

Report

Albania : an accumulation of impotence

August 2002

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The present note is the result of a fact finding mission mandated by the FIDH in May 2002 in Albania on the situation of human rights in the country. The mission was more specifically aimed at gathering information on the way Albania was using international aid to fulfil its obligations deriving from international human rights conventions. The mission originally focused on two issues : the right to health and the administration of justice.

This note presents the findings of the mission on Albania's compliance with its various international obligations regarding the right to health.

The mission was composed of Siobhan Ni Chulachain, FIDH Vice-president and Vice-president of the Irish Council for Civil Liberties, and of Bernard Debord, French journalist and documentary director.

From May 2002 to August 2002, the mission carried out additional research work in order to detail the information collected.

The mission would like to express its gratitude to the Albanian Human Rights Group, affiliated to the FIDH, for its assistance on the ground.

Persons interviewed

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Mr. Spiro PEÇI, Minister for Justice
Mr. Engëll HYSI, Ministry for Public Order
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Mr. Prec ZOGAJ, PM, President of the Alliance Democratic Party

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INTRODUCTION

A two-tier society:

One only has to walk through the streets of Tirana or along the coastline of the Durrës region to see how fast buildings are going up, the incredible increase in the number of cars or mobile phones, the multitude of shops selling consumer goods, the external signs of the 8% annual growth of GDP, according to the official figures. (The strength of the black economy leads us to assume the actual growth is considerably higher). Since the 1997 crisis, macro-economic indicators are fairly favourable. Inflation is extremely low, the budget deficit stabilised.

These positive signs of development should not however blind us to serious problems, in particular the increasing income inequalities and persistent unemployment actually considerably higher than the official figure of 16.5%. In reality, many factors point to the pernicious nature of this growth, creating a minority class of "nouveaux riches" frequently living on obscure resources and leaving almost 30% of the population below the poverty threshold:

- continued mass emigration, both legal and illegal, including an endemic brain drain,
- massive rural exodus to urban areas with anarchistic growth and putting existing structures (health, education, sanitation etc) under enormous strain,
- most public expenditure is financed by international aid,
- lack of transparency in the use made of aid, given the deterioration of the public health system and of the quality of teaching, shortcomings of the legal system, the administrative vacuum following the collapse of the structures of the communist era,
- tax evasion and misappropriation of customs duties,
- development of a "grey" economy with the strong support of dirty money from the Albanian or foreign Mafia networks (gun-running, drugs traffic, prostitution and illegal immigration).
- human rights violations by the police and legal officials concerning essentially the least favoured populations.

State delinquency and the cynicism of its leaders:

These scourges are public knowledge. No matter who you talk with in Albania – public officials or private individuals, foreign officials, NGO or IGO representatives – all can recount facts, stories, anecdotes which darken the picture even more: the police, the legal system, politicians are generally all described as corrupt, incompetent or only interested in themselves. Such a situation obviously creates inequalities and social insecurity. To this must be added the fact that the state shirks its basic duty to provide public services which were provided during the communist period, albeit with its weaknesses. Consequently, since the arrival of a capitalist economic "system", successive governments have felt themselves incapable of maintaining or creating again even the smallest social tie with the population: school, health, transport, justice, local administration, are all getting worse as the years go by.

Many Albanians - no doubt as a reaction to the overly interventionist communist state – seem to have as sole values individualism and the cult of easy money to the detriment of general interest. The proliferation of illegal buildings for example bears witness to this, whether these are initiatives of the poorest or of the better-off: on the one hand, heaps of little shacks thrown up overnight on the outskirts of towns – very often in insalubrious or polluted areas – by the deracinated rural populations abandoned to under-development by the State; on the other hand, real estate activities of the "nouveaux riches" with their mysteriously acquired fortunes: residential buildings in the

historical centre of cities, apartment blocks and shops at tourist sites, concreting over the coastal areas and private appropriation of beaches, pretentious villas sprouting up all over the place.

One can only wonder at the State's inability to enforce a minimum level of town planning, at the tendency of the executive body to give way to illegal practices (in this field as in all types of trafficking) and only to invest in projects which will never see the light of day.

This public impotence is due to many reasons:

- no culture of democracy in the population which rejects its collectivist past, a synonym for oppression.
- limited sense of general interest among politicians, the civil service and the economic leaders of the country, giving way to personal interests.
- illegal activities are tolerated (most real estate transactions are financed by laundered "dirty money" of the Mafia networks or that resulting from corruption or misappropriation of moneys).
- lack of any real control bodies such as an independent Court of Auditors.
- lack of courage and will among politicians: most of the persons interviewed played down the dimension of the problems, putting them down as being inevitable or tradition to explain why the problems persisted. Those who did admit to their existence tried to find excuses: for example the Minister of Health claimed that the ministry of the environment was at fault for the lack of information as to the dangers of the Porto-Romano site (see below).
- Absence of initiative, ingrained indifference and inertia on the part of public servants and administrators and lack of realistic capacity for change (no training, no infrastructures, requirement for capacity building programmes in the public sector).

It became apparent to the mission that over and above the lack of will to combat problems, these problems were frequently used as arguments by politicians:

Argument 1 : " international aid is vital to put an end to poverty in Albania. Once there is no more poverty, corruption will be on the wane "

Argument 2 : " poverty breeds corruption and if international aid does not manage to achieve what it sets out to do, it is because poverty favour misappropriation of funds " QED.

The systematic mention made by the rich economic and political powers that be of the country's poverty and the insistence with which they invite foreign observers to go out into the countryside and suburban areas to see it for themselves finally leaves one with terrible doubts: sectors of the population are possibly being kept in abject misery, despite the fact that international aid programmes have increased in recent years, so that perhaps one of the most cynical spin-offs of the constant flow of international subsidies is their constant misappropriation.

The question of where aid goes certainly has to be asked given the blatant evidence before our eyes: wealth does exist in Albania and is rapidly growing but it is strictly individual and private. Conversely, as foreign financial support to Albania increases, collective wealth is falling and large sectors of the population live in poverty.

All this is so self-evident that one has to question the lucidity of international aid donors:

What criteria are applied to the granting of aid programmes? Are studies really carried out on the use made of funds and the effects of aid? Are donor powers (mainly the EU and the USA) vying for influence in the region so that aid is granted willy nilly?

Does the fact that aid is allocated unevenly not add the impotence of the international community to that of the Albanian State in terms of respecting basic economic and social rights?

PART A GENERAL BACKGROUND

I : Historical and political background

1. Albania, an isolated crossroads (from its beginnings until 1990)

From Achilles to Enver Hoxha

Everything in history and geography makes this country a crossroads between east and west, between central Europe and the Mediterranean.

Although Albanians are attached to their illustrious ancestors the Illyrians, to Achilles and Olympias, the mother of Alexander the Great, and keep a direct tie to them, they have undergone many cultural and ethnic influences as a result of the many invasions of their territory: the Greeks followed by the Romans in ancient times. With the split of the Roman empire in the fourth century, they became Byzantine, fell victim to the Germanic and then the Norman invasions. Following the collapse of Constantinople, in the fifteenth century, Skanderberg became the national hero in the struggle against the Turks. The Ottomans dominated Albania up to the beginning of the twentieth century. At the end of the First World War, Albania recovered its independence in 1918. During the reign of King Zog 1st (1921-1939), the country opened slowly to Europe before falling directly under the yoke of fascist Italy from 1939 to 1943, then Nazi Germany (1943-44).

Under the influence of Enver Hoxha's communist party, Albanian resistance was alone in Europe to free its national territory of Nazis on 28th November 1944, without any help from the Allied Forces.

Despite the periods of foreign occupation throughout its history, Albania has been deeply cut off from the rest of Europe. Albanians have always retained the isolation of mountain peoples, rival clans divided by terrible vendettas. At the end of the Second World War, the mainly rural country had neither roads, industry nor schools.

A Stalinist dictatorship (1944 - 1990)

For nearly half a century, Albania was an unique and isolated dictatorship. Thanks to his creation the Labour Party of Albania, Enver Hoxha practised a bloody and personal dictatorship. All freedoms, of expression, of the press, of circulation are regimented. Socialist Albania is the only state in the history of mankind to ban the practice of any religion, even in one's own home.

Rigid planning emphasising heavy industry, overwhelming militarisation, the deliberate isolation of the country making it a besieged citadel, restriction of freedom of intellectual elites, all lead to a terrible economic stagnation.

Enver Hoxha locked Albania into exclusive international relations and every time there was a change in orientation and privileged ally, this was accompanied by bloody purges within the Labour Party. At the end of his life, Hoxha was the sole survivor of the founders of Albanian communism.

From 1945 to 1948, the main ally was Tito's Yugoslavia. When Yugoslavia broke away from Kominform, Enver Hoxha broke relations with Tito, "the British secret agent, and made Albania a satellite of the USSR. At the time of the sino-soviet split at the beginning of the 1960s, Hoxha took the side of the Chinese whereas Zeri i Popullit, the newsletter of the Labour Party stigmatised "the two-legged hyenas of the Kremlin" in its pages.

Following Mao's death, Albania followed the "Gang of Four" line, then broke with China in 1978 at the time of the "neo-liberal" turning taken by Deng Xiaoping.

In 1981, the Prime Minister, Mehmet Shehu, life-long companion of Enver Hoxha, "committed suicide" under highly suspect conditions. From then on, Albania closed in on itself completely, with Hoxha devoting all the energy of Albanians to constructing military defence.

On the dictator's death in 1985, Albanian policy, under the auspices of his wife Nexehim Hoxha, was not changed. Friendly relations were then limited only to Ceausescu's Rumania, Kim il-Sung's North Korea and to a few national liberation movements in the third world.

Ramiz Alia, Hoxha's successor, indeed tried to introduce a few timid attempts at liberalisation and opening to the outside world, but turned a blind eye to Gorbachev's perestroika, until the effects of the fall of the Berlin wall were felt in the "country of eagles". In 1990, communist Albania, bled dry and famished, poorer than many countries in the third world, collapsed brutally.

2. An unstable democracy (1992-1997)

The transitional period (1990-1992)

The signal for the fall of the regime was the taking of foreign embassies in the night of 1st to 2nd July 1990 by thousands of extremely poor prospective exiles. The first student demonstration took place in Tirana on 2nd July. The government reacted violently and in the months that followed, Albania seemed to miss out on what happened in other countries in eastern Europe. In November, the famous author, Ismail Kadaré left for exile in France.

However, things speeded up and on 20th November, the Prime Minister resigned. The next day there was an official announcement that this was the end of the Stalinist era and during the night, the statue of Stalin in Tirana was toppled.

In February 1991, a second exodus rocked the regime, obliging it to announce parliamentary elections and the reinstatement of diplomatic relations with the USA on 15th March. The Labour Party obtained 64% of the seats at the 31st March elections and stayed in power thanks to a name change – it became the Socialist Party of Albania – the appointment of a coalition government on 11th June including non-communist ministers. The new government headed by Fatos Nano, leader of the Socialist Party, included a liberal intellectual, Prec Zogaj, President of the Albanian Association of Journalists in the post of Minister of Culture.

The winter of 1991-1992 was atrocious. Against a background of desperate political battles, the country sunk into famine and chaos. Cargo ships filled to overflowing with fugitives captured, warehouses plundered, public installations and infrastructures vandalised all brought to an end what little credit the transition government had enjoyed.

On 29th March 1992, the Democratic Party won the parliamentary elections. A page in history had been turned.

The Berisha years (1992-1997)

The leader of the Democratic Party, Sali Berisha, was elected President of the Republic on 9th April 1992. The USA and the EU accordingly set an aid plan of 70 million euros. Agrarian reform continued and economic reform was launched with a massive privatisation programme. The State set up democratic institutions and declared fundamental rights.

All in all, the winners of the Democratic Party are being tolerant: there are not violent settlements of past vendettas, no executions of the leaders of the former regime. Nevertheless, some of them, for example Ramiz Alia and Fatos Nano, were imprisoned after trial; the former, non-communist ministers of the coalition government, despite having often been the initiators of the democratic process, are forced to break away, for example Preç Zogaj who moved over to the opposition setting up the Democratic Alliance.

In 1996, The Democratic Party once again won the elections despite its limited result: democracy was beginning to see the light of day but on an authoritarian basis; the legal system seemed to be barely independent of government; the President appoints men from his region, the North, to many key posts thereby re-creating the old clan structure; the Greek minority in the South seems increasingly to be subject to hard line treatment compared to the communist era; corruption is on

the increase; Albania is involved in arms dealing with the Rwandan Hutu militia in Zaïre; the free press is hindered by alternating direct and indirect methods to bridle it, the law on the press is very severe.

However, freedom of expression today bears no comparison with the past whereas the new liberal policy and international aid enable some improvement in economic and social conditions.

The events of 1997

Sali Berisha's re-election by Parliament in March 1997, took place in an environment of civil war following on the collapse of financial pyramids which had sprung up in the country since 1990. Under pressure from international donors, a law on economic reform was voted which led to the collapse of companies, frequently in the hands of organised crime, but in which nevertheless hundred and thousands of Albanians had invested their savings, attracted by exorbitant interest rates.

The wrath of those savers very quickly led to violent anti-government riots, particularly in town in the South. Policy and military arms depots were ransacked, prison gates were opened, thousands of Albanians piled on to ships to cross the Adriatic to emigrate. Anarchy took hold of the country, stirred up by the opposition, obliged Sali Berisha to resign, whereas the Security Council of the United Nations decided to send a multinational force of 6000 soldiers to protect the humanitarian aid convoys and enable elections to be held.

In July 1997, the Socialist Party of Albania won the parliamentary elections and Rexhep Meidani was elected President of the Republic.

In July 2001 following the parliamentary elections, the Socialist Party and its allies retained their majority with 87 seats out of 140. The actual composition of the government was only decided in September 2001, namely two months after the elections. The opposition, for its part, boycotted parliament until the end of January 2002.

Despite apparent political stability, the Socialist Party has not left power since the end of the 1997 crisis, which has had tragic consequences for Albania and which can still be felt in 2002.

3. A society in the process of destructuring (1997-2002)

Five years on, Albania does not appear to have recovered from the shock of 1997 and the uncertain bases on which in previous years it had once more founded its institutions and its economy. And this all the more so that the Kosovo crisis of 1998-99, which saw the arrival of 450,000 refugees in the space of a few weeks only accentuated the economic and social imbalances of the country and underscored the shortcomings of the State, all the while reinforcing Albania's dependence on international aid.

Despite the relative appeasement for some time now, politics in recent years has been characterised by a thoroughly hateful climate: the Democratic Party boycotted the Parliament for lengthy periods; the mysterious assassination in September 1998 of Azem Hadjari, member of parliament and Berisha's right hand man, Berisha claiming that it was the government which was responsible for this; serious accusations and counter-accusations by Sali Berisha and Fatos Nano, former Prime Minister; violent street fights in Tirana between Democratic Party militants and the police; boycotting by the Democratic Party of the referendum to adopt the new constitution; opposition protests claiming a fraudulent victory of the local elections in October 2000 by the Socialist Party; many irregular dealings, in particular in Lushnja, reputed by government during the parliamentary elections won by the Socialist Party in July 2001, etc.

In June 2002, following bitter negotiations, the Socialist and Democratic Parties reached agreement on a single candidate for the President of the Republic, Alfred Moisiu, former Minister of Defence and leader of an association supporting Albania's entry to NATO. This latter was elected by 97 votes of the 140 in Parliament on 24th June 2002. He took up office on 24th July for a five year term of office. And so he replaced Rexhep Meidani. Does this election lay the foundations for renewed co-operation between the main political forces in Albania and is this the sign of the long awaited political maturity? These hopes must still be confirmed. On 31st July 2002, Parliament appointed Fatos Nano, as new Prime Minister. This is the third Prime Minister in less than one year. The two key ministerial posts, defence and vice Prime Minister, have been given to Fatos Nano's two predecessors. The absence of Democratic Party members in this government has been widely denounced by the opposition. The story does not finish here.

Nevertheless this implacable struggle between the two main parties and their respective leaders indeed corresponds to a renewed, deep-seated power-struggle by the regions, with on the one hand the North, fief of Sali Berisha, and the South, bastion of Fatos Nano.

If we are to believe what several observers have said, this clan-like concept of political bears witness to a lack of democratic maturity among politicians.

Other phenomena result from this which, far from receding with time, seem on the contrary to become more established as increasingly significant as scourges of society: generalised corruption, increase in organised crime, ineffective legal system leading to continued vendettas, inefficient civil service, setback of basic public services, increasingly individualistic behaviour patterns on the part of the population. It should be noted that, while this worrisome situation was highlighted by practically all persons in civil society, it is usually played down – even denied – by government representatives questioned on these same topics by the mission.

II : Protection of Human Rights: an overview

1. Albania's commitments on human rights

Organisation of the State

The new Albanian constitution was adopted by referendum on 22nd November 1998. This institutes a parliamentary regime (art 1).

Parliament, known as the "Popular Assembly, is unicameral and consists of 140 members elected for a four year period, of which 100 by majority vote and 40 by proportional vote. Members of Parliament may propose laws which must be approved by 3/5 of Members of Parliament to be accepted. The President of the Republic is elected by Parliament.

In administrative terms the country consists of 12 provinces, 36 districts and communes, governed by elected Councils.

Protection of the constitution

The Albanian constitution states that human rights and freedoms are indivisible, inalienable and inviolable and constitute the basis of the legal system.

Article 18 sets out the principles of equality and non-discrimination, article 22 guarantees freedom of expression, and freedom of the press, article 23 the right to information, article 24 freedom of conscience and of religion. According to article 25, no-one may be subjected to inhuman or cruel

treatment and is guaranteed the right to a fair and just trial. Rights of association, peaceful assembly, to strike and the right to education in particular are guaranteed by the constitution. Lastly, article 55 of the constitution guarantees the right to health.

The constitutional court monitors the constitutionality of legislation and of registration, and examines any violations of the measures contained in the constitution. Citizens may exert a right in individual petition before this court if they believe that their rights have been infringed.

By its decision n°56 of 10th December 1999, the constitutional court declared the death penalty unconstitutional.

International and regional commitments

Article 122 of the constitution declares the primacy of international treaties over contrary national legislation. Treaties are part of an internal legal system and apply directly once ratified and published on the OJ.

On the international level

Albania is a member of the United Nations, the International Labour Office (ILO), the World Trade Organization, the World Bank and the International Monetary Fund.

Albania has ratified the following instruments:

General Conventions:

- International Covenant on Civil and Political Rights, entered into force in 1976
- International Covenant on Economic, Social and Cultural Rights ratified in 1991

Humanitarian Law:

- Convention on the Prevention and Punishment of the Crime of Genocide
- Convention on the non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity
- 4 Geneva Conventions (12 August 1949) and two Protocol Additional to the Geneva Conventions (1997)

Slavery, slave trade, forced labour and torture:

- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment and Punishment (1984)
- Slavery Convention (1926) as amended by the Protocol of 7 December 1953
- Supplementary Convention on the Abolition of Slavery, the Slave Trade, and institutions and Practices Similar to Slavery (1956)
- Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (1949)
- ILO Abolition of Forced Labour Convention (1930)
- ILO Freedom of Association and Protection of the Right to Organise Convention (1957)

Protection of workers:

- ILO Right to Organise and Collective Bargaining Convention (1948)
- ILO Protection of Wages Convention (1949)

Protection of women and children:

- Convention on the Elimination of All Forms of Discrimination against Women
- Convention of the Rights of the Child

Conventions referring to discrimination issues:

- International Convention on the Elimination of All Forms of Racial Discrimination
- ILO Equal Remuneration Convention

- Discrimination (Employment and Occupation) Convention
- UNESCO Convention against Discrimination in Education

It must be noted that Albania does not respect its obligation to submit periodic reports to conventional bodies responsible for examining measures adopted by States to fulfil the commitments subscribed to by ratifying the 6 main treaties.

In fact, as of 6th June 2002, Albania has never submitted reports to the following UN committees: Human Rights Committee, Committee on the Rights of the Child, Committee on the Elimination of Racial Discrimination, Committee on Economic, social and cultural rights, Committee Against Torture, Committee on the Elimination of Discrimination against Women.

On the regional level

Albania is a member of the OSCE and has subscribed to the principles concerning the State of Law and democracy in particular through the final Helsinki Act and the Paris Charter.

Albania has adhered to the Council of Europe on 29th June 1995 and has ratified in particular:

- Convention for the Protection of Human Rights and Fundamental Freedoms and protocols N° 1, 2, 4, 7, and 11, as well as Protocol No. 6 to the Convention concerning the Abolition of the Death Penalty
 - European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, entered into force on 1st February 1989 and its Protocoles N° 1 and 2 entered into force on 1st March 2002
 - Framework Convention for the Protection of National Minorities
 - European Charter of Local Self-Government, and European Convention and European Convention on the Transfer of Proceedings in Criminal Matters and its Protocols N° 1 et 2
 - Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime, entered into force on
 - Criminal Law Convention on Corruption, entered into force on 1 July 2002
 - Civil Law Convention on Corruption, ratified, has not entered into force yet.

Albania is in the process of ratification of the European Social Charter.

The European Union has officially opened negotiations with Albania on an Stabilisation and Association Agreement, early 2002. The principle of signing this agreement was reaffirmed at the European Council in June 2001.

2. General situation of human rights

The democratisation process in Albania started in the 1990s after a lengthy period of autarcic dictatorship through major legislative reform and the alignment of its body of law with international and regional standards on protection of human rights.

Nevertheless, this process has been hindered on the one hand the continuing acute political tension, conflictual election campaigns, the lack of any true political debate leading to polarisation based on personal rivalry. On the other hand, Albania is faced with an economy suffering from serious imbalances¹. The brutal breakdown of the State and collapse of its structures at the beginning of the

¹ See « Albanie 2000-2001. Des éclaircies toutes relatives » in *Le courrier des pays de l'est*, N°1016 June-July 2001

1990s along with the population breaking from central authority, have all combined to create cracks and spaces where corruption, the practice of ancestral rules and organised crime have rushed in.

Albania is a hub for drugs trafficking and slave trade (prostitution, begging, illegal labour). Women and children are most concerned by this last kind of trafficking. Many victims come from countries of eastern Europe such as Rumania, Moldavia, Bulgaria and the Ukraine and pass through Albania on their way to countries in western Europe. Albania is also a major country of origin.

Albania is a major transit zone between Asia and Europe for heroin whereas Albania itself is an increasing producer of hashish for sale in western Europe.

Alban Bala², a journalist wrote in June 2002 what “Albanian police say about 10 speedboats carrying trafficked persons depart from Vlora bay and other coastal points each night. The number of trafficked persons during the summer is believed to be between 2500-3000 a month”. Moreover, according to IMO about 30 000 Albanian women are working as prostitutes in Italy. The Italian coast is only a few hours away and a visa for Italy costs 1 500 euros.

All types of trafficking which has been developing over the years in Albania is linked to another scourge, namely corruption, a phenomenon which extends to all levels of the State: the police, functionaries in the legal system, the civil service, politicians and the mandarins of government. It can take the following forms: theft of public funds, securing of state positions and benefits by means of bribery, payment of favours in customs, telecommunications, building license and medical service. This State corruption has been vouched for by independent observers and largely contributes to the alienation and mistrust of Albanian citizens with regard to government on both national and local levels.

In its Global corruption report 2002, the US State Department notes that “Police corruption hinders anti-trafficking efforts” and only “few police or governmental officials are prosecuted”. Transparency International underscores this point stating that very few legal actions for “abuse of duty” have been initiated against politicians. In its report published in August 2002, Transparency International has in fact ranked Albania in 21st place on the list of most corrupt countries worldwide. Whereas many State representatives are corrupt, a good number are directly involved in trafficking which makes it particularly difficult to dismantle these networks.

Public authorities and politicians are only just beginning to react to these two problems, but with no global overview, nor any clear idea on individual responsibilities. When questioned about trafficking and in particular, the high number of prostitutes estimated to be working abroad, the reaction of the Minister for Justice met by the mission was to deny outright that the figures could be in anyway accurate and to joke about one woman per family being abroad and to rail about the negative publicity Albania received abroad. Moreover according to him, the women involved were not Albanian but from other Eastern European countries who, for reasons best known to themselves, tell the authorities in Italy that they are Albanian so that they are deported to Albania rather than their own countries of origin.

The lack of political will here has led to complete apathy; on the domestic level, the fight against trafficking and corruption is even frequently used to exert pressure and neutralise politics. In fact, pressure exerted by the international community, increasingly attentive to these questions since the collapse of the pyramid system, and of the regional stakes seem to be the only motivation capable of arousing any reaction on the part of the authorities. These latter increasingly try to present a positive

² Article translated and diffused by Radio Free Europe. Alban Bala ”Albania : US State Department Recognized Antitrafficking Effort”, 7 June 2002.

image of their country which would facilitate their entry into NATO, the signature of the Association Agreement with the European Union and would avoid them having sanctions imposed on them by the USA.

Some steps have been taken although the impact is very limited.

In 2001, the Albanian parliament enacted a “national strategy against trafficking in human being” with in particular the creation of anti-trafficking units in police districts and the creation of an Anti-trafficking center in Vlora which is still not fully operational. The government has voted a new law on corruption. The Law on the Prevention of illegal Narcotics Trafficking, adopted in 2001, provides severe penalties. In some sectors valiant efforts have been made. The directorate for combating human trafficking in the Ministry of public Order says “that during the first four months of the year 2002, the state police identified and prevented 187 cases of trafficking attempts, detained 283 persons”, according to the Ministry, figures are higher than in previous years. The US State Department report states that 96 persons have been arrested for crime linked to trafficking between December 2000 and October 2001. Twelve of these were charged and 9 sentenced to prison.

However, the government has not set up any programme for aid to victims, rehabilitation and protection of witnesses: two key elements in the fight against trafficking and corruption. On his own initiative, the head of the policy station in Fier built a shelter in the courtyard of the policy station for victims of trafficking who are expelled by the Italian government. The Minister for Justice displayed a belief that trafficked women are willing participants in trafficking and showed no sign that he believed resources should be deployed to protect victims of trafficking or for their rehabilitation. This lack of political leadership does not assist in the fight against trafficking.

Women who are victim of trafficking continue to be maltreated regularly by the policy. They are frequently detained for longer than the legal requirement and received heavy sentences for prostitution. The law foresees heavy sanctions for crimes linked to prostitution without distinguishing whether this was forced or voluntary. There are no specific legal measures for human trafficking

Turning to the fight against drugs trafficking, here again there is a clear lack of political will: “There is no national strategy for the fight against drugs, but the legal framework is mostly complete³ “. Here again, services are not co-ordinated, insufficient resources, corruption and inappropriate and insufficient training for the police force all constitute serious obstacles to fighting this traffic.

The role of the international community on these questions has once again made its voice heard recently. Following publication of the 2002 annual report of the US State Department welcoming “significant efforts in the field of fighting trafficking” by the Albanian authorities, new measures have indeed been adopted. Prime Minister Fatos Nano’s speech of investiture at the end of July 2002, concentrated on “zero tolerance of corruption, smuggling and crime”. In early August a vast operation starting from the port Vlora was launched in co-operation with the Italian and Greek police. On 27th August 2002, the Minister of the Interior announced the setting up of an elite unit known as “Delta Force” to fight smuggling.

³ Cf “Common Country Assessment – Albania”. Report prepared for the United Nations System in Albania by the Albanian Center for Economic Research. Tirana, June 2002

Will these measures produce concrete results and are they not just there to give temporary satisfaction to the international community? The fight against corruption was a major topic in the Socialist Party's election campaign during the parliamentary elections of 2001.

Alongside these twin phenomena which are obstacles to the creation of a State of Law in Albania is that of Blood-feud. Blood-feud is part of ancestral common law called "Kanun". Kanun is a body of standards and rules of self-governance and social regulations (such as family relations, inheritance, penal matters). Between 1945 and 1990, the authorities condemned the practice of Kanun considered as being reactionary and conservative, a system qualified as an "enemy of the regime".

As noted by the Albanian Human Rights Group, the passing to the pluralist society in 1990 marked a strong and difficult translation for Albania in the political, social and economical aspects. The weakness of the state authority and non-functioning of its rules stimulated the revival of the Kanun norms in practice which brought the phenomenon of blood-feuds.

A large majority of the population in the north of the country is consequently subject exclusively to the Kanun laws, instead of republican laws. The State does not manage to impose its authority, nor to make its structures function (such as prisons, civil service). The State of law does not apply to these groups of the population. Blood-feud has repercussions on the legal system as we shall see below but also affects all areas of civic, economic, social and cultural rights. The phenomenon has migrated, along with the population of the North, to other parts of the country. The police chief in Durres expressed some concern with regard to the appearance of Blood-feud related crime in his area of responsibility.

The AHRG mentioned that in 2001 2.750 families⁴, in the mountains as well as in the plains in the North now were self-confined, afraid of being killed by Blood-vengeance (ngujimi). The children are those most involved in bloody crime. Nine hundred children could not attend school and can not go out from their houses, 500 of whom are in Shkodra city, the biggest city of northern Albania. An entire quarter in Shkodra city called "Kiras" is self-confined, being afraid of being killed by blood-vengeance. This quarter is called differently as "blood quarter".

This phenomenon is linked to :

- The incapacity of the state to establish its authority. This incapacity cannot support its representatives in these areas, even the state representatives have been victims of the Kanun codes.
- The lack of investment and development platforms in these areas, infrastructure, economy, education, culture, etc.
- Instrumentalisation of Kanun. Kanun is now used by people for their own personal interests. Kanun is used as an alibi to justify different ordinary crimes. It must be recalled that the blood-vengeance, murder of the children and women, is condemned by Kanun. Now, one of the main sources for blood-feud is rooted in settling of accounts whereby "the origin of the arguments relating to properties or the limits of strips of land distributed after the reforms of the 1990s".⁵

- An extreme poverty in these areas

Furthermore the situation of vulnerable groups and that of the media is still worrisome.

Though the situation of the media has recently improved, journalists are still victim of condemnation for defamation following legal action undertaken by officials. They are occasionally

⁴ These are very concerning figures if we take into consideration that a family in this region consists of 8 people and up.

⁵ See « La vendetta ravage le nord de l'Albanie », Sokol Shamenti, in Courrier International N°551, May 2001.

victims of police violence and are regularly threatened and subject to threats and political and financial pressures.

Moreover, women have been removed from the process of political alternation. They are under-represented in parties and in central and local government. During the transition period, their economic and social position has worsened considerably. Moreover, women are victim of domestic violence. Legislation on domestic violence is very behind the time, with neither specific legal measures nor preventive measures. Consequently very few cases of domestic violence actually reach court and the police still considers the these are really private matters. The mission noted a certain reluctance to recognize domestic violence as an issue facing Albanian women and a tendency to justify the existence of any such violence by reference to a high level of violence permeating society in general. Finally, it should be noted that Kanun gives little consideration to women. Moreover, according to this common law, it is permissible to kidnap young women for bribes.

Lastly, the main ethnic minorities are Greek, living in the South of the country. After that come the Romanies and Macedonians, victims of social exclusion and discrimination. There live in a total indifference on the part of the State and more and more problems emerged, linked with the economic and social situation. It should be noted that gays and lesbians are still victims of police violence and of different kind of harassment from the society.

Albania is one of the poorest countries in Europe. According to surveys and official statistics, 29.6 % of Albanians are poor, while half of them live in the category of extreme poverty. In absolute terms, 46.6% of Albanians are below the poverty line of 2\$ per capita a day while 17.4 % below the poverty line of 1\$ per capita a day.

These statistics prove the large violations of economic and social rights suffered by Albanian population.

The transition reforms, especially the prize of liberalization, privatization and the economic restructuring processes, have led to the outset or the deterioration of some economic and social rights for certain groups of the population and certain areas of the country.

To give only a few examples, one in three families experiences problems with low quality housing, there are serious problems with potable water supply, sewage and roads.

The infant and under 5 mortality rates are relatively high compared to other countries of the region, maternal mortality is also high. Almost one in 7 children under 5 is malnourished. Illiteracy has increased (only 88 % of the population aged over 15 is able to write and read) and in addition to lack of incomes, 75% of the poor families experience acute social problems.

GENERAL DATA

- **Area:** 28.750 km²

Albania is situated on the Balkan mountain range which makes up 2/3 of its territory. Average altitude of Albania is 714 m, i.e. double the European average. Thus the Albanians are considered a mountain people. Albania is known as the “country of eagles”. The country is 340 km from North to South and 150 km from East to West.

Common borders: 772 km land border with Montenegro, Serbia (including Kosovo), Macedonia and Greece. A coastline of 472 km on the Adriatic and Ionian Seas.

- **Capital :** Tirana (500,000 inhabitants).

- **Main cities :** Durrës (100,000), Shkodër (75,000), Korçë (60,000), Gjirokastrë (30,000), Vlorë (70,000), Fier (37,000), Berat (37,000), Elbasan (90,000)

- **Population :** 3.330.000 inhabitants (2000)

Six million Albanians live outside the country in neighbouring regions and countries (Kosovo, Montenegro, Serbia, FYROM, Greece) as well as in the diaspora (essentially Italy, USA, Germany, Argentina, Australia). This fact is constantly reiterated in Albania.

Population Density : 115,5 inhabitants./km²

Ethnic groups: 93% Albanians, 2% Roms, 2% Greek, 3% other nationalities.

Natural population growth is high, at 0.97% per annum. Birth rate – 21.3 per thousand – is the highest in Europe.

- **Life expectancy** is 68 year-old.

PART B: THE RIGHT TO HEALTH : A GENERAL OVERVIEW

I International framework

The human right to health is recognized in article 25 of the Universal Declaration of Human Rights which provides that:

“Everyone has the right to a standard of living adequate for the health of himself and of his family, including food, clothing, housing and medical care and necessary social services”.

The right to health has been subsequently recognized in a number of international instruments, that Albania has ratified⁶ :

The International Covenant on Economic, Social and Cultural Rights provides the most comprehensive instrument on the right to health in international human rights law.

The right to health is not to be understood as a right to be *healthy* but as *the highest attainable standard of physical and mental health*⁷.

II The right to health in the albanian constitution

At the national level, the Constitution of Albania, guarantees the right to health in its article 55

- “1. Citizens enjoy in an equal manner the right to health care from the state.*
- 2. Everyone has the right to health insurance pursuant to the procedure provided by law.”*

In Chapter V, the Constitution determines a certain number of “social objectives”. Within this chapter, Article 59 states that :

“The State, within its constitutional powers and the means at its disposal, aims to supplement private initiative and responsibility with...[...] the highest possible standard of health, physical and mental;[...]a healthy and ecologically adequate environment for the present and future generations;[...] care and help for the aged, orphans and persons with disabilities, [...] health rehabilitation, specialized education and integration in society of disabled people”.

However, Art 59 goes on to clarify that :

“Fulfilment of social objectives may not be claimed directly in court. The law defines the conditions and extent to which the realization of these objectives can be claimed.”

⁶ See Annex 1

⁷ For a detailed analysis on Albanias’ general obligations under the ICESCR and on Albania’s specific obligations regarding the right to health, see Annex 1

III The national health program

2001 National Strategy for Economic and Social Development/ Poverty Reduction Strategy (PRSP also known as GPRS)

In 2001 Albania developed a National Health Program to qualify for future IMF, World Bank and other multilateral and bilateral aid. On June 20, 2002 the strategy was officially presented to the World Bank Board and approved. Its objectives includes the following:

1. Improved effectiveness and efficiency in use of resources:
 - a) Improvement of process planning, resource distribution, and their monitoring at central and local levels
 - b) Reduction of corruption
2. Ensuring access to health services in the whole territory and improvement of their quality
 - a) Coverage of 100% of territory with health centres and 50% of territory with out patient clinics
 - b) Reorganization of hospital service with the aim of establishing regional hospitals
 - c) Service availability with necessary personnel covering the whole territory
3. Improvement of health indicators though specific interventions
 - a) Prevention of contagious diseases such as EPI
 - b) Prevention of cases of TBC, HIV/AIDS, STDs, etc.
 - c) Ensuring reduced demand for drugs , alcohol, and tobacco
 - d) Prevention of incidence of diarrheic cases and epidemics
 - e) More comprehensive and qualitative service for mother and child with the aim reducing infant and maternal mortality by 15%
 - f) Expansion of services delivered in mental health sector
 - g) Better monitoring and coordination of specific programs in above fields

IV National legislation

After the political changes of 1990-1991, Albania carried out several legislative reforms in the field of public health. Since 1990, a considerable number of laws were passed. They are unfortunately rarely implemented. The gap between the legal texts and reality is therefore enormous.

A compilation of all these texts entitled “The Albania Health Legislation” has been published by the Albanian Parliamentary Commission on Health.

The mission regrets that the WHO Office in Tirana refused to make this compilation available....

V BUDGET

1. International Aid

As a former eastern block country, even more than other former eastern block countries, Albania has a history of economic, political and cultural isolation. Other than limited trade with China, for 50 years Albania had essentially no trading partners. Its isolationist history and dependency on a centralized infrastructure offered by the communist regime may in part explain the difficulties that Albania faces today in the management and delivery of basic services such as health care provision.

Following the deconstruction of the communist regime and in an effort to promote a market based economy to foster development and break its political and economic isolation, in the early 1990s the Republic of Albania jumped on the free trade band wagon. As such, it began generating financial ties with bilateral and multilateral donors, adhering to their structural adjustment contingency programs which included privatisation of its industries as well development of poverty reduction strategies.

In addition, to help develop the economic infrastructure and actualise its EU integration, in 1991 the Albanian government joined the World Bank and IMF. With hopes to attract increased foreign investment and access additional funding sources, in June 2000 Albania was accepted into the WTO. Today, conditional upon actualizing its commitments to reform its economic, political, judicial and social systems, Albania has 43 World Bank loan projects underway (through the International Development Association) amounting to US\$570 million committed (US\$384 million disbursed). Other major funding sources collaborating with the World Bank include the IMF, European Union, Greece, USAID, Italy, GTZ (German aid agency) and OECD. By the end of fiscal year 2000, Albania's combined total debt was US\$784 million.

It is important to note that key decision-making by major donors regarding Heavily Indebted Poor Countries (HIPC) such as Albania rely heavily on policies and programs developed by the World Bank and its International Development Association (IDA). For further information on the mechanisms and policies that reflect Albanian authorities' poverty reduction strategies developed in conjunction with the World Bank please see the attached appendix.

2. Budget

The entire health budget is around 3.1% of GDP which is below the recommended 5% of GDP by the World Health Organization (WHO). About US \$7 million is invested in health structures; this is an increase of 12% since 2001.

The combination of low health care budget appropriation, and corruption is exacerbated by organizational failings in the system. Several key factors play a role in Albania's inadequate health care system:

Incompetent financial and organizational health care management

90% of the health system is government-funded, about 10% is private. According to the Minister for Health, who met with the mission on the 20th of May, the difficulties encountered by the Health Sector are mainly organisational rather than money-related.

Low salaries for health care professionals and corruption

The State's investment of US \$5 million (excluding salaries) is about 1/3 of the international norm for health spending. In addition, the health system is one field which remains very corrupt in Albania. Its increased corruption parallels and is symptomatic of general corruption at the heart of Albanian society.

Foreign aid limited focus on disease prevention and control and dependency on foreign aid

Foreign aid makes an important contribution to the health sector as the government budget is very limited. However, it does not cover all the expense involved. The most important contributor is the Albanian Health fund which is funded by various foreign governments. For the most part, resources are focused on disease prevention and control. Accordingly, the

Minister for Health stated that there has been almost a 100% take-up rate on polio and measles vaccination programmes.

It is noteworthy that in May 2002, in order to qualify for World Bank funding under the Poverty Reduction Strategy Credit, Albanian authorities revised the budget thereby increasing the health care sector allocation to the percentage of the GDP at 3.2%. This health budget increase namely prioritizes salary increases and management training. However, despite the budget increase, it remains considerably below the health budget allocation recommended by the WHO.

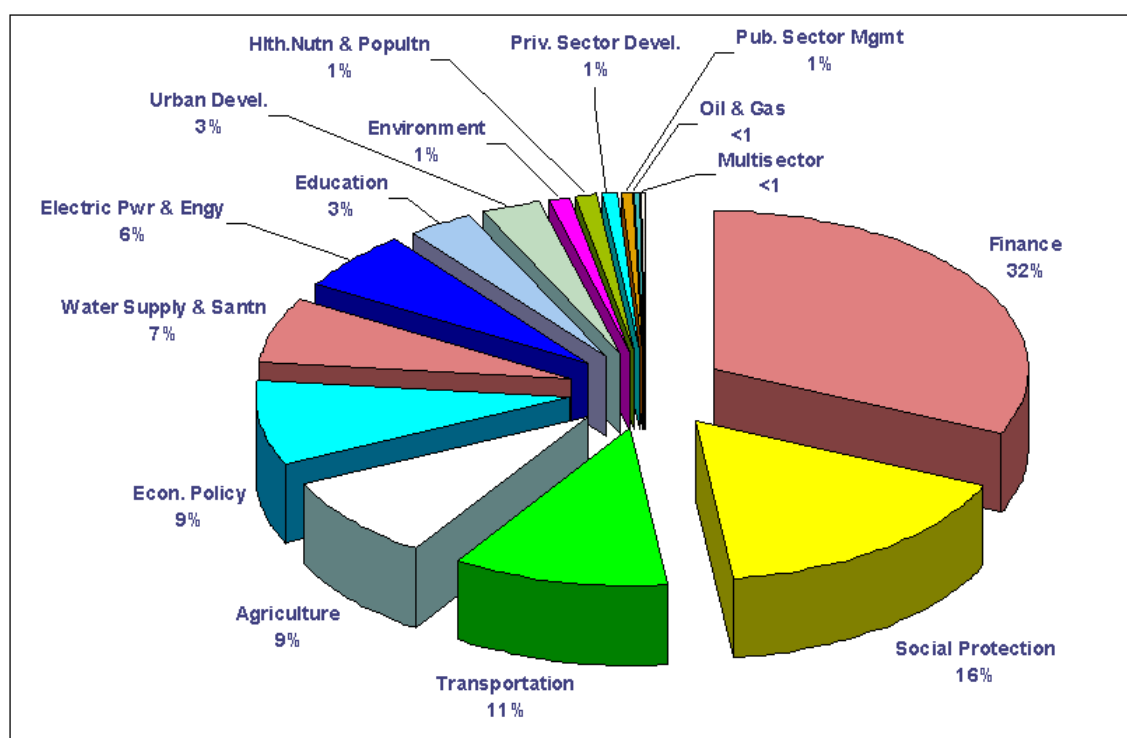
With average Official Development Assistance (ODA) commitments totalling \$US 315.2 million, according to 1999 OECD statistics, Albania comes in 3rd place in the top ten aid recipients in Europe behind Bosnia-Herzegovina and the Former Republic of Yugoslavia-Serbia/Montenegro. The International Development Association (IDA-arm of the World Bank), Italy, Germany, France, and the United States were the top five ODA donors to Albania between 1998 and 2000 respectively. However, only an average of 6% of Albania's total aid was designated towards the health sector compared to another former eastern block country Moldova which averaged 14% of their total aid designated towards the health sector.

Given that even World Bank officials agree that Albania's health care system "is in dire condition"⁸ and that it is the third top aid recipient in Europe, it is noteworthy that Moldova, with a population bigger than Albania by a quarter again, receives 1/3 less in total aid and is only in sixth place for top aid receipts in Europe, appears to spend a greater amount on the health sector resulting in a higher percentage of child immunizations and physicians per capita than Albania.

| Top 10 Aid Recipients in Europe 1999 | | |
|---|---------------------|---------------------------------|
| | \$US million | % All European countries |
| Bosnia-Herzegovina | 1063 | 29 |
| FRY-Serbia/Montenegro | 638 | 17 |
| Albania | 480 | 15 |
| Sts. Ex-Yugo. Unspec | 434 | 13 |
| FYROM-Macedonia | 273 | 7 |
| Moldova | 102 | 3 |
| Cyprus | 50 | 1 |
| Croatia | 48 | 1 |
| Slovenia | 31 | 1 |
| Malta | 25 | 1 |
| Europe, others | 552 | 15 |
| TOTAL | 3697 | 100% |

2001 Total Lending by Sector for Europe & Central Asia* *Source: World Bank*

⁸ *Telephonic contact on 24 July, 2002 with Philip Goldman, World Bank Team Lead on Albania's Poverty Reduction Strategy Credit*



*Albania, Bosnia-Herzegovina, Bulgaria, Croatia, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Macedonia (FYR), Poland, Romania, Slovak Republic, Slovenia, Yugoslavia, Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyz Republic, Moldova, Russian Federation, Tajikistan, Turkmenistan, Ukraine, Uzbekistan.

| Official Development Assistance Commitments to Albania | | | | |
|--|-----------------------|----------------------------|-------------------------------|----------------------------------|
| Top 10 Donors (average 1998-2000) | US \$ mill for Health | % of All Donors for Health | US \$ million for All Sectors | % share towards Health Total Aid |
| IDA (World Bank) | 5.7 | 32% | 82.3 | 7% |
| Italy | 3.9 | 22% | 70.5 | 5% |
| Germany | 1.8 | 10% | 34.5 | 5% |
| France | 1.4 | 8% | 2.2 | 66% |
| United States | 1.3 | 7% | 53.7 | 2% |
| Japan | 1.2 | 7% | 5.1 | 24% |
| Switzerland | 1.1 | 6% | 14.0 | 8% |
| United Kingdom | 1.0 | 5% | 15.9 | 6% |
| Sweden | 0.2 | 1% | 1.9 | 8% |
| Austria | 0.1 | 0% | 7.7 | 1% |
| All Donors TOTAL | 17.7 | 100% | 315.2 | 6% |

| Health Sector Analysis of Recipient Countries: Albania & Moldova | | |
|--|---------|---------|
| | Albania | Moldova |
| Official Development Assistance (ODA) average 1998-2000 All Sectors \$US millions | 315.2 | 100.0 |
| 1999 Population (millions) | 3.1 | 4.3 |
| 1998-2000% Share of Health in Total Aid | 6 | 14 |
| 1998 Health expenditure: Per capita (PPP US\$) | 116 | 177 |

| | | |
|--|------|------|
| 1998 Health expenditure: Public (as % of GDP) | 3.5 | 6.4 |
| 1998 Health expenditure: Private (as % of GDP) | 0.5 | 2.1 |
| 1999 Population with access to essential drugs (%) | 60 | 66 |
| 1997-1999 One-year-olds fully immunized: Against tuberculosis (%) | 93 | 100 |
| 1990-99 Physicians (per 100,000 people) | 129 | 350 |
| Human Development Index | 72.5 | 69.9 |
| <i>Source: World Bank, OCDE & 2001 UN Human Development Report</i> | | |

The entire health budget is around 3.1% of GDP. About US \$7 million is invested in health structures : this is an increase of 12% since 2001.

About US \$10 million is expended on salaries and operational budget. 90% of the health system is government-funded, about 10% is private. According to the Minister for Health, who met with the mission on the 20th of May, the difficulties encountered by the Health Sector are mainly organisational rather than money-related.

PART C : THE MISSION'S OBSERVATIONS ON THE GROUND

I Lack of infrastructures

1. Lack of Primary Health Care Structure

During the communist regime, there was an adequate primary health care system in every town and village in Albania. This has been dramatically affected by migration patterns as health clinics in the villages and in some towns have been left without doctors due to them migrating towards the cities with their families. Many small health clinics are now left either completely unattended or are attended only on a part-time basis by a doctor who is covering a large catchment area.

A further spin-off of this depopulation is the fact that it has caused public confidence in the primary health care system to be undermined and the population prefer to address itself directly to the hospitals where they believe the best doctors are based. The mission noted that many of the patients treated in the city hospitals have not received any primary medical care.

The mission visited a medical centre at Porto Romano, near Durrës, which consisted of a three room building, staffed by one doctor and two nurses. The nurses told the mission that they had been trained in short courses on mother and child health care. In the doctor's room, there was a bed, a table and chair, a stethoscope and a machine for taking blood pressure. There was no running water and the electrical points were hanging off the walls. The nurse's room contained a table and chair, a cold box for storing vaccines, and a table with a weighing scales for weighing babies. There was no other equipment, no medication, no running water, no computer. Files are kept in pigeon holes in the doctor's office. Almost all cases have to be referred to hospital, sometimes even for the purposes of diagnosis. The inadequacy of the physical structure and of the equipment leaves much to be desired.

As a consequence, this has increased the overloading of the resources in the cities which are already under pressure as a result of the internal migration of the population towards the cities. For example, the mission visited the Mother Teresa University hospital in Tirana. The breakdown of the primary health care service, mass migration towards the cities and over-reliance on the tertiary healthcare structures has resulted in this hospital being under-resourced for the population it now has to serve.

There is an urgent need to reinforce the primary healthcare system.

2. Bad condition of Public Health Infrastructures : the example of the Mother Teresa Hospital

The mission visited the Mother Teresa Hospital University Hospital in Tirana, which is the biggest hospital in the country. The hospital was founded in 1932 and is built on 16 hectares of land, comprising 6 main hospital buildings, alongside other smaller buildings. In total, there are 1,300 beds. The hospital does not have a maternity wing, a trauma treatment centre nor does it treat people with lung diseases. It has a budget of around US\$ 5m, excluding salaries. This is about one third of the international norm for health spending.

The hospital itself is old-fashioned but some parts have been renovated recently. The mission noted some very dilapidated and barred up buildings among those which are in daily use. All around the hospital campus, there were Roma women with babies and disabled Roma men begging. The campus is littered with illegal developments, of cafes and shops and illegal housing. The mission specifically raised this point with the Minister for Health who undertook to remedy the matter.

The hospital has an incinerator to dispose of medical waste but there were piles of domestic waste around the steel skips with which the hospital is liberally provided. As a result, the grounds of the hospital is full of wild dogs and cats and even hens. The mission was not able to ascertain how often this waste is collected but it clearly is a health hazard. We also saw old junk from the hospital, bed frames, filing cupboards and old desks piled up behind bushes with weeds growing over them, but no real attempt to dispose of it.

The oncology building has boarded up doors and a lot of broken windows, cracked floors and the mission was taken aback at the physical condition of this building. Given the chronic and serious nature of the illnesses being treated and the nature of the treatment being given, the mission felt there must be a danger to the staff, to the patients and to visitors.

The mission is aware that the services at the hospital are under intense pressure. Indeed, the mission witnessed queues of patients continuing outside some buildings from inside. This pressure is a result of the breakdown of the primary healthcare system and patterns of mass migration towards the cities. This is an enormous challenge for Albania which requires immediate attention.

3. Lack of Psychiatric Facilities

There are four psychiatric hospitals in Albania, with a total of around 700 beds. Three of Tirana's polyclinics deal with psychiatric problems and there are no residential treatment centres. However, there is no separate section in the Department of Health to deal with psychiatry and no separate budget is available.

The ratio of beds per head of population is adequate as there is a strong family structure and they are inclined to care for patients at home. However, there is no recognition for this important support

for the inadequate and centralised services, either by way of carer's allowance or by the putting in place of support structures for carers.

Furthermore, patients who are chronically ill spend long periods in hospital without receiving quality therapy or other treatment. There is no emphasis on rehabilitation. This is particularly worrying given the mediocre physical conditions and basic facilities in hospitals.

There is no hospital with forensic psychiatric beds. People who are found not guilty by reason of insanity are obliged to take treatment. Hospitalisation is generally only required in two situations: risk of suicide or risk of homicide.

Services for the mentally ill are basic, poorly-organized and centred in the cities. Some moves are being made to promote the development of a coherent and cohesive system of care for psychiatric patients which has been recognised as a priority in this area. At the moment, each structure is independent and there is no follow-up after discharge, at medical centres, within the family or in the workplace. A unified system should address this difficulty.

A steering committee was established at the time of the Kosova crisis as there was a dramatic increase in the number of traumatised patients. This committee comprises officials from the Departments of Health, Education and Social Affairs, as well as independent experts. It is not clear whether this committee also includes advocates for mentally-ill patients or representatives from within that group or any representation of the families of those suffering from mental illness. The committee continues to hold regular meetings to evaluate progress and achievable goals.

At the moment, each structure is independent. There is no follow-up after discharge, at medical centres, within the family or in the workplace. A unified system should address this. There is a requirement for a more balanced system with medical care and support falling short of hospitalisation and close to the patient's family and community.

The Minister for Health has expressed goodwill towards the development of this type of system and the need to create a coherent and coordinated structure.

4. Limited private health care infrastructures

Under art 12 of the ICESR, Albania has the obligation to ensure that privatization of the health sector does not constitute a threat to the availability, accessibility, acceptability and quality of health facilities, goods and services.

The private health sector in Albania is limited. It is mainly involved in diagnostic procedures. There are no private clinics with inpatient treatment facilities.

However, the mission noted that this situation is changing slightly. In particular, the University Hospital for Obstetrics and Gynaecology has recently opened a private clinic in an annexe to the hospital. In this clinic, doctors' names, availability and consultation hours are publicly advertised. Clients are free to choose their own treating doctor. Prices are also displayed so that each client knows the price of each service. Prices vary from \$1-\$3. 30% of the income earned in the clinic is used to equip the new hospital and the other 70% is used to supplement the wages of the medical staff involved. The hospital itself is 60 years old and has 200 beds. It has been largely renovated using US Aid money.

In the university hospital, the trend is towards the privatisation of basic facilities, such as catering and laundry. This should result in a freeing up of administrative time to deal with other difficulties and to focus on medical problems.

Since the salary of workers in the healthcare sector is very low, those professionals can earn more income and be paid more by working in the private sector. However, straddling both sectors causes other difficulties. Doctors may spend a lot of time in the private clinics and are not available to the State service. There are also reports of some doctors using State equipment for their private ends. The opportunity to work in the private sector should be strictly regulated, for example, as to how to divide time between the private and state sector.

II Uncompetitive salaries for trained medical personnel

According to art 12, Albania has not only the obligation to make sure that there are enough trained medical personnel available but also that these professionals receive “*domestically competitive salaries*”. There are 700 doctors based in the university hospital, some are teachers and associate professors and these are at the higher end of the pay scale (salary around US\$ 300 a month). At the lower end of the scale, the sanitation staff receive around S\$ 60 a month. As a consequence of these low salaries, corruption in the health sector is very important.

Corruption can be divided into two levels : the lower level is the giving of bribes to persons working in the health sector (who see this as a means of supplementing their income) by people who do not enjoy a very high standard of living. This sort of corruption is fuelled by the lack of resources allocated to the system. The second level regards the corruption of individuals in leadership positions who accept large sums of money from institutions or rich individual in return for benefits such as tenders or grants.

According to the Minister for Health, an increase in salaries is planned for the health sector. The aim is to increase salaries by 12% on average. The highest increase is to go to lower grade jobs such as forensic doctors, sanitary inspectors and pharmacists. The finance for this increase will come from charging patients who go directly to hospitals for health care services that are available at their own doctor. The prices to be paid will be fixed and approved by the Ministry of Health.

III Lack of regulation of the drug industry

According to art 12, Albania has the obligation to provide essential drugs and to prevent private parties from marketing “unexpired drugs”.

There appears to be no regulation of the drug industry even though a National Center for Drug Control was formally established in 1993. The mission heard allegations that some drugs companies were re-packaging out-of-date drugs and offering them for sale cheaply in Albania. Apparently, massive quantities of drugs were smuggled, repackaged and sold on the Albanian market, following the sending of international aid for the Kosovar refugees.

According to reliable sources, 60 % of available drugs on the Albanian market come from illegal trafficking.

Moreover, it seems that doctors sometimes prescribe medicines which are not easily available or which are unavailable through state-funded drugs programmes. This co-operation between pharmacies and private clinics is a result of corruption and causes difficulty for citizens who cannot get the medicine they need quickly and cheaply. The need for a national protocol regarding the

prescription of medication in hospitals is quite clear and the public system must be extended to reimburse modern drugs.

Reports were also received of drug companies fixing the prices of available drugs in their tenders to hospitals and sharing the supply of different drugs through the formation of cartels. This is something that can be countered by requiring all companies answering to a tender process to provide complete price listings. Overall, there is a need to establish and equip a proper Drugs Advisory and Regulation Board.

IV No access to information

According to ICESCR Art 12-, Albania has to guarantee access to information.

However, the mission found out that there is a lack of information for patients in relation to the services available in private and state clinics. This lack of information gives rise to a fear that the doctor will ask for a bribe, which is not always the case. It is difficult for poor people to get a good service, some people have no money to pay and they become victims of the health service. Low salaries encourage doctors to abuse patients' rights by giving unnecessary treatment, up to and including unnecessary medical procedures in order to supplement their incomes.

However, the Minister for Health indicated to the mission that he was in the process of drafting a patient's charter of rights which would be made available to the public and be widely disseminated and publicised.

The Minister for Health has also indicated that he intends to pass a decree that notices should be displayed indicating that the health service is free and that doctors are forbidden to accept money from patients. Comment boxes will be made available for patients to make their comments known and also to report on breaches of the rules. The purpose of this policy is to educate the public that the health care system is free and that it is important to pay for health insurance rather than to pay the doctors and health staff. About 30% currently pay health insurance. This is expected to increase as salaries improve.

Prices will be publicly displayed and approved by the Ministry. This should be prioritised as administrative problems have arisen where hospitals lack data regarding costing for various medical procedures arising out of the system under the previous regime. As everything was previously paid for by the Government they have not yet compiled all the information regarding the costing for operations and medical procedures.

Problems Specific to Women

Formerly, there was a network of midwives in villages who provided ante- and post-natal care to pregnant women. This system has collapsed and as a result, women now lack instruction in basic healthcare issues. Many women are unaware of the risks attached to pregnancy.

Pre-eclampsia and post-natal bleeding are the biggest health problems. There are also difficulties with nutritional standards during pregnancy. The rate of breastfeeding is decreasing. The rates of malnutrition and infant mortality are very high. This is partly due to the very harsh climate and partly due to diet, which is poor and level of nutrition is low, there is a lack of knowledge.

IV Lack of environmental and industrial hygiene

1 Porto Romano- A Disaster Waiting to Happen

- General situation

On the 18th of May, the mission visited Porto Romano to see the former chemical plant which produced sodium dichromate for leather tanning and pesticide such as lindane, a nerve poison banned in many countries.

This abandoned factory, located on the outskirts of Albania's biggest port, has swollen into a shanty town of almost 6,000 people, whose makeshift homes have been built in what the UN is calling an "environmental disaster" and "one of the worst environmental hot spots in the Balkans".

These houses have been built by internal migrants who were forbidden to move from their home villages under communism.

Since 1991, hundreds of thousands of rural villagers have migrated to this area, unaware that the land they are building on may be poisoned with chemical residues.

Most of the people living here are from the North East of Albania and the general level of education is low.

The mission saw children playing in around the buildings and there were also animals and poultry grazing. According to the United Nations Environmental Program (UNEP), families are living in homes built with contaminated bricks from the former factory, children play on a contaminated soil. Cows, goats, and sheep that supply milk and food to local inhabitants graze the plant's contaminated grounds and drink contaminated well water.

At the entrance of the site, there is a large gateway with no sign warning people of health hazards or potential health hazards there. During communist times, this was a prohibited area but there are no longer any of those notices and the people do not realise where they are living.

- Health care facilities

There are basic facilities in Porto Romano, a school, a medical clinic, a basic and scanty bus service to Durres.

The state-run medical clinic which consists of a three room building, staffed by one doctor and two nurses. The doctor at the medical clinic here who is a new arrival at the clinic and he is trying to alert people to the dangers. The nurses told us that they had been trained in short courses on mother and child health care

In the doctor's room, there was a bed, a table and chair, a stethoscope and a machine for taking blood pressure. There was no running water. The nurse's room contained a table and chair, a cold box for storing vaccines, and a table with a weighing scales for weighing babies. There was no other equipment, no medication, no running water, no computer. Files are kept in pigeon holes in the doctor's office. Almost all cases have to be referred to hospital, sometimes even for the purposes of diagnosis.

The mission was told that they have encountered extremely high levels of dermatitis and in particular, chronic, allergic dermatitis but they have not been asked to keep statistics or details of any emerging pattern of the illnesses encountered nor provided with the facilities so to do. There is no study of the evolution of the health of the inhabitants and no international aid organisation has intervened there.

Since UNEP's assessment in 2000, officials have failed to erect a fence or even place warning signs to ward off new comers.

When the mission asked the Ministry of Health about the absence of such a sign, the Ministry replied that it could not step over the Ministry of Environment's prerogatives.

An FIDH delegation met with the People's Advocate during his visit in Paris in July 2002. The FIDH got the assurance that the Ombudsman would go and visit Porto Romano and alert national authorities to the severity of the situation.

2 ELBASAN- A Redundant Kombinat

About 50km to the south east of Tirana is Elbasan, Albania's fourth largest town and capital of the administrative centre of the district called Elbasan. The exact population of Elbasan is unknown. It was around 70,000 but may now be as much as 100,000. Elbasan is the location of a large "Kombinat", an industrial zone where various metallurgical industries were based. The metallurgy facilities in Elbasan were open from 1977 to 1990. The site is comprised of factories that once produced coke, steel, pig iron, and some nickel. Today, a scrap steel smelter provides the only sign of activity in a complex that once employed 12,000.

The major source of concern in Elbasan is the possible soil and groundwater contamination being caused by the disposal of 1.5 to 2.0 million tons of solid waste. The waste-tailings and dust from coke production-contains heavy metals. While the complex was in production, the waste was transported via a pipeline to a hydro tailing sediment lake fifteen kilometres away.

The technology used to build the Kombinat was Chinese and it was already old when it was brought to Elbasan. The Kombinat was built on the fertile plains near Elbasan, which is situated in a big valley. This was the place which the regime chose to install the Kombinat which was the pride of the Communist regime. The aim was that the Kombinat would produce all the steel necessary for Albanian industry and that it would not be necessary to import any steel. Old steel was brought to the factory in Elbasan where it was melted down and processed.

The road down into Elbasan is a long winding road down the side of the mountain. From the road overlooking the Kombinat, only one chimney seemed to be working, it was a very large funnel type chimney and it was belching out very dark brown-black smoke. There didn't seem to be any filter or control on the chimney that was functioning. The mission believes that when the Kombinat was working at full strength, there was considerable air pollution at Elbasan and the valley was covered in a pall of smoke. This is easy to believe as there were a large number of chimneys in an enclosed area, you can only imagine what the others were like 20 years ago.

Over the large gateway into the Kombinat is the name "Kuram", which is the Turkish company still running the one factory still working there. The roads inside are in very bad condition, full of potholes, although most of the roads in Tirana were in a similar condition. However, this Kombinat was the jewel in the crown of the communist industry and the roads seem inadequate for that. There was also a rusted and defunct railway line with derelict railway cars listing to one side and falling apart.

All over the place, there were piles of earth overgrown with weeds, piles of rubbish, some of it industrial, for example, pile of rusted nails, broken ceramics, pieces of jagged metal, and broken glass, a real health hazard.

The noise being made was deafening, crunching of metal and grinding of wheels. The working factory is located in a massive old hanger, with sheets of corrugated metal, rusted and torn. There were piles of broken up junk metal, broken up buses and cars, metal frames and junk.

There was also domestic waste, and animals grazing, cows, mules, goats, sheep, and poultry. There were also wild dogs. There were buildings with every window broken and doors all bricked up. Others were wide open and some had been used as latrines. Some were blocked off as being unsafe while others, which looked even more unsafe, weren't. There was a terrible stench. The smoke was belching out of the chimney over our heads but it was drifting down in our direction and it was foul.

There are still people working in the factory and some locals are obviously still going in and out to work, some to graze their animals. There were policemen and security guards around the place. This Kombinat seems an obvious health and safety hazard for the people working there as well as for those living in the region. The mission heard reports of many unexplained illnesses and birth defects in the region in both the human and animal population. No official survey or data is being collated.

ANNEX : International context : nature and scope of obligations under art 14 of the ICESCR

The human right to health is recognized in article 25 of the Universal Declaration of Human Rights which provides that:

“Everyone has the right to a standard of living adequate for the health of himself and of his family, including food, clothing, housing and medical care and necessary social services”.

The right to health has been subsequently recognized in a number of international instruments, that Albania has ratified :

- International Covenant on Economic, Social and Cultural Rights, art 12
ratified by Albania in 1991
- International Convention on the Elimination of All Forms of Racial Discrimination art 5 (e) (iv)
ratified by Albania in 1994
- Convention on the Elimination of All Forms of Discrimination against Women, art 11.1 (f) and 12,
ratified by Albania in 1991
- Convention on the Rights of the Child of 1989, art 24, ratified by Albania in 1992

Albania is in the process of ratifying the European Social Charter of 1961 as revised (art. 11),

The International Covenant on Economic, Social and Cultural Rights provides the most comprehensive instrument on the right to health in international human rights law.

Article 2.1 of the Covenant gives the general nature and scope of Albania’s obligations under the Covenant.

Art 14 of the Covenant then explains more specifically Albania’s commitments regarding the right to health.

These two articles are therefore equally important in evaluating Albania’s violations (or compliance) with its international obligations in the field of health.

Nature and scope of Albania’s general obligations under the ICESCR

Article 2 is of particular importance to a full understanding of the Covenant.

Article 2 (1) of the Covenant states that :

“Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures”.

| Article 2.1 | Albania's obligations | Other States' obligations |
|---|---|--|
| <p><i>"to take steps ... by all appropriate means, including particularly the adoption of legislation"</i></p> | <p>-Begin <i>immediately</i> to take steps towards full realization of the rights contained in the Covenant</p> <p>-At the national level, use all appropriate means, including legislative, administrative, judicial, economic, social and educational measures.</p> | |
| <p><i>"to achieve progressively the full realization of the rights"</i></p> | <p>-Take measures independently of the increase in resources and use effectively all resources available.</p> <p>-Refrain from taking measures (through law or policy) that would jeopardize existing achievements ("principle of non retrogression")</p> | |
| <p><i>"to the maximum of its available resources"</i></p> | <p>-Ensure the satisfaction of, at the very least, minimum essential levels of each of the rights", irrespective of the availability of resources in the country.</p> <p>If Albania wants to attribute its failure to meet at least its minimum core obligations to a lack of available resources it must demonstrate that every effort has been made to use all resources that are at its disposition in an effort to satisfy, as a matter of priority, those minimum obligations.</p> | |
| <p><i>"individually and through international assistance and co-operation, especially economic and technical"</i></p> | <p>-Spend, in priority, the resources received through international assistance towards the realization of its minimum core obligations</p> | <p>-Assist and co-operate towards the realization of the rights recognized by the Covenant. It therefore means that foreign countries giving money to Albania have to make sure that the money is being spent in priority towards the realization of fundamental economic and social rights in the receiving country</p> |

Nature and scope of Albania's obligations regarding the right to health (art 12)

Article 12 states that :

“1. *The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.*

2. *The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for:*

(a) *The provision for the reduction of the stillbirth-rate and of infant mortality and for the healthy development of the child;*

(b) *The improvement of all aspects of environmental and industrial hygiene;*

(c) *The prevention, treatment and control of epidemic, endemic, occupational and other diseases;*

(d) *The creation of conditions which would assure to all medical service and medical attention in the event of sickness.”.*

1. Normative content

The right to health is not to be understood as a right to be *healthy* but as *the highest attainable standard of physical and mental health*.

The right to health contains the following interrelated and essential elements :

(a) *Availability*. Functioning public health and health-care facilities, goods and services, as well as programmes, have to be available in sufficient quantity within the State party. The facilities include safe and potable drinking water and adequate sanitation facilities, hospitals, clinics and other health-related buildings, trained medical and professional personnel receiving domestically competitive salaries, and essential drugs, as defined by the WHO Action Programme on Essential Drugs;ⁱ

(b) *Accessibility*. Health facilities, goods and servicesⁱⁱ have to be accessible to everyone without discrimination, within the jurisdiction of the State party. Accessibility has four overlapping dimensions: non discrimination, physical accessibility, affordability, information accessibility

(c) *Acceptability*. All health facilities, goods and services must be respectful of medical ethics and culturally appropriate, i.e. respectful of the culture of individuals and minorities

(d) *Quality*. Health facilities, goods and services must be scientifically and medically appropriate and of good quality. This requires, skilled medical personnel, scientifically approved and unexpired drugs and hospital equipment, safe and potable water, and adequate sanitation.

2. Albania's obligations regarding the right to health

a) General obligations

Like civil and political rights, economic, social and cultural rights impose three different types of obligations on States: the obligations to respect, protect and fulfil. Failure to perform any one of these three obligations constitutes a violation of such rights

-*Respecting* the right means Albania can not violate the right directly.

-*Protecting* the right means Albania has to prevent violations of rights by non-state. Albania has therefore to adopt legislation or to take other measures ensuring equal access to health care provided by third parties and to ensure that privatisation of the health sector does not constitute a threat to this right.

-*Fulfilling* the right means Albania has to take all appropriate measures—legislative, administrative, budgetary and judicial—towards fulfilment of the right.

b) Minimum core obligations relating to health

According to the CESCR, the minimum core obligations are :

- To ensure the right of access to health facilities, goods and services on a non-discriminatory basis, especially for vulnerable or marginalized groups;

- To ensure access to the minimum essential food which is nutritionally adequate and safe, to ensure freedom from hunger to everyone;

- To ensure access to basic shelter, housing and sanitation, and an adequate supply of safe and potable water;

- To provide essential drugs, as from time to time defined under the WHO Action Programme on Essential Drugs;

- To ensure equitable distribution of all health facilities, goods and services;

- To adopt and implement a national public health strategy and plan of action,

This report will focus on these minimum core obligations, trying to assess Albania's compliance with some of them.

Nature and scope of other actors' obligations

Obligations of other States Parties to the Covenant

Introductory comments

Core human rights obligations create national obligations for all States, and international responsibilities for developed States, as well as others that are "in a position to assist."

According to the Committee on Economic, Social and Cultural Rights (CESCR), *international cooperation for development and thus for the realization of economic, social and cultural rights is an obligation of all States. It is particularly incumbent upon those States that are in a position to assist others in this regard.*"

The ICESCR does not place any particular obligation on any one country to provide aid to another, nor does it require any particular policy choice. However, it does require that the state parties to the Covenant individually and collectively take necessary actions consistent with the Covenant to ensure, as stated in the UDHR, that international co-operation and assistance be directed towards the

establishment of a social and international order in which the rights and freedoms set forth in the *ICESCR* can be fully realised.

Obligations to fulfil

The CESCR's statement on poverty and the *ICESCR* elaborates on this notion by adding the concept of an 'international minimum threshold':

“When grouped together, the core obligations establish an international minimum threshold that all developmental policies should be designed to respect. In accordance with General Comment No. 14, it is particularly incumbent on all those who can assist, to help developing countries respect this international minimum threshold. If a national or international anti-poverty strategy does not reflect this minimum threshold, it is inconsistent with the legally binding obligations of the State party.”

An inter-related obligation is the requirement that – in the same manner as domestic resources – international assistance (aid and/or debt relief) corresponding to *ICESCR* obligations be targeted towards the most vulnerable populations.

This obligation is of significant concern since international assistance is not focused on the most needy states, and the most needy populations within them. The obligation upon developed countries is particularly clear since failures to target aid may not be excused by claiming a 'lack of available resources.'

Obligations to respect

States have the duty to ensure that all bodies subject to their control respect the enjoyment of rights in other countries. This would apply to the voting of states in international organisations and the regulation of multinational companies based in their countries.

In addition, the obligations under the *ICESCR* would require that measures be urgently taken to remove global structural obstacles, such as unsustainable foreign debt.

A key issue is whether the international community's obligations to cooperate for the realisation of human rights are nullified if a recipient state is misusing resources, engaging in officially sanctioned corruption or neglecting vulnerable populations. Two major concerns in this regard are the effects of withholding assistance and the need to ensure that those evaluating the human rights performance of other states are themselves accountable, and to avoid conflicts of interest in such evaluation.

On the first issue, a response consistent with the purposes of human rights law is to attempt to channel such assistance directly to the affected populations (when such action is demonstrably necessary), rather than simply withholding it.

In relation to the second issue of accountability of the donor states, it is necessary to examine cooperative and mutually agreed approaches. Recent developments include the use of Poverty Reduction Strategy Papers, which are required to be developed transparently and with the broad participation of civil society. The aim is to ensure that debt relief is directly used for poverty reduction. However, a legitimate concern is that the evaluation of these papers by the IFIs and by individual donor states (in relation to bilateral assistance) is not independent⁹.

⁹*International human rights obligations and levels of financing for development, CISDL Legal Brief, March 2002* <http://www.cisd.org>

Obligations to international organizations

General obligations

It is now widely agreed that international lending institutions are required to respect the economic, social and cultural rights in the context of their imposition of structural adjustment programmes.

As an example of this new awareness on the impact of World Bank activities on human rights, the bank itself conducted in May 2002, a one day learning meeting, which was intended to initiate a dialogue among Bank staff on the role for the Bank in human rights.

During this meeting, Mr. Karlsson, Vice President, External Affairs and UN Affairs, said that “*Although it is nation-states and political leaders, not the Bank, which are empowered with the responsibility for enforcing human rights, promoting and protecting human rights is clearly central to fulfilling the Bank's development and poverty reduction mandate*”¹⁰.

Specific obligations relating to the right to health

The right to health requires that international lending agencies pay attention to the right to health in their lending and credit agreements, and in international measures to address the debt crisis.

According to the Committee on Economic, Social and Cultural Rights, the role of the United Nations agencies and programmes, and in particular the key function assigned to WHO in realizing the right to health at the international, regional and country levels, is of particular importance.

In particular, the international financial institutions, notably the World Bank and the International Monetary Fund, have to pay attention to the protection of the right to health in their lending policies, credit agreements and structural adjustment programmes.

The World Bank, in a memo dated Stated that: "we should not be afraid to state that the Bank plays a critical role in the realization of human rights (...). We are a development bank, and as such we assist our member states and their citizens to realize their rights by helping them address crucial issues of health, environment, education, and other basic needs".

Specific obligations relating to the right to health

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¹⁰ *Human Rights & Sustainable Development: What Role for the Bank?*, May 2, 2002, Summary of proceedings, <http://www.worldbank.org>