IMPACT OF COVID - 19 ON THE INCREASE OF VIOELENCE AGAINST WOMEN

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Abstract

The phenomenon of the domestic violence in Kosovo holds an important position in the positive legislation in Kosovo. This phenomenon apart from causing consequences to an individual as a victim, at the same time it causes consequences also for other parts of the family. Domestic violence has been present also in the past in the Kosovo families, but of course with lower intensity by keeping total discretion within the family whereas access of the society in this problem was very small. Violence against women is a complex problem which includes more than an act itself in the personal relations between the husband and the wife. It is a social problem of broad dimensions whose roots are found in the historic attitudes on women and the marriage relations. Socialization of men and women in our society and nomination of women in inferior position and rules that keep women economically dependent, makes women more vulnerable on violence committed by men with whom they live. This victimization of women from their husbands is strengthened from economic situation, mentality and tradition as well as not well awareness among the population on the domestic violence. A phenomenon which increased the number of various forms of violence against women is also Pandemic COVID - 19 who as the consequence of isolation of families within closed environments has had an impact to a category of irresponsible spouses to undertake various forms of violation against women. Violence against women is a serious problem and it deserves big attention of authorities (national and international). There are dozens of years during what this problem has been put in the agendas of many national and international organizations state or nongovernmental organizations. At the international level this attention has resulted with a number of conventions, legal norms, political agreements, directives, recommendations and practical advices. Paper concludes that the denunciation without hesitation and the total respect of these norms with the zero tolerance against the perpetrators of the domestic violence is the only solution to minimize this phenomenon.

Keywords: *violence against women, Covid 19, victimizations, norms, legal.*

JEL Classification: K32

1. Introductory considerations

We live in a society where apart from positive developments and the reached advancement, stereotyped behaviour and models that incite violent acts are present in our daily live. Domestic violence and violence against women, precepted as the violent behaviour is listed among the main reasons that damage human life and they are classified as the heavy violence of human rights. In this regard, women are classified as the most affected group of the domestic violence. Each woman and each girl have the right to life without violation. However, the violation of human rights happens in different ways in every community, by touching especially marginalized and unprotected communities. Anyway, the phenomenon Covid 19 apart from health aspects, during this period of time has shown an increase on numbers of domestic violence, and especially violence against women as a consequence of isolation, respectively quarantine. Freedom restrictions, quarantine and the closing times home for a long period of time, in one side have contributed to the inhibiting the spread of Covid 19, whereas on the other side in some families these have aggravated the situation of women, now being victims of abuse in the family[3].

Data show that the level of domestic violence has been increased significantly in the countries of the Balkans due to the appliance of restrictions of movement in the fight against Covid 19[4]. In this direction data show that in Kosovo also the level of violence against women has increased as the consequence of preventive measures applied by Kosovo Government against Covid 19. Application of restrictions that require individuals to keep "social distance" or "to isolate" could

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[3] https://balkaninsight.com/2020/04/21/covid-19, consulted on 1.05.2020.
[4] Ibid.

lead towards situations when women and girls remain isolated home with the violent persons. Such an isolation, the fear from illnesses and other problems bring to the loss of job and the loss of incomes that result to economic dependency, from the abusive could further worsen the domestic violence[5].

Violence against women even though is the most spread violation of human rights in the world, continues to be less reviewed. Violence is also a deep health problem which as a consequence has death and would/injury, it affects wellbeing of women and demolishes their dignity and self-evaluation. Now it is known that the domestic violence overcomes all boundaries and it is present in all cultures. Studies on domestic violence have verified/concluded that the abuse against women is a complex and multi-dimensional problem. Explanations for this we should find in cultural, social, family an individual factor which impact the possibilities of making women victims of violence. For many women the reality is quite different from that of their dreams on the ideal marriage.

Victimization of women by their spouses apart from the phenomenon of pandemic Covid 19 is strengthened also by some other factors (objective and subjective) as: economic situation, mentality, tradition, low level of awareness of people about domestic violence, and also individual moral. Traditional family usually is defined from sociologists as a group of individuals related by blood or via marriage, who live together, that cooperate economically and who share responsibilities to raise their children. Family is also a group of individuals whose relationships are not visible for others, a socially complex organization which consists of variety of rules and status. In our daily life, the family has lost "silence" that characterizes it, it is threatened not only from traditional factors as various illnesses, unemployment, different disasters, poverty, deaths, etc., and also those "nontraditional" as: deviant behaviour, different types of conflicts, violence, alcoholism, abusive use of drugs, family abandonment, sexually transmissed illnesses, etc. Thus, family is a structure that comprises a series of relationships and roles and as such, it is sensitive on the violence that is exercised against it. Violence against women in family comprises a broad and series of acts and behavior, including verbal violence, physical violence, psychological-emotional violence, sexual violence but it also has within it limitations on food, health care or economical means and other forms of violence which appears during the life cycle. Women of all cultures experience violence even though there are noted some indicators such as poverty and the lack of education which are accompanied with the high level of violence, but experiences with the violence are reported for all levels of education and socio-economic status. Often as potential contributors of the violence presence in marriage relations are named stereotyped norms of gender in one society, economic dependence from men, the lack of legislation or non-implementation of existing legislation as well as organization which offer services for women and girls that are victims of domestic violence.

We live in a society where no matter of positive changes and the achieved advancement, stereotyped behaviours and models that incite violent acts are not absent in our daily lives. Domestic violence nd the violence against women, sometimes precepted as normal behaviour and sometimes intolerant, are numerated indeed as the main reasons of damaging the people's life's and they are classified as heavy violation of human rights. Women are classified as the most affected group of domestic violence[6].

Domestic violence is one of the crimes forms less reported and it was usually considered as a private issue and as the consequence of this treatment, the dimensions and frequency of this phenomenon are not properly known. However, studies show that domestic violence especially that against women and against girls has shown an increase in Kosovo during the period of Covid 19.

In practice there are numerous forms of violation, among which the most spread are:

Domestic violence – includes attack against physical integrity of a person which is manifested: drilling with the sharp means, killing of the victim, hit with the knife, bite or bites, hair

[5] https://abgj.rks-gov.net/lajmi_single/799, consulted on 1.05.2020.
[6] Strategjia Kombëtare të Republikës së Kosovës për Mbrojtje nga Dhuna në Familje dhe Planit të Veprimit 2016 – 2020.

grabs and when victim is hit by gun or threats of these types[7].

Physic violence – in general is exercised beginning with the light forms going towards more extreme ones. Physic violence includes a broad specter of behaviour as abrasions, push, throwing, forceful capture, bite, suffocation, bites, drilling, hair pulling, arm twisting, licking, forcible tightening, beatings, kicks, burnings, stabbings god, suffocates[8].

Physich/emotional violence – is manifested in form of systematic emotional degradation, by enforcing the victim to commit acts which lower her/his dignity; by mentioning time after time the victim's name; by accompanying with the humiliating comments; by threatening to death victim or member of the victim's family; by taking victims money or behaviour itself makes it under stable that victim has mental disorder. It is called emotional because it covers humiliations, offending and derogatory acts, ridicule and bullyrag. Also treatment of partner as servant, conditioning and blamings, threats, control on clothing, etc.[9] Emotional and psychological abuse might be maybe easer compared to the physic ill-treating but this doesn't mean that it is not harmful for victim, having in mind that these acts could lead towards physical attacks, especially if this is the hidden aim of striker. Committed violence in family, without the will of partner could be of psychological or physical nature[10].

Sexual violence - is defined as: any sexual act, attempt to obtain a sexual act, unwanted sexual comments or advances, or acts to traffic, or otherwise directed, against a person's sexuality using coercion, by any person regardless of their relationship to the victim, in any setting, including but not limited to home and work[11]. Sexual violence covers but it is not limited to rape of the spouse, it covers attacks in the sexual parts of the body, obligation to make sex after the physic violence was committed or treatment sexually in a humiliating way. Sexual harassment is done by spouses and/or intim partners and with the family members within the family context of love relations in the family.

2. International mechanisms against the domestic violence

Declarations and International Conventions have given an approach and a legislative framework related to defining and treating domestic violence with a considerable part on violence against women. According to the UN Declaration against women means every violent act based in gender and which results with the physical, sexual or psychological injuries and suffering of women, including also threats for such acts and restrictions of freedom, no matter of the fact if they belong to private or public sphere.[12] In UN IV Conference in Beijing held in September 15, 1995 it is required that states (parties) should fulfill their obligations regarding the domestic violence. In this conference amongst the others, domestic violence was defined as „a world problem which should be treated as such". In this conference it was stressed out that „violence against women contains violence against human rights and an obstacle toward achieving equality, development and peace".

In the Convention for Eliminating all Forms of Discrimination against Women it is given a definition on domestic violence as „one main mechanism from which women are forced to stay in an inferior position compared to men"[13].

Domestic violence in the Fourth UN Conference held in Beijing in September 1995 was defined as: "a worldwide problem which should be treated as such". At the same conference it was stressed out that „violence against women contains violence of human rights and it is an obstacle to achieving equality, development and peace".

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[7] Edmond Dragoti, *Psikologjia ligjore e krimit,* Tiranë, 2011, p. 66.
[8] Vjollca Meçaj, *Kuptimi i termit dhunë ndaj gruas. Trajtesa juridike dhe sociale për mbrojtjen nga dhuna në familje*, Tiranë, nr.1(18), mars 2008.
[9] Grup autorësh, *Dhuna në familje, paraqitje e situatës aktuale*, Tiranë 2006, p. 12.
[10] Hamdi Podvorica, *E Drejta familjare*, Universiteti "ILIRIA", Prishtinë, 2006, p. 77.
[11] https://www.who.int/violence_injury_prevention/violence/global_ campaign/en /chap6.pdf?ua 1, consulted on 1.05.2020.
[12] http://www.un.org/documents/ga/res/48/a48r104.htm, consulted on 1.05.2020.
[13] https://www.ohchr.org/en/professionalinterest/pages/violenceagainstwomen.aspx, consulted on 1.05.2020.

In the Declaration "against violence against women" adopted by UN General Assemble an official definition is given in which it is said: "violence against women in family will be considered each act based on the gender which results with: physical, sexual or psychological injuries that cause suffering to women including threats with such acts arbitrary deprivation of freedom, no matter if they happen in public or in the private life"[14]. UN General Assembly confirmed that "violence against women is the violence of human rights and freedoms and that prevents or supersede enjoyment of these rights and freedoms". UN General Assembly expressed its concern on "long term failure on protecting and promoting these rights and freedoms in cases of violence against women"[15].

Declaration for Eliminating of all Forms of Discrimination against Women, Resolution 48/04 of UN General Assembly, December 20, 1993 calls on national authorities to "to follow by all suitable means and without delay a policy of eliminating the violence against women through amongst the other, exercising needed attention on preventing, investigating as well as sentencing in accordance with the national legislation acts against women "no matter if these acts are committed by the state or by private persons"[16].

These authorities shall ensure that women who suffer violence "to have access in justice" and in accordance with the national legislation "to have access in legal efficient means as well as the rights for the caused damage" and the authorities shall inform women on their rights during the process of asking for justice through such mechanisms"[17].

Authorities should also undertake measures to ensure that officials while implementing law and public officials responsible for implementing policies of preventing, investigating and sentencing for the violence against women, are trained to be sensibilised on women needs"[18].

In 2004 UN General Assembly adopted Resolution for eliminating domestic violence against women[19]. With this resolution it was approved that domestic violence "is public concern and it calls on states to undertake serios acts to protect victims and to prevent domestic violence"[20], as well as to "ensure bigger protection of women through amongst the other and whenever suitable, orders to limit violent spouses to enter in the family house, or to forbid violent spouses to contact with the victim"[21].

2.1. Universal Declaration of Human Rights (1948)

Universal Declaration of Human Rights is the first international document that determines clearly which are human rights and basic obligations of men, for all men and women of all nations, ethnicities, religious affiliations, etc. Article 3 of this declaration says: "each men has the right to live, to be free and secure". Further in article 7 expresses that: "all are equal before the law and all have the right to be defended without any kind of discrimination"[22].

2.2. Convention for Eliminating of all Forms of Discrimination against Women (CEDAW)

This convention is adopted by UN General Assembly in 1979 and it is often referred as the international law for women's rights. This convention frames what is discrimination against women and determines an action plan for implementing this convention by member states. According to this convention "discrimination against women means every difference, exclusion or restriction on

[14] Declaration "Against violence on women" approved by the General Assembly of the United Nations.
[15] UN Resolution, 1993.
[16] UN Resolution 48/04, 1993.
[17] Ibid.
[18] Ibid.
[19] http://www.worldlii.org/int/other/UNGARsn/2003/185.pdf, consulted on 1.05.2020.
[20] Ibid.
[21] Ibid.
[22] UN Declaration of Human Rights, articles 3 and 4.

gender basis which consequences or aims are to damage or devaluate recognition, enjoyment or exercising by women no matter of her marriage status, on the basis of equality between husband and the wife, the basic freedoms in the field of politics, economy, society, culture and civic or any other field"[23]. Member states condemn discrimination of women of all forms, agree to fight by all appropriate means and without any delay a policy with the aim of elimination discrimination and they take the responsibility that in their national constitutions to regulate the principle of equality between men and women.

2.3. Action Platform of Beijing

"Platform for Action of Fourth World Conference for Women[24] includes "institutional mechanisms for women advancement" as one of 12 field of interest. Platform gives a determined institutional mechanism; it numerates some conditions for effective functioning of this mechanism and suggests acts which should be undertaken by government. Moreover, Platform ensures a mandate for institutional mechanism for women advancement that includes amongst the other "to draft, initiate implementation, execution, monitoring, evaluation, protection and mobilization of support to policies that promote women advancement".[25]

2.4. Millennium objectives

The spread and the frequency of domestic violence affect directly in achieving the third objective of millennium which is achievement of gender egality. In order to achieve such an objective there should exist laws which support the gender equality and implementing, monitoring and evaluating mechanisms. Since violence is a real obstacle on achieving gender equality, member states have agreed to fulfill these objectives, they should undertake adequate measures with the aim of protecting women from violence and from the other forms of discrimination[26].

2.5. Comprehensive Standards and instruments for human rights

A series of comprehensive instruments for human rights at the international and regional level contain rights and limitations of special importance on the cases of domestic violence. Universal Declaration for Human Rights[27] guaranties the right to life, freedom and security of people[28] and it forbids torture as well as "treatment or cruel, inhuman or degrading punishment."[29] It guaranties equal protection before the law "without any discrimination"[30] and "effective legal means from competent local tribunals for the acts of violation of basic rights [...] ensured by the constitution or me law". All "have the right in total equality, to have the right and public hearing from an independent and impartial tribunal on judging the determined rights and obligations"[31]. International Convention for Civil and Political Rights[32] repeats and strengthens these guarantees[33], like it does the European Convention for Human rights at the regional level[34].

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[23] https://www.hrrp.eu/alb/docs/CEDAw-a.pdf, consulted on 1.05.2020.
[24] The United Nations Fourth World Conference on Women, http://www.un.org/womenwatch/daw/beijing/platform/violence.htm**,** Beijing, China - September 1995, Action for Equality, Development and Peace, consulted on 1.05.2020.
[25] https://www.hrrp.eu/alb/docs/CEDAw-a.pdf, consulted on 1.05.2020.
[26] UNDO Millennium Objectives.
[27] UN Declaration of Human Rights
[28] Ibid.
[29] Ibid.
[30] Ibid.
[31] Ibid.
[32] UN Convention on Civil and Political Rights 2200A (XXI), 21 UN GAOR Supp. (No. 16) at 52, UN Doc. A/6316 (1966); 999 UNTS 171.
[33] European Convention on Human Rights.
[34] Ibid.

2.6. Specialized instruments for human rights

Some specialized instruments for human rights at the international and regional level, along with decisions taken by regional courts for human rights and organs of UN treaties contain international legal framework for human rights that regulates the field of violence against women, including the domestic violence. According to this legal framework, domestic violence in Kosovo constitutes not only a crime, it contains also a form of discrimination based on gender and based on violence of women human rights. The last twenty years have noted gradual articulation of standards for needed care which should be used in evaluating of appropriateness of national authorities' reaction in cases of domestic violence. This standard of needed attention now is known as the new rule of the international custom law (case *Opuz vs. Turkey*[35]).

2.7. Gender equality and European Union

Domestic violence is an issue which is connected directly to the equality between men and women. The EU has two articles in the Amsterdam Treaty (1997) that address the issues directly linked to gender equality. Articles 2 and 3 specify that the equality between men and women is one of the objectives whereas article 13 refers to discrimination that is done based on gender[36]. Violence against women, even though the most spread in the world continues to be less reviewed. Violence is also a deep health problem that as a consequence has injuries and death, it affects wellbeing of women and demolishes their dignity and their self-evaluation. Now it is known that domestic violence overcomes limits and it is present in all cultures. Researches on domestic violence have confirmed that the abusements against women is a complex and multi-dimensional problem. Explanation for this we shall see in the socio-cultural, social, family and individual factors that affect the possibilities to make women be victims of violence.

3. Kosovo legal framework on protection against the domestic violence

Kosovo Constitution. The Constitution of the Republic of Kosovo in the Chapter II foresees the Basic rights and freedoms (European Convention on Human Rights), for the cases of violence or domestic violence if/when the violence appears.

Law on protection from domestic violence no. 03/L-182. This law has the aim to prevent the domestic violence of all forms by the appropriate legal means of family members who are the victims of domestic violence, by paying specific attention to children, elderly and persons with disabilities. (Law no. 03/L-182 on Domestic Violence).

Kosovo Criminal Code. Kosovo Criminal Code in its 248 article says:

1. Whoever commits physical, psychological or economic violence or mistreatment with the intent to violate the dignity of another person within a domestic relationship shall be punished by fine and imprisonment of up to three (3) years.

2. When any act in the Criminal Code is committed within a domestic relationship, it will be considered an aggravating circumstance.

*3. Every member of the family who exerts physical, psychological, sexual or economic violence or mistreatment against another member of his/her family, shall be punished by a fine and imprisonment of up to three (3) years (*Criminal Code no. 06/L-074).

National Strategy of protection from domestic violence and the Action Plan 2016-2020 in the Republic of Kosovo. Kosovo Government through the Strategy for protection from domestic violence and the Action Plan is engaged seriously on treating by priority the phenomenon of domestic violence. Its focus is oriented in: information and awareness activities which aim prevention on phenomenon of domestic violence; and coordination of acts of all parties dealing with protection, treatment, rehabilitation and re-integration of victims of domestic violence;

[35] http://www.eurotreaties.com/amsterdamtreaty.pdf, consulted on 1.05.2020.
[36] Ibid.

punishment and making responsible perpetrators of domestic violence; harmonization of national legislation with the international and review of standards of service for victims of domestic violence; offering specialized services of modern standards which should be spread in the country and on what all individual harmed by domestic violence to have approach no matter of their characteristics regarding age, gender, capacities or special needs, gender identity, sexual orientation, etc.[37] This acts without any doubt lead towards a zero tolerance to domestic violence which aims equality, peace and harmony.

Some existing institutions and mechanisms against domestic violence in Kosovo. In order to prevent and to fight against the domestic violence in general and within it against violence against women, the Republic of Kosovo has built up a series of legal instruments and mechanisms on preventing and fighting against perpetrators of criminal acts of domestic violence and to offer help to the victims of domestic violence, among which the main would be as follows: the National Coordinator against Domestic Violence.

Kosovo Police investigates crimes of domestic violence and refers victims of violence before other services (Law no. 03/L –182 on protection against domestic violence).

State Prosecutor is obliged to review evidence of a domestic violence incident in order to determine if there is enough evidence to justify and to support criminal investigation of the case. This includes also the violation of protecting orders (Standard Acting Procedures on Protection of domestic Violence: 48).

Principal courts play the crucial role in the process of ensuring an appropriate and legal treatment on cases of domestic violence. They are responsible to treat in impartial way and with the dignity of parties including victims of domestic violence and the perpetrator of criminal act. As a part of civil procedure courts review requests for order of protection and orders for emergent protection, by putting protection measures which are foreseen with the Law on Protection of Domestic Violence. Courts are obliged to take decisions regarding orders for protection within legal deadlines determined by law and they also should review cases of domestic violence as the issues of priority (Standard Acting Procedures on Protection of domestic Violence:48). In the criminal procedure's courts are also competent to punish perpetrator of criminal acts which belong to the domestic violence as well as persons that have violated orders for protection. Courts are obliged to inform all parties of the procedure for their rights that belong to them and about the consequences in cases of non-action (Standard Acting Procedures on Protection of domestic Violence:48). Protector of victim-Office for Protection and help to victims is located in the office of State Prosecutor of Kosovo. The protector of victims usually meets with the victim immediately after police reaction regarding the reported case of domestic violence and he is responsible to ensure that victim understands services which could be offered from the state and how the victim could use them. (Standard Acting Procedures on Protection of domestic Violence:48).

Offices for legal aid offer legal means to the vulnerable groups covered by social assistance. In 2010 Kosovo Law for free legal assistance has included also the victims of domestic violence in the list of categories of persons that have the right to initiate procedures through which they ask for free legal assistance (article 31). In this sense the role of officials for free legal assistance is different from protectors of victims, who manages all cases of crimes. Due to the lack of needed documentation for categories of victims of violence, as the basis will be used the written declaration of victim (Law on Free Legal Assistance).

Institution of Ombudsman is responsible to address accusations for about violation of all human rights done by the state (Law no. 3/L-195 on Ombudsperson, 2010). Therefore, in cases where a Kosovo institution while addressing any act of domestic violence the victim has the right to report to the Ombudsman for investigation and assistance for the pretended violation.

[37] National Strategy for protection of Domestic Violence and the Action Plan, 2016 – 2020.

4. Conclusions

Violence against women even though it is the most spread violation of human rights in the world, continues to be less reviewed. Violence is also a deep health problem that as the consequence has injuries, it affects wellbeing of women and that demolishes their dignity and their self-evaluation. What increases severity of this phenomenon is the increase of cases of violence against women and as the consequence of Pandemic Covid 19 where within certain families isolated based on the measures of restriction of movement, quarantine and the timetables of lock down, in one side have contributed to saving peoples life's, it also contributed to inhibiting of Covid 19 spread, but on the other side from a category of irresponsible spouses, measures have aggravated the situation related to the domestic violence, or violence especially against women. In order to prevent and to combat the phenomenon of violence against women, it should be established a better cooperation between government and all of its sectors and the civil society. With the aim of reducing the number of cases of domestic violence, creation of joint vision is necessary, and this would lead us towards prevention of violence, but it will also help the victims of violation. It is important and necessary to have lawyers, psychologists, doctors, police and social workers to work together in providing protection and assistance and rehabilitate victims of domestic violence. Legal framework whether international or national is considered to be appropriate for preventing and for combating various forms of domestic violence and specially violence against women. But for this it i.e. needed a better practical implementation so the victims of violence can trust the state institutional mechanisms whereas the perpetrators to be held responsible for crimes of this field.

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