

**DOMESTIC VIOLENCE IN MACEDONIA**

**September 1998**

Copyright © 1998 by Minnesota Advocates for Human Rights  
Printed in the United States of America  
All rights reserved.  
ISBN: 0-929293-40-1

Founded in 1983, Minnesota Advocates for Human Rights is a volunteer-based, non-governmental, non-profit 501(c)(3) organization comprised of more than 1200 members dedicated to the promotion and protection of human rights worldwide. Minnesota Advocates for Human Rights impartially and independently investigates and exposes human rights violations; represents human rights victims; trains and assists groups that protect human rights; educates the public, policy-makers and children; and promotes the universal acceptance of international human rights standards.

*Officers:* Jim Volling, President; Jean Robert Cole, President-Elect. *Staff:* Jack Rendler, Executive Director; Marna Anderson, Partners in Human Rights Education Program Director; Audrey Carr, Refugee and Immigrant Program Legal Fellow; Annie M. Cull, Public Relations and Development Coordinator; Therese Gales, Refugee and Immigrant Program Education Director; Loan Huynh, Refugee and Immigrant Program Legal Director; Martha Malinski, Human Rights USA Resource Center Coordinator; Mary Winston Marrow, Women's Rights and Children's Rights Legal Fellow; Trassel Okelo, Women's Rights and Children's Rights Legal Fellow; Kristi Rudelius-Palmer, Human Rights USA; Huy Pham, Children's Rights Program Director; Robin Phillips, Women's Human Rights Program Director; Jennifer Prestholdt, Refugee and Immigrant Program Director; Johanna Allayne Ronnei, Partners in Human Rights Education Program Coordinator; Sosamma Samuel, Development and Policy Director; and Annie Williams, Administrative Assistant

Minnesota Advocates for Human Rights was formerly the Minnesota Lawyers International Human Rights Committee

# TABLE OF CONTENTS

## *Domestic Violence in Macedonia*

- I. PREFACE
  - A. Summary of Findings
  - B. Recommendations
- II. DOMESTIC VIOLENCE IN MACEDONIA
  - A. Introduction
  - B. Historical Background
  - C. Current Conditions
  - D. Evidence of Domestic Violence
    - 1. Evidence of Domestic Violence in the Medical Community
    - 2. Evidence of Domestic Violence in the Legal System
  - E. Police Response to Domestic Violence
  - F. Domestic Violence: Causes and Complicating Factors
- III. THE LAWS OF MACEDONIA AND THEIR IMPLEMENTATION
  - A. The Constitution
  - B. Criminal Law
  - C. Civil Law - Divorce
- IV. MACEDONIA'S OBLIGATIONS UNDER INTERNATIONAL LAW
  - A. Women in Macedonia are being denied the right to "security of the person and freedom from torture and cruel, inhuman or degrading treatment."
  - B. Women in Macedonia are being denied an effective remedy for acts violating their fundamental human rights.
  - C. Macedonia is not in compliance with the Convention on the Elimination of All Forms of Discrimination Against Women and the Declaration on the Elimination of Violence Against Women.
- V. CONCLUSION
- VI. ENDNOTES

## **ACKNOWLEDGMENTS**

This report was written by Robin Phillips, Susannah Pollvogt and Karen Brooks. Thanks to David Weissbrodt, Jack Rendler, Ellen Barton, Johanna Bond, Marlene Kayser, Jerry Meites, Betsy Parrell and Cheryl Thomas for their editing contributions. We would like to thank and acknowledge the Humanitarian Association for Emancipation, Solidarity and Equality of Women ("ESE"), the Union of Women's Organizations of Macedonia and the following individuals: Krstina Delceva, Daniela Dimitrievska, Biljana Gerasimovska, Jagoda Gligorovska, Mjellma Mehmeti, Jasminka Petrovska, Milka Ristova, Tanja Temelkoska-Milenkovic, Savka Todorovska and Snezana Zlateska. Minnesota Advocates acknowledges the hard work of its volunteers in preparing for the visits to Macedonia, in particular, Tara Barenok, Johanna Bond, Marlene Kayser, Lynette Larson, Kristine Lizdis, Carole Martin and Susannah Pollvogt. Special thanks to the Shaler Adams Foundation for funding the work of the Women's Human Rights Program at Minnesota Advocates for Human Rights.

## **DEDICATION**

This report is dedicated to the women of Macedonia.

## DOMESTIC VIOLENCE IN MACEDONIA

*I lived for two years with my husband before we married. He tried to force me to steal and to prostitute myself with other men--I never went with other men, but I had to steal because I had no other way to get money. He would hit me with a belt or a rubber tube, using violence to force me to do what he wanted. He would bring his friends into our home and make me be with them. This went on for almost five years. He broke my jaw once; I went to the hospital. I would do anything to get money so that he wouldn't be violent to me or my children. I never got anyone to help. My husband knew someone in the police--he was more protected than I was. I went to the police station with a broken jaw and blood all over my face; they would not receive me. They knew who I was. This happened many, many times. My husband was drinking and gambling. He used to tie me up in the house and leave me without food for days. I have been hit on the head and bruised on the neck and shoulders. I have scars from cuts and burns from where he put out his cigarettes on me.*

*I still have pictures in my mind sometimes of the abuse. After he broke my jaw, I went to see the doctor and I got a medical certificate, but the court did not respond. The public prosecutor did not believe there was a case. I tried to press charges but they were dropped. When I came home, my husband hit me on the head with a stick. I was unconscious for a month . . . . I called my cousin to help me and when my husband found out, he beat my cousin. . Only at that point was he finally arrested. My cousin was male.[1]*

### I. PREFACE

The United Nations has recognized domestic violence as a violation of the fundamental human rights of women.[2] A government's responsibility for protecting all of its citizens from human rights abuses includes ensuring that women enjoy their most basic human rights, security of person and bodily integrity in their homes. When these rights are violated, governments are obligated to respond appropriately.

Domestic violence is a widespread problem in the Republic of Macedonia.[3] Doctors, attorneys, judges, counselors, journalists, women's advocates and other women report incidents of severe abuse of married women and others in intimate relationships. In a recent survey of university students conducted by the Humanitarian Association for Emancipation, Solidarity and Equality of Women, 35% of the students surveyed reported witnessing acts of domestic violence.[4] The SOS Hotline in Macedonia's capital city, Skopje, reports equally disturbing statistics.[5] Since the time the hotline was created in 1994, it has received more than 9,000 calls.[6] Approximately 50% of these calls are from women who are experiencing violence at the hands of their husbands or intimate partners.

In 1996 and 1997, Minnesota Advocates for Human Rights ("Minnesota Advocates") sent delegations to Macedonia to investigate domestic violence and the government's response to the problem.[7] Minnesota Advocates developed its research methodology using international human rights standards articulated by the United Nations. In conducting this research, the delegations principally used the following definition of domestic violence from the United Nations publication, *Strategies for Confronting Domestic Violence: A Resource Manual*:

Domestic violence can be defined as the use of force or threats of force by a husband or boyfriend for the purpose of coercing and intimidating a woman into submission. The violence can take the form of pushing, hitting, choking, slapping, kicking, burning or stabbing.[8]

Minnesota Advocates also collected information about mental and emotional abuse to the extent it was available.

### **A. Summary of Findings**

Domestic violence is a serious and pervasive problem in Macedonia. Despite overwhelming evidence of domestic violence, the government of Macedonia has not taken steps to address the problem. The Criminal Code does not specifically address crimes of domestic assault and the government does not prosecute domestic assault crimes under its general assault laws. Government officials at all levels, including the Chief Prosecutor and the Chief of Police in Skopje, ignore or minimize the problem. The police do not respond appropriately to calls from female victims of violence. Many women reported that the police did not provide them protection from abusive spouses and partners. In some cases, male police officers abused and sexually assaulted women victims of violence who were in custody. The Macedonian government does not support the efforts of non-governmental organizations working to meet the needs of victims nor does it keep statistics on assaults or other crimes that allow for the disaggregation of data relating to violence against women or domestic violence.

Macedonia is a member of the United Nations and has committed itself to adhering to internationally recognized human rights norms. Macedonia is a party to the Convention on the Elimination of All Forms of Discrimination Against Women ("Women's Convention") and the International Covenant on Civil and Political Rights. In failing to respond to widespread abuse against women, Macedonia is violating international human rights law and its obligations under these treaties. The Macedonian government has failed to protect the following rights of domestic violence victims:

1. Violence against Macedonian women in their homes is a violation of their fundamental right to security of the person as guaranteed in the Universal Declaration of Human Rights[9] and to freedom from torture and cruel and inhuman or degrading treatment as guaranteed in the International Covenant on Civil and Political Rights;[10]

2. Macedonian victims of domestic violence have been denied their right to an effective and adequate remedy. By failing systematically to provide effective prosecution for crimes of domestic violence and failing to enforce criminal laws on behalf of domestic violence victims, Macedonia is violating the right to a remedy guaranteed under the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights; and

3. The Macedonian government is not in compliance with the provisions of the Convention on the Elimination of all Forms of Discrimination Against Women[11] (including General Recommendations 12 and 19 of the Committee on the Elimination of Discrimination Against Women[12]) and the Declaration on the Elimination of Violence Against Women,[13] including the following:

a. Macedonia has not met its obligation to protect women from violence;

b. Macedonia has not met its obligation to ensure that women who are victims of violence are provided with health and social services, facilities and programs and other support structures to promote their safety and physical and psychological rehabilitation; and

c. Macedonia has not met its obligation to develop comprehensive legal, political, administrative and cultural programs to prevent violence against women.

## **B. Recommendations**

Based upon the findings of the delegation, Minnesota Advocates recommends the following:

1. The Macedonian Government should provide victims of domestic violence equal and effective access to the criminal justice system and an effective remedy for harm they have suffered. The Government should uniformly enforce assault laws regardless of the relationship of the victim and the perpetrator.

2. The Macedonian Government should institute a program of education and training for all law enforcement officials, including police officers, prosecutors and judges on issues of domestic violence. This training and education should include information about the effective and appropriate handling of victims and perpetrators within the legal system.

3. The Macedonian Government should educate the public about the problem of domestic violence and support the public education efforts of non-governmental organizations.

4. The Macedonian Government should vigorously investigate crimes of domestic violence when they occur and institute appropriate measures to protect victims of violence from further abuse.

5. The Macedonian Government should take measures to ensure that women subjected to domestic violence and, when appropriate, their children, receive specialized assistance, such as rehabilitation, treatment and counseling, assistance in child care and maintenance, and other health and social services.

6. The Macedonian Government should require medical and legal institutions to keep statistical data on the number and nature of domestic violence crimes.

7. The Macedonian Government should conduct or commission a detailed study on the nature and extent of domestic violence in Macedonia.

8. The Macedonian Government should strongly support the efforts of women's organizations and other non-governmental organizations actively working on the issue of violence against women and should cooperate with them at local, national, regional and international levels. This support should include, among other activities, promoting research, collecting data and compiling statistics relating to the prevalence of different forms of violence against women.

9. The Macedonian Government should conform to CEDAW's General Recommendation 19, the Declaration on the Elimination of Violence Against Women and the Beijing Platform for Action<sup>[14]</sup> in all of its work toward the elimination of violence against women and the provision of services for victims of such violence.



## **II. DOMESTIC VIOLENCE IN MACEDONIA**

### **A. Introduction**

The Republic of Macedonia declared its independence from Yugoslavia in 1991. As with the other countries of Central and Eastern Europe, Macedonia is an emerging democracy in the process of developing a free market economy. Macedonia must overcome a long history marked by the absence of a democratic tradition, economic hardship and tensions among its ethnic groups to achieve prosperity and to better protect the human rights of its citizens.

The prevalence of domestic violence in Macedonia is well-known despite the government's failure to publicly recognize the extent of the problem and the lack of official statistics documenting the frequency of its occurrence.[15] Cultural norms in Macedonia discourage the reporting of domestic violence as a "private, family matter." [16] Despite these societal values, women's organizations are working to provide services to meet the needs of victims of domestic violence and to change public policy to provide greater protections to these women.

Macedonia's population is multi-ethnic and includes ethnic Macedonians, Albanians, Greeks, Turks, Serbs, Vlachs, Roma and others. The history of Macedonia demonstrates long-standing animosities between these ethnic groups that contribute to the present underlying tensions and instability in the country. As in other countries, many people in Macedonia mistakenly identify ethnic minority communities as having higher incidents of domestic violence than the general population. This myth about domestic violence reinforces existing stereotypes about minority groups and hinders the full implementation of international human rights norms.[17]

### **B. Historical Background**

Macedonia was formerly part of the vast empire of Alexander the Great that stretched across the Balkan peninsula. After Alexander died in 323 B.C., the area was ruled by a series of invaders including the Romans, Byzantines and Slavs until it was invaded by Turks of the Ottoman Empire in the fourteenth century. The Ottoman Empire ruled the Balkan peninsula for nearly 500 years.

By 1890, the Ottoman Turks had been expelled from all Balkan territories except Macedonia and Albania. A decade later, several attempts were made to oust them from their remaining territorial holdings. In the Ilinden Uprising of 1903, the Bulgarians of Macedonia were defeated in their rebellion against the Turks. In the Macedonian struggle that followed, Greeks from Macedonia and Greece fought against Bulgarians and Turks to preserve the Greek character of Macedonia. These conflicts culminated in the Balkan Wars of 1912-13. In the First Balkan War, Serbia, Greece, and Bulgaria expelled the remaining Ottoman forces from Macedonia. In the Second Balkan War, Bulgaria attacked Serbia and Greece but was unsuccessful in its attempts to conquer the Macedonian territory. As a result, in 1913, Greece, Serbia and Bulgaria divided Macedonia between

themselves.[18] Soon thereafter, tensions between Serbia and the Austro-Hungarian Empire ignited World War I.[19]

At the end of the Turkish reign, the Macedonian population consisted of Christian Slavs and Christian Greeks. The Slavs were mainly peasants living in the northern part of Macedonia, and the Greeks held positions of power in cultural and political life.[20] The church was under the jurisdiction of the Greek patriarch in Constantinople.[21] Greeks and Bulgarians began to fight for the loyalty of the Macedonian Slavs who had earlier identified themselves as either Greek or Bulgarian around the time the Bulgarian Church was established in 1870.[22]

During World War II, Marshal Josip Tito led the resistance to fascism. He came to power after the Germans were expelled from Yugoslavia in 1944. Tito and other leaders of the Communist Party were the first people to recognize the existence of a separate Macedonian nation.[23] In addition to establishing Macedonia as one of six Yugoslav republics, Tito initiated the standardization of the Macedonian language and later recognized a Macedonian Orthodox Church.[24] This decision by Yugoslav officials to recognize a Macedonian nation with a separate identity was designed to weaken Serbian and Bulgarian claims to the area and allow for the integration of the Serb controlled area of Macedonia into the new Macedonian republic.[25]

While Tito was in power, ethnic groups in Yugoslavia co-existed peacefully. After his death in 1980, ethnic tensions resurfaced. These tensions, along with the dissolution of the Soviet Union in 1989 and the collapse of the governments in surrounding countries, contributed to the break-up of Yugoslavia. As part of the democracy movement in Central and Eastern Europe, Macedonia established itself as an independent state by citizen referendum on September 8, 1991, and declared its independence on November 11, 1991.

### **C. Current Conditions**

Macedonia's process of democratization has been impeded by serious economic difficulties, slow recognition of the republic by the international community, regional ethnic conflicts, and ethnic tensions within its borders.[26] Macedonia was the poorest republic in Yugoslavia prior to its break-up, and since 1991 its economic status has further declined. As part of the transition to a market economy, many inefficient state-run businesses were closed causing a dramatic rise in unemployment.[27]

The political problems in the region have also seriously undermined Macedonia's economic development. The United Nations imposed sanctions on Serbia and Montenegro from mid-1992 until the end of 1995. Serbia had accounted for 60% of Macedonia's markets and served as a conduit to other European markets.[28] Greece imposed an embargo on Macedonia which began in April 1994 and lasted 18 months. The Greeks were protesting Macedonia's name, flag, and articles in its constitution which Greece alleges were infringements on Greek Macedonia. [29] The embargo ended in September 1995 after Macedonia agreed to change its flag. Macedonia is still recovering

from the devastating effects of the Greek embargo.

In addition to denying Macedonia access to the port of Thessaloniki, the Greek policy towards the fledgling Macedonian republic delayed its acceptance into major international organizations.[30] Without membership in these organizations, Macedonia had difficulty obtaining credit and assistance from international agencies such as the World Bank. The resulting decline in the economy increased social tensions between the various ethnic communities.[31]

Many men and women reported that as a result of the tensions created by this economic hardship and social upheaval, issues of violence against women were not part the government's policy agenda.[32] Many people suggested that until the economy begins to improve, neither the government nor society in general will address violence against women in a meaningful way.

#### **D. Evidence of Domestic Violence**

Domestic violence is not a common subject of public discussion in Macedonia. Those people who work directly with victims of domestic violence report that the problem is widespread and that it affects all ethnic groups and classes of people. Doctors, lawyers, social workers, judges and other women in the community reported many cases of brutal attacks on women by their husbands or intimate partners. "This problem is present in many families, whether we talk about it or not," a psychologist from the Center for Social Assistance in Skopje stated,[33] "the situation can't bear any delay in finding a solution and demands intervention." [34]

The state has not established mechanisms to encourage the reporting of incidents of domestic violence to government authorities. In addition, strong social pressures keep the problem of domestic violence within the family. The lack of shelters and other social services provides little incentive for women to discuss their problems publicly. In the past few years, women activists have successfully increased the public dialogue about domestic violence.[35] These activists have been successful at gathering resources to study the issue and at focusing media attention on the problem. These efforts are essential to addressing the problem effectively. Despite the recent successes of local women's organizations, government officials and society in general continue to deny the existence of domestic violence. The hidden nature of the problem and lack of public dialogue allow officials to ignore the problem and to avoid responding effectively to these crimes.

In the survey of university students conducted by the Humanitarian Association for Emancipation, Solidarity and Equality of Women ("ESE"), more than 31% of the female students reported that they had been victims of physical or psychological violence.[36] Approximately 26% of these women reported being violated by a husband or partner.[37] Of all the women surveyed, 4.25% acknowledged that they had been victims of sexual assault.[38] In addition, more than 17% of both the men and women surveyed reported

that they had noticed acts of domestic violence in their own families.[39]

An "SOS Hotline" was established in Skopje for women victims of violence in 1994 by the Union of Women of Macedonia. Approximately twenty volunteers staff the hotline from 5:00 to 10:00 p.m., Monday through Friday. In 1995, 75% of the callers to the hotline were adult women.[40] The majority of these women were experiencing violence from current or former husbands or partners. In more than 50% of the calls, the caller had been physically or sexually assaulted. The majority of callers were between 35 and 55 years old. The hotline receives an average of five to six calls a night. Several hotline volunteers stated that the calls they received reflected only a small percentage of the actual incidents of domestic assault. They reported that most people wait until the situation is unbearable before making a call to the hotline.[41]

### **1. Evidence of Domestic Violence in the Medical Community**

Many Macedonian doctors also see victims of domestic assault first hand.[42] One general practitioner described many cases in which she treated women who sustained injuries at the hands of their husbands and partners. This doctor believed that patients aged 55-65 were more often victims of domestic violence than were younger patients.[43] She estimated that more than 30% of her older clients were being beaten by their husbands. In many cases, this doctor explained, men beat their wives causing serious injury and then withheld the medical card necessary for them to seek medical treatment[44] This doctor had previously been a medical technician. She described being called to the scene of several domestic assaults. She reported a particularly brutal case in which a man beat his wife and then slammed her head into a wall, killing her instantly.[45]

A forensic doctor interviewed by Minnesota Advocates estimated that domestic assaults are the third leading cause of the injuries he sees in his office.[46] He described three cases in which he performed autopsies on women who were killed by their abusive husbands, one with a knife, the other two with axes.[47] Despite his experience, this doctor said that in his opinion domestic violence was not a major problem in Macedonia. He added his opinion at the end of the interview that men and women often have "different tastes" and that if a man is rougher in his approach to sex, his behavior should not be considered domestic violence.[48]

At the Trauma Center in Skopje, a male doctor estimated that he had seen only two or three cases of domestic violence in the previous six months.[49] He said it was much more common for women to be injured "falling down" in their homes. He said he believed the women who reported falling in their homes were telling the truth about the cause of their injuries. A female Trauma Center doctor estimated that the number of women seeking treatment for injuries resulting from domestic violence was much higher. She believed women often reported that they fell from accidents rather than admit that they were victims of domestic violence to avoid discussing the issue.[50] One doctor also noted that, although they did not have statistics at the Trauma Center, they saw a large number of women victims of domestic violence whose husbands were police officers.[51]

A retired psychiatrist interviewed by Minnesota Advocates estimated that he had seen more than 1,000 cases of domestic violence during his career.[52] Although the doctor believed that there were variations in the manifestations of violence in different families, he saw domestic violence in families from all ethnic backgrounds and all socio-economic levels.[53] The psychiatrist speculated that the level of domestic violence in Macedonia is probably the same as that found in other countries in Central and Eastern Europe but that in his opinion it is not a serious problem.[54]

## **2. Evidence of Domestic Violence in the Legal System**

The government does not record official statistics of incidents of domestic violence. There are no provisions in the Criminal Code specifically identifying domestic violence as a crime. The statistics the government keeps on general assault do not indicate the sex of the victim and the nature of the relationship between the victim and the assailant. In numerous interviews, legal professionals described case after case of serious domestic assault in which no legal action was taken. Several then concluded that domestic violence is not really a problem in Macedonia.[55]

The Macedonian legal system appears to be unresponsive to domestic violence cases. Therefore, information about domestic assault available in the legal community may be very misleading. For example, the Chief Public Prosecutor in Skopje claimed that not a single case of domestic assault had been prosecuted in Skopje in the past fifteen years.[56] The information Minnesota Advocates gathered indicates that this claim reflects the legal system's lack of responsiveness rather than a low level of domestic assault. The prosecutor acknowledged that his office had seen cases in which women were prosecuted for killing abusive husbands or partners but that no records were kept of the circumstances of these homicides.[57]

The Public Prosecutor acknowledged that domestic violence may exist in ethnic minority communities where he believes "women are less emancipated" than ethnic Macedonian women.[58] He indicated that he believed that the prevalence of domestic violence in a community reflects the level of emancipation of the women in that community. This, he offered, is the reason ethnic Macedonian women are not victims of domestic violence.[59]

A private attorney reported several incidents of domestic violence experienced by her clients. In one case, a woman was severely beaten by her husband and locked out of her house in winter weather.[60] In another case, a man prevented his wife from using contraceptives. He then raped her and impregnated her despite a medical condition that made pregnancy extraordinarily dangerous for her.[61]

Another private attorney reported that she had handled ten domestic violence cases involving both light and grave injuries.[62] She pointed out that many women do not seek legal assistance because legal representation is very expensive and free legal assistance is not available to them.

Although not designated as a service center for victims of domestic violence, the Center for Social Assistance in Skopje sees many victims in the course of facilitating the mediation process in divorce proceedings. A staff of nine counselors serves the entire metropolitan area of approximately one-half million people. The counselor interviewed by Minnesota Advocates reported that there had been nearly one thousand cases of disharmonious marital relations forwarded to the Center by the court in the past year. In most "disharmonious" marriages, the woman has not been treated with respect or has been physically or psychologically abused.[63]

The counselor reported that approximately 20% of his clients openly admit being physically abused without prompting from him. He estimated that 70% of his clients are actually experiencing abuse.[64] He stressed that counselors only receive notice of the problem when the violence is so bad "it becomes obvious." He explained that divorce often results from this sort of violence. The number of divorces has increased during the transition to democracy. The counselor explained that this change is likely the result of the comparative ease in obtaining a divorce under the new Family Code and the pressures of economic dislocation.[65]

Because there are no shelters for women victims of violence in Macedonia, women have little hope of social assistance and often have no way to separate themselves physically from abusive partners. Several judges reported that they rarely questioned women to determine if they were experiencing violence in their relationships because there is no place for a woman to turn for assistance and thus, no point in bringing up these painful issues.[66] Nonetheless, several judges reported that they had seen many cases in which women have experienced violence in their relationships. One judge reported a case so severe that the woman fled to Germany to escape the abuse.[67] Other judges reported cases in which women were clearly terrified of their husbands and brought members of their families with them to court for moral support and protection. Often, even though the abuse was evident, women did not voluntarily discuss it in court.

One Civil Court judge reported that she suspects domestic violence is often the reason that women seek divorce but that it rarely comes up in the divorce proceedings. Many couples continue to live together during the divorce proceedings because they cannot afford separate housing. Even people who have sufficient financial resources to maintain two residences often cannot separate because they cannot find alternative housing due to the housing shortage in Macedonia. The judge explained that she would like to expose this violence or intervene. She fears, however, that the lack of domestic violence services makes intervention futile and that eliciting testimony about the violence at a divorce proceeding could possibly put the women at risk for future violence. The judge said that women sometimes submit medical reports as evidence of the "disharmony" in the family but that the certificate is not relevant to the proceedings.[68]

## **E. Police Response to Domestic Violence**

The police in Macedonia are the only part of the legal system that many battered women attempt to access. Minnesota Advocates heard numerous reports of police misconduct

and abuse. The reports included incidents where police blatantly disregarded the safety of women victims of violence and failed to make arrests even when serious assaults had taken place. Volunteers at the SOS Hotline reported that callers often request that the hotline volunteer call the police for them. Historically, the police have been more willing to respond to calls from the hotline volunteers, although they are still not likely to make an arrest.[69] In one case in which a hotline volunteer called the police, the police officers went to the house and stopped the assault but left without making an arrest. In another case, a man who was beating his wife stopped beating her when the police arrived.[70] He was friendly to the police and offered them rakia (a local alcohol). The woman was embarrassed and did not say anything to the police. When they left, the man beat the woman even more violently than before they arrived. When the woman called the police again, they refused to return to the house.[71]

In one case reported by an attorney, a man came home drunk and started to beat his fourteen year old child in their yard.[72] When his wife tried to assist the child, the man beat her with a stick and broke her leg. The woman was able to get into the house, lock the doors and call the police. The police officer who answered the telephone told her that this was a private affair and he would not respond to it. The child then tried to call the police but the police officer hung up the telephone when he discovered the call was from the same house. The child then called an ambulance. The husband blocked the entrance of the house and would not allow the paramedics to enter. The paramedics then left without assisting the woman. After they left, the man broke into the house and continued to beat both the woman and the child even more severely. Both suffered broken arms and head injuries. The woman did not bring charges against the man herself. She did not feel that she had any alternative other than to stay with him. She was unemployed and had no place to go.[73]

In the following case reported by a judge, the police refused to intervene in an assault because they viewed it as a "family affair":

Ms. M. S. (Mother of two children, ages 7 and 4) was beaten by her husband who pulled her hair and kicked her head against the wall many times which led her to faint. When she got her consciousness back, in severe pain, humiliated and thrown out of the house by her husband, she asked for help from the nearest police station. The policeman on duty, after hearing her story, indifferently told her, "go home and settle things down at home." She slept in the backyard of the house, waited for the dawn to get into the house and [wait for] a new attack from her husband.[74]

Many women and women's advocates expressed fear of the police and disappointment with police response to domestic violence calls. A group of Roma women explained that they were afraid to call the police because they did not feel that they would be protected.[75] Because the police generally have not assisted domestic violence victims in the past, many women avoid the risk of escalating the violence by attempting to call for help. There is no guarantee that the police officers will come, or that if they do come,

they will arrest or even remove the assailant from the premises.

Personal connections between police officers and victims or perpetrators of an assault, as well as the attitudes of responding officers affect the potential police response to an incident of domestic violence. Many women reported cases where police would not respond to a call from a victim of domestic violence because the perpetrator was a friend of that officer or of another officer in the unit.[76] Other women complained that they had no recourse to the police because their own husbands were police officers and their colleagues would take no action against them.[77] Some people expressed the opinion that police desired broader authority to intervene in domestic assaults and that a code of conduct limiting intervention by officers was the root of the problem.[78] Others described attitudes on the part of the officers themselves as being the primary barrier.[79] In addition, women may avoid calling the police because they reasonably fear harassment or brutality from them.[80] When a third party calls the police because a domestic assault is disturbing the peace, both partners may be fined and given a citation, regardless of who perpetrated the assault.[81] Women may also be at risk of violence when they are in police custody in Macedonia.[82] Several women reported being physically and sexually assaulted in police custody.[83] Others reported being forced to perform sexual favors for police officers in return for not being beaten.[84]

Some women reported that they were hesitant to call the police. Although they wanted the violence to stop, they were unwilling to subject their male partners to police brutality or unfair police procedures.[85]

Minnesota Advocates interviewed thirteen of the inmates in the women's cell at Idrizovo prison outside of Skopje.[86] Virtually all of the women had experienced serious violence at the hands of their husbands or partners. Most of the crimes the women committed were related to this abuse. In a newspaper article about domestic violence, a lawyer who works in the women's unit at the prison was quoted as saying that domestic violence was one of the important factors that led the women to commit their crimes.[87] The lawyer stated, "[a]ll of [the women] have been mistreated by some member of their family . . . These facts don't appear in their dossier and for that reason they don't have any influence toward decreasing their sentences. Usually the women receive terms of three to twenty years in prison." [88]

A prison psychiatrist reported that most women who have been convicted of homicide have been victims of abuse themselves.[89] They have often killed abusive spouses or partners, although there is no indication of this abuse in their records. In addition, several of the women convicted of prostitution or property crimes described serious physical and psychological abuse by husbands or partners as being a major factor in the crimes they committed. Most of the women reported numerous attempts to seek help from the police before they committed their crimes. Some of the women maintain that they acted out of sheer desperation. Several of the women reported being beaten or raped by police after being arrested.[90] Because of the lack of social services available to women victims of violence in Macedonia and the complete failure of the police to respond to their pleas for help, many of the women felt safer inside the prison than outside of it.[91]



Minnesota Advocates interviewed the Chief of Police of Skopje and a Deputy Minister of the Interior.[92] In this interview, both men denied the existence of domestic violence in Macedonia. When asked to comment on the specific cases of police failure to respond to domestic violence calls, the men simply stated that the events never happened. They claimed that all of the cases reported to Minnesota Advocates were untrue. But, they noted, if there ever is a case to which the police do not respond appropriately, individual women should contact the police officers' supervisors or the Chief of Police directly.[93] If the police can be persuaded to come to the scene of a domestic assault, whether they file a report depends upon a variety of subjective factors, including the individual officer's assessment of the severity of the victim's injury[94] and the victim's ability to insist on having a report made. The police generally do not remove abusers from the home.[95] If they do, it is usually only for a 24 hour period.[96] The police will not arrest an abuser unless there is evidence of a crime of such magnitude that it must be prosecuted by the Public Prosecutor, *i.e.*, unless the victim has sustained "grave" bodily injuries.[97]

#### **F. Domestic Violence: Causes and Complicating Factors.**

There are no simple explanations for the causes of domestic violence. Research indicates that domestic violence has its roots in the subordinate role women have traditionally held in private and public life.[98] The United Nations, in the Declaration on the Elimination of Violence Against Women, recognizes domestic violence as "a manifestation of historically unequal power relationships between men and women" and condemns the violence as one of the "crucial social mechanisms by which women are forced into a subordinate position compared with men." [99]

International research on domestic violence illustrates the universal nature of the problem. This research also demonstrates that many of the myths about the causes of domestic violence are also universal. These myths are also prevalent in Macedonian society. For example, one myth that is pervasive in Macedonia is that domestic violence only occurs in certain communities because it is part of the cultural tradition of that community. The majority of individuals interviewed by Minnesota Advocates discussed the role of race, ethnicity, class, and educational level as factors contributing to the prevalence of domestic violence. Nearly every person who gave an example of a domestic violence incident explained the man's abuse by reference to the ethnicity, class, education level, age, or sexual orientation of the abuser or his victim. This opinion was expressed by government officials, as well as many of the doctors, lawyers, and judges interviewed by Minnesota Advocates. In contrast, the men and women who had direct contact with battered women recognized that perpetrators and victims came from all ethnic groups and from all strata of society.

Many people expressed the opinion that domestic violence was more prevalent among groups with lower levels of education.[100] Aggression by a husband toward his wife was assumed to be manifested as physical violence in poor communities and as mental violence in wealthier communities. This opinion was also generally refuted by people who had direct contact with women victims of violence. For example, a women's rights activist reported the story of an professional woman whose highly educated husband was

beating her. No one believed her because her husband had a respectable public image. The woman was not granted a divorce because during the divorce proceedings her husband became very emotional and protested that he would miss his children if he was forced to separate from them. After the initial divorce proceedings, the man severely beat the woman and broke several bones and fractured her skull. Only when she documented these injuries was she able to get the divorce.[101]

Another common myth, generally accepted in Macedonia, is that alcohol causes domestic violence. Although many of the domestic assaults reported to Minnesota Advocates took place while the abuser was drunk, research shows that alcoholism and drug abuse alone do not cause domestic violence.[102] Alcohol consumption may trigger a particular attack or cause a batterer to be more reckless or violent. When these factors are removed, however, the violence often continues.[103]

One doctor offered his personal opinion about the cultural factors that cause domestic violence.[104] Initially he said that men beat women because women are too "servile and weak" as a result of the influence of hundreds of years of Ottoman rule. He then contradicted himself in adding that some men also beat women because women have become too strong and controlling: "many men feel that women now hold the remote control." [105]

Many people in Macedonia also identified some of the same factors found to be contributing causes of domestic violence in research conducted in other countries. For example, several people described the strong patriarchal culture in Macedonia and the resulting subordination of women as being the cause of domestic violence. Many people expressed the opinion that younger, more "emancipated" women will likely not experience domestic violence. One doctor predicted that there will be violence in the home if the household economic situation is bad.[106]

A psychiatrist interviewed by Minnesota Advocates explained that in Macedonian society, a man has the right to be possessive of a woman, but a woman does not have the same right to be possessive of a man.[107] He has a license to punish her if he feels that she has made a mistake, but she can do nothing in a similar situation. This attitude is illustrated by an extreme case described by an attorney. In a village outside of Skopje, a man killed a woman in the presence of several other people. The woman was running through her neighborhood screaming for help while being chased by the man who was carrying a gun. The judge questioned the people about why they did not assist the woman and they explained that they did not "interfere" because they thought the woman was the man's wife.[108]

The citizens of Macedonia often discuss the small size of their country and the close-knit nature of Macedonian society. Many generations of a single family often live together in the same house. Close social monitoring by neighbors and friends is inevitable. As a result, a Civil Court judge explained, men often feel the need to maintain a strict division between their public and private lives and between their public and private "faces." [109] As in other countries, this severe public-private split has negative consequences for

women in Macedonian society:

She may be well-educated, she may be employed, but as if by magic, once back home her independence and emancipation vanish, and the bad fairy turns her back into a housewife, mother and caring wife who is supposed to take care of the household, feed the children, and of course, please her tired and grouchy husband.[110]

Official declarations of equality do not necessarily translate into practice, and relative emancipation for women in public spheres does not necessarily translate into emancipation in the private sphere. Women who are ill-treated at home often encounter disbelief on the part of colleagues and friends who know only the husband's public image and cannot imagine that such a person becomes a batterer within the privacy of his own home.

Women's economic dependence on men, prescribed by patriarchal social norms, is generally recognized as a leading factor in domestic violence in Macedonia.[111] Several volunteers expressed their opinion that women's economic dependence on men was the primary cause of assault in the home.[112] The negative effects of this dependence manifest themselves in a variety of ways. Men may feel an increased sense of entitlement to control and abuse their female partners if the women are economically dependent on them. A woman who is economically dependent has fewer resources upon which to draw should she decide to leave a battering relationship. The volunteers at the SOS Hotline believed that if the percentage of employment for women and men were the same, women would be more likely to leave their abusive situations and start lives of their own.[113]

Restricted availability of housing may also discourage or prevent women from leaving an abusive relationship or marriage. "Macedonia's harsh economic realities mean that jobs and apartments are hard to come by and this in turn often forces a woman to remain in [an] unsuccessful marriage where she may be humiliated or even physically or mentally abused." [114] In most cases, a couple seeking divorce must continue to live together during the mandatory counseling period.[115] Sometimes, even if a divorce is granted, the house or apartment may only be physically partitioned because neither party can find alternative housing. In a battering situation, such a nominal separation is unlikely to bring the victim any real relief from violence.

Some women are welcomed back into their parents' home when they flee an abusive relationship but others are rejected. The prevailing belief is that the woman chose her husband and so must accept the consequences of her choice. An appellate court judge reported the following case:

One wife who had been beaten [by] a violent and drunk husband, ran away from home and sought protection in her parents' home. Her father, despite her state and the reason why she came, slapped her twice and almost by force, took her [to] the home of her husband with the words "this is the place where you belong, you should be obedient, keep your mouth shut and don't provoke him. Be good to

your husband if you don't want him to beat you up." Of course, he didn't even try to talk to her husband because he already knew that her husband was right.[116]

This case illustrates the patriarchal values that many women encounter when attempting to remove themselves from violent situations.

### **III. THE LAWS OF MACEDONIA AND THEIR IMPLEMENTATION**

#### **A. The Constitution**

The Macedonian Constitution guarantees the equality of all citizens,[117] due process of law,[118] freedom of expression,[119] and other fundamental rights. The Macedonian Constitution also generally promises respect for human rights.[120] In Article 8, Macedonia commits itself to respect the generally accepted norms of international law.[121] The Constitution provides that the protection of human rights and the implementation of the rule of law are "fundamental values" of the constitutional order. The Constitution, however, does not provide a mechanism to ensure that these values are achieved.[122] Unfortunately, although human rights principles are codified in Macedonian law, their application remains selective and incomplete.[123]

The Preamble to the Constitution defines Macedonia as an ethnic state, albeit one tolerant of "other nationalities," a category to which the Albanian, Turkish, Vlach, and Roma minorities are assigned.[124] The language of the preamble to the Constitution explicitly differentiates between ethnic Macedonians and members of other ethnic/national groups. The Constitution identifies the protection of the rights of ethnic minorities as the preeminent human rights issue in Macedonia.[125] Although equality among ethnic groups is guaranteed in writing, it does not exist in practice, as evidenced by the serious under-representation of ethnic minorities in parliament and in other areas of public life, including employment.[126] The lack of enforcement mechanisms for these non-discrimination provisions decreases the possibility that women and men from ethnic minority groups will be able to exert influence on the laws and policies of their country.

The Macedonian Constitution also provides that men and women have equal rights.[127] As with ethnic minorities, the formal guarantees of gender equality in the Constitution have not been realized. Women from both majority and minority ethnic groups, while officially promised equal rights and equal access to the public sphere,[128] are vastly under-represented in the Parliament and other institutions. In 1995, there were only two women deputies in a Parliament of 120; only two out of 20 Ministry positions were held by women; and only five out of 100 managers of highly successful companies were women.[129] The majority of judges are women,[130] but only at the trial court level. In government agencies as in private businesses, men are in the positions where the most critical decisions are made. Absent from positions of influence and power, many women are frustrated in their pursuit of meaningful equality in their country.[131]

In addition to the provisions guaranteeing equality, the Constitution contains provisions that commit the state to uphold specific human rights. Article 11 recognizes: the "human

right to physical and moral dignity is irrevocable. Any form of torture, or inhumane or humiliating conduct or punishment, is prohibited."<sup>[132]</sup>The Constitution also protects against extrajudicial deprivations of freedom. It provides that "[n]o person's freedom can be restricted except by court decision or in cases and procedures determined by law."<sup>[133]</sup> Article 50 grants citizens "the right to be informed on human rights and basic freedoms . . . ."<sup>[134]</sup> These provisions outline the state's affirmative obligation to combat the inhumane conduct and restriction of freedom that results from systematic violence against women.

The Macedonian Constitution provides that "[e]very person is guaranteed the respect and protection of the privacy of his/her personal and family life and his/her dignity and repute;"<sup>[135]</sup> In Article 26, the Constitution also provides that, "[t]he inviolability of the home is guaranteed."<sup>[136]</sup> This provision ostensibly protects privacy and individual liberty, which is particularly important in former socialist countries. It may, however, also impede progress in combating domestic violence by overemphasizing the importance of privacy within the family.

Additional provisions, however, clearly indicate that these articles were not intended to protect batterers from legal sanction. Article 26 includes the caveat that "[t]he right to the inviolability of the home may be restricted only by a court decision in cases of the detection or prevention of criminal offenses or the protection of people's health."<sup>[137]</sup> The exception in cases of criminal offense or endangerment of health enables the legal system to address domestic assault.

## **B. Criminal Law**

Criminal assaults are divided into two broad categories: those assaults causing "bodily injury"<sup>[138]</sup> and those causing "grave bodily injury."<sup>[139]</sup> Bodily injury, referred to as "light bodily injury" by judges and prosecutors is not specifically defined in the Macedonian Criminal Code.<sup>[140]</sup> The Code provides: "A person who injures bodily another, or damages his health, shall be punished with a fine or with imprisonment of up to one year."<sup>[141]</sup> The Macedonian Criminal Code generally defines grave bodily injury as damage to a vital part of the body or an important organ or permanent injury or disability.<sup>[142]</sup>

A person who gravely injures bodily another, or damages gravely his health, and if because of this the life of the injured person is brought into danger; or a vital part of the body or some important organ is destroyed, or is damaged permanently or to a significant extent; or a permanent disability for work is caused, in general or for the work for which he is trained; his health is damaged permanently or gravely; or he becomes disfigured . . . Macedonian Criminal Code, art. 131 (2). A person may be punished by imprisonment for up to five years for grave bodily injury. <sup>[143]</sup>Under the law, a victim seeking prosecution for the infliction of light injuries bears the burden of prosecuting the case. <sup>[144]</sup> Unlike light injuries, grave injuries are prosecuted by the Public Prosecutor.<sup>[145]</sup>

The division of assault into only two categories is imprecise. Other countries in the region that grade injuries in a similar manner often recognize multiple levels or categories of injury. [146] Because in Macedonia only permanent injuries caused during an assault compel a state response, injuries that are not permanent are viewed as insignificant violations. The existence of a single, extremely high threshold of injury requiring a state response suggests that few, if any, cases will be investigated or prosecuted by the Public Prosecutor.

Cases are referred to the prosecutor's office either by the police or directly by the victim. The Chief Public Prosecutor for the municipality of Skopje reported that only one or two women a year approach the Public Prosecutor and request that their husbands be prosecuted for causing grave bodily injuries to the m.[147]

Furthermore, the Chief Public Prosecutor reported that between the years 1980 and 1995, his office had not responded to a single one of these requests with a completed prosecution of the assailant. [148] He stated that cases of severe assault by a husband on a wife were most often resolved through mediation, that is, through a civil (divorce) procedure rather than a criminal prosecution.

When a woman has been beaten, if she does not call the police or if the police do not respond, the first person she may have contact with is an emergency technician (if she or someone else calls an ambulance), a general practitioner or a forensic doctor. They will write up a report of the victim's injuries and assess whether the injuries are grave or light. A forensic doctor may also make a determination of the cause of the injuries. If the case goes to trial, the medical report is a critical piece of evidence. It may be disputed by a forensic doctor testifying as an expert witness.

If injuries are not "grave" under the statutory definition, the state will not prosecute the perpetrator of an assault. If the victim wants the case to go to trial, she must bring a private complaint, conduct her own investigation, and gather her own evidence and witnesses. It may be extremely difficult for a woman to orchestrate a criminal prosecution while suffering from domestic violence. Additionally, the cost of hiring a private attorney may be prohibitively expensive for most women in Macedonia. Although some individual attorneys offer their services at nominal rates, pro bono legal assistance is not widely available. [149]

The conclusions of a forensic doctor may have significant legal ramifications and may even be dispositive in a trial for assault. [150] Several women reported that many women do not know that they must obtain a forensic report as soon after the assault as possible. Reports by forensic doctors are considered to be much more persuasive than reports by a general practitioner or emergency technicians. Forensic reports, however, may cost up to the equivalent of the average monthly salary in Macedonia.[151]

In addition to these provisions in the Criminal Code, prohibitions on domestic violence may also be enforced through the provisions entitled "Crimes Against the Public Order." [152] Activists in Macedonia, however, note that perpetrators punished under this section

often receive minor penalties for their actions. [153]

"Crimes against the Freedom of Sexes and Sex Morality" are addressed in Articles 187-195 of the Penal Code. Macedonia now recognizes rape within marriage as a criminal offense in this section of the Penal Code. [154] Cases of marital rape are only prosecuted by private complaint.[155]

The court may fine or parole the perpetrator of an assault. One Criminal Court judge told Minnesota Advocates that parole is preferred in cases of violence within the family because it is a form of punishment that preserves future relations. [156] Although there is no official policy to this effect, judges routinely reduce the perpetrator's sentence if the victim withdraws her complaint.[157]

### **C. Civil Law –Divorce**

Several judges and attorneys explained that divorce is the primary legal solution to domestic violence in Macedonia. Given the improbability of successfully prosecuting a domestic assault (either privately or officially), many more victims and perpetrators of domestic assault resolve their disputes through civil litigation than through the criminal justice system.

Divorce in Macedonia does not require a showing of fault. [158] There are three types of divorce: by agreement (both parties wish to be divorced), [159]by complaint (one party sues the other for divorce), [160] and de facto divorce (where the parties have already been separated for some period of time).[161] One Civil Court judge reported that if the police are called to the scene of a domestic assault and the injuries inflicted are not severe, they will advise the couple to seek a divorce.[162]

Before a couple will be granted a divorce, they must undergo three months of counseling by a team of social workers, psychologists, and child psychologists (when applicable) at the Center for Social Assistance. [163] They are placed in counseling as soon as they file a complaint, before an initial hearing. Either of the parties may petition the court to shorten the mandatory counseling period. The counseling period may also be extended by order of the court if the counseling team reports that this step is appropriate. The goal of the counseling period is to attempt reconciliation and to settle alimony and custody arrangements. [164] In the majority of cases, the mediation procedure is unsuccessful.[165]

Divorce by complaint is also sometimes called "divorce due to disharmony." Disharmony is a very common reason given for seeking a divorce in Macedonia.[166] Minnesota Advocates was told that disharmony may refer to a variety of marital "difficulties," including beatings, as well as cultural differences, "irreconcilable differences," and financial difficulties. [167] It is possible that many of the divorces sought because of "disharmony" in the family represent cases of domestic violence that, if acknowledged, could alternatively be prosecuted under the Penal Code. One Civil Court judge reported that, "family violence on the man's part is a very common reason for divorce." [168] The

courts do not keep statistics that indicate the number of cases that involve issues of domestic violence.

Divorce has emerged as a common "solution" to domestic violence in Macedonia since it has recently become relatively easy to obtain. Under the law in Macedonia, an individual cannot obtain a restraining order against a family member. [169] With little hope for criminal prosecution of perpetrators, divorce may be the only effective means for a woman to separate herself from an abusive partner, even with the mandatory counseling period. Some of the people interviewed by Minnesota Advocates claimed that the social stigma associated with divorce has largely disappeared. Many also said that a woman would only seek a divorce when the violence becomes truly unbearable, when her life is in danger, or when she begins to see her children being affected. Therefore, the number of divorces people recognize as stemming from domestic violence may represent only a small percentage of the actual cases.

Civil Court judges estimated that women retain custody of children in 70% to 90% of divorces. [170] At the same time, in approximately 70% of the cases, the women and children leave the family home. [171] One judge also reported that in many of these cases, the woman is fleeing the home. [172] Under these circumstances, the women bear the costs of feeding and clothing the children (a task made especially difficult given the lack of enforcement mechanisms for child support and alimony payment) and also bear the burden of locating a new home. All of these factors combine to raise the cost of the legal remedy of divorce for women.

#### **IV. MACEDONIA'S OBLIGATIONS UNDER INTERNATIONAL LAW**

As a member of the United Nations, Macedonia is obligated to protect the human rights of its citizens. The provisions of the Universal Declaration of Human Rights and numerous other human rights instruments, such as the Declaration on the Elimination of Violence Against Women, define Macedonia's human rights obligations as a member of the international community. In addition, Macedonia is a party to the International Covenant on Civil and Political Rights and the Convention on the Elimination of All Forms of Discrimination Against Women and is bound by the terms of these conventions. The international standards described in these instruments condemn violence against women and domestic violence. The United Nations has recognized an affirmative obligation of member states to protect women from violence perpetrated by private persons and has articulated specific responsibilities of governments to eradicate this violence. [173]

A government's failure to respond to systematic violence against women is a violation of its obligations under international law:

The state's abdication of its duty to protect its citizens from crimes of violence amounts to a tacit endorsement of that violence. That complicity provides the requisite governmental dimension to consider the violence a human rights issue.[174]



The Macedonian government's failure to respond appropriately to the problem of domestic violence violates international human rights standards.[175]

**A. Women in Macedonia are being denied the right to security of the person and freedom from torture and cruel, inhuman or degrading treatment.**

The Universal Declaration of Human Rights includes several provisions relating to an individual's right to be free from violence and abuse. Article 3 provides that "[e]veryone has the right to life, liberty and security of person." Article 5 provides that "[n]o one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment." [176] The International Covenant on Civil and Political Rights also provides that "[e]very human being has the inherent right to life" (Article 6) and that "[n]o one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment" (Article 7).[177]

Evidence available from hospitals, doctors, legal professionals and other sources indicates that domestic abuse is a serious, widespread problem in Macedonia. The evidence also indicates that the Government does not respond effectively to this problem. The police generally do not make arrests nor do they routinely attempt to remove the perpetrator of the assault from the home. The Macedonian Government has not created a system that provides security to women who are beaten by their husbands or partners. By failing to protect women from private perpetrators of violence, Macedonia has failed to adhere to its obligations under the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.

**B. Women in Macedonia are being denied an effective remedy for acts violating their fundamental human rights.**

The Universal Declaration of Human Rights (Article 8)[178] and the International Covenant on Civil and Political Rights (Article 2)[179] guarantee that states shall provide an effective and adequate remedy for acts violating fundamental rights guaranteed by constitution or by law.

As set forth in detail above, the Macedonian legal system does not provide an adequate remedy for the denial of women's fundamental rights to be free from violence. Women face serious obstacles at each step of the legal process. The police do not generally investigate claims of domestic violence, arrest perpetrators or remove abusers from the home. In fact, police sometimes contribute to the abuse. Women are forced to maneuver the criminal justice system without the assistance of a state prosecutor. In addition, the high cost of obtaining a forensic certificate and retaining an attorney make it even more difficult for women to seek an effective remedy when they have been assaulted in their homes.

Even when a woman successfully prosecutes a complaint, the courts will likely only impose a small fine or a suspended jail sentence on the perpetrator. Several judges expressed concern that they may cause more problems by punishing the perpetrator of a

domestic assault. The courts rarely force a man who has assaulted his partner to leave the family home, and the housing shortage precludes many women from seeking alternative living arrangements. This failure to take action exposes the woman to more violence.

Women do not have an effective means of recourse against their violent husbands under the Macedonian legal system. The legal system's failure to protect women from domestic violence and to punish perpetrators violates Macedonia's obligation under the International Covenant on Civil and Political Rights to provide an adequate remedy for the violation of a women's fundamental human rights.

### **C. Macedonia is not in compliance with the Convention on the Elimination of All Forms of Discrimination Against Women and the Declaration on the Elimination of Violence Against Women**

The Convention on the Elimination of All Forms of Discrimination against Women<sup>[180]</sup> forbids discrimination against women. The Committee on the Elimination of Discrimination Against Women (CEDAW) in its General Recommendation 19 has explained that violence against women constitutes discrimination and ". . . seriously inhibits women's ability to enjoy rights and freedoms on a basis of equality with men."<sup>[181]</sup> General Recommendation 12 recommends that all parties to the convention report to CEDAW on the existence of support services for victims of family violence, relevant legislation, statistical data and measures adopted to eradicate violence against women in the family.<sup>[182]</sup>

The Declaration on the Elimination of Violence Against Women recognizes domestic violence as a "manifestation of historically unequal power relationships between men and women" and condemns the violence as one of the "crucial social mechanisms by which women are forced into a subordinate position compared with men." The Declaration includes explicit directions to member countries to ". . . not invoke any custom, tradition or religious consideration to avoid their obligations with respect to its elimination." <sup>[183]</sup> The Declaration sets forth specific steps a member state should take in combating domestic violence. These steps include: investigating and punishing acts of domestic violence; developing comprehensive legal, political, administrative and cultural programs to prevent violence against women; providing training to law enforcement officials; and promoting research and collecting statistics related to the prevalence of domestic violence.

Article 4(g) of the Declaration directs that states work to ensure that women subjected to violence and their children receive "specialized assistance, health and social services, facilities and programs as well as support structures, and [that states] take all other appropriate measures to promote their safety and physical and psychological rehabilitation."<sup>[184]</sup>

The provisions of the Women's Convention and the Declaration on the Elimination of Violence Against Women are strengthened and reinforced in the Beijing Declaration and

Platform for Action. The Platform for Action sets forth a comprehensive strategy for governments to address the problem of violence against women.[185]

The Macedonian Government fails to meet all of these international standards. As discussed above, crimes of domestic assault are not adequately prosecuted and women are not provided adequate protection from further acts of violence. There are no domestic abuse advocacy programs in Macedonia to assist victims in filing complaints or in maneuvering through any part of the legal process. In addition, Minnesota Advocates found no evidence of any effort to ensure that law enforcement officers and public officials responsible for investigating and punishing violence against women are receiving training to understand the unique and complicated issues involved in domestic assault.

There are no Government-sponsored prevention programs or programs to provide counseling or specialized mental health care to victims of domestic violence. There are no shelters or safe houses and no social programs to deal with the unique problems created by domestic violence. In addition, the government does not require the health care community in Macedonia to respond appropriately to victims of domestic abuse. There are no services available to victims of violence in Macedonia as outlined in the Declaration on the Elimination of Violence Against Women and CEDAW General Recommendation 19.

## **V. CONCLUSION**

Women in Macedonia are routinely denied their fundamental right to be free from violence. Existing legal, economic, and social structures prevent women from obtaining any real redress for domestic violence crimes. Through its failure to respond appropriately to the problem of domestic violence and its discrimination against the victims of domestic violence in the enforcement of its assault laws, the Macedonian Government has failed to meet its commitments as a member of the United Nations and has violated international human rights law.

## ENDNOTES

- [1] Interview with inmate at Idrizovo Women's Prison (June 21, 1996). Many of the women in the prison reported that they had no where to turn for protection against their abusive partners and that they did not feel safe until they went to prison.
- [2] The United Nations first officially recognized violence against women as a human rights abuse in the Vienna Declaration and Programme of Action (VDPA). U.N. DOC. A/CONF. 157/24 (1993). The VDPA calls on the General Assembly of the United Nations to adopt a declaration condemning violence against women in all its forms. *Id.* In December 1993, the General Assembly adopted the Declaration on the Elimination of Violence Against Women (DEVAW), G.A. Resolution 48/104 (1993). The DEVAW defines violence against women to include, "physical, sexual and psychological abuse occurring in the family." *Id.*
- [3] The term "Macedonia" is often used to describe a large mountainous area divided among Greece, Bulgaria, and the Republic of Macedonia. The term "Macedonia," however, will be used in this report to describe the Republic of Macedonia. The boundaries of the Republic of Macedonia correspond to those drawn at the time Marshal Josip Tito established Macedonia as one of the five Yugoslav republics in 1945. Macedonia declared its independence in 1991.
- [4] *Rhea Silvia*, published by the Humanitarian Association for Emancipation, Solidarity and Equality of Women, 1997, p. 64 [hereinafter *Rhea Silvia*].
- [5] The Union of Women's Organizations of Macedonia created the SOS Hotline in 1993 to provide counseling and assistance to women and children victims of violence.
- [6] *Rhea Silvia*, *supra* note 4, at 82-83.
- [7] The research was conducted during two visits. The first delegation traveled to Macedonia in June 1996. It consisted of Robin Phillips, Kristine Lizdis and Susannah Pollvogt. In May 1997, Robin Phillips, Johanna Bond and Marlene Kayser returned to Macedonia to complete the research.
- [8] Minnesota Advocates defined domestic violence as violence against women. This definition reflects research that indicates women are the most common victims of violence in the family. *See* United Nations Centre for Social Development and Humanitarian Affairs, *Strategies for Confronting Domestic Violence: A Resource Manual*, at 7, U.N. Doc. ST/CSDHA/20 (1993).
- [9] G.A. Res. 7 A(III) Dec. 10, 1948, U.N. Doc. A/810 (1948).
- [10] G.A. Res. 2200 A(XXI), December 16, 1966, 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc A/6316 (1966), 999 U.N.T.S. 171, *entered into force* March 23, 1976.
- [11] G.A. Res. 34/180, U.N. GAOR Supp. (No. 46), U.N. Doc. A/Res/34/180, *entered into force* September 3, 1981.
- [12] U.N. Doc. A/44/38 (1989); U.N. Doc A/47/38 (1992).
- [13] G.A. Res. 48/104 (1993).
- [14] *See* sec. IV for a detailed discussion of Macedonia's obligations under international law.
- [15] *See* U.S. Dep't. of St., *Country Reports on Human Rights Practices for 1997*, 1187 (1998). The report states that violence against women, especially in the family, is common. It notes that some women's groups in Macedonia are working to raise public awareness of the issue.

- [16] See discussion *infra* sec. II F.
- [17] See *infra* sec. II F (discussing the myths associated with domestic violence in Macedonia.)
- [18] The portions were given names related to their ruling country. The Greek portion was named Aegean Macedonia, the Bulgarian Pirin Macedonia, and the Serbian was named Vardar Macedonia.
- [19] *Report on the U.S. Helsinki Commission Delegation to Romania, Macedonia, Kosovo (Serbia) and Vienna*, Commission of Security and Cooperation in Europe, p.10, April 1993.
- [20] Loring M. Danforth, *Claims to Macedonian Identity: the Macedonian question and the breakup of Yugoslavia*, *Anthropology Today*, Vol. 9, No. 4, Aug. 1993, at 4.
- [21] *Id.*
- [22] *Id.*
- [23] Prior to this time, most Macedonians would have identified themselves as Serbs, Greeks or Bulgarians. See *Id.*
- [24] Currently, both Greeks and Bulgarians claim that the Macedonian identity is an artificial Communist creation. Human Rights Watch, *a Threat to "Stability" -Human Rights Violations in Macedonia 7* (1996) [hereinafter "Stability"].
- [25] Loring M. Danforth, *Supra* note 20, at 4.
- [26] U.N. Doc. E/CN.4/1996/63 (1996).
- [27] *Stability*, *supra* note 24, at 11.
- [28] USAID, *USAID Congressional Presentation FY 1997, Former Yugoslav Republic of Macedonia* at 1.
- [29] Reuters, *Macedonia Embargo is Halted by Greece*, N.Y. Times, Oct. 16, 1995, at A3.
- [30] Macedonia was admitted into the United Nations in April, 1993. In 1995, it was accepted into the Organization for Security and Cooperation in Europe and the Council of Europe. The United States also established diplomatic relations with Macedonia in 1995.
- [31] U.N. Doc. E/CN.4/1995/10 (1994).
- [32] Interviews June 1996 and April - May 1997.
- [33] Suzana Ahmeti and Ljubica Balaban, *Violence Against Women: The Hidden Suffering in our Homes*, *Dnevnik*, May 15, 1996.
- [34] *Id.*
- [35] Non-governmental organizations have conducted research and held seminars to address problems of violence against women.
- [36] Rhea Silvia, *supra* note 4, at 64.
- [37] *Id.*
- [38] *Id.* at 66.
- [39] *Id.* at 62.
- [40] These statistics were reported to Minnesota Advocates during interviews conducted on June 19, 1996, and April 29, 1997, with volunteers of the SOS hotline.
- [41] *Id.*
- [42] Women are often reluctant to seek medical treatment for injuries caused by domestic violence. In the survey conducted by ESE, less than 5% of the women reported that they sought medical attention for injuries resulting from domestic violence. Rhea Silvia, *supra* note 4, at 68.

- [43] Interview with general practitioner (June 13, 1996).
- [44] *Id.*
- [45] *Id.*
- [46] Interview with forensic doctor (June 13, 1996). He stated that the greatest cause of injury is car accidents and the second is fights between men. This doctor was not willing to estimate the greatest cause of injury to women. Forensic doctors produce medical reports for use in future legal proceedings. *See infra* sec. III B for a detailed discussion of the role of forensic doctors in the legal system.
- [47] *Id.*
- [48] Interview with a forensic doctor (June 13, 1996).
- [49] Interview (April 30, 1997).
- [50] Interview (May 6, 1997).
- [51] *Id.*
- [52] Interview with psychiatrist (June 19, 1996).
- [53] A Macedonian investigative journalist reporting on domestic violence concluded that: "[V]iolence is not confined to poor or uneducated families. Men who mistreat their wives come from all classes." Suzana Ahmeti and Ljubica Balaban, *Violence Against Women: The Hidden Suffering in our Homes*, Dnevnik, May 15, 1996.
- [54] Interview with psychiatrist (June 19, 1996).
- [55] Interviews June 1996 and April - May 1997.
- [56] Interview with Chief Public Prosecutor (June 18, 1996).
- [57] *Id.*
- [58] *Id.*
- [59] *Id.*
- [60] Interview (June 17, 1996).
- [61] Interview (June 17, 1996).
- [62] *See infra* sec. III, B(1) (discussing the legal distinction between light and serious injuries).
- [63] Interview with counselor at Center for Social Assistance (June 18, 1996).
- [64] *Id.*
- [65] *Id.*
- [66] The law does not require a showing of fault for divorce in Macedonia. *See* Macedonian Family Code secs. 39 - 41 (1992).
- [67] Interview with Criminal Court judge (June 13, 1996).
- [68] Interview with Civil Court judge (June 14, 1996).
- [69] Interviews with volunteers of the SOS Hotline (June 19, 1996).
- [70] *Id.*
- [71] *Id.*
- [72] Interview (June 17, 1996).
- [73] *Id.*
- [74] Unpublished report, *Incriminalization of the Family Violence in the Criminal Code of the Republic of Macedonia*, presented by Milka Ristova at the Inter-Balkan Conference on Legal Strategies to Combat Domestic Violence, November 1997, in Sofia, Bulgaria.
- [75] Interview (June 21, 1996).
- [76] Interviews (June 17, 20, and 21, 1996).
- [77] Interviews (June 20, and 21, 1996).

- [78] Interviews (June 20, 1996).
- [79] Interviews (June 17, 20, and 21, 1996).
- [80] Interviews indicated that police reserve particular forms of brutality for women--including rape and sexual harassment--though "police violence seems to be a general problem in the country that afflicts all citizens . . . ." Stability, *supra* note 24, at 51.
- [81] Interview (June 20, 1996).
- [82] Interviews (June 21, 1996).
- [83] *Id.*
- [84] *Id.*
- [85] "Despite the adoption of democratic legal standards . . . there are still many violations of due process in Macedonian courts against all citizens . . . ." Stability, *supra* note 24, at 2.
- [86] Interview (June 21, 1996). At the time of these interviews, the psychiatrist reported that there was a total of 19 women in the prison. Those who did not participate in the interviews were participating in a prison work program.
- [87] Suzana Ahmeti and Ljubica Balaban, *Jovanka's Story: How One Victim Killed*, Dnevnik, May 13, 1996.
- [88] *Id.*
- [89] Interview with psychiatrist in Idrizovo prison (June 21, 1996). A newspaper article reported that "[i]n the women's section of Idrizovo prison, six women from all over Macedonia serve sentences for murdering their husband, lover or brother-in-law." Suzana Ahmeti and Ljubica Balaban, *Violence Against Women: The Hidden Suffering in our Homes*, Dnevnik, May 15, 1996.
- [90] Interviews (June 21, 1996).
- [91] *Id.*
- [92] This interview took place May 7, 1997.
- [93] Interview (May 7, 1997).
- [94] This level of discretion seems to undermine the precision required during normal assault trials, when forensic doctors are called to testify as expert witnesses on whether a particular injury can be categorized "severe."
- [95] Interview with Civil Court judge (June 12, 1996).
- [96] *Id.*
- [97] *Id.*, see *infra*, sec. III B(1).
- [98] For a discussion of the causes of domestic violence, see *Domestic Violence, Report of the Secretary-General*, Eighth U.N. Congress on the Prevention of Crime and the Treatment of Offenders at 8, U.N. Doc. A/Conf.144/17 (1990).
- [99] G.A. Res. 48/104 (1993).
- [100] Educational level is an important index of social position in Macedonia. People commonly distinguish "intellectuals" from "non-intellectuals" when discussing a variety of social issues.
- [101] Interview (June 18, 1996).
- [102] Howard Holtz and Kathleen Furniss, *The Health Care Providers Role in Domestic Violence*, Trends in Health Care, Law & Ethics, Vol. 8, No. 2, Spring 1993, p. 48.
- [103] *Id.*
- [104] Interview (June 13, 1996).
- [105] *Id.*

- [106] Interview (June 19, 1996).
- [107] Interview (June 19, 1996).
- [108] Interview with private attorney (June 17, 1996).
- [109] Interview with Civil Court judge (June 12, 1996).
- [110] Biljana Bejkova, *Women in "A Man's World,"* in War Report 48 (Sept. 1995), [hereinafter Bejkova].
- [111] Interview with Civil Court judge (June 12, 1996); Interview with general practitioner (June 13, 1996); Interviews with SOS Volunteers at Weekly Meeting (June 19, 1996).
- [112] Interviews with SOS Volunteers at Weekly Meeting (June 19, 1996).
- [113] *Id.* While increased economic independence for women was often described as a "solution" to domestic violence, this approach only represents the acquisition of better coping skills on the part of the victim, rather than a direct challenge to men's power to batter--a challenge that will have to be addressed by the whole society, not just by individual victims.
- [114] Bejkova, *supra* note 110, at 48.
- [115] Under the Macedonian Family Code, art. 237, a couple seeking a divorce must undergo three months of counseling.
- [116] Unpublished report, *Incriminalization of the Family Violence in the Criminal Code of the Republic of Macedonia*, presented by Milka Ristova at the Inter-Balkan Conference on Legal Strategies to Combat Domestic Violence, November 1997, in Sofia, Bulgaria.
- [117] Constitution of the Republic of Macedonia, art. 9 [hereinafter Constitution].
- [118] *Id.*, arts. 12, 13, 14, and 15.
- [119] *Id.*, art. 16.
- [120] *Id.*, Preamble and art. 8.
- [121] *Id.*, art. 8.
- [122] *Id.*, art. 8.
- [123] Stability, *supra* note 24, at 1.
- [124] Constitution, *supra* note 117, Preamble. The Preamble declares Macedonia the "national state of the Macedonian people, in which full equality as citizens and permanent co-existence with the Macedonian people is provided for Albanians, Turks, Vlachs, Romanies and other nationalities living in the Republic of Macedonia . . . ."
- [125] *Id.*, Preamble (the Constitution is "intent on . . . the guaranteeing of human rights, citizens' freedoms and ethnic equality . . . .").
- [126] Stability, *supra* note 24, at 27-29; 52-64.
- [127] Constitution, *supra* note 117, art. 9.
- [128] *Id.*, arts. 9, 32, 44, 54, and 100.
- [129] Bejkova, *supra* note 110, at 48. As a point of comparison, there is a disparity between Albanians' presence among the general population (22.9% -the minimum estimate) and among members of Parliament (15.8% -nineteen seats out of 120). Stability, *supra* note 24, at 27. Women of all ethnicities enjoy only a 1.6% (two seats out of 120) representation in Parliament. The disparities in representation of ethnic minorities is noteworthy, especially given that the problem of under-representation is much more severe in other government bodies and in private employment. *Id.* at 27.



[130] A Public Prosecutor told Minnesota Advocates that he believed women's numbers to be as high as 90% at the lower court level. However he explained that "the situation is better for men in the higher courts." Interview with Public Prosecutor (June 18, 1996).

[131] Teuta Arifi, *Women's Alternative* in 36 War Report 49, p.50 (Sept. 1995).

"[P]olitics [in Macedonia] are patriarchal. Thus, women in Macedonia have been unable to influence the laws and policies concerning the family, human rights, social welfare or abortion law--let alone anything else."

[132] Constitution, *supra* note 117, art. 11.

[133] *Id.*, art. 12.

[134] *Id.*, art. 50.

[135] *Id.*, art. 25.

[136] *Id.*, art. 26.

[137] *Id.*, art. 26.

[138] Macedonian Criminal Code, art. 130.

[139] Macedonian Criminal Code, art. 131.

[140] Interviews (June 12 and 14, 1996).

[141] Macedonian Criminal Code, art. 130.

[142] The Macedonian Criminal Code provides the following definition for grave bodily injury:

[143] Macedonian Criminal Code, art. 131.

[144] Macedonian Criminal Code, art. 130 (3).

[145] *See* Macedonian Criminal Code, art. 131.

[146] *See, e.g.*, Minnesota Advocates For Human Rights, Domestic Violence in Bulgaria 10 (1996) (injuries are divided into light, medium and grave; medium and grave injuries must be officially prosecuted); *See also*, Minnesota Advocates For Human Rights, Lifting The Last Curtain: A Report on Domestic Violence In Romania 11 (1995) (there are five categories of assault based on the type of injury caused: Battery, Bodily Injury, Unintentional Bodily Injury, Aggravated Bodily Injury, and Battery Causing Death; the last two categories of assault must be prosecuted officially); *See, e.g.*, Minnesota Advocates For Human Rights, Domestic Violence in Bulgaria 10 (1996) (injuries are divided into light, medium and grave; medium and grave injuries must be officially prosecuted); *See also*, Minnesota Advocates For Human Rights, Lifting The Last Curtain: A Report on Domestic Violence In Romania 11 (1995) (there are five categories of assault based on the type of injury caused: Battery, Bodily Injury, Unintentional Bodily Injury, Aggravated Bodily Injury, and Battery Causing Death; the last two categories of assault must be prosecuted officially).

[147] Interview with Public Prosecutor (June 18, 1996).

[148] Research into the office's records conducted by a women's NGO located in Skopje, originally uncovered this fact. The Prosecutor reported that he was not aware of this statistic himself before this research was conducted. *Id.*

[149] Interview with SOS volunteer attorney (June 18, 1996).

[150] Interview with forensic doctor (June 13, 1996).

[151] Interview with forensic doctor (June 13, 1996).

[152] Macedonian Criminal Code, art. 386.

[153] Rhea Silvia, *supra* note 4, at 31.

[154] Macedonian Criminal Code, art. 187.

[155] Macedonian Criminal Code, art. 187(4)

[156] Interview with Criminal Court judge (June 13, 1996).

[157] *Id.*

- [158] *See* Macedonian Family Code, art 39-41 (1992).
- [159] *Id.*, art. 39 (1992).
- [160] *Id.*, art. 40 (1992).
- [161] *Id.*, art. 41 (1992).
- [162] Interview with Civil Court judge (June 12, 1996).
- [163] Macedonian Family Code, art. 237 (1992). The Center for Social Assistance is a government operated counseling center.
- [164] Property divisions are determined in a separate civil procedure.
- [165] Interview with Civil Court judge (June 14, 1996).
- [166] *Id.*
- [167] *Id.*
- [168] *Id.*
- [169] Interview with Civil Court judge (June 12, 1996).
- [170] Interview with Civil Court judges (June 12 and 14, 1996).
- [171] Interview with Civil Court judge (June 12, 1996).
- [172] Interview (June 14, 1996).
- [173] *See, e.g.*, Declaration on the Elimination of Violence Against Women, G.A. Resolution 48/104 (1993).
- [174] Kenneth Roth, Domestic Violence as an International Human Rights Issue, *Human Rights of Women* 326, 329-330 (Rebecca Cook, ed. 1994)
- [175] For a detailed discussion of the concept of state responsibility to victims of domestic violence, *see* Katherine Culliton, *Finding a Mechanism to Enforce Women's Right to State Protection from Domestic Violence in the Americas*, 34 *Harv. Int'l. L.J.* 507 (1993), and Dorothy Thomas and Michele Beasley, *Domestic Violence as a Human Rights Issue*, 15 *Hum. Rts. Q.* 36 (1993).
- [176] G.A. Res. 217 A(III), U.N. Doc. A/810 (1948). These provisions are generally regarded to have the force of customary international law.
- [177] *Supra* note 10.
- [178] *Supra* note 9.
- [179] *Supra* note 10.
- [180] *Supra* note 11.
- [181] U.N. Doc. A/47/38 (1992).
- [182] U.N. Doc. A/44/38 (1989).
- [183] G.A. Resolution 48/104 (1993).
- [184] *Id.*
- [185] Beijing Declaration and Platform for Action, U.N. Doc. A/Conf. 177/20 (1995).