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Barriers to Justice: Access to Legal Protection for Victims of Gender-Based Violence in North Macedonia After the Istanbul Convention

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Abstract

Gender-based violence (GBV) is a pervasive violation of human rights, affecting millions worldwide. In response, the Council of Europe's Istanbul Convention sets comprehensive standards to prevent violence against women and ensure victim protection and access to justice. North Macedonia ratified the Convention in 2017, signaling its commitment to tackling GBV legally and institutionally. However, this paper critically examines the extent to which victims in North Macedonia can access effective legal protection post-ratification. Drawing on legislative analysis, institutional reports, and socio-cultural studies, it reveals enduring systemic, cultural, psychological, and procedural barriers that limit justice access. The study underscores the gap between formal reforms and lived realities, highlighting the need for deeper structural and cultural transformation to fulfill international obligations and protect vulnerable populations.

Keywords: gender-based violence, Istanbul Convention, access to justice, North Macedonia, legal protection

Introduction

Gender-based violence remains one of the most serious global human rights challenges of the 21st century. Defined broadly, GBV refers to violence directed at individuals based on their gender identity or roles, disproportionately affecting women and girls across physical, sexual, psychological, and economic domains (United Nations [UN], 2020). The World Health Organization estimates that approximately one in three women globally has experienced physical and/or sexual intimate partner violence or non-partner sexual violence in their lifetime (WHO, 2021).

In the context of the Western Balkans, historical legacies of conflict, transitional justice processes, and persistent patriarchal norms complicate the eradication of GBV. North Macedonia, a multi-ethnic post-socialist society, reflects many of these challenges, where violence against women is both a public and deeply private issue, intertwined with societal power dynamics and cultural traditions (Kamberi & Mekic, 2018).

The Istanbul Convention, formally known as the Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence, represents a landmark international treaty adopted in 2011 to provide a comprehensive legal framework addressing GBV. It not only criminalizes a broad spectrum of violence but also mandates victim-centered protection measures and systemic prevention (Council of Europe, 2011). By ratifying this Convention in 2017, North Macedonia pledged to align its laws and institutions with these international standards.

This paper seeks to critically analyze how this ratification has impacted victims' access to legal protection and justice in North Macedonia. Access to justice in GBV cases encompasses the ability to report violence safely, receive appropriate legal remedies, and obtain protection and support services. Despite legislative reforms, many victims face formidable barriers. This study investigates these barriers from multiple perspectives: institutional, socio-cultural, psychological, and procedural.

Drawing on an interdisciplinary approach, the paper contributes to the understanding of the complex challenges in translating international legal commitments into effective protections for vulnerable populations in transitional societies.

The Istanbul Convention and North Macedonia's Legal Framework

The Istanbul Convention: Goals and Obligations

The Istanbul Convention, adopted by the Council of Europe in May 2011 and entering into force in August 2014, represents the first binding regional instrument explicitly dedicated to combating violence against women and domestic violence. Its significance lies in its comprehensive approach combining prevention, protection, prosecution, and integrated policies (Council of Europe, 2011).

Article 3 of the Convention defines violence against women as a violation of human rights and a form of discrimination. It requires states to criminalize all forms of violence against women, including physical, psychological, sexual violence, stalking, forced marriage, female genital mutilation, and sexual harassment (Articles 33-54). The Convention also mandates the establishment of effective protection measures, including restraining orders, victim support services, and appropriate training for professionals dealing with GBV.

Key principles enshrined in the Convention include a gendered understanding of violence, the importance of victim safety and autonomy, and the prohibition of mediation or reconciliation in criminal cases related to domestic violence (Articles 48-49).

The Convention also emphasizes the importance of multi-agency cooperation involving police, judiciary, health services, social workers, and NGOs to ensure a holistic response (Articles 9 and 10).

Ratification and Legislative Reforms in North Macedonia

North Macedonia signed the Istanbul Convention in 2012 and ratified it in October 2017, thereby assuming international legal obligations to prevent and combat GBV and domestic violence within its jurisdiction (Official Gazette of North Macedonia, 2017).

To comply, North Macedonia undertook substantial legislative reforms, notably amending its Criminal Code and revising domestic violence legislation.

Criminal Code Amendments

The Criminal Code reforms, enacted in 2020, expanded the definitions of domestic violence to include psychological and economic abuse alongside physical and sexual violence (Criminal Code of North Macedonia, 2020). Notably, stalking was

explicitly criminalized for the first time, aligning with the Istanbul Convention's standards.

Penalties for repeated offenses and violence resulting in severe harm were increased, and the law introduced formal mechanisms for protection orders, allowing courts to issue immediate restraining orders to safeguard victims.

The amendments also included provisions to remove obstacles for victim participation in trials, such as protecting victim anonymity and using video testimonies to minimize retraumatization.

Domestic Violence Law Revisions

The Law on Prevention and Protection from Domestic Violence was revised in 2021, consolidating legal measures and institutional mandates related to GBV response (Official Gazette, 2021). This law codifies procedures for issuing protection orders, defines roles for police, social services, and judiciary, and creates frameworks for inter-institutional coordination.

The law explicitly prohibits mediation or reconciliation processes in cases of domestic violence, reflecting a key Istanbul Convention mandate aimed at preventing secondary victimization and power imbalances in judicial proceedings.

Policy Framework and Institutional Developments

In addition to legal reforms, North Macedonia adopted the National Action Plan for Prevention and Protection Against Domestic Violence 2019-2023, outlining strategic priorities including prevention campaigns, capacity building, victim support services, and data collection (Ministry of Labor and Social Policy, 2019).

Institutions such as the Inter-Agency Coordination Body on Domestic Violence were established to facilitate multi-sector collaboration, monitor implementation, and coordinate efforts among ministries, law enforcement, healthcare, and NGOs.

Despite these progressive frameworks, resource allocation remains limited, and implementation gaps persist.

Challenges in Harmonizing Law and Practice

While the legal framework has been modernized, the translation of statutory provisions into effective practice faces significant obstacles. Studies indicate that many law enforcement and judicial professionals lack adequate training on Istanbul Convention obligations and victim-centered approaches (HERA, 2022).

Furthermore, the criminalization of psychological violence and stalking, while present in law, is underutilized in practice due to evidentiary challenges and institutional reluctance.

The persistent use of mediation in some cases contradicts legal prohibitions, revealing tensions between formal rules and ingrained institutional habits (Helsinki Committee, 2021).

Thus, the legislative progress provides a foundation, but the practical realization of access to justice for GBV victims depends on addressing systemic institutional and societal barriers

Institutional Barriers to Accessing Justice

Law Enforcement Challenges

The role of law enforcement is pivotal in ensuring victims of gender-based violence can safely report crimes and receive immediate protection. However, research reveals multiple institutional shortcomings within North Macedonia's police services that inhibit effective responses to GBV complaints.

First, police officers often lack specialized training on the dynamics of domestic violence and trauma-informed approaches, leading to victim-blaming attitudes or disbelief (OSCE, 2020). According to a 2019 survey by the Macedonian Helsinki Committee, over 40% of GBV victims reported feeling disregarded or inadequately supported by police during initial reporting (MHC, 2019).

Secondly, police frequently treat domestic violence as a "private matter," minimizing its seriousness and delaying intervention (Jovanovska & Velkoska, 2021). This approach is inconsistent with the Istanbul Convention, which explicitly states that domestic violence is a public crime requiring immediate state intervention (Council of Europe, 2011, Art. 18).

Thirdly, the procedures for obtaining and enforcing protection orders are hindered by bureaucratic delays and lack of coordination between police and judiciary (UN Women, 2021). Reports indicate that some protection orders are not enforced promptly, exposing victims to continued risk (Human Rights Watch, 2022).

The overall consequence is a justice system that, at the frontline, is often inaccessible, intimidating, and sometimes re-traumatizing for survivors.

Judicial System Limitations

The judiciary in North Macedonia plays a critical role in ensuring that perpetrators are held accountable and victims' rights are upheld. However, systemic issues compromise judicial effectiveness in GBV cases.

One significant problem is the low level of judicial awareness and sensitivity toward GBV. Judges and prosecutors often lack specialized training on gender-based violence and the Istanbul Convention's mandates (OSCE, 2021). This can result in inadequate consideration of evidence related to psychological abuse or coercive control, which are often subtle and difficult to prove.

Further, the slow pace of judicial proceedings contributes to prolonged victim suffering and deters them from pursuing justice (Council of Europe, 2020). Court delays in North Macedonia have been attributed to insufficient staffing, procedural inefficiencies, and heavy caseloads (Transparency International, 2022).

Another notable issue is the underutilization of protective measures, such as restraining orders and victim anonymity provisions. Data from the Ministry of Justice show that protective measures are granted in fewer than 50% of eligible cases, signaling gaps in enforcement or judicial discretion (Ministry of Justice, 2022).

Moreover, reports from advocacy organizations highlight a lack of victim-centered courtroom procedures, including limited use of video testimonies and the absence of adequate psychological support during trials (HERA, 2022). Such deficiencies can increase victim trauma and reduce participation.

Coordination and Institutional Capacity

Effective response to GBV requires coordinated action among multiple institutions law enforcement, judiciary, social services, healthcare, and civil society. While North Macedonia has established inter-agency bodies to enhance cooperation, challenges remain.

Institutional fragmentation, unclear mandates, and insufficient communication impede timely and coherent responses (UN Women, 2021). Social workers and healthcare providers report inadequate protocols and training for GBV case management, affecting victim referrals and support continuity (Health Rights, 2020).

Furthermore, resource constraints limit institutional capacities. Shelters and crisis centers are underfunded and cannot meet the demand for safe accommodation

and comprehensive services (Amnesty International, 2022). These gaps contribute to secondary victimization and reduce trust in formal justice mechanisms.

Socio-Cultural Barriers and Gender Norms

Patriarchal Social Structures

North Macedonia's socio-cultural context is strongly influenced by traditional patriarchal values, which dictate gender roles and family hierarchies. Such norms often justify male dominance and control, contributing to the normalization and invisibilization of violence against women (World Bank, 2021).

Patriarchal attitudes manifest in community acceptance of "family matters" being kept private, discouraging victims from seeking external help (Kamberi, 2019). This cultural expectation places pressure on women to maintain family unity at the expense of personal safety.

The stigma attached to victims of GBV is a powerful deterrent. Survivors may be labeled as "dishonorable" or blamed for provoking violence, leading to social isolation or even retaliation (Human Rights Watch, 2020). This victim-blaming culture not only silences survivors but also affects the willingness of witnesses to testify.

Impact of Ethnic and Religious Diversity

North Macedonia is a multi-ethnic country, with significant Albanian, Turkish, Roma, and other minority communities. The intersection of ethnicity, religion, and gender creates additional layers of complexity in accessing justice for GBV victims.

In some communities, conservative religious or cultural traditions exacerbate gender inequalities and restrict women's autonomy (UNDP, 2022). For example, in Roma communities, women face compounded discrimination and marginalization, with limited awareness or trust in formal institutions (Amnesty International, 2021).

Language barriers and lack of culturally sensitive services further marginalize minority women. NGOs report that Roma women often encounter discrimination when seeking police protection or social services (Open Society Foundation, 2020).

Social Pressure and Family Influence

In many cases, family members discourage victims from pursuing legal action, either to protect the family's reputation or due to economic dependence on the

perpetrator (Kamberi & Mekic, 2018). This social pressure frequently results in underreporting of GBV incidents.

Women may also fear escalation of violence or loss of custody of children if they engage with the justice system (HERA, 2022). These fears are not unfounded, as judicial processes sometimes inadequately address these concerns.

Psychological Barriers Affecting Victims' Access to Justice

Trauma and Its Impact on Reporting and Participation

The psychological consequences of gender-based violence profoundly affect survivors' ability and willingness to engage with legal processes. Victims of GBV often experience post-traumatic stress disorder (PTSD), anxiety, depression, and feelings of shame and guilt (Campbell, 2002). These symptoms can impair memory, communication, and decision-making capacity, complicating the reporting of abuse and participation in investigations or trials.

Research in North Macedonia has shown that many survivors delay or avoid reporting violence due to fear of retraumatization during police interviews or court appearances (HERA, 2022). The prospect of recounting traumatic experiences multiple times, often in unsupportive environments, deters many from seeking formal justice.

Fear of Retaliation and Safety Concerns

Fear of further violence or retaliation from perpetrators is a significant psychological barrier. Women may hesitate to report abuse if they believe law enforcement or judicial measures will not provide adequate protection (UN Women, 2021).

This fear is often compounded by experiences of ineffective enforcement of restraining orders or protection measures. Reports document cases where victims were subjected to threats or attacks even after legal interventions were initiated, undermining confidence in the system (Human Rights Watch, 2022).

Distrust in Institutions

Historical mistrust of state institutions, rooted in past corruption, political interference, and inefficiency, further discourages survivors from engaging with justice mechanisms (OSCE, 2020). Victims may anticipate judgment, discrimination, or lack of confidentiality, which can discourage disclosure.

This institutional distrust is exacerbated in marginalized communities, such as the Roma minority, where systemic discrimination and social exclusion are prevalent (Amnesty International, 2021). The intersectionality of gender, ethnicity, and socioeconomic status creates unique psychological barriers for these victims.

Secondary Victimization in Justice Processes

Secondary victimization refers to the additional trauma survivors experience due to insensitive or inappropriate treatment by authorities during investigation and judicial proceedings (Campbell, 2002). Examples include intrusive questioning, victim-blaming attitudes, and lack of privacy.

In North Macedonia, advocacy groups have documented frequent cases where survivors felt re-victimized by police and judiciary, including skepticism about their credibility or pressure to reconcile with perpetrators (HERA, 2022). Such experiences can deter victims from pursuing further legal action and deepen psychological harm.

Procedural and Legal Obstacles

Reporting and Documentation Challenges

The process of reporting gender-based violence in North Macedonia involves several procedural hurdles. Victims often face complicated and time-consuming administrative requirements to file complaints and initiate legal proceedings (OSCE, 2020).

Insufficient documentation or improper collection of evidence, especially in cases of psychological abuse or sexual violence, results in weak prosecution cases (Council of Europe, 2020). Law enforcement officials frequently lack training in forensic documentation and victim interviewing techniques, undermining evidence integrity.

Accessibility and Language Barriers

For minority groups and victims in rural or remote areas, access to legal protection is further constrained by geographic and linguistic obstacles. Limited availability of interpreters and legal aid in minority languages restricts meaningful participation in judicial processes (Open Society Foundation, 2020).

The absence of accessible information on legal rights and procedures exacerbates confusion and discourages victims from engaging with formal justice mechanisms.

Lengthy Judicial Procedures and Case Backlogs

The protracted duration of court proceedings in GBV cases is a major impediment to justice. Extended waiting times not only increase victims' stress but may also result in loss of evidence or witnesses (Transparency International, 2022).

Case backlogs in North Macedonia's courts, caused by understaffing and resource constraints, have been well-documented (Ministry of Justice, 2022). Delays undermine victims' trust in the system's capacity to deliver timely protection and accountability.

Inadequate Victim Protection Measures

Despite legal provisions for protection orders, their application remains inconsistent. Some courts issue protection orders only after significant delay or upon victim insistence, exposing survivors to ongoing danger (Helsinki Committee, 2021).

Moreover, the enforcement of restraining orders depends heavily on police responsiveness, which varies widely. Lack of continuous monitoring mechanisms means perpetrators may violate orders with minimal consequence.

The legal framework does not always adequately address complex cases involving multiple forms of violence or psychological abuse, leaving victims vulnerable to further harm.

Case Studies and Data Analysis

Overview of Gender-Based Violence Statistics in North Macedonia

Accurate and comprehensive data on gender-based violence is essential for understanding the scale of the problem and evaluating the effectiveness of legal protections. North Macedonia faces challenges in data collection due to underreporting and inconsistent recording practices.

According to the Ministry of Interior's 2022 report, approximately 3,500 cases of domestic violence were registered in that year, marking a slight increase from previous years (Ministry of Interior, 2022). However, experts estimate that the actual incidence is significantly higher, as many victims do not report violence due to fear, stigma, or distrust (UN Women, 2021).

The National Statistical Office's 2021 survey on women's experiences with violence indicated that nearly 35% of women aged 15 and older have experienced some form of physical or sexual violence since age 15 (National Statistical Office, 2021). This data highlights the widespread prevalence of GBV despite legislative advances.

Case Study: Institutional Response to Domestic Violence in Skopje

A 2020 study by the HERA NGO examined 50 domestic violence cases reported to police and courts in Skopje. It found that only 40% of cases led to the issuance of protection orders, and only 25% proceeded to prosecution (HERA, 2020). The majority of victims reported dissatisfaction with police responsiveness and lack of follow-up support.

Interviews with victims revealed that fear of retaliation and social pressure to maintain family cohesion often influenced decisions to withdraw complaints. Several victims reported experiencing secondary victimization from judicial personnel, which discouraged continued engagement with the legal system.

The study concluded that while legal frameworks exist, their implementation is hampered by institutional weaknesses and socio-cultural factors, leaving many victims without effective protection or justice.

Case Study: Access Barriers for Roma Women

Roma women face particularly severe barriers in accessing legal protection due to intersecting discrimination based on ethnicity, gender, and socio-economic status.

A 2019 report by Amnesty International detailed cases where Roma women experienced police refusal to take complaints seriously, lack of interpreters, and social workers' failure to provide adequate support (Amnesty International, 2019). These women often live in segregated communities with limited access to public services and face heightened vulnerability to GBV.

The report emphasized the need for culturally sensitive outreach and institutional reforms to address these disparities.

Comparative Insights: Lessons from Regional Neighbors

Comparing North Macedonia's experience with neighboring countries such as Serbia and Albania reveals common patterns of legislative reforms outpacing institutional capacity and cultural change (Council of Europe, 2020). Regional cooperation and knowledge exchange could enhance responses to GBV by sharing best practices and harmonizing implementation strategies.

Conclusion

North Macedonia's ratification of the Istanbul Convention marked a significant milestone in its commitment to addressing gender-based violence and enhancing victims' access to legal protection. The country has made commendable strides in modernizing its legal framework, criminalizing various forms of abuse, and establishing institutional mechanisms aimed at a coordinated response.

However, this research reveals that legal reforms alone are insufficient to guarantee effective access to justice for GBV victims. Persistent institutional shortcomings, including inadequately trained law enforcement and judiciary personnel, bureaucratic inefficiencies, and inconsistent enforcement of protective measures, continue to impede victim protection.

Moreover, deep-rooted socio-cultural barriers, patriarchal norms, stigma, ethnic and linguistic marginalization, and family pressures severely restrict survivors' willingness and ability to seek justice. Psychological impacts such as trauma, fear of retaliation, and distrust in state institutions further compound these challenges.

Procedural obstacles, including complex reporting requirements, lengthy judicial processes, and lack of victim-centered practices, create additional hurdles to justice.

Case studies and data analyses underscore the gap between formal legal standards and the lived realities of survivors, highlighting systemic issues in institutional responses and service provision, particularly for marginalized groups such as Roma women.

Ultimately, fulfilling the Istanbul Convention's promises requires not only continued legal reform but also sustained efforts to transform institutional culture and societal attitudes. Only through comprehensive, multi-level approaches can North Macedonia bridge the gap between law and practice and ensure that victims of gender-based violence receive the protection, support, and justice they are entitled to.

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