

## Gender Equality – Legal Reality in Albania

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### Abstract

*The objective for gender equality policy is that women and men must have the same power to shape society and their own lives. While equality is an essential component of the human rights' protection, gender in equalities are still present in our society. One of the most serious violations of gender equality is violence against women. Violence against women is a form of discrimination, which is rooted in gender inequality. According to a study by INSTAT (2007), 27, 6% of women reported that violence had started after marriage. Abused women often were unwilling, to talk openly about domestic violence. In terms of urban versus rural differences, women in rural areas were significantly more likely to "ever" experience domestic violence of all types, compared to women in urban areas. There were also significant differences based on level of education. Women with a primary education were significantly more likely to "ever" experience domestic violence of all types, compared to women with a basic education or less, secondary education, and a university/post-university education. While women with a university/post-university education were least likely to "ever" experience domestic violence of all types, they were not immune to domestic violence in their marriage/intimate relationships simply because they were highly educated. Since 1993, Albania<sup>1</sup> is part of Convention "On the Elimination of All Forms of Discrimination against Women" (1981) (CEDAW), in order to prevent gender inequalities, as well as to ensure wisely the protection of women from discrimination in higher levels. Other Albanian legal acts, as The Constitution<sup>2</sup> of the Republic of Albania, the law no. 10 221/2010 "On Protection from Discrimination", the law no. 9970/2008 "On gender equality in the society" etc. intend to protect women, to prevent gender discrimination and to ensure gender equality. Albanian National Strategy on Gender Equality and Violence in Family (2011-2015) had also a great importance on setting some levels on gender equality. But unfortunately, gender discrimination and violence against women is still a very widespread phenomenon in Albania. Statistical data reflect a very cruel reality. Women's rights are an integral and indivisible part of fundamental human rights and a real, applicable, legal protection is needed.*

**Key words** – CPD, gender equality, human rights, discrimination, women, law, strategy.

### INTRODUCTION

Gender equality is a very essential element, in the framework of human rights' protection. But, the discussion rises to the point if the gender equality is real in Albania and if laws provide effective protection to the Albanian women from gender discrimination and gender inequality. The most painful element of women discrimination is the domestic violence. Domestic violence is a very widespread phenomenon in Albania, not only in rural areas. Albania has enacted a good legal framework, but still women are not equal to men and they still are victims of discrimination. If the legislation is applied correctly then why still gender discrimination and gender inequality is so evident. This paper aims to give an overview of the situation of gender discrimination and gender inequality in Albania, as well as an overview of the legislation that prevent gender inequalities.

### FACTS OF GENDER (IN) EQUALITY in ALBANIA.

Statistical data reflect a very cruel reality. Albanian families are still built on the traditional patriarchal organization and a stereotypical understanding of gender role. Domestic violence<sup>3</sup> is one form of violence against women that is very widespread in Albania. It is very important to highlight the fact that most of the women that have submitted domestic violence do not report to the competent legal institutions. This phenomenon continues even nowadays to be treated by most of the

1 Republic of Albania has ratified CEDAW with the law no. 7767/1993.

2 Article 18/2 of the Constitution of Republic of Albania foresees:

".....No one may be unjustly discriminated against for reasons such as gender, race, religion, ethnicity, language, political, religious or philosophical beliefs, economic condition, education, social status, or parentage...."

3 According to UN Declaration On the Elimination of Violence Against Women provisions, domestic violence is: "any act of gender based violence that results in, or is likely to result in, physical, sexual, or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private".

population as a private matter that concerns only to the family, not to the society. Albanian women<sup>1</sup> experience domestic violence early in their marriages. One in four women report that domestic violence began in the first year of marriage meanwhile one in two women report that the violence began in the second to third years of marriages. Only about 5 percent of battered women<sup>2</sup> in the family denounce violence against them. The only source of information in most cases is the victim, who is not free from the prejudices and stereotypes that exist in society or in the community where she belongs. According to National Domestic Violence Surveys (2007 and 2013), published by Albanian Institute of Statistics (INSTAT), during 2007, 56.0% of Albanian women 15 to 49 years of age reported experiencing domestic violence, while during 2013, 59.4% of Albanian women 18 to 55 years reported the same. 30% of Albanian women and 36 % of men believe a husband is justified to beat up his wife in certain circumstances. Physical violence includes moderate and severe physical violence and violence with a weapon and/or aggravated injuries. 19% of battered Albanian women experience domestic violence injuries such as cuts or bruises, deep wounds, broken bones or teeth, lost consciousness, head and abdominal injuries. 14% of battered Albanian women were unable to perform household work and child care responsibilities or go to work because of domestic violence. Only 8% of battered women<sup>3</sup> search for help to stop the domestic violence in their lives. 33% of battered women in European Union sought help for domestic violence from social services and organizations. A recent survey conducted by INSTAT and UNDP found that 59.4% of women have experienced some form of domestic violence in their lifetime, with 53% currently living in a violent relationship. One in four women in Albania are victims of physical and sexual violence, meanwhile one in five women in EU suffer the same. Sexual violence includes being forced to perform sexual intercourse and degrading/humiliating sexual acts. 44% of sexually abused women had sexually transmitted diseases.

Domestic violence affects very negatively even Albanian children as well as one in two Albanian children who are victims of domestic violence search for help. 86% of Albanian children are witness of domestic violence and 58% of them are physically battered by a family member. 43% of Albanian children have problem in school due to domestic violence and 31% of them live in fear do to this kind of violence. As a result of the domestic violence 6% of the children leave home to live with the relatives.

One in two women in Albania is victim of psychological violence; meanwhile two in five women in European Union suffer such violence. Psychological violence includes verbal abuse, psychological threats, controlling behaviors and economic abuse.

Other kinds of gender inequality appear in other forms. So, only 8% of properties in Albania are owned by women. Traditional gender roles and stereotypes prevent women from fully using their competencies and being economically independent. 51% of university graduates are women, but their potential is not fully used in economy. Women represent 41.6% of workforce in Albania, own 27% of businesses and earn 82 % of men's income. Women spent 306 minutes every day in household, meanwhile men spend 47 minutes. Albanian women represent 51% of voters and 31.7% of members in Political Parties, 30% of judges in courts, 24.3% of public Administration Managers and 12.2% in Local Councils.

Albania has approved the gender quota<sup>4</sup> at the level 30% for women representation in all public institutions. Unfortunately, indicators that testify to the involvement of women in politics and decision making are such that underline the importance of further progress in this direction. Following the general elections<sup>5</sup> of 2013, only 17.1 % of the members of the parliament were women, an improvement if compared with 2005 elections, when the figure was only 7.4%.

## LEGAL REALITY in ALBANIA.

Albania has enacted several laws that intend preventing gender inequalities between men and women, as well as providing protection from gender discrimination. in the framework of building a social and democratic state based on the rule of law, and to guarantee the fundamental human rights and freedoms, as well as ensuring gender equality, except domestic laws, Albania has ratified some international Agreements and Conventions. According to the Constitution<sup>6,7</sup>, the Republic of

11 National Domestic Violence Surveys (2007 and 2013), published by Albanian Institute of Statistics (INSTAT), pages 38-42.

2National Domestic Violence Surveys (2007-2013), published by Albanian Institute of Statistics (INSTAT), pages 47-56.

3Dr. Robin Haarr, 2013, Stop Domestic Violence in Albania! Act now!

4 Report "Women and girls in local elections" (2012), The Albanian Institute for the Development of Election System (AIESD) and Klea Faniko, PhD, page 7.

5 Women elected in parliamentary elections: 2005 – 7.4%, 2009 – 16.4%, 2013 – 17.1%. Women appointed as ministers in Albanian governments: 2005 – 6.6%, 2009 – 7.1%, 2013 – 30 %.

6In Article 5, of the Constitution of Albania is foreseen: "The Republic of Albania applies international law that is binding upon it".

7In Article 121, of the Constitution of Albania is foreseen :

Albania applies International law that is binding upon it. According to the article 1122/1/2 of the Constitution, ratified international agreements constitute part of the internal legal system and international agreements ratified by law have priority over the laws of the country that are incompatible with it. The norms issued by an international organization have priority, in case of conflict, over the law of the country when the direct application of the norms issued by the organization is expressly contemplated in the agreement ratified by the Republic of Albania for participation therein.

In addition to the national legislation, Albania has ratified a number of international acts during the period 2003-2006, which intend to eliminate discrimination against women. Some of these international instruments are listed below:

Protocol No. 12 of the European Convention "On Protection of Fundamental Human Rights", ratified by law No. 9264, dated 29.07.2004, the focus of which is the prohibition of discrimination in general.

Optional Protocol of the Convention "Against Severe Inhuman or Degrading Torture and Treatment", ratified by law No. 9094, dated 27.03.2003;

European Convention "On compensation of Victims of Violent Crimes", ratified by law 9094, dated 29.07.2004;

Convention of the European Council "On measures against Trafficking of human Beings", ratified by Law No. 9642, dated 20.11.2006.

Albania is part of Convention<sup>3</sup> "On the Elimination of All Forms of Discrimination against Women" (1981) (CEDAW), in order to prevent gender inequalities, as well as to ensure wisely the protection of women from discrimination in higher levels. The Convention touched upon a very important issue of advancement of women by recognizing<sup>4</sup> that violence against women is a manifestation of historically unequal power relations between men and women, which have led to domination over and discrimination against women by men and to the prevention of full advancement of women, and that violence against women is one of the crucial social mechanisms by which women are forced into a subordinate position compared with men.

Other Albanian legal acts, intend to protect women, to prevent gender discrimination and to ensure gender equality. Based on their hierarchy, Constitution of the Republic of Albania has a provision under the article 18/2, where is foreseen that no one may be unjustly discriminated against for reasons such as gender, race, religion, ethnicity, language, political, religious or philosophical beliefs, economic condition, education, social status, or parentage. At this context, an important role has even the law no. 9062/2003 "On the Family Code of the Republic of Albania" that announced equality<sup>5</sup> of spouses in relation to each-other and in relation to their children. The new Family Code was adopted after several years of extensive work through Law no. 9062/2003. in the definition of the marriage, the Family Code states the moral and legal parity of spouses as a basic important life principle. Likewise, it is worth pointing out that the Albanian legislation addresses the violence on gender grounds in particular, including domestic violence.

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"The ratification and denunciation of international agreements by the Republic of Albania is done by law when they involve:

- a. territory, peace, alliances, political and military issues;
  - b. human rights and freedoms, and obligations of citizens as provided in the Constitution;
  - c. the membership of the Republic of Albania in international organizations;
  - ç. the assumption of financial obligations by the Republic of Albania;
  - d. the approval, amendment or repeal of laws.
2. The Assembly may, by a majority of all its members, ratify other international Agreements that are not contemplated in paragraph 1 of this article.
  3. The Prime Minister notifies the Assembly whenever the Council of Ministers signs an International agreement that is not ratified by law.
  4. The principles and procedures for ratification and denunciation of international agreements are provided by law".

1 in Article 122/1 of the Constitution of Republic of Albania is foreseen: "Any ratified international agreement constitutes part of the internal legal system after it is published in the Official Journal of the Republic of Albania. It is directly applicable, except when it is not self-executing and its application requires the adoption of a law.....".

2See the Article 122/3 of the Constitution of the Republic of Albania.

3 Albanian Parliament has ratified the CEDAW with the law no. 7767/1993.

4Dizdari-Zeneli D., (2013) Human rights, Discrimination and Gender Equality Issues in the Albanian News Media – An Analysis, pg. 8.

5 in article 1 of the law no. 9062/2003 "The Family Code" is foreseen: "Marriage, as a legal cohabitation, is founded on the moral and legal equality of the spouses, in the mutual sentiment of love, respect and understanding, as the basis of unity in the family. Marriage and family enjoy special protection from the state".

The law no. 8116 /1996 “On the Civil Procedural Code of the Republic of Albania” (amended), also provides for the binding obligation of having equal and same regulations for adjudicating civil disputes related to it, without conditioning the enforcement of these regulations for individuals, on the basis of gender, age, ethnicity or race.

The law no. 7859 /1994 “On the Civil Code of the Republic of Albania” (amended), provides<sup>1</sup> for every natural person, who enjoys full and equal capacity, to have civil rights and obligations within the limits provides for by the law, without conditioning the enjoyment of civil rights, due to ethnic belonging or social origin, and without providing for special preferences based on gender, race, color, sex, age or faith.

The law no. 8485 /1999 “On the Code of Administrative Procedures of the Republic of Albania”, which is binding for all the public administration bodies, during the exercise of their functions through individual acts, sanctions the general administrative activity principles, like legality, protection of public interest and privacy rights, access to official documentation, accountability, justice and objectivity, impartiality, parity<sup>2</sup> and proportionality. The Code of Administrative Procedures

Article 9 of the law no.7961/1995 “On the Albanian Labour Code of the Republic of Albania” (amended), prohibits discrimination<sup>3</sup> in employment on grounds of race, skin, colour, sex, age, religion, political beliefs, nationality, social origin, family relations or physical or mental disabilities. Discrimination may be sanctioned in virtue of the respective provisions, at the maximum limit of up to 50 monthly minimum wages.

Law no. 7895 /1995 “Criminal Code of the Republic of Albania” (amended). Further amendments to the Criminal Code of 1995 have introduced specific offences with increased sanctions against trafficking of human beings, domestic violence, stalking, marital rape violation of protection orders, child abuse and neglect, etc.

The adoption of law no. 9970/2008 “On gender equality in society” marked a positive step in drafting the new legislation on gender equality. This law regulates<sup>4</sup> fundamental issues of gender equality in public life, the protection and equal treatment of women and men with regards to equal chances and opportunities for the exercise of their rights, as well as their participation and contribution in the advancement of all social spheres. This law<sup>5</sup> is based on the principle of equality and non-discrimination, and other principles sanctioned by the Constitution of the Republic of Albania, by the Convention “On the Elimination of all Forms of Discrimination against Women”, and by all other international acts ratified by the Republic of Albania.

The main purposes of this law are the protection of citizens from any form of discrimination made because of gender and the guarantee of equal possibilities and opportunities for men and women to achieve the highest standards in the field of gender parity. This shall be achieved especially through the improvement of functions in the field of gender parity which this law will complete and by strengthening the institutional mechanisms that will implement the deriving legal framework. The law introduces new definitions such as the ones on gender discriminations, gender integration and percentages and it gives a fuller definition on sexual harassment in the working place and other harassments.

One of the most important legal acts enacted from the Albanian parliament is the Law no. 10 221/2010 “On Protection from Discrimination”, that regulates the implementation<sup>6</sup> of and respect for the principle of equality in connection with gender, race, colour, ethnicity, language, gender identity, sexual orientation, political, religious or philosophical beliefs, economic, education or social situation, pregnancy, parentage, parental responsibility, age, family or marital condition, civil status, residence, health status, genetic predispositions, disability, affiliation with a particular group or for any other reason.

The law no. 10 221/2010 is fully approximated with four EU Directives as listed below:

32000L0043, Council Directive 2000/43/EC of 29 June 2000 “On the principle of equal treatment between persons irrespective of racial or ethnic origin”.

32000L0078, Council Directive 2000/78/EC of 27 November 2000 “Establishing a general framework for equal treatment in employment and occupation”.

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1 See Article 1 of the law no. 7850 /1994 “On the Civil Code of the Republic of Albania” (amended).

2 See Article 11 of the law no. 8485 /1999 “On the Code of Administrative Procedures of the Republic of Albania”.

3 See Article 9 of the law no.7961/1995 “On the Albanian Labour Code of the Republic of Albania” (amended).

4 See Article 1 of the law no. 9970/2008 “On gender equality in society”.

5 See Article 3/1 of the law no. 9970/2008 “On gender equality in society”.

6 See Article 1 of the law no. 10 221/2010 “On Protection from Discrimination”.

32004L0113, Council Directive 2004/113/EC of 13 December 2004 "Implementing the principle of equal treatment between men and women in the access to and supply of goods and services".

32006L0054, Directive of the European Parliament and of the Council 2006/54/KE of 5 July 2006 "On the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation".

This law provided for the establishment of the Commissioner<sup>1</sup> for Protection from Discrimination, a public oversight mechanism for different grounds of discrimination, including sex, gender identity, pregnancy, parental responsibility, etc. From an institutional point of view the establishment of the office of the Commissioner for Protection from Discrimination as the guardian of effective protection from discrimination and every conduct that encourages discrimination is an important step forward.

Both the above-mentioned laws are considered to lay the foundation of a society free from discrimination and where gender equality is ensured.

Other important laws that aim the protection of women as well as providing gender equality are the Law no. 8876/2002 "On reproductive health" (amended), stipulates<sup>2</sup> that every woman shall decide on her own free will and without any form of discrimination, pressure, or violence all issues related to her own sexuality and sexual and reproductive health and the Law no. 9669/2006 "On measures against violence in family relations" (amended) included<sup>3</sup> solid definitions of domestic violence and family members. It mandated a series of public authorities with competences and duties to respond to cases as well as provided for the issuance of court protection (stay away) orders against perpetrators.

Most of above-mentioned laws are further detailed with policy objectives and action points contained in the cross-cutting National Strategy on Gender Equality and Eradication of Gender Based and Domestic Violence (2011-2015) a revised and improved version of the National Strategy on Gender Equality and Eradication of Domestic Violence (2007-2010). Different strategies and policy documents as the Strategy on Property Rights of the Ministry of Justice, as well as the Strategy on Sexual and Reproductive Health are implemented in Albania. These strategies intend to address women's rights and respond to inequalities.

All the above mentioned laws are applied in Albania and aim ensuring gender equality and protection of women and children from discrimination. A lot of initiatives have been launched in Albania to prevent and fight against domestic violence against women and children, as well as other forms of discrimination, ranging from better laws and policy frameworks to extensive capacity building investments, increased responsibility of perpetrators, development in some areas of inter-disciplinary response and referral mechanisms. Times to times, constant public awareness activities are organized by different Albanian and foreign organizations.

The Council of Ministers<sup>4</sup> is viewed as the most central body approving National Strategies on Gender Equality and ensuring gender mainstream in legislation. In this context, even the National Council of Gender Equality is another important structure. It is an inter-ministerial advisory body that also comprises representatives of civil society.

Another important institution, as the Commissioner for Protection from Discrimination has contributed in gender discrimination issues. There are different cases where women have complained against public administration, private subjects as well as individuals for gender discrimination. But, the number of complaints is low. During, 2010-2013 only 9 complaints<sup>5</sup> for gender discrimination are presented to the Commissioner's Office. Law no. 10 221/2010 "On Protection from Discrimination" provides a real protection from gender discrimination, as well as from other forms of discrimination. But, the fact is that very often gender discrimination is accepted by women, as something normal and they refuse to report it to CPD<sup>6</sup>.

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1 in article 21, of the law no. 10 221/2010 "On Protection from Discrimination" is foreseen :

"1. The Commissioner for Protection from Discrimination, below the commissioner, assures the effective protection from discrimination and from every other form of conduct that incites discrimination. The commissioner is a public legal person.

2. The commissioner is supported by the Office of the Commissioner for Protection from Discrimination (office). The office has its personnel and necessary equipment to support the commissioner in fulfilling the duties assigned by law.....".

<sup>2</sup>See Article 6 of the Law no. 8876/2002 "On reproductive health" (amended).

<sup>3</sup>See Articles 3-8 of the law no. 9669/2006 "On measures against violence in family relations" (amended)

<sup>4</sup>Source: The Council of Ministers of the Republic of Albania, <http://www.keshillministrave.al/>

<sup>5</sup> See Commissioner's Annual Reports of 2010, 2011, 2012 and 2013.

<sup>6</sup>Commissioner for Protection from Discrimination.

## CONCLUSIONS

Albanian patriarchal mentality regarding gender equality has to change, but that's not too easy. It needs the implementation of appropriate, effective policies and laws. To enhance gender equality, Albanian authorities need to invest more in policies that promote equal participation of women and men in society and family. Albania has enacted a good legislation that provides protection from gender inequality, but it has to be applied simultaneously with the right policies as well as with further awareness campaigns. It is important to add that the above-mentioned legal provisions at the political and institutional level need to be translated into concrete actions and results in Albanian society. On the other hand, further improvement of public services will encourage more women to search for help in Albania.

## BIBLIOGRAPHY

- [1] Commissioner's Annual Reports of 2010, 2011, 2012 and 2013.
- [2] Constitution of the Republic of Albania.
- [3] Convention "On the Elimination of All Forms of Discrimination against Women" (1981) (CEDAW).
- [4] Dizdari-Zeneli D., (2013) Human rights, Discrimination and Gender Equality Issues in the Albanian News Media – An Analysis.
- [5] Dr. Robin Haarr, 2013, Stop Domestic Violence in Albania! Act now!
- [6] Law no. 10 221/2010 "On Protection from Discrimination"
- [7] Law no. 7859 /1994 "On the Civil Code of the Republic of Albania" (amended),
- [8] Law no. 7895 /1995 "Criminal Code of the Republic of Albania" (amended).
- [9] Law no. 8116 /1996 "On the Civil Procedural Code of the Republic of Albania" (amended).
- [10] Law no. 8485 /1999 "On the Code of Administrative Procedures of the Republic of Albania",
- [11] Law no. 9062/2003 "On the Family Code of the Republic of Albania".
- [12] Law no. 9970/2008 "On gender equality in society".
- [13] Law no.7961/1995 "On the Albanian Labour Code of the Republic of Albania" (amended),
- [14] National Domestic Violence Surveys (2007 and 2013), published by Albanian Institute of Statistics (INSTAT).
- [15] National Strategy on Gender Equality and Eradication of Domestic Violence (2007-2010).
- [16] National Strategy on Gender Equality and Eradication of Gender Based and Domestic Violence (2011-2015).
- [17] Report "Women and girls in local elections" (2012), The Albanian Institute for the Development of Election System (AIESD) and Klea Faniko, PhD.