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## Albanian legislation regarding violence against children

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### Abstract

*Physical and psychological violence is more frequent, more severe and far larger than the violence in schools. From studies carried out in Albania shows that 1 in 4 children are victims of severe forms of domestic violence and 1 in 3 children are victims of beating or striking at school. These facts clearly show that violence against children in Albania is one of the most serious violations of children's rights and it is contrary to Article 39 of the Convention for the Protection of the Rights of the Child UN, which Albania is part to since 1992, as well as Article 54 of the Constitution.*

Keywords: domestic against children, Albanian legislation, physic domestic, psychological domestic, sexual domestic

### 1. Introduction

Violence against minors is global phenomenon. Violence against children is multidimensional and calls for a multifaceted response (UN General Assembly, 23 August 2006). Even Albania, although a small country, there remains outside its negative impact. Given that this phenomenon is common and requires special attention from all our society we have choose this topic because the children are the progress of world development.

Special attention and utmost dedication these children receive from parents and our government. As well as sensitize society to rise its level of protection of children's rights is an undisputed fact attitude: that often, children are vulnerable precisely where they should be better protected, where they expect security, love and support.

Violence associated with unpleasant experiences and generally no fun and desire to talk about them. Rather there is a tendency not to express the violence suffered and exercise even when it is obvious.

Albanian society undoubtedly face serious difficulties and challenges that are part of the development process and the efforts of Albania, to be made worthy partner in the community of developed societies of European and Euro-Atlantic structures, but it is worth mentioning is that

the government Albanian has taken and always assumes the child protection and is doing its utmost to develop before a modern society where these children to feel happy easily and harmless. This achievement of Albanian society has been consolidated over the years and in particular during the period of democratic transformations.

Childhood is considered by medical psychological and pedagogical disciplines, as a crucial period for the future development of children, as individuals and as citizens. The importance of this period thereafter for all development makes it necessary for children to show special care for them to meet those developmental needs. One of them is the need for certainty and without the fulfillment of this need is impossible to have healthy individuals and responsible citizens.

Limited and sporadic surveys as well as emissions of print media and electronic media have pointed out that the safety and welfare of their children in Albania, heavily damaged by the use of violence in the home and in other environments where they live, plays and learns children. Violence against children in Albanian culture is seen as a means to discipline them.

The use of light and moderate forms of physical and psychological violence is widespread. Many children were subjected to harsh and degrading forms of violence and humiliation as beating, incest, sexual abuse, abandonment, sale and use of children for prostitution, crimes of honor, to the selective abortions. Recent years have increasingly reported cases of sexual abuse by parents, teachers and others on children as well as deaths due to violence, as was the case of the boy who was killed by his mate at high school in Sauk Tirana about two years ago. Reports of cruel and humiliating punishment, genital mutilation of girls, neglect, sexual abuse, homicide, and other forms of violence against children have long been recorded, but the grave and urgent nature of this global problem has only recently been revealed (A. Reza, J. A. Mercy , E. Krug, , (2002)).

## **2. Violence against children in Albania**

Violence affects children`s physical and mental health, impair their ability to learn and socialize. It is a violation of their human rights and may undermine their development as functional adults and good parents later in life. In the most severe cases, violence against children leads to death (UN, 2006). Depending on the culture, the perception as well as the educational tradition, different types of violence (especially physical and emotional) are perceived in different ways (UNICEF., 2013).

From studies carried out in Albania, it turns out that 1 in 4 children are victims of severe forms of domestic violence, and 1 in 3 children are victims of beating or striking at school. These facts clearly show that violence against children in Albania is one of the most serious violations of children's rights, and it is contrary to Article 39 of the Convention for the Protection of the Rights of the Child UN, where Albania is state Party since 1992, and of Article 54 of the Constitution.

Article 39 of the Convention for the Protection of the Rights of the UN children that says: *States Parties shall take appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of any form of the data is neglect, exploitation, or abuse; torture or any other cruel treatment or punishment.*

Changes occurred in the last decade have obviously increased the risks faced by children and their families. Under the influence of social phenomena such as immigration, uncontrolled

urbanization, poverty and unemployment, family disintegration and divorce, found the tendency of increasing the number and degree of social vulnerability for different categories of children. Problems and risks faced by children reflect the challenges of development and the complex difficulties facing the state, society and family in the transition period.

Maltreatment of children is today one of the most pressing problems faced by the Albanian society. Increasingly present is becoming a bitter reality of child abuse in various forms within and outside the family. Vulnerable children, orphans and divorced parents often fall "prey" of exploitation and rape in the most diverse forms. These have been the subject of articles in the news media and on TV and some of them treated by charities. Although the consequences of violence for children may vary according to its nature and severity, the short- and long-term repercussions are very often grave and damaging. Violence may result in greater susceptibility to lifelong social, emotional, and cognitive impairments and to health risk behaviors (V. J. Felitti et al., 1998).

If a commune does not treat each case of violence against children, this is because the access to service providers (either public or private, and NGOs) is very limited. If there were relevant centers for abused children or parents, there would be more cases denounced. The lack of such centers is the reason why most people hide domestic violence (UNICEF., 2013).

A problem of the last decade is vendetta and revenge, which the children affected directly or indirectly, as perpetrators or as an injured party. Many children are forced to not attend school because of this phenomenon. Street children represent the most vulnerable category, the most exposed to risks such as harassment, insecurity, illiteracy, malnutrition, etc. Marginalization of this category is fed by many economic factors, social, cultural, educational and family. According to partial data in Tirana identified about 800 street children, who practice the "profession" of beggars, street vendors, etc. Children involved in work and other activities are profitable children who have abandoned school, while others attend it and perform various jobs, mainly after school, being activated in activities outside the household or family. In judicial practice of recent, observed judicial cases decisions which are not properly treat the causes which have brought the child maltreatment or bypass; we harm the interest of the juvenile, family situation created. For some children, the journey to and from school may be their first independent exposure to the community; it may also be their first exposure to its risks. Others are exposed to violence when carrying out domestic tasks, such as when fetching water, fuel, food or fodder for animals (WorldVision, 2001). These tasks, which may involve walking considerable distances, are usually assigned to girls in rural areas of the developing world (UNICEF, 2003).

### **3. Albanian legislation regarding violence against children**

Since 1990, Albania began to make great strides in the field of legislation: it ratified the main international instruments on human rights, including those of children's rights. These include:

- a. European Convention for the Protection of Human Rights and Fundamental Freedoms, the United Nations Convention on the Rights of the Child,
- b. Convention on the Elimination of All Forms of Racial Discrimination
- c. Convention against Torture and Other Cruel, Inhuman punishment and degrading treatment

d. Hague Convention on Protection of Children and Cooperation in adoptions abroad.

To adjust the Albanian domestic legislation with these international instruments have been adopted, in addition to basic legal documents (Constitution of the Republic of Albania, Criminal, Family, etc.) and a number of special laws and decisions, dealing directly or indirectly with improving children's rights and protection from various forms of violence. Most of these laws were adopted in the period 1990-2000.

**Article 54 of the Constitution of the Republic of Albania** is the only constitutional article that addresses violence against children, in particular the direct, ensuring children their basic rights.

“1- children, youth, pregnant women and new mothers have the right to special protection by the state.”According to this article, children are entitled to special protection by the state (in this fall as a child protection over and those less than 14 years old).

Non-discrimination of children is in paragraph 2 of Article 54 of the Constitution:

“2-children born outside of marriage have equal rights with those born within marriage."Here it comes to equal rights to children born outside of marriage with those born in marriage.

More specifically, paragraph 3 of this article knows every child the right to be protected from violence and abuse.

“3-Every child has the right to be protected from violence, abuse, exploitation and use for work, especially under the minimum age for child labor, which can harm health, morals or endanger the life or normal development”

It also recognizes the right to be protected from exploitation and employment, which could damage his health or psyche, or endanger normal development, is particularly protected in these regard children under the minimum age for work.

The minimum age for employment is defined in Section 98.99 of the Labor Code of the Republic of Albania, where according to these articles minimum working age is 16 years of age. Children from 14-18 years old can work light duty during school holidays.

Likewise Labor Code section 100, we determined that hard work, or threat to health, can be employed only to adults. Likewise the Albanian legislation treats various forms of violence in the Criminal Code. Criminal Code of the Republic of Albania and other legal instruments, treat the various forms of violence against children, in the most direct and specific ways.

### *3.1. Physical violence*

The Criminal Code of the Republic of Albania addressed three aspects of physical violence directly related to the child:

- fatal physical violence,
- traditional violent practices
- Physical violence against minors under 18 years who have committed crimes.

- a. Fatal physical forms of violence (physical abuse that ends in death) perpetrated against minors treated in:
- Article 79/a.1. "The murder of a minor"
  - Article 81 "baby killing"
  - Article 93, "Termination of pregnancy without the consent of" using violence.

The punishments given to offenders in these cases are more severe. In Article 11 of the Criminal Code, among others allegedly intentional homicide of a minor is punishable not less than twenty years of imprisonment or life imprisonment.

- b. Traditional practices that are exercised against violent on minors that are treated in the Criminal Code are:
- Blood feuds Article 83 / a "serious threat for revenge, or for revenge";
  - The customary law of taking the child's life for reasons of honor, if he has dishonored the family and parents. Article 79/a.1. "The murder of a minor".

In no case the Criminal Code of Republic of Albania is not allowed corporal punishment of persons less than 18 years old who have committed crimes. Also, in the Code of Criminal Procedure is not allowed to use physical violence as a tool for obtaining facts and proofs.

In addition Article 31 (paragraph 2) of the Criminal Code exempts minors under 18 years old from the sentence to life imprisonment.

In Article 51 of the Penal Code stipulates that the penalty is imprisonment for minors who have not reached the age of 18 years old cannot be more than half of the sentence, provided by law for the offense committed.

In cases where the offense is of minor importance and the previous behavior of minors is good, the court may exclude it from the penalty and may decide to send it to an educational institution. As the subject of crime the Criminal Code of Republic of Albania, defines as the minimum age for criminal responsibility to 14 years old when he commits a crime and 16 years old when he commits a criminal offense. Regarding the security measures being taken, the Criminal Procedure Code provides criteria and conditions that the court must take into account, especially when it comes to offenses committed by minors. When the defendant is a minor court shall consider the request and do not to interrupt the concrete educational processes. If the minor has committed a criminal a misdemeanor, measure of arrest does not apply to him. The Criminal Code also provides other forms of outdoor physical violence directly related to minors, such as kidnapping or holding hostage a person.

Article 25 of the Criminal Code of the Republic of Albania provides for penalties awarded against kidnapping or holding hostage the person and specifically the child. Penalties are given from 10 to 20 years and, in cases where the damage to the child is very serious, mental torture or death caused minors, given sentences up to 20 years or life imprisonment.

Criminal Code of the Republic of Albania has provided and offenses committed against an individual willfully, without specifying the age of the victim. Thus, in Article 86, "torture" is

projected as one of the forms of violence and torture practitioners punishment is imprisonment from five to ten years.

Article 90 of the Criminal Code addresses the beating as a form of physical violence and prescribes up to 6 months in prison.

Article 13 of the Penal Code provides for penalties up to five years in prison to a person that seriously injured another person. However these articles treat these forms of violence while not generally become associated with minor's specifications.

Corporal punishment (physical) is explicitly prohibited only in paragraph 2 of Article 36 of the "fundamental normative provisions", which are based on Law 7952, dated 06.21.1995 "For pre-university system ". It states:

"Individuality and preschool child's human dignity and respect students, he is protected from physical and psychological violence, discrimination and isolation. In kindergarten and school are strictly prohibited physical punishments or degrading treatment of children ".

### *3.2. Sexual violence*

Albanian legislation treats sexual violence against children more widely than physical violence. A number of articles of the Criminal Code deal with various forms of sexual violence. These include:

- sexual relations, or homosexual intercourse with minors (Article 100);
- sexual relations or homosexual intercourse with a minor (Article 101);
- sexual relations or gender homosexual relations with persons in genius, or under custody (Article 106);
- committing shameful acts with minors (Article 108);
- exploitation of prostitution of minor aggravating circumstances (Article 114./a.1);
- distribution, advertising and publishing pornographic material on the premises of minors (Article 117);
- trafficking of women for prostitution minors (Article 30), etc..

The penalties provided for in the Criminal Code of the Republic of Albania to that sexual violence against children are detailed. These include penalties for individual abuses of minors (Articles 10, 11, 101, 103); sexual abuses collaboration or more than once, with violence and sexual abuse (Article 17); homosexual forms of violence against minors (that have not reached sexual maturity (Article 15) for sex or homosexual intercourse with sex or persons under custody for the organization and use of minors prostitution in Albania and abroad (even for cases when people organize prostitution related blood with a minor (Article 22), etc.. Format penalties are given in every case imprisonment (as appropriate from 5 to 20 years in prison).

### *3.3. Emotional / psychological Violence*

Violence against children is widespread, underreported and extremely damaging to children. The physical, emotional and psychological scars of violence can have a profound impact on a child's development, health and ability to learn (UNICEF., 2013) . As well as corporal punishment,

emotional violence just dealt with explicitly in section 2 of article 36 of the "fundamental normative provisions", which are based on Law 7952, dated 06.21.1995, "On pre-university education". In addition to the others said: "... individuality and human dignity of the child and preschool students are respected, it is protected from physical and psychological violence, discrimination and isolation. In kindergarten and school are strictly prohibited physical punishments or degrading treatment of children ".

Also, in paragraph 3 of Article 36 of the provisions mentioned above, note the child's right not to be abused psychologically and emotionally in relation to learning outcomes. These include ways of assessing students and their right to appeal in cases where the student thinks that is not correctly evaluated by the teacher.

#### **4. Conclusions and recommendations**

The study of violence against children is a difficult enterprise. Difficulties are diverse. They relate to the lack of previous studies and the overall character of the problem itself. Despite numerous indications of the presence of violence on children and increasing its arrival in Albania, this phenomenon is not well documented. As mentioned, the print and electronic media has noted that Albanian children experience violence at home, in schools and on the streets. Media has occasionally taken stakes public awareness of this phenomenon by focusing on the most acute cases, but the violence that goes unnoticed is deemed greater. Data provided by the few polls that have been conducted are limited and do not provide a complete picture of the phenomenon. In addition to the existing data are secured with questionable methodology and their authenticity is often viewed with suspicion. Actions of NGOs and public institutions to curb violence, to heal its consequences, to increase public awareness, they need to rely on accurate and reliable. Deemed reasonable that lowering the level of violence against children and to protect them from violence taken some measures like for example:

- Establish a 24-hour telephone line supportive for victims to have the opportunity to report and receive appropriate support and quick.
- Improving cooperation and information sharing among the various agencies. This kind of cooperation should be associated with the formulation of a number of acts that will support services, such as acts of child care services, social services acts, acts of police, health services and acts locally special health services in locally.
- Creating a coordinate system is the only chance to create a good practice between institutions and organizations that work against domestic violence.
- Supportive services for victims in shelters.
- Work and award the funds to organizations that provide support services for victims of domestic violence and their children.
- Services to identify and support children and young people affected by violence.

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