

Domestic Violence in Moldova



December 2000



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Founded in 1983, Minnesota Advocates for Human Rights is the largest Midwest-based, non-governmental organization engaged in international human rights work. The organization has approximately 4,000 members, including more than 800 active volunteers who contribute an estimated \$1.4 million annually of in-kind services. Minnesota Advocates also has Special Consultative Status with the United Nations.

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TABLE OF CONTENTS

I.	PREFACE	1
A.	Summary of Findings.....	2
B.	Recommendations.....	4
II.	DOMESTIC VIOLENCE IN MOLDOVA	5
A.	Introduction.....	5
B.	Historical Background.....	7
C.	Moldova Under Communism.....	8
D.	The Transition from Communism.....	9
1.	Economic Issues.....	9
2.	The Status of Women.....	9
3.	Nationalism.....	11
E.	Evidence of Domestic Violence.....	12
F.	Police Response to Domestic Violence.....	18
G.	Domestic Violence: Causes and Complicating Factors.....	19
H.	Community Response to Domestic Violence.....	22
1.	General Overview.....	22
2.	Response of NGOs.....	23
III.	MOLDOVAN LAWS AND THEIR IMPLEMENTATION	25
A.	The Moldovan Constitution.....	25
B.	Criminal Code, Code of Criminal Procedure and Code on Administrative Offences.....	27
1.	The Law.....	27
2.	Procedure.....	30
3.	Forensic Evidence.....	31
4.	Problems with Implementation.....	32
5.	Proposed New Criminal Code.....	33
C.	Family and Marriage Code.....	33
1.	Divorce Procedure.....	34
2.	Obstacles to Divorce.....	35
IV.	MOLDOVA'S OBLIGATIONS UNDER INTERNATIONAL LAW	36
A.	United Nations	37
1.	Women in Moldova are not ensured of the right to security of the person and of freedom from torture and cruel, inhuman or degrading treatment.....	37
2.	Women in Moldova are not ensured the right to an effective remedy for acts violating their fundamental human rights.....	37
3.	Moldova is not in compliance with the Convention on the Elimination of All Forms of Discrimination Against Women and the Declaration on the Elimination of Violence Against Women.....	38
B.	Council of Europe.....	39
V.	CONCLUSION	41

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DEDICATION

This report is dedicated to the women of Moldova

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DOMESTIC VIOLENCE IN MOLDOVA

I lived with my husband for more than 25 years. We had three children together. There was a lot of tension in our relationship. My husband was physically abusive for years. I had studied at the university but my husband destroyed all of my books and papers when I was in my fourth year so I could not finish. I tried to leave him once. I was gone for six months with my children. He convinced me to come back but began abusing me again shortly after I returned. He raped me and forced me to drink. Two years ago in November, my husband attacked me; he pushed me against the wall and threatened me with an ax. I was able to push him off me, God only knows where I got the strength, but he attacked me again. He said over and over again, "You are going to die today." He pushed me up against a door. I was terrified. I grabbed a piece of iron and hit him over the head. He came after me again and I hit him again. My husband died from the injuries. I could not prove that he had routinely beaten me. I did not have any forensic certificates to document my injuries over the years. I did not know about the law. The ax was not in his hand when I hit him. I am now serving a six-year sentence for his death.¹

I. PREFACE

Violence against women is perhaps the most pervasive human rights abuse in the world. Domestic violence has been found to be a serious problem in every country where it has been studied. Research shows that women of all ages and all socio-economic and educational backgrounds experience domestic violence.²

In recent years, violence against women in intimate relationships has been recognized as a significant human rights abuse. The United Nations has declared domestic violence a violation of the fundamental human rights of women.³ A government's responsibility for protecting all of its citizens from human rights abuses

¹ Interview, May 18, 2000 (women's prison). Generally, throughout this report, the interviews will only be identified by date to help maintain the anonymity of those people interviewed.

² L. Heise, M. Ellsberg, and M. Gottemoeller, *Ending Violence Against Women*. Population Reports, Series L, No. 11. Baltimore, Johns Hopkins University School of Public Health, Population and Information Program (December 1999).

³ The United Nations first officially recognized violence against women as a human rights abuse in the Vienna Declaration and Programme of Action. U.N. DOC. A/CONF. 157/24 (1993). The Vienna Declaration calls on the United Nations General Assembly to adopt a declaration condemning violence against women in all its forms. *Id.* In December 1993, the General Assembly adopted the Declaration on the Elimination of Violence Against Women, G.A. Resolution 48/104 (1993). This declaration defines violence against women to include, "physical, sexual and psychological abuse occurring in the family."

includes ensuring that women enjoy their most basic human rights, security of person and bodily integrity in their homes. When these rights are violated, governments are obligated to respond appropriately.

Domestic violence is also a serious problem in Moldova. Doctors, attorneys, judges, prosecutors, journalists, women's advocates and other individuals reported incidents of severe abuse of women at the hands of their intimate partners. In a recent survey of reproductive health issues in Moldova ("*Reproductive Health Survey*") by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services, 22% of the women interviewed reported they had been abused by a partner or former partner at some time in their lives.⁴ Although this figure is startling, the estimate presented in the survey likely underestimates the true prevalence of physical and sexual abuse of women due to the reluctance of women to report such abuse.

In February and May of 2000, Minnesota Advocates for Human Rights ("Minnesota Advocates") sent two delegations to Moldova to investigate governmental and societal responses to the issue of domestic violence.⁵ The delegations visited Chisinau, Orhei and Hincesti and interviewed women, judges, prosecutors, police officers, doctors, representatives of nongovernmental organizations ("NGOs"), journalists, and academics. Minnesota Advocates employed international human rights standards articulated by the United Nations as the foundation of its research methodology. In conducting this research, the delegations principally used the following United Nations definition of domestic:

*Domestic violence can be defined as the use of force or threats of force by a husband or boyfriend for the purpose of coercing and intimidating a woman into submission. The violence can take the form of pushing, hitting, choking, slapping, kicking, burning or stabbing.*⁶

Minnesota Advocates also collected information about psychological abuse suffered by women to the extent it was available.

A. Summary of Findings

Despite overwhelming evidence of domestic violence, the government of Moldova has taken very few steps to address the problem. The police generally do not

⁴ *Reproductive Health Survey, Moldova, 1997*, by the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention at 249 (1997) [hereinafter REPRODUCTIVE HEALTH SURVEY].

⁵ The research was conducted during two visits. The first delegation traveled to Moldova in February 2000. It consisted of Suzanna Banwell, Erin Barclay and Diane Knust. The second delegation in May 2000 consisted of Robin Phillips and Diane Knust.

⁶ The delegation's decision to define domestic violence as violence against women reflects the research revealing that women are the usual victims of violence in the home. United Nations Centre for Social Development and Humanitarian Affairs, *Strategies for Confronting Domestic Violence: A Resource Manual*, at 7, U.N. Doc. ST/CSDHA/20 (1993).

respond appropriately to calls from female victims of domestic violence. Many women reported that the police either did not respond to a call at all, or when they did respond, they did not provide women with protection from their abusers when they arrived. In cases where the police investigated an assault and filed charges against an abuser under the Administrative Code, a significant number were dismissed because the police failed to forward the file to the court within the time period proscribed by law.

The Criminal Code does not specifically address crimes of domestic assault, and the government rarely prosecutes domestic assault crimes under its general assault laws. In the small number of cases that are brought to court, the penalties are generally insignificant. Even when men are convicted of beating their wives and are sentenced to serve time in prison, they often do not serve their full sentences because of government-declared amnesties. Although a few individuals within the government assist NGOs, the Moldovan government generally does not support the efforts of NGOs working to meet the needs of victims. The government does not routinely keep statistics on assaults or other crimes that would allow for the identification of data relating to violence against women or domestic violence.

Moldova is a member of the United Nations and as such has committed itself to adhering to internationally recognized human rights norms. Moldova is a party to the International Covenant on Civil and Political Rights and the Convention on the Elimination of All Forms of Discrimination Against Women (“Women’s Convention”). In failing to respond effectively to widespread abuse against women, Moldova is violating its obligations under international human rights law:

1. Violence against Moldovan women in their homes is a violation of their fundamental right to security of person as guaranteed in the Universal Declaration of Human Rights.⁷ It is also a violation of the right to freedom from torture and cruel and inhuman or degrading treatment as guaranteed in the International Covenant on Civil and Political Rights;⁸
2. Moldovan victims of domestic violence have been denied their right to an effective and adequate remedy. By failing systematically to provide effective prosecution for crimes of domestic violence and failing to enforce criminal laws on behalf of domestic violence victims, Moldova is violating the right to a remedy guaranteed under the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights; and

⁷ G.A. Res. 7 A(III) Dec. 10, 1948, U.N. Doc. A/810 (1948).

⁸ G.A. Res. 2200 A(XXI), December 16, 1966, 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc A/6316 (1966), 999 U.N.T.S. 171, *entered into force* March 23, 1976. Ratified by Moldova on January 26, 1993.

3. The Moldovan government is not in compliance with the provisions of the Women's Convention⁹ (including General Recommendations 12 and 19 of the Committee on the Elimination of Discrimination Against Women¹⁰) and the United Nations Declaration on the Elimination of Violence Against Women,¹¹ including the following:
 - a. The Moldovan government has not met its obligation to protect women from violence;
 - b. The Moldovan government has not met its obligation to ensure that women who are victims of violence are provided with health and social services, facilities and programs and other support structures to promote their safety and physical and psychological rehabilitation; and
 - c. The Moldovan government has not met its obligation to develop comprehensive legal, political, administrative and cultural programs to prevent violence against women.

B. Recommendations

Based upon the findings of its delegation, Minnesota Advocates recommends the following:

1. The Moldovan government should provide victims of domestic violence equal and effective access to the criminal justice system and an effective remedy for harm they have suffered. The government should uniformly enforce assault laws regardless of the relationship of the victim to the perpetrator;
2. The Moldovan government should institute a program of education and training for all law enforcement officials, including police officers, prosecutors and judges, on issues of domestic violence. This training and education should be based on international human rights standards and include information about the effective and appropriate handling of victims and perpetrators within the legal system;

⁹ G.A. Res. 34/180, U.N. GAOR Supp. (No. 46), U.N. Doc. A/Res/34/180, *entered into force* September 3, 1981. Ratified by Moldova on July 1, 1994.

¹⁰ U.N. Doc. A/44/38 (1989); U.N. Doc A/47/38 (1992).

¹¹ G.A. Res. 48/104 (1993).

3. The Moldovan government should institute new procedures to ensure domestic violence cases are not dismissed due to police delay in forwarding files to the court.
4. The Moldovan government should educate the public about the problem of domestic violence and support the public education efforts of non-governmental organizations;
5. The Moldovan government should vigorously investigate crimes of domestic violence when they occur and institute appropriate measures to protect victims of violence from further abuse;
6. The Moldovan government should review its legislation relating to reconciliation periods in divorce cases and adapt this law to ensure that victims of domestic violence are not put in danger of additional injury as a result of a court mandated reconciliation period;
7. The Moldovan government should take measures to ensure that women subjected to domestic violence and, when appropriate, their children, receive specialized assistance, such as rehabilitation, treatment and counseling, assistance in child care and maintenance, adequate housing and other health and social services;
8. The Moldovan government should require medical and legal institutions to keep statistical data on the number and nature of domestic violence crimes;
9. The Moldovan government should collect data and maintain accurate statistics on the nature and extent of domestic violence as well as encourage research of the problem; and
10. The Moldovan government should strongly support the efforts of women's organizations and other NGOs actively working on the issue of violence against women and should cooperate with them at local, national, regional and international levels. This support should include, among other activities, promoting research, collecting data and compiling statistics relating to the prevalence of different forms of violence against women.

II. DOMESTIC VIOLENCE IN MOLDOVA

A. Introduction

Located at the crossroads between Central, Southeast and Eastern Europe, the Republic of Moldova¹² is one of the newly independent states of the former Soviet

¹² The Republic of Moldova will be referred to throughout this report as "Moldova."

Union. It borders Romania in the west and Ukraine in the east and north. Moldova is one of the most densely populated European countries. Its population grew from 3 million in 1961 to nearly 4.4 million in 1995. In recent years, however, the population has diminished due to emigration, a consequence of severe economic problems.

The United Nations Development Program (“UNDP”) reports that the period of transition to a market economy in Moldova has been characterized by a number of negative social phenomena, such as unemployment, bankruptcy and inflation.¹³ The UNDP also reports an increase in alcohol abuse, domestic violence, and other kinds of violent, deviant behavior.¹⁴ Currently, approximately 80% of Moldova’s population lives in poverty.¹⁵ This poverty is so severe that the majority of people cannot afford to buy fish, meat, milk and other dairy products on a regular basis.¹⁶

Although the government of Moldova does not keep official data on the rate of domestic violence, most people interviewed for this report described domestic violence as a serious problem in Moldova. The Ministry of Labor, Social Protection and Family reports:

*At present, the frequency of domestic violence, whose victims are women and children, is acquiring alarming proportions. Unfortunately, it is very difficult for the state to control domestic violence since in most of the cases it is reported only when there are severe consequences to the violence, the other cases being considered just family conflicts.*¹⁷

Because of traditional values and limited support for abused women in the community, many women suffer alone and accept the abuse. Some women try to escape the violence by killing themselves or killing their abusers. A few resources have been developed by NGOs to support women victims of domestic violence. The first crisis centers and shelters have begun serving women. Many women, however, are reluctant to seek help or are unaware of these resources.

¹³ *Status of Women in the Republic of Moldova*, at 23 United Nations Development Programme (1999) [hereinafter UNDP MOLDOVA REPORT].

¹⁴ *Id.* at 23.

¹⁵ U.S. Dept. of State H.R.1999.

¹⁶ *Id.*

¹⁷ Center for Information and Documentation of the Council of Europe, Human Rights Report at 33 (1999).

B. Historical Background

Moldova has been occupied by other countries, primarily Russia, for much of its history. The medieval principality of Moldova was one of three medieval Romanian states¹⁸ and was more than twice the size of present day Moldova.¹⁹ In 1812, the Russian Empire occupied the region of Bessarabia, the eastern part of Moldova Principality, and began an aggressive process of assimilation of the local population. The Romanian language was banned in schools, churches and the government administration.²⁰ In 1859, the remaining part of Moldova united with Wallahia and formed the Kingdom of Romania.

In 1917, as a result of the October Revolution, the Russian Empire collapsed and Bessarabian Romanians formed the Democratic Republic of Moldova, which lasted only six months. In March 1918, the Legislature of the Democratic Republic of Moldova voted to unite with Romania.²¹ Later that year, Bukovina, part of the Moldovan principality which was under Austrian occupation, and Transylvania voted to unite with Romania. This new state was the first to unite all existing ethnic Romanian areas and was referred to as Greater Romania.

In 1940, the Soviet Union annexed Lithuania, Latvia, Estonia, and several counties of Finland, as well as Bessarabia and Northern Bukovina.²² The occupation was characterized by large-scale repression, and thousands were executed. Hundreds of thousands of people from all over the Soviet Union were deported to Siberian concentration camps known as gulags.

In June 1941, Romania re-annexed its lost territories. In August 1944, Russian armies occupied Bessarabia and Northern Bukovina, present day Moldova, for the third time in two centuries. This was the most inhumane of the three occupations, and its results have had lasting negative effects on the people. Sections of northern and southern Moldova were transferred to Ukraine. Local Moldovans were deported or executed and Ukrainians and Russians settled in the region.

The remainder of the country became the Moldovan Soviet Socialist Republic. The Soviet authorities continued old practices of forcible assimilation of the local population. The Latin alphabet, used for the Romanian language, was replaced with the

¹⁸ The other two Romanian states were Wallahia and Transylvania.

¹⁹ Michael Bruchis, *THE REPUBLIC OF MOLDAVIA* 8 (Laura Treptow trans., 1996).

²⁰ Michael F. Hamm, *Chronology*, 165 *Nationalities Papers* 26:1 (1998).

²¹ Charles King, *Moldovan Identity and the Politics of Pan-Romanism*, 345 *Slavic Review* 53, 2 (1994).

²² *Id.* at 349.

Cyrillic alphabet. The resulting language was named “Moldovan.” Official Soviet policies were designed to persuade Moldova’s Romanians that they constituted a separate nation, in opposition to Romania. Many Romanian schools were closed and the local Orthodox Church was transferred to the authority of the Moscow Patriarch. Moldovans were encouraged and sometimes forced to move to Russia for jobs. Hundreds of thousands of Russians and Ukrainians were brought to larger cities in Moldova, especially to serve in government positions. Consequently, the ethnic composition of the population changed dramatically. This change is reflected in the ethnic makeup of the current Moldovan population.²³ This is especially true in the Transdnistria region, comprised of the eastern districts of Moldova. In 1989, ethnic Moldovans constituted 40% of the population in this region, as compared to 65% in Moldova as a whole.

C. Moldova Under Communism

Life under communism during the period from 1944 to 1989²⁴ was difficult for people in Moldova. In general, Soviet policy toward women and their relations with the community at large, was one of formal equality. The Soviet Constitution²⁵ officially granted women equality. In reality, however, women were not treated as equals in Soviet society as “Soviet law always regarded women as a ‘specific labor force’ because of their maternity function.”²⁶ At the same time, Soviet law provided positive benefits such as paid maternity leave to help women combine paid employment with maternity.²⁷ The Soviet approach to equality for women can be described as paternalistic, as well as “a shift of functions from the private domain to the public rather than, as in contemporary feminist strategy, through a redefinition of male and female roles.”²⁸

The policies of the Soviet government effectively politicized many aspects of life for the citizens of Moldova. Almost every government action was a political, and an individual’s life was generally viewed through a public lens. Every aspect of women’s lives became part of the Soviet government’s social policy, including having children. Governmental policy for women focused on enhancing women’s reproduction and production in the workplace. In response, women often sought to prevent outside

²³ *Id.*

²⁴ 1989 was the year in which the first alternative political group, the Democratic Movement of Moldova, emerged.

²⁵ The Constitution of the Union of Soviet Socialist Republics, Article 35 (1), provided that “women and men have equal rights in the USSR.”

²⁶ Anastasia Posadskaya, *Changes in Gender Discourses and Policies in the Former Soviet Union*, in *DEMOCRATIC REFORM AND THE POSITION OF WOMEN IN TRANSITIONAL ECONOMIES* 165 (Valentine M. Moghadam ed., Oxford Clarendon Press 1993).

²⁷ *Id.*

²⁸ *Id.*

interference in their private lives, and the family became “the embodiment of tradition and backwardness.”²⁹

D. The Transition from Communism

1. Economic Issues

Moldova is currently experiencing a severe economic crisis that impacts all of Moldovan society. Many factors contributed to the economic stress created by the transition to a market economy. These factors include the following: (1) the transition began when industry was declining; (2) existing economic relations were interrupted; (3) the Transdnistria territory was embroiled in a civil war; and (4) the country had suffered a series of natural calamities, such as heavy rains in 1999 and drought in 2000.³⁰ During the winter of 1999-2000, Moldova suffered severe energy shortages because the government could not pay its energy bills to Russia, Ukraine and Romania. In addition, agriculture, Moldova’s primary industry, has been severely affected by the country’s worst drought in 50 years. As a result, the wages of agricultural workers decreased to an average of US \$11 per month.³¹

This economic crisis has also resulted in unpredictable changes in government policies. Many Moldovans have little faith that the current government can improve this severe economic crisis. Due in part to unemployment, the annual gross domestic product has decreased by almost one billion Moldovan lei.³² Unemployment has spurred a massive increase in migration of the population abroad. Both men and women are leaving the country by the thousands. Some have left permanently, while others work temporary jobs and return.

2. The Status of Women

The transition from communism in Moldova was initially met with great enthusiasm. However, the reality of these “new freedoms” for women as a whole has been under representation in politics, drastic unemployment and a reemergence of traditional values toward women that restrict their opportunities. Many of the political, economic and social policies enacted during the transition period reversed the social benefits women enjoyed during the communist period. Furthermore, maternity and child-

²⁹ Gail Warshofsky Lapidus, *Gender and Restructuring: The impact of Perestroika and its Aftermath on Soviet Women*, in DEMOCRATIC REFORM AND THE POSITION OF WOMEN IN TRANSITIONAL ECONOMIES (Valentine M. Moghadam ed., 1993).

³⁰ UNDP MOLDOVA REPORT, *supra* note 13 at 23.

³¹ U.S. State Dept. H.R. 1999, p.1 & 14.

³² *Id.* at 9. The exchange rate at the time the research was conducted was approximately 12 lei to one U.S. dollar.

care benefits women received under communism are often held against them as reasons for employers not to hire women in the current economy. As one scholar wrote, “marketization [has] become a masculine project of restructuring. The women’s perspective is excluded from policy-making and women do not participate in the process of power or resource distribution.”³³

In Moldova, women's high unemployment rates have increased their economic dependence on men. This dependence impacts women's ability to respond to domestic violence. If a woman reports abuse to the police and, ultimately, the court imposes a fine on her husband, she knows this fine will come out of her family’s household budget.³⁴ Women's lack of economic power is illustrated in the following case described by a domestic violence advocate:

*A woman with four children (two from her first husband and two from her second) lived with her second husband for five years. He was 18 years older than she was. After she had given birth to her last child, her husband started to beat her. She does not work and her husband does not give her money. He takes the keys to work with him so the wife can’t leave the house. He comes home at night and asks if she has made dinner. This is a pretext for a beating. He knows she can’t make dinner because she has no money for food. She called the police several times. When they came, they talked to her husband, who is an important businessman, and left without taking any action. The man took the woman to the cemetery and told her that if she ever called the police again, he would kill her at the cemetery. One time, he poured gasoline over her and tried to light her on fire. She escaped and went to neighbors, who gave her clothes and let her take a shower. The neighbors called the police after this incident. When the police officer came, he said to the woman, “Look dear, I am tired of you, you are getting on my nerves. Why don’t you just take your clothes and leave.” She came to the shelter with her two younger children. The older children went to their father.*³⁵

Other NGO representatives described similar cases of women whose ability to leave abusive situations was limited by their economic dependence on men.

³³ Anastasia Posadskaya, *Gender Dynamics of Economics and Political Change: Efficiency, Equality, and Women*, in *DEMOCRATIC REFORM AND THE POSITION OF WOMEN IN TRANSITIONAL ECONOMIES* 18 (Valentine M. Moghadam ed., 1993).

³⁴ Interview, May 17, 2000.

³⁵ Interview, May 20, 2000.

The past five years have seen an alarming increase in poverty and unemployment. Women's unemployment in 1997 was 68%, the highest in the region.³⁶ Many Moldovans, especially women, are desperate to find employment. Many see any job abroad as the answer to the impossible economic situation. According to the Ministry of Economy, almost 50,000 people work illegally in different foreign countries. The actual number is believed to be much higher. Numbers quoted in interviews conducted by Minnesota Advocates ranged from 200,000 to 400,000 as the true number of women working abroad. Most of the women are working without proper authorization, some as housekeepers, babysitters, nurses or assistants for the elderly. Unfortunately, however, the majority are trafficked for sexual exploitation or sold into prostitution.³⁷

The number of Moldovan women being trafficked from Moldova has reached crisis proportions. Women are being trafficked to countries all over the world, including Italy, Greece, Turkey, Serbia, Montenegro, and Albania. Women accept job offers in other countries, ostensibly to work as dancers, models, nannies or housekeepers. Traffickers take their passports, require them to “repay” a sizeable sum, and force them into sexual bondage.³⁸ Both domestic violence and trafficking have had a dramatic negative impact on Moldovan women.

3. Nationalism

Moldova's independence resulted in a resurgence of Moldovan nationalism. As early as 1989, Moldova introduced Romanian as the official language of the country. In 1992, separatists in the Transdnistria region of Moldova incited an armed conflict, demanding special status for the region and recognition of the country as a confederation of two equal states.³⁹ A cease-fire, in force since 1992, has eased tensions. The region, however, is still in crisis. The economic situation is worse there than in any other part of the country⁴⁰ and Moldovan law is not enforced there.⁴¹ The region is considered a closed society, and most newspapers from other parts of Moldova are not available.⁴² In

³⁶ “Implementation of the Beijing Platform of Action in the Republic of Moldova, Beijing +5.” Gender Center of the Republic of Moldova, Chisinau, 2000.

³⁷ *Id.* at 9-10.

³⁸ See Minnesota Advocates for Human Rights, *Trafficking in Women: Moldova and Ukraine (2000)*.

³⁹ U.S. State Dept. H.R. 1999.

⁴⁰ *Id.*

⁴¹ The separatist regime established in Transdnistria adopted a “Constitution” and formed a government. It appears, however, that the President of Transdnistria has absolute power while the legislature is ineffective. This fact, along with the fact that the Transdnistrian leadership has not changed since 1989, suggests that the existing regime of Transdnistria is not a true democratic government.

⁴² U.S. State Dept. H.R. 1998, p. 5.

Transdnistria, the Romanian language is banned, and the local ethnic Moldovan population is marginalized and oppressed.

E. Evidence of Domestic Violence

*" A woman who is not beaten is like a room that has not been swept."*⁴³

*"Cry, bride, and sigh, because you are going to a stranger's house . . . and they will beat you without mercy."*⁴⁴

Domestic violence is a problem for women of all ages and all socio-economic and educational backgrounds in Moldova. Despite the high rates of domestic violence, women are reluctant to report abuse because of shame or fear of social stigma. The majority of domestic violence cases are not reported to the police because the police treat the women poorly and do not respond adequately to the problem. In addition, because of highly publicized amnesty declarations, many people have lost confidence that a perpetrator of domestic violence will be punished appropriately in Moldova, even if he is convicted. As a result, the frequency of reports of domestic violence is not representative of the actual number of domestic violence cases.⁴⁵

There are many barriers to women seeking assistance in cases of domestic violence. A prosecutor in Chisinau described several factors that keep women from seeking assistance in Moldova: 1) the mentality that allows decent people to beat their wives; 2) the lack of alternative housing; 3) the knowledge that most abusers are not punished unless the injuries are severe; 4) the fear that, without any meaningful punishment, men will return and beat the women more severely; 5) the high cost of legal assistance; and 6) the difficult economic situation.⁴⁶ She added, "women only think about their families, they do not think about themselves."⁴⁷

Many of the people interviewed by Minnesota Advocates indicated that women often do not call the police because of fear that the violence will escalate. In a case described by a shelter worker, a woman refused to cooperate with police after she attempted to commit suicide to escape her abusive husband. She did not believe that the

⁴³ This Moldovan proverb was repeated in numerous interviews to describe the traditional patriarchal attitude in Moldova.

⁴⁴ From a traditional Moldovan wedding song, cited by Valentina Tripadush in a presentation at a conference entitled "Society without Violence," Chisinau 1997.

⁴⁵ REPRODUCTIVE HEALTH SURVEY, *supra* note 4 at 249.

⁴⁶ Interview, May 14, 2000.

⁴⁷ *Id.*

police could stop the abuse, and she believed her husband would be more violent after the intervention.⁴⁸

Some women fear any type of intervention. A psychologist described a case of a woman she treated for depression:

*This woman has two children who are teenagers. Her husband beats her regularly. I asked her why she did not call the police to try to scare her husband. The woman said she was afraid that her husband would kill her. The man does not drink. He is just very cruel. Her son tried to intervene to protect her and the husband beat the son. He told him that if he ever tried to protect his mother again, he would kill him. The woman first wanted me to call her husband and gave me his telephone number. An hour later she called back and begged me not to call. The woman called back three times to make sure I would not call her husband.*⁴⁹

The government of Moldova does not publish official statistics about the prevalence of domestic violence, the number of requests for police intervention or the number of criminal or administrative procedures involving violence between husbands and wives. There is, however, a great deal of data available about the prevalence of the problem from other sources.

According to statistics from the *Reproductive Health Survey*, 22% of women surveyed reported that they had been abused by a partner or former partner at some time in their lives.⁵⁰ Women in every age group experienced physical violence, with the highest incidents occurring among women between 35-44 years of age.⁵¹ Previously married women reported the highest levels of beatings and other violent abuse and were 15 times more likely to have been victims of severe physical violence than women who had never been married.⁵²

People from all sectors of Moldovan society, including doctors, judges, private attorneys, prosecutors, journalists and women representing NGOs, described severe abuse of women and the failure of the criminal justice system to respond effectively to the problem.

⁴⁸ Interview, May 19, 2000.

⁴⁹ Interview, May 17, 2000.

⁵⁰ Violence by an intimate partner was defined as “verbal and physical abuse among all women with current or former spouses or non-marital partners.”

⁵¹ REPRODUCTIVE HEALTH SURVEY, *supra* note 4 at 255.

⁵² *Id.*

Minnesota Advocates interviewed several judges representing all levels of the legal system in Moldova. These judges considered domestic violence a national problem in Moldova. Several judges suggested that domestic violence is at the root of most of the cases that come before their courts. A district court judge described a case he heard in his court in which a woman who had been systematically abused accidentally killed her husband:

A man was systematically beating his wife and their daughter. The woman lived with her husband in a hostel. They had one room and shared a kitchen with several other families. The man also harassed other people living in the hostel. One day, the woman was peeling potatoes in the kitchen and the man started harassing and beating her and other women in the kitchen. He was yelling at her because she had approached the police and her relatives for help. The woman had a knife in her hand and was trying to defend herself when she killed the man. As soon as he fell, she tried to administer first aid. She called an ambulance but the man died on the way to the hospital. The woman was sentenced to two years of labor [she was able to continue working and 20% of her salary went to the state as a fine.]⁵³

One doctor described a colleague who consistently missed work because of injuries inflicted by her unemployed husband. Often, she would miss several days of work at a time. Many of the woman's colleagues encouraged her to leave her husband because of the abuse. The woman stayed with her husband although the beatings continued.⁵⁴

Another doctor described the case of a woman who came to the hospital to be treated for wounds after her husband stabbed her with a pair of scissors. The man said he did it because his dinner was not ready. The woman returned home with her husband after she recovered from her injuries.⁵⁵

Doctors are required to report all cases of domestic violence to the police.⁵⁶ Many women, however, do not want the police to intervene and refuse to disclose the real cause of their injuries to their doctors. Even when women do disclose that domestic violence was the cause of their injuries, they often do not cooperate with the police when their cases are reported by their doctors.

⁵³ Interview, May 16, 2000.

⁵⁴ Interview, May 19, 2000.

⁵⁵ Interview, May 19, 2000.

⁵⁶ Interviews, May 19, 2000; May 12, 2000.

A medical expert at the Forensic Institute in Chisinau estimated that each year 40% to 45% of all patients they see are women and roughly two-thirds of their injuries result from domestic violence.⁵⁷ Out of the 13,000 people examined per year, he estimated that 4,000 are suffering from injuries related to domestic violence.⁵⁸ This doctor reported his opinion that when women come to the forensic institute to have their injuries documented, they generally disclose the real causes of their injuries.⁵⁹

Doctors, police and crisis center workers described their concern over increased incidents of suicide by women.⁶⁰ One doctor said he was particularly concerned because he has personally seen many cases where women who felt completely isolated and desperate have committed suicide to escape abuse.⁶¹ A shelter worker described the following case of attempted suicide:

*A 42 year-old woman was married with three children. Her husband was very controlling. He gave her ten lei (approximately US \$1) a day and made her report to him how she spent it. The man beat her regularly. One beating was so severe that there was blood all over the room. The woman was unconscious but no one called an ambulance. The man promised he would not beat her again. The woman tried to commit suicide by taking pills and was in intensive care. The man was embarrassed because it was obvious that he had beaten her. Two days after she was out of the hospital, he started beating her again. The man blamed the woman. He said the doctors told him that she had only pretended to commit suicide.*⁶²

Many women are also killed in domestic homicides. The National Center for Studies and Information on Women's Issues reports that one-third of all murders committed in Moldova are among family members.⁶³ According to data from a forensic doctor, women were victims in nearly two-thirds of the murder cases involving family

⁵⁷ Interview, February 24, 2000.

⁵⁸ Interview, February 24, 2000.

⁵⁹ *Id.*

⁶⁰ Although rates of suicide are generally higher for men, several doctors and advocates described what they viewed as a significant increase in suicides and attempted suicides by women.

⁶¹ Interview, May 19, 2000.

⁶² Interview, May 20, 2000.

⁶³ Pamphlet produced and distributed by the National Center for Studies and Information on Women's Issues.

members over a one-year period in Moldova.⁶⁴ In more than 80% of the cases in which women were victims, they were killed by their husbands or partners.⁶⁵

According to data from the Forensic Institute, in 1994, 107 homicides were committed against family members, accounting for 28% of all homicides in Moldova in that year. An analysis of homicides from 1990-1993 showed that there were 111 intra-family homicides. Sixty-three percent (70) of the victims were women. Of these 70 women, 56 were killed by their husbands or boyfriend, nine women were killed by their sons and two by one of their parents.⁶⁶

A doctor reported a 1999 case in which a man from a small village killed his wife:

*The couple had three children and a very hard life. Only one child still lived at home. The husband and wife both had drinking problems and neither was caring for the child who still lived with them. They quarreled because the child had left school, and each blamed the other for the child's problems. Both were drunk when they started to fight. The man beat his wife with a heavy tool and she died instantly. The man had a history of abusing his wife and had spent several years in the hospital for alcoholism.*⁶⁷

Some women, when faced with systematic violence, kill their abusive partners. One prosecutor estimated that 80% of the women convicted of killing their husbands did so only after enduring years of abuse.⁶⁸ The director of the women's prison also expressed the opinion that most women who killed their husbands or partners were victims of domestic abuse.⁶⁹ He said that women who serve time for killing a spouse or partner generally have a very low rate of recidivism, indicating that these women are not criminals; rather, they are responding to unique, desperate circumstances.⁷⁰

Despite the seriousness of domestic violence, women are reluctant to disclose their history of abuse due to fear or shame. In the *Reproductive Health Survey*, less than a third of the women who were abused during the past 12 months reported that they had

⁶⁴ Report from forensic doctor. An analysis of forensic records was completed in 1994 in preparation for a conference held in the region that year.

⁶⁵ *Id.*

⁶⁶ *Id.*

⁶⁷ Interview, May 19, 2000.

⁶⁸ Interview, May 14, 2000.

⁶⁹ Interview, May 18, 2000.

⁷⁰ Interview, May 18, 2000.

told a family member or a friend about it, and only 9% spoke to a medical care provider.⁷¹ An advocate working in an NGO described the following case of a woman who was reluctant to report abuse:

*A 55-year-old woman sought assistance. She has three children at home. She is employed and her husband has a very high position in the Ministry of Internal Affairs. He abused her physically and psychologically and was very jealous. He spent much of his time outside of the family. The man came home drunk often. He took her underwear to a laboratory to determine if she had been having sex with another man. When the lab found no evidence that she had sex with someone else, he accused her of bribing the lab technicians. He beat her severely and told her not to bother calling the police, because they were his colleagues and would ignore her. They are all his friends. She wants to divorce him, but she doesn't think she can support her son on her own. Because of her high status in society, she feels she can't talk to her friends.*⁷²

A psychologist who provides individual therapy to women experiencing violence noted that women seeking help often identify depression or insomnia as the main problem when domestic violence is the underlying problem. In her view, women usually do not attend support groups as a method of treatment because of their status in the community and desire to keep their problems confidential.⁷³ In interviews, women's advocates repeatedly described Moldova as a “small town” in which “everyone knows everyone.” They cited the negative effect this familiarity has had on abused women seeking help or support.

Finally, Minnesota Advocates found evidence that domestic violence may be a factor for trafficking of women into the commercial sex trade and is a risk for women who are returned from trafficking situations as well.⁷⁴ Many interviewees described domestic violence as one of the reasons so many young Moldovan women are willing to consider leaving the country to look for work abroad. Others described cases of women who were returned from trafficking only to find reintegration into their families to be nearly impossible. Some try to go back to their marriages without discussing their experiences with their husbands and do not address their problems of post traumatic

⁷¹ REPRODUCTIVE HEALTH SURVEY, *supra* note 4 at 250.

⁷² Interview, May 20, 2000.

⁷³ Interview, February 25, 2000.

⁷⁴ Interview, May 17, 2000. For a full discussion of the relationship between domestic violence and trafficking, see Minnesota Advocates for Human Rights, *Trafficking in Women: Moldova and Ukraine* (2000).

stress or depression. Psychologists described these circumstances as contributing to increased domestic violence and divorce.

F. Police Response to Domestic Violence

Domestic violence is one of the most common complaints received by the police.⁷⁵ The police response is the first, and often the only, criminal justice system response to domestic violence. Sometimes, the first contact with the police is the only time at which a domestic violence victim will provide truthful, accurate information about an assault.⁷⁶ Police, therefore, must use appropriate methods of gathering and preserving evidence of a domestic assault to ensure effective prosecution of the perpetrator. Often, the outcome of a case is dependent on the accuracy and completeness of a police report.

Historically, the police in Moldova have viewed domestic violence as a personal and social problem rather than a criminal problem.⁷⁷ They treat domestic violence as a problem that should be settled within the family.⁷⁸ Many people who provide direct services to women victims of domestic violence report that police do not always respond appropriately or consistently to domestic violence calls. On some occasions, police will respond to a call several days after it is made, and on other occasions they do not respond at all. Often, they do not even respond to allegations of serious offenses. When they do respond, police generally only speak to the man alone and leave the home without making an arrest or ensuring the woman will not experience further violence.⁷⁹

Police also do not take seriously a man's threat to kill his wife or partner. Many people reported that women will not rely on the police if they feel that they are in serious danger of being hurt or killed because of the failure of the police to respond to the problem. Several people interviewed reported that police officers are often perpetrators of domestic violence in their own families.

In one case of police neglect, a woman who was divorced from her husband was forced to live in the same apartment with him because she had no alternative housing available to her. The man repeatedly beat her when the woman would not do what he told her to do. After each violent incident, the woman had her injuries documented and went to the police to make a complaint. She was repeatedly turned away. Eventually this

⁷⁵ Hon. Mihai Lupu, Proposal to Open Society Institute.

⁷⁶ *Id.*

⁷⁷ *Id.*

⁷⁸ Interview, May 20, 2000.

⁷⁹ *Id.*

woman sought help from a crisis center and with their assistance was able to convince the police to take her case.⁸⁰

Even when police do take a woman's case, they may not prepare the file for court in a timely manner. One judge reviewed all of the cases of domestic violence in the district level court and determined that 40% of the cases had been dismissed because the police had not forwarded the file to the court within the two-month time period mandated by law.⁸¹ Women have little recourse when police inefficiencies and negligence deny them justice within the legal system in Moldova.

The Moldovan economic crisis has exacerbated the lack of responsiveness of the police. Recently, there has been little money for gas for police vehicles. This no doubt contributes to the inability of the police to respond to women who seek intervention in domestic violence cases.⁸²

Some professionals within the criminal justice system have recognized the problem of inappropriate police response and are working to remedy the situation. An international foundation, the Open Society Institute, has funded a training program for 200 police officers in one district in Chisinau. The police training is based on international human rights standards. The trainers emphasize that the human rights of both the victims and the perpetrators must be respected in developing an appropriate and effective police response. Police training is also currently being planned by women's NGOs in Chisinau and other cities.

G. Domestic Violence: Causes and Complicating Factors

There is no simple explanation for domestic violence. Research indicates that domestic violence has its roots in the subordinate role women have traditionally held in private and public life in many societies.⁸³ The United Nations, in its Declaration on the Elimination of Violence Against Women, recognizes domestic violence as “a manifestation of historically unequal power relationships between men and women” and condemns the violence as one of the “crucial social mechanisms by which women are forced into [subordinate positions] compared with men.”⁸⁴ Several people interviewed

⁸⁰ Interview, May 12, 2000.

⁸¹ Interview, May 16, 2000; Code on Administrative Offenses, Article 37. *See also supra* Section III B2 for a more complete discussion of this provision.

⁸² Interview, May 14, 2000.

⁸³ For a discussion of the causes of domestic violence, see *Domestic Violence, Report of the Secretary-General*, Eighth U.N. Congress on the Prevention of Crime and the Treatment of Offenders at 8, U.N. Doc. A/Conf.144/17 (1990).

⁸⁴ G.A. Res. 48/104 (1993).

similarly described the strong patriarchal culture in Moldova and the resulting subordination of women as a root cause of domestic violence.

International research on domestic violence illustrates the universal nature of the problem and the universal nature of the myths associated with it. These myths are also prevalent in Moldovan society. For example, many people expressed the opinion that domestic violence happens only among less-educated people.⁸⁵ This opinion was generally refuted by people who had direct contact with women victims of violence in Moldova.⁸⁶ One person interviewed said, “Everyone can be a violator, peasant or parliamentarian, but for high level people it is easy to hide what they do.”⁸⁷

The *Reproductive Health Survey* indicates some correlation between reported incidents of domestic violence and the education levels of the people involved.⁸⁸ The survey showed that the lower the education level completed by the aggressor and/or the victim of domestic violence, the higher the number of reports of domestic abuse and the severity of abuse. Women who did not complete secondary education were three times more likely to report violent physical abuse than women with a university degree. The severity of abuse was also inversely related to levels of education of the women and their partners. The reported severe abuse was more prevalent in households with lower levels of education (21%) than in households with higher levels of education (8%).⁸⁹

Many people also discussed the devastating poverty resulting from the economic crisis as a factor contributing to domestic violence. The *Reproductive Health Survey* supports the idea that incidents of domestic violence occur more frequently in households with lower socio-economic status. Almost a third of the women from households of lower socio-economic status reported incidents of abuse, compared to 12.5% of women from families of higher socio-economic status.⁹⁰ Although women from all socioeconomic groups experience violence, the findings of the survey in Moldova are consistent with international research that finds that women who live in poverty are more likely to experience violence than women of higher status.⁹¹

⁸⁵ Educational level is an important index of social position in Moldova. People commonly distinguish “intellectuals” from “non-intellectuals” when discussing a variety of social issues.

⁸⁶ *E.g.*, interviews, May 13, 2000; February 24, 2000; and March 13, 2000.

⁸⁷ Interview, February 23, 2000.

⁸⁸ See REPRODUCTIVE HEALTH SURVEY, *supra* note 4 at 253-54.

⁸⁹ *Id.*

⁹⁰ *Id.*

⁹¹ L. Heise., M. Ellsberg and M. Gottemoeller, *Ending Violence Against Women*. Population Reports, Series L, No. 11. Baltimore, Johns Hopkins University School of Public Health, Population and Information Program, p. 8 (December 1999).

These variances may also be affected by the willingness of victims to report domestic violence. Several people who work with women victims of violence suggested that highly educated and wealthier women were more ashamed to report abuse and likely felt that they had much more to lose socially than women with lower status.⁹² Notably, the *Reproductive Health Survey* also shows that well-educated women are much less likely to talk about the abuse they suffer than lesser-educated women.⁹³

Another common myth, generally accepted in Moldova, is that alcohol causes domestic violence. Although many of the domestic violence incidents reported to Minnesota Advocates took place while the abuser was drunk, research available internationally shows that alcoholism and drug abuse alone do not cause domestic violence.⁹⁴ Alcohol consumption may trigger a particular attack or cause a batterer to be more reckless or violent. When these factors are removed, however, the violence often continues.⁹⁵ Studies conducted by the Public Order Division of the Ministry of Internal Affairs in Moldova showed that less than 20% of the perpetrators of domestic assault were under the influence of alcohol.⁹⁶

People interviewed discussed the stigma of alcohol use and abuse. The tenor of many interviews indicated greater responsiveness among professionals to “good women” who do not drink. Many viewed excessive drinking as provocation for abuse. As a result of these biased views, one women's advocate reported, “if a woman has been drinking any wine at all and is beaten, she will not seek assistance.”⁹⁷

One Moldovan judge reported the motives for domestic violence that she gleaned from reviewing cases in her court:

Examining the motives of such husbands, I found that the main ones are groundless jealousy and wives' refusal to supply their husbands with money for alcohol. In most cases, violence involves consumption of

⁹² Interviews, May 13, 2000; May 17, 2000; and May 20, 2000.

⁹³ REPRODUCTIVE HEALTH SURVEY, *supra* note 4 at 253-54.

⁹⁴ Howard Holtz and Kathleen Furniss, *The Health Care Provider's Role in Domestic Violence*, Trends in Health Care, Law & Ethics, Vol. 8, No. 2, p. 48 (Spring 1993).

⁹⁵ *Id.*

⁹⁶ Interview with Eugene Cobalas, Deputy Chief of the public Order Division of the Ministry of Internal Affairs (published in an NGO newsletter).

⁹⁷ Interview, May 17, 2000.

*alcohol, the men willing to reassert their superiority over their women, trying to remind them who is the lord in the house.*⁹⁸

Nearly every person interviewed identified social attitudes in Moldovan society as a barrier to acknowledging domestic violence as a problem. The majority of people, including women, said that most women accept violence as normal. One interviewee described her opinion that women should be the primary target audience for public education because of their high tolerance for violence. This same person expressed the common opinion that “women will usually not even try to address the police until their husbands also start to beat the children.”⁹⁹ Protection of children appears to be of greater concern than women’s own safety in violent relationships.

Religion is playing an increasing role in Moldovan society. Some religious leaders hold extremely traditional views, taking the position that a woman should remain in her marriage and endure physical abuse regardless of the circumstances. A priest in Chisinau stated, “Domestic violence exists today, it existed in the past, and it will always exist.”¹⁰⁰ Because of the economic realities of families in Moldova, women have few options if they are being beaten. Many women have no way to support themselves. As the priest continued, “What else can they do but pray to God and endure, because practically they cannot change anything. No international organization or atomic war can change this situation - it's predestined.”¹⁰¹

H. Community Response to Domestic Violence

1. General Overview

Women who experience domestic violence in Moldova have a limited number of resources available to them, and many women do not have information about the services that are available. The only existing government funded social services in Moldova are for pensioners, a critical gap for women living in poverty. Only the NGO sector is beginning to provide services to women. With financial and technical support from international organizations and foreign aid agencies, individuals, professionals and representatives from NGOs in Moldova have begun to respond to domestic violence.

Many people in Moldova identified the legal community as the primary group needing education on international human rights law and its relationship to domestic

⁹⁸ Valentina Tripadush, presentation at international conference, “Society without Violence,” Chisinau 1997.

⁹⁹ Interview, May 15, 2000.

¹⁰⁰ Interview, February 22, 2000.

¹⁰¹ Interview, February 22, 2000.

violence.¹⁰² In addition, Minnesota Advocates' interviews revealed that there is a great deal of misinformation about the laws and access to the legal system among NGO activists.

Other people interviewed by Minnesota Advocates identified the medical community as unprepared to address the issue. Women are reluctant to disclose the causes of their injuries to medical workers in domestic violence cases. Medical workers generally do not raise the subject. A medical coordinator at a women's center noted that most women do not seek medical attention until they experience severe psychological damage or broken bones.¹⁰³

Very few or no social workers are involved in violence prevention efforts. Although social workers have been trained to work with a variety of groups, they primarily focus their efforts on pensioners and are not trained to intervene in domestic violence situations. This lack of education was mentioned repeatedly as a problem. Social work is a relatively new field in Moldova and the proper role for social workers in Moldovan society is currently evolving.¹⁰⁴

2. Response of NGOs

While a majority of the sectors of Moldovan society are not responding adequately to domestic violence, the NGO sector is slowly moving forward with programs that offer direct services, training and advocacy. With little help from the national and local governments, many NGOs depend entirely on funding from the international community.

In 1998, a group of 33 professionals from Moldova were trained in the United States on how to intervene on issues of domestic violence by CONNECT/US-RUSSIA ("CONNECT"), an NGO working in the countries of the former Soviet Union. This group of professionals included physicians, lawyers, police, judges, psychologists, prosecutors, parliamentarians, administrators and leaders in the NGO community from Chisinau and Hincesti. This experience became the catalyst for many of these individuals to begin taking action to assist women victims of domestic violence.¹⁰⁵ These individuals formed an NGO to develop public education initiatives and provide services to victims.

In January 1999, the first multidisciplinary team to have been trained in the United States joined with CONNECT to organize a high profile conference on domestic violence in Chisinau. The training was done by a team of experts from Minnesota.

¹⁰² *Id.*

¹⁰³ Interview, May 17, 2000.

¹⁰⁴ Interviews, February 25, 2000; May 13, 2000.

¹⁰⁵ Interview, February 23, 2000.

Every region in Moldova sent an interdisciplinary team to the conference. High-level government officials also attended. Many of the professionals from the criminal justice system discussed this conference as an important step in the domestic violence movement in Moldova. The conference made a strong statement about the serious nature of the problem of domestic violence and the commitment of the government to begin to address the issue. One attorney who participated in the conference stated that the attitude of society toward domestic violence is changing. "In 1995, domestic violence was only considered a family problem. With all the attention on domestic violence, including the NGO projects, the attitudes of the public and lawyers have changed."¹⁰⁶

Presently, there are two shelters serving women in Moldova, one in Chisinau and one in Balti. The shelter in Chisinau, "Women Today," is able to house two families or three single women. The focus of the services women receive at this center is reunification with their husbands. Women usually stay at the center for three to five days, after which they either return home or find alternative housing. An attorney is available to advise the women about filing a report with the police and, if a woman wants to divorce her husband, to assist her through that procedure as well.¹⁰⁷ Two other shelters are being planned, a large one in Chisinau supported by, Antonina Lucinschi, the First Lady of Moldova, and a small one in a rural community. Both are being planned by groups associated with CONNECT and are partially supported by the United States Department of State.

The CEVA Crisis Center in Chisinau provides a hotline that is available five days a week. It also provides psychologists, volunteers and an attorney for women experiencing domestic violence. In addition to the hotline, the center provides individual counseling and support groups. The center initiated the police training funded by the Open Society Institute. Center staff have designed cards for police to give to women who report domestic violence with information about the center's services.

A new women's support center is located in the town of Hincesti, about 40 kilometers southwest of Chisinau.¹⁰⁸ This center uses a mobile van to travel to surrounding villages to make presentations on domestic violence and describe services available to battered women. Its multidisciplinary staff consists of an OB/GYN physician, psychologist, medical coordinator, women's advocate, children's advocate, legal advocate and police officer. Year 2000 activities for the center include collecting data at the workshops they provide for women and children about: 1) attitudes on domestic violence; 2) personal experiences of domestic violence; and 3) the types of support/education individuals need on this subject.¹⁰⁹

¹⁰⁶ Interview, May 13, 2000.

¹⁰⁷ Interview, February 20, 2000.

¹⁰⁸ This center is supported by CONNECT and the United States Department of State.

¹⁰⁹ Interview, May 17, 2000.

In addition to direct services, several NGOs in Moldova provide training and educational materials for professionals and the public at large on domestic violence. For example, the National Women's Studies and Information Center in Chisinau has produced a series of pamphlets designed to educate women about their legal rights.¹¹⁰ The topics of these pamphlets include domestic violence and sexual violence. The domestic violence pamphlet provides a definition of domestic violence as well as practical advice about what a person should do before, during and immediately after an assault. It provides information on filing a complaint with the police, preserving evidence and seeking medical attention. It also lists service providers and describes procedures for filing a petition under criminal or administrative laws.¹¹¹

The National Women's Studies and Information Center organized a one-week campaign in November 1999 entitled "Stop Violence Against Women." It organized public awareness activities throughout the week, beginning with a press conference. "Club 10," another NGO in Chisinau made up of journalists, publicizes women's issues in a range of media. It publishes a quarterly newsletter with a circulation of 1,000 copies, organizes monthly press club sessions and hosts a radio program devoted to women's issues.

III. MOLDOVAN LAWS AND THEIR IMPLEMENTATION

Moldova does not have a specific statute defining domestic violence. The general laws, however, including the Constitution, Criminal Code, Administrative Code and Family Code, all include protections of the human rights of women. In many interviews, legal professionals pointed out problems inherent in the implementation of the laws rather than problems with the laws themselves. Because of the failure of the legal system to effectively enforce the laws, many women do not even report domestic violence incidents. Therefore, any effort at legal reform must also include education efforts to increase the public's confidence in the system.

A. The Moldovan Constitution

The parliament of Moldova adopted its Constitution on July 29, 1994. It took effect on the third anniversary of Moldovan independence on August 27, 1994. The Constitution provides for three branches of government: legislative, executive and judicial. It establishes a mixed form of government, with power divided between the president, cabinet, parliament and judiciary. The Constitutional Court, an independent body outside the judicial system, interprets the Constitution and ensures that new laws,

¹¹⁰ This project was conducted in conjunction with the American Bar Association – Central and Eastern European Law Initiative.

¹¹¹ Interview, February 23, 2000.

decisions of the parliament and the government and decrees of the president comply with the provisions of the Constitution.

The Moldovan Constitution ensures the recognition of human rights and freedoms within the court system in Moldova. Article 1 of the Constitution establishes the supremacy of the Constitution and international human rights instruments over national legislation. Article 4 provides:

- (1) Constitutional provisions on human rights and freedoms shall be interpreted and implemented in accordance with the Universal Declaration of Human Rights and with other conventions and treaties endorsed by Moldova.
- (2) Wherever discrepancies appear between conventions and treaties on human rights signed by the Republic of Moldova and its national laws, priority shall be given to international regulations.

This last provision is especially important because it allows Moldovan courts to directly apply international human rights law. Therefore, whenever the parliament is reluctant or unwilling to adapt internal laws to international standards Moldova has adopted, these standards will be enforced by the courts pursuant to Article 4 of the Constitution. Moldova is a party to many of the most important international treaties, including the International Covenant on Civil and Political Rights, the International Covenant on Economic Social and Cultural Rights, the Convention on the Elimination of All Forms of Discrimination Against Women, and the Convention for the Protection of Human Rights and Fundamental Freedoms (also referred to as the “European Convention”).¹¹² The Constitution specifically states that its provisions are to be understood and implemented in accordance with the Universal Declaration of Human Rights (“Universal Declaration”).¹¹³

Title II of the Constitution, “Fundamental Rights, Freedoms and Duties,” guarantees to citizens of Moldova certain inalienable rights. Equality, as a fundamental principle, is set forth in Article 16:

- (1) It is the foremost duty of the State to respect and protect the human person.
- (2) All citizens of the Republic of Moldova are equal before the law and the public authorities, without any discrimination as to race, nationality, ethnic origin, language, religion, sex, political choice, personal property or social origin.

The Constitution also specifically protects certain human rights that are violated in cases of domestic violence. Article 24, “The Right to Life and Physical and Mental Integrity,” provides that:

¹¹² See *infra* Section IV for a further discussion of Moldova’s obligations under international law.

¹¹³ Constitution, Article 4 (1).

- (1) The state guarantees everybody the right to life and to physical and mental integrity.
- (2) No one may be subjected to torture or to cruel, inhuman or degrading punishment or treatment.

Section (1) of Article 25 of the Constitution provides that “individual freedom and personal security are declared to be inviolable.” The Constitution also provides that “the State shall respect and protect private and family life.”¹¹⁴ The Constitution addresses the institution of the family in Article 48, which states:

- (1) The family is the natural and fundamental group unit of society and is entitled to protection by society and the state.
- (2) The family is founded on the freely consented marriage of husband and wife, on the spouses’ equality of rights and on the duty of parents to ensure their children’s upbringing and education.

These provisions protect privacy and individual liberty, which is particularly important in formerly socialist countries. They may, however, impede progress in combating domestic violence by overemphasizing the importance of privacy within the family. Other Articles indicate that these provisions were not intended to protect abusers from legal sanction. For example, Article 29 of the Constitution provides that the protection for inviolability of the home does not apply in the case of imminent danger threatening a person’s life, physical integrity or property.

B. Criminal Code, Code of Criminal Procedure and Code on Administrative Offenses

Domestic violence is a complex phenomenon that can take diverse forms, but it generally results in violation of either the Criminal Code or the Code on Administrative Offenses. The differences between the two codes include penalties, procedure for enforcement and consequences of conviction.

1. The Law

a. The Code on Administrative Offenses

The Code on Administrative Offenses includes a provision that can be seen to apply to domestic violence. Article 47 stipulates that “intentional infliction of light bodily injury” is to be punished by a fine of 180 lei (US\$ 15) to 450 lei (US\$ 38) or administrative arrest for a period of up to 30 days.

¹¹⁴ Moldovan Constitution, Article 28.

b. The Criminal Code

Although the Criminal Code does not specifically define domestic violence, many of its provisions may apply to situations of domestic violence. In the most severe cases, when death results, the perpetrator may be convicted of murder under one of several different articles, depending on the circumstances: 1) intentional murder with aggravating circumstances;¹¹⁵ 2) intentional murder;¹¹⁶ 3) murder committed in a state of severe emotional agitation;¹¹⁷ and 4) murder committed when the limits of necessary defense are exceeded.¹¹⁸

The Criminal Code also uses similar categories for assault, based on the level of injury resulting from the violence. “Intentional severe bodily injury” is defined in Article 95:

Intentional severe bodily injury which endangers life or results in loss of vision, hearing, speech or any organ or the loss of function of any organ, mental illness or some other health disorder involving the persistent loss of at least one-third of the capacity to work, or resulting in the termination of pregnancy, or exhibited in the permanent

¹¹⁵ Article 88 provides that intentional murder with aggravating circumstances is to be punished by life imprisonment or by imprisonment for a period of ten to twenty-five years, and is described as murder that is:

- 1) committed for profit;
- 2) committed out of hooligan motives;
- 3) committed in connection with the performance by the victim of his official or public duty;
- 4) of two or several people;
- 5) of a woman whose pregnancy is known to the perpetrator;
- 6) committed with special cruelty or by a method which endangers the lives of many people;
- 7) committed with the purpose of concealing another crime or of facilitating the commission of such a crime or involving rape;
- 8) committed by an especially dangerous recidivist or by a person who has previously committed a crime set forth in this article or Article 88 of this Code.

¹¹⁶ Article 89 of the Criminal Code provides that “[i]ntentional murder committed without the aggravating circumstances indicated in Article 88 of this Code is to be punished by imprisonment for a period of six to twenty years.”

¹¹⁷ Article 90 of the Criminal Code provides that “[i]ntentional murder committed in a state of severe emotional agitation which has arisen suddenly and was caused by violence or a severe insult on the part of the victim or caused by other unlawful acts on the part of the victim, if such acts involved or could have involved heinous consequences for the guilty party or his loved ones, is to be punished by imprisonment for a period of up to five years or by correctional work for a period of up to two years.”

¹¹⁸ Article 91 of the Criminal Code provides that “[m]urder committed when the limits of necessary defense are exceeded is to be punished by imprisonment for a period of up to two years or by correctional work for the same period.

*disfigurement of a person, is to be punished by imprisonment for a period of three to ten years.*¹¹⁹

Less serious bodily injury inflicted intentionally is defined in Article 96:

Intentional bodily injury which does not endanger life or result in the consequences indicated in Article 95 of this Code, but which causes prolonged damage to health or significant chronic loss of less than one-third of the capacity to work, is to be punished by imprisonment for a period of up to three years or by correctional work for a period of up to two years.

*The same act, if it has the nature of torture or cruelty, or is perpetrated against a person in connection with his performance of his official or public duty, or has been committed by an especially dangerous recidivist, is to be punished by imprisonment for a period of up to five years.*¹²⁰

The Moldovan Criminal Code provides for separate offenses for “Intentional severe or less serious bodily injury inflicted in a state of severe emotional agitation”¹²¹ and “Intentional severe or less serious bodily injury inflicted when the limits of necessary defense are exceeded.”¹²² The Criminal Code provides for beating to be prosecuted as a crime when it is systematic or in the nature of torture, even if the injuries defined in the previous articles do not occur.¹²³

¹¹⁹ Article 95 of the Criminal Code

¹²⁰ Article 96 of the Criminal Code.

¹²¹ Article 97 of the Criminal Code provides that “[i]ntentional severe or less serious bodily injury inflicted in state of severe emotional agitation which has arisen suddenly caused by violence or a severe insult on the part of the victim or caused by other unlawful acts on the part of the victim, if such acts involved or could have involved heinous consequences for the guilty party or his loved ones, is to be punished by imprisonment for a period of up to three years or correctional work for a period of up to two years.”

¹²² Article 98 of the Criminal Code provides that “[s]evere or less serious bodily injury when the limits of necessary defense are exceeded is to be punished by imprisonment for a period of up to one year or by correctional work for the same period.”

¹²³ Article 101 of the Criminal Code provides that “[t]he systematic inflicting of beatings or other acts with the nature of torture, if they do not result in the consequences indicated in Articles 95 and 96 of this Code, is to be punished by imprisonment for a period of up to three years.”

Moldova also recognizes rape¹²⁴ or coercion of a woman to engage in sexual relations¹²⁵ as a crime in marriage, although judges and women's advocates report that very few cases are ever brought to court.¹²⁶ Generally, cases are only prosecuted when the rape occurs after the couple has decided to separate or divorce. For the same reasons that other forms of domestic abuse are not reported to the police or discussed with family and friends, women do not report forced sexual intercourse by a partner.¹²⁷

The Criminal Code also sets forth mitigating circumstances that reduce the consequences of a crime. Article 37 (2) provides that "the commission of the crime as a result of the concurrence of difficult personal or family circumstances" is to be recognized as a mitigating factor. Since domestic violence occurs in "family circumstances," some experts have expressed concern that this provision could be employed by the offender to reduce his penalty in a domestic violence case. No cases, however, have been reported to date that justify these concerns.¹²⁸

2. Procedure

A criminal case begins with a complaint to the police or public prosecutor's office. Nevertheless, a criminal case for rape can be initiated only at the victim's request, and it is terminated at the victim's request. After receiving the complaint, the police and/or prosecutors decide whether to initiate a criminal case. The order on refusing to initiate the criminal pursuit can be appealed to the superior prosecutor.

The Code on Administrative Offenses punishes behavior that is considered to be less socially dangerous than behavior considered criminal. Accordingly, the penalties, fines and administrative arrest for up to 30 days are lower than the penalties in the Criminal Code. The Criminal Code provides more severe penalties, such as larger fines,

¹²⁴ Article 102 of the Criminal Code prohibits rape. It provides in part: "Rape, i.e., sexual relations with the use of physical force or threats or taking advantage of the helpless condition of the victim, is to be punished by imprisonment for a period of three to seven years. Rape by a person who has previously committed the same crime is to be punished by imprisonment for a period of five to ten years."

¹²⁵ Article 105 of the Criminal Code provides that "[t]he coercing of a woman to engage in sexual relations by taking advantage of the material, professional or some other form of dependence of the victim is to be punished by imprisonment for a period of one to five years."

¹²⁶ The *Reproductive Health Survey* showed that rapes of women who have three or more children were almost always committed by their intimate partners. The report also showed that of the women who reported being raped in the survey, 73% had histories of physical abuse by a partner in the past. Of all the women who reported being raped, one in two was forced to have sexual intercourse by her husband/partner or ex-husband/ex-partner; 11% were raped by a boyfriend or ex-boyfriend; and 14% were raped by a date or acquaintance. REPRODUCTIVE HEALTH SURVEY, *supra* note 4 at 262.

¹²⁷ REPRODUCTIVE HEALTH SURVEY, *supra* note 4 at 260.

¹²⁸ The new draft of the Criminal Code discussed later in this section, preserves an identical provision (Article 77).

correctional work, dismissal, termination of parental rights and imprisonment for terms between three months and twenty-five years or life imprisonment.¹²⁹

The Code on Administrative Offenses provides a more simple and expeditious procedure for examining a case. Law enforcement agencies (in domestic violence cases, the police), upon discovering that an administrative offence was committed, will write a report and file it with the court. The court will then, in a public hearing, decide the penalty to be imposed based on the evidence. The Code on Administrative Offenses imposes rigid terms as to punishment for administrative offenses. According to Article 37, “an administrative penalty can be imposed no later than two months after the offense has been committed.” Article 264 stipulates that the courts “will try the case in 15 days following the filing of the report on the administrative offence.”

A violation of the Criminal Code triggers a more complex and lengthy procedure. It also involves the public prosecutor, who represents the state in the criminal procedure. The two procedures are not mutually exclusive. If during a criminal trial, the court determines that the offence is administrative rather than criminal, it will impose an administrative penalty. Likewise, if, in examining an administrative case, the court decides that a case brought as an administrative offence includes all the elements of a crime, it will direct the case to the public prosecutor who will open a criminal case.

Finally, an administrative conviction is not included in a person’s criminal record, while a criminal conviction is. A previous criminal record constitutes an aggravating factor in the case of future crimes and results in more severe punishment.

3. Forensic Evidence

The role of forensic doctors is extremely important in the Moldovan criminal justice system. A forensic doctor must evaluate and certify the level of a person’s injuries to be used as evidence in court. The court will not accept any other form of evidence as proof an injury occurred. In the case of injuries caused by domestic violence, the forensic doctor will grade the injuries as light, medium or severe based on specific criteria set forth in the Criminal Code and forensic regulations. As in the Criminal Code, severe bodily harm involves life-threatening injury, mental illness or the termination of pregnancy. Medium injury is characterized by health disorders that last more than 21 days, and light bodily injury is divided into two categories: those which cause health disorders that last at least six days but no more than 21 days, and those which cause health disorders lasting less than six days or cause no lasting health disorders. It is the forensic doctor who, in the final analysis, determines what charges may be brought and how an assault will be treated in the criminal justice system, based on the classification of the injury.

Women are referred to forensic medical experts by the police, the prosecutor’s office, the court or the Ministry of Internal Affairs. The forensic doctor will conduct the

¹²⁹ See *supra* Section III B1 (a) and (b) pp. 28-31.

examination and prepare the documentation at no charge if a woman has the appropriate referral. If she does not, the forensic doctor will charge five lei (approximately US \$.50).

4. Problems with Implementation

Women who attempt to gain access to the legal system in Moldova often encounter significant obstacles. Police, prosecutors and judges routinely minimize the problem of domestic violence and discourage women from bringing claims. In general, the legal system focuses on reconciliation of the victim and the perpetrator rather than on the improper conduct of the abuser. The woman is often pressured to “forgive” the offender to resolve the case without a penalty.¹³⁰ When they do assess a penalty, judges will often consider the personality of the defendant and assess only a fine if it is the first incident. In the past two years, the government of Moldova has also routinely granted amnesty to various classes of prisoners. These amnesty declarations have included the release of men sentenced for assault in domestic violence cases.

Many women do not know their rights or the legal requirements for bringing a case to court. As a result, although the Criminal Code punishes repeated light injury as torture under Article 101, a woman will not be able to prove the pattern of violence unless she has documented her injuries in a forensic certificate. The court will not accept hospital records or a police report of injuries in place of the forensic certificate. In addition, the cost of a forensic certificate, although relatively small, may in some circumstances deter women from pursuing criminal prosecution.

In addition, even when a woman knows about the procedures, she must be willing to pursue the prosecution. Although the Criminal Code provides for prosecution of higher level injuries without the cooperation of the victim, in practice, neither prosecutors nor judges in Moldova will usually pursue prosecution of a domestic violence case without the victim’s consent.

Several people interviewed also identified corruption in the legal system as a major obstacle to effective prosecution.¹³¹ One prosecutor said that virtually everyone in the legal system is corrupt on some level.¹³² This prosecutor further stated that those people in Moldova who tried to maintain professional integrity and avoid corruption “looked like absolute fools.”¹³³ The prevalence of corruption often means that the party with more financial resources will succeed in a case regardless of the merits.

¹³⁰ Interview, February 20, 2000.

¹³¹ Interviews, February 19, 2000; May 14, 2000; and May 19, 2000.

¹³² Interview, May 14, 2000.

¹³³ Interview, May 14, 2000.

5. Proposed New Criminal Code

The Moldovan Parliament is currently considering the adoption of a new Criminal Code and Code of Criminal Procedure. At the time the research was conducted, the new Criminal Code had been adopted in first hearing.¹³⁴ In the new draft, “intentional infliction of light bodily injury” is transferred from the Code on Administrative Offenses to the Criminal Code. Accordingly, this offense will be considered a crime and will be included in a person’s criminal record. Therefore, repeat offenders will be subject to more severe penalties because a previous criminal record is an aggravating factor according to the Criminal Code. The new Criminal Code also provides for higher mandatory minimum prison terms for assault causing light bodily injury, and in several cases, for higher maximum prison terms.

An NGO committee has developed proposed amendments to the draft of the new Criminal Code. They suggest that: 1) the specific sections of the code relating to assault and murder include specific references to domestic violence; and 2) domestic violence be considered an aggravating circumstance to increase the consequences of a crime. Although their suggestions do not create new criminal offenses or sanctions, adding specific language about domestic violence would send the message to the community that it is a serious crime that should be treated like all other crimes.

C. Family and Marriage Code

The Family and Marriage Code requires as a condition to a valid marriage that two people of legal age consent to the marriage.¹³⁵ The minimum legal age for marriage is 18 years for men and 16 years for women.¹³⁶ Under certain exceptional circumstances, local authorities can reduce the minimum age by two years.

The spouses in a valid marriage have equal rights and duties, including those regarding the raising and education of children.¹³⁷ Each party also has an equal right to the property acquired during the marriage.¹³⁸ A court may alter this proportion, taking into consideration the interests of the minor children and other special circumstances.¹³⁹ In addition to the common property, each of the spouses has the right to his or her own

¹³⁴ Additional hearings had been scheduled for the fall of 2000.

¹³⁵ Family Code, Article 15.

¹³⁶ Family Code, Article 16.

¹³⁷ Family Code, Article 20.

¹³⁸ Family Code, Article 21.

¹³⁹ Family Code, Article 22.

property, specifically the property that belonged to each before the marriage, as well as property separately acquired during the marriage by donation or inheritance.¹⁴⁰

The spouses have an obligation to materially support each other. This right to support is enforceable in court.¹⁴¹ Spouses have a similar duty to support their children. Article 71 provides that “parents must support their minor children and their children of the age of majority, if the latter are incapable of work and need help.” The Family Code also provides that parents “are entitled and obliged to educate their children and to care for their health and their physical, spiritual and moral development.”¹⁴²

1. Divorce Procedure

Article 34 provides that “the marriage may be dissolved by divorce at the request of one or both spouses.” The exception to this rule is that “the husband is not entitled to bring an action for a divorce without his wife’s consent in the period of his wife’s pregnancy and in the course of one year after the child’s birth.”¹⁴³

As a rule, first-level courts hear divorce cases. The procedure is set forth in Article 36. The court’s first obligation upon receiving the petition for dissolution of the marriage is to “take measures on the reconciliation of spouses.” In order to achieve reconciliation, the court may postpone examination of the case and establish a reconciliation period up to six months in length. The marriage is dissolved when the court determines that the spouses are no longer able to live together and maintain the family. The court will decide whether to award child support¹⁴⁴ and alimony payments¹⁴⁵ at the request of the spouse entitled to the payments. In the case of disagreement, the court will also decide on the division of common property.¹⁴⁶

An alternative procedure for divorce is provided in Article 38 of the Family and Marriage Code. When both spouses consent to divorce, the marriage can be dissolved by the registry office in a simple procedure. To use this procedure, the spouses must be married for at least one year, they must not have minor children and there must be no disputes regarding the division of common property. If these criteria are met, the parties can generally obtain a divorce in three months.

¹⁴⁰ Family Code, Article 23.

¹⁴¹ Family Code, Article 27.

¹⁴² Family Code, Article 56.

¹⁴³ Family Code, Article 34(2).

¹⁴⁴ Family Code, Article 72.

¹⁴⁵ Family Code, Article 28.

¹⁴⁶ Family Code, Article 22.

2. Obstacles to Divorce

Although the law does not mandate a reconciliation period, judges routinely impose them on couples seeking to divorce. One judge said her first priority in divorce cases was to try to persuade the parties to reconcile, and that she viewed her role in a divorce proceeding as similar to that of a marriage counselor.¹⁴⁷ Research indicates, however, that often the most dangerous time for a battered woman is when she is attempting to leave her abuser.¹⁴⁸ Therefore, a reconciliation period may present real danger to both a woman and her children.

The severe economic circumstances also deter women from seeking divorce. In the majority of divorce cases, women are awarded custody of the children.¹⁴⁹ Even when men have a consistent income, they often do not pay child support. The state provides few benefits to women after they divorce to assist in support of their children. Single women receive 30 lei (approximately US \$3) in child support from the government.¹⁵⁰

Restricted availability of housing may also discourage or prevent women from leaving an abusive relationship or marriage. During the Soviet era, there was no private housing; citizens had to register for an apartment with the state. If there was a need to move, divorce, or otherwise live apart, the people registered in the apartment had to apply to the state for new living space. Since *perestroika*, much of the housing in Moldova has been privatized. Contrary to expectations, privatization itself has contributed to the housing shortage because of the dramatic increase in the prices of houses and apartments. Although housing is generally available, the cost has placed it out of the reach of many Moldovans.

Children, parents and grandparents often live together in the same household. When a couple has decided to separate or divorce, they often continue to live together during the court-mandated reconciliation period. Sometimes, even if a divorce is granted, the court will order the house or apartment to be physically partitioned because neither party can find alternative housing. Several people interviewed described situations where women were forced to live with their former husbands and continued to be beaten and harassed by them. A woman at a crisis center described a case where a man not only continued to beat his former wife, but brought his new girlfriend to the apartment he

¹⁴⁷ Interview, May 17, 2000

¹⁴⁸ A woman's attempt to leave her abuser, which includes through divorce and separation, is considered a "red flag" or trigger for lethal abuse. See Neil Websdale, Maureen Sheeran and Byron Johnson, *Reviewing Domestic Violence Fatalities: Summarizing National Developments* (1999), available at <<http://www.vaw.umn.edu/FinalDocuments/fatality.htm>>.

¹⁴⁹ Interview, May 13, 2000.

¹⁵⁰ Interview, May 13, 2000.

shared with his former wife and son.¹⁵¹ In a battering situation, such a nominal separation is unlikely to bring the victim any real protection from violence.

IV. MOLDOVA'S OBLIGATIONS UNDER INTERNATIONAL LAW

As a member of the United Nations, Moldova is obligated to protect the human rights of the people living within its borders. The provisions of the Universal Declaration of Human Rights ("Universal Declaration")¹⁵² and numerous other human rights instruments, such as the Declaration on the Elimination of Violence Against Women, define Moldova's human rights obligations as a member of the international community. In addition, Moldova is a party to the International Covenant on Civil and Political Rights ("Civil and Political Rights Covenant")¹⁵³ and the Convention on the Elimination of All Forms of Discrimination Against Women ("Women's Convention")¹⁵⁴ and is bound by the terms of these conventions.

The international standards described in these instruments condemn violence against women and domestic violence. The United Nations has recognized an affirmative obligation of member states to protect women from violence perpetrated by private persons and has articulated specific responsibilities of governments to eradicate domestic violence.¹⁵⁵ A government's failure to respond to systematic violence against women is a violation of its obligations under international law:

*The state's abdication of its duty to protect its citizens from crimes of violence amounts to a tacit endorsement of that violence. That complicity provides the requisite governmental dimension to consider the violence a human rights issue.*¹⁵⁶

The Moldovan government's failure to respond appropriately to the problem of domestic violence violates international human rights standards.¹⁵⁷

¹⁵¹ Interview, May 12, 2000.

¹⁵² See *supra* note 7.

¹⁵³ See *supra* note 8.

¹⁵⁴ See *supra* note 9.

¹⁵⁵ See, e.g., Declaration on the Elimination of Violence Against Women, G.A. Resolution 48/104 (1993).

¹⁵⁶ Kenneth Roth, *Domestic Violence as an International Human Rights Issue*, HUMAN RIGHTS OF WOMEN 326, 329-330 (Rebecca Cook, ed. 1994).

¹⁵⁷ For a detailed discussion of the concept of state responsibility to victims of domestic violence, see Katherine Culliton, *Finding a Mechanism to Enforce Women's Right to State Protection from Domestic Violence in the Americas*, 34 Harv. Int'l. L.J. 507 (1993), and Dorothy Thomas and Michele Beasley, *Domestic Violence as a Human Rights Issue*, 15 Hum. Rts. Q. 36 (1993).

A. United Nations

1. Women in Moldova are not ensured the rights to security of the person and freedom from torture and cruel, inhuman or degrading treatment.

The Universal Declaration includes several provisions relating to an individual's right to be free from violence and abuse. Article 3 provides that "[e]veryone has the right to life, liberty and security of person." Article 5 provides that "[n]o one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment."¹⁵⁸ The Civil and Political Rights Covenant also provides in Article 6 that "[e]very human being has the inherent right to life" and in Article 7 that "[n]o one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment."¹⁵⁹

Evidence available from hospitals, doctors, legal professionals and other sources indicates that domestic abuse is a serious, widespread problem in Moldova. The evidence also indicates that the Moldovan government does not respond effectively to this problem. The police do not respond to domestic violence calls in a timely manner and sometimes they do not respond at all. When they do respond, the police generally do not make arrests nor do they routinely attempt to remove the perpetrator of the assault from the home. The Moldovan government has not created a system that provides security to women who are beaten by their husbands or partners. By failing to protect women from private perpetrators of violence, Moldova has failed to adhere to its obligations under the Universal Declaration and the Civil and Political Rights Covenant.

2. Women in Moldova are not ensured the right to an effective remedy for acts violating their fundamental human rights.

Article 8¹⁶⁰ of the Universal Declaration and Article 2¹⁶¹ of Civil and Political Rights Covenant guarantee that states shall provide an effective and adequate remedy for acts violating fundamental rights guaranteed by constitution or by law.

As set forth in detail above, the Moldovan legal system does not provide an adequate remedy for the denial of women's fundamental rights to be free from violence. Women face serious obstacles at each step of the legal process. The police do not generally investigate claims of domestic violence, arrest perpetrators or remove abusers from the home. In many cases, women's claims are dismissed because the police failed to send their files to the court within the statutory time limit. In addition, the cost of

¹⁵⁸ G.A. Res. 217 A(III), U.N. Doc. A/810 (1948). These provisions are generally regarded to have the force of customary international law.

¹⁵⁹ See source cited *supra* note 8.

¹⁶⁰ See source cited *supra* note 7.

¹⁶¹ See source cited *supra* note 8.

obtaining a forensic certificate and retaining an attorney make it even more difficult for women to seek an effective remedy when they have been assaulted in their homes.

Even when a woman successfully prosecutes a complaint, the courts will likely only impose a small fine or a suspended jail sentence on the perpetrator. The courts rarely force a man who has assaulted his partner to leave the family home, and the housing shortage precludes many women from seeking alternative living arrangements. The court's failure to take action exposes the woman to more violence. Women do not have an effective means of recourse against their violent husbands under Moldovan law as it is currently being administered. The government's failure to protect women from domestic violence and to punish perpetrators violates Moldova's obligation under the Universal Declaration and Civil and Political Rights Covenant to provide an adequate remedy for the violation of a women's fundamental human rights.

3. Moldova is not in compliance with the Convention on the Elimination of All Forms of Discrimination Against Women and the Declaration on the Elimination of Violence Against Women.

The Women's Convention¹⁶² forbids discrimination against women. The Committee on the Elimination of Discrimination Against Women ("CEDAW") in its General Recommendation 19 has explained that violence against women constitutes discrimination and ". . . seriously inhibits women's ability to enjoy rights and freedoms on a basis of equality with men."¹⁶³ General Recommendation 12 recommends that all parties to the convention report to CEDAW on the existence of support services for victims of family violence, relevant legislation, statistical data and measures adopted to eradicate violence against women in the family.¹⁶⁴

The Declaration on the Elimination of Violence Against Women provides explicit directions to member countries to ". . . not invoke any custom, tradition or religious consideration to avoid their obligations with respect to the elimination of violence against women."¹⁶⁵ The Declaration sets forth specific steps a member state should take in combating domestic violence. These steps include: investigating and punishing acts of domestic violence; developing comprehensive legal, political, administrative and cultural programs to prevent violence against women; providing training to law enforcement officials; and promoting research and collecting statistics related to the prevalence of domestic violence.

¹⁶² See source cited *supra* note 9.

¹⁶³ U.N. Doc. A/47/38 (1992).

¹⁶⁴ U.N. Doc. A/44/38 (1989).

¹⁶⁵ G.A. Resolution 48/104 (1993).

Article 4(g) of the Declaration directs that states should ensure that women subjected to violence and their children receive “specialized assistance, health and social services, facilities and programs as well as support structures, and [that states] take all other appropriate measures to promote their safety and physical and psychological rehabilitation.”¹⁶⁶

The provisions of the Women’s Convention and the Declaration on the Elimination of Violence Against Women are strengthened and reinforced by the Beijing Declaration and Platform for Action. The Platform for Action sets forth a comprehensive strategy for governments to address the problem of violence against women.¹⁶⁷ The Moldovan government fails to meet all of these international standards. As discussed above, crimes of domestic assault are not adequately prosecuted and women are not provided adequate protection from further acts of violence. There are no domestic abuse advocacy programs in Moldova to assist victims in filing complaints or in maneuvering through any part of the legal process. In addition, Minnesota Advocates found no evidence of any governmental effort to ensure that law enforcement officers and public officials responsible for investigating and punishing violence against women are trained to understand the unique and complicated issues involved in domestic assault.

There are no government-sponsored prevention programs or programs to provide counseling or specialized mental health care to victims of domestic violence. There are no shelters or safe houses and no social programs to deal with the unique problems created by domestic violence. In addition, the government does not require the health care community in Moldova to respond appropriately to victims of domestic abuse. Finally, there are no services available to victims of violence in Moldova as outlined in the Declaration on the Elimination of Violence Against Women and CEDAW General Recommendation 19.

B. The Council of Europe

Moldova is a member of the Council of Europe, an inter-governmental system for the protection of human rights. As a member, the Moldovan government ratified the European Convention¹⁶⁸ and is therefore obligated to uphold the human rights provisions contained therein. Like the Universal Declaration and the International Covenant on Civil and Political Rights, the European Convention sets forth fundamental civil and political rights that are violated when a woman is a victim of domestic violence and the government does not effectively address the problem.

¹⁶⁶ *Id.*

¹⁶⁷ Beijing Declaration and Platform for Action, U.N. Doc. A/Conf. 177/20 (1995).

¹⁶⁸ 213 U.N.T.S. 222, *entered into force* September 3, 1953. Ratified by Moldova on September 12, 1997. Moldova ratified the European Convention with several reservations, notably concerning the Transdnistria region for which the government could not guarantee compliance and on domestic criminal procedure which has since that time generally been amended to conform to European law.

Article 2 of the European Convention guarantees the right to life. Article 3 guarantees the right to live free from torture. It states, “(n)o one shall be subjected to torture or to inhuman or degrading treatment. . . .” Article 5 grants the rights to security: “(e)veryone has the right to liberty and security of person. . . .” Such rights are inviolable and are expressly guaranteed to “everyone” within the jurisdiction of the state party, here Moldova.¹⁶⁹

Article 13 guarantees the right to an effective remedy for violations of the rights included in the European Convention, and Article 14 states that all the rights and freedoms of the convention shall be guaranteed without discrimination on such grounds as sex, race, national minority and social origin. The Moldovan government has undertaken to protect its citizens from infringement of these basic rights. When women in Moldova are physically, sexually or psychologically abused in their homes, however, their rights are systematically violated. The inadequate response by the Moldovan government to the issue of domestic violence in the country means that it is not in full compliance with its obligations under the European human rights system.

The Council of Europe has expressed concern over the matter of violence against women in Europe through its work on gender equality, which includes actions focusing on violations of women’s rights. In 1997, for example, the Council of Europe Summit as well as representative members of government adopted a declaration to combat violence against women. The Parliamentary Assembly, the Council body which adopts resolutions and makes recommendations for action, has also carried out studies, compiled reports and made recommendations to the Committee of Ministers on the issue of domestic violence. In its 1999 report, the Committee on Equal Opportunities for Women and Men defined and described domestic violence, showing that “a woman is more likely to be attacked and beaten, even killed, by her partner or former partner than by any other person.”¹⁷⁰ Among the report’s conclusions are the need for governmental support of NGOs, including both financial help and closer cooperation with the judicial system, and, at the legislative level, the state’s responsibility “to check whether existing laws are being correctly applied and to introduce the relevant legislation if it is missing.”¹⁷¹ Furthermore, the report states that there “should be special procedures to deal with acts of violence towards women” in the police and justice system. Finally, the report emphasizes the importance of raising public awareness and for governments to encourage “the creation of public facilities that make it easier for women to have access to aid agencies.”

¹⁶⁹ Article 1.

¹⁷⁰ Violence towards women in Europe, (Informational Documents) Committee on Equal Opportunities for Women and Men (1999), *available at* <<http://stars.coe.fr/features/violence.html>>.

¹⁷¹ *Id.*

As a member of the Council of Europe, the Moldovan government should observe Council of Europe recommendations on issues such as violence against women. At present, the Moldovan government has not undertaken the types of activities suggested by the Council of Europe Committee on Equal Opportunities for Women and Men. However, Moldova should participate fully in adapting national legislation and practices to European norms.

The provisions of the European Convention are enforced at both the national and international level through the European Court of Human Rights. In cases of conflicting legislation, Article 4(2) of the Constitution of Moldova states that international human rights instruments are given priority over national law. Therefore, the rights contained in the European Convention have the force of law in national courts and, after exhausting domestic remedies, an individual whose rights have been violated may also apply to the European Court of Human Rights.

V. CONCLUSION

A woman's fundamental right to be free from violence is not protected in Moldova. Existing legal, economic, and social structures prevent women from obtaining any real redress for domestic violence crimes. Through its failure to respond appropriately to the problem of domestic violence and its discrimination against the victims of domestic violence in the enforcement of its assault laws, the Moldovan government has failed to meet its commitments as a member of the United Nations and the Council of Europe and is not in compliance with international human rights standards.

Domestic Violence in Moldova

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