



THE JUDICIAL POLICE'S ROLE IN COMBATING DOMESTIC VIOLENCE IN ALGERIA : LEGAL ANALYSIS AND IMPLEMENTATION CHALLENGES

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Received: 20/01/2023 Accepted: 30/08/2023 Published: 13/09/2023

Abstract :

In our article, we will shed light on the role of the judicial police in combating the phenomenon of domestic violence in Algeria. The significance of this role lies in providing protection for victims and guiding them towards necessary services. Judicial police also investigate cases that may constitute various forms of violence against family members, especially women, and gather evidence for the prosecution of suspects. Additionally, they conduct awareness campaigns within the community to educate individuals about the risks of domestic violence and how to report it. These efforts may enhance collaboration with other institutions to maximize effectiveness in combating this serious phenomenon.

In this study, we have reached several findings, including the fact that the efforts of the judicial police in this regard face a range of challenges. One of the most significant challenges is the difficulty of establishing the criminal scene in cases of domestic violence due to the unique nature of these crimes and the issues related to concealment and evidence tampering. Moreover, the police may encounter difficulties in dealing with domestic violence cases when victims are constrained by familial arrangements or when reporting the crime is made more difficult. Gathering sufficient evidence for such crimes can also be challenging, particularly when they rely solely on the victim's testimony without witnesses.

Key words : *Judicial Police, Domestic Violence, Law Enforcement, Prosecution, Victim Protection*

INTRODUCTION

Combating domestic violence is a crucial necessity in modern societies, aiming to protect individuals and ensure their safety within their family environment. Judicial police are among the most prominent institutions playing a significant role in combating this type of violence in Algeria. Through their efforts to combat violence, they aim to maintain security, protect individuals' rights within the family, and achieve justice.

Considering that the family is the cornerstone of Algerian society, preserving its stability and safety is paramount. Domestic violence poses a threat to this stability, as it can lead to family disintegration and have a negative impact on its members, particularly children who are more susceptible to psychological and physical harm in cases of domestic violence. Judicial police bear the responsibility of addressing this type of crime and ensuring assistance and protection for victims.

The judicial police work on gathering evidence and relevant information regarding cases of domestic violence. This includes interviewing victims and witnesses, collecting data, and physical evidence. These investigations aim to identify those responsible for the crime and bring them to justice. Additionally, the judicial police contribute to protecting victims by providing support, guidance toward necessary assistance, and taking protective measures to ensure their safety and the safety of their family members.

In addition to their investigative role, the judicial police engage in preventive efforts and community awareness campaigns. Through these campaigns, they can highlight the legal and social aspects of the issue. As a deterrent measure, the judicial police work on prosecuting related crimes and presenting the offenders to the public prosecutor's office and the courts to ensure appropriate penalties for those involved in domestic violence.



In light of the above, the following question arises: How effective is the judicial police in combating domestic violence?

We aim, through this study, to examine the current status of the role of judicial police in combating domestic violence so that we can contribute to assessing the effectiveness of these efforts and identifying potential deficiencies and problems.

Development of Procedures and Policies: The study's findings can be used to enhance policies and procedures related to combating domestic violence and to strengthen the role of the police in this context.

Enhancing Collaboration with Other Entities: By gaining a better understanding of the challenges and opportunities, the study can assist in promoting collaboration between judicial police and other institutions such as the court and social services.

Raising Public Awareness: The study contributes to raising awareness about the importance of combating domestic violence and how to respond in cases of suspected incidents.

Promoting Victims' Rights: The study aims to improve the protection of victims' rights and guide efforts towards meeting their legal and social needs.

First Axis: The General Framework of Domestic Violence

Domestic violence is a problem that has afflicted all societies as a whole, regardless of their religious affiliation or prevailing culture. It is considered one of the oldest phenomena known to human society throughout history. In contrast, recent times have witnessed a significant increase and widespread prevalence that is deeply concerning. Consequently, this phenomenon has garnered attention and drawn the focus of all relevant parties concerned with family, human rights organizations worldwide, and civil society institutions. These organizations issue regular reports that illustrate the extensive spread of this phenomenon, surpassing all expectations and posing a threat to the existence and well-being of families and entire communities (Feitas, 2023).

In the context of modern societies, domestic violence is a complex social phenomenon that requires significant attention and effective intervention by relevant authorities. Domestic violence refers to any behavior or action that causes physical, psychological, or social harm to family members by other members within the family. These actions encompass a variety of behaviors such as physical abuse, threats, exploitation, neglect, and psychological harm.

The Concept of Domestic Violence

The definition of domestic violence varies according to different authorities and institutions. It may include physical, psychological, and sexual violence, as well as neglect and economic abuses within the family.

Domestic violence is part of the overall violence present in human societies, but it has received particular attention, especially in recent years, due to the escalation of this phenomenon in many societies. Consequently, domestic violence has become one of the main issues that have captured the attention of international institutions and organizations (Al-Kaabi, 2013).

Definition of Domestic Violence

Domestic violence is one of the types of violence, and it is the most significant and dangerous type. This form of violence has garnered attention and study because the family is the cornerstone of society and its most important structure. Domestic violence is a pattern of aggressive behavior in which the strong exercise their power and strength over the weak to harness them for their own purposes, employing all forms of violence, whether physical, verbal, or emotional. It is not necessarily one of the parents who engage in violence; it can be the strongest individual within the family. It is not surprising that the target of violence may be one of the parents when they reach a stage of vulnerability and old age (Al-Rumaihi, 2012).

The term "domestic violence" encompasses all violent behaviors occurring within the family framework and carried out by a family member who holds authority, guardianship, or a relationship with the victim. Consequently, domestic violence includes maltreatment within the family among all its members. Domestic violence can manifest as violence between spouses, parents towards children, children towards parents, and even extended to grandparents (Boutabal and Maoucha, 2013).



Domestic violence encompasses:

Any action taken by a family member with the intention to harm another family member.

Harm here is not limited to physical harm but may also include material deprivation or psychological and emotional harm.

Violence may appear in forms such as physical assault, verbal abuse, defamation, rebuke, public humiliation, deprivation of expressing opinions, deprivation of work, and threats.

Domestic violence is categorized into three types based on the victim of the harm: child abuse, spousal abuse, and elder abuse (Al-Kaabi, 2013).

Domestic violence is a consequence of modern life, as one of the most important taxes of development and civilization is the emergence of social problems that did not exist in traditional societies. This is because the prevailing family structure at that time did not suffer greatly from domestic violence due to the extended family pattern, consisting of parents, children, grandchildren, and the wives of the sons. In this pattern, familial authority is distributed somewhat equally among individuals, providing multiple sources of social support for the victim, thereby reducing the psychological pressure and frustration that are primary causes of the problem of domestic violence (Hussein, 2012).

Types of Domestic Violence

Violence practiced within families can be physical or psychological.

Physical Violence: The definition of domestic physical violence varies between societies, depending on their perspectives on acceptable disciplinary methods and the degree of tolerance for physical punishment. For instance, European countries and the United States consider any form of physical punishment within the family as domestic physical violence. Therefore, domestic physical violence in these regions is defined as "any intentional act that results in physical harm or injury to a family member by another member of the same family (Abdel-Nabi, 2022).

Two conditions must be met to establish physical violence: first, the act or failure to act must result in physical harm or injury, such as bruises, fractures, or wounds. Second, the intention behind the act causing harm must be proven, meaning that the act was intentional and sufficient to constitute domestic violence. The perpetrator's intent to commit the act that caused physical harm is essential (Al-Rumaihi, 2012).

Verbal Violence: This includes name-calling, swearing, cursing, severe reproach, mockery, insulting, defamation, making harsh remarks intended to demean the victim in the eyes of others, causing psychological and emotional harm.

Domestic violence against women, manifested through derogatory language, insults that undermine their dignity, as well as verbal threats, including threats of divorce, and psychological violence, has negative repercussions on a woman's mental well-being. Although these effects may not be immediately apparent, they can lead to severe psychological disorders such as depression. This is the crime defined by Article 266 bis 1 of the Penal Code, which states: 'Anyone who commits any form of aggression, verbal abuse, or repeated psychological violence against their spouse, which impairs the victim's dignity or affects their physical or psychological well-being, shall be punished with imprisonment for a period of one to three years.'

This type of violence is characterized by psychological or verbal harm, with the aim of inflicting emotional harm on the woman and causing her suffering. It is considered one of the most dangerous forms of violence because it is subtle, does not leave clear physical evidence, and is therefore difficult to prove and legally acknowledge. Examples of such violence include public defamation, insults, disparagement, and derogatory language. The occurrence of domestic violence can be proven through various means, and the crime can take place whether or not the perpetrator resides with the victim. The crime can also occur if the acts of violence are committed by a former spouse. It becomes evident that these actions are related to the previous marital relationship (Benbouabdallah, 2022).

Sexual Violence: Sexual harassment, both verbally and physically, falls under this category. Verbal harassment includes uttering explicit and offensive language that breaches modesty. Physical harassment involves touching sensitive body parts against the victim's will. Other forms of sexual

violence include rape and sexual assault (Al-Rumaihi, 2012).the violence that occurs within the context of the intimate relationship between spouses, manifested in the use of force, coercion, or threats to compel the wife to engage in sexual intercourse without consideration for her mental and physical condition. It may also involve forcing the wife to engage in sexual practices contrary to what is permissible under religious law. These behaviors by men stem from their mistaken belief that the marital relationship is an exclusive right of the man, which he can exercise whenever and however he wishes, even against the wishes and will of the wife (Zaham, 2023).

Psychological Violence: This type of violence is characterized by verbal aggression, such as shouting, breaking household items, threatening physical harm or death, and humiliating the victim. It may also include harassment, such as constant pressure on a woman until she submits to it (Moulay, 2016).

Social Violence: Sociologists agree on the increasing phenomenon of violence in Algerian society in recent years, which has become more evident with the spread of social media platforms and their interest in broadcasting every detail of incidents that occur in the country and widely circulating them. Algerians wake up from time to time to horrifying news related to child abduction, rape, murder, and other acts of violence (Sijal, 2021)

This includes depriving individuals of their legitimate rights, which guarantee a normal social life. Examples include preventing a young woman from marrying at a marriageable age, forcibly marrying her off by her guardian, preventing her from pursuing an honorable career without sufficient justification, divorcing a wife against her will when she wishes to remain married to her husband, or restricting a wife with the intent to harm her.

Causes of Domestic Violence

The causes of domestic violence have multiplied and diversified, so we will mention the following:

Social Causes

Social causes are among the most influential factors in the presence of domestic violence and are related to upbringing and education. From the beginning of children's upbringing, attention and focus on the child's psychological aspect are essential because how they are treated during childhood significantly influences their behavior towards others in adulthood. Therefore, harsh treatment by parents and neglect, emotional rejection, differentiation in treatment, discrimination between children, cruelty, and glorifying violent behavior and praising it are considered dangerous methods of upbringing (Hussein, 2012),The feeling of family instability resulting from frequent conflicts and threats of separation, the loss of tenderness due to divorce, and making children victims of the discord between parents or the loss of one of them can also be contributing factors.

Economic Causes

Economic factors can also be drivers of domestic violence. Fathers may resort to violence as a means of venting their frustration and poverty. The inability of a father to meet his economic responsibilities within the household can turn him into an irritable and short-tempered individual who erupts over trivial matters. Economic factors may also force mothers to work to assist their husbands in providing for the family, leaving their children alone at home or with neighbors or in daycare centers for extended periods. When they return home exhausted, this negatively affects their ability to care for and nurture their children adequately (Abdel-Nabi, 2022).

Political and Economic Causes

In addition to social and economic factors that play a role in causing domestic violence, political and economic factors are also contributing causes.

Political Causes:

Occupation is an important and fundamental factor in the spread of domestic violence. All forms of oppression, injustice, tyranny, and authoritarianism experienced by individuals in countries where such policies are practiced lead to significant psychological and social pressures and heightened expectations (Hussein, 2012).

Economic Causes:

The economic factor is considered one of the driving causes of domestic violence. Fathers may resort to violence as a way to release the frustration and poverty they face. The inability of the

father to fulfill his economic responsibilities within the household can turn him into an irritable and moody person who becomes angry over the slightest reasons. Economic factors may also force the mother to work to help her husband provide for the family, leaving her children alone at home or with neighbors or in daycare centers for extended periods. When she returns home exhausted, this negatively affects her ability to care for and nurture her children adequately.

Cultural Causes

Undoubtedly, one of the cultural causes of domestic violence is the lack of religious awareness of the correct Islamic teachings. Many Muslims fail to distinguish between the right to discipline granted by Islam to husbands over their wives and children and domestic violence. Another cultural cause of domestic violence is the low level of education. Violence against children and wives is prevalent among fathers who cannot read or have a low educational level. This is because a lack of education leads to a lack of modern educational methods in parenting and forces parents to resort to physical punishment and intimidation in dealing with their children. The community's perception of men and women also plays a role in domestic violence. The community creates a unique social culture that defines what it means to be a man (Abdel-Nabi, 2022).

The second axis : The Role of the Judicial Police in Combating Domestic Violence

Domestic violence takes various forms and shapes, including psychological and emotional violence, such as verbal abuse, threats, derogatory comments, economic resource deprivation, or regular monitoring of expenses. It can also manifest as physical violence, such as beating and physical harm, or violations of personal safety, such as rape. Domestic violence can be one-sided, with one party perpetrating violence without an appropriate response, or it can be mutual, where both parties engage in aggressive behavior. It can even be collective when multiple family members are involved (Al-Waqfi, 2012).

Algeria has recognized the importance of combating domestic violence, preventing it, and mitigating its effects. The past decade has witnessed significant activity in this field, reflected in new legislation aimed at countering violence and amendments to personal status laws, criminal laws, nationality laws, and labor laws to ensure gender equality and protect women's human rights. However, the increasing numbers of violence against women in Algeria remain a cause for concern (Nabbash, 2010). In addition to enacting laws to combat domestic violence, there must be institutions dedicated to enforcing these laws and preventing domestic violence. Acts of domestic violence should be criminalized and perpetrators punished.

The Concept of Judicial Police and Addressing Domestic Violence

Domestic violence is an ancient phenomenon in human societies, taking various forms and manifestations, including violence against women, children, and the elderly, among others. Violence, in general, is defined as the aggressive use of physical or moral force to harm another person (Maqadam, 2019)

Definition of Judicial Police

Members of the judicial police are officials granted the status of judicial police officers by the law, endowing them with rights and imposing duties. Their primary role is to investigate crimes, identify perpetrators, and collect evidence. Their duties begin after a crime occurs and end when a judicial investigation is initiated or when the suspect is referred to the judicial authorities. The judicial police differ from administrative police, whose main responsibility is to execute general police measures issued by competent authorities, monitor individuals and groups before crimes occur, maintain public order, and prevent disturbances.

How the Algerian Legislature Addresses Domestic Violence Crimes ?

A report by the judicial police for the first nine months of 2009 recorded 1,988 cases of domestic violence nationwide. According to a study conducted in coordination with the National Institute of Public Health, forensic medicine, women's health, and psychiatry departments, along with representatives from the Algerian judiciary, the study involved 9,033 women, with 4 out of 5 of them being under 45 years old. It revealed that 50% of the violence they experienced occurred within the family home, with husbands being the primary perpetrators. Husbands accounted for 876 perpetrators, fathers for 29, brothers for 233, children for 332, and other family members for 518



perpetrators. The capital city, Algiers, ranked first nationwide with 382 cases of domestic violence (Nabash, 2010).

Initially, domestic violence was not considered a separate crime but was prosecuted under general criminal provisions related to assault. The severity of the injuries determined the level of prosecution, usually categorized as a misdemeanor if the injuries healed within 15 days or less. However, the Algerian Parliament amended the penal code in December 2015 to address the gaps in the criminalization of violence against women, including some forms of domestic violence. The law (Law No. 15-19) stipulates punishment for assault on a spouse or former spouse, ranging from imprisonment for up to 20 years depending on the severity of the victim's injuries, to life imprisonment if the assault results in death.

In addition, the legislation expands the definition of sexual harassment, increases penalties for such offenses, and criminalizes harassment in public places. While these amendments represent significant progress, there are still gaps in the law that need to be addressed with more comprehensive legislation to provide an effective and coordinated response to violence against women. The parliament should work on further legislative reforms (Bensmara, 2017).

Regarding children, the law protects them from any actions that violate their rights. For example, Article 330 of the penal code criminalizes parental neglect of children's health, safety, or upbringing. It states that "a parent who intentionally endangers the health, safety, or morals of their child or children, such as by mistreatment, poor treatment, or neglect of care, shall be punished with imprisonment for up to five years and a fine of up to DZD 500,000. If these acts result in illness or complete incapacity to work for more than fifteen days, the perpetrator may face a sentence of up to fifteen years in prison. Additionally, the offender may be deprived of certain rights." (Decree No. 66-156 dated June 8, 1966).

Furthermore, Article 266 of the penal code punishes intentional assault, violence, or other acts of aggression with premeditation, intent, or while carrying weapons, causing injuries that do not result in illness or complete incapacity for work lasting more than 15 days. Offenders may face imprisonment for two to ten years and a fine ranging from 200,000 DZD to 1,000,000 DZD. The law also allows for the seizure of objects used or intended to be used in the commission of the crime, taking into account the rights of third parties.


Judicial Police and Domestic Violence Crimes

Among the agencies that have a significant role and a direct relationship in dealing with crimes in general, and domestic violence crimes in particular, is the police force, as it is the first entity to deal with these crimes. If it adopts specific strategies for domestic violence crimes, it can achieve positive results in controlling these crimes (Shenna, 2017).

The Executive Role of Judicial Police in Dealing with Domestic Violence Crimes

The General Directorate of National Security, within its jurisdiction, is responsible for ensuring compliance with laws and regulations, especially in ensuring the protection of individuals and properties, maintaining public security, preventing crime and delinquency. This is achieved through the investigation of crimes, gathering evidence, searching for perpetrators, and presenting them to the public prosecutor. The primary tasks of the judicial police include receiving complaints (Radi, 2012), investigating crimes, and preparing reports on their operations, including domestic violence crimes.

Domestic violence crimes have distinctive characteristics, and the success of the police in detecting these crimes requires them to fulfill all their duties during the initial investigative phase. This leads to the discovery of these often hidden crimes. According to Articles 12 and 13 of the Criminal Procedure Law, judicial police officers are responsible for investigating crimes. Various methods are used to receive reports related to domestic violence crimes, whether the complainant directly approaches the police or uses the phone, internet, or other means of communication. The complaint or report must include information about the type of crime, the victim's identity, the time and place of the crime, injuries resulting from the crime, the motives and reasons behind the crime, information about the perpetrator, and how the crime came to their knowledge (Shenna, 2017).



Regarding the methods of investigation in domestic violence crimes, they cannot be limited, as they include all legitimate ways that the police see fit to obtain information. When the judicial police receive a report or complaint about domestic violence, they should go to the scene of the crime, preserve the crime scene and any evidence, assist injured victims if present, prevent suspects and witnesses from leaving the scene, and take all necessary measures to maintain public order while protecting the victim, the reporter, and the suspect and their families.

The results of the inspection process are challenging, considering that the perpetrator often has enough time to erase the traces of the crime, obliterate its details, and hide evidence.

The General Directorate of National Security also participates in the care of women and children who are victims of violence through listening and counseling services. Since 2001, it has maintained quarterly statistics related to physical and sexual violence against women, both nationally and at the level of each province. Thus, the police play a crucial role in confronting violence by referring the perpetrators of violence to the subsequent stages of the criminal justice system. Police departments have started systematic collaboration with non-governmental organizations that provide assistance to victims, which is a positive step in favor of abused women, for example (Shenna, 2017).

Challenges Faced by Judicial Police

The family is the pillar of society, and it is the foundation upon which society is built. It is the refuge where individuals find peace and harmony. Therefore, caring for this pillar is essential to present society in a bright and ideal image. In our present era, cases of domestic violence are frequent. Legal experts, as well as advocates for women and children's rights, believe that domestic violence is one of the crimes that often goes unreported in many countries. This is due to the common belief that the perpetrator has justification for committing domestic violence regardless of their motives (Radi, 2012).

Adapting to the changes that have occurred in society, especially those related to encouraging victims of domestic violence to report their complaints to official authorities, necessitates the police to develop their working mechanisms based on the idea of the professionalism of police work. This requires police officers to be qualified to perform this profession professionally and to be convinced of the importance of their social and security role. Citizens must also understand the role of the police. Citizens should be convinced that the police officer plays a useful social role that has a positive impact on their lives and interests, and that the police force is prepared and capable of providing assistance when needed (Al-Rumaihi, 2012).

Furthermore, the police, while performing their role in combating crime in general and domestic violence crimes in particular, face several difficulties. One of these difficulties is related to the society's perception of the police's role. There is often a negative perception of the police in some communities due to the conflict between police authority on one hand and the freedoms of citizens on the other hand. Therefore, enhancing cooperation between the police and citizens remains necessary for the success of the police in performing their tasks appropriately in confronting crime in general and domestic violence crimes in particular (Al-Waqfi, 2012).

Some argue that the police apply different standards to domestic violence cases, even though Algerian law stipulates the pursuit of all forms of violent crime, regardless of whether the victim has filed a criminal complaint or not. Unless domestic violence leads to serious physical injuries, the police often attempt to mediate between the perpetrator and the victim instead of filing a criminal lawsuit. Lawyers and women's organizations have reported cases where the police pressured women to withdraw criminal complaints against their spouses or other family members. When women seek state assistance in cases of domestic violence, they are more likely to turn to medical authorities rather than law enforcement authorities. This is not only for receiving medical treatment but also for obtaining a medical certificate confirming the assault. Such a medical certificate can provide women with better chances of obtaining divorce, alimony, and can be used as a tool to pressure the abusive husband (Moulay, 2016).

Conclusion

In conclusion, in this academic article about the role of the judicial police in combating domestic violence in Algeria, it can be said that combating this painful societal phenomenon requires integrated and coordinated efforts from various relevant authorities. The role of the judicial police represents a fundamental part in this context, and the results of the study and legal analysis have shown the challenges and positives related to the police's performance in combating domestic violence. Despite the presence of strong legal legislation, there is a pressing need to improve training and enhance institutional cooperation to ensure greater effectiveness in achieving justice and protecting the rights of victims.

In light of the study and legal analysis of the role of the judicial police in combating domestic violence in Algeria, the following conclusions can be drawn:

01- Positive Aspects of Current Legal Legislation: Algeria has strong legal legislation aimed at combating domestic violence and protecting the rights of victims.

02- Implementation Challenges: Despite the presence of good legal legislation, the judicial police face implementation challenges, including insufficient training and limited resources.

03- Institutional Cooperation: Enhancing cooperation between the judicial police, other judicial authorities, and civil society is necessary to enhance the effectiveness of combating domestic violence.

04-Victim Rights: It is crucial to strengthen the protection of victims' rights and guide them toward appropriate legal and social services.

Recommendations :

Based on the results obtained, the following recommendations are proposed:

01- Training Enhancement: Continuous training should be provided to judicial police officers to increase their awareness of domestic violence issues and improve their skills in dealing with them.

02- Cooperation Strengthening: Encourage close cooperation between the police, public prosecution, and the judiciary to facilitate investigations and legal proceedings.


03- Victim Guidance Improvement: Develop mechanisms for guiding victims toward necessary services while ensuring their privacy and safety.

04- Legislation Review: Consider legal amendments as needed to enhance legal deterrence and increase penalties for perpetrators.

05-Community Awareness: Raise awareness within the community about the importance of combating domestic violence and the role of the police through awareness campaigns and educational activities.

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