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THE WOMEN'S LEGAL RIGHTS INITIATIVE

**ALBANIA DOMESTIC VIOLENCE LAW: FINAL REPORT AND
RECOMMENDATIONS FOR FUTURE TECHNICAL ASSISTANCE**

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Abstract

In 2006, Dianne Post, an American independent consultant with extensive experience developing systems to implement domestic violence legislation internationally, assisted Albanian policy makers in their efforts to implement Albania's new law against domestic violence. In this report Ms. Post summarizes her activities and provides recommendations for further action by Albanian authorities.

The author's views expressed in this publication do not necessarily reflect the views of the United States Agency for International Development or the United States Government.

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Final report, including recommendations for future technical assistance
Submitted 16 November 2006

Goals and Objectives of the Activity:

The first goal was to train a multidisciplinary group in Albania regarding the anticipated new domestic violence law on protection orders on the law and why and how they should create a community coordinated response team (CCRT) both in accordance with the law and international best practice. The objective was to help them know and understand the law, to know and understand a CCRT, to draft action plans to create such a team, and to begin the process of thinking about secondary legislation needed upon passage of the law.

The second goal was to assist Albanian civil society organizations (CSOs) lobbying and advocacy efforts directed towards enactment of the Domestic Violence citizens bill in the Albanian Parliament. The Advisor was to assist Albanian parliamentarians in refining the DV draft law with particular care not to deform its substance, given the popular support it received and assist Albanian government officials, law enforcement, staff of non-governmental organizations and others in setting up a system to respond efficiently and in a coordinated fashion to domestic violence, based on existing Albanian legislative provisions that cover the issue.

The third goal was to assist law enforcement and the justice system actors in solidifying and refining the CCR template developed earlier and to conduct training on the template that would encompass mandatory arrest, evidence preservation, writing reports, granting and executing protection orders, confidentiality and the case against abusers.

How the activity was implemented

The activity was implemented through a multitude of different strategies including training, exercises, lecture, small working groups, meetings, materials and power point. The training in May included drafting of an action plan and creation of an initial group for the CCRT.

Extensive analysis of the draft law was carried out after consultations with justice system actors, social service representatives and NGOs and an annotated draft law prepared for use by local actors to propose appropriate amendments. A detailed lobbying plan was created with CLCI. After passage of the law through the first committees, continued analysis was made with CLCI to finalize additional needed amendments.

Many meetings were held with judges, law enforcement, prosecutors, social service representatives, ministers and government staff and NGOs to discuss the law, passage and implementation as well as the national strategy to combat domestic violence which is a larger initiative including the protection order law.

Work was coordinated with ICITAP, TIMS, OSCE and the new police academy to ensure that the infrastructure is in place for documenting domestic violence crimes, gathering of statistics and training of recruits and existing officers on domestic violence and gender issues.

When it became clear that the local partners were not willing or able to draft the protocols, they were drafted by the consultant and then sent to the local partners for comment and revisions during follow up meetings. These were then the basis for the final meeting in November.

An extremely interactive training was done in November to create a “virtual study tour” since the planned U.S. tour was cancelled. Procedures and materials that they would have seen/experienced in the study tour were used in the final training and copies given to the relevant actors to assist in continued development of their CCRT. After going through the material that touched all six areas of the CCRT, intense discussion was held about the existing protocols and changes made accordingly.

Ability to respond to the need at hand

Domestic violence is a problem that takes decades to show any progress. Thus one must be willing to accept small steps as success. Some of the individual partners have a sincere interest but if that is not encouraged from the top, progress will be stymied.

The intensive analysis of the Albanian justice system by OSCE and recent publication of that report shows that the system is still extremely corrupt and inefficient. The most corrupt were judges and doctors which are two main actors for victims of domestic violence. So long as this corruption continues, the prognosis for victims of violence will be poor.

Likewise a recent book compared the situation in the Western Balkans with international standards regarding domestic violence and Albania fared poorly. Perhaps these two reports will help spur the improvement of the system.

Results

Initially action plans were drafted in five areas from persons many of whom have remained active in the project and make up the core of a CCRT. Some members were officially appointed, some felt it a statutory duty and some felt it a part of their job to remain working on the issue. The medico-legal experts joined in the workshop in November and indicated great interest.

The agreed upon amendments were made in the law and given to the Leader of the Parliament to introduce. The law was passed through three committees in October 2006. Amendments were introduced along the line of those recommended by the consultant after consultation with the sectors. A request was sent to the government for response and fiscal note and since they did not respond within the 30 days as required (6

November) the Parliament can continue with the passage of the law without government input. The government however met on 8 November and commented on the lack of a fiscal note. A few additional amendments still need to be made and this will be introduced through the attorney working with the Law Commission. The final law was passed in December 2006.

The police academy has good curricula on gender issues and domestic violence including the protection order. Depending on final amendments prior to passage, CLCI needs to inform the academy of the final draft so they can revise their training appropriately. OSCE has done TOT training for victimless prosecution. While it was related to trafficking, many of the principles are the same. Departmental reports now include domestic violence and information about the relationship necessary for a protection order, computer forms for statistics include the same information, recruits are being trained on the law and on gender issues in general, and police departments will be trained on domestic violence modeled on our protocol as part of the TIMS computer installation and training. The consultant will continue to work with TIMS designers. After passage of the law, OSCE will follow up with training of judges and lawyers and creation of the petition and order forms that were supplied by the consultant. All of this makes it clear that domestic violence is a crime and proper statistics can be generated for future policy, practice and funding needs.

Detailed protocols for a CCRT were drafted for judicial, prosecutor and law enforcement as well as health, social services and NGOs. Final drafts were produced from the seminar in November. The protocols were delivered to the Ministry of Labor, Social Affairs and Equal Opportunities and will be used for creation of secondary legislation or issued from the Ministry of Labor after the law is passed. In addition, they were published in booklet form with the judicial benchbook being published separately.

Problems with implementation and how they were addressed

There was insufficient time in the May meeting to address the many stereotypes of the participants themselves. Some of these lingered into the November workshop particularly related to alcohol as a cause of domestic violence and the efficacy of couples counseling as a solution. The interactive method of training was however very useful and did succeed in enlightening several participants.

The NGO meeting for finalization of a protocol never took place. Therefore that protocol still has many unanswered questions. They must create Best Practices and uniform, integrated, consistent statistics according to local conditions. Fortunately most NGOs are motivated to do this work so likely this will be done regardless.

The Ministry of Health is very important in DV work. In June 2006 a report was issued from the National Association of Social Workers illustrating the current gaps in information and treatment in DV. Hopefully that will spark improvement. Fortunately the National Association continues to do this work and is receiving a grant from UNICEF to do the training. They will utilize the Seminar on Domestic Violence materials from

the Massachusetts Medical Society provided by the consultant to develop their own training. The medico-legal experts who attended the November training expressed an interest to do the medical training for all their own staff. If they do, it will indeed be a positive result from the training.

The next main challenge with this law as many others is not getting it passed but implementation. Structural problems remain in the criminal code that make it very difficult to pursue DV criminal claims namely private prosecution and the requirement of a victim complaint. These need to be addressed in the long term. They are mentioned in the report on international standards as failures in the Albanian system.

Lessons Learned and Recommendations

Non-lawyers can represent victims and Chemonics might think about presenting the Social Advocate Program to train victim advocates to provide quality representation.

In all three justice areas, police, prosecutor and judges, they do not have procedures issued by an administrative authority. They do not have uniform procedures or training when a new law passes. More intense integration into the national strategy would be one method of ensuring issuance of the protocols by the relevant Ministries.

Necessary secondary legislation includes confidentiality regulations, data collection forms from the NGOs and hotlines, funding of the hotlines and services, compatibility of computer systems, powers of agency over children, licensing systems for NGOs, legal aid system, hotline delivery systems, use of evidence, witness protection, weapons seizure, issuance of protection orders in rural areas, forensic evidence and other issues. MOU's should be developed on cross training, weapons seizures, issuance of emergency orders between police and judiciary, and access to statistics data bases. Budget issues are very serious and need to be addressed. No money is allocated in 2007 for either the protection orders or the national strategy against domestic violence. Lobbying for 2008 funding needs to start immediately. Training and technical assistance is necessary in all of these areas.

Training of implementers is also an on-going process. Such training should become embedded in the police academy, magistrate's school, medical and law schools, and social work and psychology programs at universities. A new gender studies course is developing at the University of Tirana. Continuing education in the field should become embedded in all professional program requirements. Psychological issues have barely been touched and jail and prison systems need to be included as well.

Information that still needs to be incorporated includes studies from other countries regarding the efficacy of batterer prevention programs, the use of "no drop" policies for criminal complaints, impact of violence on children and how to best ameliorate that, most effective length of shelter stay etc. The lack of information and research on these issues in Albania was mentioned at the final workshop in November. Also necessary is research showing the cost of domestic violence in the country as has been done in many other

countries. That is often the most effective argument with policy makers – the country is already spending a lot of money on domestic violence and could save money by taking prevention measures and looking toward the next generation.

Forms for the petition need to be developed along with forensic evidence kits. Lawyer training and training for forensic experts must be included as well. It appears from discussion at the release of the OSCE book that older and powerful lawyers may be a problem in implementation. To counter that, the importance of working on domestic violence can be tied in with Strasbourg cases and also with CEDAW to highlight the international importance and especially the relevance to EU accession if Albania is ever to aspire to that. Clearly that is bolstered by the recent publication of the book on international standards in the Western Balkans.

It is more important to have trained people who are committed to the work than to have a law. A law is just a piece of paper until it is implemented and lack of implementation plagues much of Albanian legislation. If Albania wants to join the EU as they say they do, they will have to pass the law eventually. So the investment that remains should be made in people who will remain in the social justice system for many years and can help bring changes over time.