



FROM PAPER TO PRACTICE

KOSOVO MUST KEEP ITS COMMITMENTS TO DOMESTIC VIOLENCE
SURVIVORS — EXECUTIVE SUMMARY

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Cover photo: Protesters marching against systematic violence against women to mark International Women's Day in Pristina, Kosovo, 8 March 2023

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EXECUTIVE SUMMARY

“A single woman in Kosovo doesn’t live. She survives... If you don’t have strong family support and other support structure around you, you are an easy target in this society. What we have here is an institutional failure to protect women.”

“Diana”, survivor of domestic violence from Kosovo

Survivors of domestic violence in Kosovo, the majority of whom are women and girls, face uncertainty and lack of support when trying to leave abusive situations. Survivors told Amnesty International that the state response was inadequate to support them live independently, forcing many back to abuse.

There is a monumental opportunity in Kosovo to change this. The current government has made addressing domestic violence and violence against women a clear national priority and has committed to taking a survivor-centred approach to doing so. In March 2022, the Government of Kosovo approved its National Strategy for Protection against Domestic Violence and Violence against Women, aimed at strengthening the institutional response to domestic violence and ensuring a victim-centred approach to service provision for survivors. In March 2023, the Assembly also approved at first reading a new draft law on prevention of and protection from domestic violence, violence against women and gender-based violence. These steps build on efforts taken in November 2020 by the Kosovo Assembly to amend the country’s Constitution to give direct effect to the Council of Europe Convention on preventing and combating violence against women and domestic violence (the Istanbul Convention).¹

However, Amnesty International’s research finds that these efforts have not been sufficient. Despite its strong commitment, the state is failing to fully meet its human rights obligations to take all appropriate measures to address domestic violence and violence against women and girls. These require that Kosovo implement comprehensive prevention policies and ensure survivors receive sufficient and adequate protection and support to leave abusive situations, and access justice and reparation in accordance with their needs and priorities.

Survivors who try to leave abusive situations face severe barriers. These include lack of information on available assistance, mistreatment by police officers, overworked social workers and inadequate support services. They also face obstacles to obtaining protection and accessing justice and remedies, including longer-term support and economic opportunities for an independent life free of violence. The state response is further hampered by a lack of sufficient resources and institutional capacity for proper implementation.

Furthermore, starting and maintaining an independent life free of violence is a hard task for many women survivors in Kosovo since most depend economically on their birth families, husbands or families-in-law. According to official data, only 17% of women were formally employed compared to 50% of men in 2017,

¹ Due to the lack of universal recognition, Kosovo has not signed or ratified key international and regional human rights treaties, but Kosovo’s Constitution provides for direct application of eight international and regional human rights instruments granting them prevalence over domestic law. In November 2020, the Kosovo Assembly amended its Constitution giving direct effect to the Istanbul Convention.

and in 2021 only 18% of property was owned by women compared to 79% by men. Additionally, women are often excluded from family inheritance or waive their right to inherit due to social pressure despite laws guaranteeing them equality with men in these matters. The property division between spouses in divorce proceedings also tends to disadvantage women.

In particular, the research shows that the state response to domestic violence is not sufficiently survivor-centred: Kosovo policies to respond to domestic violence have a strong focus on criminal justice, but they neglect survivors' needs for long-term support and capacity to live an independent life. State-sponsored information campaigns are focused almost exclusively on encouraging survivors to report cases to the police. However, once survivors leave the abusive situation, they receive only initial protection and short-term support and are then left alone to try and rebuild their lives with insufficient, if any, long-term help in accessing housing, professional qualifications or employment. Human rights law requires states to take all necessary measures to help victims access support and services to facilitate their recovery from violence, including financial assistance, housing, education, training and assistance in finding employment.

Kosovo's response to domestic violence, including state policies and other measures, have also been shaped without meaningful participation of or consultation with civil society, or survivors themselves. This has resulted in failure to adequately integrate survivors' perspectives, concerns and needs in the specific policies.

METHODOLOGY

Survivors of domestic violence have a right to be involved in all decision-making that affects them. Following this principle, this research adopted a survivor-centred approach to ensure that the perspectives of survivors are fully reflected in the documentation, analysis, conclusions and recommendations.

The research was conducted between June 2022 and July 2023 and involved 77 interviews. This included 20 survivors of domestic violence, eight of whom were from ethnic, linguistic or religious minorities, as well as LGBTI survivors, in six towns in Kosovo. Survivors were interviewed about their own experiences, and also asked about their priorities for an improved state response. Amnesty International also interviewed 22 representatives of NGOs, 15 state officials, nine persons managing domestic violence shelters, six academics, two local activists, one journalist, one expert in forensic medicine and one attorney. Additionally, the research involved quantitative analysis of a representative sample of 197 court judgments on domestic violence cases to analyse court sentencing and restitution practices, survivors' presence in court proceedings and their legal representation, amongst others. It also included formal requests for information to relevant authorities and a review of available literature and media reports.

STATE FAILURE TO ADEQUATELY SUPPORT SURVIVORS LEAVING ABUSIVE SITUATIONS

Lack of information. Survivors need to know what state support services and protection are available to them to make informed decisions about their options to leave abusive situations. Yet most survivors interviewed reported not having information about their rights or available services before reporting their cases to the authorities. The research found that the responsible authorities often fail to ensure that relevant information is available and easily accessible to those who need it; for example, there is no specialized helpline for victims of gender-based violence.

Police failing to protect survivors. Most survivors testified that the police tended to belittle their experiences and only took them seriously when they had visible physical marks of violence. "Diana" from Pristina reported her husband after suffering repeated violence for many years. She told Amnesty International, that when she finally went to the police and told them she was in fear for her life, the police officials questioned her character and asked if she were having an affair. They only began believing her account when she showed them her injuries.

Many survivors, particularly survivors from marginalized groups, also recounted prejudice, disbelief and mistreatment from the police. "Pati", a trans woman was brought to a police station after her father physically assaulted her and called the police to tell them that he was planning to "kick his son out because he was gay". Even though she was assaulted, the police questioned her as if she was a suspect and demanded to know about her sexual orientation. Officers told her that if she did not admit to being gay, they would bring in forensic doctors to "verify her sexual orientation".

Protection orders difficult to enforce. Survivors were satisfied that protection orders were issued swiftly by the judiciary. However, survivors and other interviewees highlighted problems with the scope of protection orders, including that courts rarely order the alleged perpetrator to leave the shared residence, forcing the survivor – and in some cases her children – to leave the house. In addition, protection orders often fail to cover other measures such as ordering the perpetrator to pay alimony or pay the rent of the survivor or compensating the victim for leaving the home, as they have the scope to do under the law. Finally, there seems to be no effective monitoring and enforcement of protection orders, which may expose survivors to further violence and abuse.

Insufficient and underfunded shelters. Currently, there is only one licensed shelter in each of Kosovo's eight regions and nearly all of them are available only to survivors willing to report their case to the police. This requirement poses a huge barrier to those who may not be ready or may not want to report their abuser, leaving many survivors without support. The situation for LGBTI survivors is even more precarious as there is no specialized LGBTI shelter in Kosovo and they are compelled to seek protection and accommodation in Albania, which is not always available and accessible.

Some shelters also have rules limiting survivors' contact with family and friends, as well as access to phone and internet resulting in survivors feeling isolated and disconnected from the outside world.

Centres for Social Work frequently do not work in best interest of survivors. Most survivors interviewed by Amnesty International reported negative experiences with case workers assigned to them. Survivors said they were often not empathetic or helpful and some said they were overly focused on reconciling them with their abusers. "Edona", for example, recalled how she telephoned social workers for help while her husband was beating her, only to be told to try and engage in dialogue with him.

Failure to provide adequate and sufficient social support. There is limited, if any, government support, including financial assistance or social housing, available to survivors of domestic violence upon leaving a shelter. There remains no central government policy to provide even temporary, one off, support to assist survivors' transition to independent living.

The lack of sufficient state support and social housing is one of the key reasons why survivors decide not to report violence or are compelled to stay with or go back to their abusers. In the absence of specialised assistance, some women survivors return to their birth families, however, when their families do not accept them, they have no alternative but to return to their abusers. People experiencing domestic violence on the grounds of their sexual orientation or gender identity in their families of birth may also be compelled to tolerate or return to abusive households.

Furthermore, the length of court proceedings for divorce, alimony and division of property, which may last for many years, and the failure of state mechanisms to enforce alimony decisions when perpetrators refuse to pay significantly contribute to the precarious situation of survivors who leave abusive relationships.

STATE FAILURE TO ADEQUATELY SUPPORT SURVIVORS TO ACCESS JUSTICE AND REPARATION

Lack of effective legal assistance. Survivors told Amnesty International that they did not always receive the adequate assistance from victim advocates that they were legally entitled to and wanted. The Victim Advocates' Office is understaffed and overburdened. Victim advocates lack adequate office space, preventing them from speaking confidentially with victims. Such challenges often result in victim advocates being unable to effectively assist victims. For example, as this report's findings show it is common for victim advocates to be absent from police stations or court proceedings or be unprepared and sometimes act against survivors' interests.

Inadequate penalties. This research found that, despite steps to improve the criminal justice response to domestic violence, where perpetrators are criminally prosecuted and convicted, they receive sentences not commensurate with the gravity of the offence. Survivors consistently highlighted how this erodes their trust in the justice system and discourages reporting. Amnesty International's systematic review of court judgments against 218 defendants found that 74% received a suspended prison sentence, 45% received a fine and 20% received a suspended fine. Some defendants received a combination of sentences, such as a suspended prison sentence and a fine. It also revealed that national sentencing guidelines, providing crucial guidance for judiciary in adjudicating and sentencing perpetrators of domestic violence in a context of pervasive gender stereotypes, was frequently disregarded.

Survivors charged as perpetrators. Amnesty International's analysis of 197 domestic violence judgments, identified six cases of intimate partner violence where both the man and the woman were charged and found guilty of domestic violence-related criminal offences. An analysis of the factual circumstances in these decisions revealed that the first victim, which in all cases was a woman, might have responded to the violence from the man in self-defence. However, most of these decisions failed to examine this possibility, and charged and convicted her equally as a perpetrator of violence.

Privacy violations. The judiciary sometimes violated survivors' right to privacy by publishing non-anonymised judgments on their websites. The identities of victims or perpetrators were public in 13.2% of the court judgments reviewed by Amnesty International.

Reparations. Survivors of domestic violence in Kosovo face many barriers in accessing reparations for the harms suffered. For example, Amnesty International's review of 197 court decisions showed courts did not award any compensation in criminal proceedings to survivors despite being empowered under the law to do so. Only a small proportion of survivors (5.1%) even sought compensation in the criminal cases, reflecting the survivors' lack of knowledge and legal support to request compensation. Instead of considering the requests, the courts referred these survivors to civil litigation instead. Referring survivors to civil courts adds yet another, often lengthy, court process, which makes seeking justice and remedies even more laborious and expensive for victims.

STATE FAILURE TO IMPLEMENT A COMPREHENSIVE APPROACH TO PREVENTION OF DOMESTIC VIOLENCE

Although the government has initiated public awareness-raising campaigns, there are no measures or policies in place to address structural factors contributing to gender-based violence.

School textbooks still propagate gender stereotypes through incorrect statements about men and women, sexuality and gender identity. Unfounded and scientifically inaccurate statements perpetuate harmful gender stereotypes and reinforce discriminatory views about the inferiority of women and transgender prejudice, which are among the root causes of gender-based violence against women and LGBTI individuals.

Higher levels of marginalisation, structural inequality, poverty, low levels of education and unemployment in Roma, Ashkali and Kosovo-Egyptian communities compared to the majority population are creating a situation in which survivors of domestic violence in these communities tend to not report violence, including domestic violence. Child, early and forced marriages and school dropouts are also more prevalent in Roma, Ashkali and Kosovo-Egyptian communities. Despite the urgency of the situation, another commitment that the government failed to implement in 2022 was organizing "an awareness-raising campaign for parents to prevent early marriages".

RECOMMENDATIONS

Despite some government efforts to improve the state's response to domestic violence, it is predominantly focused on the criminal justice system and encouraging survivors to report the violence. Yet, at the same time, the system is failing the survivors in multiple ways due to key institutions being under-resourced, understaffed and lacking the professional capacity to handle such cases in a gender-sensitive way. Moreover, other crucial aspects of the response to domestic violence are overlooked and neglected. For example, policies fail to enable survivors to receive social protection and support, for as long as needed and access social and economic rights such as housing and work to empower them to live independently and free of violence in the long term. Prevention is also overlooked and lacks a systematic approach addressing root causes behind gender-based violence.

Nevertheless, the stated government's commitment to addressing domestic violence suggests that real change is possible. The government must take further action to ensure their responses are comprehensive, and that they have been developed with meaningful participation of Kosovo's civil society and the survivors of domestic violence.

Amnesty International provides a full range of concrete recommendations to each state branch or responsible institution in the report itself (see Section 13. Recommendations). Below are the key recommendations to the Kosovo authorities:

- Ensure that state policies in response to domestic violence are sufficiently survivor-centred and reflect the full range of survivors' concerns and needs, with respect to survivors' rights, dignity and

agency. To this end, survivors' meaningful participation should be ensured throughout the legal and policy development process.

- Ensure that domestic violence policies focus not only on the criminal justice response but adequately respond to survivors' other concerns and needs through provision of longer-term support which enables them to access social and economic rights such as housing and work to leave situations of violence permanently.
- Ensure sufficient resources and ongoing capacity building for the police, victim advocates, prosecutors, courts and centres for social work and the courts to deal with domestic violence cases sensitively, professionally, efficiently, without undue delays and with respect for the rights, dignity and agency of all survivors. Provide appropriate, systematic and mandatory training for professionals working with domestic violence survivors. Training should cover the prevention and detection of domestic violence; gender equality; intersectional discrimination; and harmful gender stereotyping, with a view to preventing secondary victimization and eradicating discriminatory practices and the application of gender stereotypes at all stages of the legal process. Training should be developed in close consultation with survivors and civil society.
- Ensure shelters are available across the country to provide immediate access to protection for survivors of domestic violence, including temporary accommodation and other services, and that they are adequately and consistently funded and resourced. Ensure shelter rules and regulations respect survivors' rights and do not lead to secondary victimization. Ensure construction and resourcing of a specialized shelter for LGBTI survivors.
- Promote changes in the social and cultural patterns of behaviour of people of all genders with a view to eradicating harmful gender stereotypes and discrimination on the grounds of gender, gender identity, sexual orientation and ethnicity, among other grounds. This should be achieved by, among other things, providing comprehensive, age-appropriate, gender-sensitive, evidence-based and unbiased sexuality education to pupils and students of all genders, including education about consent, bodily autonomy and the right to bodily integrity.

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There is a monumental opportunity in Kosovo to change this. The current government has made addressing domestic violence and violence against women a clear national priority and has committed to taking a survivor-centred approach to doing so. In November 2020, the Kosovo assembly amended the country's Constitution to give direct effect to the Council of Europe Convention on preventing and combating violence against women and domestic violence (the Istanbul Convention).

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