

Domestic Violence- Theoretical And Practical Approaches

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In the fifties and early sixties the focus was on children's interest or the discovery of the problem of child abuse, whereas in the 1970s and 1980s research on violence against women in marital relations began and after 1980 the research of violence against elderly people in the family.¹

Domestic violence is defined as torture, serious injury, security breach, cruel, sexual or physical injury which is a source of fear, insecurity toward spouses, parents or children, etc.

The human right to physical and moral dignity is irrevocable. Any form of torture, or inhuman or humiliating conduct or punishment, is prohibited. Forced labour is prohibited. (Article 11 of the Constitution of the Republic of Macedonia). Each citizen is guaranteed the respect and protection of the privacy of his/her personal and family life and of his/her dignity and repute. (Article 25 of the Constitution of the Republic of Macedonia).

Family violence shall mean abuse, rude insults, threatening of the safety, inflicting physical injuries, sexual or other physical and psychological violence which causes a feeling of insecurity, being threatened, or fear towards a spouse, parents or children or other persons which live in a marital or other community or joint household, as well as towards a former spouse or persons which have a common child or are have close personal relations. (Article 122, Paragraph 21 from Criminal Codel of the Republic of Macedonia).

According to the Convention of Council of Europe on the Prevention and Combating of Violence against Women and and Domestic Violence, “**domestic violence**” shall mean all acts of physical, sexual, psychological or economic violence that occur within the family or domestic unit or between former or current spouses or partners, whether or not the defendant shares or has shared the same residence with the victim”².

As a behavior of domestic violence or as a crime of domestic violence in criminological literature, commonly referred to as forms of violence that are manifested by violence in marriage, ie, violence between spouses, husbands and women, violence against children and violence against parents³

According to some authors, domestic violence is classified as: physical, emotional, sexual and economic violence.

¹ Кајзер, Гинтер, „Криминологија“, Скопје: 1996

² Konventa e Këshillit të Evropës për parandalimin dhe luftimin e dhunës kundër grave dhe dhunës në familje, Stamboll, 11.V.2011, Article 3.2

³ R.Halili, Kriminologjia, Prishtinë, 2016, p .181

Physical violence – are considered behaviors such as beatings, strokes, collisions, breaking bones, hair pullings, burns, etc. that can be accomplished with hand, kicks or other strong means. Behaviors that constitute physical violence can make light wounds such as hematoma to severe wounds that can also take the life of the victim.

Psychic Violence - Violence is manifested with intimidating behavior and by exercising constant pressure on the victim in the form of threats, maltreatment, swearing, underestimation, deprivation from normal life, etc.

Emotional violence - are considered behavior and attitudes that consist in insult, contempt, labeling, perceiving, underestimating and threatening to the victim's life.

Sexual Violence - These behaviors are considered to involve sexual harassment committed intentionally to achieve sexual intercourse even by force. Sexual violence is also considered other behaviors such as forcing to pose naked, forced pornography, pedophilia, etc. As defendants of sexual violence, persons of masculine gender are often represented.

"Violence" is any act or omission of a person against another person, resulting in a violation of physical, moral, psychological, sexual, social, economic integrity. "Domestic Violence" is any act of violence, according to paragraph 1 of this Article, exercised between persons who are or have been in a family relationship.⁴

Family members are:

- a) Spouse or cohabitant or former spouse or cohabiting partner;
- b) Brothers, sisters, righteous gender, including adoptive parents and adopted children;
- c) The spouse or cohabitant of the persons provided for in letter "b";
- d) The righteous gender, including the parents, and adopted children of the spouse or cohabitant;
- e) Spouses and siblings if they have lived together in the last 3 months;
- f) Children of spouses or cohabiting partners.

4. "Victim" is the person on whom the violence referred to in paragraph 1 of this Article has been committed.

5. "Violator" is the person who has been indicted for committing domestic violence before the competent authorities.

6. "Protection Order" is an order issued by a court decision, which provides protection measures for the victim.

7. "Immediate Protection Order" is an order issued temporarily by a court decision, valid until the issuance of a protection order by a court decision.⁵

The law defines domestic violence as any form of abuse exercised by a person against another person, which results in a violation of his physical, moral, psychological, sexual, social or economic integrity. Abuse may occur at any time during a relationship, including the time when this relationship is ending, or even after it is over. This kind of violence does not recognize any cultural, ethnic, educational, or economic environment. Abusive partners may use a variety of tactics to try to exercise power and control over their victims. Abuse can happen once, or it can happen with a repeating and escalating pattern over a period of months

⁴ Ligji ndaj dhunes ne mardheniet familjare, n.3, No.:9669, R.of Albania, 2007

or years. Over time it can also change shape. There are several forms of domestic violence, and one person may be subject to more than one form.⁵

Families and sound family relationships have long been said to be fundamental preconditions for a successful new generation and a stable society with a safe future perspective. Family conflicts, man-woman conflicts, parent-child conflicts, multiple divorces, abandonment of the family, abandonment of children, daily increase the number of victims.⁶

Domestic violence, degradation of male and female relationships, also leads to child abuse, the presence of parents' pathological phenomena, such as alcohol, drugs, gambling, prostitution, wandering, and other destructive behaviors to the detriment of children. In this context, the phenomenon of neglect of children, their physical and psychological abuse, sexual abuse and their obligation to serious and immoral work, such as the obligation to steal, the obligation to beg and other actions harmful to children.⁶

Domestic violence is a widespread phenomenon in our society. It is situated between close partners and occurs in the family. It happens in all social classes, regardless of age, education, religion, economic status, ethnicity, or cultural identity. Official data after the recent survey on domestic violence in Albania shows that at least 56% of women have experienced one of the forms of domestic violence.⁶

Domestic violence is a behavior led by the need to have control. It can start from threats, annoying calls, and pursuits (such as pursuit of the victim when going from work, and threat) to unwanted sexual intercourse, collisions, and worst, even to death. Domestic violence is not usually an isolated case and often becomes more severe and more common over time. Many defendants are not violent in other relationships, such as at work or with friends. They repeatedly deny domestic violence and the severity of this violence. When confronted with their abusive behavior, they tend to blame their partner for provoking them, or refusing to accept responsibility.⁶

Although there are a number of factors that lead to domestic violence, this is always associated with inequalities and the imbalance of power in relationships. The abuser expresses regret, and you want to believe that abuse will no longer occur. But then, it happens again and again. You want to leave but fear the consequences. Violence escalates if no measures are taken to change the situation. Do not forget: whatever the circumstances, violence is not your fault. Nobody deserves to be verbally or physically abused. And although the law can not entirely protect you from domestic violence, it can help you to protect yourself from this violence.

Following through the table we will present data from the Center for Social Work regarding the treatment of domestic violence in this center, for the years 2012-2013 and 2014.

⁵ Ibidem

Subjects- SERVICES	Number of subjects		
	2012	2013	2014
<i>Marriage and Family and Domestic Violence</i>	/	/	/
Divorces	130	110	120
The trust of extramarital children	2	4	6
Arranging relationships of children with parents who do not live together	6	10	20
Juvenile persons who wish to marry before becoming an adult	/	/	/
Victims of domestic violence	/	9	15
People who have broken relationships	9	6	10
<i>Protection of children</i>			
Children at risk - children with social problems of education	7	45	77
Children facing the law	63	31	52
Minors under guardianship	/	4	1
Minors - victims of violence	/	/	/
Street children	/	/	/
Children with special problems	/	/	/
Supervision and acquisition of parental right	/	/	/
Child- victim oh human trafficking	/	/	/
Adoption	20	22	23
<i>Adult protection</i>			
Guardianship of irresponsible persons	/	/	30
Guardianship of persons with disabilities	/	/	/
Guardianship of adult persons, for special cases	/	/	/
Homeless people	/	/	/
Dependents on drugs and other psychotropic substances	3	2	7
People who abuse alcohol	/	/	/
Elderly people	/	/	/
People victims of human trafficking	/	/	/
TOTAL	241	243	361

From the table we will notice that; in the Center for Social Treatment all categories of persons affected by domestic violence such as juveniles, adult persons as well as elderly persons are treated.

According to the new law against domestic violence of Republic of Macedonia, civil courts can put in place protective measures for victims through a fast, affordable and simple procedure. Defense orders give you the opportunity to take action and protect yourself from violence. They can provide you with relief, by ordering the person who has abused you to do or not to do certain things.

There are a number of ways through which a protection order can protect you. Although the type of protection may fluctuate depending on individual circumstances, an immediate protection order may include one or more of the following measures:

- Orders the defendant to stop performing or threatening to commit an act of domestic violence against the plaintiff (victim) or other family members of the victim;
- compels the defendant not to violate, harass, contact or communicate directly or indirectly with the victim or member of the victim's family;
- removes the defendant from the apartment for a specified time limit by a court order and prevents him from returning home without the court's authorization;
- prevents the defendant from approaching a certain distance to the victim or members of the victim's family;
- prevents the defendant from approaching the home, workplace, residence of the family of origin or the future residence of the couple or the apartment of other persons, and moreover the children's school or any other place frequently frequented by the victim, with the exception of cases where attendance is done for work reasons;
- places victims and minors in temporary shelter centers;
- limits or forbids the defendant to meet the child of the victim;
- forbids the defendant to enter or stay in the temporary or permanent residence of the victim, or in any part of the apartment, regardless of the property rights or property that the defendant may have on these premises;
- orders a person authorized by the court (police officer or bailiff) to accompany the victim or the defendant to the victim's apartment and to observe the taking of personal belongings;
- commands police officers to seize any weapon in possession of the defendant and found during police controls or orders the defendant to surrender any weapon in his or her possession.

In addition to what has been said above, a protection order may also:

- order the defendant to allow the victim to own the apartment in common use or parts thereof;
- order the defendant to pay rent for the permanent or temporary residence of the victim and to pay financial obligations to the victim, the child, or other family members in charge of the victim;
- pass temporary custody of child victims and temporarily remove abusers parental rights;
- order the defendant to carry out a periodic payment in favor of cohabiting persons who, as a consequence of the above measure, remain deprived of their means of subsistence. In order to ensure payment, the court may order the violator's employer to transfer the payment directly to the beneficiary;
- to send the victim of domestic violence to rehabilitation programs;
- to order the violator to participate in rehabilitation programs.

The law protects a person who is subjected to violence, which occurs between him and persons who are or were related to him. It also protects other members of this person's family or other relatives when they themselves become victims of domestic violence. By law, family members are;

- Spouse or cohabitant or former spouse or cohabiting partner;
- Brothers, sisters, righteous gender, including adoptive parents and adopted children;
- Children and spouses of these persons;

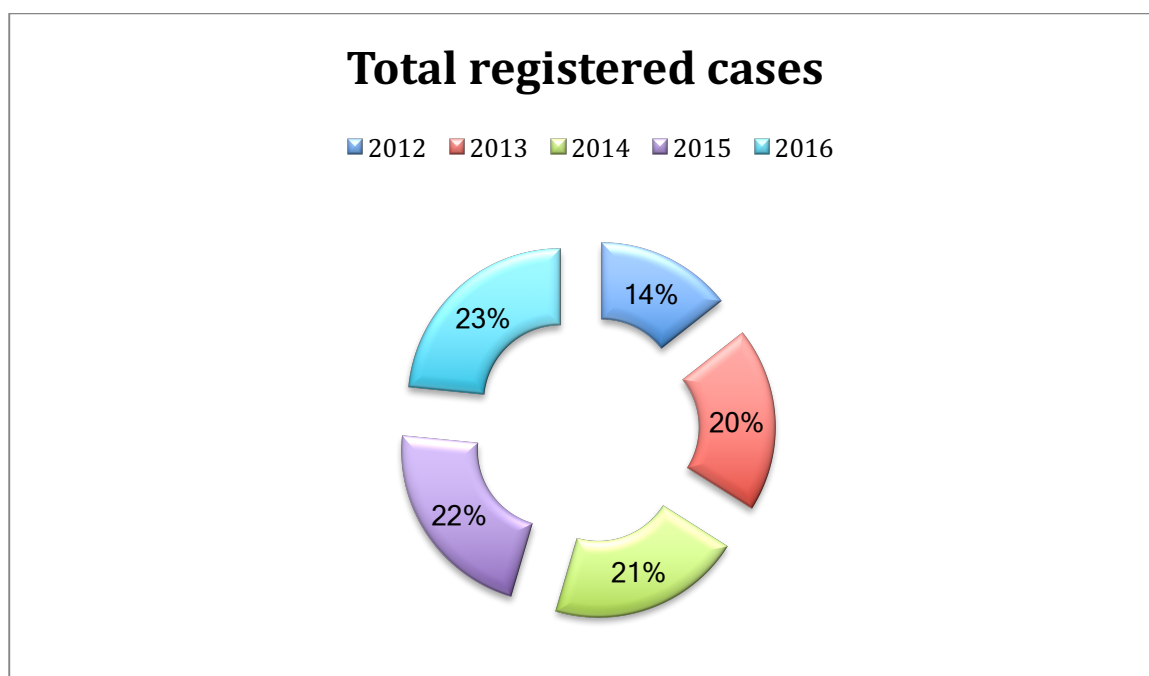
- The righteous gender, including the parents, and adopted children of the spouse or cohabitant;
- Brothers and sisters of spouses if they have lived together during the last 3 months;
- Children of spouses or cohabiting partners.

The most severe forms of psychological violence are as follows:

- **Threat;** the threat is usually used as a discouraging tool against the threatened person so that he does not perform a certain behavior.
- **The shouting;** rising the voice into today's reality is no longer a problem, as it seems to have turned into something very common in any environment, whether public or not. People raise their voices in order to impose on others.
- **Curse;** curses constitute a violation of the qualities and characteristics of the child's personality.

Following, we will show the data on the resolution of domestic violence disputes in IP-Center for Social Work - Tetovo for the years 2012-2016.

Total number of registered cases	
2012	30
2013	41
2014	43
2015	46
2016	49



From the above table we will notice that in the Center for Social Work in Tetovo during the years 2012-2016, the largest number of domestic violence cases treated in 2016 totaled 49 cases.

The protection against domestic violence is ensured by these means:⁶

- ordering immediately the defendant (the violator) not to commit or threaten to commit a domestic violence offense against the claimant (victim) or other family members of the victim;
- ordering immediately the defendant (the violator) not to violate, harass, contact or communicate directly or indirectly with the victim or members of the victim's family, as defined in Article 3, point 3 of this Law or as named in the warrant;
- Dismissing immediately the defendant (the violator) from the apartment for a specified time limit by a court order and not allowing him to re-enter the apartment without the court's authorization;
- Stopping immediately the defendant (the violator) from approaching a specified distance to the victim or members of the victim's family as defined in Article 3, point 3 of this Law or as named in the warrant;
- Forbidding immediately the defendant (the violator) to approach the home, workplace, home of the family of origin or the future couple's residence or other persons and more to the school of children or places of which are frequented most by the victim, unless the attendance is done for work reasons;
- Placing immediately the victim and the juveniles in temporary shelters, taking into account in any case the highest interest of the juvenile;
- Limiting or preventing the respondent (the violator) to meet with the child of the victim, under the conditions that may be appropriate;
- Prohibiting the respondent (the violator) from entering or staying in the temporary or permanent residence of the victim, or in any part of it, regardless of the property rights or possession of the violator;
- Ordering an authorized person from the court (a law enforcement or bailiff) to accompany the victim or the defendant (the violator) to the victim's apartment and supervise the removal of personal property;
- Ordering law enforcement bodies to sequester any weapon that belongs to the violator of the conducted search or to order the violator to surrender any weapon belonging to him;
- Ordering the defendant (the violator) to allow the victim to own the apartment used jointly by the victim and the violator or any part thereof;
- Ordering the defendant (the violator) to pay the rent of the permanent or temporary residence of the victim, as well as the obligation of the victim, the children or other members of the family in charge;
- Passing the victim the right to temporary custody of the children and temporarily removing the parent's responsibility of the defendant (the violator);
- Deciding and ordering, as the case may be (under the jurisdiction of the court), the intervention of the social, public or private social services of the place of residence or of organizations aimed at supporting and hosting the violated persons;
- Ordering the defendant (the violator) to make a periodic payment in favor of cohabiting persons who, for the sake of the above measure, remain deprived of their means of subsistence. To secure the payment, the court may decide that the amount is to be paid by the employer in favor of the beneficiary. Such a decision constitutes an executive title;
- Including the victim of domestic violence in rehabilitation programs;
- Ordering the defendant (the violator) to participate in rehabilitation programs; if the respondent (the violator) is ordered to go to a rehabilitation program, program

⁶ Ligji ndaj dhunes ne mardheniet familjare, Nr.9669, R.Shqiperise, 2007

managers are required to report each week to the court if the defendant attends or participates in it. If the defendant (the violator) does not attend, then at the request of the subjects provided by Article 13 of this law, the court calls this before it and applies the relevant provisions of the Criminal Code, to prevent the execution of court decisions.

Competent bodies and institutions for protection from domestic violence are,⁷ Ministry of Labor and Social Policy, Ministry of Internal Affairs, Ministry of Health, Ministry of Education and Science, Ministry of Justice, local self-government units, institutions that perform activities in the field of social protection, child protection, internal affairs, health, employment and education, take measures to protect the victim and prevent violence, carry out mutual cooperation and coordination.

The institutions referred to in paragraph 1 of this Article are obliged to ensure that the work from their competencies is performed by professional persons trained in the implementation of the work stipulated by this law and gender-based violence.

The competent court shall impose temporary measures for the protection of victims, in accordance with this law.

The institutions referred to in paragraph 1 of this Article and the competent court shall establish separate records of domestic violence, in accordance with the provisions on personal data protection.

The form and content of the form for the exchange of data from the institutions for the records, necessary for the monitoring of the situation with the domestic violence, as well as the mode of exchange of data by the institutions are defined by the Minister of Labor and Social Policy.

CONCLUSION

As a behavior of domestic violence or as a crime of domestic violence in criminological literature, commonly referred to as forms of violence that are manifested by violence in marriage, hence violence between spouses, husband and wife, violence against children, and violence against parents.

Violence is any act or inaction of a person against another person, which results in the violation of physical, moral, psychological, sexual, social, economic integrity, and as violence in the family is defined as an act of violence between persons who are or have been in family relationship.

An important role in preventing juvenile delinquency should play institutions as: Ministry of Labor and Social Policy, Ministry of Internal Affairs, Ministry of Health, Ministry of Education and Science, Ministry of Justice.

Also, competent courts play an important role in preventing this phenomenon by imposing temporary measures for the protection of victims; police, prosecution, positive legislation of the country, but not only non-governmental organizations, etc.

⁷ Zakon za prevencija, sprecuvanje i zastita od semejno nasilstvo, Sluzben vesnik na R.M, 1-januari, 2015

In order to prevent this phenomenon, governments should increase the budget and finances by organizing roundtables, seminars, workshops, and lectures by experts in the field with citizens, with a view to raising the awareness of the family members, sensitizing citizens, etc.

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