

VIOLENCE AGAINST WOMEN AND ITS FORMS

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Abstract

Violation against women is a complex problem which includes more than just an act itself in personal relationships between husband and wife. It is a social problem of wide dimensions having its roots in historical attitudes toward woman and marital relationships. Socialization of women and men in our society and engagement of women in inferior roles and positions keeping them economically dependable, make women more vulnerable to violence than men they live with. This victimization of women by their husbands becomes stronger due to economic situation, mentality and tradition, as well as insufficient awareness of people on domestic violence. The domestic violence is a serious problem and requires attention of high level of national authorities. For more than ten years this problem has been targeted in the agenda of numerous national and international organizations, governmental and non-governmental. Although slowly and partly, in an international level this has resulted in various legal norms, political agreements, political directives, recommendations or practical advice.

Key Words

Domestic violence, victimization,

Introduction

Violence in modern families particularly against women is a complex problem that involves more than an act in itself in personal relationships between men and women. It is an enormous broad-rooted in historical attitudes towards women and marriage relationships. Socialization of women and men in our society and definition of women's roles and inferior positions that keep women economically dependent, make women more vulnerable to violence by men who they live with or are in a partnership relation.

Convention on the Elimination of All Forms of Discrimination against Women is a definition of domestic violence as "a key mechanism by which women are forced to stay in an inferior position compared with men".¹

Also at the Fourth World Conference held in Beijing in September 1995, domestic violence was defined as "a worldwide problem and must be treated as such." In this conference it was empha-

¹ Resolution of the General Assembly, 48/104, 1993

sized that “violence against women is a violation of human rights and an obstacle to the achievement of equality, development and peace”. Even the statement “Violence Against Women”, made by the General Assembly of the United Nations, released the first official definition, which states that “violence against women in the family would be considered any act of gender-based which results in, or could result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life”.²

Violence against women although is the most widespread violation of human rights in the world, continues to be the least considered. Violence is also a profound health problem that death and injuries, affects the welfare of women and destroys their dignity and self-esteem. It is well known that domestic violence crosses all boundaries and is present in all cultures. Researches on domestic violence have shown that abuse of women is a complex and multidimensional problem.

Explanation for this must be seen to include cultural, social, family and individual factors that influence the opportunities for women to become victims of violence. For many women, the reality is quite different from their dream of an ideal marriage.

The victimization of women by their husbands is effected by several factors such as economic conditions, mentality, traditions, insufficient awareness of people about domestic violence, but also by a lack of morality. The traditional family is usually defined by sociologists as a group of individuals related by blood or by marriage, living together, cooperate economically and adults share responsibilities to raise their children. Family is also a group of individuals, relationships and behaviors which are invisible to others, a complex social organization that consists of a lot of variety of roles and status.

In our time, the family has lost its “silence” which characterizes it, and was threatened not only by traditional factors such as different diseases, unemployment, various disasters, poverty, death, etc., but also by those “non-traditional” such as deviant behavior, conflicts of various kinds, violence, alcoholism, drug use abusive, abandoning the family, sexually transmitted diseases, etc...” So family is a structure that encompasses a variety of relationships and roles and as such is sensitive by the violence inside.

Violence against women involves a wide variety of actions and behaviors, including verbal, physical and sexual, abuse, but also limitations to food, healthcare or economic means as well as other forms of violence that occur during the life cycle. Women of all cultures experience violence and noted that although some indicators, such as poverty and lack of education are often accompa-

² UN Report on Violence against Women, 1993

nied by a high level of violence, experiences of violence reported by women are of all educational levels and socio - status economic. Often as possible contributors to the presence of violence in marital relationships are considered gender norms and stereotypes in society, economic dependence on men, lack of legislation or the implementation of existing legislation and organizations that provide services to women victims of domestic violence.

Based on the universal values of family, the United Nations defines violence as an act which results, or is likely to result in, physical, sexual or mental harm, including threats or similar acts, coercion or arbitrary exclusion of freedom.

In practice there are some forms of violence, among which the most common are:

Physical violence; which includes: pushing, hitting, scratching, locking at home, hitting with hard objects, threatening with a knife or other weapon, refusing to help the woman when she is pregnant or sick, attempted murder of the serious form. The forms of physical violence are efforts to control and monitor the movements of women. Women who are not suspected to be “misbehaving” and “incorrect” in marital relationships often become victims of extreme forms of physical violence. They are not only beaten, tied with rope, but cigarettes were also extinguished in different parts of their body, they were dragged, bones were broken or left out of the door at night alone and other forms of abuse. Physical violence generally starts with minor forms to get to those extreme ones. Perpetrators are careful with the level of violence. Based on cases from the practice, this form of violence mainly occurs after the first year of marriage, during pregnancy, to intensify after the birth of the first child, and to continue lifelong marriage if she does not oppose it, or does not find a way to escape from the husband. Victims of domestic violence indicate that their mothers are abused by their husbands alike and have never objected to it. What is even more painful, though these mothers are praying for a better life to their daughters, yet you have given them the message that “men must be endured”.

Psychological / emotional violence; This form of violence includes joke, threats, tracking (following), disallowing to make decisions, stopping to go out and entertain with friends or even to go out alone, constant criticism for disregarding the culture and customs, offending the victim at home as well as in public, blaming the victim for everything that goes wrong, controlling the way of dressing (type of clothes), etc.

Spiritual violence; This form of violence is also involved in psychological violence and consists in prevention of expression of religion or cultural norms, traditions and spiritual faith.

Sexual violence; This type of violence includes forced sexual relations, treating the partner as a

sexual object, the obligation to have sex without consent, the obligation to provide sex in the form which is disliked or unacceptable for partner, perseverance to touch and do everything partner wants, the obligation to have sex with another partner in the eyes of others, the realization of sexual relations with a partner before the other spouse, the declaration of a relationship outside marriage, the obligation to have sex after physical violence, coercion into prostitution, forcing to be a striptease, etc... Based on data from the counseling centers, this is the third form of violence against women which is declared by women victim. In this case, it should be underlined that although the sexual violence may be third in terms of its frequency, it is increasingly involved and intertwined with other forms of violence as emotional and physical violence.

Economic violence; involves the control of money so that the victim does not have the ability to take decisions on economic issues, giving a small amount of money which is not enough to cover the economic costs, refusing to cover children, forcing to steal or sell valuable things, denying the possibility that the property is in the name of the she-partner / spouse, etc..

Domestic Violence in Kosovo

Domestic violence is a form of the most underreported crimes and usually regarded as a private matter and as a result of this treatment, there is no accurate prevalence of the phenomenon. Yet studies show that domestic violence, especially against women and girls that has grown during the transition period in Kosovo. Statistics on cases of alleged police show a worrying increase, but that does not show the real situation, since the difficulty of gathering information on domestic violence comes as a result of the economic situation of victims, which in most cases are poor and in other cases are individuals who have limited access to information about their rights, social services, legal aid and media attention or remain on the margins of silence and patience.

Many International Organizations in Europe and in particular the OSCE continuously address and tackle the human rights violation to include the domestic violence and the violence against women. The Mission's efforts to promote human rights and improve the functioning of judiciary continued to have tangible results as evident, for example, in domestic violence cases. One Mission recommendation – to municipal courts to strictly comply with the 24-hour time limit for adjudicating petitions for emergency protection orders in domestic violence cases – was issued as an instruction by the Chair of the Kosovo Judicial Council (KJC) that improved courts' compliance with the prescribed time limits. In its mandated areas, the Mission continued to identify and recommend measures to improve the conformity of legislation with international human rights and rule-of-law standards.³

According to statistics provided by official statistics the domestic violence and the violence against

³ OSCE Annual Report, 2012, p. 42

women in Kosovo is considered to be a serious matter. Pursuant to Annual Report of the Ombudsperson Institution in Kosovo, the domestic violence is considered to be a serious problem in Kosovan society.

The phenomenon of violence is not new; such phenomenon has always existed in the society. In the post-war period was adopted the Law on Protection against Domestic Violence. Domestic violence, as such has many aspects; it can be physical, psychological, sociological and economic violence. The most frequented victims of domestic violence are women and children, but there are also a small number of cases where men were victims.

Very often, the domestic violence is regarded as internal private problem of a certain family, which in no manner may become public. It happens that reporting of such an event causes retaliation of the perpetrator or women becomes a subject of moral condemnation by the environment in which she is living. In Kosovo, during the year 2011, occurred 3 cases of murder in which women were victims. Murder cases occurred as a consequence of domestic violence. Still, most of the competent courts even after receiving a request for Protective Order (Restraining Order) submitted by the victims do not issue a decision imposing an adequate protective measure within the reasonable time set forth by law.⁵³ However; there are no indicators that the situation during this reporting period has changed for the better. According to the report of the Police of the Republic of Kosovo on the cases of domestic violence in the area of Prishtina Municipality for the year 2011, there were 268 registered cases, in the Municipality of Gjilan 109 cases, 108 cases in Ferizaj, Municipality of Peja 207, in Prizren 172 and in the Municipality of Mitrovica 182 cases.⁴

Despite of numerous published catalogues and brochures regarding domestic violence and the violence against women, the rate of this offence is still considered to be high. The OSCE has published a Catalogue of Advice and Assistance for Domestic Violence Victims, which provides very fruitful information on domestic violence related matters, especially about protection measures which are available in the Republic of Kosovo. This catalogue the Protection measures denies as measures issued by a court or the police to protect a person who is exposed to violence by changing the circumstances which may allow the perpetrator to commit more acts of violence. Protection measures can limit perpetrators from visiting their places of residence and can prohibit perpetrators from seeing their children, in addition to other measures. These measures are issued for the duration of a protection order. Once protection measures end, they will no longer affect the property rights or the custody rights of the perpetrator.

A municipal court can issue protection orders or emergency protection orders containing one or more protection measures. Kosovo police can issue temporary emergency protection orders

⁴ Annual Report 2011, of the Ombudsperson Institution in Kosovo, page 27

containing only some of the protection measures. This is discussed in more detail below. Kosovo police are responsible for ensuring that the perpetrator obeys the protection measures.⁵

Kosovo Assembly has promulgated several laws related to women's rights, non-discrimination, gender equality and domestic violence. The Law No. 03/L – 182 On Protection Against Domestic Violence defines the Domestic Violence as one or more intentional acts or omissions when committed by a person against another person with whom he or she is or has been in a domestic relationship, but not limited to:

- 1.2.1. Use of physical force or psychological pressure exercised towards another member of the family;
- 1.2.2. Any other action of a family member, which may inflict or threaten to inflict physical pain or psychological suffering;
- 1.2.3. Causing the feeling of fear, personal dangerousness or threat of dignity
- 1.2.4. Physical assault regardless of consequences;
- 1.2.5. Insult, offence, calling by offensive names and other forms of violent intimidation;
- 1.2.6. Repetitive behavior with the aim of derogating the other person;
- 1.2.7. Non-consensual sexual acts and sexual ill-treatment;
- 1.2.8. Unlawfully limiting the freedom of movement of the other person;
- 1.2.9. Property damage or destruction or threatening to do this.⁶

Many local and international NGOs, Agencies, Institutes, Networks were established to facilitate domestic violence victims and assist them with their rights in Kosovo since 1999. The Republic of Kosovo aims to adapt its legislation with European laws, International Conventions on human rights and other related regulations in order to render best policies and practices to tackle in the best possible manner this serious matter of the society.

However, their implementation in the practice yet continues to be a great challenge for all institutions in the Republic of Kosovo.

- 1.2.10. Causing the other person to fear for his or her physical, emotional or economic wellbeing;
- 1.2.11. Forcibly entering removing from a common residence or other person's residence;
- 1.2.12. Kidnapping.⁷

International Mechanisms Against Domestic Violence

International declarations and conventions have provided an access and a legal framework, concerning the definition and treatment of domestic violence, a considerable part of which is the violence against women. The fourth Conference of the United Nations held in Beijing on 15 September 1995, required the member states to fulfill their obligations with regard to domestic violence. In this conference, among other domestic violence was defined as “ a worldwide problem and must be treated as such”. In this con-

5 OSCE Catalogue of Advice and Assistance for Domestic Violence Victims

6 Republic Of Kosovo, Law No. 03/L –182, on Protection against domestic violence

7 OSCE Catalogue of Advice and Assistance for Domestic Violence Victims

ference was also emphasized that “violence against women is a violation of human rights and an obstacle to achieve equality, development and peace”.

Convention on the Elimination of all Forms of Discrimination against Women, gives a definition on domestic violence as “a key mechanism by which women are forced to stay in an inferior position compared with men”.⁸

Also the Declaration “against violence on women”, approved by the General Assembly of the United Nations, provided the first official definition, which states that: “Violence against women in the family would be considered any act based on gender that results in, or could result in, physical, sexual or psychological harm or causing suffer to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life”.⁹

Universal Declaration of Human Rights (1948).

It is the first international document that clearly compiles which are fundamental rights and human obligations, both for men and for women of all nations, ethnicities, religions, etc.. Article 3 of the declaration states: “Everyone has the right to live, to be / free and / safe “. Further in Section 7 this declaration states that: “Everyone is equal before the law and everyone is entitled to be protected without any discrimination”.¹⁰

The Objectives of the Millennium

The prevalence and frequency of violence directly affect the achievement of the third Millennium Goal, which is to achieve the Gender Equality. In order to achieve such an objective the gender equality support laws should exist and implementation, monitoring and evaluation mechanisms. Since violence is a real impediment to achieve gender equality, the member states which have agreed to achieve those objectives, should take appropriate measures to protect women from violence and other forms of discrimination.¹¹

Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW).

This convention was adopted by the General Assembly of the United Nations in 1979 and is often referred to as an international law on the Rights of Women. This Convention defines what the discrimination against women is and determines an action plan for implementation of the Convention by member states. Pursuant to this Convention “Discrimination against women means any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field”.¹²

8 Resolution of the General Assembly, 48/104, 1993)

9 Declaration “Against violence on women” approved by the General Assembly of the United Nations

10 Universal Declaration of the Human Rights (1948) article 3 and 7

11 Objectives of the millennium, UNDP

12 Convention on the Elimination of all Forms of Discrimination against Women (CEDAW).UN General Assembly, approved in 1979

Member States condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy with a view to eliminate discrimination and undertake to include in their national constitutions the principle of equality between men and women.

The Beijing Platform for Action

“The Platform for Action of the 4th World Conference for Woman (Beijing, 1995) includes “the advancement of women “as one of twelve areas of interest. The Platform provides a definition of institutional mechanism lists several conditions for the effective functioning of this mechanism and suggests actions to be taken by governments. Moreover, the platform provides a mandate for institutional mechanisms for the advancement of women which includes, inter alia, “to design, promote the implementation, execution, monitoring, evaluation, protection and mobilization of the support for policies that promote women’s advancement”¹³

Gender Equality and the European Union

Domestic violence is an issue that is directly linked with equality between men and women. The European Union has two articles in the Treaty of Amsterdam (1997), which address issues directly related to gender equality. Article 2 and 3 specifies that equality between women and men is one of the core objectives of the European Union and Article 13 refers to discrimination based on gender.

Violence against women although is the most widespread violation of human rights in the world, continues to be the least considered. Violence is also a profound health problem resulting in death and injuries affects the welfare of women and destroys their dignity and self-esteem. It is well known that domestic violence crosses all boundaries and is present in all cultures. The researches on domestic violence have shown that abuse of women is a complex and multidimensional problem.¹⁴

An explanation for this must be seen to socio-cultural, social, family and individual factors that affect opportunities for women to become victims of violence.

Conclusion

Although the violence against women is the most widespread violation of human rights in the world, it continues to be the least considered. Violence is also a profound health problem resulting in death and injuries affects the welfare of women and destroys their dignity and self-esteem. It is well known that domestic violence crosses all boundaries and is present in all cultures. In order to prevent and combat the phenomenon of violence against women in the family, a better relationship between government cooperation in all its sectors and civil society shall be built to prevent and combat such violence. In order to reduce the incidence of domestic violence, it is necessary to create a common vision that will lead us into action to prevent violence, but to help victims of violence, it is also necessary that lawyers, psychologists, doctors, police and social workers shall work together for protection, assistance and rehabilitation of victims of domestic violence.

13 Beijing, China - September 1995, Action for Equality, Development and Peace <http://www.un.org/womenwatch/daw/beijing/platform/violence.htm>

14 The Treaty of Amsterdam, 2 October 1997, <http://www.eurotreaties.com/amsterdamtreaty.pdf>

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