

Albania

Violence against women in the family

'It's not her shame'

Summary

"Every day... if I had bruises around one eye, he hit the other one, every day for three years so that you would not be able to recognize me, my face wasn't a human face"

"I am carrying the past around inside me. No one can see my heart, how it is inside."

An estimated one in three women in Albania have been hit, beaten or subjected to other physical violence within their families. Some have been raped, some have been killed.

Husbands, former husbands and partners are responsible for most of these acts of violence against women – abuses which are often condoned by the wider community. Violence against women is widely tolerated on grounds of tradition, even at the highest levels of the government, police and judiciary.

Violence against women is an abuse of the human rights of women and girls. It violates their rights to mental and physical integrity, to liberty and security of the person, to freedom of expression, the right to choice in marriage and the basic requirement of non-discrimination. Violence may amount to torture and in extreme cases, may violate the right to life.

There is no specific legislation against domestic violence in Albania. A general acceptance of violence in the family is imbedded in Albanian society, and thus many women do not understand the concept of domestic violence as a criminal offence. An activist from an Albanian non-governmental organization (NGO) said: *"They have seen their mothers beaten, and they think it is normal to be beaten, or to be shouted at by the husband or brother or mother-in-law, and that it is their husband's right to beat them."*

But there is movement for change in Albanian society. In January 2006 a coalition of Albanian NGOs presented a petition to parliament signed by 20,000 Albanians calling for a change in the law to help prevent violence within the family.

The extent of the violence

"They say in Albania, one in three women are beaten by their husbands, in Shkroda we say it's two and a half out of three." A doctor in the town of Shkodra.

"Violence happens everywhere: at the police station, at home, at school – there is a cycle of violence in the whole society," an NGO activist told Amnesty International. *"Most women do*

not usually report such violence to the police: they don't understand that it is a criminal act, and many of them are violent to their own children – they see it as a tool for education”.

Much violence within the family involves guns. The large number of small arms and light weapons in circulation in Albania – an estimated 200,000 – contributes to high levels of gun crime, including in domestic violence.

Research by forensic practitioners has documented an increase in intimate partner violence over the past five years. Doctors from the Department of Forensic Medicine in Tirana found that between 2001 and 2003 cases involving violence in the family made up 71 per cent of all assault cases referred to them. Sixty-eight per cent of the victims were women.¹

However, the most comprehensive survey, the *Albania Reproductive Health Survey 2002* conducted by the Ministry of Health, found Albanian women reporting much lower levels of violence. Eight per cent of Albanian women reported physical violence as compared to, for example, 29 per cent of women in Romania. Significantly, 31.2 per cent of previously married women reported violence, as opposed to 7.5 per cent of women who were still married or in a relationship. The survey found that 52.5 per cent of women who had suffered violence had never talked to anyone about it.

The persistent under-reporting of intimate partner violence indicates not merely a reluctance to report domestic violence to the authorities, but women's lack of awareness that it is something that they can or should report.

A culture of violence

Albania's history of internal repression during the communist era followed by years of political instability have left a legacy of violence which recent governments have sought to address.

Notions of honour (*nderi*) and shame (*turpi*) prevent women from telling anyone about domestic violence for fear that it would bring shame on the honour of their family.

“I stayed married to him for 18 years because of the family, and because of the shame; it was the idea of the shame that kept me there all of that time.”

Notions of gender and gender relations in Albania are informed by cultural beliefs which draw on customary law, known as the *Kanun*. These are used to justify the control of women's behaviour, including by ill-treatment. In extreme cases women and girls believed to have transgressed notions of family honour have been murdered.

In September 2004 Gjin Martincanaj was sentenced to seven years and four months' imprisonment for shooting dead his 21-year-old daughter Grosha Martincanaj, after she went missing for three days and refused to explain where she had been. Her sister reportedly told

¹ Dr Shk. Arben Lloja and Dr Bledar Xhemali, “Krimi brenda Familjes, Vitin 2001-3”, *Revista e Mjekësisë Ligjore Shqiptare*, Nr 2, Vitin 2005, (*The Review of Albanian Legal Medicine*, No. 2, 2005), pp. 9-16.

the press, *"Our father did right to kill her, he did his duty as the parent of a girl who shamed her family"*.²

Since the early 1990s there has been resurgence in the use of customary practices, including blood feuds and revenge killings, especially in the north of the country. The use of the *Kanun* appears not only to be reviving, but also to be spreading beyond its traditional provisions, which exempted women from blood feuds.

Patterns of abuse

A number of women who have suffered violence agreed to be interviewed by Amnesty International, despite their fear of bringing "dishonour" to their families. Their courage deserves recognition and the support of their government and the international community.

"The beating started from the first day after we married. He was jealous all the time; we were looking at photographs of when I was single – there was a photograph of me with my first cousin – and he hit me because he was jealous. I was completely shocked – my father had never hit my mother. But I thought it would not happen again."(N)

"After we got married he got worse, more and more jealous. He was so jealous and got angry when people said hello to me in the street, and when we got home he would beat me. He would not even let me talk to my family: when I stopped to talk to my mother in the street, he just carried on walking, and when we got home he would take a wooden stick and beat me." (D).

"I never understood why he was angry. When I was awake, I thought perhaps I had made a noise, or left a spoon in the wrong place, but even when I was asleep he would come in and grab me out of bed by the leg, and threaten to kill me. He would ask me why I was still alive, and tell me that I should kill myself". (D.K.).

"He would hit me, he would slap me, and then when he used the telephone cable I was very scared because he was drunk and out of control; and I became really frightened." (N).

"He came home and threatened to kill me with a pistol in front of the children, and the children protected me and came and stood in front of me and they said, "You have to kill us first". (F).

"He kicked me, punched me, and knocked me unconscious, he used verbal abuse, he used all kinds of violence, and - I don't know how to say it - he wanted to have sex with me." (A).

Many of the women interviewed by Amnesty International had tried several times to leave their husband before they finally left him. Their reasons for returning to a violent marriage included economic hardship, a lack of housing, the need for their children to have a father, family pressure – or just the hope that the man they loved would stop beating them.

Reports from women's organizations suggest that an unknown number of women choose suicide as their only means of escaping domestic violence. Other women, after years of

²*Gazeta Shiptare*, 5 February 2004.

violence, have eventually resorted to violence themselves: more than 20 women are currently serving sentences for killing their husbands.

Some women never hear from their husbands or partners again. But for others, the violence does not stop even after divorce. A study of decisions taken by five district courts between 1990 and 1998 showed that in 35 per cent of criminal proceedings related to violence against women, the perpetrator was the woman's former husband.³

Women's Rights in Albania

All states have a duty under international human rights law to prevent, prohibit and punish violence against women, regardless of the perpetrator; the state also has a duty to provide redress, including compensation.

Albania is bound by the Convention on the Elimination of Discrimination against Women. According to the Albanian Constitution, all international conventions ratified by Albania are part of domestic legislation and take precedence over national laws. The Constitution also provides for equality before the law and prohibits discrimination. In theory therefore, Albanian women enjoy the same rights as men. In practice, they face widespread discrimination in almost all aspects of political, economic, social and cultural life.

The Albanian Criminal Code fails to separately define or criminalize domestic violence, and no distinction is made between violent crimes (including rape) perpetrated by strangers and those by family members.

Impunity

"It's a problem of Albanian reality, women do not get access to justice". An officer from the Serious Crimes Police, Tirana.

Police indifference

"There are reports in this region that women say they have called the police and that we don't come – maybe they don't give the right address." Qani Balija, Deputy Director, Vlora Police

When women try to seek help, they rarely gain protection or justice because of the authorities' reluctance to take action.

In the absence of a law criminalizing domestic violence, the police generally fail to recognize violence in the family as a criminal matter and fail to investigate allegations of domestic violence. One woman described how the police failed to respond to her repeated calls for help after her husband beat her. *"I called every hour, every hour and a half. The police officer*

³Albanian Association of Women Lawyers, *About Violence against Women in Albania*, Tirana, 2000, p. 83.

said, 'Don't call us, don't you feel embarrassed?'... and then he insulted me. I never again called the police."

The problems go beyond police attitudes. There are also procedural problems, including a failure to log calls relating to domestic violence and to disaggregate statistics.

Even if the police respond to a call, they claim that they may not always have the powers to intervene. A Serious Crimes Police officer said: "*Under the Criminal Code, for example – for [domestic] violence, we do not have a control mandate [search warrant to enter a property], so the women have to go to the judge. Sometimes we have entered without the control mandate – but we cannot just go on the word of the woman to prove a crime.*"

Criminal prosecutions

"Few women are prepared to bring such prosecutions. They are psychologically tired of dealing with the court, and with their problems, and they just don't want to deal with it any more. They have to do all the work to get a divorce or prosecution: the burden lies entirely on the woman in such cases." Besa Saraçi, Women's Advocacy Centre.

Prosecutors fail to pursue complaints of domestic violence except in cases of death or serious injury, or threats with firearms or other weapons. They sometimes even impede women's attempts to pursue cases. According to a Shkodra NGO, a woman came to them, her face freshly bruised after her husband had beaten her. She had been examined by a local forensic doctor, but as the authorized photographer had not been present, she had her photograph taken by a street photographer. The prosecutor had refused to accept the photograph as evidence (even though it was accompanied by a forensic medical certificate), and criminal proceedings were not started.

Amnesty International reviewed 34 court decisions in cases relating to domestic violence which were prosecuted between March 2002 and November 2005. Most used accelerated trial procedures, where the case is judged exclusively on the basis of evidence collected during the judicial investigation and contained in the court dossier. Amnesty International found that evidence of previous incidents of domestic violence was rarely examined and provisions allowing violence in the family to be treated as an "aggravating circumstance" were almost never invoked.

Hazir Isaj, a police officer, was convicted by the Shkodra District Court on 14 April 2003 of the manslaughter of his wife Drita Isaj, after an argument in which she allegedly threatened him with a kitchen knife. He then pulled out his gun, and told her that unless she left, he would kill her. Drita then grabbed the gun and pulled it to her chest saying, "Go on then kill me!". Hazir reportedly told her that he could not kill the mother of his children, but in the struggle the gun went off fatally wounding Drita. He pleaded guilty and was sentenced to two years and three months' imprisonment, reduced to 18 months.

On 17 January 2006, Zef Shkješana was sentenced by Shkodra District Court to three months' imprisonment for threatening to kill his wife, Alma Shkješana, and to 17 months' imprisonment for possession of unlicensed arms and ammunition. Alma Shkješana had told

police that her husband had beaten her, repeatedly, and had threatened to shoot her dead. The final sentence was 10 months' imprisonment.

Amnesty International also reviewed seven cases in which eight women were convicted for killing or attempting to kill their husband (or in one case, their father). Delegates interviewed five of these women at Women's Prison 325 in Tirana. None had been able to afford to hire a lawyer and they were therefore represented by court-appointed lawyers.

Civil divorce proceedings

Instead of lodging criminal complaints against their abusive partners, women tend to escape violent marriages through divorce.

Although domestic violence is a major factor in many divorce cases, women generally choose not to raise this in proceedings. Their reasons include the shame that a public disclosure would bring on their family and the difficulty in proving their case. In 511 divorce cases brought before the Tirana First Instance Court in 2000, domestic violence was cited as a cause in only 39 cases, and figures for 2001 to 2004 are comparable.⁴

In Shkodra, staff at the Hapat e Lehtë counselling and advice centre said that judges refuse to recognize domestic violence as a factor in divorce cases, and that, consequently, domestic violence appears not to exist.

Women seeking to leave violent men are rarely able to support or house themselves and their children. No state provision is available; in cases of divorce financial settlements are rarely enforced by the courts.

Challenging violence

"There are no structures, no institutions, you have to do it on your own, there's no protection. I could not have done it without the shelter and the telephone line. Thank god for the shelter that gave me help, and the hope to start my life again".

Women's organizations in Albania have worked since 1996 to challenge violence against women. They have run awareness-raising programmes, trained state officials and documented domestic violence. They have also established telephone help-lines, counselling centres, shelters and given free legal assistance and employment advice.

NGOs are pressing forward on the legislative front too, with the drafting and presentation to parliament of the draft law on the prevention of violence within the family.

NGOs see the draft law as a catalyst for change, but recognize the problems that may accompany its introduction. One NGO, Useful to Albanian Women, stated, *"Domestic violence can only be reduced through parallel processes in the economy, and in women's self-confidence, empowerment and self-esteem."*

⁴ Besa Saraçi, *Prezantimi i Problemeve të Gykitimit në Çështjet Familjare me Elemente të dhunës në Familje*, Tirana, 2005.

The 2003 Family Code and the draft law 'On measures against violence in family relations'

The Family Code which entered into force on 21 December 2003 replaced all previous legislation relating to the family and marriage and provided new legal protection for women. In particular, Article 62 allows courts to issue an order removing a violent spouse from the family home. However, this article has scarcely ever been invoked, since the necessary supporting legislation is lacking. One aim of the new draft law is to allow such measures to be implemented.

The draft law envisages an integrated response by government agencies, including police, medical practitioners and social workers, to cases of family violence. It also sets out a civil process for protection orders, implementing Article 62 of the Family Code.

Amnesty International welcomes the substance of the draft law, in particular: the creation of a body to coordinate responses to protect and provide redress to victims of domestic violence; the establishment of anti-violence units at police stations, and the training of police officers; and instructions to police authorities to record their findings in the event of a reported incident, and to start investigations. Amnesty International's concerns about the draft law relate to the definition of family violence. In particular it is not clear whether the law applies to cohabitants.

Recommendations

Amnesty International's recommendations are aimed at the authorities in Albania, which are responsible for respecting, protecting and fulfilling women's right to be free from violence. Amnesty International calls on the European Union and the Council of Europe to assist the Albanian authorities in establishing immediate and sustainable measures to address this serious violation of women's human rights.

The Albanian authorities should:

1. Implement Albania's international legal obligations, including:

- Put into practice CEDAW's Concluding Recommendations, made in 2003;
- comply with reporting requirements to relevant UN treaty bodies;
- invite the UN Special Rapporteur on violence against women to visit Albania.

2. End impunity for violence against women in the family:

- Criminalize violence against women in the family;
- Improve reporting and prosecution rates of all forms of violence against women;
- Ensure that women's complaints of violence in the family are promptly, impartially and effectively investigated, and where there is sufficient admissible evidence, prosecute suspects in a fair trial;

- Enforce laws that treat violence against women in the family as seriously as other assaults, allowing evidence of previous assaults to be admitted in proceedings.

3. Implement provisions of the 2003 Family Code that protect women and girls from forced marriages, and those that guarantee divorcing women fairness when seeking alimony, property, child support and custody of their children.

4. Adopt and implement the draft civil law on measures against violence in family relations.

5. Train police, government officials, lawyers and judges in:

- Protecting women from violence in the family;
- Responding to and investigating reports of family violence;
- Prosecuting cases of family violence;
- Protecting women complainants and witnesses during investigations and prosecutions;
- Sentencing guidelines, to ensure that perpetrators are given sentences commensurate with the crime.

6. Enforce strict controls on the possession and use of firearms.

7. Train medical students, doctors, nurses and midwives in responding to and preventing violence against women in the family.

8. Provide women with information on their rights.

9. Challenge public tolerance of violence against women in the family.

This is a summary of Albania: Violence against women in the family – 'It's not her shame', AI Index: EUR 11/002/2006. Please see the full document for further information.