

DOMESTIC VIOLENCE IN THE REPUBLIC OF KOSOVO DURING 2010-2019

Fatos HAZIRI¹, Jorida XHAFAJ²

¹ *Lecturer in Law Faculty, University for Business and Technology, Kosovo*

² *Head of Law Faculty, University for Business and Technology, Kosovo*

Abstract

This paper deals with the scientific and theoretical analysis of ill-treatment and forms of escalation of domestic violence in Kosovo. The importance of the paper lies in the scientific, practical and legal coverage of domestic violence, highlighting its causes and consequences, as well as the legal protection of victims of domestic violence based on domestic legislation and international legislation. Prevention of domestic violence is done in order to create an environment as good as possible, in which healthy family relationships would prevail and where democratic values and equality between family members would be respected, regardless of gender or status of members of the family. The steps planned to study this phenomenon draw attention to the further harmonization of national and international legislation; guaranteeing equal and non-discriminatory treatment of all individuals in society; considering and prioritizing the needs of victims (raped women, people with disabilities), expanding the network of services provided and improving their effectiveness in accordance with the required standards; providing immediate protection and long-term treatment to all members of the family affected by the violence, preparing a new generation with an open mind, without prejudices and gender stereotypes, and completely against gender-based violence and domestic violence.

Keywords: Domestic Violence, Legislation, Istanbul Convention, Kosovo

1. Factors of Domestic Violence

There is no simple explanation for the causes of domestic violence because domestic violence is deeply rooted in the roles that women have traditionally had in private and public life and also the domestic violence is related with national mentality. In the United Nations Declaration on the Elimination of Violence against Women, violence against women is defined as “a manifestation of the unequal power relations that have historically existed between men and women” and “most women are of the opinion that men's mentality for women as their wealth is the source of violence”.

Physical and psychological violence against women, and often against children, stems from “men's desire to control the lives of other family members at all costs.

We can divide the causes of violence into two main categories.

The causes of domestic violence that are related to the individual characteristics of the person who perpetrates the violence (the perpetrator) and the victim who experiences the violence in the family are many, but the most important causes (Tushi G, “Social problems and dilemmas” Tirana 2006, p.482.) are:

1. Gender inequality
2. Use of alcohol;
3. Use of various narcotic substances;

4. Jealousy and other psychotic tendencies;
5. Severe economic and social situation;
6. Unemployment, poverty;
7. Sexual impotence;
8. Various inferiority complexes;
9. Professional incapacity;

Unwanted pregnancy. (Bregu, M. "Violence. Meaning and its types; causes of domestic violence. Consequences on wife, children community" published in "Legal and social treatment for protection from domestic violence" Pegi, 2005, pp. 116-119)

In order to treat this dangerous and still dominant phenomenon in Kosovo society, we have thought to analyze and find the link between social factors and statistical data regarding the reported cases. We underline the fact that the data and reasons for combating this phenomenon in society are becoming urgent, if we refer to the pre-reported cases. The latter is the lively confrontation of the negative effects of domestic violence and social pressure to accept as a normal phenomenon that generally accompanies family conflicts, as a form of expression of female wisdom, the general spirit of victims' families not to interfering in family life or lack of support and consequently the fear of victims of deteriorating their condition.

In the table below we have analyzed the domestic violence in Kosovo from 2010.

Table1. Kosovo Police statistics based on KPIS data

Domestic violence by police regions	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
Prishtinë	231	268	301	251	268	228	320	298	434	595
Gjilan	99	109	91	122	166	126	142	169	211	209
Ferizaj	92	108	122	139	128	155	142	136	178	204
Gjakovë	0	0	0	0	0	82	101	103	133	210
Pejë	204	207	191	211	232	92	191	211	188	249
Prizren	194	172	139	194	210	179	186	242	251	286
Mitrovica North	124	182	182	170	46	59	61	37	51	55
Mitrovica South	0	0	0	0	129	117	82	73	87	107
TOTAL	944	1046	1026	1087	1179	1038	1225	1269	1533	1915

If we refer to the statistics of the last decade in the country, there is an increasing trend of reported cases of domestic violence. Regarding this problem, above mentioned factors are

considered problematic and they affect the oppression of victims to report the violence and at the same time the institutional reaction to it.

From a comparative analysis in level of municipalities and the population density of each municipality it is noticed that the municipalities with the highest level of domestic violence are Prishtina, Prizren, Peja, Gjakova, Gjilan and Ferizaj. These are in fact the cities with the largest population in which about half of the population lives in the country and where about 50.4% of the population consists of male gender. We referred to the gender criterion in population division because the phenomenon we want to study is the link between domestic violence and gender stereotypes.

Based on the provisions of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, known as the Istanbul Convention, we consider that one of the innovative features of this international act in the fight against domestic violence is respectively the definition of gender. For the first time in this treaty, gender does not relate to the biological characteristics of each gender, because each gender also represents a social category, which determines the roles and behaviors of women and men. Research results show that certain roles and behaviors may contribute to encouraging violence against women (Safe from fear safe from violence, Istanbul Convention, Council of Europe <https://rm.coe.int/168064d3f6>).

The definition of gender stereotypes, on the basis of which domestic violence focuses on female victims and male perpetrators, has led to the definition of this criminal offense in the form of gender discrimination and the consequence of violation of fundamental human rights.

The Istanbul Convention is still in the process of ratification in Kosovo, in connection with which its inclusion in the Constitution of the country has been requested, already finding the approval of the Constitutional Court (Decision of the Constitutional Court, no. ref.:AGJ 1320/19, Confirmation of the proposed amendment to the Constitutional Court, submitted by the President of the Assembly of the Republic of Kosovo,

Regarding gender segregation in Kosovo, it has always been singled out with the highest participation of the male population, specifically the reports have moved in different periods of history, without compromising this predominance. The exception is the post-war period, where the female population reached 51.2% and the male 48.8% as a result of migration and loss of lives. Currently, the population of males and females is in the ratio of small difference, respectively 50.6% are male and 49.4% are female. (Referring to the agency's data Kosovo Statistics on the final count of the population, 2011)

Specifically, in the municipalities or areas in which the highest number of cases of domestic violence is observed, the dominance of the male population is confirmed in over 50% of it.

In the paper, we analyzed the official data of the Kosovo Police, from the cases reported during the previous year, 78% of the cases are female victims. Meanwhile, if we refer to the total number of cases of violence since 2010, out of 12460 cases in total, 10029 cases or 80.4 have female victims.

Table 2 - Kosovo Police statistics based on KPIS data

Victims by gender at the national level	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
Children victims	12	9	7	0	0	25	18	22	38	26
Female victims	764	804	833	869	930	874	1139	995	1228	1593
Male victims	190	242	206	220	281	190	107	276	334	385
Total victims	954	1046	1039	1089	1211	1064	1246	1271	1562	1978

This means compatibility between the goals of the convention and the reality in Kosovo, which should be considered more broadly for countermeasures and more actively by the responsible structures in the serious reaction to the provided legal sanctions. Furthermore, the statistics are very worrying, as long as there is a proportional increase in the number of cases of domestic violence, where, as it was underlined, the greatest weight is occupied by female victims. Then there are male victims at 19.5% and children at 1.2% of all data processed for this period.

In our opinion, recognizing the social structure and weight of traditional dogmas in the country, the number of male victims who report domestic violence is high. These are mainly cases of persons who are mostly abused by family members, but not between spouses, as is the case with violence against women. The Law on Protection from Domestic Violence has provided for a wider family relationship between persons, so cases of domestic violence also occur male to male, and in this case the male victim is also the victim, the father with the son, brothers among themselves, uncle, grandson, etc.

For a more complete picture of the situation in the country, we have selected two criteria related to victims, namely age and ethnicity.

The aim was to expand the spectrum of features of victims of domestic violence in Kosovo, and also to see if there are factors that influence to reverse the flow of statistics if we refer to ethnicity and consequently cultural features.

Thus, the most affected ages of domestic violence are the ages that are considered secondary in Kosovo, not excluding the advanced ages or even the young age. According to the statistics of the Kosovo Police, the age of 30-40 is the most affected age of domestic violence, which is also an indication that domestic violence occurs between spouses or cohabiting persons.

Table 3- Kosovo Police statistics based on KPIS data

Victims by age across the country	2015	2016	2017	2018	2019
Age 00-18 yrs.	25	18	22	38	26
Age 18-20 yrs.	103	71	133	105	208
Age 20-30 yrs.	310	320	330	388	516
Age 30-40 yrs.	290	383	305	428	542

Age	40-50 yrs.	112	231	229	306	334
Age	50-60 yrs.	105	119	123	158	207
Age	60-70 yrs.	83	62	83	71	95
Age	70-80 yrs.	36	42	36	46	45

If we refer to the ethnicity of the victims of domestic violence in Kosovo, it is best proved the extent of this phenomenon in any society. Domestic violence does not even recognize nationality-entity according to police statistics, where the largest number of victims is from Albanian nationality, as the population of Kosovo consists of more than 90% of Albanians, but other nationalities are not excluded, not excluding the victims who are not permanent residents of Kosovo. (Kosovo Police Reports.) Furthermore, we think that the categorical approach to these criminal offenses as a violation of fundamental human rights would increase the attention of state structures to the treatment of cases in order to increase the level of their prevention. In this way we can imagine that the positive obligations of the state are fulfilled, the cases ascertained by the European Court of Human Rights for non-fulfillment of the state obligation will be smaller. The following table also reflects the data for each ethnic minority living in the country.

Table 4- Kosovo Police Source according to data from KPIS

Victims by ethnicity at the national level	2010	2111	2012	2013	2014	2015	2016	2017	2018	2019
Albanian	797	846	883	882	1017	879	1052	1017	1281	1661
Serbian	68	103	77	78	76	88	90	87	105	103
Bosnian	27	15	5	7	19	10	16	35	21	21
Turkish	8	5	2	13	6	7	12	4	11	16
Montenegrin	0	0	0	0	0	0	0	1	2	2
Goran	10	18	18	9	10	14	20	8	14	12
Roma	30	26	19	29	41	26	35	40	42	53
Ashkali	13	25	27	52	30	26	7	36	58	60
Egyptian		8	5	15	7	11	6	31	22	43
Others	1	0	3	4	5	3	8	12	6	7

2. Forms of violence under the legal framework and institutional interaction

Legal infrastructure in Kosovo, in the following table are recorded for the last five years cases of domestic violence according to criminal offenses, referring to the legal provisions for the forms of criminal offenses, classified in Kosovo as criminal offenses in the family.

Table 5- Kosovo Police Source according to data from KPIS

Cases of domestic violence according to criminal offenses at the national level	2015	2016	2017	2018	2019
Murder	3	3	8	8	6
Attempted murder	0	1	2	0	0
Suicide induction	0	0	1	1	0
Physical violence	59	36	17	57	589
Slight injury	438	567	526	644	561
Grievous injury	20	12	33	23	28
Threat	160	156	187	277	207
Harassment	31	33	32	22	43
Assault	223	253	300	318	295
Blackmail	0	0	0	0	3
Compulsion	2	0	1	0	0
Illegal deprivation of liberty	4	2	4	0	0
Rape	0	4	0	3	3
Sexual assault	2	1	2	1	2
Unauthorized termination of pregnancy	1	0	0	0	0
Sexual abuse of persons under 16 years of age	0	1	0	2	0
Sexual intercourse within the family	1	0	0	3	0
Forced marriage	0	0	1	0	0
Cohabitation with a person in 16 years	0	3	2	0	0
Child abuse	4	6	7	5	7
Illegal child custody	0	2	3	2	0
Violation of family obligations	4	6	5	15	6
Avoidance from life insurance obligations	0	1	1	3	0
Self-judgment	0	1	0	1	0
Property damage	3	11	17	30	35
Constant intimidation	37	99	86	46	91
Expulsion from home	7	3	1	10	4
Failure to comply with a court order	11	0	0	0	0
Violation of the protection order	28	24	33	62	35

As for the types of incidents in cases of domestic violence, based on cases reported to the police, these are the most common cases are:

- Bodily injuries,
- Threats,
- Assaults,
- Harassments.

Referring to the forms of offenses provided for in the Council of Europe Convention on the Prevention and Combating of Domestic Violence, its ratification will bring to life the sanctioning of cases of violence that are already observed in practice.

2. Actions of the Prosecutors Office and Court

Table 6. Status of the domestic violence cases from 2010 until 2019(Kosovo Police statistics based on KPIS data)

Table 6. Status of the domestic violence cases from 2010 until 2019(Kosovo Police statistics based on KPIS)

Status of cases and other data at the country level	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
From Total Cases	944	1046	1026	1087	1179	1038	1225	1271	1533	1915
Prosecutor(sent)	932	948	927	991	1147	964	1137	1207	1430	1789
Under investigation for next year	6	48	64	83	27	64	81	60	97	110
Closed by order of the prosecution	6	50	35	13	5	10	7	4	6	16
Police protection order	9	5	3	9	9	6	4	4	7	17
Court,protection order	141	190	39	73	198	104	214	36	97	146
Detained for 48 hrs	296	334	265	276	315	292	371	400	499	788
Sheltered victims	62	98	50	142	130	44	71	42	39	110
CSW	406	434	455	403	465	410	432	407	577	769
Victim Defender	701	757	745	717	575	541	603	694	880	1273

The interaction between the State Prosecutor and the victim of domestic violence usually comes to the fore in the subsequent reporting process. The state prosecutor assesses cases of domestic violence and violations of protection orders to determine whether there is sufficient evidence to prosecute perpetrators of domestic violence. The victim of domestic violence is a party to the proceedings and at the same time, the main witness presented in court by the State Prosecutor. (Standard Procedure for Protection against Domestic Violence in Kosovo, ABGJ-ZKM, September 2013.)

Courts prioritize domestic violence cases. These cases are handled by the court in civil or criminal proceedings depending on the nature of the case. In rare cases, the courts are the first service providers to deal with victims of domestic violence. Although the court does not initiate proceedings in cases of domestic violence, the court is not passive in its obligations to domestic violence cases.

The courts have the responsibility to treat the parties and individuals who appear in front of them in an impartial, dignified and respectful manner, ensuring adequate protection for all parties involved in the proceedings.

In civil proceedings, the courts review the request for a protection order or emergency protection order and impose protective measures provided by law.

Conclusion

Domestic violence is a criminal offense in Kosovo and through the analysis of data from the last ten years in the country, there is a steady increase in this phenomenon, which increased during the pandemic Covid 19, also experienced in Kosovo. (Kosovo Police, the Ombudsperson and many non-governmental organizations have reacted during the Covid 19 pandemic period to an increase in cases of domestic violence by about 36%, compared to the same period a year ago.

According to the statistics, the most affected areas in the country are: Prishtina, Gjakova, Prizren, Peja and Gjilan. Meanwhile, referring to gender and age, the victims are mainly women and those aged 30-40, mostly in marital or actual community relations with the abuser.

Legal provisions include a wide range of criminal offenses classified as acts of domestic violence and through the findings of cases in practice the arguments for the ratification of the Istanbul Convention and legal changes in terms of anticipation of these forms of violence such as gender mutilation are forced marriage, persecution, abortion, and forced sterilization. This also means the obligations that will arise for Kosovo after the ratification of the Convention in terms of amendments to the Criminal Code and the special law.

Kosovo needs to embrace these standards as soon as possible not only in terms of legal changes, but also in terms of mechanisms for monitoring and punishing domestic violence.

Institutional prosecution and the level of domestic violence testify to more coordinated steps between institutions and punitive culture applied in the courts, which convey the message of fulfillment of positive obligations to state structures and that if the domestic violence is not punished it escalates into even more serious forms of criminal offenses against health and life.

References

- [1]. Tushi, G. "Social problems and dilemmas" Tirana 2006, page 482.
- [2]. Bregu, M. "Violence. Meaning and its types; causes of domestic violence. Consequences on women, children and the community" published in "Legal and social treatment for protection from domestic violence" Pegi, 2005.
- [3]. Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence Istanbul, 11.V.2011
- [4]. Law No. 03/L-182 for protection from domestic violence, 10 August 2010
- [5]. Law No. 06/L-077 for amending and supplementing law no. 2004/32 for the Kosovo family, 17 January 2019
- [6]. Criminal Code of the Republic of Kosovo No. 06/L-074, 14 January 2019;
- [7]. Statistics of domestic violence from the data system of the Kosovo Police – KPIS
- [8]. Standard procedure for protection against domestic violence in Kosovo, ABGJ-ZKM, September 2013.
- [9]. National Strategy on gender equality and domestic violence
- [10]. Garcia-Moreno (1999). *Putting Women First: Ethical and Safety Recommendations for Research and Domestic Violence Against Women*. Geneva, Switzerland: World health Organization.
- [11] Statistics of the Kosovo Police based on KPIS data.