

Legal And Institutional Frameworks Addressing Domestic Violence In Albania Face Ongoing Challenges

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Abstract

The phenomenon of domestic violence affects individuals, families, and communities worldwide, including those in Albanian society. It involves various abuses in intimate relationships, causing significant physical, psychological, sexual, and economic harm to victims. This paper investigates the incidence of domestic violence in Albania and assesses the effectiveness of current laws and institutions in its prevention and management. An extensive review of domestic violence in Albania, along with an analysis of legal and government documents, and other relevant literature, are among the methods utilized. The paper scrutinizes the stipulations of Law No. 9669, dated 18.12.2006, "On measures against violence in family relations in Albania", analyzing its objectives to prevent and mitigate domestic violence. The paper concludes that effective strategies to combat domestic violence include reinforcing the legal framework, enhancing institutional efficiency and cooperation, ensuring proper law enforcement, and promoting awareness through educational initiatives.

Keywords: Domestic violence, women, children, consequences, legislation, effectiveness.

Introduction

Domestic violence, defined as any psychological, physical, or economic violence that induces feelings of insecurity, danger, or fear, includes threats of such actions against spouses, parents, children, or any individual in a marital or non-marital union, with or without cohabitation. In Albania, where domestic violence remains a significant concern, the enforcement of laws and institutional roles is crucial. This paper will review the legal framework and institutional measures in Albania concerning domestic violence, its legal definition, and categorization. It will also examine the criminogenic factors contributing to the prevalence of domestic violence in Albania. The objective is to evaluate the effectiveness of Albanian legislation and institutional responses by identifying strengths, flaws, and inconsistencies that could hinder the prevention and reduction of domestic violence.

The research question: What is the effectiveness of existing legislative and institutional frameworks for addressing domestic violence in Albania?

The article's methodology and sources

The article's sources and methodology are comprehensive, blending qualitative and quantitative methods. The approach includes a thorough literature review, drawing on academic journals, legal texts, government reports, and key national and international works on domestic violence. This establishes a solid base for understanding the issue within

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Albania's context. A variety of data sources ensures an in-depth analysis. Primary data are derived from reports by Albanian bodies responsible for combating and preventing domestic violence, alongside case studies. Secondary data, including statistics, official documents, and NGO reports, were gathered to evaluate domestic violence's prevalence and impact in Albania. The study relies on current laws, particularly Law No. 9669, dated 18.12.2006, "On measures against violence in family relations in Albania" (Law no. 9669/2006). Combining qualitative and quantitative results offers a comprehensive perspective on Albania's domestic violence situation and suggests practical steps for its reduction.

The definition of domestic violence

Domestic violence is defined as any behavior that causes or is likely to cause physical, sexual, or psychological harm, including threats, coercion, or arbitrary deprivation of liberty (UN Women, 2020). Additionally, it is described as gender-based violence that results in or is likely to result in physical, sexual, or psychological harm or suffering to women, occurring in various settings, including their own homes (UN, 1993; UNDP, 2013). Pinheiro (2006) notes that children may face violence in domestic and familial environments, which includes physical abuse, sexual exploitation, harmful traditional practices, and psychological abuse such as humiliation and neglect by parents, step-parents, other caretakers, siblings, or peers.

Domestic violence against the elderly is acknowledged as a significant concern, involving all forms of abuse, mistreatment, or neglect within a family or domestic setting (INSTAT, 2017). Domestic violence can occur in various contexts and relationships, including intimate partner violence (Jones, 2013; UN Women, 2020). In Albania, Article 2 of Law no. 9669/2006 defines domestic violence as a pattern of abusive behavior in any relationship used by one intimate partner or family member to gain or maintain power and control over another. Domestic violence in Albania encompasses a range of harms, including physical, emotional, psychological, and sexual abuse (Krasniqi, 2019). The impact of this phenomenon on individuals is significant, leading to lasting trauma, diminished quality of life, and in extreme cases, death (Jones & Brown, 2017; Ponti & Merzagora Betsos, 2008; WHO, 2021; Johnson, 2008; Miles, 2011). Furthermore, children exposed to domestic violence may perpetuate the cycle of abuse, adversely affecting their growth and well-being (Jones & Brown, 2017; Redondo & Garrido, 2013).

The prevalence of domestic violence in Albania

The prevalence of domestic violence in Albania is significant, with reported cases indicating a substantial issue. Nonetheless, the actual figures may be higher due to underreporting, often caused by fear, stigma, and cultural barriers (Krasniqi, 2019; INSTAT, UNDP & UN Women, 2019).

INSTAT's reports are among the most comprehensive studies on this subject, starting with the initial 2007 report, recognized for its extensive scope and participation, and the subsequent 2018 report covering a 12-year period (2013-2017). Further data were obtained from the Ministry of Interior for the years 2020-2021.

The INSTAT study from 2007, which surveyed 2,590 women between the ages of 15-49, found that 56% had experienced some form of domestic violence within their marriage or intimate partnership. Emotional abuse was the most common, accounting for 50.6% of cases, followed by psychological abuse at 39.1%, physical violence at 31.2%, and sexual violence at 12.7% (INSTAT, 2009; INSTAT, 2018). The 2018 INSTAT survey showed that a significant number of women and girls aged 15-74 had faced at least one form of domestic violence in their lifetime, revealing a disturbing trend (INSTAT, 2018).

These statistics underscore the serious issue of domestic violence in Albania.

Manifestations of domestic violence: Research indicates that domestic violence manifests in multiple forms. The frequent co-occurrence of emotional and psychological abuse is noted, with victims often experiencing both at the same time, which complicates the differentiation between them (Krasniqi, 2019). Furthermore, a 2020 study based on police

reports from the Ministry of Interior revealed that women constituted 81% of domestic violence victims (Ministry of Interior, 2021).

Typology of victims: Studies on victim typology reveal that domestic violence affects women disproportionately. The National Survey on Domestic Violence showed consistent levels of emotional or psychological abuse across different age groups. However, physical violence was more prevalent among women over 26 compared to younger women. Women in rural areas were more susceptible to both emotional and physical abuse by their partners than those in urban areas (INSTAT, 2018; UN Women, 2020; People's Advocate, 2022). While men and children are also subjected to domestic violence, their cases are reported less often, possibly due to societal norms and stereotypes (UN Women, 2020).

Factors influencing domestic violence: Various factors contribute to domestic violence. For instance, within the LGBTQIA+ community, men are subjected to higher rates of violence, often stemming from familial non-acceptance of their sexual orientation (INSTAT, 2018). Economic abuse is common among the elderly, linked to traditional gender roles in financial management within households. Men frequently face psychological abuse due to the societal and familial pressure to be providers (INSTAT, 2018).

Criminal risk factors associated with domestic violence

Several risk factors contribute to the increase in domestic violence in Albania, as reported by INSTAT:

- youthfulness;
- socioeconomic factors;
- social factors such as alcohol and drug abuse, gender inequality, and antisocial behavior portrayed in media and TV;
- psychological factors including stress, depression, and a history of violence in the family;
- family and relational factors;
- weak institutions coupled with a lack of rule of law (INSTAT, 2020).

The domestic legislation against domestic violence and its relationship to international law

Albania has ratified numerous international conventions, such as:

- The United Nations Convention on Civil and Political Rights.
- The United Nations International Convention on Economic, Social, and Cultural Rights.
- The United Nations Convention on the Rights of the Child.
- The United Nations Convention against Torture.
- The United Nations Convention on the Elimination of All Forms of Discrimination against Women.
- The European Convention for the Protection of Human Rights and Fundamental Freedoms, along with its relevant Protocols.
- The European Convention for the Prevention of Torture and Other Inhuman or Degrading Treatment or Punishment.
- The Council of Europe's Istanbul Convention.

In Albania, the interplay between international and domestic law ensures adherence to international obligations concerning human rights and gender equality. The effective tackling of domestic violence and the provision of adequate protection and support to victims are contingent upon the integration of international treaties into national legislation. Law No. 9669/2006 aims to prevent and combat domestic violence through the implementation of appropriate legal measures and the provision of protection for family members affected by such violence. The law mandates the necessary legal and supplementary measures to prevent and reduce domestic violence in all its manifestations, while also ensuring the protection of family members who are victims. It gives particular consideration to children, the elderly, individuals with disabilities, and others under its purview who require special protection.

The law's four main objectives are:

- To establish a coordinated network of institutions tasked with the protection, support, and rehabilitation of victims, the mitigation of consequences, and the prevention of domestic violence;
- To guide the creation of responsible structures and bodies at both the central and local levels to assist victims and prevent domestic violence;
- To authorize the judiciary to impose protective measures against domestic violence;
- To guarantee that victims of domestic violence have access to prompt, cost-effective, and uncomplicated services from the judiciary or other competent law enforcement bodies.

Law No. 9669/2006 offers a protective mechanism for victims of domestic violence in the form of a court-issued protection order upon request. Nevertheless, its implementation has encountered numerous obstacles, impeding prompt and effective protection². Domestic violence is often perceived as a private issue, which can lead to a gap between the victims' experiences and the judicial system's handling of such crimes (Mandro, Anastasi, Semini, 2021). Several national laws provide support to domestic violence victims, including the Code of Criminal Justice for minors and Law No. 111/2017 on state-guaranteed legal aid. The Family Code of the Republic of Albania contains many provisions on domestic violence concerning spouses and children. It outlines parental responsibilities and children's rights within the family, dealing with issues of child abuse and neglect. The Republic of Albania's penal legislation has been updated to encompass specific provisions for crimes associated with domestic violence. Article 130/a of the Criminal Code categorizes domestic violence as a punishable criminal offense, regardless of the perpetrator's relationship with the victim. Additionally, this Code also criminalizes stalking under Article 121/a, child abuse under Article 124/b, and the failure to enforce a protection order under Article 321³. Albania has adopted a national strategy among other measures, which is designed to foster gender equality and address violence against women, including domestic violence (National Strategy for Gender Equality and its Action Plan, 2021-2030).

The positive impact of legislation on domestic violence

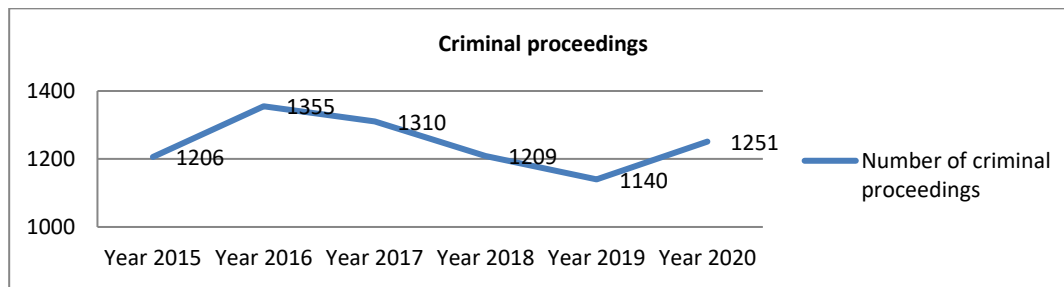
Legislation against domestic violence not only protects victims but also defines the duties of institutions like the police, courts, and healthcare providers in responding to such cases. The report of the General Prosecutor office indicates a 5.71% decline in the crime of domestic violence in 2019 compared to 2018, attributed to precautionary actions, collaborative efforts, effective law enforcement, and heightened awareness (INSTAT, 2020). This crime's proportion within the category "Offenses against children, marriage, and family" was 92.01% in 2019, up from 89.62% in 2018. The crime rate for this offense in 2019 was 39.83 per 100,000 individuals, down from 42.12 the previous year. There was a 5.71% reduction in registered proceedings for this crime in 2019 compared to 2018, with a 7.68% decrease observed over five years from 2016 to 2020 (General Prosecution Office reports).

The chart below illustrates the progression of this criminal offense, detailing the criminal proceedings registered at the prosecutor's office from the years 2015 to 2020.

Figure 1: Criminal Proceedings Data for Domestic Violence

² The Z.B. case tragically demonstrates the failures of the justice system, with over 15 ignored pleas for help. Her abusive husband, despite multiple arrests, was continually released. He ultimately stabbed Z.B. fatally 20 times in October 2015, despite her having a protection order (Ministry of Interior, 2021). Protection orders often do not stop abusers from using intimidation to silence their victims. In another case in Dibër, a man wanted for domestic violence was arrested. Crime Investigation specialists from the Mat Police Station detained 35-year-old K.L. from Klos for domestic violence and breaching a court order by assaulting and threatening his sister (Ministry of Interior, 2021).

³ According to Decision no. 129 of the Penal College of the High Court, dated November 17, 2011, failing to enforce protection orders and obstructing their execution, as outlined in the law on measures against violence in family relations, is a criminal offense.

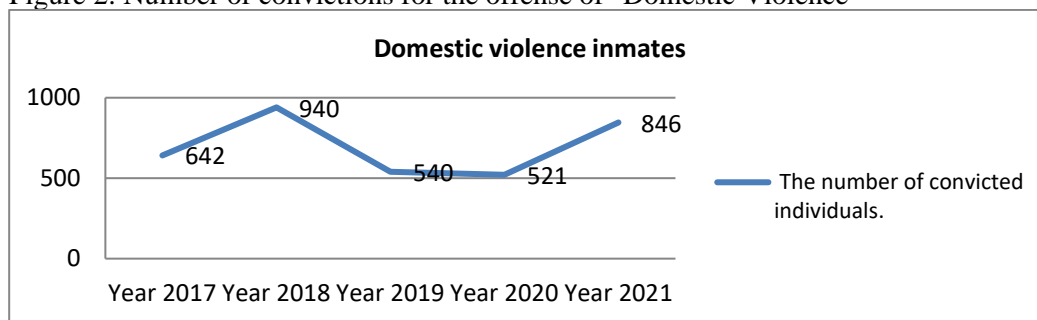


Source: General Prosecution Office

The criminal prosecution's effectiveness for domestic violence offenses was high, with 83% of cases going to trial and 17% being dismissed. Sentencing requests comprised 63.7% for imprisonment and 36.3% for non-custodial alternatives, marking a 3.7% increase in imprisonment requests compared to 2019 (General Prosecution Office, 2020).

The chart below, representing a five-year period, illustrates the trend and punishability of the offense in Albanian courts.

Figure 2: Number of convictions for the offense of "Domestic Violence"



Source: Ministry of Justice

Legal and institutional issues

Despite the establishment of laws and institutions aimed at combating domestic violence, several significant challenges remain in its effective management:

1. Reluctance to initiate criminal proceedings: Approximately 70% of victims choose not to seek criminal charges, instead favoring civil remedies, frequently due to concerns about retaliation and the stigma of accusing relatives (People's Advocate, 2022).
2. Communication between courts and the Prosecutor's Office: While the law ensures a full legal process when police refer domestic violence cases for investigation, reports suggest that in approximately 20% of cases, direct communication between some courts and the prosecution may compromise evidence collection and the prosecutorial process (Mandro, Anastasi, Semini, 2021; Ministry of Interior, 2021).
3. Compliance with legal deadlines: The issuance of protection orders has frequently encountered delays in adhering to legal deadlines, potentially due to insufficient resources, overwhelming caseloads, or poor coordination between enforcement agencies (People's Advocate, 2022).
4. The credibility of victims' testimony: Legal proceedings face challenges when victims retract or contradict their initial statements. Approximately 10% of victims alter their testimony⁴, which complicates the court's ability to assess the credibility and mental state

⁴ In case number 2028, dated March 20, 2019, the Tirana Judicial District Court noted the plaintiff's retraction of her initial statements to the police and her withdrawal from the legal proceedings. She acknowledged a relationship with the defendant and confessed to being untruthful in her earlier statements to law enforcement. The plaintiff also declared herself to be suffering from depression and instability, while denying any violence from the defendant and affirming that he fulfilled all her requests. After considering the legal and factual circumstances, the court found the request for a protection order to be unfounded and ruled that it should be dismissed (Decision number 2028, dated March 20, 2019, by the Tirana Judicial District Court). I criticize the court's failure to include reports

of both the victim and the accused in the absence of expert reports and psychiatric evaluations (Mandro, Anastasi, Semini, 2021).

5. Access to medical reports: Medical reports are crucial in domestic violence cases. About 30% of victims encounter difficulties in accessing medical services and obtaining the necessary reports, especially in rural areas. The reluctance of victims to share their experiences and seek medical attention adds to these complications (People's Advocate, 2020).

6. Judicial System Reorganization: The judiciary's recent reorganization and the closure of courts, particularly in small towns grappling with major social issues like unemployment, impede the handling and resolution of domestic abuse cases (Mandro, Anastasi, Semini, 2021).

7. Reluctance to report: Roughly 30% of domestic violence victims do not report incidents or seek help due to fear, shame, or a lack of trust in the system (INSTAT, 2020).

Conclusions and suggestions

Addressing domestic violence is a critical issue in Albania, with profound societal implications. Albania has made strides in combating domestic violence by implementing laws and creating law enforcement frameworks. Nonetheless, challenges persist, particularly in the realm of law enforcement. Victims often hesitate to file charges against their abusers, reflecting a lack of trust in the legal system. Occasionally, direct court and prosecutor interactions bypass police processes, diminishing the State Police's authority. Legal timeframes present additional hurdles, as delays in granting emergency protection orders lead to postponed trials and overlooked rights of victims. Moreover, alterations to witness testimonies during trials cast doubt on the trustworthiness and efficacy of law enforcement.

The subsequent recommendations are designed to enhance the efficiency of laws and institutions:

1. Enhance the capabilities of law enforcement agencies through ongoing training and resource investment.
2. Improve cooperation and coordination between organizations handling domestic violence cases.
3. Increase public awareness and education efforts to confront norms surrounding domestic violence and promote gender equality.

Implementing these measures could enable Albania to establish a more robust framework for combating domestic violence and aiding victims.

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