

**DOMESTIC VIOLENCE IN ALBANIA**

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## **DEDICATION**

This report is dedicated to the women of Albania.

## DOMESTIC VIOLENCE IN ALBANIA

*I lived with "J" and my two young daughters. After some time, J became abusive. He severely beat me and took my money over a period of three years. I finally decided I had had enough after one particularly brutal beating resulting in black eyes, broken teeth and body injuries that kept me from work for more than three months. I prosecuted J for the assault and he was only given a small fine as a punishment.*

*After the court action, J's beatings became more violent. I went to the police several times but they told me there was nothing that they could do. They said that even if I prosecuted him again, J would likely only be assessed another fine. I could not leave because I had no place to go. One night J came home drunk. He had beaten me severely the night before. He shouted and threw things around the house. He threatened to bring his friends over to rape my daughters and me. He beat me again and threw me to the floor. He told me to keep my head down and not to watch what he was going to do to my daughter. When I could look up, I saw J undressing my daughter. I got up and pulled my daughter outside the door. I then hit J over and over again with a sharp object. He died as a result of the injuries. I was convicted of murder and am serving an 18 year prison sentence. They did not consider J's behavior in my trial. Is this justice?[1]*

### I. PREFACE

Violence against women is perhaps the most pervasive yet least recognized human rights abuse in the world.[2] Domestic violence has been found to be a serious problem in every country where the problem has been studied. Where statistics are recorded, the rate of women beaten by their spouses or intimate partners ranges from 40% to 80%.[3] Domestic violence is also a serious human rights problem in Albania. In interviews conducted by Minnesota Advocates for Human Rights, both men and women reported incidents of severe physical abuse of women by their husbands and intimate partners. A group of professional women in Tirana estimated that, based on their personal life experiences, more than half of the women in Albania have been beaten by their husbands or partners.[4] In a recent survey conducted by the women's association "Refleksione" in Albania, more than 63% of the women surveyed reported that they had been abused by their husbands or partners.[5]

Violence against women is a violation of the fundamental universal human rights of women. Violence against women in the family has recently been recognized as a priority for international action.[6] In 1993, the United Nations General Assembly adopted the Declaration on the Elimination of Violence Against Women. [7] This Declaration outlines the international legal instruments that protect a woman's right to be free from violence and sets forth the responsibilities of individual governments to ensure that these protections are enforced. In 1994, the United Nations Commission on Human Rights

appointed a Special Rapporteur on Violence Against Women to collect comprehensive data and to recommend measures at the national, regional and international level to eliminate violence against women and its causes.

As one of the 185 countries participating in the United Nations Fourth World Conference on Women in Beijing, China, Albania committed itself to eliminate violence against women and to promote and protect women's human rights. The Beijing Platform for Action adopted at the Conference recognizes that violence against women is a violation of human rights and suggests strategies for eliminating this violence.[8] Both the Declaration on the Elimination of Violence Against Women and the Beijing Platform for Action encourage governments and non-governmental organizations to eliminate violence and to promote research and studies on the nature and causes of violence against women.[9]

In 1995, Minnesota Advocates for Human Rights sent a delegation to Albania to investigate domestic violence and evaluate the governmental and societal responses to this issue. [10] In conducting this research, the delegation 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. [11]

The delegation also documented mental and emotional abuse to the extent this information was available.

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

Violence against women in the home is a widespread problem in Albania. A women's fundamental right to be free from violence is not protected by the Albanian criminal justice system. The police almost never remove abusers from the home. The state generally does not assist in prosecuting crimes of domestic assault unless the woman has been killed or permanently injured. Police, prosecutors and judges treat domestic violence as a situation for which each party bears equal responsibility. They invariably try to persuade women to pardon their abusers at each stage of the legal process. The result of this focus on persuading the victim to do nothing rather than on the aggressive prosecution of the abuser is that the vast majority of women drop charges of assault before a trial is conducted. In the five month time period for which Minnesota Advocates reviewed court records, not a single person was tried for domestic assault in the Tirana District Court. During this same time period, approximately 150 to 300 women reported to the Tirana prosecutor's office that they were assaulted by their spouses or intimate partners. In the rare case where there is a conviction, the courts do not fulfill their obligation to punish perpetrators of violence against women in the home. Abusers rarely serve time in prison, although imprisonment is a potential punishment under the assault

statute. In addition, the government does not provide any social services to victims of domestic assault nor does it attempt in any way to prevent these crimes from occurring. Through its failure to condemn or respond to the serious problem of domestic violence, the Albanian government has demonstrated its complicity in widespread violence against women. The Albanian government's silence and inaction violate its international legal obligations as a member of the United Nations. The Albanian government has failed to address the following issues regarding victims of domestic violence:

1. Violence against Albanian women in their homes is a violation of their fundamental right to security of person as guaranteed in the Universal Declaration of Human Rights[12] and to freedom from torture and cruel and inhuman or degrading treatment as guaranteed in the International Covenant on Civil and Political Rights.[13]
2. Albanian victims of domestic violence have been denied their right to an effective and adequate remedy. By systematically failing to provide effective prosecution of crimes of domestic violence and failing to enforce criminal laws on behalf of domestic violence victims, Albania is violating the right to a remedy guaranteed under the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.
3. The Albanian government is not in compliance with the provisions of the Convention on the Elimination of all Forms of Discrimination Against Women[14] (including General Recommendations 12 and 19 of the Committee on the Elimination of Discrimination Against Women[15]) and the Declaration on the Elimination of Violence Against Women[16], including the following:
  - a. Albania has not met its obligation to protect women from violence perpetrated by private persons, including spouses and intimate partners;
  - b. Albania 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. Albania 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 for Human Rights recommends:

1. The Albanian government should afford victims of domestic violence meaningful access to the criminal justice system.

2. The Albanian government should provide an effective remedy for harm suffered by victims of domestic violence.
3. The Albanian government should institute a program of education and training of all law enforcement officials, including police officers, prosecutors and judges on the unique 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. If necessary, the government should seek assistance from international sources in providing the requisite education and training.
4. The Albanian government should educate the public about the problem of domestic violence and support the public education efforts of non-governmental organizations. This education should include public service announcements on television and radio, discussion of domestic violence as a human rights abuse in primary and secondary education curriculum and systematic dissemination of information relating to the legal rights and remedies available to victims of domestic violence.
5. The Albanian government should vigorously investigate and prosecute crimes of domestic violence whenever they occur and institute appropriate measures to protect victims of violence from further abuse.
6. The Albanian government should take measures to ensure that women subjected to violence and, where appropriate, their children, have specialized assistance, such as shelters, rehabilitation, treatment and counseling, assistance in child care and maintenance, and other health and social services.
7. The Albanian government should take into account violence perpetrated against women in cases where women are accused of taking violent actions against their abusers.
8. The Albanian government should require medical and legal institutions to keep reliable statistics on the number and nature of domestic violence crimes.
9. The Albanian 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.
10. The Albanian government should conform to the Declaration on the Elimination of Violence Against Women and the Beijing Platform for Action in its work toward the elimination of violence against women and the provision of services for victims of such violence.

## **II. DOMESTIC VIOLENCE IN ALBANIA**

### **A. Introduction**

Although domestic violence is a widespread problem in Albania, it is not openly discussed. Many women silently accept violence in their homes as a normal part of everyday life. Some women do not discuss domestic violence because they believe that their families would "hold it against them" if they did.[17] The United Nations Development Project in Tirana reports:

Violence in the family is still a problem not discussed, as it should, by the Albanian public. In addition, the level of awareness of women about their rights in the family is not satisfactory. The idea that physical and psychological violence is in some way part of the marriage dominates in many cases.[18]

The problem of domestic violence is also complicated by the high rate of unemployment and the severe housing shortage in Albania. Often, people are forced to stay in abusive relationships because they have no other place to go. The severe housing shortage in Albania provides additional problems for many women. Traditionally, young married couples live with the husband's parents. Often, a married couple is forced to live in a small apartment with parents, married siblings and nieces and nephews. For some women, this means that they are not only abused by their husbands but also by their fathers-in-law, brothers-in-law and other extended family members.[19]

Although women technically have the right to prosecute their abusers in Albania, it rarely happens. At each step of the process, the police, the prosecutor and the judge try to convince the woman to pardon the man who is beating her. Even if a woman wants to prosecute her abuser, she generally drops the charges at some point before a trial is conducted because she has no support from government or non-governmental advocacy groups.

The government currently does not provide any social services to women who have been abused. There are no shelters, counseling centers or services providing telephone counseling. There is no place for a woman to go for assistance in Albania if she has been beaten.[20]

Women's non-governmental organizations have started addressing the problem. For example, the women's association Refleksione recently completed a survey relating to domestic violence and the social attitudes toward violence against women in the home. This study was part of a broader program to educate the public about the problem of domestic violence in Albania. Refleksione is now working with other organizations to start a counseling center for women victims of violence.

## **B. Historical Background**

The political and social changes in Albania over the past five years have been among the most dramatic in Eastern Europe. The communist party in Albania, the Albanian Party of Labor, held exclusive control in the country for over forty years. It created one of the most isolated and repressive governments in the world. In 1992, the party surrendered power to a democratically-elected parliament. Now Albania, once virtually cut off from the outside world, is actively seeking foreign investment, assistance and expertise. Albania has begun the process of reconstructing and recreating its legal, political and economic structures. The current government has repeatedly expressed a desire to incorporate modern democratic principles and international human rights standards into Albanian law.

Violence against women must be analyzed in the context of this transition and the strong social, cultural and political traditions that influence life in Albania. Despite protracted communist rule, Albania is a "society still deeply imbued with a powerful and somber patriarchal tradition that dates back well over 1,000 years." [21] In this tradition women had duties rather than rights. [22] Gender-based subordination was deeply ingrained in the consciousness of men and women and it was generally regarded as a natural corollary of biological differences between them. [23] During the transition to democracy, "women are suffering both as a result of the general economic and political crises which continue to grip Albania and because of a resurgence of traditional male attitudes." [24] Violence against women is part of this deeply entrenched patriarchal tradition. This tradition still influences Albanian society today:

It is clear that violence has to do with social factors and individual characteristics. It is rooted in the complex web of tradition, practices and belief . . . Albanian law and traditions, which have ruled for centuries, have been very conservative as to the position of women. That law sanctioned inequality between men and women in economic, social and family issues. [25]

The lack of economic development in Albania today also contributes to the overall subordination of women:

One must understand that the situation of Albanian women over the last half century and the progress which they have made . . . Albania was and still is an overwhelmingly peasant population (today 64% of the population live in the countryside) . . . The resulting intellectual and material backwardness provided the grounds for the underestimation and ill-treatment of women (suffice it to say that wife-beating was considered a normal and proper action.) [26]

This patriarchal tradition is embodied in the Kanun of Lek Dukagjini, an unwritten law dating back to the middle ages. This law governed many aspects of life, including marriage, family, gender roles and criminal justice. The Kanun was followed in the Northeastern region of Albania until it was replaced by the Civil Code in the early

twentieth century.[27] Although the Kanun does not have the force of law, it still influences attitudes and opinions in some parts of Albania. Numerous people cited the Kanun to help explain the current mentality in Albanian society.

The Kanun provides that men have the right to beat and publicly humiliate their wives if their wives disobey them. [28] If the wife does not "conduct herself properly toward her husband," the man may "cut a ribbon from her belt[29] or a lock of her hair" and leave her. [30] The man is directed to cut his wife's hair, strip her nude, expel her from the house in the presence of relatives and then drive her with a whip through the entire village. [31] The Kanun further provides:

If a husband beats his wife, he incurs no guilt . . . and her parents may not make any claims on him because of the beating. If a man beats his wife bloody, and she complains to her parents, the man must give an explanation.[32]

The Kanun also provides that, under certain conditions, a man may kill his wife with impunity[33]:

For two acts, a woman may be shot in the back . . . and she may be left:  
a) for adultery; and b) for betrayal of hospitality.

For these two acts of infidelity, the husband kills his wife, without requiring protection or a truce and without incurring a blood feud,[34] since the parents of his killed wife received the price of her blood, gave him a cartridge and guaranteed her conduct.[35]

Thirty years of communist rule did not completely eradicate the patriarchal attitude attendant to the Kanun. Many women still view the Kanun as a graphic illustration of the underlying social attitudes towards women's rights that influence Albania today.

### **C. Evidence of Domestic Violence**

Minnesota Advocates interviewed women, women's groups, doctors, psychologists, judges, attorneys, prosecutors, journalists, human rights groups, academics and government officials to determine the extent of domestic violence in Albania and to analyze the government's response to the problem.

There is limited information about domestic violence available from public sources. The police, prosecutors and doctors are not required to keep official statistics on the number of women beaten by their spouses or partners. In addition, many women do not report to the police, prosecutors or medical professionals that they have been victims of domestic abuse. For example, in preparing its survey on domestic violence, Refleksione interviewed 50 women living in the same area of Tirana. In the interviews, 45 women acknowledged that they had experienced violence in the family in the form of "light injury," "beating" and "serious threat to life," but only five had reported the violence to

competent legal bodies.[36]

Several explanations were offered for this failure to report domestic violence. First, many women feel that they must stay in an abusive relationship to keep the family together for the sake of the children. Second, there are economic pressures such as unemployment and lack of housing that force a woman to stay in an abusive relationship. Another reason commonly given as to why women do not report domestic assault is that women are concerned about what other people think of them. They believe that others will have lower opinions of them if they acknowledge the abuse.

One woman explained that people in Albania are especially concerned with other people's opinion of them because of Albania's long history of isolation.[37] This woman described a case where her friend had been systematically beaten by her husband throughout their marriage. They had two daughters and the woman was afraid that if she left her husband she would damage the reputation of the family. She believed that as a result of the damage to the family's reputation, no men would ever agree to marry her daughters. She waited until both her daughters were married and has now moved in with her sister. She has not yet divorced.

Many women also feel a combination of social and economic pressures to stay in relationships:

It is very difficult for women to live alone in this society . . . Many estranged couples decide against divorce simply because of public opinion. A divorced woman is seen as guilty . . . in addition to the public opinion factor resulting in the shunning of divorced women, poverty and the lack of housing tend to keep families together. There is still the patriarchal feeling . . . Often a divorced woman lives for many years in the same flat with the ex-husband. [38]

Women also do not feel that they can speak openly about the problem because they feel that if they publicly disclose that their husbands beat them, they will have no choice but to get divorced. Very few women will even tell their doctors that they have been beaten by their husbands. Despite the great number of cases of abuse reported in the interviews, including serious injuries, a doctor at the emergency hospital reported that he had only a few cases of domestic violence reported to him in eight years. [39] It was his opinion that this did not mean that women were not being beaten, but that they were afraid to seek help when they were abused. He recounted an example where a woman on the cleaning staff of the hospital routinely came to work with bruises on her face and body. When the doctor asked her about the problem, she would not admit she had been beaten. Another doctor reported that although she has had a few women report domestic violence to her, she suspects that many more of the injured women she treats have been beaten by their husbands.[40]

One doctor reported a case where a woman was repeatedly beaten by her husband. [41] He was a heavy drinker and spent all of his salary on alcohol. The woman's salary alone was not enough to support the family. She tried to make extra money by donating blood

and became anemic. Her husband routinely beat her and took the money she received from donating her blood. The woman was too weak to defend herself.

A doctor who treats children reported that she has seen several cases where men have beaten their wives in the hospital.[42] This often happens because a woman has brought her child to the hospital without consulting her husband first. The doctor reported that hospital employees have been injured trying to assist or protect the women. This doctor also reported situations where men have beaten nurses because they have not been able to see their children when they wanted or because they did not like the visiting hours.

Often, domestic violence occurs when a woman is pregnant. A doctor from a maternity hospital outside of Tirana described a case where a man pushed his pregnant wife to the ground and pinned her down by putting a table on her stomach.[43] He stomped on the table trying to injure the fetus. This abuse caused the woman to go into labor prematurely. The woman was also very badly bruised. Fortunately, both she and the baby survived the incident. This doctor has seen many pregnant women beaten by their husbands. She described domestic violence as a "very serious problem" in Albania. Another doctor described the physical abuse of her cousin. This woman was systematically abused by her husband during her two pregnancies.[44] The abuse was so severe, the doctor reported, that both of the woman's children were born with serious birth defects as a result of the beatings.

A psychologist reported the assault of her pregnant friend that she witnessed:

Early one morning I heard screaming in the hallway of my apartment building. When I went out into the hallway, I found my friend who was eight months pregnant backed into a corner with her arms wrapped around her stomach to protect her baby. My friend's husband was hitting her, pulling her hair and kicking her. I pulled the man off my friend and brought her into my apartment. My friend refused to report the incident to the police. She is still living with her husband and I believe he is still beating her. My friend refuses to talk about the problem.[45]

Another psychologist described a case where a woman has been beaten extensively throughout her marriage. In addition to the beatings, this woman's husband routinely ties her in a chair and criticizes and verbally abuses her. This woman is afraid to get divorced. She believes her husband will continue to abuse her even if she leaves him.[46] One doctor said, "Society generally accepts domestic violence as normal behavior in Albania. Some of my educated friends boast that they beat their wives if the women do not behave the way they want them to." [47]

A high school teacher reported that she regularly witnesses domestic abuse and the effects of this abuse on her students. Many of her students' parents are divorced and the mothers have confided that the reason they divorced is that their husbands were beating them. [48] One father beat his wife in the schoolyard in front of his children. This teacher believes that the violence has a negative effect on the behavior of the students. Many of the boys hit the girls in class. Several of her female students have told her that they are

reluctant to enter into relationships because physical abuse is such an accepted part of the culture in Albania.

This teacher also witnesses violence with her co-workers. For example, the husband of one of the teachers with whom she works hit the teacher in the mouth and broke her teeth. Jealousy appears to be a common excuse for violence. One young man described an acquaintance who routinely beats his girlfriend.[49] He said the man gets very jealous and angry if his girlfriend wears a short skirt. He often beats her in public in front of other people. No one ever intervenes or assists the woman.

A woman described an assault by her neighbor's jealous husband:

I kept knocking on my neighbor's door because I could hear her screaming. When the woman's husband finally opened the door and left the house, I could see that she had been severely beaten. The women reported that her husband had beaten her because he discovered that she had taken a second job cleaning the house of another couple because the family needed more money. He said he did not want her to clean another man's house. My neighbor quit her job and took a position cleaning corridors to appease her husband. [50]

A professor reported that she was physically and psychologically abused by her former husband because he could not overcome his jealousy of her friends and her professional success. The woman had been invited to travel to contribute papers at international conferences after the change in government.[51] Her husband showed no interest in her work and refused to discuss any of her activities with her. She is now divorced. She considers herself fortunate because her husband was able to move to his parent's house after they separated. She explained that many of her friends were forced to continue living with abusive husbands even after they divorced.

#### **D. Causes of Domestic Violence**

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. [52] 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." [53]

People interviewed in Albania gave various explanations of the causes of domestic abuse. Virtually all agreed, however, that there is a pervasive mentality in Albania that men have the right to control women's behavior by any means necessary. The United Nations Development Project report noted that "the majority of women are of the opinion that male mentality of the woman as a property is the basis of violence. [54] The report explains that physical and psychological violence against women and often against

children stems from "the man's desire to control at any cost the life of the other members of the family." [55]

### **III. Albanian Laws and their Implementation**

#### **A. The Laws**

Albania currently does not have a Constitution. The electorate rejected the Constitution proposed by President Sali Berisha's administration in a referendum in November 1994. There are no specific laws addressing domestic violence in Albania. Domestic assault is prosecuted under the general assault statutes. Albania implemented a new Penal Code on June 1, 1995. The new Penal Code criminalizes threat, torture and intentional injury. [56]

**Article 87: Torture resulting in serious consequences.** Torture, like any other degrading or inhuman treatment, when it has inflicted handicap, mutilation or any permanent harm to the well-being of a person, or death, is sentenced from ten to twenty years of imprisonment.

**Article 86: Serious intentional injury.** Serious intentional injury inflicting handicap, mutilation or any other permanent detriment to the health, or inflicting interruption of pregnancy, or which has been dangerous to the life at the moment of its inducement, is sentenced from three to ten years of imprisonment.

**Article 89: Non-serious intentional injury.** Intentional injury, inflicting temporary work incapacity of no longer than nine days constitutes criminal contravention and is sentenced to a fine or up to two years of imprisonment.

**Article 90: Other intentional harm.** Assault as well as any other violent act, constitutes criminal contravention and is sentenced to a fine. The same act, when causing temporary work incapacity of up to nine days, constitutes criminal contravention and is sentenced to a fine or up to six months of imprisonment.

Under the new Penal Code, assault is punished with a prison sentence or a fine. Domestic assault is generally treated the same under the new Penal Code as it was under the former Penal Code. [57]

**Article 184: Threat.** Serious threats to kill or severely wound someone is sentenced with reeducation through work or with imprisonment of up to one year.

**Article 177: Battery.** Beating, hitting or any other violent act, whether or not accompanied by unimportant injury, causing physical pain is punished by criticism, a maximum fine of 500 leks, reeducation through work or imprisonment up to six months. The same act done publicly against more

than one person is punished by reeducation through work or imprisonment up to two years.

Under the Code of Penal Procedure, domestic violence is prosecuted by complaint of the victim and closed by withdrawal of the complaint by the victim. [58] This means that the case is only brought if the victim files a complaint. The victim must also prepare the entire case herself. She must gather evidence and witnesses and present her case in court. The state does not assist with the prosecution.[59]

The Albanian Penal Code does not recognize marital rape as a crime. Many Albanian women also do not view marital rape as a crime:

The problem of spousal rape is not fully addressed because only 10 percent of interviewed women had a clear understanding of this phenomena . . . Generally, female students considered this kind of violence more destructive than being raped by a stranger; they considered it a very grave violation of a woman's dignity which impairs a normal spousal relationship. [60]

The survey conducted by Refleksione found that marital rape is a widespread phenomenon. Twenty percent of the women surveyed reported that they had been forced by their partners to have sexual relations against their will.[61]

## **B. The Criminal Justice System**

The Criminal Justice System in Albania provides no assistance to victims of domestic violence; women seeking to report or prosecute crimes are met only by barriers at every step in the process. They are encouraged to drop their claims and at no level of the criminal justice system is the state even required to keep records of victims' complaints. Police, prosecutors and judges generally treat domestic violence as a conflict for which each party has equal responsibility. At each step of the process, law enforcement officials try to convince women to "pardon" their abusers. They are reluctant to prosecute or punish the men. One male judge suggested that he would feel responsible for destroying the family if he sentenced an abusive husband to serve time in prison.[62] This judge explained that he believes that domestic violence is not a serious problem and that women beat men as much as men beat women, but "men are just too proud to talk about it." [63]

Several women reported the lack of responsiveness of the police. [64] Women do not call the police to intervene in a domestic assault because they believe that the police will not help them.[65] The police generally do not remove an abuser from the home. A former police officer explained that he thought women who were abused avoided calling the police because they were ashamed of the abuse.[66] He said that the police did not consider domestic violence to be an important issue. Police, he explained, are more concerned about crimes that are "dangerous to society as a whole." [67] Police do not receive any training relating to the unique issues involved in situations of domestic

assault.[68]

The Minnesota Advocates delegation requested meetings with police officials at two different police stations to discuss domestic violence issues. Police officials at both stations refused to meet with the delegation. [69] The delegation asked a police officer on the street where a woman could go to report that she had been beaten by her husband. The police officer laughed and did not give any information.[70]

If a woman does get to the point where she wants to report a domestic assault, she will usually go to the police first. The police will arrange a meeting with the man and ask the women to pardon the man. [71] If a woman does not want to reconcile with her husband or partner, the police will send her to the forensic hospital to document her injuries. At the forensic hospital, a doctor will examine the woman and issue her a certificate describing her injuries to be used as evidence in court. The certificate also grades the severity of the injuries sustained by the woman. A woman must be referred to the forensic hospital by the police. She may not decide on her own to get a certificate documenting her injuries.

Most women who go to the forensic hospital to document their injuries have been repeatedly beaten and are asking for a divorce.[72] The doctors at the forensic hospital are not required to keep an official record of how many times a woman has reported being beaten[73] A forensic doctor reported seeing one women on more than thirty occasions for injuries inflicted by her husband. [74]

If the woman wants to file a charge against her abuser, she brings her case to the prosecutor. The prosecutor will also often attempt to persuade the woman to pardon her abuser. If a woman still refuses to pardon her abuser and proceeds with the prosecution, the prosecutor will send paperwork to the court to start the case. This is the extent of the state involvement in the process. The prosecutor does not assist with the preparation of the case or with the actual trial. The victim gathers the evidence and the witnesses and presents her case in court.[75] The prosecutor's office in Tirana reported that the state only prosecutes cases involving very serious injury amounting to torture[76] or death or in cases of repeated assaults. [77] No one, however, is required to keep a record of repeat offenders.

When a case of domestic assault comes before a judge, the judge starts the case by asking the woman if she will pardon the man who is abusing her. [78] The result of this continuous focus on the victim rather than on the aggressive prosecution of the abuser is that virtually all of the charges of domestic assault are dropped before a trial on the merits is conducted. The Minnesota Advocates delegation reviewed records at the District Court in Tirana for the time period from January 1, 1995 through June 1, 1995. During this time period, approximately 10 cases of domestic assault were scheduled for trial.[79] Each of these cases was dismissed on the first day of the trial. Not a single person was convicted for domestic assault during this time period. In this same five month period in 1995, approximately 150 to 300 women reported being assaulted by their husbands or intimate partners to the Tirana prosecutor's office.[80] During this same time period, less than 50

of these women went to the forensic hospital to document their injuries for evidence in court.[81]

The research conducted by Refleksione reveals a similar lack of prosecution of domestic violence cases during 1994.[82] In 1994, 70 cases in the Tirana District Court involved violence against women in various forms. [83] More than 50% of these cases were closed without punishment because the women withdrew their complaints.

When a case is brought to trial and the perpetrator is convicted, the Penal Code provides for a jail sentence or a fine as a punishment for assault. [84] Prosecutors and judges both reported that the most common punishment for domestic assault is a fine. [85] Therefore, even if a woman overcomes all of the emotional and procedural obstacles to prosecute her abuser successfully, he will likely not serve any jail time. In one case, a woman reported that she had been able to prove her case for assault and her unemployed husband was assessed a fine. Because he had no money, the woman was required to pay the fine herself.[86]

Some women have taken extreme measures to protect themselves when the legal system has failed to protect them from domestic abuse and have killed or attempted to kill their abusers. There are 24 women currently serving jail terms for killing their husbands in the Tirana prison. [87] The women admit being guilty and generally all of them suffered from systematic abuse from their husbands, including physical assault, verbal abuse and lack of economic aid. [88] The courts did not consider evidence of the abuse in their trials.[89]

The Refleksione survey indicates that more than 18% of the women surveyed have considered killing their abusive partners. [90] Approximately 9% of the women surveyed actually attempted to kill their abusers. [91] In addition, the survey found that 20% have thought about killing themselves to escape the violence.[92]

### **C. Divorce Laws**

The Albanian Parliament recently adopted a no-fault divorce law. Several judges and attorneys reported that the no-fault divorce law has resulted in an increase in the number of divorces. The United Nations Development Project reports that one of the main causes of divorce in Albania is violence in the family. [93] The new law, therefore, appears to provide greater freedom for women to escape from abusive relationships. The reality for many women, however, is that because of the housing shortage they must continue to live with their abusive husbands because neither they nor their husbands have any place to go.

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

As a member of the United Nations, Albania is obligated to protect human rights. The provisions of the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the Convention on the Elimination of All Forms of Discrimination Against Women, and numerous other international instruments, such as

the Declaration on the Elimination of Violence Against Women, define Albania's human rights obligations as a member of the international community. [94] In addition, Albania has most recently reaffirmed its commitment to the human rights of women through the Fourth World Conference on Women Platform for Action.

The international norms 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 articulates specific responsibilities of governments to eradicate this violence. Domestic violence is a widespread problem in Albania and it is virtually ignored by public officials. The Albanian government's failure to respond appropriately to this situation violates internationally recognized human rights standards.[95]

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

The Universal Declaration of Human Rights outlines an individual's fundamental right to be free from violence and abuse. Article 3 provides that "everyone has the right to life, liberty and security of person." Article 5 provides that "no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment." [96] The International Covenant on Civil and Political Rights also provides that "every human being has the inherent right to life" (Article 6) and that "no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment" (Article 7).[97] Evidence available from hospitals, doctors, legal professionals and other sources indicates that domestic abuse is a serious and widespread problem in Albania. The evidence also indicates that the government does not respond appropriately 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 Albanian government has not created a criminal justice system that provides security to women who are beaten by their husbands or intimate partners. By failing to protect women from private perpetrators of violence, Albania 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 Albania are being denied an effective remedy for acts violating their fundamental human rights.**

The Universal Declaration of Human Rights (Article 8)[98] and the International Covenant on Civil and Political Rights (Article 2)[99] 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 Albanian legal system does not provide an adequate remedy for the denial of women's fundamental rights to be free from violence. Women receive no support at any stage of the legal process. The police do not generally investigate claims of domestic violence, arrest perpetrators or remove abusers from the home. Women are consistently pressured to pardon their abusers. The system focuses on

trying to persuade the victims of domestic assault to drop their cases rather than on effective prosecution of the abusers. When women try to prosecute their abusers they are not assisted by the state prosecutors and often are not assisted by the police officers who may be the only witnesses to the crime.

Even when a woman successfully prosecutes a complaint, the system does not protect her from further abuse. Men rarely serve jail time if they are convicted and often are not punished at all. 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 leaves the woman at serious risk of experiencing more violence. Women do not have effective recourse against their violent husbands under the Albanian legal system. The legal system's failure to protect women from domestic violence and to punish perpetrators violates Albania's obligation under the International Covenant on Civil and Political Rights to provide an adequate remedy for the violation of a woman's fundamental human rights.

### **C. Albania 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>[100]</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>[101]</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>[102]</sup>

The Declaration on the Elimination of Violence Against Women 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>[103]</sup> The Declaration sets forth specific steps a member state should take in combatting domestic violence. These steps include:

1. investigating and punishing acts of domestic violence;
2. developing comprehensive legal, political, administrative and cultural programs to prevent violence against women;
3. providing training to law enforcement officials; and
4. promoting research and collecting statistics relating 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 should take all other appropriate measures to promote their safety and physical and psychological rehabilitation." [104] The provisions of CEDAW and the Declaration on the Elimination of Violence Against Women are strengthened and reinforced in the Beijing Platform for Action. Through a series of recommended actions, the Platform for Action sets forth a strategy for governments to address the problem of violence against women. [105]

The Albanian government fails to meet any 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 Albania to assist victims in filing complaints or in maneuvering through any part of the legal process. In addition, the delegation 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 counselling 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 problems created by domestic violence. There are no services available to victims of violence in Albania as outlined in the Declaration on the Elimination of Violence Against Women and CEDAW General Recommendation 19 and the Beijing Platform.

## **V. CONCLUSION**

Domestic violence is a serious and widespread problem in Albania and it is virtually ignored by public officials. Women in Albania are routinely denied their basic, fundamental right to be free from violence. By failing to respond appropriately to the problem of domestic violence and by failing to provide state support in prosecuting domestic violence crimes, the Albanian government has failed to meet its commitments as a member of the United Nations and has violated international human rights law. Minnesota Advocates for Human Rights urges the Albanian government to adopt the recommendations contained in this report and immediately begin to implement these recommendations.

## APPENDIX A

### Abuse in Families in Albania

In the first five months of 1995 (Jan.-May), the forensic hospital examined 521 people suffering injuries. One hundred and eleven women, ranging in age from 17 to 92, were beaten (21.3%):

Women beaten by:	Husband	27 (24.3%)
	Ex-husband	9
	Boy-friend	1
	Ex-wife of husband	1
	Other family members:	
	Sister-in-law	6
	Brother-in-law	4
	Son	3
	Father-in-law	1
	Stepson	1
	Brother	1
Level of Injury:	"Not Important"	17
	Light Injury	10
	Severe Injury	0
Weapons:	Blunt Object (includes fist)	26
	Sharp (knife)	1

## ENDNOTES

- [1] Interview June 26, 1995 in the Tirana prison.
- [2] Heise, Lori, "Violence Against Women: The Missing Agenda" (National Council for International Health, San Francisco 1993)
- [3] Bunch, Charlotte, "Women's Rights as Human Rights: Toward a Revision of Human Rights," (Center for Women's Global Leadership, New Jersey 1991).
- [4] Interviews June 7, 1995, Tirana.
- [5] Miria, Silvana, Violence Against Women and the Psychosocial Taboos Favouring Violence, p.3 (October 25, 1995) (Unpublished).
- [6] United Nations Centre for Social Development and Humanitarian Affairs, Violence Against Women in the Family, at 10, 1989, U.N. Doc. ST/CSDHA/2 (1989); In the Vienna Declaration, U.N. Doc. A/CONF. 157/23 (1993), violence against women was recognized as a violation of fundamental human rights.
- [7] G.A. Res. 48/104 (1993).
- [8] Beijing Platform for Action, U.N.Doc. A/Conf.177/20 (1995). The Platform states, "Violence against women both violates and impairs or nullifies the enjoyment by women of their human rights and fundamental freedoms." Para. 113.
- [9] G.A. Res. 48/104 (1993); Beijing Platform for Action, U.N.Doc. A/Conf.177/20 (1995).
- [10] The delegation consisted of Robin Phillips, Women's Project Director for Minnesota Advocates and volunteer attorney Elizabeth Bruch. In November 1994, Minnesota Advocates Eastern Europe Project Director James Coy, and Elizabeth Bruch conducted a preliminary investigation into the problem of domestic violence in Albania.
- [11] The delegation's decision to define domestic violence as violence against women reflects the research revealing that women are the usual victims of violence in the home. 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). This conclusion was confirmed in research conducted by the women's association "Refleksione" in Albania in 1995. Miria, Silvana, Violence Against Women and the Psychosocial Taboos Favouring Violence, (October 25, 1995) (Unpublished).
- [12] G.A. Res. 217 A(III) Dec. 10, 1948, U.N. Doc. A/810 (1948).
- [13] 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.
- [14] G.A. Res. 34/180, U.N. GAOR Supp. (No. 46), U.N. Doc. A/Res/34/180, *entered into force* September 3, 1981.
- [15] U.N. Doc A/44/38 (1989); U.N. Doc A/47/38 (1992).
- [16] G.A. Res. 48/104 (1993).
- [17] Douglas, Carol Ann, "Albania: Feminism and Post Communism," *Off Our Backs*, (March 1994).
- [18] "Action for Development, Equality and Peace: National Report Albania," UNDP Women in Development Project, p. 33, ALB/93/005 (Tirana 1995).
- [19] Several cases of domestic violence reported to the Forensic hospital involved violence against a woman by her husband's family. See Appendix A.
- [20] "Action for Development, Equality and Peace: National Report Albania," UNDP Women in Development Project, p. 34, ALB/93/005 (Tirana 1995).

- [21] "The Land of Talkative Men and Toiling Women," The New York Times, Binder, David (April 23, 1991).
- [22] Id.
- [23] Emadi, Hafizullah, Development Strategies and Women in Albania, p. 82, E. Eur. Q., XXVII, No. 1 (March 1993).
- [24] Gjipali, Saimira and Ruci, Ladvie, "The Albanian Woman: Hesitation and Perspectives," Gains and Losses: Women and Transition in Eastern and Central Europe, p. 32, European Network for Women's Studies, (Bucharest 1994).
- [25] Gjipali, Saimira and Xhafa, Mimoza, Domestic Violence Against Women: A Violation of Human Rights, (May 1995) (Unpublished).
- [26] Gjipali, Saimira and Ruci, Ladvie, "The Albanian Woman: Hesitation and Perspectives," Gains and Losses: Women and Transition in Eastern and Central Europe, p. 35, European Network for Women's Studies, (Bucharest 1994).
- [27] Hasluck, Margaret, The Unwritten Law in Albania, p. 11, Cambridge University Press (1954).
- [28] Kanun of Lek Dukagjini, Sections XXVIII and XXXI, Albanian text collected and arranged by Shtjefen Gjecov, translated by Leonard Fox.
- [29] The ribbons are woolen fringes attached to the belt worn by women in the mountains of Mirdite.
- [30] Kanun of Lek Dukagjini, Section XXXI, Albanian text collected and arranged by Shtjefen Gjecov, translated by Leonard Fox.
- [31] Id.
- [32] Kanun of Lek Dukagjini, Section XXVIII, Albanian text collected and arranged by Shtjefen Gjecov, translated by Leonard Fox.
- [33] Kanun of Lek Dukagjini, Section XXXI, Albanian text collected and arranged by Shtjefen Gjecov, translated by Leonard Fox.
- [34] According to the Kanun, a blood feud generally results between two families when a member of one family kills a member of another family.
- [35] Under the Kanun, when a woman married, her parents gave a cartridge to her husband, along with her dowry money, for the purpose of killing her if she behaved improperly.
- [36] Miria, Silvana, Violence Against Women and the Psychosocial Taboos Favouring Violence, p.3 (October 25, 1995) (Unpublished).
- [37] Interview June 7, 1995, Tirana.
- [38] "The Land of Talkative Men and Toiling Women," The New York Times, Binder, David (April 23, 1991).
- [39] Interview June 14, 1995, Tirana.
- [40] Interview May 30, 1995, Tirana.
- [41] Interview June 6, 1995, Tirana.
- [42] Interview June 8, 1995, Tirana.
- [43] Interview June 19, 1995, Tirana.
- [44] Interview May 30, 1995, Tirana.
- [45] Interview June 12, 1995, Tirana.
- [46] Interview June 10, 1995, Tirana.
- [47] Interview June 14, 1995, Tirana.
- [48] Interview June 9, 1995, Tirana.

- [49] Interview June 5, 1995, Tirana.
- [50] Interview June 12, 1995, Tirana.
- [51] Interview June 21, 1995, Tirana.
- [52] 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).
- [53] G.A. Res. 48/104 (1993).
- [54] "Action for Development, Equality and Peace: National Report Albania," UNDP Women in Development Project, p. 33, ALB/93/005 (Tirana 1995).
- [55] "Action for Development, Equality and Peace: National Report Albania," UNDP Women in Development Project, p. 32, ALB/93/005 (Tirana 1995).
- [56] **Article 84: Threat.** Serious threat to cause death or grave personal harm to someone constitutes criminal contravention and is sentenced to a fine or up to one year of imprisonment.
- [57] The Penal Code previously provided a penalty for threats and general assault:
- [58] Articles 284 and 285 of the Code of Penal Procedure.
- [59] Interview June 1, 1995, Tirana.
- [60] Gjipali, Saimira and Xhafa, Mimoza, *Domestic Violence Against Women: A Violation of Human Rights*, (May 1995) (Unpublished).
- [61] Miria, Silvana, *Violence Against Women and the Psychosocial Taboos Favouring Violence*, (October 25, 1995) (Unpublished).
- [62] Interview June 16, 1995, Tirana.
- [63] Id.
- [64] Interviews June 7, 8 and 9, 1995, Tirana.
- [65] Interviews June 7, 8 and 9, 1995, Tirana. Several women reported that the police can be bribed and therefore, they did not feel that men would be punished for their abuse.
- [66] Interview June 26, 1995, Tirana.
- [67] Interview June 26, 1995, Tirana.
- [68] Id.
- [69] June 26, 1995, Tirana. A woman advocate also reported that she was denied information from the police when she was researching the prevalence of domestic violence. Interview June 22, 1995.
- [70] Interview June 23, 1995, Tirana.
- [71] Interview with prosecutor, June 1, 1995, Tirana.
- [72] Interview June 6, 1995, Tirana.
- [73] Interview June 6, 1995, Tirana.
- [74] Interview June 6, 1995, Tirana.
- [75] Interview June 1, 1995, Tirana. This same procedure applies to cases of stranger assault. Id.
- [76] "Torture" in Albania is generally defined as infliction of injuries which take more than 21 days to heal.
- [77] Interview June 1, 1995, Tirana.
- [78] Interview June 16, 1995, Tirana
- [79] The delegation was able to verify that all cases of assault were dropped on the first day during this time period. For a few of the assault cases, the delegation was not able to

confirm whether the victim and the perpetrator were married or involved in an intimate relationship because the files of the more recent cases were not in the clerk's office.

[80] In interviews June 1, 1995 and June 20, 1995, a representative of the Tirana prosecutor's office conservatively estimated that they have between 30 and 60 cases of domestic assault reported to them per month. This prosecutor believed that this number does not accurately reflect the number of women who are beaten by their husbands or partners because many women are reluctant to report domestic abuse.

[81] See statistics from the Forensic Hospital for the time period January 1, 1995 through May 31, 1995 set forth in Appendix A.

[82] Fullani, Arjana, A Comparative Study of the Albanian Legislation and that of the Developed Countries on the Issue of Violence Against Women, (October 25, 1995) (Unpublished).

[83] Statistics were consolidated for all cases involving violence against women, including rape as well as murder and battery within the family.

[84] See footnote 56.

[85] Interviews June 1, 1995 and June 16, 1995, Tirana.

[86] Interview June 26, 1995, Tirana.

[87] "The Dusty Shelter of the Prisoners," Elsa Ballauri, Aleanca, June 9, 1995. Six of these women were prosecuted before 1990 and were not allowed defense lawyers. Under the new Penal Code, the women technically have the right to a new trial, but they do not have the financial resources to hire lawyers.

[88] Id.

[89] Id.; Interviews with women in prison June 26, 1995, Tirana.

[90] Miria, Silvana, Violence Against Women and the Psychosocial Taboos Favouring Violence, p. 3 (October 25, 1995) (Unpublished).

[91] Id.

[92] Id.

[93] "Action for Development, Equality and Peace: National Report Albania," UNDP Women in Development Project, p. 33, ALB/93/005 (Tirana 1995).

[94] Albania was admitted into the Council of Europe in 1995. Because member states of the Council of Europe must agree to comply with the provisions set forth in the European Convention on Human Rights, the Convention and its interpretation are also relevant. Albania also is a participating state in the Organization for Security and Cooperation in Europe (previously the Conference on Security and Cooperation in Europe, "CSCE"), and has signed and thus accepted the obligations of the 1990 Copenhagen Document of the Conference on the Human Dimension.

[95] For a detailed discussion of the concept of state responsibility to victims of domestic violence, see Kenneth Roth, "Domestic Violence as an International Human Rights Issue," *Human Rights of Women*, 326, 329-330 (Rebecca Cook, ed. 1994); 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).

[96] 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.

[97] Note 13, *supra*.

[98] Note 12, *supra*.

[99] Note 13, *supra*.

[100] Note 14, *supra*.

[101] U.N. Doc. A/47/38 (1992).

[102] U.N. Doc. A/44/38 (1989).

[103] G.A. Res. 48/104 (1993).

[104] *Id.*

[105] Beijing Platform for Action, U.N.Doc. A/Conf.177/20 (1995).