



Report on Domestic Violence in North Kosovo: The Institutional and Legal Situation in the Region

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Introduction

Current Situation

Domestic violence and violence against women in general is a phenomenon which is present in all societies and is a problem which spans social and economic strata. It is a problem often shrouded in shame and its victims in many parts of the world are left with little recourse or substantive assistance and rehabilitation. More often than not, it cannot be reduced to a 'class issue' or something that is solely linked to unemployment, poverty or general social depravation. It is, rather, a phenomenon which has its roots in traditional societal perceptions of the role of women in the family and in conceptions of masculinity and female submissiveness. That having been said, on a practical level, the existence of a strong court system and legal framework which protect victims is necessary as a first line of defense in cases of violence against women. Despite the existence of strong legislation regarding domestic violence in both Kosovo and in the Republic of Serbia, implementation remains scant even in more developed regions. Taking this into consideration, the legal uncertainty which continues to reign over north Kosovo combined with political and economic instability have colluded to create a situation in which victims of domestic violence have limited recourse to legal action and social services which would provide material, medical and psychological assistance.

Statistical Information

Institutions in north Kosovo do not, in general, keep records of instances of domestic violence in the immediate region. Meetings with the Kosovo Police (KP), the Center for Social Work and various other local and international organizations demonstrated that there currently no widespread (or even localized) effort to keep track of cases of domestic violence which are processed either by the police or by the center for social work and health-care providers. That having been said, individual police stations do keep track of domestic violence which they process, although not necessarily at a central level. The Kosovo Police in Leposavic, for example, do maintain files of domestic violence cases which have been brought to their attention and forwarded to

relevant authorities in the south. The main police station in south Mitrovica also maintains records although they do not appear to share them with other relevant institutions in the north. This lack of information-sharing has been identified, by a number of local actors, as one of the main problems in the development of a cohesive strategy to tackle domestic violence in north Kosovo

Institutional Structure and Inter-Institutional Cooperation

There is, as of the date of publication of this report, no formal framework for cooperation between public institutions regarding cases of domestic violence in north Kosovo. That having been said, there does exist a degree of cooperation between the Kosovo Police (KP) and Center(s) for Social Work as well as local Health Centers (Dom Zdravlje.) The Kosovo Police (KP) is tasked with providing a first line of defense against domestic violence.

In the north of Kosovo, despite the absence of a safe house for victims of domestic violence there are a number of institutions which handle domestic violence cases which include but are not necessarily limited to centre(s) for social work, hospitals and the Kosovo Police (KPS.)¹ However, despite the existence of these institutions the legal and court structure is, for the most part, either weak or non-existent and the implementation of laws governing domestic violence is limited. According to both Kosovo and Serbian law, the court system and the police force acts as the first line of defense (protection) in cases of domestic violence. That having been said, according to local social workers, this is currently not feasible given the fact that the nearest court is located south of the river Ibar in the town of Vucitrn/Vushtrri. Due to this fact, Serbian women from north Kosovo will tend not (if ever) to pursue legal action through the court system. That having been said, it was reported by the authorities in the south that as of September 2013, a total of fifteen (15) cases of domestic violence report in north Kosovo have been prosecuted by the court in Vucitrn/Vushtrri. Although it was stated by the head of the department handling domestic violence within the KPS that the police can initiate legal proceedings on behalf of the victim without her physical presence in the

¹ All of these institutions offers help to victims of domestic violence and accepts and treats them

courtroom, this assertion has been contradicted by a number of legal sources who work in the field of women's rights in Kosovo. It was also stated by employees of the Center for Social Work (Centar za Socijalni Rad) in Mitrovica (which also covers Zvecan and other neighboring areas) that there is currently no cooperation or communication between the Center and the court system, further complicated matters for victims. Furthermore, the nearest safe house is also in the south (meaning that Serbian women will generally not seek refuge there) and has limited capacity. Social workers handling the municipalities of Mitrovica and Zvecan also emphasized that while they are satisfied with the work of the KPS in many cases; their biggest challenge is the lack of a court system which severely limits their ability to act in cases of domestic violence. The KPS implements the Kosovo Law on the Protection of Victims Against Domestic Violence and is therefore obligated under that law to provide a number of measures which are designed to protect victims against further acts of violence.

Health Centers/Dom Zdravlja

There are currently four (4) health centers (one per municipality) in north Kosovo. This is in addition to the main hospital (clinical center) which is located in Mitrovica along with other, smaller, health clinics. Although the level of cooperation in place between public health institutions and local authorities varies according to municipality, there are regulations (in theory) in place which oblige health workers in north Kosovo to notify the police when domestic violence is suspected. Furthermore, doctors and nurses have access to material which outlines how to identify potential cases of domestic violence and must re-act accordingly. The Director of the Health Center (Dom Zdravlja) in Leposavic stated that there exists a protocol which must be followed in cases where domestic violence is suspected and which is strictly adhered to by hospital staff members: In the event that a doctor determines that domestic violence as occurred, he or she will write a report which is placed in the victims' individual file and after which the police are contacted. There are indications that while cooperation with the Kosovo Police have improved in the past and continue to improve, there is scant communication between health clinics and centre(s) for social work. Furthermore, the recourse to legal action on

the side of health workers is fairly limited. This is partially due to the weak institutional structure in north Kosovo as well as to a lack of resources which inhibit their ability to provide long-term medical and psychological assistance to victims of domestic violence. In line with what was stated by the person responsible for domestic violence cases at the police station, the Director of the Health Center in Leposavic and other healthcare workers stated that there is an urgent need for a 'safe-house' because it would provide a means of offering longer term treatment and rehabilitative services for victims of domestic violence.

Centers for Social Work

In north Kosovo, there are a total of three (3) Centers for Social Work which are located in the municipalities of: Mitrovica/Zvecan, Zubin Potok and Leposavic. The Center for Social Work is a public institution which is broadly tasked with ensuring the welfare of vulnerable groups within the local population including victims of domestic violence. In cases of domestic violence, the Center for Social Work is (legally) tasked with liaising with the local police and courts in order to ensure that the victim is given adequate protection and to provide psychological and material support. However, the legal situation has hampered the ability of social workers to cooperate directly with the court system.

Social workers at various locations stated that the most important factor in protecting and caring for victims of domestic violence is the issuing of protective orders/mechanisms to protect women from domestic violence. It was mentioned that the main problem for victims in the north is that while the court in Vucitern is responsible for issuing protective orders there is no cooperation between that court and the Centre for Social Work in Mitrovica or in other municipalities throughout north Kosovo. It is therefore the police (KP) who are tasked with forwarding evidence and requests to the court. Although a number of social workers claimed to be satisfied with the work of the police and they feel cooperation with the Centre is satisfactory, they are hampered by the lack of a court system. They also stated that the lack of a safe house in the north is a major concern and while there is one in the south (Mitrovica) Serbian women do not

feel safe going there. In total, there are ten (10) social workers who are responsible for the municipalities of Mitrovica and Zvecan with more being stationed in the municipalities of Zubin Potok and Leposavic. In general, the Center for Social Work is contacted in cases of domestic violence where the victim is in a 'dire' financial situation. In such cases the Director(s) arranges for a cash payment (short-term assistance) to be provided to the victim, which is normally between 5,000-10,000 dinars, depending on how many children the victim has. The Center for Social work employs a psychologist and a social worker who work with victims of domestic violence and who provide psychological and material support to the victim and monitor her well-being. The Director of the Center for Social (in Leposavic) stated that the biggest problem facing victims of domestic violence is the lack of a court system which would normally be tasked with processing cases of domestic violence and without which the victim cannot request sufficient aid and assistance. It was frequently mentioned by social workers dealing with victims of domestic violence that the building of a safe-house is an absolute necessity due to the fact that victims do not have anywhere to go after they've reported violence.

Kosovo Police

According to legal sources as well as source from within the Kosovo Police, from the point in which domestic violence is reported, the police are legally obliged under criminal legislation in relation to domestic violence, whose regulations stipulate that the police are obliged to react immediately. It should also be noted, that many police stations in the north have a designated officer who is charged with handling domestic violence and many of whom have been trained in dealing with such cases both locally and abroad (namely in the United States.) The police go to the location where the violence took place, collect evidence and question the suspect. After which they identify a lawyer and inform the court. The victim is then taken to see a doctor although there is no safe-house for victims in the north and there is no cooperation or contact with authorities in Serbia. The Kosovo Police work according the laws and regulations of Kosovo and thus do not have contact with other authorities who deal with domestic

violence especially those who operate under the Serbian legal framework. In terms of who reports domestic violence, the consensus among police officers was that it is usually the victim who reports the violence, although from time to time relatives or neighbors will also inform the police. In terms of mechanisms to protect victims after violence has been reported, it is largely up to the court to issue protection orders. In instances where an immediate or urgent reaction from the police is necessary, the First Lieutenant (in the region) can act on the victim's behalf. In most cases, the police and lawyer contact the court and the victim themselves is not obligated to appear (although this has been contracted in by other sources.) In terms of inter-institutional cooperation, they only work with the Center for Social Work in the event that minors are involved in cases of domestic violence.

It was also noted that employees of the KPS strictly adhere to Kosovo Law in relation to domestic violence. From the point when domestic violence is reported, a statement is taken from the victim. Accordingly, the type of violence in question is determined that the prosecutor in Vučitrn is informed. The state attorney, who works for the attorney general, is stationed in south Mitrovica is contacted. The KPS enjoys very good cooperation with the Office for Victims of Domestic violence, which keeps records and sends cases to the court in Vučitrn. The general consensus among the police is that one of the biggest problems is the lack of a court system in north Kosovo and that because of this the majority of cases are not processed properly. That having been said, the KPS office has managed to have fruitful cooperation with the court in Mitrovica (Serbian) which issues temporary protection orders which can last from six (6) up to twelve (12) months. Although there does exist cooperation between KPS and the Center for Social Work, it is largely one-sided (according to sources within the police force.) The KPS tends not to receive sufficient feedback from the Center for Social Work, but, that having been said, the Center for Social Work is usually engaged by the KPS when the victim does not have sufficient material assistance (i.e. social welfare.) It was also noted that cooperation between the police and the local Primary Health Center (Dom Zdravlja) is good considering that it is up to the local hospital to inform the police when they believe that a woman's injuries indicated that domestic violence has taken place. In terms of what is needed in order to further assistance victims of domestic violence, it was

stated that a ‘safe-house’ for victims is needed because (according to local police) many women do not report violence due to the fact that they have nowhere to turn should they leave their places of residence. According to the Kosovo Police in Leposavic, in 2010 there were fourteen (14) reported cases of domestic violence and that from 2011 until September 2013 there were a total of eight (8) cases reported.

North-South Cooperation in the Handling of Cases of Domestic Violence

KPS officials in south Mitrovica claim that cooperation between the KPS and the northern municipalities was good with the exception of Zubin Potok. In contradiction to claims made by other officials, Mr. Bahrin Maxhuni (state-appointed lawyer in charge of domestic violence cases) claimed that women from the north do appear in the court in Vucitn and they are legally obliged to do so should they want to press charges against their abusers (which is in direct contradiction with what Aktiv was told in the north.) In terms of cooperation, it was stated that Leposavic makes the most frequent contact in order to report cases of domestic violence. He (Maxhuni) also stated that Serbian women have used the safe-house in the south, although there have been only a few such cases. The police in the south are responsible for issuing protection orders, and from January-September 2013 fifteen (15) such orders have been issued for the north. After domestic violence has been report and the protection order has been handed down, they have fifteen days to take the case to trial. That having been said, it was mentioned that the level of protection for women in the north was not satisfactory and that besides a safe-house, the police need special training for handling domestic violence, a car for domestic violence units and improved cooperation and communication between relevant.

Examples of Best Practices from other regions in Kosovo

The project run by the UNDP in several municipalities in Kosovo is largely geared towards increasing the capacity of municipalities and local institutions to handle domestic violence and to tackle the problem more effectively. While the local mentality towards domestic violence (victims especially) was a major challenge at first, there has been a

positive shift in views towards the matter. Despite this, municipal services are still, for the most part, not capable of aiding victims of domestic violence. In order to tackle this problem, trainings are being organized for local officials to help them provide assistance to victims of domestic violence. Furthermore, in order to improve inter-institutional cooperation, a coordination mechanism is being established between local institutions handling domestic violence (i.e. police, courts and social services.) A major problem they have faced is the fact that there is an issue of secondary victimization of victims of domestic violence in the police station. In terms of efforts in specific municipalities, in Gnjilane workshops are being held – which include capacity building of local institutions to handle domestic violence and a three-year strategy for the Dragas municipal is currently under development. There is also a specific focus (in all areas of implementation) on gender responsive budgeting which means that 30% of the municipal budget should be specifically geared towards women. They also report that (positive) pressure on local authorities has led to a significant change in mentality. That having been said, the project does not contain plans for the creation of a database of cases of domestic violence, nor are there any plans for a program aimed at changing local attitudes (i.e. a public campaign) towards victims of domestic violence.

UN Women Kosovo

UN Women in Kosovo is tasked with assisting in the implementation of Kosovo law on protection against domestic violence. They cited Gnjilane as an example of best practices in Kosovo in terms of working with municipalities to improve services for domestic violence. They also stated that there is a need for programs for the re-integration of victims into society, which are not currently being implemented in Kosovo. According to them, the biggest challenges are local authorities whose mentality makes change difficult. The overall focus is, at the moment, on policies and the creation and implementation of a strategy/action plan for tackling domestic violence. There is also a strong focus on the facilitating laws which have already been passed that deal with domestic violence along with training officials (judges, police, social workers) to better handle cases of domestic violence.

Legal Situation

An oft-cited example of one of the many challenges facing women in north Kosovo is the lack of a court system or coherent legal structure in the area which would normally serve as a first line of defense against domestic violence. While the Kosovo Police do (fairly) routinely process and handle domestic violence cases, they do not necessarily have the means to effectively employ legal mechanisms designed to protect victims. This is further complicated by the fact that, as of the issuing of this report, public institutions operate under differing legal systems. Taking this into consideration, it is important to have an understanding of both Kosovo and Republic of Serbia law regarding protection against domestic violence in order to better comprehend the legal framework in which institutions operate.

Institutional Obligations towards victims of domestic violence (Kosovo)

The Law on Protection from Domestic Violence (zakon o zastiti od nasilja u porodici) of Kosovo guarantees protection for victims of domestic violence, as well as a number of measures for continued psychological, social and physical support. The law stipulates that the first line(s) of defense against domestic violence are the police and the court system. The police are essentially the first line of defense and are ensured that protecting the victim in instances of domestic abuse. They are also charged with protecting the victim while she collects her personal belongings from her place of residence and protect her from further violence.

The law states that the court can issue protective orders (nalog za zastitu) in a number of different forms barring the perpetrator from contacting or having access to the victim. This includes barring the perpetrator from contacting the victim electronically and from having contact with any children in question. There are three main types of protection orders which the courts of the Republic of Serbia can issue:

1. Warrant/order for urgent protection
2. Warrant/order for temporary protection
3. Warrant/order for protection

All of these court orders can last up to a year and be extended should the court deem it necessary.

Aside from the courts and the police, the law guarantees the victim's right to psychological counseling, social assistance as well as medical assistance following domestic violence. The state institutions which are responsible for this include: Centre for Social Work, Ministry for Social Welfare, relevant health institutions (hospitals, clinics etc), the police and the court system (Ministry of Justice.)

Domestic Violence and the Rights of Women as Guaranteed under International Conventions

Council of Europe Convention on preventing and combating violence against women and domestic violence:

The convention obligates the signatory to take all necessary steps to protect violence against women and domestic violence. Therefore, states are bound to offer victims support services as well as services such as emergency help lines and safe houses for victims.

1. be based on a gendered understanding of violence against women and domestic violence and shall focus on the human rights and safety of the victim;
2. be based on an integrated approach which takes into account the relationship between victims, perpetrators, children and their wider social environment
3. aim at avoiding secondary victimization

4. aim at the empowerment and economic independence of women victims of violence
5. allow, where appropriate, for a range of protection and support services to be located on the same premises
6. address the specific needs of vulnerable persons, including child victims, and be made available to them.

Both Serbia and Kosovo are signatories to this convention and are therefore obligated to implement and incorporate its stipulation into domestic legislation.

Summary: Law in the Republic of Serbia related to domestic violence and legal and institutional mechanisms for protecting women

Definition (under Serbian law):

Serbian Family Law defines domestic violence as when one family member harms the physical integrity (i.e. physical violence/assaults) or mental well-being (i.e. verbal abuse) of another family member.

More specifically the following instances/acts are considered to be domestic violence under Serbian law:

- Physical assault or attempt at physical assault
- Fostering an environment of fear in the home
- Verbal assault
- Restricting freedom of movement
- Sexual violence/assault (this includes rape within marriage)

Furthermore, the law defines 'family members' as essentially any person who lives in the same residence as the perpetrator of domestic violence. This definition includes but is not limited to: children of the perpetrator, relatives, spouse or former spouse, and people who are in sexual and or "emotional" relations outside of marriage.

Defense mechanisms against domestic violence:

Serbian law outlines a number of legal and institutional mechanisms for protection against domestic violence. The law guarantees protection against domestic violence as well as social, medical and psychological help for victims of domestic violence. Victims of domestic violence, along with having the right to social aid also have the right to access legal aid free of charge.

The law outlines state institutions which can/should defend women/victims against domestic violence – the police, center for social work (social protection mechanisms), the court system as well as clinics/hospitals and ‘safe houses/shelters’ for battered women and other victims of domestic violence.

The court can also enforce the following protection measures which can be valid for up to a year and be extended if the court deems it necessary in order to protect the victim:

- Removal of perpetrator from place of residence
- Restricting perpetrator from entering place of residence (where violence took place)
- Issuing warrants which restrict perpetrator from having further contact with the victim (protection from harassment)
- Having the police accompany victims to their place of residence to collect their police

Policy recommendations and way forward

1. The streamlining of cooperation and information-sharing between institutions handling domestic violence.

There is a well-grounded need for increasing the level of cooperation which currently exists between relevant (public) institutions. As a matter of public policy, there would have to be a set of procedures and regulations which govern the relationship between state organs which handle cases of domestic violence. Taking these factors into consideration, it is necessary to create a systematic means of facilitating communication between institutions in dealing with matters related to domestic violence. This would include designating a person for each institution who would be tasked with working with other institutions on providing essential legal, mental and material support to victims of domestic violence. As has been mentioned throughout this report, the lack of a court system presents one of the biggest and most pressing challenges for victims in north Kosovo and it is of utmost importance that there is effective collaboration between various institutions. This system would involve the appointing of a ‘point-of-contact’ at each institution who would be charged with coordinating cooperation and response to domestic violence. Furthermore, the procedures regulation cooperation would be codified and agreed to by all relevant institutions.

2. The establishment of a safe-house in north Kosovo which would provide shelter and social services to victims of domestic violence.

One of the most frequently cited needs for victims of domestic violence, on an institutional level, was the construction of a safe house for victims in north Kosovo. The lack of a safe-house has a direct and harmful affect on the willingness and the ability of women to report domestic violence – the simply have no where to go when violence occurs within the home. That having been said, it is necessary to offer social services along with the safe-house which would includes medical and psychological assistance as well as programs which are geared towards helping victims achieve self-sustainability (i.e

career services.) This is building on experiences in the south where safe houses only offer shelter to victims but few other essential services. What's more, the police need to have a designated liaison who will work with victims and escort them to the safe house (which should also be in possession of its own means of transport.)

3. Public Awareness-Raising Campaign Focusing on Domestic violence

Although a public awareness campaign is only one aspect of an overall strategy to combat domestic violence it is necessary to raise awareness of the issue in a manner which is culturally-sensitive and tailored to the specificities of the region and society. In the case of north Kosovo, it would have to include an aggressive outreach program to inform women of their rights and perhaps just as importantly, the obligations of relevant institutions towards victims of domestic violence and what services they should have access to. Furthermore, something that is often missing (particularly in the immediate region) is the inclusion of men (particularly young men) in any educational programs dealing with domestic violence. Therefore, it is essential to include the male population in order to fully tackle the problem of domestic violence

4. Comprehensive capacity-building programs for local (municipal) officials

Such a policy would be implemented keeping in mind best practices from other regions. First and foremost, it is of utmost importance to provide training for the police. Although many police officers who are charged with handling domestic violence cases have already received training, many other officers have not and this is an absolute necessity in order to avoid the secondary victimization of victims while their cases are being processed in police stations. Furthermore, municipalities must be pressured into placing more resources, both human and financial, into providing assistance to victims and to working towards combating the problem in an effective manner.

Way Forward

Ultimately, in order to effectively tackle the problem of domestic violence in north Kosovo a multi-faceted approach is required which involves a cross section of local communities as well as the full participation and commitment of institutions as well as of non-governmental organizations and the international community. It would also need to involve longer-term projects which are both wide-ranging and well-placed in communities across north Kosovo. While it is of course important to work towards a greater understanding of the problems and the needs of victims it is also important to ensure that problems are solved and needs are met. At this point in time, the most urgent and pressing need is that of a safe-house for victims of domestic violence. This existence of such a shelter would not only encourage victims to report violence but also offer them an extra and necessary layer of protection against perpetrators of violence. Until now, projects have largely been centered on small-scale outreach efforts such as workshops and focus groups and although these events often prove to be valuable they do not constitute a wider effort to produce concrete results. Taking this into consideration, it is necessary for both the non-governmental sector as well as the international community to work towards producing systematic changes which will positively affect the lives of victims of domestic violence as well as serve to prevent its occurrence. This means a comprehensive approach involving public campaigns, capacity-training for municipal workers, the establishment of a safe-house as well as facilitating cooperation between public institutions. Such approaches have proved to be successful in other locations throughout Kosovo, and there is every reason to believe that such activities could be effectively and successfully implemented in the north.