

HUMAN RIGHTS COUNCIL

33rd Session of the Working Group on the Universal Periodic Review (UPR)

Stakeholder's Submission on:

The Human Rights Situation in

ALBANIA

Submitted by:

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(NGO in Consultative Status with ECOSOC)



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INTRODUCTION

APG23 is a catholic international association founded in Italy by Fr. Oreste Benzi. Its activities in the world of poverty and marginalization brought to the direct sharing of the life with the poor in 1973 when the first family-home was opened. The Community is now present in 36 countries of the five continents. The Association has Special Consultative Status with the United Nations Economic and Social Council (ECOSOC) and its commitment at the UN is the result of sharing the life with the poor and is the fruit of the international elaboration and synthesis of the action for the removal of the root causes which create injustice.¹

FOCUS ON RECOMMENDATIONS (A/HRC/27/4)²

Recommendations n° 104.4, n°105.15, n.°105.16, n°106.8, n°106.9- Blood Feud

(Public Security- Rights of the Child - National Human Right Institution)

1.SOURCES

In this report, cases of *hakmarrja* and *gjakmarrja*³ are described using the term “blood feud”. The report focuses mainly on the north of the country where APG23 has a presence together with Operazione Colomba (OC)⁴ that is is the APG23-Nonviolent Peace Corps, but does not entirely ignore the other parts of Albania.

The civilian peace corps in OC are made up of groups of civilians who go into armed conflict environments as third parties with the aim of protecting human rights and civilians, preventing dispute escalation, building confidence and creating nonviolent solutions to disputes using nonviolent instruments. Since 1992 Operazione Colomba has been involved in nonviolent civilian peacekeeping, peacemaking and peacebuilding in several armed conflict’s areas (e.g. the former Yugoslavia, Sierra Leone, Kosovo, East Timor (Indonesia), Chiapas (Mexico), North Uganda, etc.). Today, Operazione Colomba is working in Israel/Palestine (since 2002), Colombia (since 2009), Albania (since 2010) and in Lebanon alongside Syrian refugees (since 2013).

OC has had a permanent physical presence in the Shkodra area since March 2010 and a monthly presence in the Tropoja area since October 2010. For over eight years its Italian and Albanian volunteers have been working to provide nonviolent ways of containing and resolving disputes arising from feuds between families. OC works with the people directly involved in feuds, with Albanian society, Albanian institutions and international institutions in general. Our volunteers meet feuding families on a daily basis. By living in close contact with them, our volunteers can share their difficulties, problems and risks to build up credible and trusting relationships.

Since 2005, the contacts the Italian and Albanian workers of Comunità Papa Giovanni XXIII Association have made with feuding families have enabled them to understand, monitor and report the practice of blood feud. APG23 has asked Operazione Colomba to help produce a strategy for the nonviolent resolution of disputes triggered by blood feud situations.

The APG23 has also a presence in Tirana (reception facility for the homeless), in the village of Nenshat (therapeutic community), in Shkodra (two family houses). Since 2011 Operazione Colomba has been monitoring the cases of *hakmarrja* and *gjakmarrja* reported in the Albanian and

1 See www.apg23.org

2 Available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G14/076/77/PDF/G1407677.pdf?OpenElement> Human Rights Council Twenty-seventh session Agenda item 6 Universal Periodic Review Report of the Working Group on the Universal Periodic Review* Albania.

3 Vendetta (*hakmarrja*) was a violent reaction to an injustice suffered but was not necessarily proportionate to the harm suffered. If vendetta took the form of murder, this could trigger a blood feud (*gjakmarrja*). *Gjakmarrja* could trigger a feud because it meant killing the murderer. This can produce long chains of killings between feuding clans.

4 See www.operazionecolomba.it - Operazione Colomba, the Nonviolent Peace Corps of the Association Comunità Papa Giovanni XXIII.

international media, especially since 2013.

OC on December 2017 has published "Descriptive Document on the Phenomenon of *hakmarrja* and *gjakmarrja* to raise awareness among Albanian and international institutions-III Edition"⁵

At December 2017, the Operazione Colomba database included 550 cases of injury, attempted murder and murder caused by *hakmarrja* or *gjakmarrja*. Some articles specifically refer to blood feuds, while others have been classified as such by OC staff based on the information they contain and typical motives for blood feud. Yet other cases are still being monitored to check future developments.

Of the 550 cases in the database, 48 are believed to be caused by *gjakmarrja* and 275 by *hakmarrja*. Some blood feuds are the result of previous *hakmarrja* that has degenerated into one or more cycles of *gjakmarrja*. The other cases are being monitored for possible eruption into blood feud. Compared with Operazione Colomba's 2014 statistics, over the three years of the new period examined (January 2015 to December 2017) there have been 141 new cases of *hakmarrja* and 15 new cases of *gjakmarrja*. The database shows that most causes of *hakmarrja* and *gjakmarrja* are connected with property, previous disputes or honour. These are followed by other reasons such as: petty reasons, verbal provocation, settling of accounts, debt, work problems and fear of vendetta for an offence that causes the culprits to attack first.

The cities with the largest number of *hakmarrja* and *gjakmarrja* events are (in decreasing order): Tirana (86), Shkodra (46), Durrës (36), Vlora (17) and Lezhë (12). These are followed by: the region of Kruja/Fushë-Kruja, Fier, Tropoja and Laç, Elbasan, Berat, Pogradec, Dibër, Malësi e Madhe, Lushnjë, Saranda, Puka, Tepelenë, Kukës, Mirdita, Gjirokastër, Dukagjin and Korçë.

In addition to blood feud within Albania, we are also unfortunately seeing the export of vendetta, where some cases are continued even outside the country. According to Operazione Colomba's database, since 2013 a number of blood feud murders were committed in the following countries: 11 in Italy, 4 in Greece, 2 in Belgium, 2 in France, 2 in Germany and 2 in the Netherlands. These are followed by 1 in Kosovo, 1 in Montenegro, 1 in the UK, 1 in the Czech Republic, 1 in Sweden, 1 in Switzerland, 1 in Canada and 1 in the USA.

The age of victims varies widely between 9 and 91 but most are between 20 and 60. The vast majority of victims are men (508 cases out of 550) but the number of women is also not small (42 cases out of 550). Women are included not only for the above reasons but also because of domestic violence due to the conditions of self-confinement which often can lead their men to alcoholism.

This is a constantly growing, not decreasing, phenomenon that is generalised from many viewpoints because it concerns many places across Albania and is spreading abroad as the Albanian nationals, caught up in it, move outside the country, and it affects people of all ages and both sexes and wide periods of time up to the present day. Examination has shown that the dynamic of the phenomenon means that it is moving ever further from the original rules set out in the Kanun and is increasingly able to adapt to the needs felt in each new situation.

The data available varies considerably, depending on the source. There are three types of source: Albanian institutions; Albanian and international associations on the ground; and international organisations. Data published by any one of these sources is often used by the others. Information collected from these bodies consequently often overlaps.

Albanian institutional sources include the Advocate of the People and the Government of the Republic of Albania. Data collected by the Advocate of the People between 1990 and 2012 mentions 6000 deaths caused by *gjakmarrje*. Government data 1991-1995 mentions 953 murders, of

⁵ Available at: https://www.operazionecolomba.it/docs/Report_ING-2017.pdf

which 9.5% caused by hakmarrje or gjakmarrje. In 1997 alone, the Albanian Police identified 1542 murders and 2910 families injured or involved in hakmarrje or gjakmarrje⁶. In 2012 the Interior Ministry issued the first official estimates of gjakmarrja. These showed 225 murders resulting from gjakmarrje over 12 years (1998 to 2012⁷). Interior Ministry statistics show that the 225 murders represent 7.9% of all crimes committed.

2. CONCERN

Seen from the inside, vendetta is a contradiction in the neither entirely modern nor entirely traditional society of Albania today. It occurs against a background of developing civil and political awareness, where social movements to defend particular rights are still fragmentary and education in human rights is needed in primary and secondary schools.

Seen from the outside, vendetta is preventing the country from joining the European Union because it is a violation of basic human rights. One of the conditions for Albania joining the EU is the rooting out of the practice. The EU does not allow private systems of justice. Vendetta also creates public order problems, not just domestically but internationally too since a number of cases of gjakmarrje and hakmarrje have occurred outside Albania (see above §1.).

In 2014, the Shkodra Prosecutor, encouraged by the Tirana General Prosecutor, began to map the families that were victims of blood feud, focusing particularly on self-confined families. An anti-blood feud plan has also apparently been approved by the Directorate General of Police⁸. There have also been cases of police bodies monitoring and controlling vendetta's situations to prevent their degeneration.

On 5 March 2015, the Albanian Parliament passed a "resolution to prevent blood feuds in Albania", publicly admitting that they exist and declaring that it is the State's duty to deal with and eradicate them. It also admitted that the government has not done enough to eradicate them. In the resolution, Parliament condemns the failure to implement law 9389/2005 and requests assistance from a number of State bodies: the Police, the Ministry of Education and Sport, the Ministry of Welfare and Youth, and from the public administration as a whole.

The Advocate of the People (Ombudsman), which has been given responsibility for blood feuds by Parliament, has been widely concerned in handling them. In December 2015 it published its second official report⁹ on the phenomenon in which it recommends implementation of law 9389/2005 and the involvement of a number of Albanian institutions.

Even though law 9389/2005 has not been implemented, initial collaboration began in 2015 in Shkodra, promoted by the OSCE and the Advocate of the People and involving a number of different local government bodies and society itself. Meetings were organised in March, April and September with representatives from the Municipality, the Prefect, Social Services, the Employment Office, representatives from the Prosecutor's Office and from society in general, including OC. However, these initial meetings have not been followed up.

In November 2016, the Albanian Interior Ministry promoted a campaign to raise national awareness that might have had an indirect impact on blood feuds. Entitled *Mos gjuaj, por duaj!* (Don't Shoot, but Love!), the campaign against the illegal holding of firearms could have helped reduce the

6 Albanian Police 2012 report on blood feuds.

7 The source, the *Gazeta Shqiptare* newspaper for 17 October 2012, does not give figures for 2002 and 2010.

8 See Mid-Term report of Albania on the implementation of the recommendations received during the second cycle of Universal Periodic Review (UPR), March 2017, pg. 8.

9 See *Raport i veçantë "Mbi fenomenin e gjakmarrjes në Shqipëri"*, December 2015.

number of cases in which a dispute can easily degenerate into a killing¹⁰. It is the widespread hold of firearms and even weapons of war (e.g. *kalashnikov* rifles) in the country that often leads to irreversible consequences after disputes over minor matters. The campaign's aim was to allow illegally held arms to be handed in without criminal charges up to 30 April 2017.

Unfortunately the campaign did not have the desired results and the arms handed over to the police were only a tiny proportion of those that Albanian citizens are assumed to hold. Nevertheless, on 22 May 2017 Albania announced the creation of a National Light Weapons Committee to impose greater control on the holding of weapons in the country.

With regard to the right of access to education, on 13 August 2013, the Directive No. 36 (Procedures for the education of children in self-confinement¹¹) was issued. It legally requires local education authorities to implement education programmes for all children identified as being confined in connection with a blood feud. In September 2017 Shkodra's regional education authority sent the municipalities of Shkodra and Vau Dejes and the local police an order¹² to collaborate and provide information on children in self-seclusion since investigations at local schools has so far failed to identify any child in self-confinement.

With regard to the right to education, a primary school home schooling programme is available (first school cycle or *shkolla 9-vjeçare*), thus apparently ensuring access to primary education.

Concerning the direct protection of victims however, police investigations have not always produced the desired results. For example, the murder of a 70-year old man and his 17-year old granddaughter on 14 June 2012 in connection with blood feud has yet to lead to justice being done. The ensuing feud has continued with another attempted murder. If the State cannot provide justice, forms of private justice may re-emerge. Despite the many calls for light on the case by society, the persons guilty of the double murder have not yet been identified. At the same time in another case, pressure from the Advocate of the People encouraged the Prosecutor's Office to pay particular attention to the needs of the family of the victim of a murder caused by a family feud.

Legal action taken by the Albanian State to toughen penalties does not always produce tangible results when applied. The victim's family, which is not a party to the criminal proceedings, is often overlooked. The State therefore concerns itself - not always consistently - with punishing the guilty but fails to consider the victims.

Focusing on the victims in the Albanian context of family vendettas is essential to reducing the tension between the clans involved and thus avoiding continuation of the feud.

Since 2010 Operazione Colomba's relationship with Albanian institutions has become increasingly one of mutual trust and collaboration. Since the "5000 signatures for life" campaign in 2013, a number of institutions have helped collect signatures (including a number of MPs who are members of the Albanian parliament's parliamentary commissions) and - like the then President of Albania, Bujar Nishani - have praised its aims. In 2014 the Albanian institutions promoted and supported the "*Change? It's possible! A crowd moves for peace against blood feud*" Peace March launched by Operazione Colomba together with other associations to promote a culture of life, peace, forgiveness and reconciliation, and to give a higher profile, including at the international level, to the blood feud problem. The success of the campaign was reported in Albania and internationally. In 2016 another national awareness campaign, "*Together we can build Reconciliation!*" was launched, focusing on two cities, Shkodra and Tirana, and with two aims: to remember the victims

10 The campaign was promoted in partnership with UNDP - SEESAC South Eastern and Eastern Europe Clearinghouse for the Control of the Small Arms and Light Weapons.

11 Udhëzimi no. 36 "Për procedurat për arsimin e fëmijëve të ngjuar", 13 August 2013.

12 Drejtorja Arsimore Rajonale Shkodër, Sektori i shërbimëve të Përgjithshme, Kërkesë për informacion no. 2277, 13 September 2017.

of blood feud and to obtain a commitment from local and national institutions to fight against it. Round tables with institutions were organised in both towns thanks to help from the Advocate of the People. The main aim was to renew the commitment to preventing and fighting against blood feud and to developing a common strategy, as stated in the document¹³ that was then produced and shared.

5. RECOMMENDATIONS

Based on this analysis, APG23 offers institutions a number of suggestions to help promote the elimination of blood feud in Albania by involving society and feuding families.

- Support mediation between families who are the victims of a blood feud and the creation of a national reconciliation process through restorative justice and mediation counselling.
- Reform the State justice system through: fight against corruption; pre-trial detention for anyone committing an offence connected with a blood feud; ensure sentences are served; ensure justice is the same for all.
- Introduce legal/institutional instruments that promote the elimination of the phenomenon and recognise and fight anything that causes or prolongs vendetta, such as the law on the civil mediation of disputes (Law 10385 of 24.02.2011).
- Amend and implement law 9389 of 4.05.2005 to set up a Coordination Council on blood feuds
- Systematically introduce educational and cultural programmes based on the nonviolent management of disputes, education in peace, reconciliation and respect for human rights in schools, places of work and in the most important centers of social integration.
- Take steps to ensure the safety of Albanians who are the victims of vendetta and to ensure they are able to access basic services (hospitals, places of work, schools, etc.).
- Set up a compensation and support fund for families who are bereaved as a result of vendetta.
- Within the Police, set up an *ad hoc* emergency service to deal with cases of blood feud.
- Introduce and implement special prison programmes and associated reeducation and reintegration plans for prisoners who have committed blood feud offences.
- Introduce standard criteria for identifying families involved in blood feuds.
- Publish official data on the actual extent of blood feuds.
- Create a social State dedicated to dealing with the structural factors that enable the phenomenon to exist and to contributing to the economic and cultural development of society and to the delivery of services.

A number of the above suggestions were already stated in 2014 during the second UPR cycle so *finally, on reporting and follow up of the third UPR Cycle, we would like to recommend the following: ensure the effective implementation of UPR recommendations through the establishment by the time of the mid-term review of the current cycle, of a permanent governmental mechanism to liaise with relevant ministries and consult with civil society, National Human Rights Institutions (NHRIs) and all relevant stakeholders.*

13 The final document is available at: http://www.operazionecolomba.it/njepopullkundergjakmarrje/wp-content/uploads/2016/05/COMMITMENT-TO-FIGHT-AND-PREVENT_ENG.pdf