medical woman is victim of 54% of the attacks in the exercise of their functions. In 80% of the cases the aggressions are not reported. 85% of the attacks are verbal, while the remaining 15% are physical. The majority of the aggressions are caused by patients with mental pathologies and their relatives. Finally, sixty percent of

physicians have received death threats (Martínez-León, 2010).

In Venezuela there are no statistics regarding this problem, but nevertheless we can state that physicians who are most exposed to verbal or physical aggression are those of the Emergency Medical Service, in relation to the promptness such pathologies must be attended and the severity and the complications that they may arise. The aggressions are motivated by the refusal of the physician to grant discharges or the prescription of certain treatment that the physician considers unnecesary. (Briceño-León, 2012).

According to statistics from different countries, with different cultures, traditions and customs, more than 80% of physicians have been physically or psychologically attacked at least once in the exercise of their profession. Some data point out that 60% of physicians have received threats of homicide (Martínez-León, 2012).

METHODS

It is an article framed within legal, descriptive, documentary and non-experimental research. Legal research is the intellectual activity that seeks to discover the appropriate legal solutions for the problems posed by ethical and legal aspects related to the syndrome of the assaulted physician, which occurs daily in the medical institutions both public and private sector against physicians.

For the collection of data, a survey was prepared including several items related to the types of aggressions suffered by physicians in the exercise of their medical act; the following variables were included: type of aggression, which sector is affected most, in which area of the hospital center this type of violence is seen more frequently, the frequency of victim´s formal complaints and the knowledge of the legal actions to be undertaken.

We included 300 physicians, either male or female, including inmates, residents and specialists working in various hospital areas; we include both the emergency areas and the hospitalization rooms of the national network of public sector hospitals, as well as the private sector.

Research was conducted in the period from June 2017 to December 2017. The data were expressed as absolute values using descriptive statistical analysis with presentation of percentages and illustrative graphs.

RESULTS

A survey was conducted on 300 doctors from public hospitals and / or private clinics in the city of Maracaibo, Venezuela; as shown in figure 1, 120 internal physicians (40%), 150 postgraduate resident doctors (50%) and 30 specialist physicians (10%) were included.

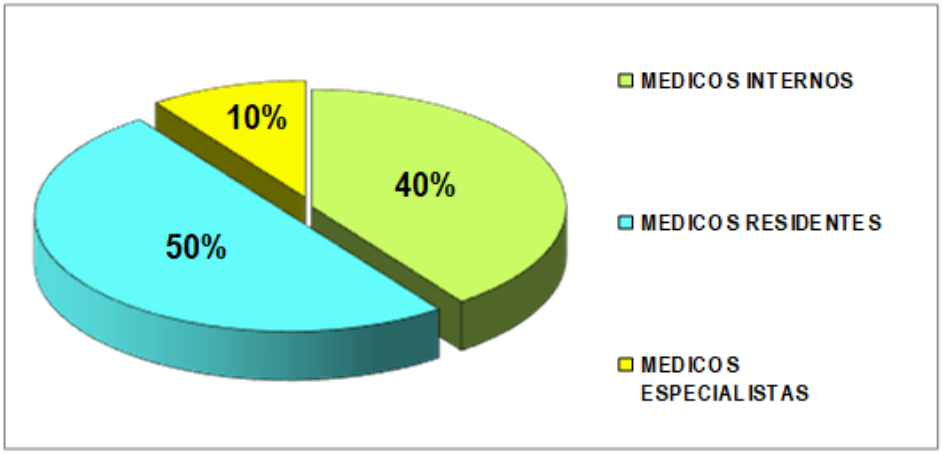

Figure 1. Distribution by percentage of physicians included in the study (n = 300)

The type of aggression in most cases was verbal (insults and threats) in 270 cases (90%), while physical aggression occurred in 30 cases (10%) during the performance of their professional practice (figure 2).

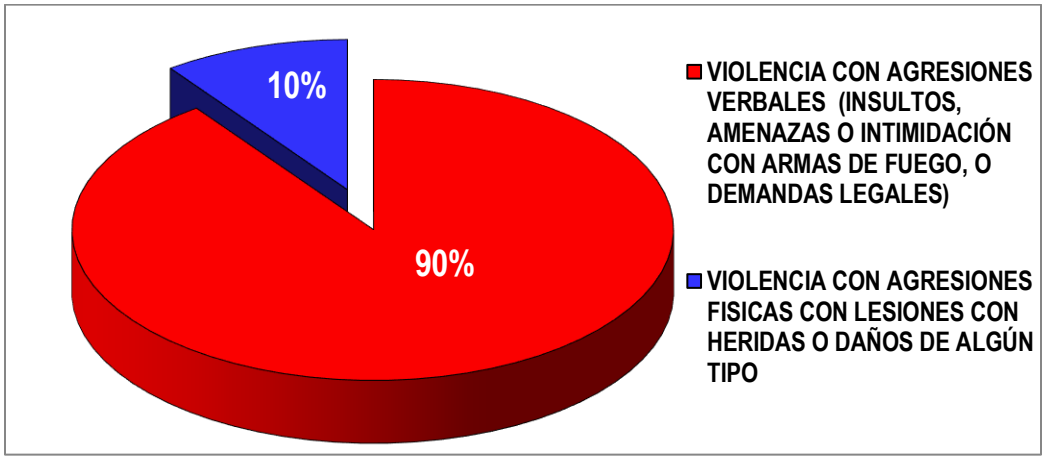

Figure 2. Percentage distribution of the type of violence experienced (n = 300)

Of those who experienced verbal violence verbal violence (90% of cases), 80% presented in the public health care sector, while 10% presented in the private medical care sector. Regarding physical aggressions, only 40% were classified from the medicolegal point of view. However, only 10% of victims requested the certificate for temporary work disability issued by the Venezuelan Institute of Social Security (figure 3).

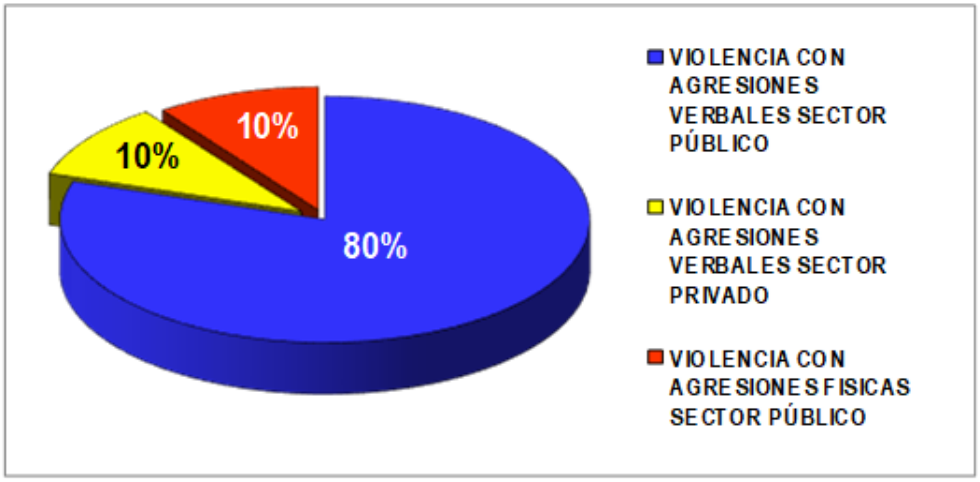

Figure 3. Percentage distribution of the type of violence in relation to to the affected medical sector (n = 300).

Emergency rooms are the place where most of the tension episodes of the doctor-patient-family relationship occur; 97% of physicians dedicated to emergencies said they had suffered some type of verbal violence, while 3.3% suffered some type of physical aggression. One of the main drawbacks of emergencies in public hospitals is that they are overwhelmed, while in the private emergency, this violence is generated due to the increase in the demand of patients who do not count or do not have medical coverage covered by a private insurance company. (Figure 4).

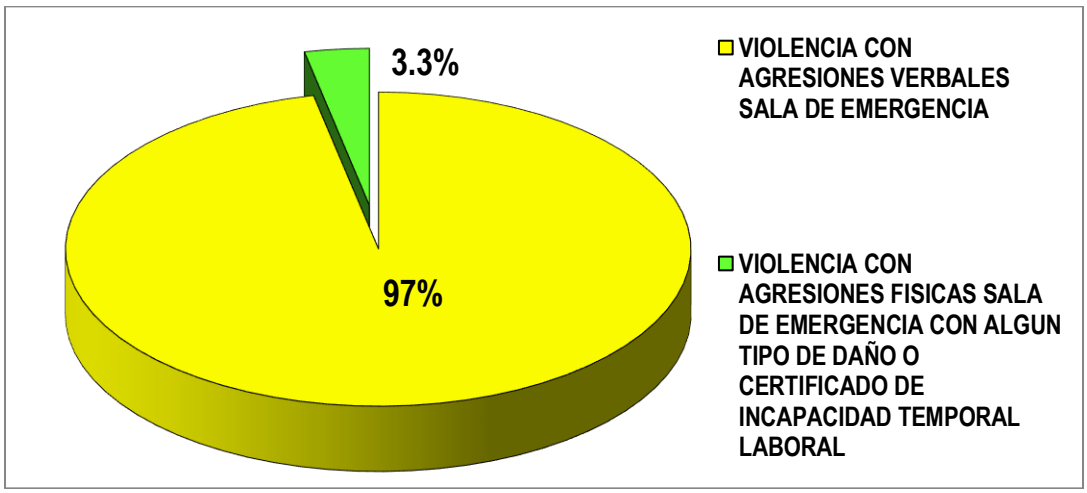

Figure 4. Distribution by percentages of physical or verbal aggressions in emergency rooms.

Regarding possible causes, the most frequent are cases where there is disagreement with the assistance due to the lack of surgical medical supplies for their care; insults, violent complaints or physical abuse occur in 100% of situations.

Regarding knowledge about the legal legal actions that should be undertaken against the aggressor in the

generation of verbal or physical violence in different public or private hospital institutions, 100% of respondents do not know what legal actions should be taken against both the aggressor and against the institution where they work, in cases where their rights are not being respected. 100% of the respondents said that in their opinion, preventive, administrative and legal measures have not been put in place to stop these attacks, since little internal security established by the hospital administration does not intervene to control or protect the physical integrity of the hospital. the doctors (figure 5).

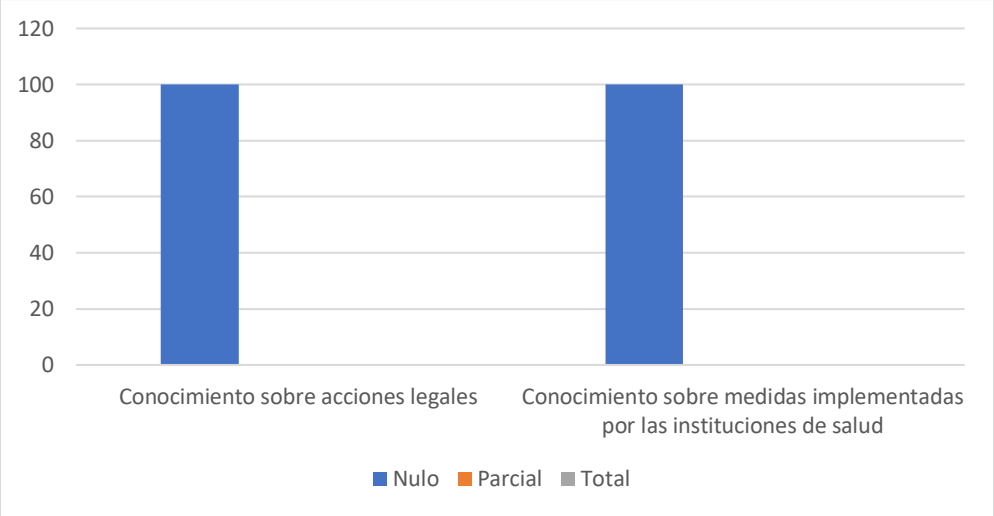

Figure 5. Percentaje distribution (n = 300)

DISCUSSION

Violence in the workplace has become a global problem, which, as stated by the International Labor Organization (ILO) and the World Health Organization (WHO), crosses borders, work contexts and professional groups. The WHO itself denounces that almost 25% of all incidents of violence at work occur in the health sector. The aggressions suffered by health workers in the exercise of their profession is undoubtedly an emerging risk (Martínez-León, 2012).

It leads us to formulate the following question about violence towards medical practitioners: What should physicians do in a case of aggression by patients or their relatives?.

Aggressions in the field of medical professionals have remained silent until recently due to minimal percentage of complaints, 3.3% in our study. In the investigation of Martínez-León, he reported 113 complaints (9.8% of total assaults).

There are few or no legal actions taken by the aggressed doctors. In Castilla y León, like Catalonia and Andalusia, they were the pioneers, due to the existence of an agreement between the Board and the Office of the Superior Court of Justice, where all the complaints filed must be sent; a total of 72 convictions were

pronounced and 8 sentences condemn the aggressors for "crime of attack against a public official" with sentences ranging from 6 months to two years in prison, in addition to fines and compensation.

In relation to physical violence, our study shows 30 aggressions (10% of the sample), which is considered an underreported factor, due to the lack of complaints; the majority of victims who have suffered this type of violence are female.

The analysis of the triggering causes must consider violence against physicians usually originates from the disagreement with the assistance due to the lack of surgical medical supplies for his attention.

From the juridical legal pont if view, it is clasified as Injuries because there is a damage to the physical integrity of the physician, which is protected by the Venezuelan constitutional text in his article 46 that establishes the physical and psychological integrity of the people as a fundamental right. Injury is defined as an act commited by a person with no intention of killing but causing physical or psychological damage with prejudice to the health of another, in this case the physician. The Venezuelan Criminal Code punishes those acts that attempt against the physical integrity of the people stipulated in Article 415. Textually states that "the person, without intent to kill, but to cause harm , has caused to some person a physical suffering, a damage to the health or a disturbance in the intellectual faculties, will be punished with imprisonment of three to twelve months ". The crime of threats is typified in article 176 of the same legislation

In the event that the offense is against a female doctor in the exercise of their profession, it is tipified in article 41 of the Organic Law on the Right of Women to a Life Free of Violence, defined as "the person who through verbal, written or electronic messages threatens a woman with serious and probable physical, psychological, sexual, labor or patrimonial damage".

Physicians must know how to make the complaint to the authorities in charge of delivering justice. According to what is established in article 268 of the Organic Code of Criminal Procedure of Venezuela, the complaint may be made orally or in writing and must contain the identification of the complainant, the indication of his domicile or residence, the circumstantial narration of the fact, the indication of those who have committed it and the people who have witnessed it or who have news of it, all as soon as it is known to the complainant. In the civil field, you can file a demand for a claim for damages as established in the current Venezuelan Civil Code. The civil responsibility of the aggressors will then be the obligation to pay the damages and losses caused to the physician affected by the malicious action. The criminal responsibility does not exclude the civil one and vice versa.

Medical care administrations must be aware of the escalation of violence in the hospital setting against health personnel, particularly against physicians; they are forced together with professional medical associations, to institute all necessary preventive, administrative and legal measures to avoid and stop such violent actions, in addition to elaborate protocols of medical-legal action in the face of aggressions that include

psychological support to the victim and medical-legal advice.

Physicians and patients are simultaneously suffering from a national health system in crisis. When institutions do not work correctly, all its members are affected. The emergency rooms of public hospitals are the most affected by these incidents because one of the main drawbacks is that they are affected by the increase in patients who do not have any type of medical coverage, which generates delay in care and sometimes the inability to respond due to a collapsed health system; in many cases, the physician is the face of this problem and when he has to give an answer or explain to patients and their families that he does not have a hospital bed, that he does not have the supplies or medical surgical equipment or simply that he does not have ambulance for the transfer, can be victim of violent aggressions that in many times are verbal; however, the insult to physical violence is only one step because violence is a pattern and not a matter of class.

However, despite the fact that episodes of violence with physical or psychological aggression are a growing phenomenon in our hospitals, subject to a serious economic crisis, there are few complaints that are made judicially, due to the physicians's lack of knowledge. If we do not understand as a society that a poorly cared physician is going to provide poor medical care, then we will fall into a vicious circle with no way out.

REFERENCES

1. Rosa Gómez Esteban. (2002). El médico como persona en la relación médico paciente. Editorial Fundamentos, Madrid.

2. Martínez-León M. (2010). El riesgo emergente que constituyen las agresiones y violencia que sufren los médicos en el ejercicio de su profesión: el caso de España. Revista Bioética; 18:263-74 [consultado 10 Jun 2017]. Disponible en: http://revistabioetica.cfm.org.br/index.php/revista bioetica/ article/view/563/536

3. Martínez León M. (2008). Deterioro de la relación médico-paciente: agresividad contra el médico. En: Relación Médico-Paciente. Comisión de Ética y Deontología Médica del Colegio Oficial de Médicos de Valladolid: Nueva Comunicación. 105-8.

4. Kvitko, Luis Alberto. (2010). Una nueva patología de etiología social El Síndrome del médico agredido. Consultado en noviembre 11 2016. Disponible en: http://hospital.uas.edu.mx/revmeduas/pdf. Consultado el 23/10/2016.

5. Martínez León M, Daniel Queipo Burón, M. Jesús Irurtia Muñiz y Camino Martínez-León. (2012). Análisis médico-legal de las agresiones a los profesionales sanitarios en Castilla y León (España). Rev Esp Med Legal, 38(1):5-10 [consultado 11 Jun 2017]. Disponible en: www.elsevier.es/mlegal

6. Berger Zoltan F, Bardi S Alberto, Brahm B, Latorre M, Maiza R Eduardo, Morales B Antonio, Oksenberg R Danny, Poniachik T Jaime, Pimentel S Cristina (1999 Sep.) Carta al Editor. La relación médico paciente y el sistema de salud. Rev. Med. Chile [Internet]. [consultado 2017 Nov 13]; 127(9): 1139-1142. Disponible en: http://dx.doi.org/10.4067/S0034-98871999000900017.

7. Rodríguez Ángel, Mardones, Francisco, Villarroel Luis. (2012). La relación médico paciente en la Pontificia Universidad Católica de Chile as escuelas de medicina. Rev Med Chile [consultado 2017 Nov 13];140(2),176-183. Disponible en: http://dx.doi.org/10.4067/S0034-98872012000200005

8. Martínez Jarreta B. (2007). Análisis médico-legal de las agresiones a profesionales sanitarios. Aproximación a una realidad silenciosa y a sus consecuencias para la salud. Med Clin, 128:307-10.

9. Kvitko, LA. (2013). El Síndrome del médico agredido. Editorial:
10. Ediciones Tribunales.

11. Briceño-León, R. Ávila, O. Camardiel, A. (2012). Violencia e Institucionalidad. Informe del Observatorio Venezolano de Violencia. Editorial ALFA. Caracas.

12. Código Penal de Venezuela (2005). Gaceta Oficial Nº 5.768, Editorial Hermanos Vadell.

13. Decreto con Rango, Valor y Fuerza de Ley del Código Orgánico Procesal Penal. (2005). Decreto N° 9.042 Gaceta Oficial Nº 6.078. Extraordinario, p.56-85.

14. Código de Instrucción Médico Forense Gaceta Oficial (1878) Leyes y Decretos Reglamentarios de los Estados Unidos de Venezuela. Caracas.

15. Congreso de la República de Venezuela Código Civil Venezuela (1982). Gaceta Oficial Nº 2.990 Extraordinaria.

16. Diario Panorama, Maracaibo, 29 de julio 2016. http://www.panorama.com.ve/.

17. Diario Primera Noticia, Coro, 26 de junio 2016. https://primeranoticia.net/.

18. Diario Noticias Venezuela, Caracas 22 de octubre de 2016. http://noticiasvenezuela.info/2016 https://primeranoticia.net/.

19. Junta de Castilla y León. Portal de salud de Castilla y León. Plan Integral frente a las Agresiones al Personal de la Gerencia Regional de Salud [consultado 5 Jul 2017]. Disponible en: http://www.saludcastillayleon.es/profesionales/es/recursoshumanos/prevención-riesgos-laborales-sacyl/plan-integral-frente- agresiones-personal-gerencia-regional