Psycho-social, Criminological and Legal Aspects of Domestic

Violence in Albania

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Abstract

Domestic violence is an acute social problem, because it affects society Bases its Foundations, Such as the family. It is not specific to Albania, but it is omnipresent and only its causes make it different. This article provides a latest Optics on psychosocial and criminological Aspects of the Phenomenon of Domestic Violence in Albania in the past 5 years. Through a comparative analysis of indicators of Domestic Violence crime in the country and the regional level, the aim is to provide its dynamics in the last 5 years and its development trends in this time period. The paper aims is to detect and pose Factors crime and psycho-social cause the generation and spread of this Phenomenon with great impact on the family environmentally, social and political development of the country. Paper Also Seeks to present the spread of forms of Domestic Violence, vulnerable groups from violence in the family; social and Cultural attitudes That Hinder the reporting of Domestic Violence In addition, the article analyzes the problems of Legislation, penal policy, Aspects of police preventive Social Measures Legislation and the Involvement of civil society actors in reducing this disturbing Phenomenon. Were obtained in the study of Certain Litigation Cases typically Analyze the existing problems in the field of conviction of several authors and especially to those repeaters. What GAPS and cracks no Legislation in this area and recommendations on how to Improve the Legislation in order to PREVENT this crime. Role of the State Police to provide services to address, investigate and reduce Cases of Domestic Violence, or its Coordination with other stakeholders for appropriate treatment of Domestic Violence Cases. Finally, the paper Aims to Assist in the development of Areas That May be impacted by the Program of the Government to Improve the Situation. The methodology: the paper was realized via a combined methodological approach with Statistical official date, Cases study, study of perpetrator's of Domestic Violence profile, phenomenology, social context,

Keywords: Domestic Violence, criminological Factors, Family Environment, Reduction of Domestic Violence, Criminal policy.

1. Introduction

Political changes that took place after the fall of the Berlin Wall opened a new era in the history of many nations in South-Eastern Europe, those in the Balkans, as well as the history of the Albanian people. These changes to be attended with virulence after years '90 were comprehensive and not limited only to changes in the political and economic order in international relations, openness to the world, but also in other areas. Before long, the wave of change will affect social relations, life style, culture and especially the family, which was worn by a strong armor and more taboo due to communist ideology. Throughout this process of transformation, economic and social changes were the generator of all other changes that will ensue in the coming years.

In contrast to other countries of the former socialist camp, the process of political, economic, social, including family and Albania were dramatic and incomparable to any other country. A copy enclosed place with the world like Albania, a country with social and economic problems, difficulties of residential housing, the country that had not adhered to any international instrument or convention as the Universal Declaration of Human Rights, the Convention for the Elimination of all Forms of Discrimination against Women, the Convention on the Elimination of all forms of torture and violence, Convent for child protection etc.. All these economic, social and family challenges including legal gaps had impact to Albanian society, to affect in family relationships, in the form of brutal domestic violence.

However, domestic violence is not specific in Albania, but it is prevalent everywhere and are just different reasons for doing it. Society of the most developed in the world such as USA, Sweden or the United Kingdom

suffer from domestic violence, although the reasons may be specific to each country. 98% of European Union citizens, interviewed, claim to have heard through the media, about domestic violence against women (2010). 78% of European citizens interviewed, recognize domestic violence as a problem to ordinary (2010). In most cases the burden of out problems of family affect the atmosphere in the family, but the difficulties and conflicts within the family, raised tensions and violent clashes in the family environment. The main catalyst is poverty that is the umbrella of all the problems that generate crime family.

From the analysis of the situation we conclude that the particular crime of domestic violence in Albania is increasing intensity in recent years, 1-3 victimization chain members within a family, the brutality and cruelty of criminal acts, involvement in fatal violence between partners, partner and ex-partner, between father and child ,between child and parents, and up to infant grandchildren of grandparents, violence incest ale, violent with slave nature for sexual exploitation, trafficking, begging, heavy work, etc..

Faced with this bitter reality remains many dilemmas: Should exacerbated more punishment for the perpetrators? Can these penalties to increase the criminalization of society? What policies and strategies appropriate to be implemented?

1.1 Background Psychosocial and etymologies domestic violence

If you stick to the fact that domestic violence is a combination of psychological, social, economic and family factors leading from multiplying family violence up to murder, then we have to explain this in the context of different social background.

Domestic violence in Albania is very complex and specific, because it integrated between the two main social backgrounds: resistant elements of tradition and modernity crisis.

Unlike many other countries of Europe, the roots of domestic violence in Albania, especially the older women are so deep that relate to the understanding of respect for women. As a result of strong patriarchal traditions of the Balkans, Albanian society has been dominated by men for a long time, and women are dictated to obey their husbands and accept the role of subordinates (Gjipali & Ruci, 1994). These Albanian customs and traditions inherited from the past, some forms of discrimination against women in the family and in society, but not the type of torture or other forms of ill-treatment.

The Kanun of Leke Dukagjin ¹(century XV) said ""The man has power a) to advice and reprimanded the wife; b) struck by connecting his wife (& 58 of debt of the husband over the wife). Man can kill a woman with impunity for two things: For treason or violation of the rules of hospitality (breach of a promise). In these cases, unfaithfulness, a man may kill his wife without asking or covenant protection, and without liability for breach blood, from the woman's relatives take the price of its blood (blood woman worth 500 penny).

This tradition is unique in the region and fortunately has affected a part of the population in the northern highlands of the country. However, its echoes still felt in our days, but not with such brutality that described in the Canon, but in a more sophisticated way.

However, Kanuni "Leke Dukagjini" is just one of the factors that affect women's inferior position in society. Other causes are low levels of socio-economic development, high levels of poverty, low level of education and lack of democratic culture, are potential factors that affect domestic violence.

Violence is not only a matter of canon, but also socio-family concept. For years the violence between partners in the family is conceived as a very private problem that must be resolved by the partners themselves or by mediation of the inner family's circle. Sex with violence is still considered a "shame" for women and in some cases (especially in rural areas) has led to forced marriage with the rapist "put honor instead" for the violated woman and her family.

This mentality is as absurd, as ruinous and degrading for violated woman and more for children who are the product of hybrid marriage between a sadist husband and woman who has psychic trauma !?.

The last two decades shows that in urban areas, the situation has changed, but in most rural and suburban area women continue to be under pressure patriarchal mentality. Despite the existence of laws that protect victims of domestic violence, unfortunately they have the fate of many other laws in our country, are only written but

¹ **Kanuni (Canon) i Lekë Dukagjinit** is a summary of the laws, regulations, customs northern Albania Albanian in a book, in the course of several hundred years, before and after life of Lekë Dukagjinit from the XV Century onwards. Laws of the "Canon" have served for more than 500 years as a way of grounding social behavior and self-government clans of northern Albania, even when the region was ruled by Ottoman Empire. Republished in 2001.

poorly implemented.

In addition to traditional factors, treatment of domestic violence is difficult because there are a number of myths that do not allow a deeper understanding of the problem. Thus, in communities and different social environments shared opinion that "violence affects only a layer or certain groups", "violence is a problem of the poor", "violated women have certain personalities that trigger violence by husband "" battered women stay in violent relationships because they agree with violence, "" violence is random and rarely "and so on.

Despite these last two decades the situation has changed dramatically, but the consequences remain and continue stereotypes accordingly.

First, today's society is experiencing traditional family crisis. In contrast with the past, the Albanian family is put in question the male patriarchal authority. Male or father, as a family member who has greater rights and responsibilities in the family, as the man who has the power to make decisions and even that keeps others in a permanent violence, is losing his power. Loss of power creates a dilemma, loss equilibrium and intolerance accompanied by violent.

Second, Albanian family is experiencing the same crisis that European family has passed before, and which culminated in the clash of generations in 68-70 years (Marku, 2010). If we analyze in diachronic, in historical plan, we are at a stage where the family is experiencing a crisis of many dimensions. But it is not only the father the cause of violence, because violence in Albanian family chain between other family members. Case of generational conflict is evidenced by the murder cases when parents kill children, or vice versa. Even this conflict is extended between the first generation and third generation, which does not happen often, this show several cases where children have been killed grandmother or grandfather.

Third, Albanians are living the contradiction between traditional life that is left behind and modern families that are securing. Resistance between two cultures causes tension and violence in areas where difficulties and traditions are dominant. It is known that modern capitalist life, the dynamics that creates makes it very difficult survival of the institution of the family. It seems that Albanian society has very difficulty from traditional mentality to build a modern family. This leads to (partially) the crisis of the institution of the family in society and its contradiction.

Fourthly, Albanian family crisis is economic crisis, communications crisis and cultural crisis. The nature of the crime shows how the economic dimension of the crisis, where crimes generally occur in poor families with many problems, as well as crisis communication that occurs as a result of the lack of a culture of communication, tolerances between couples, or a family members. Unemployment, poverty, low cultural level makes spouses psychologically unstable and violent in the extreme. This should not be neglected crisis of sexual relations and the lack of basic culture to cope with crises of this nature.

Finally, cases of recent years show that jealousy in pairs remains a cause of extreme violence. The most common cause of women killed by men during these years is jealousy. Investigations reveal that in families where there is a combination of factors killing occurs between extreme poverty, unemployment and jealousy. This has to do with the mentality and a patriarchal culture, where the husband sees his wife as his own property.

2. Trends in domestic violence

From the analysis of statistical data to police of domestic violence cases for the years 2005-2012 shows that this trend of crime has been grown rapidly. In 2012, the number of cases of domestic violence has increased 26.8 times compared with 2005. According to Graphic 1, the increase in the number of cases seen after 2009 out of 1217 cases, 2526 cases in 2012, or 1309 times more.

Growing trend is related to three main factors: First, the adoption of the Law on Domestic Violence ", in 2008 and awareness campaigns have become aware more victims to denounce this violence. So from 2008 to 2012 the number of denunciations to State Police almost tripled, from 822 in 2526 cases, and protective orders issued by the Court has quadrupled, from 377 in 1345.

Second, there is an increase in the number of conflicts in the family for economic problems, property, poor living conditions, insufficiency of family needs, for jealousy, alcohol use etc., which constitute potential violence between family members.

Third, increased safety of victims of violence, as the police not only record any case of violence, but is present for each call or denunciation, arrest author and patronize victims as by court order of protection issues, as well as

social programs for the treatment of victims in shelters established for the protection of victims. In 2012, the number of victims from court protection orders has increased more than 5 times compared to 2008, what encourages the victim to report the number directly on the green or the police.

From the analysis of the data shows that in recent years has increased rapidly and also the geography of denunciations of cases of violence within the family of the victims, having a stretch in 12 regions of the country, mainly in urban areas, but recently in rural areas.

If we compare the cases reported in 2011, with the year 2010, we see that in some cities the level of reporting on domestic violence almost doubled. Therefore, in the region of Fieri, level of cases reported is increased (+48.5%), in the region of Durres is +39.2% and in Tirana region +29.2% (Statistics on Police, 2011).

From 2526 cases of violence reported to the police in 2012, 63.8% of them are registered in urban areas and 36.2% in rural areas. This phenomenon may be the result of population conglomerates, with young people coming after 90 years in the major cities of Tirana, Durres and Vlora etc..

3. Demographic structure and profile of the victims of domestic violence

The studies performed in cases of domestic violence shows that violence against women in Albania, in the majority of its place in the bosom of the family (UNDP, 2010). Violence against women includes: any act of gender-based violence that results in, or domestic violence studies demonstrate that this is a complex and multidimensional problem. Explanations for this include cultural factors, social, family and individual factors that play a role in increasing or decreasing the likelihood that women will become victims of violence (DCGelles, R. 1997).

Also, analyzing of police data by gender of victims of this violence highlights the huge exposure of women to violence. According to data recorded by the police in 2012 shows that 71.6% of the cases of domestic violence victim are husbands, as opposed to 2.5% of the cases when the victim is a woman. Tirana court records show that every day a woman raises their claim and seeks protection order against violent husband. 1562 women from all over the country in 2012 have denounced the violence and called for an order of protection. But alarming figure is that 5.8% of victims of domestic violence account for children.

In 5% of reported cases of domestic violence has occurred between siblings. In 7% of the reported cases the victim is a child, compared to 8% of the cases when the victim is a parent. Based on data from cases reported to the police for the period 2009 - 2011, 81% of the victims are women (police official statistics).

According to the community in 2011, from 2181 reported cases of domestic violence, only in 23 cases (1.1%) victims are Roma and Egyptian community; while the LGBT community hasn't official case report. More troubling is the fact that the number of murders in the family is 17% (2008) to 25% (2012) of the total number of murders in the country.

3.1 Profile of victims by age, early childhood education and family composition

According to the official 2.3% of domestic violence victims are 0-18 years old and 97.7% were aged over 18 years old. According to the survey, 44.5% of the population between the ages of 14 and 65 in the district of Tirana, Durres, Vlora, Korca and Shkodra has experienced at least one form of domestic violence (Date Centrum, 2012). These subjects are scattered in different age groups, while their average age is 33.5 years. 6 out of 10 victims of domestic violence are women and almost as many are married. According to the status of Civil 76.5% are married, 10% divorced, 4.8% cohabiting, 7.8% single (Police 2012). The victims live in households with an average size of 4.6 members and the average monthly income of 37.015 Lek (Albanian money) per month (349 USD). 1 to 20 alleged victims of domestic violence in 2012 belonging to cultural minorities. By educational level 17.7% of victims have only elementary education, 44.6% have secondary level of education, 29.1% high level of education and 6.6% over higher education (Police, 2012).

3.2 Profile of perpetrators

According to statistics from the State Police, the perpetrators are mostly men, husbands of the victims, and perpetrators women spouses are very few cases. Parents who violate children are the most frequent cases than children who violate the parents (mostly the latter the elderly).

Profile of perpetrators described by different groups: community, NGOs and authorities, conforms well.

According to them, there are three main categories of offenders:

• Men who rape their wives (particularly males aged 35-55 years, with low education, unemployed, alcoholic, addicted to gambling / gambling, fanatical, jealous)

• Parents who violate their children. According to the "National Phone Line for Children in Albania" (ALO 116), child abusers, victims of domestic violence, are mainly to boys father and mother to the girls,

• Children elderly to their parents. According to an interview with the Foundation, "Kennedy", the boys are particularly violent to parents.

There are few cases where brothers and sisters are seen as a perpetrators category, mainly among their brothers or to brothers and sisters, especially in those cases where property disputes or inheritance. According to police officers, there are few cases of abused women to their husbands.

4. Typology of domestic violence

Domestic violence is a form of violence against women, which UN Declaration on the Elimination of Violence against Women defines as "any act of gender-based violence that results in or may result in physical injury or suffering, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, which occur either in public or in private life ".

The researchers of this field define that domestic violence constitutes a wide range of behaviors that include physical and sexual abuse, malicious property damage, verbal attacks, social isolation (example by preventing contact with family and friends), and behavioral control (income example access) (Richardson et al., 2002). Official statistical data and different surveys show that emotional and psychological violence is more prevalent than physical violence.

- Emotional Abuse

This type of abuse is first induction in comparison with other forms of violence against women in the family. According to the survey 50.6% of the women interviewed had experienced emotional violence in marriage or in their intimate connections, which was continued during the return to neurosis (INSTAT, 2009). Even from surveys done in 2012, showed that this form of violence ranked first with 41.6% (Date Centrum, 2012).

The effects of emotional abuse battered women can be just as harmful as physical violence, leading to a sense of self doubt, lack of sensation values, anxious and depressed. Victims of emotional abuse often feel that there is no way to get out of the relationship or that without their abusive partner they are nothing. Emotionally abused women often live their lives in fear and often change their thoughts, feelings and behavior. They also tend to deny their own needs in an effort to prevent further abuse (Sackett & Saunders (1999).

-Psychological abuse

Psychologically abused women often live in fear, experience anxiety and difficulty in concentration, poor performance at work, present and seriously endanger the physical health problems to go into depression and are also at risk of suicidal thoughts and attempts. Surveys show that 39.1% of women have passed psychological abuse (INSTAT, 2009).

Physical abuse in situations of domestic violence includes a wide range of behaviors, including, but not limited to, blow, lacerations, hitting with objects, locking in home, refused for aid allocation, kidnapping, kicking, choking, pulling hair and gun attack. 31.2% of women surveyed reported that they had passed a physical attack. Only 20.2% of women reported that the husband / partner has beaten them, 10.7% of women reported that the husband / partner has beaten them, 10.7% of women reported that the husband / partner has pulled out hair, 4.4% reported that the spouse / partner has hit them with hard objects or other items of this nature that can hurt them, 2.4% reported that they were thrown or dragged by a husband / partner and 1.0% said that man husband/ partner was tried to strangle or burn them (INSTAT, 2009).

Sexual violence includes any situation in which a woman is forced to participate in a degrading sexual activity, unwanted or unsafe (this includes forced sex by husband / partner with whom the woman also performs sex with her consent). Of the survey, 12.7% of women reported their husband / partner has forced them to unwanted sexual intercourse, and 1.3% reported their husband / partner has forced them to perform humiliating sexual acts by their undesirable (INSTAT, 2009).

Victims tell their mothers are equally abused by their husbands and have never opposed it. What is even more painful, even though these mothers are praying for a better life of their daughters, yet they have given them the message that "with men need to be patient."

The particular typology that crime violence is violence chain, which includes once every two to three people are

victims of the same family. One such case was dated in January 2013, in the city of Elbasan, where conflict has completed two victims in a family. The father has executed with Kalashnikov his son and his bride. While in the northern town of Lezha, in 2012, were shot by father his wife and son, but then he was injured by another boy. Frequency of domestic violence is another characteristic. Within one day in Tirana, during v 2013 have been 3 cases of dune violence.

5. Analysis of the Criminal Justice System for punishment of domestic violence

From the analysis of investigative and judicial practice in cases of domestic violence shows that despite the work done by law enforcement agencies and judicial bodies to reduce and punish the perpetrators of this violence, it is observed that the culture of impunity remains problematic. Albania has a legal framework to European standards to protect human rights, and women, the relevant law where violence against women is considered a criminal offense, has adhered to international conventions CEDAW and CoE for preventing and combating violence against women family. Penal Code of the Republic of Albania for the first time violence against women and domestic violence is treated as a criminal offense. But no one court decision is based on changes in the Criminal Code, where domestic violence is a criminal offense and is punishable by 2 to 5 years in prison. In 2012, by 2471 authors recorded by the police, 137 were arrested, 2324 in the wild and 10 authors fled in an unknown direction. There are ridiculous penalties of 5 - 6 years and not harsh penalties, as required by law. In Albania, is being created a culture of impunity in cases of women killed by men.

To give an approximate approach to the criminal justice system for dealing with cases of domestic violence for the last ten years, I present some cases in the study.

If the referred cases registered by the police, investigated by the Prosecutor's Office, tried and punished by the courts for years 2003-2005, for the capital Tirana, and Vlora as big city, we see:

5.1 Review of judicial practices (1)

Tirana:

During the years 2003-2005 from Tirana Police recorded 240 reports related to domestic violence (OSCE, 2006). The investigation was conducted on 154 cases; 5 cases of damage to the wife by the husband; 1 case of murder of wife by husband and 2 cases of murder of a husband by his wife.

Tirana Prosecution of domestic violence cases are not specified in the registry under this prosecution and therefore it was not possible to be given answers to questions given questionnaire.

By the Court of Tirana, were given 23 decisions during 2003-2005, by these decisions 6 in 2003, 9 decisions in 2004 and 8 decisions in 2005. In 1 case the defendant was a woman.

Vlora:

Police have made 11 reports on domestic violence during 2002-2005; 1 case when a woman killed her husband.

By the Prosecution were investigated 6 cases; 1 case in 2002; 1 case in 2003 and 4 times in 2005. All cases were sent to trial.

By the Court: No response from Vlora District Court. P.132

Comment

Above case shows that in Tirana to worry that despite the 240 charges and 154 investigations during this period received only 23 court decisions related to domestic violence, or 15%. Answer from prosecution also shows that domestic violence is not a priority issue.

Even in Vlora, to worry that only 6 cases have been sent for trial to the court, has proven to be tried and ended with the decision.

Yes be refers fact that the total number of decisions of convictions for domestic violence provided by six courts (Tirana, Durres Kukes, Shkodra, Vlora, Fier and Gjirokastër) for the period 2002-2006 is 40, or an average of 1.6 decisions for each court per year (OSCE, 2006), is shocking. In 4 cases (issue no. 22, 27, 33 and 34), the defendant was a woman. In 38 cases, the defendant was found guilty, while two cases were dismissed - one due to lack of evidence (no. 16) and the other the victim withdrew the charge (no. 24) (OSCE, 2006)

5.2 Judicial review of practices

Tirana District Court confirms that during 2011 from 518 new requests with object "drop protection order" (and 64 times earnings), this court has issued 501 orders of protection: 149 cases or 28.8% were accepted, 334 cases or 64.5% were dismissed (for lack of evidence, or documentation from the applicant) and 18 cases or 3.5% down. Meanwhile, 81 cases were pending (Tirana Court, 2011).

According to the District Court of Shkodra, in 2011, were processed 93 protection orders, of which 58 were accepted (62.4%), 27 cases were dismissed (29%), and 8 cases were dropped (8.6%). Of these, in 79 cases the plaintiff was female and 14 cases were males. 57 cases were aged 26-45 years, 39 cases were from the village.

Tirana Court, for the period January-May 2012 has received 211 new requests for release "protection order" (and 72 requests carried over), of which have completed 239 issue: 78 received 155 were dismissed and six were dropped.

Comment:

In these cases come into play the mitigating conditions that pose courts: murder motivated weak control emotions, mental imbalance, to mitigate the sentence that ends just a few years in prison. The authors of the murders to several years in prison escape economic family obligations, as children left without their mother raise others. They live for a few years in prison, "get rid of" the man who pressed and put in place "their chastity" infringed. Roof goes up there as members of the community, other people who pretend to be friends or friends, and even give the final touch or killers of Praise for the act he did. "

5.3 Case Study

In February 2013, the Court of Tirana gave warrant of arrest for a recurring author for domestic violence. The author just two months after he was released from prison (sentenced to 2 years) due to the amnesty of 28 November 2012, he was indicted again by his wife for serious violence, in 2013. "The chain of revenge" between spouses began in the summer of 2011, where the wife attempted to kill her husband because of the violence that exercising husband to his wife, Tirana Court had issued an order of protection for the latter. After such a situation, on August 8, 2011, where the wife was severely beaten by her husband, she shot him twice in the head with an ax, causing serious injuries. For this act, the Court of Tirana in April 2012, condemned wife 2 years in prison for "murder committed in a state of profound psychic" attempted. Due to the minor children, the Court suspended the execution of the sentence of imprisonment against her and left on probation for 18 months. But in February 2012, the wife was seriously injured by her husband for revenge. For this work to repeat the author was sentenced to 2 years' imprisonment by the Court of Tirana, but was released from prison because of the amnesty of 28 November 2012. After two months, in February 2013, the spouse at the time that he was in Abused Women's Rehabilitation Center, was passing by on the street, through a spouse knife hit in the face and damaged heavily his wife.

6. Concluzions

This is an exemplary case of inadequate legal treatment of the perpetrators of domestic violence from Albanian justice. Although author is repetitive and has committed atrocious crime against the wife, he not only was sentenced to two years, but also benefit from the amnesty. The question is:

- Should reflect justice to such cases? If the courts will continue to provide modest penalties to serious crimes?!

Although criminal law and criminal procedure down Albanian is complete, but there are also some weak points. Thus, Family Code defines only cohabitation between a man and a woman and as a consequence, the law does not provide legal protection for these categories. Beating is not clearly defined in the Penal Code. Torture is not provided for in the Penal Code as a form of domestic violence. The lack of shelters for victims to emergency protection orders as defined by law (has a 48-hour vacuum for emergency situations). There is severe punishment for offenders who break the Protection Order and the Order of the immediate protection. Role of police in the execution of the Order of Protection and Emergency Protection as provided in law. On the other hand, weak enforcement of laws in force remains the major factor of risk.

The Ministry of Justice has recently launched a new legislative package aimed at stricter penalties against perpetrators in the family. The draft stipulates that the minimum penalty for certain crimes cannot be less than 28 years, and for some others not less than 38 years. Such public functionaries murder, murder for revenge and revenge killing children, killing women, or crime within the family (Ministry of Justice, 2013).

Based on the findings of the paper, taking into account the need to prevent and reduce the phenomenon of

domestic violence, it is urgent that Parliament to adopt as soon as the new legislative package for stricter measures against the perpetrators, the correct application of the law by prosecution, courts and police, to strengthen preventive measures, extensive involvement of the community, NGOs, strengthening cooperation between law enforcement agencies to investigate and attack perpetrators.

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