

Domestic Violence in Uzbekistan



December 2000



Minnesota Advocates for Human Rights
310 Fourth Avenue South, Suite 1000
Minneapolis, MN 55415-1012
Tel: 612-341-3302, Fax: 612-341-2971
E-mail: hrights@mnadvocates.org
www.mnadvocates.org

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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
II.	DOMESTIC VIOLENCE IN UZBEKISTAN	4
A.	Historical Background	4
B.	Uzbekistan Under Soviet Rule	7
C.	Post-Soviet Transition and Current Conditions	9
1.	Uzbekistan since Independence	9
2.	The Family	14
3.	The Mahallah	17
D.	Evidence of Domestic Violence	19
1.	Underreporting of Domestic Violence	23
2.	Suicide	26
3.	Reproductive Health Practices	28
E.	Domestic Violence: Causes and Complicating Factors	28
III.	THE LEGAL SYSTEM OF UZBEKISTAN	30
A.	The Constitution	30
B.	The Criminal Justice System	31
1.	Law	32
2.	Implementation of Laws	37
a.	The Mahallah	37
b.	The Police	39
c.	Forensic Examination	42
d.	Court	45
C.	Family Law	48
1.	Marriage	48
2.	Divorce	49
IV.	NON-GOVERNMENTAL RESPONSE TO DOMESTIC VIOLENCE	54
V.	UZBEKISTAN'S OBLIGATIONS UNDER INTERNATIONAL LAW	57
VI.	RECOMMENDATIONS	60
VII.	CONCLUSION	62
	APPENDICES	i
I.	Classification of Cases from Sample Judicial District, Tashkent, Uzbekistan	i
II.	Selected Criminal Cases Involving Domestic Violence	ii
III.	Transmission of "02" Telephone Calls in Tashkent, Uzbekistan ...	v
IV.	Regulations on Forensic-Medical Assessment of the Degree of Bodily Injury	vi

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DEDICATION

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DOMESTIC VIOLENCE IN UZBEKISTAN

[After a quarrel with my mother-in-law], my husband arrived. . . . Hearing the shouting from the house and not looking into what it was all about, he attacked me with his fists, pulled my hair and beat my head against the wall, repeating all the time, "I'll teach you who's the boss." I lost consciousness and when I came to it was night. I was lying against the wall and very severely nauseated. I tried to stand but the dizziness made me sit down again. At this time, my husband was sleeping. My mother-in-law told me to get my things together and leave the house. But it was night and I begged her to wait until morning. Then she began to call my husband. I began to cry and plead that she not wake him up. But my husband woke, came and hit me in the face. I was bleeding from my nose and mouth, and right then two of my teeth fell out.¹

I. PREFACE

Domestic violence is a violation of the fundamental human rights of women. Research studies have found that it is a serious problem in countries around the world. Women of all ages and all socio-economic backgrounds experience domestic violence.²

The United Nations has recognized domestic violence as a violation of international human rights standards.³ A government's responsibility for protecting all of its citizens from human rights abuses 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 Uzbekistan. In February and May, 2000, Minnesota Advocates for Human Rights ("Minnesota Advocates") sent delegations to Uzbekistan to document domestic violence and the government's response to the problem.⁴ The delegations visited several cities in Uzbekistan (Tashkent, Samarkand,

¹ Excerpt from *Problems of Women*, May 3, 2000, section 6.5 (unpublished sociological study).

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) at 8.

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 General Assembly of the United Nations 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." *Id.*

⁴ The research was conducted during two visits. The first delegation traveled to Uzbekistan from February 28 to March 10, 2000. It consisted of Belinda Cooper and Elisabeth Duban. Between May 23 and June 8, 2000, Robin Phillips, Elisabeth Duban, Belinda Cooper, Carolyn Chalmers and Eric Janus returned to complete the research.

and cities in the Ferghana Valley and Karakalpakstan) and interviewed more than 100 individuals, including judges, lawyers, prosecutors, representatives of non-governmental organizations (“NGOs”), government officials, police officers, doctors, journalists and religious figures. Minnesota Advocates also conducted an extensive review of case files at the district court level, viewed lawyers’ case records and observed two hearings.

Minnesota Advocates developed its research methodology using international human rights standards articulated by the United Nations. In conducting this research, the delegation principally used the following definition of domestic violence from the United Nations publication *Strategies for Confronting Domestic Violence: A Resource Manual*:

*Domestic violence can be defined as the use of force or threats of force by a husband or boyfriend for the purpose of coercing or intimidating a woman into submission. The violence can take the form of pushing, hitting, choking, slapping, kicking, burning or stabbing.*⁵

Minnesota Advocates also noted domestic violence that resulted in psychological injury and incidents of violence perpetrated against Uzbek women⁶ by other family members.

Summary of Findings

Domestic violence is widespread in Uzbekistan. In interviews conducted by Minnesota Advocates, government officials and many members of the legal system initially denied the existence of the problem, but when questioned further were able to describe numerous cases that correspond to the United Nations’ definition of domestic violence. Despite the high incidence of domestic violence, the government of Uzbekistan has failed to acknowledge the problem and has not taken adequate steps to address it. In fact, in some cases governmental actions have made the situation for battered women more difficult. While Uzbek law punishes physical assault, no legal provisions specifically proscribe domestic violence and many criminal justice officials do not take the problem seriously.

When they do acknowledge it, government officials consider domestic violence a problem to be solved by the family or the community. Police often discourage women from making complaints against abusive husbands, and abusers are rarely taken from the home or jailed. The overwhelming response of the legal system, and indeed the entire society, to domestic violence is to urge women to reconcile with their abusers. Following this approach, the government has officially and unofficially devolved authority over

⁵ Minnesota Advocates defines domestic violence as violence against women. This definition reflects research that indicates women are the most common victims of violence in the family. See 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).

⁶ Although there are ethnic and cultural differences among women in Uzbekistan, the term “Uzbek women” in this report will refer generally to women who live in Uzbekistan, regardless of ethnic identity.

family problems to the mahallah, a traditional community structure that is taking on a quasi-governmental role. While the mahallah performs important functions, its intervention also frequently limits women's access to more effective, formal legal remedies for domestic violence.

In cases where women do seek to prosecute abusive husbands, they receive minimal assistance or protection from the government. There appears to be little consistency in how cases of domestic violence are prosecuted. Monetary penalties for assault often deter women from pursuing legal remedies, especially when fines are paid from their family budgets. Although law enforcement officials acknowledge that women turn to divorce as an escape from violence, divorce procedures fail to address this problem, and divorce is actively discouraged. The Uzbek government has not effectively supported the efforts of NGOs working to meet the needs of victims. It does not keep statistics on assault or other crimes that indicate the relationship of the victim and the perpetrator or the sex of the victim that would allow for the identification of data relating to violence against women or domestic violence.

Uzbekistan is a member of the United Nations and has committed itself to adhere to internationally recognized human rights norms. Uzbekistan is a party to the Convention on the Elimination of All Forms of Discrimination Against Women⁷ ("Women's Convention") and the International Covenant on Civil and Political Rights.⁸ Nonetheless, Uzbekistan has failed to respond to widespread abuse against women and is therefore not in compliance with its obligations under these treaties:

1. Violence against Uzbek women in their homes is a violation of their fundamental right to security of the person as guaranteed in the Universal Declaration of Human Rights⁹ and to freedom from torture and cruel and inhuman or degrading treatment as guaranteed in the International Covenant on Civil and Political Rights;
2. Uzbek 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 adequately to enforce criminal laws on behalf of domestic violence victims, Uzbekistan 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. 34/180, U.N. GAOR Supp. (No. 46), U.N. Doc. A/Res/34/180, *entered into force* September 3, 1981. Ratified by Uzbekistan on July 19, 1995.

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 Uzbekistan on September 28, 1995.

⁹ G.A. Res. 7 A(III) Dec. 10, 1948, U.N. Doc. A/810 (1948).

3. The Uzbek government is not in compliance with the provisions of the Women's Convention (including General Recommendations 12 and 19 of the Committee on the Elimination of Discrimination Against Women¹⁰) and the Declaration on the Elimination of Violence Against Women¹¹ including the following:

- a. Uzbekistan has not met its obligation to protect women from violence;
- b. Uzbekistan 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 rehabilitation; and
- c. Uzbekistan has not met its obligation to develop comprehensive legal, political, administrative and cultural programs to prevent violence against women.

II. DOMESTIC VIOLENCE IN UZBEKISTAN

A. Historical Background

Uzbekistan is in the heart of Central Asia and is the only nation to border all the former Soviet Central Asian republics: Kazakhstan, Kyrgyzstan, Tajikistan, and Turkmenistan. It also shares a small border with Afghanistan. Before the 1920's, when the Soviets demarcated the five Central Asian republics along artificial nationalist lines, Central Asia was occupied by various ethnic tribes, living either in towns or as nomads. A Turkic people, "ethnic Uzbeks" are the descendents of sedentary groups that lived primarily in the south-central part of Central Asia. Today, the people of Uzbekistan are ethnically mixed; the majority are Uzbeks (71%), but the population includes minority groups of Tajiks, Kazakhs, Karakalpaks, Russians, Tatars and Koreans. Ethnic Uzbeks remain the third largest nationality in the former Soviet Union and live both in Uzbekistan and surrounding countries. Uzbekistan has a population of approximately 24.5 million people. The country is divided into twelve oblasts (provinces) and the semi-autonomous Republic of Karakalpakstan, which contains part of the Aral Sea, now badly polluted.¹²

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

¹¹ G.A. Res. 48/104 (1993).

¹² The Aral Sea zone is an ecological disaster area. Disruption of the ecology, caused partly by defoliants and herbicides contaminating the water, has profoundly affected the health of residents. For example, in the last decade, rates of anemia, kidney and liver disease, pregnancy complications, birth defects and miscarriages have increased there. It is estimated that 99% of pregnant women, 92% of non-pregnant women and 87% of teenage girls are anemic. In rural areas near the Aral Sea, maternal and infant morbidity and mortality rates are higher than in other regions of Uzbekistan. See *Risks, Rights and Reforms*, Women's Environment and Development Organization (1999).

Uzbekistan has long been a cultural center of Central Asia and is one of the world's oldest civilized regions. Uzbekistan's history is marked by frequent conquest, including dominance by the Persian Empire, Alexander the Great and the Kushans, a tribe from western China. During the Kushan period, Uzbekistan became an important part of the overland trade routes, known collectively as the Silk Road, that linked China with the Middle East and the Roman Empire. The Silk Road not only promoted extensive trade but also led to increased communication and the spread of new technologies, art and religion. For example, travelers along the Silk Road brought the principles of Buddhism from India across Central Asia to China. By the 6th century A.D., Uzbekistan had become part of the Turkic Kaganate, a huge Turkish state, which united various nomadic tribes and ethnic groups with a common Turkic language that is the basis for modern Uzbek.

In the 7th and 8th centuries, Arab invaders conquered present-day Uzbekistan and introduced Islam, a religion and culture that continues to be dominant in the region. The Mongol invasions in the 13th century, led by Genghis Khan, left a legacy of large centralized states.

In the 14th century, Amir Timur (Tamerlane), a Turkic conqueror, became ruler of Samarkand and conquered all of western Central Asia, Iran, Asia Minor, and the region north of the Aral Sea. He also invaded Russia, reaching as far as Moscow, before dying during an invasion of China in 1405. Timur gathered numerous artisans and scholars from the lands he conquered in his capital of Samarkand, and during his reign, a wide range of religious and palatial construction projects were undertaken in Uzbekistan.

Much folklore surrounds Timur, including stories of his wife Bibi Khanum and Timur's role in the veiling of women. It is said that Bibi Khanum was a beautiful Chinese girl and Timur's favorite wife.¹³ While he was conquering India, she hired an architect to erect a monument in his honor. The architect fell in love with Bibi Khanum and pleaded for a kiss, but she was true to her husband and refused. Inflamed by her rejection, the architect would not finish the monument unless she kissed him. Bibi Khanum relented, but would only allow the architect to kiss her cheek through her hand. According to the legend, "the architect's passion was so fervent that his kiss left a mark on her."¹⁴ Seeing the mark upon his return, Timur banished Bibi Khanum "to the darker regions of his palace, and to prevent a recurrence of the incident he ordered that all women henceforth be veiled so that their beauty would intoxicate no men other than their husbands or masters."¹⁵ According to the legend, Timur's decree was the beginning of the Muslim tradition of veiling women.¹⁶

¹³ Edgar J. Bracco, *Fabled city of Samarkand is where the East Began*, THE TORONTO STAR, June 27, 1987 at H5.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ There are several other versions of the Bibi Khanum tale. In one, Timur has his wife thrown to her death from a minaret for her infidelity. Yet while conducting research for this report in Uzbekistan,

With the death of Timur in 1405, the Timurid state was divided into two sections. The eastern portion was ruled by Timur's son Shahrukh and the west by his grandson Ulug Beg, a scholar and poet who created an intellectual center in Samarkand. The Uzbek dynasty emerged in the 16th century after wars between Timur's descendents and descendents of Genghis Khan united various nomadic tribes of the area. By the 18th century, however, the Uzbek empire split into three warring khanates (kingdoms), the principalities of Bukhara, Khiva, and Kokand. Although these khanates initially resisted Russian expansion, their rivalry eventually weakened them and led to conquest by Russian forces in the mid-19th century.¹⁷

Russian rule did not interfere greatly with established Uzbek society. Courts retained jurisdiction over all but the most serious crimes and continued to impose codified Muslim law (Shari'a) as well as local customary law (adat). The educational system in Uzbekistan remained mostly Islamic.¹⁸ The image of Uzbek society of the 19th century has been exploited by both the Soviets, who emphasized its negative traditions, and nationalists, who describe the time as a "golden age" before European and Russian corruption.¹⁹ At this time, it was typical for large extended families, consisting of at least two generations of married groups, to live and work together. Most marriages were arranged by parents according to Islamic rules and customary law. Islamic law permitted girls to be married as young as age nine, and husbands tended to be much older than their wives. The man was required to carry a heavy financial obligation that included the payment of a bride price (kalym). Islamic law permitted men to be married to up to four women, as long as all were treated equally. Although both men and women theoretically had an equal right to divorce, in reality divorces were usually only initiated by men.²⁰

The lives of women at this time were highly structured. In urban areas, women and men (except for close relatives) were segregated. From adolescence, women were obliged to wear heavy coverings (parandja) from head to toe, including a black horsehair veil over the face.²¹ Although women played an important role within the family, such as growing food and making clothing, their primary role was seen as child-bearing. Bearing

Minnesota Advocates was told that Timur's respect for his wife is the model for family relations. Interview, March 1, 2000 (deputy mayor, Tashkent). A government publication devoted to women mentions Bibi Khanum's role as a wise advisor to Timur but one that he could not openly acknowledge. AYOLGA EKHTIROM, ("With Reverence to Women") (T. Nazarov and K. Buronov, eds., 1999).

¹⁷ CALUM MACLEOD & BRADLEY MAYHEW, *UZBEKISTAN: THE GOLDEN ROAD TO SAMARKAND* 21 (1999).

¹⁸ Shirin Akiner, *Between tradition and modernity: the dilemma facing contemporary Central Asian women*, in *POST SOVIET WOMEN: FROM THE BALTIC TO CENTRAL ASIA* 264 (1997).

¹⁹ *Id.* at 265.

²⁰ *Id.*

²¹ GREGORY J. MASSELL, *THE SURROGATE PROLETARIAT: MOSLEM WOMEN AND REVOLUTIONARY STRATEGIES IN SOVIET CENTRAL ASIA, 1919-1929* 110 (1974).

many children, sons in particular, was regarded as “vital for the security and prosperity of the household.”²² Frequent pregnancies, however, resulted in high female mortality. Women’s roles as wives and mothers may have given them some influence within both the family and the community,²³ but they were granted few rights as individuals.

B. Uzbekistan Under Soviet Rule

Uzbekistan came under Soviet rule in the early 1920s. A historian noted that “one of the most important political facts about Uzbekistan is that it is a Soviet political creation.”²⁴ As in most of Central Asia, Soviet policy toward Uzbekistan was to “modernize” the country, which meant destroying traditional culture or confining it “to the most intimate and private spheres.”²⁵ The Soviets viewed the emancipation of Uzbek women as a central part of this process. According to one scholar, the Russians viewed the treatment of women in Central Asia with a certain sense of “horror and disgust.”²⁶ Although they viewed this treatment as a social injustice akin to slavery, the Russians also needed women to secularize the state, to participate in the work force and to instill Soviet values in the next generation.

The path toward modernization was extremely difficult, and at times fatal, for many Uzbek women. The Soviets undertook various initiatives to supplant Uzbek traditions, customs and attitudes and eliminate what they termed “female seclusion,” including reform of the legal system and the creation of the Department for Work Among Women (Zhenotdel) within the Communist Party.²⁷ By 1926, in an effort to promote emancipation, the Communist Party issued orders to begin a mass campaign across Central Asia called the Khudjum (meaning “assault,” “storm” or “offensive”). The Khudjum was aimed at persuading Uzbek women to unveil in an effort bring them into the public sphere. As one scholar explained, “[for the Soviets] the veil could be seen not only as the most tangible, publicly perceived embodiment of physical and symbolic apartheid, but as the very linchpin of seclusion itself. If women could be moved to unveil massively and in public, their act would . . . constitute a challenge to all other manifestations of seclusion.”²⁸

²² Akiner, *supra* note 18 at 265.

²³ *Id.* at 266.

²⁴ William Feirman, *Political development in Uzbekistan: democratization?* in CONFLICT, CLEAVAGE AND CHANGE IN CENTRAL ASIA AND THE CAUSASUS 362 (Karen Dawisha and Bruce Parrott eds.1997).

²⁵ Akiner, *supra* note 18 at 261. For a detailed discussion of the Soviet view of Central Asian women, see generally MASSELL, *supra* note 21.

²⁶ Akiner at 268.

²⁷ See generally, MASSELL, especially Part Three, *Early Soviet Actions, 1924-1927*, *supra* note 25.

²⁸ *Id.* at 232.

On March 8, 1927, International Women's Day, women's councils organized mass meetings at which thousands of women took off their parandja and burned them in public.²⁹ Many, however, adopted the veil again the following day.³⁰ While wearing the veil was never made illegal, various incentives were used to discourage veiling, such as special privileges for unveiled women and employment conditional upon unveiling. The Khudjum was also associated with violence against women. While some women were forced to unveil,³¹ others who voluntarily took off their veils were murdered by relatives "for whom the concept of women's honour was linked with their modesty."³² A woman recalled her memories of the period as a young girl: "Throughout 1927 parandjas were burned, but for unveiled women it was very difficult; they were insulted and murdered by their own brothers and husbands. I myself witnessed the murder of a young woman in broad daylight in the city center."³³

Soviet policy toward women significantly improved some aspects of women's lives. Life expectancy and literacy rates rose during the Soviet era. In addition, the new, secularized state required primary and secondary education and provided health care and social services.³⁴ Yet attempts to change traditions that restricted their opportunities were not always successful. For example, women generally attended primary and secondary schools, but often did not complete university because they left school to marry.³⁵

Although increasing the number of women in the workforce and promoting gender equality were important ideological tasks, state efforts to achieve these goals were only moderately successful. At the peak of the Soviet period, 47% of Uzbek women worked outside the home, compared to 87% in Russia.³⁶ Also, where there were male wage earners in the family, women preferred to work at home or to do piecework (usually handicrafts) in small workshops as a way to supplement the family income.³⁷ Since the Soviet period, women's employment in Uzbekistan has had a dual nature. While many

²⁹ MARFUA TOKHTAKHODJAEVA, BETWEEN THE SLOGANS OF COMMUNISM AND THE LAWS OF ISLAM 57 (1995).

³⁰ Akiner, *supra* note 18 at 270.

³¹ *Id.*

³² TOKHTAKHODJAEVA, BETWEEN THE SLOGANS OF COMMUNISM AND THE LAWS OF ISLAM, *supra* note 29 at 60.

³³ *Id.* at 58.

³⁴ Akiner, *supra* note 18 at 262.

³⁵ *Id.* at 272.

³⁶ Marfua Tokhtakhodzhaeva, *Women and Law in Uzbekistan*, in ASSERTIONS OF SELF: THE NASCENT WOMEN'S MOVEMENT IN CENTRAL ASIA 5 (1995).

³⁷ TOKHTAKHODZHAeva, BETWEEN THE SLOGANS OF COMMUNISM AND THE LAWS OF ISLAM, *supra* note 29 at 56.

women work as specialists and professionals in all branches of the economy, Uzbek women are mostly concentrated in unskilled labor, such as cotton production, silkworm breeding and shift work in small factories.³⁸ Most importantly, Uzbek women's employment outside the home did not significantly change the way women regard themselves or modify their position in the family or society. Instead, "there was scarcely any redefinition of gender roles, scarcely any extension of the traditional kin-based networks of friendship, solidarity and support."³⁹ Faced with rapid changes in the public sphere, Uzbek women and men "reacted by holding on yet more firmly to the order they knew in the domestic sphere, where they had a greater degree of control."⁴⁰

Although Soviet policy aimed to emancipate women, it did not significantly change gender roles in Uzbek society.⁴¹ The Soviet Constitution created formal equality,⁴² but in reality, women enjoyed little real power or influence in their workplaces and communities. As one women's rights activist noted, "Soviet propaganda fought the 'prejudices of the past,' but this struggle was largely unsuccessful because people had no desire for the state to interfere in their private lives and in their families. Therefore, many customs and traditions (both positive and negative) were preserved and many of them were diametrically opposed to [Soviet legislation]."⁴³

C. Post-Soviet Transition and Current Conditions

1. Uzbekistan Since Independence

Uzbekistan formally declared independence from the Soviet Union in 1991. In the same year, Islam Karimov, a communist party leader before independence, was elected president. His first term in office was officially extended in 1995 with a "Soviet-style referendum."⁴⁴ Because Karimov technically served only one term in office, he was eligible to run again in 2000.⁴⁵ In January 2000, he was elected to a second term, reportedly with 92% of the vote.⁴⁶

³⁸ Tokhtakhodzhaeva, *Women and Law in Uzbekistan*, *supra* note 36 at 5.

³⁹ Akiner, *supra* note 18 at 275.

⁴⁰ *Id.* at 276.

⁴¹ *Id.* at 275.

⁴² The Constitution of the Union of Soviet Socialist Republics, Article 35 (1) provided "women and men have equal rights in the USSR."

⁴³ Tokhtakhodzhaeva, *supra* note 36 at 19.

⁴⁴ U.S. Department of State, 1999 Country Reports on Human Rights Practices 1 (2000).

⁴⁵ *Id.*

⁴⁶ *Human Rights and Democratization in Uzbekistan and Turkmenistan*, Commission on Security and Cooperation in Europe (CSCE) Report at 8 (2000).

Human rights observers have identified Uzbekistan as one of the most oppressive former Soviet republics.⁴⁷ President Karimov's picture is displayed in most government buildings, and his writings are required reading for university students. The media is censored, dissent is repressed, and religious practice outside of state-sanctioned structures is forbidden. The government will not register opposition political parties, and members of unregistered groups have reportedly been persecuted through arbitrary arrest, conviction on falsified charges, surveillance and loss of employment.⁴⁸

Many of the Uzbek traditions practiced today have their roots in ancient religious customs both from Islam and other religious traditions that co-existed with Islam.⁴⁹ With independence from Russia, there has been a trend toward viewing the past with nostalgia and anchoring the new Uzbek identity in an Islam whose contours are unclear.⁵⁰ Although many people throughout Uzbekistan identify themselves as Muslim, many do not practice customs such as abstaining from pork and alcohol or observing Muslim prayer rituals or holidays.⁵¹ In some parts of the country, particularly the heavily populated and more conservative Ferghana Valley, people are returning to more traditional Islamic religious practices, including, in some cases, the veiling of women.

Although the government purports to respect religious freedom, it has curtailed religious observance and human rights activism, using fear of terrorist infiltration from neighboring Afghanistan, Pakistan, and other countries as a justification.⁵² The government has expelled female students from universities for choosing to wear religious dress, particularly veils. A Human Rights Watch report noted that some university professors welcomed the expulsions because of the increased number of male students given the chance to study.⁵³

⁴⁷ U.S. Department of State, 1998 Country Reports on Human Rights Practices 1 (1999).

⁴⁸ Human Rights Watch, *Leaving No Witnesses: Uzbekistan's Campaign Against Rights Defenders*, 12: 4 UZBEKISTAN 4 (2000).

⁴⁹ Tokhtakhodjaeva, *supra* note 36 at 19.

⁵⁰ See TOKHTAKHODJAEVA, *supra* note 29 at 230.

⁵¹ Akiner, *supra* note 18 at 274.

⁵² In August 2000, fighters belonging to a fundamentalist opposition group, the Islamic Movement of Uzbekistan, entered Uzbek territory from neighboring Kyrgyzstan and Tajikistan and clashed with government forces, leading to increasingly repressive measures within the country. Human rights observers say government repression has fueled resentments and support for the fundamentalists. See, e.g., *Rights Observer Sees no End to Religious Persecution in Uzbekistan*, EURASIANET, September 22, 2000, available at <<http://www.eurasianet.org/departments/recaps/articles/eav092200.shtml>>.

⁵³ Human Rights Watch, *Class Dismissed: Discriminatory Expulsions of Muslim Students* (October, 1999).

Despite rich natural resources, Uzbekistan's economy has not flourished in recent years. Living standards have been declining since 1991,⁵⁴ and Uzbekistan's per capita income is among the lowest in the former Soviet Union. It is estimated that almost 50% of the population lives at the official poverty line.⁵⁵ Poverty is more acute in rural areas and families often depend on additional earnings from small gardens and livestock. In an NGO study of the economic situation in rural families, one woman reported that the yearly income in her family of five was approximately 146,000 soum (about US\$480).⁵⁶ Of this, 120,000 soum was spent on food and 15,000 on medical treatment.⁵⁷

The failure of the government to complete privatization and make the currency convertible has led to a reduction in investment and increased unemployment. Government statistics do not reflect the actual rate of unemployment for women.⁵⁸ Available data, however, indicate that women's unemployment is at least one and a half times that of men.⁵⁹ The United Nations Development Program ("UNDP") noted:

*[T]he period of transition had negative effects on female employment. Often women have to work without long-term guarantees or in a dangerous conditions, be homeworkers or remain unemployed. Many women in order to improve material well-being of their families, take badly paid or non-prestigious jobs. [Without a reduction in the workload at home, this greatly increases the workload of women].*⁶⁰

The majority of the population in Uzbekistan lives in rural areas of the country,⁶¹ where rates of unemployment are much higher⁶² and poverty is greater. Both rural and urban women are more likely to work in the informal economy than men.⁶³ Although

⁵⁴ Center for Economic Research, Report 9704 (1999) available at <<http://www.undp.uz/cer/Reports/9704/Eng/par1.htm>>.

⁵⁵ See Uzbekistan: Country Information, Peace Corps Family Support Pages available at <<http://www.royalpages.com/family/world/uzbekistan.html>>.

⁵⁶ In this report, all approximate equivalents in U.S. dollars are based on the official exchange rate in October 2000 of 304 soum per US\$1.

⁵⁷ Marfua Tokhtakhodjaeva, *Takiye tradittsii doroga k bednosti* ("Such traditions lead to poverty") in WOMEN OF CENTRAL ASIA, Collection of papers No.5 at 42 (1999).

⁵⁸ On questionable unemployment figures for Central Asia, see Akiner, *supra* note 18 at 288.

⁵⁹ *Status of Women in Uzbekistan*, United Nations Development Program at 43 (1999).

⁶⁰ *Id.* at 20.

⁶¹ Sixty-two percent, *Status of Women in Uzbekistan* at 39, 75.

⁶² *Id.* at 39.

⁶³ *Id.* at 43.

women's literacy is very high, with the official rate exceeding 99%,⁶⁴ their educational level is falling due to the reduction of the minimum age for marriage and an increased emphasis on traditional roles for women in society. As in other countries of the former Soviet Union, cuts in social services, particularly child care institutions, have forced women out of the workforce.⁶⁵

The Uzbek government has emphasized that women's rights are central to political transition in Uzbekistan. President Islam Karimov stated, "We must always remember that the way society treats women shows the level of the culture and the spirituality of a given society, and the results of the society's movement towards democracy."⁶⁶ At the same time, however, the societal view of women in Uzbekistan remains paternalistic and the role of wife and mother is highly idealized, especially the qualities of patience and self-sacrifice. An official publication celebrating women offered a poem about an ailing woman who stopped her heart rather than wake the son sleeping at her breast as a positive example of female self-sacrifice.⁶⁷ Official doctrine places the family at the center of national life. In a typical statement, President Karimov declared:

*[Women] consolidate the family and society, making them attractive and prosperous, and illuminating our life with light of love, kindness and color. . . . Wise and smart, kind and tender, women lavish attention on us and our families. . . . The raising of status of our mothers, sisters, spouses, daughters, respect towards them and the easing of their working conditions should become a basic goal for our state . . .*⁶⁸

The media reinforce the traditional view of women and rarely discuss women's social problems.⁶⁹

In recent years, numerous women's NGOs have emerged. Some groups developed at the initiation of Uzbek women or the government, and others formed in response to the interest of outside donor organizations.⁷⁰ Their development was further

⁶⁴ *Id.* at 21.

⁶⁵ Kumriniso Raimkulovna Abdurasulova, *Kriminologicheskaya Kharakteristika Zhenskoi Prestupnosti* ("Criminal Characteristics of Female Crimes"), in ZHENSHINA PRAVO OBSHESTVA (Women Law and Society) (1999) at 93.

⁶⁶ AYOLGA EKHTIROM, *supra* note 16 at 143.

⁶⁷ *Id.* at 170.

⁶⁸ Speech by Islam Karimov, reprinted in Information Bulletin No. 4, Gender in Development Unit, UNDP/Women's Committee of Uzbekistan, Winter 1999.

⁶⁹ MARFUA TOKHTAKHODJAEVA, TRADITIONAL STEREOTYPES OF WOMEN'S PROBLEMS OVER THE PERIOD OF TRANSITION 1 (1999).

⁷⁰ See generally, David Abramson, *A Critical Look at NGOs and Civil Society as Means to an End in Uzbekistan*, 58 HUMAN ORGANIZATION 240-250 (1999) (discussing NGO formation in Uzbekistan).

encouraged by the President's proclamation of 1999 as the Year of the Woman. A number of NGOs maintain close financial and other ties to the government, while others are more independent. NGOs' actual influence on the system as a whole is difficult to gauge. The UNDP noted that NGOs in Uzbekistan "have become a part of the social life of the republic, but a public movement not yet capable to influence important events."⁷¹

NGOs have taken up the issue of violence against women, promoting legal education programs and creating crisis centers and telephone hotlines. This activity has, at the very least, begun to create awareness of a problem that was until recently taboo.

The Uzbek government has taken no significant steps since independence to combat domestic violence beyond formal declarations on the status of women in Uzbekistan. It has, however, created several institutions with the potential to address the issue. In 1995, by Presidential decree, the head of the national Women's Committee⁷² was named deputy prime minister. At the same time, the female heads of city and district level women's committees were appointed deputy mayors (hokim) in charge of women's affairs. The heads of local community (mahallah⁷³) women's committees report to these deputy mayors, and NGOs dealing with women's issues often require permission from the hokim to conduct activities.⁷⁴ Some of these deputy mayors have shown interest in developing possible remedies for domestic violence. The government, however, has not provided significant support for such efforts.⁷⁵

Also in 1995, the Parliament created the office of the National Human Rights Ombudsman and its regional offices to promote human rights and improve national legislation.⁷⁶ The office of the Ombudsman has the authority to consider individual complaints, monitor compliance with human rights standards and sanction human rights violators.⁷⁷ One of its departments is devoted to issues of women, maternity and children, and its annual report addresses women's rights issues. Like the deputy mayors,

⁷¹ *Status of Women in Uzbekistan*, *supra* note 59 at 26.

⁷² The Women's Committee is an organization modeled on a Soviet-era body, the Zhensoviet. *See* Akiner, *supra* note 18 at 292-293.

⁷³ The mahallah is a community-level governing council. It is discussed in detail in section II C (3), *infra*. at 17-19.

⁷⁴ Interview, February 27, 2000 (official of international organization, Tashkent).

⁷⁵ A member of a women's committee described a joint project to create women's shelters in various regions of the country, but added that the government was providing no financial support, only the premises. Interview, June 7, 2000 (member of women's committee, Karakalpakstan).

⁷⁶ Report of the Representative of the Oliy Majlis on Human Rights (the ombudsman) for 1999 at 22 (2000).

⁷⁷ *Id.* at 8.

however, the ombudsman's offices have been given neither the power nor the resources to adequately respond to domestic violence in Uzbekistan.

2. The Family

Uzbekistan's traditional marriage and family structure is a strong influence on the prevalence and treatment of domestic violence.⁷⁸ Uzbek women generally live with their parents until marriage and usually marry young. More than 45% of women, but only 8% of men, marry before the age of 20.⁷⁹ The age of marriage is currently decreasing. Many women are married off by their families at 15 or 16, although the legal marital age for women is 17.⁸⁰ A sociological study of Uzbek women quoted one woman on this issue:

*My daughter is 16. My husband says that he is not going to give her in marriage before she is 20. . . . [but] we won't succeed because people are starting to criticize--how can you keep a girl home for so long? It's a terrible thing and then suddenly no one will propose. Here, the sooner she's out of your hands what comes later no longer worries us.*⁸¹

Marriages are almost always arranged. Many marriages are concluded in religious ceremonies but never legally registered, despite the fact that purely religious marriages are not recognized by law.⁸² Women bring a dowry to marriage. Uzbek families are multigenerational; daughters-in-law live with their husbands' families and are considered to occupy the lowest position in the family hierarchy. Both the women and their husbands are expected to respect and obey elders, especially parents. This expectation is frequently reinforced by the young couple's financial dependence on their parents.

Psychological pressures upon daughters-in-law to conform and take on a subservient role in the family are extremely strong, particularly in the first years of marriage.⁸³ Most people interviewed stated that tensions between mothers-in-law and daughters-in-law, in particular, fuel many family conflicts. A survey conducted by an

⁷⁸ The family structure described in this section is most common in traditional Uzbek and Tajik families in Uzbekistan. Other groups, for example Russians and Karakalpaks, adhere to somewhat different traditions which are often less rigid.

⁷⁹ *Status of Women in Uzbekistan*, *supra* note 58 at 40. According to government statistics, 10,847 Uzbek women below the age of 18 married in 1998. In the same period, only 183 men under the age of 18 married. *Women of Uzbekistan*, Statistical collection of the State Department of Statistics under the Ministry of Macroeconomics and Statistics of the Republic of Uzbekistan (1999) at 40.

⁸⁰ Interview, March 1, 2000 (NGO, Tashkent); *Problems of Women*, *supra* note 1 at section 6.2.

⁸¹ *Problems of Women*, *supra* note 1 at 6.2.

⁸² Family Code of Uzbekistan, Article 13.

⁸³ *Problems of Women*, *supra* note 1 at section 6.7.

NGO in Samarkand, which recorded views of the daughter-in-law's place in the family, was told that a daughter-in-law is expected to "put in order the yard and part of the street in front of the house, prepare breakfast, and wait on the family during breakfast. One young man (15 years old) stated that if his future wife got up later than his mother, he would turn her out of the house."⁸⁴ In fact, in a case file reviewed by Minnesota Advocates, a woman's husband beat her because she woke up late (at 7:30 a.m.) and "answered back" when he criticized her.⁸⁵ In the NGO research, sweeping the yard was found to have a symbolic purpose:

*The broom in her hands and her back bent down symbolize obedience and submission. . . . Thus even such a simple activity as sweeping is transformed into an instrument of violence.*⁸⁶

Little social privacy exists, and shame acts as a widespread social sanction. Therefore, families often attempt to keep problems within the family and to reconcile disputes themselves. If women who are beaten look for assistance outside the family, they may be considered "bad" wives.

Young women have little freedom; they may also be considered "bad" or promiscuous for merely talking to other men or leaving the home. Mothers-in-law, husbands and fathers make decisions for them. Young brides typically must ask permission from their mothers-in-law even to visit their own parents.⁸⁷ A foreigner living in Uzbekistan spoke about a woman who worked as a secretary at the school where she taught:

*Her husband was completely loyal to his mother. His wife could have worked in a bank, but she was not allowed to because the mother believed prostitutes work in banks. The mother-in-law wanted her home cooking and cleaning. She came to school every day crying. Her father finally came and took her away. She didn't want a divorce because she had a daughter and divorce is the end. She returned to her father with her daughter. Her father made the decision for her.*⁸⁸

According to a sociological study, a young woman's "lack of preparation for married life" is one cause of stress for a young couple.⁸⁹ A number of people also

⁸⁴ *Some Psychological Traits on the Image of Modern Rural Women*, Samarkand (2000) (unpublished survey from seminars held in urban and rural mahallahs).

⁸⁵ Review of files, May-June 2000 (Tashkent).

⁸⁶ *Some Psychological Traits on the Image of Modern Rural Women*, *supra* note 84.

⁸⁷ Interview, May 31, 2000 (NGO, Samarkand); conversation, June 3, 2000 (international aid worker, Samarkand).

⁸⁸ Interview, May 24, 2000 (international aid worker, Tashkent).

⁸⁹ *Problems of Women*, *supra* note 1 at section 6.4.

described the lack of sexual education as a problem for women.⁹⁰ Boys and girls receive little sexual education in school and reportedly girls rarely talk about such issues with their mothers.⁹¹ One NGO activist stated that boys in Uzbekistan learn about sex primarily from pornography.⁹² People also reported that a young woman's virginity at the time of marriage is extremely important. Several Uzbek women explained that during the traditional wedding ceremony, the groom tears a white sheet, symbolizing the couple's first night together.⁹³ Custom allows family members to inspect the newlyweds' bed sheets for blood after the wedding night.⁹⁴ A forensic doctor reported that five or six times a year he is asked by a groom's family to examine a young woman on the day after her marriage. This request is made, the doctor explained, when the groom's family suspects the bride may not have been a virgin when she married.⁹⁵ One NGO representative reported that because young brides know little about sex, they are "terrified"⁹⁶ and experience the first night of marriage as a type of violence that remains "a tragedy for their whole lives."⁹⁷

Women in Uzbekistan begin to bear children soon after marriage. Although the average birth rate is 4.1 children per woman in rural areas and 2.7 per woman in urban areas,⁹⁸ it is not uncommon for women to have five or more children.⁹⁹ Recently, the government has been encouraging a reduction in family size.¹⁰⁰ This campaign has included family planning education.

⁹⁰ *Id.*

⁹¹ *Id.*, Interviews, March 1, 2000 (deputy mayor, Tashkent); May 29, 2000 (NGO, Tashkent).

⁹² Interview, March 4, 2000 (NGO, Samarkand).

⁹³ Discussion, March 8, 2000 (individuals, Tashkent).

⁹⁴ Conversation, June 3, 2000 (international aid worker, Samarkand). *See also* MARFUA TOKHTAKHODJAEVA AND ELMIRA TURGUMBEKOVA, DAUGHTERS OF AMAZONS: VOICES FROM CENTRAL ASIA at 53 (1996) (an Uzbek woman describes this ritual as "a source of anguish for a sensitive girl or young woman" and a "degrading and cruel medieval custom.").

⁹⁵ Interview, June 7, 2000 (forensic doctor, Karakalpakstan).

⁹⁶ Interview, May 29, 2000 (NGO, Tashkent). Others also used the word "terrified" in discussing women's feeling about sex. Interview, May 24, 2000 (international aid worker, Tashkent).

⁹⁷ Interview, May 29, 2000 (NGO, Tashkent).

⁹⁸ *Status of Women in Uzbekistan*, *supra* note 59 at 38.

⁹⁹ Interview, February 28, 2000 (mahallah, Tashkent).

¹⁰⁰ *Problems of Women*, *supra* note 1 at section 6.8; Akiner, *supra* note 18 at 290.

Polygamy remains illegal,¹⁰¹ as it was during the Soviet period, but it is no longer heavily sanctioned. A former prosecutor reported that polygamy is only prosecuted if both wives live in the same house with the husband and form a common household.¹⁰² Minnesota Advocates was told that polygamy is not confined to rural areas. Generally, men with high salaries are usually able to afford more than one wife, making polygamy most common among businessmen, government officials, and other men in high positions.¹⁰³ A former police officer estimated with some irony that “80% of men in the police [force] have two wives.”¹⁰⁴

In a 1999 study of 374 male and female participants in a series of seminars on marriage, 20% of the women felt polygamy was acceptable, 20% opposed it and 60% were undecided. Acceptance was largely based on economic factors. That is, if a man could support both wives, women were willing to accept it.¹⁰⁵ In reality, an activist in the Ferghana Valley pointed out that second and third wives often end up supporting their husbands.¹⁰⁶ Women may simply be happy to find a husband in a society that considers unmarried women “incomplete.”¹⁰⁷ Generally first marriages are official and state-registered, while subsequent marriages are unregistered religious marriages. Because religious marriages have no legal status, women who are “second wives” often face difficulties concerning property division and child custody if they leave their husbands.

3. The Mahallah

A unique feature of Uzbek life is the mahallah, a centuries-old form of communal or neighborhood self-government. Since independence, the government has increased the mahallah’s power in both social welfare and public order functions.¹⁰⁸ The mahallah serves as a community-level governing council, currently possessing a “dual nature as a vehicle for reviving national traditions and as the lowest administrative rung in the government structure.”¹⁰⁹ Because one task of the mahallah is the promotion of social

¹⁰¹ Article 126 of the Criminal Code forbids “joint living with two or more women based on common ownership of property.”

¹⁰² Interview, June 26, 2000 (former prosecutor).

¹⁰³ Interview, May 25, 2000 (journalist, Tashkent).

¹⁰⁴ Interview, June 5, 2000 (police officer, Tashkent).

¹⁰⁵ *Some Psychological Traits on the Image of Modern Rural Women*, *supra* note 84.

¹⁰⁶ Interview, June 1, 2000 (NGO, Ferghana Valley).

¹⁰⁷ Interview, March 1, 2000 (NGO, Tashkent).

¹⁰⁸ *See generally, e.g.,* David Abramson, *Civil Society and the Politics of Foreign Aid in Uzbekistan*, 6 CENTRAL ASIA MONITOR 1-11 (1999); Aline Coudoul, Sheila Marnie and John Micklewright, *Targeting Social Assistance in a Transition Economy: The Mahallas in Uzbekistan*, INNOCENTI OCCASIONAL PAPERS (1998) at 4-5.

¹⁰⁹ Abramson, *Civil Society and the Politics of Foreign Aid in Uzbekistan*, *supra* note 108 at 4.

control, it plays a major role in the treatment of domestic crises. This role has been expanded and sanctioned by the government. Family problems are therefore often resolved through the mahallah's less-formal mediation bodies, rather than through the judicial system.

Mahallahs govern communities that range in size from a few hundred to several thousand people.¹¹⁰ They may be located in neighborhoods of private houses or apartment blocks, and the socio-economic status and educational level of their members vary greatly. Mahallahs are staffed mainly by volunteers. The mahallah chairman (occasionally chairwoman) and secretary, however, are paid. The chairman, although elected, is subject to government approval. A council of elders (aksakal) informally advises the mahallah chairman and takes part in mediating conflicts.

Each mahallah contains a number of committees; the most important for the issue of domestic violence are the women's committee (with an elected leader) and the reconciliation committee. The mahallah women's committee reports to and coordinates its work with the deputy mayor who heads the district-level women's committee. The reconciliation committee includes the mahallah chairman, the head of the women's committee, the local police inspector, members of the council of elders, school directors, religious leaders and other respected local figures. Mahallahs are assigned police inspectors who maintain offices within the mahallah. Some mahallahs have recently added a new position of "guardian," a volunteer security officer who is supervised by local police.¹¹¹

The mahallah's tasks are regulated in part by law.¹¹² Many of its functions are social, including assisting in community events such as weddings and funerals, and communal, including tree-planting and sanitation projects. The mahallah is employed increasingly by the government as an organ of social welfare and is now responsible for determining "needy" families and distributing government benefits to them.¹¹³ The mahallah also serves a public order function that has become more pronounced, in part because of the government's increased concern about Islamic fundamentalism. Mahallahs are expected to know each family and be aware of problems and tensions within them. The efficiency of the mahallahs and the allegiance individual citizens feel toward them appears to vary.

When domestic violence incidents become public, they are usually addressed by the mahallah, specifically by the women's committee and the reconciliation committee.

¹¹⁰ The Minnesota Advocates delegation visited five mahallahs comprising from 2,500 to 5,000 people.

¹¹¹ Interview, May 31, 2000 (police officer, Ferghana Valley).

¹¹² Law on the Organs of Self-Governance of Citizens, April 14, 1999, No. 7568-I, Republic of Uzbekistan.

¹¹³ See generally, Coudoul, Marnie and Micklewright, *Targeting Social Assistance*, *supra* note 108.

The mahallah also coordinates some of its work with the police and the courts. The women's committee and reconciliation committee, as well as the committee of elders, act as mediators in both divorce and potential criminal cases, speaking with husbands, wives and relatives.¹¹⁴

D. Evidence of Domestic Violence

There is no child who doesn't wet himself, and no husband who doesn't beat.

A good wife is not beaten.

A good woman will bring up her husband. (Uzbek proverbs)¹¹⁵

Beat the wife. If she doesn't die, beat her again. (Tajik saying)¹¹⁶

Domestic violence is a serious and pervasive problem in Uzbekistan but the Uzbek government maintains no official statistics on the problem. The government has even stopped keeping some useful statistics, such as the breakdown of emergency calls by the sex of the caller.¹¹⁷ In addition to the lack of statistics, little scholarly research has been published on domestic violence, in part due to government controls on research and publishing. Minnesota Advocates interviewed judges, police, prosecutors, private lawyers, medical experts, mahallah representatives and NGO activists to determine the prevalence and nature of domestic violence in the country. Minnesota Advocates also reviewed in detail case files (criminal, administrative and divorce cases) for an urban district comprising about 300,000 people. In general, Uzbeks are not accustomed to discussing domestic violence openly, and many people were reluctant to provide information that might be viewed as negative or detrimental to the country's image.

Minnesota Advocates also found many people, including government officials, who were willing to speak candidly and provide detailed information. Although it appears that relatively few cases of domestic violence reach the court system, judges, prosecutors, lawyers and forensic experts were able to describe many cases of domestic abuse from their practices. In addition, many reported that psychological abuse in the family was an even more serious and widespread problem than physical abuse.

¹¹⁴ See *infra*, Section III 2 a.

¹¹⁵ Interviews, May 29, 2000, (NGO, Tashkent); May 25, 2000, (judge, Tashkent); June 7, 2000, (NGO, Karakalpakstan).

¹¹⁶ Conversation, May 26, 2000 (individual, Tashkent). In Tajik the saying is a word play-- "Zana zan, namurad boz zan"--in which the word *zan* means both "wife" and "woman" and has the same sound as the imperative form of the verb "to beat."

¹¹⁷ Interview, May 25, 2000 (police officer, Tashkent).

Police officials register significant numbers of domestic violence cases and often acknowledged that it is a problem. An inspector in the Ferghana Valley estimated that 80% of the calls he receives are family quarrels, and that 50% to 60% of these involve injuries. A former higher-level police official in Samarkand recalled that 20% of the crimes he saw had involved domestic violence.¹¹⁸

A forensic doctor (a medical expert within the legal system who evaluates, but does not treat, victims of violence) estimated that he deals with 10-15 cases of domestic violence a week in a region numbering about three million. The doctor, however, also reported that he thought only half of all domestic violence cases ever reach the legal system.¹¹⁹ A forensic expert who works in Tashkent estimated that forensic authorities there see five to six cases of domestic violence injury daily, out of a total of 20 injury cases per day.¹²⁰ A prosecutor estimated handling four to five cases a month of violence between husbands and wives.¹²¹

Prosecutors minimized the significance of domestic violence, calling men's drunkenness and quarreling an "everyday problem."¹²² At the same time, they and others described cases of serious violence and even murder in the family. One prosecutor related a case in which a man stabbed his wife in the heart "without realizing it" after a minor argument about their grandchild.¹²³ Lawyers also described cases of women killed by intimate partners, including one in which a man stabbed his girlfriend to death, ostensibly because she was an alcoholic, a drug-user and a "prostitute."¹²⁴

Behavior defined as domestic violence may be punished under Criminal Code provisions prohibiting assault or "hooliganism" (public disturbance), but is more frequently punished as a less serious infraction under the Administrative Code.¹²⁵ A former prosecutor explained that he had seen a minimum of two to three criminal cases of domestic violence each month, but that "there are [many more administrative cases] . . .

¹¹⁸ Interview, June 3, 2000 (former police official, Samarkand).

¹¹⁹ Interview, May 31, 2000 (forensic expert, Ferghana Valley). In contrast, a forensic expert in another region estimated that of a total of 2,000 to 2,500 forensic cases a year (in a region of 1.5 million people), 200 to 350 involve violence against women in all circumstances, including sexual crimes. Interview, June 7, 2000 (forensic expert, Karakalpakstan).

¹²⁰ Interview, June 5, 2000 (forensic doctor, Tashkent).

¹²¹ Interview, February 28, 2000 (prosecutor, Tashkent).

¹²² Interview, March 1, 2000 (prosecutor, Tashkent).

¹²³ Interview, March 28, 2000 (prosecutor, Tashkent).

¹²⁴ Interview, March 4, 2000 (lawyer, Samarkand). The term "prostitute" is frequently used in reference to women who have male friends or otherwise deviate from expected female behavior.

¹²⁵ See *infra*, Section III B 1.

about three to four times more than criminal cases.”¹²⁶ A judge estimated that he sees 10 to 20 administrative cases involving domestic violence each month.¹²⁷ A review of court files for a district court revealed that in the first three months of 2000, approximately 15% of the criminal injury, rape, and hooliganism cases heard by the court involved domestic violence, as did over 50% of its administrative injury and hooliganism cases.¹²⁸

When women are injured as a result of domestic violence, court medical experts most commonly classify the injuries as “light,” the lowest level of injury defined by law.¹²⁹ When Minnesota Advocates reviewed case files, however, injuries which had been classified as “light” ranged from bruises, mild concussions, cuts and scratches to wounds that required stitches, broken noses and head injuries.

Although domestic violence cases are rarely classified as medium or serious injuries, which carry more severe penalties,¹³⁰ several such cases were found in Minnesota Advocates’ review of case files. A woman whose husband wounded her with an ax while she was sleeping was reported by a forensic doctor to have suffered “medium to serious” injuries.¹³¹ A man beat and choked his pregnant wife when she confronted him about his affair. He later punched her in the head and kicked her in the stomach when she found him with his girlfriend and a relative reprimanded him. She miscarried, and for this reason her injuries were classified as serious.¹³²

In many of the case files reviewed by Minnesota Advocates, violent incidents were attributed to women’s failure to act in accordance with their perceived roles in the family. Conflicts typically arise, in the words of one prosecutor, when a woman fails to “iron her husband’s shirt,” and then, he continued, “words fly, the husband gets angry and maybe slaps her.”¹³³ In one criminal case file reviewed by Minnesota Advocates, a woman’s husband often beat her because he did not like the fact that she brought students

¹²⁶ Interview, June 26, 2000 (former prosecutor).

¹²⁷ Interview, June 1, 2000 (judge, Samarkand).

¹²⁸ Review of files, May-June 2000 (Tashkent). See Appendix I. In a review of cases from January through March 2000, the Minnesota Advocates delegation found 7 criminal cases of domestic violence out of a total of 45 cases of criminal injury, rape, and hooliganism (under Criminal Code articles 104-110, 118 and 277), and 48 administrative cases of domestic violence, out of a total of 91 cases of administrative injury and hooliganism (under Administrative Code articles 52 and 183).

¹²⁹ See Appendix II for detailed information on criminal cases involving family members.

¹³⁰ See *infra*, Section III B 1 for detailed discussion of charges and penalties under criminal and administrative law.

¹³¹ *Id.*

¹³² Interview, March 6, 2000 (judge, Tashkent). See *infra*, Section III B 2 c for more detailed discussion of classification of injuries by forensic doctors.

¹³³ Interview, February 28, 2000 (prosecutor, Tashkent).

to their home for English lessons. In another case, a man who regularly beat his wife accused her of putting their child to sleep on a wet blanket and called her lazy. When the wife “answered back,” he hit and kicked her.¹³⁴ Another woman’s husband asked her to iron his pants; when she said she was busy but would do it later, he punched her.¹³⁵ Another file described the case of a man who beat and kicked his wife because she did not open the door for him and she “talked back.”¹³⁶

Women who endure domestic violence often develop mental health problems as a result. Mental health experts at a neurology hospital, who treat women referred from out-patient clinics, explained that women do not come as an immediate result of family conflicts. The doctors see cases of women with more general complaints of headaches, sleeplessness, memory loss and depression. These ailments, however, may be latent symptoms of head trauma suffered years earlier.¹³⁷ According to a psychologist, beating can cause serious, long-term disorders that appear as much as ten years later. Women who come with these symptoms generally do not talk openly about domestic violence in their lives, but some women will mention being beaten by their husbands in the past. One doctor concluded that 25% of the woman patients suffering from this type of posttraumatic disorder had been victims of family violence.¹³⁸

Victims of domestic violence may seek help from members of district and city level women’s committees. A former women’s committee member recalled that 60% of the complaints she had received from women involved domestic violence.¹³⁹ The head of a women’s committee described a case she had seen in which a married man beat his “second wife” and forced her to give their child to him and his first wife. The woman did not go to court, according to the women’s committee head, because she did not know her rights. She brought her problem to the women’s committee not to complain of abuse, but to seek help in getting her child back.¹⁴⁰

The prevalence of domestic violence in Uzbekistan was also illustrated by the number of people who volunteered stories of domestic violence about themselves or their friends, relatives and neighbors, in both interviews and casual conversation. An NGO activist and scientist confided that she had been beaten by her husband.¹⁴¹ A student in

¹³⁴ Review of files, March 2000 (Tashkent).

¹³⁵ *Id.*

¹³⁶ *Id.*

¹³⁷ Interview, June 6, 2000 (mental health experts, Karakalpakstan).

¹³⁸ *Id.*

¹³⁹ Interview, May 29, 2000 (NGO, Tashkent).

¹⁴⁰ Interview, June 6, 2000 (government official, Karakalpakstan).

¹⁴¹ Interview, February 29, 2000 (NGO activist, Tashkent).

Samarkand talked about a friend whose wife left him when he beat her after two years of marriage, and another case in which a relative slapped his wife.¹⁴² Minnesota Advocates observed a seminar on women's rights at which a student stated that her neighbor "constantly beat his wife."¹⁴³

1. Underreporting of Domestic Violence

Generally, women turn to the legal system only in extreme cases of abuse. Cases that come to the attention of law enforcement officials, frequently through hospital referrals, are almost always serious incidents or cases of repeated violence.¹⁴⁴ One judge explained, "In Uzbekistan cases of domestic violence don't reach the court. . . . Generally, women don't want to talk about it."¹⁴⁵ Another said that women are particularly reluctant to seek legal help when they have been beaten for the first time, and they keep the abuse confidential "for the sake of the children."¹⁴⁶ Even in cases of severe violence, women may not want the issue to be brought to light outside of the family. A lawyer described an incident in which she intervened in a case that was never reported to the police:

*Once there was a drunken quarrel in an apartment near me at three a.m. . . . The husband tried to hit his wife but she ran away, so he was threatening to throw the child from the window if [the child] did not stop crying. I did not call [the police] but I told the husband that I would do it, in order to frighten him. . . . When I talked with the wife and asked her why she put up with it, she said, "No matter what type of man he is, he's my protector." She was saying what she wanted the situation to be but not what was real. Maybe this is a private case, but I can't get it out of my soul. . . . The interesting part is that whenever I want to help such women, they get suspicious and ask, "Why do you care?"*¹⁴⁷

Women do not talk about violence for a variety of reasons. They may be ashamed or embarrassed about their situation or concerned about the repercussions to themselves and their families of exposing violence. A woman may be ostracized by her family and by society for revealing abuse. A mahallah member pointed to the case of a young woman whose husband often came home drunk and "quarreled"¹⁴⁸ with her. Her

¹⁴² Conversation, June 2, 2000 (individual, Samarkand).

¹⁴³ Training, March 7, 2000 (Tashkent).

¹⁴⁴ Interview, March 6, 2000 (judge, Tashkent).

¹⁴⁵ Interview, March 6, 2000 (judge, Tashkent).

¹⁴⁶ Interview, May 25, 2000 (judge, Tashkent).

¹⁴⁷ Interview, June 7, 2000 (lawyer, Karakalpakstan).

¹⁴⁸ Nearly everyone interviewed used the words "quarrels" (spory), "conflicts" (konflikty), "scandals" (skandaly) and "unquiet families" (nespokoiniye semyi) as euphemisms for domestic violence.

husband's family sent her away for revealing this family secret. She was divorced and was considered disgraced.¹⁴⁹ At a seminar for students held by a women's NGO, a young woman talked about a neighbor who never reported her sufferings:

*She had a child when she was very young, and her grandmother took care of it. She seemed fine, they had money, but the husband often drank. He would come home and beat her. She put up with it. Lots of women are afraid of gossip, so she tried to hide it. He beat her and pushed her out on the street with the child. She had a second child and he kept beating her. She could have taken the child and gone to relatives, but she had no one to go to. He hit her so badly a couple of times that she went to the hospital, and she still puts up with it.*¹⁵⁰

Brought up to be patient and obedient, many women accept violence as natural. An otyin, or female religious leader, to whom women bring their problems explained that Uzbek women are "passive and tolerant and think beating is the norm."¹⁵¹ A woman who suffered cuts and internal injuries described a beating by her husband in a complaint to the police:

*At 4:00, my husband started an argument. I said something rude, but not rude enough to be beaten. My husband came from behind and said, "Can't you talk without insulting me?" and started beating me on the back.*¹⁵²

Women may also fear worsening the situation, especially if they go to the police. Husbands or family members may pressure or threaten women to force them to withdraw complaints to the police.¹⁵³ A mahallah activist explained that no matter how badly a woman is beaten, "If she goes to the inspector, it will be worse. The husband and his family will be angry that she accused him in public and everyone will know. His honor will be damaged, and he will not stop beating her and will divorce her."¹⁵⁴ Another NGO member spoke about a neighbor who had never reported beatings to the police. Even if the police did detain her husband, the NGO member explained, he would continue beating her and lose his job. They would both lose the neighbors' respect, and she would be no better off.¹⁵⁵

¹⁴⁹ Interview, March 2, 2000 (mahallah, Tashkent).

¹⁵⁰ Training, March 7, 2000 (Tashkent).

¹⁵¹ Interview, June 2, 2000 (otyn, Samarkand).

¹⁵² Review of files, May-June 2000 (Tashkent).

¹⁵³ Interviews, June 3, 2000 (lawyer, Samarkand); February 29, 2000 (prosecutor, Tashkent).

¹⁵⁴ Interview, June 1, 2000 (NGO activist, Ferghana Valley).

¹⁵⁵ Interview, May 29, 2000 (NGO activist, Tashkent).

When women do seek help from the police, they often want immediate action to frighten their husbands and to stop the violence, instead of lengthy, public legal proceedings.¹⁵⁶ As a typical example, a mahallah women's committee head told Minnesota Advocates about a young woman with an abusive husband. She and her mother-in-law came to the police inspector and asked him "to speak with the husband to scare him."¹⁵⁷

Another explanation for women's reluctance to view the legal system as a solution to domestic violence is that it offers no response short of prosecution of the husband. Prosecution generally leads to fines or imprisonment. At the same time, "breaking up the family" by using the legal system is strongly discouraged by both society and members of the legal system themselves. Therefore, although women who are abused may ask for help, many ultimately refuse to lodge complaints with the police because they do not want their husbands arrested.¹⁵⁸ A lawyer described a "permanent client for ten years" who was beaten regularly by her husband. The woman has often come to the lawyer's office with "cuts on her face, hands twisted and concussions." Each time, the lawyer explained, the woman writes a complaint, but in a few days she invariably goes to the police and retracts it to "protect her husband."¹⁵⁹ In a case found in a judge's files, a woman complained in writing to police about an incident in which her husband slapped her twice, knocking her to the ground. Four days later, she wrote a second complaint, saying, "I have two children and because of the children I want my husband to be pardoned. I have no claims anymore. Please take no measures against him."¹⁶⁰ Even when women do make formal complaints in domestic violence cases, they often later ask the court for lighter sentences or even deny that the abuse ever took place.

Women often do not disclose the causes of their injuries even to their doctors for fear of legal repercussions. A judge explained:

*Women come for treatment. If a woman asks the doctor not to tell the inspector, the husband will apologize and the family reconciles. But if the doctor informs the police, if it goes into the system, the family definitely breaks up. . . . For the sake of the children, it's better if conflict is kept in the family.*¹⁶¹

¹⁵⁶ Interview, June 7, 2000 (lawyer, Karakalpakstan); June 3, 2000 (lawyers, Samarkand).

¹⁵⁷ Interview, February 28, 2000 (mahallah, Tashkent).

¹⁵⁸ Interview, March 2, 2000 (lawyer, Tashkent).

¹⁵⁹ Interview, May 3, 2000, (lawyer, Samarkand).

¹⁶⁰ Review of files, May-June 2000 (Tashkent).

¹⁶¹ Interview, May 25, 2000 (judge, Tashkent).

A prosecutor noted that even when a doctor refers a suspicious injury case to the police, by the time the prosecutor's office is involved, the woman may not cooperate with the prosecution. Women often claim that they fell or otherwise caused the injuries themselves.¹⁶²

Widespread corruption in the judicial system may also discourage women from reporting violence. Because of their frequent financial dependence, women are less likely to possess the financial means to bribe police or judges or the connections needed to facilitate legal action.¹⁶³

Women often attempt to resolve domestic violence through divorce rather than through criminal prosecution. A judge estimated that over 10% of divorce cases involved domestic violence, particularly in the first few years of marriage.¹⁶⁴ Here too, violence may be concealed. While the stated ground for divorce is usually a husband's drinking problem, a judge pointed out that this reason actually means he is beating his wife.¹⁶⁵

2. Suicide

There has been much public and private discussion of self-immolation in Uzbekistan, and Minnesota Advocates was told several times that the phenomenon is increasing. A journalist said it was not uncommon in the past for women to douse themselves with kerosene and set themselves on fire, especially in the highly traditional Ferghana Valley.¹⁶⁶ He said that in the past, 30 to 50 cases a year were recorded and that this type of suicide is now on the rise. An activist in a health NGO told Minnesota Advocates it was "fashionable," and that self-immolation increases the more people talk about it. But the head of a burn victims' rehabilitation center that helps up to 1,000 people a year maintained that many cases of burning are accidental and connected with the use of primitive gas stoves or open fires for cooking in rural areas.¹⁶⁷

The discussion of self-immolation may overshadow the more widespread problem of female suicide by less dramatic means. Suicide is discussed in Uzbekistan in connection with both physical and psychological violence. It can represent the ultimate act of despair for women left with no other apparent alternatives. Some people reported that suicide attempts were used by women to "punish" their husbands or force official

¹⁶² Interview, February 28, 2000 (prosecutor, Tashkent).

¹⁶³ See discussion *infra*, at 32, 42 for further information on corruption.

¹⁶⁴ Interview, May 25, 2000 (judge, Tashkent).

¹⁶⁵ Interview, June 7, 2000 (judge, Karakalpakstan).

¹⁶⁶ Interview, May 25, 2000 (journalist, Tashkent).

¹⁶⁷ Interview, March 4, 2000 (doctor, Samarkand).

action to be taken.¹⁶⁸ Others explained that suicide may result from severe tensions between mothers and daughters-in-law¹⁶⁹ or from discovery of a husband's polygamy.¹⁷⁰

An NGO activist who served on a women's committee recounted a recent case in which a woman in Tashkent killed herself and her daughter, but not her son. In the letter she left, she explained her action by stating that "women have no life in Uzbekistan."¹⁷¹ According to a high-level forensics expert, 500 women commit suicide in Uzbekistan each year. Although more men than women kill themselves, he said women's reasons almost always involve family issues and result from violence and despair, while men's suicides are more often related to economic problems.¹⁷² A health activist told Minnesota Advocates that 42 women had killed themselves in Tashkent in 1999, counting only those women who left letters making it clear that their deaths were suicides.¹⁷³ The 1999 report by Uzbekistan's ombudsman for human rights stated:

*Monitoring . . . showed that in the republic [of Karakalpakstan] the necessary conditions for women to combine family duties and employment in manufacture were not created. In the republic, an increase in crime and cases of suicide among women was observed. . . . [T]he reasons for committing crime and taking their own [lives] are the impossibility for them to realize such important rights as the right to work, to an education, to equality with men, etc.*¹⁷⁴

Uzbek law provides criminal sanctions for driving a person to suicide, although Minnesota Advocates was unable to determine the concrete circumstances under which this law is generally applied or the frequency with which it is used. The connection between suicide and domestic violence was acknowledged in a recent article in a Tashkent newspaper about a man who was sentenced to six years in prison for "driving his wife to commit suicide by repeatedly beating and abusing her."¹⁷⁵

¹⁶⁸ Interviews, May 29, 2000 (NGO, Tashkent); June 3, 2000 (NGO, Samarkand).

¹⁶⁹ Interviews March 4, 2000 (NGO activist, Samarkand); May 29, 2000 (NGO activist, Tashkent).

¹⁷⁰ Interview, June 1, 2000 (NGO, Ferghana Valley).

¹⁷¹ Interview, May 29, 2000 (NGO, Tashkent).

¹⁷² Interview, June 5, 2000 (forensic expert, Tashkent).

¹⁷³ Interview, May 29, 2000 (health activist, Tashkent).

¹⁷⁴ Report of the Representative of the Oliy Majlis on human rights (the ombudsman) for 1999 (2000).

¹⁷⁵ *Uzbek Man Gets Six Years in Jail for Driving Wife to Suicide*, ISHONCH, August 5, 2000 at 4 (English translation by the British Broadcasting Corporation news service).

3. Reproductive Health Practices

Health advocates reported what they said was a common practice that may increase a woman's risk of violence. They told Minnesota Advocates that doctors sometimes insert intra-uterine devices ("IUDs") in women after they have given birth or have had abortions without their knowledge, as a way to protect women's health and prevent frequent pregnancy.¹⁷⁶ This practice is reportedly based on a government directive on reproductive health.¹⁷⁷ The IUD is removed when the doctor feels the woman is healthy, usually about three years after the birth of a child, so that she can become pregnant again. It is reinserted following the birth. This practice, particularly if it is done without the woman's consent, may cause serious family conflicts over a woman's inability to bear children.

E. Domestic Violence: Causes and Complicating Factors

Domestic violence is a complicated social phenomenon, and there is no simple explanation for its occurrence. Research indicates that domestic violence has its roots in the subordinate role women have traditionally played in private and public life.¹⁷⁸ The United Nations recognizes in the Declaration on the Elimination of Violence Against Women that domestic violence is "a manifestation of historically unequal power relationships between men and women." It condemns this violence as one of the "crucial social mechanisms by which women are forced into a subordinate position compared with men."¹⁷⁹

In Uzbekistan, Minnesota Advocates found that domestic violence occurs across ethnic groups, religious groups and social classes. Despite repeated suggestions that beating was more common in Russian, Uzbek or Muslim families, the researchers found no evidence that violence was more common among any single group.

Most of the people interviewed identified excessive drinking as a main "cause" of domestic violence. One judge stated that when men abuse their wives, "it is because of drinking, unemployment or jealousy."¹⁸⁰ Research indicates, however, that alcoholism and drug abuse alone do not cause domestic violence.¹⁸¹ Although alcohol consumption may trigger a particular attack or cause a batterer to be more reckless or violent, the

¹⁷⁶ Interviews, March 6, 2000 (NGO, Tashkent); May 24, 2000 (NGO, Tashkent).

¹⁷⁷ Interview, May 29, 2000, (health NGO, Tashkent).

¹⁷⁸ 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).

¹⁷⁹ G.A. Res. 48/104 (1993).

¹⁸⁰ Interview, May 25, 2000 (judge, Tashkent).

¹⁸¹ Howard Holtz and Kathleen Furniss, *The Health Care Provider's Role in Domestic Violence*, 8 TRENDS IN HEALTH CARE, LAW & ETHICS 48 (Spring 1993).

violence often continues when these factors are removed.¹⁸² Still, the absence of sufficient drug and alcohol treatment facilities in Uzbekistan undoubtedly compounds the problem of domestic violence. Minnesota Advocates was told that there are facilities in Uzbekistan for the treatment of alcoholism and also that many women would like their husbands to be treated. The procedure by which a woman must apply to have her husband sent for treatment, however, is long and bureaucratic, and requires family agreement.¹⁸³

The structure of the family reinforces the subordination of women. People interviewed by Minnesota Advocates maintained that the man is considered the “boss” in the family and women are reduced to almost “slave” status.¹⁸⁴ Young married women, who normally go to live with their husbands, find themselves in strange families with unfamiliar routines. An NGO activist explained, “the woman is new in that community; she is a stranger ... and she knows no one.”¹⁸⁵ Tensions between mothers- and daughters-in-law may trigger violence; research indicates that many mothers-in-law replicate the suffering they endured by mistreating their daughters-in-law and inciting their sons to violence.¹⁸⁶ Often there is no one to defend the women and they are subjected to severe family pressures. In fact, a judge explained that the early years of marriage are considered a “probation period”¹⁸⁷ in which the man can beat the woman to gauge her reaction. The judge repeated a saying: “If you want to test a new wife, beat her once and see which way she will run. If she runs into the house she’ll make a good wife. If she runs outside the house, better part now.” The judge added that the status of men is thought to be “higher” than that of women in Uzbekistan and men are expected to “shape” their wives, while the wife is expected to be “patient and tolerant.”

Men’s criminal conduct was frequently justified based on what they and others considered the socially inappropriate behavior of their wives or girlfriends. A defense lawyer adopted this view in attributing to a woman the responsibility for her own death:

I represented a man who killed his girlfriend. . . . He killed her because of her own behavior. She drank and was a prostitute; she sold things from the house for alcohol. She also took drugs. . . . He didn’t drink and tried to help her, but it didn’t work. One day he came home from work, and she

¹⁸² *Id.*

¹⁸³ Interview, May 25, 2000 (police officer, Tashkent).

¹⁸⁴ Interviews, May 31, 2000 (NGO activist, Samarkand); June 26, 2000 (representative of ombudsman’s office).

¹⁸⁵ Interview, March 1, 2000 (NGO activist, Tashkent).

¹⁸⁶ *Family Stories- Information to Think About* (unpublished materials prepared by an NGO in Samarkand).

¹⁸⁷ Interview, May 25, 2000 (judge, Tashkent).

*was drunk and began to insult his masculinity. He beat her and took a knife and killed her and then called an ambulance. When the ambulance arrived, he was sitting by her body. He was sentenced to ten years, but his guilt was so high that he died in prison. It is very sad because he is the only son in his family.*¹⁸⁸

Many people also discussed the devastating poverty resulting from the current economic situation and the impact it has had on family life in Uzbekistan. Although Minnesota Advocates documented cases of domestic violence involving professional women as well as women living in poverty, international research indicates a generally higher rate of violence among women who live in poverty.¹⁸⁹

In addition, the dislocations caused by economic conditions have begun to change gender roles within the family. While men are often unemployed, women have tended to seek informal employment, taking jobs that men are often unwilling to do. For example, many Uzbek women carry out “shuttle work,” traveling to neighboring countries to buy goods that they then sell in Uzbekistan. This reversal of roles may cause tensions in families that lead to violence. One judge suggested that women’s equal rights in society have led them to demand equal rights in marriage, thus causing additional conflicts.¹⁹⁰

III. THE LEGAL SYSTEM OF UZBEKISTAN

Uzbekistan’s Constitution guarantees citizens many basic rights and freedoms, and its Criminal Code incorporates sanctions against various types of assault and violence. Uzbek family law provides theoretical equality between men and women in marriage and divorce. In practice, however, even when women succeed in overcoming their reluctance to disclose violence in the family and seek legal recourse, the legal system continues to place often insurmountable barriers in their way.

A. The Constitution

The Constitution of the Republic of Uzbekistan, adopted in 1992, proclaims in Article 1 that “Uzbekistan is a sovereign democratic republic.” Article 13 stipulates that “democracy in the Republic of Uzbekistan shall rest on the principles common to all mankind, according to which the ultimate value is the human being, his life, freedom, honor, dignity and other inalienable rights.”

The basic constitutional principle on human rights is embodied in Article 18 of the Constitution. It provides that “all citizens of the Republic of Uzbekistan shall have equal rights and freedoms and shall be equal before the law, without discrimination based on

¹⁸⁸ Interview, March 4, 2000 (lawyer, Samarkand). On the use of the term “prostitute,” *see supra* note 124.

¹⁸⁹ Heise, Ellsberg and Gottemoeller. *Ending Violence Against Women*, *supra* note 2 at 8.

¹⁹⁰ Interview, June 7, 2000 (judge, Karakalpakstan).

sex, race, nationality, language, religion, social origin, convictions, individual and social status.” Article 46 reinforces this principle of equality, stating that “women and men shall have equal rights.”¹⁹¹

Part 2 of the Constitution, *Basic Human and Civil Rights, Freedoms and Duties*, consists of chapters dealing with separate categories of human rights, such as citizenship, personal rights and freedoms, political rights and economic and social rights. Article 24 guarantees the right to life. Article 25 ensures the right to freedom and inviolability of the person. Article 26(2) provides that “no one may be subject to torture, violence or any other cruel or humiliating treatment.” Finally, Article 24 guarantees “everyone shall be entitled to legally defend his rights and freedoms.”

Chapter 14 of the Constitution is dedicated to family. Article 63 provides that the family is the primary unit of society and shall enjoy state and societal protection. Marriage shall be based on the willing consent and equality of both parties. Article 64 obligates parents to “support and care for their children until the latter are of age.”

B. The Criminal Justice System

While Uzbekistan has a number of laws against assault and other acts of violence, a variety of obstacles within the criminal justice system hinder investigation and prosecution of domestic violence cases and adequate punishment of abusers. Even when women turn to the legal community in cases of domestic violence, they cannot rely on these institutions for effective help.

Domestic violence is not treated like other crimes. If a woman attempts to gain access to the criminal justice system in a case of domestic violence, the crime is often not effectively addressed. The legal system is focused on encouraging spouses to reconcile. In practice, this means that police, prosecutors and judges routinely refer cases within the family to the mahallah for reconciliation as a first step, unless they involve serious injury or death.

In interviews, criminal justice officials consistently maintained that their first duty was to “keep the family together” and prevent division caused by divorce or prosecution. They repeated a number of myths to support this duty, such as the belief that children without fathers inevitably become delinquent. People outside the legal system, however, pointed out that witnessing violence in the family may itself be detrimental to children.¹⁹²

In practice, this emphasis on reconciliation means that the criminal justice system either fails to recognize instances of low-level violence as punishable offenses, or, when it does punish them, it imposes only light penalties. It also means that women are heavily pressured at all levels of the legal system not to pursue prosecution or divorce when they

¹⁹¹ The fact that “women” are mentioned before “men” in this clause was cited as evidence of the government’s concern for women. Interview, March 4, 2000 (lawyer, Samarkand).

¹⁹² Training, March 7, 2000 (Tashkent); interview, June 1, 2000 (NGO, Ferghana Valley).

experience domestic violence. Many said that police try to convince the woman, in the words of a prosecutor, “not to destroy the family and to forgive her husband.”¹⁹³

Finally, Minnesota Advocates was told repeatedly that corruption is endemic to the Uzbek judicial system. Connections to those with power are important, and many cases were reported of judges being bribed to expedite divorce or prevent punishment of an abuser.¹⁹⁴ As a result, many people continue to distrust law enforcement authorities, as they did under the Soviet system.¹⁹⁵

1. Law

Uzbekistan’s legal system is a civil law system based on legal codes, many of which have been changed only slightly from those in force during Soviet times. There are no specific laws prohibiting domestic violence. Cases of domestic violence may be prosecuted under articles of the Criminal Code or Administrative Code that deal with bodily injury or “hooliganism.”

The section of the Criminal Code most commonly violated in domestic assault cases is Article 109 (intentional light injury leading to “short-term health disorder”).¹⁹⁶ Article 109 is also violated when a batterer who has been convicted in an administrative proceeding commits additional acts of domestic violence, even if he does not cause damage to a woman’s health. Article 110 (systematic beating)¹⁹⁷ is also violated in cases

¹⁹³ Interview, March 1, 2000 (prosecutor, Tashkent).

¹⁹⁴ Discussion, June 4, 2000 (individual, Tashkent); interviews, June 6, 2000 (lawyer, Karakalpakstan); June 1, 2000 (lawyer, Ferghana Valley).

¹⁹⁵ Interview, March 1, 2000 (NGO activist, Tashkent).

¹⁹⁶ *Article 109. Intentional light injury*

Intentional light injury that has not caused short-term health disorder or insignificant persistent loss of the capacity to work, committed after an administrative conviction for similar acts, is punishable by fine in the amount of up to twenty-five times the minimum established wage or by correctional work for a period of up to one year or by arrest for a period of up to three months.

Intentional light injury that has caused a short-term health disorder of more than six but less than twenty-one days, or insignificant persistent loss of the capacity to work, is punishable by fine in the amount of twenty-five to fifty times the minimum established wage or by correctional work for a period of up to two years or by arrest for a period of up to four months.

¹⁹⁷ *Article 110. Torture*

The systematic infliction of beatings or other acts with the nature of torture, if they do not result in the consequences indicated in Articles 104 and 105 of this Code, is punishable by correctional work for a period of up to two years or by arrest for a period of up to six months or by imprisonment for a period of up to three years.

The same acts committed against:

- a) a minor;
- b) a woman whose pregnancy is known to the perpetrator;
- c) a person whose helpless situation is known to the perpetrator

is punishable by correctional work for a period of two to three years or by imprisonment for a period of up to five years.

of repeated abuse, although it is rarely used in practice. Criminal Code Article 277, on “hooliganism,” applies to conduct that violates societal norms and is accompanied by beating that causes light injuries.¹⁹⁸

In reviewing cases, it is not immediately apparent why a case might be considered criminal hooliganism rather than criminal light injury. One legal expert explained that anything that takes place in the street is hooliganism and is subject to stricter punishment. But he added that even violence in the home may be classified as hooliganism if it occurs in the presence of relatives or children.¹⁹⁹

The Criminal Code also includes several more serious levels of assault. These articles include Article 104 (intentional serious injury that endangers the life of the victim or results in the termination of pregnancy)²⁰⁰ and Article 105 (intentional medium injury that does not endanger the life of the victim but causes prolonged health damage).²⁰¹

¹⁹⁸ *Article 277. Hooliganism*

Hooliganism--that is, intentional disregard of the rules of conduct of society, accompanied by beating, causing light bodily injuries, or the destruction or damage of personal property, causing significant damage--is punishable by a fine from fifty to one hundred times the minimum salary or by corrective work up to three years or by arrest up to six months.

Hooliganism

- a) causing medium bodily injuries;
- b) committed by a group of persons;
- c) accompanied by public demonstration, threatened use or use of weapons other than firearms or other objects which could objectively cause damage to health;
- d) distinct in its character of exceptional cynicism, manifested by demonstrated contempt for generally-accepted norms of morality;
- e) accompanied by a violation of a minor, elderly person, disabled person or a helpless person;
- f) accompanied by the intentional destruction or damage of personal property, causing large-scale damage

is punishable by imprisonment up to five years.

Hooliganism

- a) committed repeatedly or by a dangerous recidivist;
- b) accompanied by public demonstration, threatened use or use of a firearm;
- c) committed during large public events;
- d) connected with resisting a representative of a control or volunteer organization who is fulfilling his duty of protecting social order or other citizens who stop hooliganism

is punishable by imprisonment from five to eight years.

¹⁹⁹ Interview, June 5, 2000 (criminologist, Tashkent).

²⁰⁰ *Article 104. Intentional serious injury*

Intentional serious injury that 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 more than thirty-three per cent of the capacity to work, or resulting in the termination of pregnancy, or exhibited in the permanent disfigurement of a person, is punishable by imprisonment for a period of five to eight years.

Intentional serious injury:

- a) of a woman whose pregnancy is known to the perpetrator;

Other code sections that may be violated in cases of domestic violence include Article 106 (intentional serious or medium injury inflicted in a state of severe emotional agitation caused by violence or gross insult on the part of the victim),²⁰² and Article 107

-
- b) committed in connection with the performance by the victim or his/her close relatives of his/her official or public duty;
 - c) committed with particular cruelty;
 - d) committed during riots;
 - e) committed for profit;
 - f) committed out of hooligan motives;
 - g) committed out of ethnic or race hatred;
 - h) committed out of religious prejudice;
 - i) committed with the purpose of taking internal organs;
 - j) committed by a group of people,
- is punishable by imprisonment for a period of eight to ten years.

Intentional serious injury:

- a) of two or several people;
 - b) committed by a person who has previously committed such an offence, by a dangerous recidivist or by a person who has previously committed a premeditated murder under Article 97 of the present Code;
 - c) committed by an especially dangerous recidivist;
 - d) committed by a member of an organized group or on behalf thereof;
 - e) which resulted in the death of the victim,
- is punishable by imprisonment for a period of ten to twelve years.

²⁰¹ *Article 105. Intentional medium injury*

Intentional bodily harm that does not endanger life or result in the consequences indicated in Article 104 of this Code, but causes damage to health for a period of twenty-one days to four months or significant chronic loss of ten to thirty-three per cent of the capacity to work, is punishable by correctional work for a period of up to three years or by imprisonment for a period of up to three years.

Intentional medium injury:

- a) of two or several people;
 - b) of a woman whose pregnancy is known to the perpetrator;
 - c) committed in connection with the performance by the victim or his/her close relatives of his/her official or public duty;
 - d) committed with particular cruelty;
 - e) committed during riots;
 - f) committed for profit;
 - g) committed out of ethnic or race hatred;
 - h) committed out of religious prejudice;
 - i) committed by a group of people or by a member of an organized group or on behalf thereof;
 - j) committed by a person who has previously committed such an offence, by a dangerous recidivist or by a person who has previously committed a premeditated gross bodily harm offense under Article 104 of the present Code or a premeditated murder under Article 97 of the present Code;
 - k) committed by an especially dangerous recidivist
- is punishable by imprisonment for a period of three to five years

²⁰² *Article 106. Intentional serious or medium injury inflicted in a state of severe emotional agitation*

Intentional serious or medium injury inflicted in a state of severe emotional agitation which has arisen suddenly caused by violence or gross 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 the death or health damage of the

(intentionally causing serious injury in excess of necessary self-defense).²⁰³ Domestic violence is prosecuted less frequently as one of these crimes.

In the most serious cases of domestic violence resulting in death, the perpetrator may be convicted under one of several different articles, depending on the circumstances: 1) premeditated murder (Article 97); 2) premeditated murder committed in a state of severe emotional agitation²⁰⁴ (Article 98); or 3) premeditated manslaughter when the limits of necessary self-defense are exceeded²⁰⁵ (Article 100). The Code also prohibits rape²⁰⁶ (Article 118) and coerced sexual relations²⁰⁷ (Article 121).

guilty party or his loved ones, is punishable by correctional work for a period of up to two years or by arrest for a period of up to six months or by imprisonment for a period of up to three years.

²⁰³ *Article 107. Intentional serious injury when the limits of necessary self-defense are exceeded*
Intentional serious injury when the limits of necessary defense are exceeded is punishable by correctional work for a period of up to two years or by arrest for a period of up to six months.

²⁰⁴ Premeditated murder committed in a state of severe emotional agitation which has arisen suddenly, caused by violence or a gross insult on the part of the victim or by other unlawful acts on the part of the victim, is punishable by imprisonment for a period of up to five years.

²⁰⁵ Premeditated manslaughter committed when the limits of necessary defense are exceeded is punishable by correctional work for a period of up to three years or by imprisonment for the same period.

²⁰⁶ Rape, i.e., sexual relations with the use of physical force or threats or taking advantage of the helpless condition of the victim, is punishable by imprisonment for a period of three to seven years.

Rape:

- a) of two and more people;
- b) committed by a person who has previously committed the same crime or a crime under Article 119 of this Code or by a dangerous recidivist;
- c) committed by a group of people;
- d) connected with threat of murder,

is punishable by imprisonment for a period of seven to ten years.

Rape:

- a) of a person under age 18 if this is known to the perpetrator;
- b) committed during riots;
- c) committed by an especially dangerous recidivist;
- d) which resulted in serious consequences,

is punishable by imprisonment for a period of ten to fifteen years.

Rape of a person under age 14 if this was known to the perpetrator, is punishable by imprisonment for a period of fifteen to twenty years or by the death penalty.

²⁰⁷ The coercion of a woman to engage in sexual relations by taking advantage of the material, professional or other form of dependence of the victim is punishable by correctional work for a period of up to two years or by arrest for a period of up to six months.

The same acts involving perversity are punishable by correctional work for a period of two to three years or by imprisonment for a period of three to five years.

The Criminal Code includes provisions that either mitigate possible penalties or make them more severe. Article 50 expressly provides for milder punishments for women. Article 55 sets forth mitigating circumstances,²⁰⁸ while Article 56 stipulates circumstances that can increase the sentence.²⁰⁹ Article 57 allows the court to impose lighter sentences than established by the Code, at its discretion, for crimes not believed to “pose a danger to society.” Article 92 sets forth the grounds for compulsory treatment of alcoholism, which include the commission of “acts dangerous to society.”

Assault laws are based almost exclusively on the seriousness of the injury rather than the nature of the assault. The level of injury is established by a forensic doctor, a medical expert employed by the government and assigned specifically to make such determinations. The report of the forensic expert, in turn, is used to determine the article under which the crime will be charged. Punishments under the Criminal Code include fines, “correctional work” penalties (requiring the convicted person to pay a part of his salary to the government for a set period of time), and imprisonment.

The majority of domestic violence complaints that reach the police are charged as violations of the Administrative Code rather than as crimes. The articles of this code most commonly applied to domestic violence cases are Article 52 (intentional infliction of light injury)²¹⁰ and Article 183 (minor hooliganism, defined as intentional disregard of societal norms).²¹¹ Administrative infractions differ from criminal violations in that they are investigated primarily by the police rather than by the prosecutor’s office, with minimal intervention by prosecutors. Forensic reports are required to prosecute under Article 52. Penalties are lower than in criminal cases, and typically consist of short-term detention or a fine. As in criminal cases, judges must impose these penalties. Fines

²⁰⁸ These circumstances include “willingness to confess guilt” and “sincere repentance”; “voluntary atonement for the damage caused”; crimes committed as a result of “complicated and serious personal, family or other conditions”; crimes committed because of “financial, official or other dependence”; crimes committed in a state of “great emotional agitation, inspired by force, grave insult or other illegal actions by the victim”; and crimes committed “under the influence of the illegal or immoral behavior of the victim.” The article also explicitly recognizes the court’s right to consider other mitigating circumstances.

²⁰⁹ These circumstances include, among others, commission of a crime under the influence of alcohol or drugs and a record of prior convictions. The court is given the discretion not to take these circumstances into account, however.

²¹⁰ *Article 52. Light injury*

Unintentional infliction of light injury is punishable by a fine in the amount of one to two times the minimum established wage.

Intentional infliction of light bodily injury which has not caused short-term health disorder or insignificant persistent loss of the capacity to work is punishable by a fine of two times to four times the established minimum wage.

²¹¹ *Article 183. Minor hooliganism*

Minor hooliganism, that is, intentional disregard of the norms of social conduct, manifested by swearing in public places, insulting, accosting people and other similar actions violating public order and people’s calm, is to be punished by fine in the amount of three times to five times the established minimum wage or by administrative detention for up to fifteen days.

under administrative law are generally a multiple of an “established minimum wage,” currently 1,750 soum (less than US\$6).

Occasional amnesties declared by the President, generally for crimes that do not involve the disruption of public order, may cancel criminal penalties.

2. Implementation of Laws

a. The Mahallah

Although the mahallah is not technically a part of the Uzbek criminal justice system, it performs significant judicial functions. When a woman goes to the police to complain of domestic violence, officers will often send her to the mahallah women’s committee and reconciliation committee before taking an official complaint. If a case cannot be reconciled and the injured party insists on going to court, prosecutors work closely with mahallahs. Judges also look to the mahallah chairmen for character references for the husband or wife and for sentencing recommendations.²¹²

Criminal justice officials send women to the mahallah in the hope that conflicts within the family can be resolved without entering the legal system. The mahallah’s function and goal in addressing domestic conflicts, as mahallah representatives repeatedly emphasized in interviews, is to reconcile the couple or the family. Explaining how this functions, members of mahallah committees described speaking with all parties involved, including members of the extended family and workplace colleagues or superiors.²¹³ Officials in one mahallah described the case of a man who hit his wife with a door; although both denied it, he was “taken to the mosque for a talk with the elders.”²¹⁴ Some mahallahs have developed strategies for dealing with violent incidents immediately after they occur. For example, one mahallah head explained that the mahallah and the local inspector remove violent men from their homes after such an incident. They are then questioned elsewhere by mahallah leaders. If the perpetrator remains in his home, according to the mahallah head, he feels he is “the host in his own home” and intervention is less successful.²¹⁵

The mahallah may perform a useful informal function as mediator of conflicts; however, there are significant problems with granting it primary responsibility for resolving violent family situations. The fact that the mahallah consists of members of the community may discourage women from discussing family problems there. In fact, some

²¹² Review of files, May-June 2000 (Tashkent).

²¹³ Interviews, February 28, 2000 (mahallah, Tashkent); March 2, 2000 (mahallah, Tashkent); May 31, 2000 (mahallah, Ferghana Valley); June 6, 2000 (mahallah, Karakalpakstan).

²¹⁴ Interview, May 31, 2000 (mahallah, Ferghana Valley).

²¹⁵ Interview, May 31, 2000 (mahallah, Ferghana Valley).

people reported that women attempt to keep incidents of domestic violence hidden from the women's committee, which is sometimes seen to lack confidentiality.²¹⁶

More significantly, mahallah leaders frequently counsel victims of abuse to endure or change their own behavior in order to make reconciliation possible.²¹⁷ In the words of an NGO activist, when members of the mahallah try to reconcile a couple, they comfort the woman and tell her, "This is life. This is family."²¹⁸ Mahallah activists are often older people, both because of greater respect for elders and because younger women are usually too busy bringing up children to spend time on outside activities. These people may not understand the difficulties faced by a younger couple or may be eager to preserve the status quo.²¹⁹ A judge explained that the mahallah "thinks that the man is head of the family, and the wife is the mother and the housekeeper."²²⁰

Mahallah leaders stated that their mediation enjoyed a high success rate, but the success of mahallah efforts depends primarily on moral persuasion. In cases in which abusive men are concerned for their reputation in the mahallah, Minnesota Advocates was told that the shame of mahallah intervention and public reprimand may indeed have an effect on their behavior. Significantly, however, lawyers and others familiar with domestic violence told Minnesota Advocates that abusive men tend to respect the law more than they respect the mahallah.²²¹ One health activist told of a situation in her own mahallah, which she considered an excellent and respected one, in which an elderly woman was regularly beaten by her husband when he was drunk. The activist and her mother brought the woman home with them. When asked why she put up with the beatings, the woman explained that the police would do nothing and that her husband was not afraid of the mahallah.²²² Because the mahallah has no authority to punish perpetrators for their actions and thus has little power of deterrence, effective legal solutions remain indispensable in dealing with domestic violence. A judge maintained that women who "know their rights will not go to the mahallah; they will tell their husbands that they will go to court."²²³

²¹⁶ Interviews, May 24, 2000 (international aid worker, Tashkent); June 1, 2000 (judge, Samarkand).

²¹⁷ Interviews, February 28, 2000 (mahallah, Tashkent); June 1, 2000 (NGO, Ferghana Valley).

²¹⁸ Interview, June 1, 2000 (NGO activist, Ferghana Valley).

²¹⁹ Interview, March 1, 2000 (NGO, Tashkent).

²²⁰ Interview, June 1, 2000 (judge, Samarkand).

²²¹ Interviews, June 3, 2000 (lawyer, Samarkand); June 7, 2000 (mental health experts, Karakalpakstan).

²²² Interview, May 29, 2000 (NGO activist, Tashkent).

²²³ Interview, March 6, 2000 (judge, Tashkent).

Despite the mahallah's important role in Uzbek society, it is not an official part of the legal system, nor is it accountable to that system. Because of the tremendous variation in the size and character of mahallahs, their practices, decision-making processes and approaches to issues such as domestic violence are neither uniform nor consistent. There appear to be no clear internal guidelines or procedures that govern how the mahallah responds to individual cases of domestic violence. Furthermore, there are no official means of appeal in cases in which the mahallah fails to act or functions inadequately in a domestic violence case. Unless cases are later brought to court, there is no supervision of the mahallah's activities in this area.

As an integral part of Uzbek society, the mahallah has the potential to make a useful contribution to the resolution of domestic violence cases. Its activities, however, must be subject to legal oversight if women are to be provided adequate protection and remedies for violence in the family. An Uzbek lawyer suggested that mahallahs might be more effective if they could be held accountable for failing to inform the police when they are aware of systematic violence in a family.²²⁴

b. Police

When abused women decide to turn to the legal system for help, they first encounter the local district inspector (uchastkovii inspektor). Local inspectors, most often men, are charged primarily with "preventive" work. They are expected to know the families in their locality, which may include as many as 5,000 people,²²⁵ and to record and monitor so-called "unquiet" families. (The concept of the "unquiet" family generally refers to families in which domestic violence and/or frequent drunkenness occur). They are supposed to visit the homes of these families periodically. A district police chief in Tashkent told Minnesota Advocates in March that his list of "unquiet" families for 2000 already included 34 families.²²⁶

Local police inspectors work closely with mahallah leaders on domestic violence cases and refer most of these cases to the mahallah for mediation, rather than filing them in court. Police are required to send a statement about cases of domestic violence to the appropriate mahallah.²²⁷ A mahallah representative explained that if a local inspector receives a call regarding a domestic abuse situation, he will inform mahallah leaders and they will accompany him to the site of the conflict. If the leaders believe they can settle the conflict, they ask the inspector to leave.²²⁸ Mahallahs also appear to have input into administrative sentencing. A mahallah chairman explained, "if there are quarrels [in the

²²⁴ Interview, June 3, 2000 (lawyer, Samarkand).

²²⁵ Interview, May 31, 2000 (inspector, Ferghana Valley).

²²⁶ Interview, March 7, 2000 (police chief, Tashkent).

²²⁷ Interview, June 26, 2000 (representative of ombudsman's office).

²²⁸ Interview, May 31, 2000 (mahallah, Ferghana Valley).

mahallah], the mahallah committee decides with the police what to do. They [the local police] have the right to give 15 days' imprisonment. If it's a more serious case, they send it to the district police."²²⁹

Local inspectors frequently hear of domestic abuse cases through calls from abused women or their neighbors. A former policeman said that in his experience, children sometimes called the police when their father was beating their mother.²³⁰ Many calls go through the emergency police line, called the "02" line.²³¹ This line is part of the Ministry of Internal Affairs, which also controls the police. Although no separate statistics are kept on domestic violence calls, a police officer who worked as an 02 dispatcher in Tashkent estimated that 80% of 02 calls are domestic violence incidents.²³²

When the 02 line receives calls about crimes, those classified as "serious" (such as murders and rapes) are routed from the receiving point to investigative bodies and local-level police. In contrast, calls regarding domestic assault must pass through a different and longer process. They bypass upper-level investigative bodies, are routed through the police Prevention Department and are then sent to the local inspectors located closest to the scene.²³³ Normally, about two hours will pass from the time a domestic violence call is placed until a local inspector arrives on the scene, by which time the incident is usually over.²³⁴ This emergency response system fails to function adequately to protect women victims of domestic abuse.

Although there is no legal requirement that the victim bring a complaint in a case of injury (only rape requires the victim's consent to prosecution²³⁵), in practice, a woman wishing to lodge a complaint against an abuser is typically required to do so in writing at the police station. Police then have three days to decide whether to file a criminal charge. If police are called to the scene of family violence, they may take the man to the station but hold him only temporarily while deciding whether and how to deal with the case.

²²⁹ Interview, February 28, 2000 (mahallah, Tashkent).

²³⁰ Interview, June 3, 2000 (former police official, Samarkand).

²³¹ The "02" line is a limited emergency line that directs callers to police operators. Different numbers must be called for the ambulance service or the fire department.

²³² Interview, May 25, 2000 (police employee, Tashkent).

²³³ Interview, May 25, 2000 (police employee, Tashkent). *See* Appendix III. Crimes classified as "serious" are received at the central office of the Ministry of Internal Affairs, from which the information is passed on to the city-level branch of Internal Affairs (the city police) and then to the investigators and local police. Domestic crimes are routed to the city-level police and the district police, then through the Prevention Department, and finally to the local inspector.

²³⁴ *Id.*

²³⁵ *See* Criminal Procedure Code, Articles 321 and 325.

Even when local inspectors respond to domestic violence calls or women take the step of going to the station to lodge a complaint, police attitudes and practice create obstacles to effective action. Police are widely viewed as taking domestic violence less seriously than other crimes. They may suggest that the beating is the woman's fault,²³⁶ or discourage her in other ways from continuing to pursue a domestic violence case.²³⁷ Police may also be reluctant to open cases against abusers because of the frequency with which women withdraw domestic violence complaints. Interviews and reviews of case files confirmed that women who file complaints very often attempt to stop the case once it has started.

Police are also affected by their personal attitudes toward women. One woman who was systematically beaten by her husband went to the police inspector, who told her not to go anywhere. Later that night, he came to the woman's home and propositioned her.²³⁸ An American woman living in Uzbekistan also reported sexual harassment by police.²³⁹ In both cases, the situation was resolved only because the women had influential contacts who were able to intervene to stop the harassment.

Police response to domestic violence is also hampered by a lack of resources. Police inspectors in some cities do not have cars, making it difficult to reach the scene of an incident rapidly.²⁴⁰ A lawyer who had spoken with a number of inspectors found that they were often uninterested in registering domestic violence complaints because they have "too much work."²⁴¹ Further, corruption was often cited as a major problem in dealing with police, as well as with the rest of the criminal justice system. A lawyer told the research team that police will sometimes purposely fail to register crimes, creating a waiting period to allow for either reconciliation or bribery.²⁴²

Some police officers acknowledged frustration with their inability to act in cases of domestic violence. One pointed out, for example, that if a woman refuses to file a complaint, "the husband will understand that this is his wife's behavior, and this opens the way for him to repeat it."²⁴³ While some officers appeared interested in learning more about domestic violence, no police accepted an invitation to attend a training

²³⁶ Interview, February 29, 2000 (lawyer, Tashkent).

²³⁷ Interview, June 3, 2000 (lawyer, Samarkand).

²³⁸ Interview, June 7, 2000 (lawyer, Karakalpakstan).

²³⁹ Interview, May 24, 2000 (international aid worker, Tashkent).

²⁴⁰ Interview, May 31, 2000 (inspectors, Ferghana Valley).

²⁴¹ Interview, June 7, 2000 (lawyer, Karakalpakstan).

²⁴² Interview, June 6, 2000 (lawyer, Karakalpakstan).

²⁴³ Interview, May 31, 2000 (police inspector, Ferghana Valley).

session for law enforcement officials recently organized by an NGO in Tashkent.²⁴⁴ NGO representatives felt only direct orders from high-level supervisors would ensure attendance by police officers at such seminars.

c. Forensic Examination

Police must give victims of abuse a reference for a forensic examination in all cases of injury. Except in cases of rape, forensic doctors typically will not examine a victim if she comes without the proper referral.²⁴⁵ If women come to the police or police are called to the scene, a referral can be issued at the station. Alternatively, since all medical professionals are obligated to report cases of suspicious injury to the police,²⁴⁶ police may be notified if a woman in need of immediate medical attention is taken for emergency treatment. The police can then authorize a forensic exam, which may take place in the hospital if the woman must remain there.

Bodily injury must be proven with a proper forensic report in both criminal and administrative cases.²⁴⁷ Forensic doctors are members of the judicial system charged with making medical determinations in criminal cases. They assess the degree of bodily injury pursuant to Ministry of Health Order No. 551,²⁴⁸ which establishes instructions for forensic experts. The categories of bodily injury in these regulations correspond to the categories in the Criminal Code: serious injuries (life threatening injuries or termination of pregnancy), medium injuries (those leading to long-term health disorders) and two types of light injuries.²⁴⁹ There are no clear guidelines as to what type of injury fits into each category. Classification generally depends on the time it takes for an injury to heal. The regulations also contain detailed explanations of the percentage of disability believed to result from specific injuries.

The forensic regulations are inadequate to describe the health consequences of domestic abuse. The typical injuries sustained by a victim of domestic abuse (cuts, scratches, black eye, mild concussion, broken nose) fall almost invariably into the light injury category, encompassing injuries that take 21 days or less to heal. Even if definitions based on healing time were adequate to classify injuries, this method of classification generally requires law enforcement officials to wait for complete healing

²⁴⁴ Interview, June 8, 2000 (NGO member, Tashkent).

²⁴⁵ Interview, May 30, 2000 (forensic expert, Tashkent).

²⁴⁶ Criminal Code, Article 241, general provision on concealing crime; interview, February 29, 2000 (prosecutor, Tashkent).

²⁴⁷ Criminal Procedure Code, Article 173.

²⁴⁸ Order No. 551, *On the Establishment and Introduction into Operation of the "Instructions on Conducting Forensic-Medical Expertise in the Republic of Uzbekistan" and other Normative Documents Regulated by the Forensic-Medical Service*, October 21, 1992, Ministry of Health, Republic of Uzbekistan.

²⁴⁹ See Appendix IV.

before charging the crime. This delays criminal prosecution.²⁵⁰ In other cases, forensic experts admitted that they might guess at the time required for the victim to heal,²⁵¹ a practice that may deprive a victim of an adequate remedy.

The forensic regulations as they are implemented do not address the unique issues involved in domestic violence cases. A review of forensic experts' reports in case files found many domestic violence cases in which women suffered multiple injuries, each of which on its own was considered "light." In one case, a woman's husband beat and kicked her following an argument. He held her by the ear and beat her head against the floor and a door, tearing her ear. A few days later, the woman went to a local hospital complaining of continued headaches and dizziness. The report by the forensic doctor stated that the woman had a concussion, a wound requiring stitches, and bruises on her face. The doctor concluded that these injuries required no more than 21 days to heal and therefore constituted light injuries.²⁵² The forensic regulations do not consider the problem of multiple light injuries received at one time; a single bruise and multiple bruises, for example, both constitute light injury. The reports also do not consider the cumulative effect of repeated beatings over a period of time or the possibility that the severity of the injury may not be fully recognizable at the time of the examination.

Forensic doctors generally describe the injury at the time of the examination. (In fact, victims of violence are almost always sent to forensic doctors within one or two days).²⁵³ This emphasis on examining a victim close to the time of injury, while it ensures rapid processing of complaints, also means that forensic experts fail to consider the possibility of long-term consequences of injury in their classification.²⁵⁴ The types of physical or mental health problems that may be caused years later by the trauma of a beating, such as chronic pain or depression, are not taken into account by the criminal justice system.²⁵⁵ Forensic doctors are guided by specific written instructions from police inspectors, such as "state the time of injury, the way the injury was received and the degree of injury" or "if there are bodily injuries, state whether they could have resulted from falling."²⁵⁶ According to a forensic doctor, unless the inspector specifically asks about possible future consequences, these will not be considered in the report.²⁵⁷

²⁵⁰ Review of files, May-June 2000 (Tashkent).

²⁵¹ Interviews, May 31, 2000 (forensic expert, Ferghana Valley); June 5, 2000 (forensic official, Tashkent).

²⁵² Review of files, May-June 2000 (Tashkent).

²⁵³ *Id.*

²⁵⁴ *Id.*

²⁵⁵ Interview, June 6, 2000 (mental health professionals, Karakalpakstan).

²⁵⁶ Review of files, May-June 2000 (Tashkent).

²⁵⁷ Interview, June 7, 2000 (forensic doctor, Karakalpakstan).

By law, police investigators and judges are to evaluate the forensic conclusion as they would any other evidence.²⁵⁸ Prosecutors may also disagree with a forensic report and request a second examination. A forensic doctor stated that in practice this rarely happens; there are only “several” cases in a thousand in which a second examination is done.²⁵⁹ There was no evidence in the case files reviewed by Minnesota Advocates that police, prosecutors, lawyers, or victims dispute the forensic doctor’s decision.

Under Uzbek law, neither hospital nor clinic reports are sufficient evidence to gain conviction in an assault case, no matter how detailed they may be. The outcomes of such cases therefore depend entirely upon forensic examinations. But in the context of domestic violence, the requirement of a forensic report fails to take into account that many victims refuse to undergo a forensic examination. Women may refuse forensic examinations because they forgive their husbands, are ashamed to be examined, or mistakenly believe that a forensic examination will necessarily mean that their husband will be jailed.²⁶⁰

Like filling out an official complaint, seeing a forensic doctor constitutes an additional level of bureaucracy difficult for women to negotiate. Husbands may pressure wives against going to the doctor. Forensic doctors may be located far from the woman’s home. In some parts of Uzbekistan, women rarely travel alone and may require their husband’s permission or may need to be accompanied by a man to visit a forensic expert in another city. One forensic doctor volunteered that women sometimes come to his office accompanied by their abusive husbands, who wait outside.²⁶¹ Forensic doctors may simply not be available to women. Although experts maintained that laws require one forensic doctor per 100,000 population, a former prosecutor said that only one forensic doctor was available in his particular region, which has a population of 250,000.²⁶² A police official in the same region also told Minnesota Advocates that only one forensic doctor was available and that women might be required to travel as far as 100 kilometers to be examined.²⁶³

The requirement of a forensic report for injury cases, combined with women’s reluctance to undergo forensic examinations, create inconsistencies in charging and sentencing domestic crimes. Incidents of abuse that are not documented by a forensic report cannot be charged as light injury under either the Criminal or Administrative Codes. Instead, they fall under minor hooliganism, Article 183 of the Administrative Code.

²⁵⁸ See Criminal Procedure Code, Article 187. Interview, June 5, 2000 (forensic expert, Tashkent).

²⁵⁹ Interview, June 5, 2000 (forensic official, Tashkent).

²⁶⁰ Interview, June 26, 2000 (representative of ombudsman’s office).

²⁶¹ Interview, May 31, 2000 (forensic doctor, Ferghana Valley).

²⁶² Interview, June 26, 2000 (former prosecutor).

²⁶³ Interview, June 3, 2000 (police official, Samarkand).

Three cases brought under Article 183, without forensic reports, illustrate the inconsistencies in charging and sentencing. In the first case, a woman's husband beat her on the head and threatened to kill her. She refused a forensic examination, and the man was sentenced to five days' detention. In the second case, a woman's husband beat her for waking up too late. She was treated for head trauma, but refused to see a forensic doctor. Her husband was fined 8,750 soum (roughly US\$29) under Article 183. In a third case, a woman complained to the police that her husband kicked and beat her when she did not open the door for him. A medical certificate from emergency medical personnel confirmed that the woman had a concussion, contusions on her face and a lump on her head. The woman refused a forensic examination, and the man was charged under Article 183. Despite the husband's admission of guilt, however, the court gave him only a verbal warning.²⁶⁴

In contrast, a man who beat his ex-wife and caused injury to her face, for which she received forensic confirmation, received only a fine of 3,500 soum (equivalent to US\$11.50) under Article 52, the administrative light injury provision. Adding to the confusion, a review of case files revealed some cases brought under Article 52 of the Administrative Code that did not include forensic reports. For example, in a case where a man slapped his wife, giving her a black eye, the woman refused a forensic examination, but the man was nonetheless fined under Article 52.²⁶⁵ There is thus no clear connection between the existence of the forensic report, its conclusions, the charge and, even more significantly, the sentence. The inconsistency in the application of the law is incompatible with a well-functioning judiciary and international fair trial protections.

d. Court

Cases of domestic violence that reach the courts generally do not involve first time abuse. One prosecutor explained that in a case where a husband beats his wife for the first time, his office rarely pursues prosecution and he does not speak with the woman herself. Instead, he speaks with the husband to determine the reason for the beating.²⁶⁶ Another prosecutor confirmed that his office takes measures only when abuse is "systematic" and the couple cannot reconcile.²⁶⁷

Investigation of injury cases may take up to two months, but most domestic violence crimes are handled more rapidly. Based on a review of files, when domestic violence cases are heard by a judge, they generally come to court within weeks of the incident.

²⁶⁴ Review of files, May-June 2000 (Tashkent).

²⁶⁵ *Id.*

²⁶⁶ Interview, February 28, 2000 (prosecutor, Tashkent).

²⁶⁷ Interview, March 1, 2000 (prosecutor, Tashkent).

In discussing domestic violence, judges and prosecutors made an explicit distinction between crimes in the family and crimes against public order. They made it clear that their response to family violence is less strict than to other sorts of disturbances. One prosecutor explained that “a fight in the street is different. In the family, it’s domestic, and relations are different. We try to keep the family together.”²⁶⁸ The law itself encourages the distinction between public and private violence. Criminal and administrative hooliganism, encompassing disruptions of public order, carry heavier penalties than the corresponding light injury provisions of the criminal and administrative codes under which much domestic violence would most readily fall.

Cases of domestic violence are rarely prosecuted under Criminal Code provisions. When they are, Article 109 is the most common criminal charge. Article 109 is violated in particularly serious cases of abuse or in cases where the abuser has a history of previous administrative punishments. For example, a man was convicted under Articles 109 and 110 when he beat his ex-wife twice within one month. He had been punished administratively three times in the past for drunkenness and for insulting his ex-wife.²⁶⁹ Repeat offenses, however, may not always lead to more serious penalties. A former police officer recalled one man who was sentenced three times for beating his wife. Each time he served the same two to three month prison sentence.²⁷⁰

In case files reviewed by Minnesota Advocates, the specific charges in domestic violence cases often appeared arbitrary. For example, in a case charged under Article 109 (criminal light injury) a man who was drunk punched his wife in the face in front of their children and pushed her out of a taxi into the street. In a second case, charged under Article 183 (administrative minor hooliganism), an intoxicated man beat his wife on the head in front of their children, threatened her, and pulled her hair. Despite the fact that the first case took place in public, and the second in the home, only the second case was charged as a violation of public order.²⁷¹ A possible explanation for this discrepancy is the fact that the victim in the second case refused a forensic examination, so that it could not have been prosecuted as a case of injury.

The types of penalties commonly imposed under the Criminal and Administrative Codes may create an additional obstacle to successful prosecution of domestic violence. Fines and “corrective work” penalties may harm women who are economically dependent on the men who beat them. These sanctions take money from the family budget or are ultimately paid by women, particularly in situations where men are unemployed and wives support the family. Minnesota Advocates was also told that in cases of administrative detention, the family of a detainee is expected to pay for his

²⁶⁸ Interview, March 1, 2000 (prosecutor, Tashkent).

²⁶⁹ Review of files, May-June 2000 (Tashkent).

²⁷⁰ Interview, June 3, 2000 (former police officer, Samarkand).

²⁷¹ Review of files, May-June 2000 (Tashkent).

upkeep during detention.²⁷² An NGO activist at a mahallah talked about a case in which a man stabbed his wife because of a family conflict over money. In court, the woman claimed that she had caused the conflict, so that “he would come out of prison . . . because she had many children and no one else to support the family.”²⁷³ Women are discouraged from pursuing legal action, or withdraw their complaints, in part because they do not want their husbands jailed or economic sanctions imposed.

Hence, even in the relatively rare cases when domestic violence is prosecuted, the remedies fail to take into account the unique nature of domestic crimes compared with other types of violence. At present, the Uzbek legal system provides no alternative sanctions for domestic violence that would avoid the harm caused to women when their husbands are fined or imprisoned. No consistent legal mechanisms currently exist, for example, for removing abusive men from the home for a period of time.

In deciding cases of domestic violence, judges consider a variety of mitigating factors and circumstances. Judges place special weight on women’s requests for leniency. Further, the victim’s behavior frequently constitutes a mitigating circumstance, revealing the legal system’s tendency to blame women victims for violence against them. A lawyer described a case in which a man beat his wife to death with a stick when he came home and found her “drinking alcohol with strange men.”²⁷⁴ He was sentenced to five years imprisonment, but, “taking the circumstances into account,” the court imposed only a three-year sentence, and he was released under an amnesty after serving only two.

Judges also consider information about the abuser to constitute mitigating circumstances in setting penalties. Generally, regret leads to lower sentences, and case files contained many similarly-worded statements of remorse from abusive men. A positive mahallah reference may also influence the court. In a case in which a man choked his wife, then punched and kicked her in the stomach, causing her to miscarry, the court sentenced him to a penalty lower than the maximum allowed by law (eight instead of ten years). The court took into consideration “the regret of the accused, a positive reference from the mahallah, [and] that there were no claims toward him on the part of the victim.”²⁷⁵

A lawyer explained that, in her experience, judges may purposely ignore crucial details of a case to the detriment of the victim. In one case in which a woman’s teeth were knocked out during a beating, the judge mentioned only in passing that the man was expected to pay for repair of her teeth. He did not include this duty in the sentence, making it difficult to enforce.²⁷⁶

²⁷² Interview, May 25, 2000 (police officer, Tashkent).

²⁷³ Interview, June 1, 2000 (NGO, Ferghana Valley).

²⁷⁴ Interview, March 4, 2000 (lawyer, Samarkand).

²⁷⁵ Review of files, May-June 2000 (Tashkent).

²⁷⁶ Interview, June 1, 2000 (lawyer, Ferghana Valley).

Judges may also share the biases of the wider society against women, although some judges are themselves female. A lawyer told Minnesota Advocates, “It is enough for a young woman to wear a short skirt for her to be called guilty.”²⁷⁷ Following a child-support hearing observed by Minnesota Advocates, another judge suggested that the divorced woman involved in the hearing had lacked “patience” with her husband, as evidenced by the fact that she had previously been divorced.²⁷⁸

C. Family Law

1. Marriage

The Family Code of the Republic of Uzbekistan was adopted in 1998 and establishes two principles of equality: men and women have equal personal and property rights in marriage;²⁷⁹ and there can be no discrimination on the basis of gender,²⁸⁰ race, nationality, language, religion or social origin.²⁸¹ Marriages are only legal if registered at civil registry offices known as “ZAGS,”²⁸² and marriage by religious ceremony alone is expressly denied legal status.²⁸³

There are two reasons Uzbek men and women marry through religious ceremonies. In both cases, the fact that the marriages are not registered under civil law has a significant impact on women. First, although the marital age is 17 for women and 18 for men, in certain circumstances, the district mayor may lower the marital age by one year.²⁸⁴ Religious ceremonies, however, allow women to be married at even younger ages. As one woman wrote, “I have been living with (my husband) . . . without civil registration by religious Shari’a marriage . . . because I was underage.”²⁸⁵ Second, because of a prohibition against polygamy, men can marry “second wives” only in religious marriage ceremonies. Because rights to property and child support are based on the existence of a lawful marriage, women who marry only in a religious ceremony have no legal protection. As second marriages for women are becoming a cause for concern, a government official proposed that mahallah elders, who are often responsible for

²⁷⁷ Interview, June 8, 2000 (lawyer, Tashkent).

²⁷⁸ Hearing, May 26, 2000 (Tashkent).

²⁷⁹ Family Code, Article 1.

²⁸⁰ *Id.*, Article 2.

²⁸¹ *Id.*, Article 3.

²⁸² ZAGS stands for *organ zapisi aktov grazhdanskovo sostoyaniya* or “the office of registration of civil acts.”

²⁸³ *Id.*, Article 13.

²⁸⁴ *Id.*, Article 15.

²⁸⁵ Review of files, June 2000 (Ferghana Valley).

organizing wedding parties, be required to ensure that all marriages are legally registered.²⁸⁶

Property obtained during marriage is considered by law to be the common property of the spouses,²⁸⁷ while property brought into marriage remains the individual property of each spouse. Husbands and wives may alter this property regime by entering into a marriage contract before or during the marriage.²⁸⁸ The marital contract may rectify unequal property divisions and simplify the divorce process. The marriage contracts law, however, has not yet been widely implemented,²⁸⁹ and few people reportedly understand its meaning.²⁹⁰ One danger of such contracts is the potential they offer for coercion of one of the spouses, particularly young women, who already face significant family and societal pressures.

2. Divorce

Divorce in Uzbekistan is frequently the result of domestic violence, and women most often use this legal process to escape abusive relationships. Indeed, one lawyer maintained that all her female divorce clients were beaten by their husbands.²⁹¹

The Family Code provides that “a marriage may be dissolved by divorce at the request of one or both spouses,”²⁹² with the exception 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 for one year after the child’s birth.”²⁹³ If the couple has no minor children and there are no disputes regarding the division of common property, a marriage can be dissolved at the ZAGS office with the consent of both spouses.²⁹⁴

Where children or property issues are involved, the divorce process becomes more complicated and the couple must apply to the court. The judge may delay the

²⁸⁶ Interview, June 7, 2000 (government official, Karakalpakstan).

²⁸⁷ Family Code, Article 23.

²⁸⁸ Family Code, Article 29. The age of legal majority in Uzbekistan is 18, but because it is possible to marry earlier, Article 22 of the Civil Code states that a person reaches the age of majority at the time of marriage. This enables young spouses to conclude a binding marriage contract.

²⁸⁹ Interview, May 25, 2000 (judge, Tashkent).

²⁹⁰ Interview, February 29, 2000 (family lawyer, Tashkent).

²⁹¹ Interview, June 1, 2000 (lawyer, Ferghana Valley).

²⁹² Family Code, Article 37(2).

²⁹³ *Id.* at Article 39.

²⁹⁴ *Id.* at Article 42.

proceedings with the imposition of a “reconciliation period” of up to six months.²⁹⁵ The marriage is only dissolved when the court establishes that the spouses cannot live together and the maintenance of the family has become impossible.²⁹⁶ Further, at the request of one or both of the spouses, the court will decide on custody of minor children, the amount of child support to be paid by the non-custodial spouse, alimony, and division of common property.²⁹⁷

The legal system and society in Uzbekistan work together to inhibit women’s ability to divorce. In the words of one prosecutor, “everyone is involved in the process of reconciliation.”²⁹⁸

Mahallahs are also involved in the divorce process. In interviews, mahallah representatives emphasized their strong interest in preventing divorce, “because it undermines the main national value, which is family. So everything possible is done to preserve the family.”²⁹⁹ Their involvement includes “preventive” work such as “model family” competitions and lectures by judges and prosecutors to mahallah members.³⁰⁰ The chairman of one mahallah explained that, if the reconciliation committee of a mahallah is working properly, the number of divorces decreases.³⁰¹ Everyone is enlisted in this task. One of the questions asked in a competition for mahallah guardians, a type of auxiliary police, concerns measures to be taken to prevent divorce.³⁰²

Judges and local government bodies turn to mahallahs in the work of preventing divorce. During the imposed reconciliation period, a judge may ask the mahallah to consider the case and attempt to reconcile the couple.³⁰³ Mahallahs also provide advice to courts in divorce cases.³⁰⁴ A deputy mayor said that mahallahs report their divorce rates regularly and that she targets her activities based on these figures.³⁰⁵ Potential

²⁹⁵ *Article 40. Judicial dissolution of marriage*

Marriage dissolution cases shall be considered by court under procedure rules, prescribed by Civil Procedure Code of the Republic of Uzbekistan.

The court is entitled to postpone the hearings and give spouses up to six months for reconciliation.

²⁹⁶ *Id.* at Article 41.

²⁹⁷ *Id.* at Article 44.

²⁹⁸ Interview, February 29, 2000 (prosecutor, Tashkent).

²⁹⁹ Interview, May 31, 2000 (mahallah, Ferghana Valley).

³⁰⁰ Interview, May 31, 2000 (mahallah, Ferghana Valley).

³⁰¹ Interview, February 28, 2000 (mahallah, Tashkent).

³⁰² Mahallah guardian competition questions (unpublished).

³⁰³ Interview, June 7, 2000 (judge, Karakalpakstan).

³⁰⁴ Interviews, May 26, 2000 (lawyer, Tashkent); March 4, 2000 (lawyer, Samarkand).

³⁰⁵ Interview, March 2, 2000 (deputy mayor, Tashkent).

divorce cases may never reach the courts because they are resolved at the mahallah level, and even divorce cases brought to court are often referred back to the mahallah for mediation.

The reconciliation period is another means by which the legal system limits divorce. It disregards the choices made by spouses seeking a divorce on what is best for them and their family. More significantly for cases of abuse, the reconciliation period forces women to remain in abusive relationships, even if reconciliation is unlikely and perhaps undesirable. In one case, a woman sought a divorce from her husband because he lived and worked in Russia and was abusive when he returned home. He did not contest the divorce and agreed to the division of property, including allocating property to his two children and alimony for his wife. Although the man did not even travel to Uzbekistan for the preliminary divorce hearing, the judge imposed a three-month reconciliation period.³⁰⁶

The reconciliation period may also give abusive husbands an opportunity to impede the divorce process. One woman spent 15 years in an arranged marriage in which she was psychologically abused by her husband and his family. When she requested a divorce, her husband initially agreed. This woman was sure that the judge's imposition of a three-month reconciliation period then emboldened her husband to make additional demands to property that had not previously been in dispute.³⁰⁷

Judges' use of their legal discretion in imposing a reconciliation period is influenced by the strong opposition to divorce in Uzbek society. Like the rest of the legal system, judges view preserving the family as their overall purpose; in the words of one lawyer, courts "care more about the interests of family than the interests of the individual."³⁰⁸ Within this framework, judges exercise discretion broadly. One judge stated, for example, that she grants divorce immediately in cases where the wife has been unfaithful, because a reconciliation period will only prolong beating by the husband. If the husband has been unfaithful, however, she does impose a reconciliation period, because women generally forgive men for the sake of the children.³⁰⁹ Another judge told Minnesota Advocates that she may refuse to grant a divorce if she finds insufficient grounds, for example, if she believes someone outside the family has interfered in the couple's life.³¹⁰ This discretion appears limited only by what were described as internal directives not to "hurry" divorces, to impose reconciliation periods, and to prevent divorce where possible.³¹¹

³⁰⁶ Review of files, March 2000 (Tashkent).

³⁰⁷ Conversation, June 2, 2000 (individual, Samarkand).

³⁰⁸ Interview, May 31, 2000 (lawyer, Ferghana Valley).

³⁰⁹ Interview, May 25, 2000 (judge, Tashkent).

³¹⁰ Interview, June 7, 2000 (judge, Karakalpakstan).

³¹¹ Interview, June 3, 2000 (former police officer, Samarkand).

Although lawyers are supposed to advocate for their clients, in some cases they too throw obstacles in the way of divorce. Lawyers who offer legal services to women free of charge told the researchers they may try to prevent divorce if they think the reasons given for it are “absurd.”³¹² They saw their role as “explaining how to save the family and raise children,” and reported that they had prevented several divorces in recent months.

A significant obstacle faced by women seeking divorce is the very real possibility that they will be unable to support themselves and their children financially. Under the Family Code, marital property is presumed to be common and is to be divided equally at the time of the divorce. In reality, however, it is often very difficult for women to obtain their share of marital property. Generally, women are able to take back their dowry (clothes and furniture) when they leave their husband’s house, but his family will sometimes keep this property.³¹³ In one divorce case, a young bride was forced out of her husband’s house. When her family demanded the return of her dowry, the in-laws sent back ashes and damaged the furniture.³¹⁴ More commonly, joint property, including a house or apartment, may be registered in the name of the father-in-law or even a second wife. Women’s difficulty in enforcing their property claims is compounded by the fact that they are not informed of their rights by judicial officials and are rarely represented by lawyers. A story from a sociological survey illustrates this point:

*(A woman) 41 with four children. . . . Lived with her husband for 22 years. She did not officially divorce. Her husband accused her of infidelity, beat her and threw her out of the house. He brought another woman home and lives with her. . . . The house and furniture were acquired with joint money. She has no money to go to a lawyer and begin the divorce process. . . . She does not know where she can go for help.*³¹⁵

A family lawyer maintained that it is possible for women to receive half the marital property, but only if they are “clever” or have attorneys to defend their interests.³¹⁶

Women rarely receive child support from ex-husbands, either because the men are not officially employed or because they simply do not earn enough money, particularly in cases when the man is also supporting a second family.³¹⁷ A participant in a sociological study noted that when she was divorced, her husband was working, but “[n]ow he lives

³¹² Interview, March 4, 2000 (lawyers, Samarkand).

³¹³ *Problems of Women*, supra note 1 at section 6.3.

³¹⁴ Interview, May 23, 2000, (NGO, Tashkent).

³¹⁵ *Problems of Women*, supra note 1 at section 6.3.

³¹⁶ Interview, February 29, 2000 (lawyer, Tashkent).

³¹⁷ *Problems of Women*, supra note 1 at section 6.3.

with a new family and works on a collective farm where no one is paid. . . . I feel sorry for him and his family, therefore I don't ask for child support. In any case, he has no money."³¹⁸ The problems surrounding property rights and child support are compounded if the marriage was not registered. In a complaint written by a family lawyer, a woman stated that she had only a religious (unregistered) marriage. Her husband was also never registered with ZAGS as the father of their child. She left him after he began to beat her and abuse alcohol and drugs. He then sold furniture they acquired jointly and jewelry that belonged to her. Although the husband remarried and was working, he did not provide his former wife with child support and refused to establish paternity.³¹⁹ Had the marriage been registered, the law would have presumed the man to be the father of the child.³²⁰

State benefits that might ease the situation for divorced mothers are limited. In 1994, the government granted the mahallah the authority to distribute certain welfare benefits. The mahallah determines who receives benefits and how much they receive:

*[The mahallah may] decide on providing material aid to families in need, establishing allowances for families with many children, ensures a purposeful and effective utilization of the resources of social security allocated for family support.*³²¹

These subsidies are available to single women with children, but they are viewed as only temporary assistance to supplement other income.³²² They are based on the number of children in the family and are low even by local standards. In a mahallah of 3,270 people (745 families), including seven single mothers, benefits ranged from 875 soum a month (about US\$2.88) for one child to 3,062 soum a month (approximately US\$10) for three children.³²³

Finally, the societal attitude to divorce in Uzbekistan may prevent women from seeing it as a solution to domestic abuse. According to a sociological survey, "public opinion is always on the side of the man and the divorced woman is condemned."³²⁴

³¹⁸ *Id.*

³¹⁹ Review of files, May-June 2000 (Ferghana Valley).

³²⁰ Family Code, Article 60(2).

³²¹ Article 11, Law on the Organs of Self-Governance of Citizens, April 14, 1999, No. 7568-I, Republic of Uzbekistan.

³²² Interview, May 31, 2000 (mahallah, Ferghana Valley).

³²³ *Id.*

³²⁴ *Problems of Women*, May 3, 2000, *supra* note 1 at section 6.3.

Many people also mentioned the belief that divorce is harmful to children, and that “problem families” are those in which the father is absent.³²⁵

Despite all obstacles to divorce in Uzbekistan, it may represent the only realistic solution for victims of domestic violence. Unfortunately, women who divorce often continue to experience violence. After a divorce, a husband may still attempt to control his ex-wife’s behavior. A former police worker described a case in which a divorced husband and wife did not have separate places to live. The court divided their two-room apartment between them, on condition that neither spouse interfere in the private life of the other. The man, however, often confronted his ex-wife about what he considered her “indiscreet behavior.” When she told him not to be concerned with her private life, he stabbed her in the chest (she survived).³²⁶

Evidence suggests that, while this problem is more acute when former spouses must live together, it also exists when women separate from their husbands. Yet the problem of violence following separation is neither recognized nor addressed by the legal system. For example, according to a police case file, a woman left her husband in Kazakhstan to return to her relatives in Uzbekistan because she could no longer tolerate his beatings. The husband, however, followed her to Tashkent and beat her again. Because the incident took place in the family and resulted in light injury, the husband was only fined administratively.³²⁷

IV. NON-GOVERNMENTAL RESPONSE TO DOMESTIC VIOLENCE

Because of the lack of government response to the problem of domestic violence, numerous NGOs have emerged or expanded their focus to deal with this issue in the last two to three years. While Minnesota Advocates met dedicated and resourceful individuals from NGOs who offered innovative solutions to the problems women face in Uzbekistan, the activities of the NGO community as a whole are uneven. Many NGOs have established support centers for women known as “trust centers”³²⁸ with crisis telephone hotlines. These hotlines work only in places with functioning telephone networks, mainly in urban areas.

NGOs are beginning to keep systematic records of domestic violence cases, although the reliability of their statistics remains in doubt. Definitions of domestic violence are unclear and differ from group to group. Women may be reluctant to contact these hotlines for the same reasons they do not speak about violence in general. Furthermore, the advice NGOs dispense may not always be helpful. One NGO in

³²⁵ Interview, May 25, 2000 (police worker, Tashkent).

³²⁶ Interview, June 3, 2000 (police, Samarkand).

³²⁷ Interview, March 7, 2000 (police worker, Tashkent).

³²⁸ Minnesota Advocates was told that the government has in the past frowned upon the designation “crisis center” because of the unflattering suggestion that a crisis exists.

Tashkent explained that they routinely advised women who called their hotline about abuse to talk to their mahallah. Confidentiality is not assured, and several NGOs provided the full names and addresses of some of their callers.³²⁹

Despite these problems, it appears that women are turning to NGOs for help in cases of domestic violence. An NGO staffed with lawyers had received 400 hotline calls between January and June 2000, two-thirds of which involved physical violence.³³⁰ One crisis center has received 3,500 calls on its hotline in four years, of which the majority involve some sort of family conflict, and 10% involve domestic violence. The organizers, however, felt the relatively small number of calls about violence proves that people do not yet understand or trust hotlines and crisis centers.³³¹

Crisis centers are staffed largely by professionals, particularly psychologists and lawyers, rather than by volunteers and survivors of domestic violence. In a number of cases, these centers recounted instances in which they utilized their authority as an organized institution to shame or frighten abusive men in domestic violence situations. The organizer of one crisis center gave an example of a woman who came because she was not ready to take criminal action or seek a divorce. Her husband beat her on the pretext that she “was a bad cook and wouldn’t put vodka on the table when his friends came.” The woman asked the head of the center to talk with her husband. She did so, and according to the organizer, their talk led him to change his behavior, apparently due to intimidation by this outside intervention.³³²

Other actors, even those within the legal system, also see it as their role to employ social pressure rather than more formal legal interventions. A lawyer recalled a neighbor who came to her with visible injuries. The woman’s husband had asked her to cook; when she told him to wait because she was busy, he beat her. The lawyer knew a relative the husband respected and asked him to intercede. The relative had a “stern talk” with the husband. The mahallah and other neighbors condemned the man’s behavior and told him that if his wife had called the police, he could have been punished. After this shaming, according to the lawyer, the abuse stopped.³³³

NGOs also carry out educational programs. NGOs commonly hold legal-training workshops for specifically identified segments of the population. Many focus their work on teaching women their rights, particularly in mahallah women’s committees and schools. In many cases, however, NGO representatives had difficulty explaining the

³²⁹ Interviews, February 27, 2000 (international organization worker, Tashkent); February 28, 2000 (NGO, Tashkent); May 31, 2000 (lawyer, Tashkent).

³³⁰ Interview, June 8, 2000 (NGO, Tashkent).

³³¹ Interview, Feb. 27, 2000 (NGO, Tashkent).

³³² Interview, June 6, 2000 (crisis center, Karakalpakstan).

³³³ Interview, March 4, 2000, (lawyer, Samarkand).

efficacy of teaching rights to women involved in domestic violence situations. At worst, they appeared to be imparting formal descriptions of law and legal remedies without taking into account the broader framework within which women live. This formalism was summed up when a lawyer expressed pride in the sheer number of Uzbek laws dealing with women.³³⁴ In some cases, emphasis is placed on a woman's responsibility to know her rights, reflecting the broader social tendency to hold women responsible for problems in the family.

Yet some representatives of NGOs, women's committee members and mahallahs viewed knowledge of rights as a form of empowerment for women who, in a heavily family and community-oriented society, may not see themselves as independent actors with individual rights and outside resources. The head of a women's committee explained:

In this society, the mentality is if a person tolerates and remains silent in response to beating, it goes on and they finish you, [but if the woman] knows there are options--organizations for material and legal support--the woman becomes more active and knowledge becomes a way of bargaining in the family, with the husband. . . . He has physical strength, but she has legal knowledge- it's a different distribution of power.³³⁵

Traditional battered women's shelters do not exist in Uzbekistan. Many women's rights activists pointed out that a shelter would be ineffective, and possibly counterproductive, in Uzbekistan because of the traditional family structure. There is no precedent for married women to spend the night away from home in a strange place, particularly one with an unlisted address. This arrangement could create suspicion and lead to a woman being thrown out of her home.³³⁶ Several groups are nonetheless considering creation of various types of shelters. In both Samarkand and Tashkent, some women have joined together to house women and sometimes children in need of shelter.³³⁷

Several alternatives to the traditional shelter approach have also been proposed. One suggestion was the establishment of quasi-medical refuges or rehabilitation centers where women could receive both medical treatment and counseling.³³⁸ A center for burn victims in Samarkand already provides such services. Because women may be reluctant even to visit trust centers, some of these centers have developed procedures to help

³³⁴ Interview, March 4, 2000 (lawyer, Samarkand).

³³⁵ Interview, June 7, 2000 (women's committee head, Karakalpakstan).

³³⁶ *E.g.*, Interview, June 7, 2000 (government official, Karakalpakstan).

³³⁷ Interviews, March 4, 2000 (NGO, Samarkand); March 6, 2000 (NGO, Tashkent).

³³⁸ Interviews, June 7, 2000 (government official, Karakalpakstan); June 3, 2000 (lawyers, Samarkand).

maintain confidentiality. For example, one center created an inconspicuous back entrance.³³⁹ Another was set up in a building that also housed a sewing school, so that women could stop by on the way to a “legitimate” destination.³⁴⁰

Legal representation is generally prohibitively expensive for women pursuing divorces or criminal prosecutions.³⁴¹ Several law firms and NGOs in Uzbekistan, however, offer legal representation to women, in some cases at no charge. While some describe their role as that of “psychologists” and appear most interested in promoting family reconciliation, others provide solid legal counseling and advocacy.³⁴² There is no organized system of referral to lawyers, although NGOs and sometimes mahallahs will refer women if necessary.

V. UZBEKISTAN’S OBLIGATIONS UNDER INTERNATIONAL LAW

As a member of the United Nations, Uzbekistan is obligated to protect human rights. Uzbekistan has ratified the International Covenant on Civil and Political Rights³⁴³ and the Convention on the Elimination of All Forms of Discrimination Against Women (“Women’s Convention”)³⁴⁴ without reservations. Uzbekistan has further commitments to protect women’s human rights under the Declaration on the Elimination of Violence Against Women, adopted by the United Nations in 1993. These treaties, as well as other declarations on human rights, define Uzbekistan’s obligations as a member of the international community.

The international norms described in these instruments condemn violence against women and, specifically, domestic violence. The United Nations recognizes an affirmative obligation of member states to protect women from violence perpetrated by private persons and articulates specific responsibilities of governments to eradicate this violence. Evidence available from legal professionals, police, forensic doctors and other sources indicates that domestic abuse is a serious and widespread problem in Uzbekistan, but it is virtually ignored by public officials. The Uzbek government’s failure to respond appropriately to this situation violates internationally recognized human rights standards.³⁴⁵

³³⁹ Interview, May 24, 2000 (international aid worker, Tashkent).

³⁴⁰ *Id.*

³⁴¹ Interview, June 1, 2000 (lawyer, Ferghana Valley).

³⁴² Interviews, March 4, 2000 (lawyers, Samarkand); June 1, 2000 (lawyer, Ferghana Valley); June 3, 2000 (lawyers, Samarkand); June 8, 2000 (lawyer, Tashkent).

³⁴³ See Section I A, *supra* note 8.

³⁴⁴ See Section I A, *supra* note 7.

³⁴⁵ For a detailed discussion of the concept of state responsibility to victims of domestic violence, see Kenneth Roth, “Domestic Violence as an International Human Rights Issue,” *Human Rights of Women*, 326, 329-30 (Rebecca Cook, ed. 1994); Katherine Culliton, *Finding a Mechanism to Enforce Women’s*

Women in Uzbekistan are being denied the right to security of person and freedom from torture and cruel and inhumane or degrading treatment. The Universal Declaration of Human Rights outlines an individual's fundamental right to be free from violence and abuse. Article 3 provides that "everyone has the rights to life, liberty, and security of person." Article 5 provides that "no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment."³⁴⁶

Police in Uzbekistan take insufficient steps to address the problem of domestic violence; they generally do not make arrests, nor do they routinely attempt to remove the perpetrator of the assault from the home. There is no procedure that deals consistently or effectively with abuse in the family. The Uzbek government has not created a criminal justice system that provides adequate security to women who are beaten by their husbands or other family members. By failing to protect women from private perpetrators of violence Uzbekistan has failed to adhere to its obligations under the Universal Declaration of Human Rights and the International Covenant of Civil and Political Rights.

Women in Uzbekistan are being denied an effective remedy for acts violating their fundamental human rights. The Universal Declaration of Human Rights (Article 8)³⁴⁷ and the International Covenant on Civil and Political Rights (Article 2) guarantee that states shall provide an effective and adequate remedy for acts violating fundamental rights guaranteed by the constitution or by law.

As set forth in detail above, the Uzbek legal system does not provide an adequate remedy for the denial of women's fundamental rights to be free from violence. Women receive little government support at any stage of the legal process. The police do not generally investigate claims of domestic violence, arrest perpetrators or remove abusers from the home. They dissuade women from pursuing legal remedies against their abusers, usually because they view domestic violence as a problem to be solved within the home or by the mahallah. Therefore, the police routinely refer cases of domestic violence to the mahallahs and will sometimes take no other legal actions. By abdicating their responsibilities to the mahallah's non-legal conflict resolution mechanisms, police deny women unimpeded access to legal recourse in defense of their rights. The legal system as a whole focuses on trying to persuade the victims of domestic assault to reconcile with their spouses rather than on effective prosecution of the abusers. When family violence is prosecuted, the types of punishments imposed are not tailored to the specific situation of domestic abuse and often penalize the victims.

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).

³⁴⁶ 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.

³⁴⁷ G.A. Res. 217 A(III) Dec. 10, 1948, U.N. Doc. A/810 (1948).

Even when a woman successfully prosecutes a complaint, the system does not protect her from further abuse. Men rarely serve time in jail if they are convicted and are often punished by a fine or a reprimand. The courts rarely require a man who has assaulted his partner to leave the family home, and economic problems, housing shortages, and traditional family structures preclude many women from seeking alternate living arrangements. This failure to take action leaves the woman at serious risk of experiencing more violence. Women do not have effective recourse against their violent husbands under the Uzbek legal system. The legal system's failure to protect women from domestic violence and to punish perpetrators violates Uzbekistan's obligation under the International Covenant on Civil and Political Rights to provide an adequate remedy for the violation of a woman's fundamental human rights.

Uzbekistan 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 Convention 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."³⁴⁸ General Recommendation 12 recommends that all parties to the Women's 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.³⁴⁹

The Declaration on the Elimination of Violence Against Women includes explicit directions to member countries to "not invoke any custom, tradition or religious consideration to avoid their obligations with respect to its elimination."³⁵⁰ The Declaration sets forth specific steps a member state should take in combating domestic violence. These steps include:

1. investigating and punishing acts of domestic violence;
2. developing comprehensive legal, political, administrative and cultural programs to prevent violence against women;
3. providing training to law enforcement officials; and
4. promoting research and collecting statistics relating to the prevalence of domestic violence.

Article 4(g) of the Declaration directs that states work to 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 should take all other

³⁴⁸ U.N. Doc. A/47/38 (1992).

³⁴⁹ U.N. Doc. A/44/38 (1989).

³⁵⁰ G.A. Res. 48/104 (1993).

appropriate measures to promote their safety and physical and psychological rehabilitation.”³⁵¹

The provisions of the Women’s Convention and the Declaration on the Elimination of Violence Against Women are strengthened and reinforced in the Beijing Platform for Action. Through a series of recommended actions, the Platform for Action sets forth a strategy for governments to address the problem of violence against women.³⁵²

The Uzbek government has not met these international standards. As discussed above, crimes of domestic assault are often not adequately prosecuted and women are not provided adequate protection from further acts of violence. There are no government-supported domestic abuse advocacy programs in Uzbekistan to assist victims in filing complaints or in maneuvering through any part of the legal process. In addition, Minnesota Advocates found little evidence of any effort to ensure that law enforcement officers and public officials responsible for investigating and punishing violence against women are receiving training 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 official efforts to set up shelters or safe houses in a form appropriate to Uzbek society, and no social programs to deal with the problems created by domestic violence. There are no services available to victims of violence as outlined in the Declaration on the Elimination of Violence Against Women and CEDAW General Recommendation 19.

VI. RECOMMENDATIONS

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

1. The government of Uzbekistan should provide victims of domestic violence with equal and effective access to the criminal justice system and redress for the harm they have suffered. To this end, the government should ensure that domestic violence crimes are effectively prosecuted, that the punishments are commensurate with the gravity of the crime and that women are informed of their rights within the legal system.
2. The government of Uzbekistan should evaluate whether the existing punishment structure for domestic violence offers an effective and appropriate remedy to women who are victims of domestic violence and consider the possibility that the imposition of fines in such cases further penalizes women.

³⁵¹ *Id.*

³⁵² Beijing Platform for Action, U.N. Doc. A/Conf.177/20 (1995).

3. The government of Uzbekistan should evaluate whether alternative, non-criminal remedies would be an effective and appropriate way to protect women from further violence and compensate women for abuse.

4. The government of Uzbekistan should ensure that there are no obstacles to women who are seeking justice for domestic violence. In particular, the government should consider amendment of the forensic regulations to reflect more accurately the specific nature and severity of the types of injuries women typically suffer in cases of domestic violence.

5. The government of Uzbekistan should evaluate whether the law enforcement system is responsive to the needs of women in domestic violence situations, including removing obstacles to increased participation of women in the police force in positions that routinely deal with cases of domestic violence.

6. The government of Uzbekistan should evaluate the mahallah system to ensure that it does not create obstacles to women seeking justice in domestic violence cases. In particular the government should consider closer cooperation with mahallahs in the creation of consistent policies for the treatment of domestic violence and in finding ways to encourage women to seek assistance in such cases.

7. The government of Uzbekistan should undertake educational programs at all levels of the judicial system, and in the mahallah system, to improve understanding of the problem of domestic violence and the needs of women in such situations. Attendance at such trainings should be mandatory and ordered from the highest levels of government.

8. The government of Uzbekistan should conform to the Committee on the Elimination of Discrimination Against Women (“CEDAW”) General Recommendation 19, the Declaration on the Elimination of Violence Against Women and the Beijing Platform for Action in all of its work toward the elimination of violence against women and the provision of services for victims of such violence. Specifically, the government should work to ensure that there is specialized assistance available to women subjected to violence, in particular women who have children, including assistance in child care, counseling, health services, welfare benefits and housing assistance.

9. The government of Uzbekistan should collect data and maintain accurate statistics on the nature and extent of domestic violence as well as encourage research on the problem.

10. The government of Uzbekistan should encourage and facilitate the efforts of NGOs that assist women in cases of domestic violence and should cooperate with such organizations in their work.

VII. CONCLUSION

Women in Uzbekistan are routinely denied their fundamental right to be free from violence. Existing legal, economic, and social structures prevent women from obtaining appropriate redress for domestic violence crimes. There is a serious lack of understanding of the phenomenon of domestic violence on the part of the Uzbek legal system, and thus a failure to respond appropriately. By inadequately prosecuting domestic violence and failing to provide state support for organizations that offer aid to victims, the Uzbek government has not upheld its obligations as a member of the United Nations and is not in compliance with international human rights law.

APPENDIX I
Classification of Cases from Sample Judicial District¹, Tashkent, Uzbekistan

CRIMINAL CASES

1999

Criminal Code Article	Total cases	Number of cases involving domestic violence
Arts. 99-101 Murder	7	0
Arts. 104-108 Serious/medium injury	12	3
Art. 109 Light injury	26	10
Art. 110 Torture (systematic beating)	<i>not available</i>	1
Art. 118 Rape	11	0
Art. 119 Sexual Assault	2	0
Art. 277 Hooliganism	69	3

2000 (January- March)

Criminal Code Article	Total cases	Number of cases involving domestic violence
Arts. 99-101 Murder	5	0
Arts. 104-108 Serious/medium injury	7	1
Art. 109 Light injury	17	5
Art. 110 Torture (systematic beating)	0	0
Art. 118 Rape	1	1
Art. 119 Sexual Assault	0	0
Art. 277 Hooliganism	20	0

ADMINISTRATIVE CASES

2000 (January- March)

Administrative Code Article	Total cases	Number of cases involving domestic violence
Art. 52 Light injury ²	21	9
Art. 183 Minor Hooliganism	70	39

¹ The district is urban with a population of approximately 300,000.

² From January to June 7, 2000, 42 total cases were tried under Administrative Code Article 52 in this judicial district. Of these cases, 20 involved domestic violence.

APPENDIX II
Selected Criminal Cases Involving Domestic Violence
1999 and January- March 2000³

Violence against Wives

Criminal Code Article	Relationship of complainant and defendant	Description of case	Decision
Art. 97 Intentional Murder	Wife is complainant; husband is defendant	Husband tried to kill wife with ax while she was sleeping; wife thinks husband is mentally ill. Forensic report: cuts on her body- medium to heavy injuries.	Husband could be convicted under Article 97 part 2, but because of mental illness, he is sent to mental clinic.
Art. 104 Intentional Serious Injury	Husband is defendant.	Wife confronted husband about his affair; he beat and choked her. Later, on the street, he punched and kicked her. Forensic report: wife miscarried- heavy injury	At trial, both victim and witness (victim's mother) denied husband kicked her. Court considered the husband's regret, positive reference from mahallah. Sentence is 8 yrs. imprisonment.
Art. 109 Intentional Light Injury	Wife is complainant; husband is defendant	Defendant struck wife in face because she did not iron his pants. Forensic report: light concussion, bruises on body- light injury.	Defendant regrets actions. Wife asks for lighter penalty; it was the first time; she makes no claims. He is fined 40 times minimum wage (52,800 soum).
Art. 109 Intentional Light Injury	Wife is complainant; husband is defendant.	Wife says that husband regularly beats her. He called her lazy, argued about the baby. Forensic report: concussion- light injuries.	Defendant is fined 23 times minimum wage (43,750 soum).
Art. 109 Intentional Light Injury	Wife is complainant; husband is defendant	Wife says husband was drunk and beat her; son's statement says father often beats mother. Forensic report: concussion, tear of right ear requiring stitches, bruises- light injuries.	Defendant forfeits 30% of his salary for two years. Judge states that husband did not like her way of life, which included teaching English and having pupils come to the home for lessons.
Art. 109 Intentional Light Injury	Wife is complainant; husband is defendant	Wife claims husband was drunk and started beating her; he claims he ordered her to prepare a meal and she did not. Forensic report: concussion, injuries to shoulder and hip- light injuries.	Husband fined 30 times minimum wage (52,500 soum). Judge states they are reconciled, family has young children; defendant expresses regret; mahallah describes family as "quiet," therefore a fine is appropriate.

¹ Cases reviewed in judicial district, Tashkent, March and June, 2000.

APPENDIX II Continued

Criminal Code Article	Relationship of complainant and defendant	Description of case	Decision
Art. 109 Intentional Light Injury	Wife is complainant; husband is defendant	Wife complains that husband was drunk, started argument and beat her. Forensic report: bruises on face, broken nose, bleeding when she breathes- light injuries.	Defendant forfeits 30% of his salary for two years. Judge considers defendant's regret; family is dependent on his income; and victim made no claims. (Defendant had earlier assault conviction and mahallah gave him a negative reference).
Art. 109 Intentional Light Injury	Wife is complainant; husband is defendant	Wife complains that husband beat her in connection with an argument. He says she was rude. Forensic report: open wound on back and injury to kidney (she was beaten from behind)- light injuries	Fined 30 times minimum wage (52,500 soum). Judge notes positive references from mahallah, defendant regrets actions, has no prior convictions, maintains wife and small child, and has a disability. Wife withdtaws claims.
Art. 109 Intentional Light Injury	Wife is complainant; husband is defendant	Wife, separated from husband and staying with parents, alleges husband beat her in front of children. She went to hospital and spent 60,000 soum for medicine. Forensic report: concussion, black eyes- light injuries.	Defendant is fined 25 times minimum wage (43,750 soum), and must pay wife 60,000 soum as compensation for medical expenses.
Art. 109 Intentional Light Injury	Wife is complainant; her older brother-in-law is defendant.	Defendant criticized his younger brothers' wives; one talked back and he beat her. Forensic report: slight concussion, bruises due to heavy beating- light injuries.	Defendant is fined 35 times minimum wage (46,200 soum).
Art. 109 Intentional Light Injury	Daughter-in-law is complainant; father-in-law is defendant	Victim says father-in-law beats her. Defendant was arguing with his wife, daughter-in-law intervened and he hit her. Forensic report: concussion, black eyes- light injury.	Defendant must pay 35 times minimum wage (46,200 soum) and must pay victim 15,000 soum for her expense staying at a hotel.
Art. 109 and Art. 110-Systematic beating	Ex-wife is victim; ex-husband is defendant.	Woman alleges that ex-husband often beat her; they lived in same building. He beat her to unconsciousness. She was hospitalized. Later, he kicked her and beat her head against a door. Forensic report: bruise on left temple, no other injuries- light injury.	Defendant was punished administratively in 3 prior incidents (drunk and insulting ex-wife). Defendant is convicted and sentenced to 2 years imprisonment; received amnesty under President's edict of April 30, 1999.

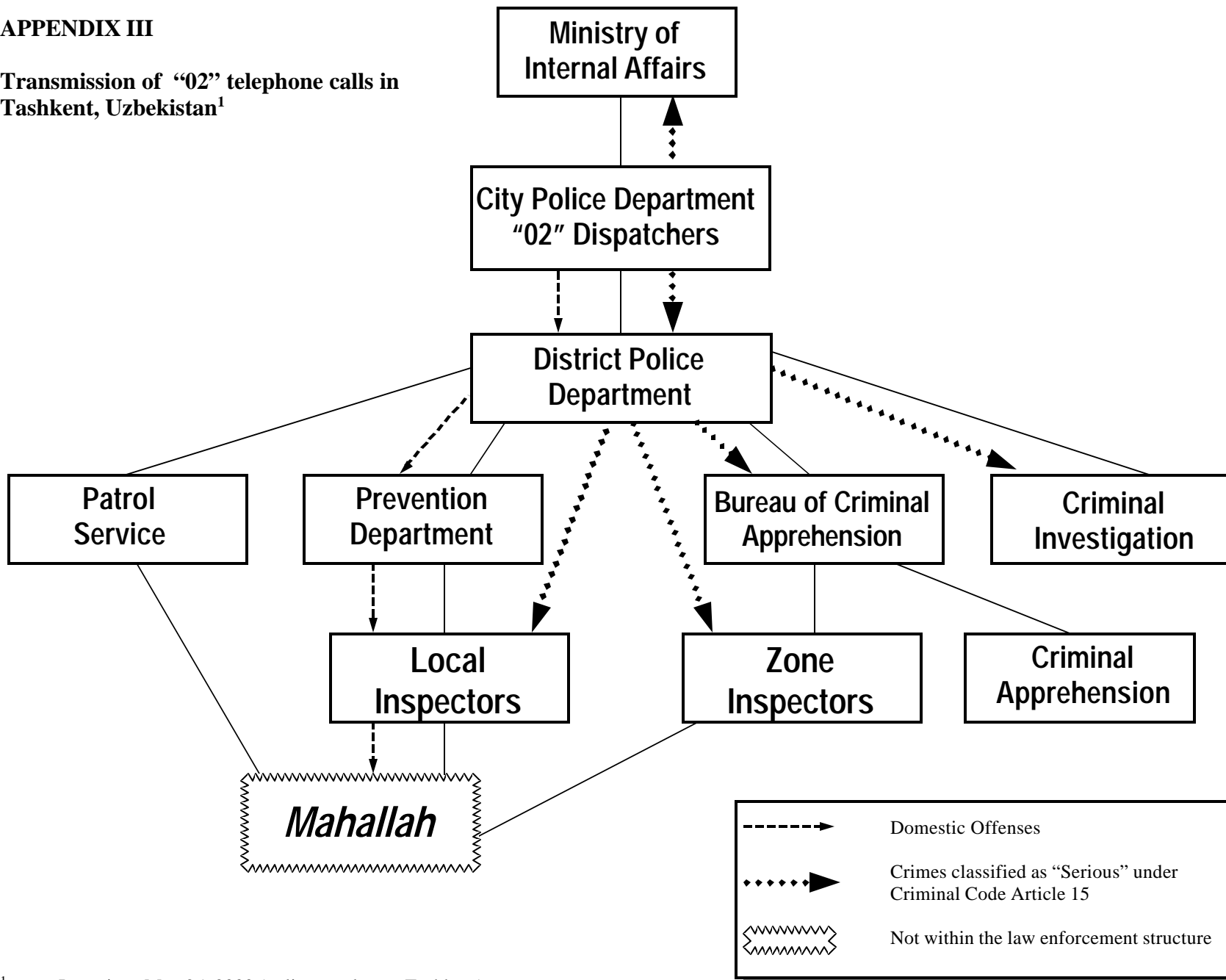
APPENDIX II Continued

Other Family Violence

Criminal Code Article	Relationship of complainant and defendant	Description of case	Decision
Art. 104 Intentional Serious Injury	Mother is defendant.	Mother was washing a carpet and, without provocation, beat her 8-year old child.	Mother is found mentally ill and sent for treatment.
Art. 105 Intentional Medium Injury	Husband complains that his brother-in-law beat him.	Defendant beat his sister's husband. Previously, the husband beat his wife and she went to her brother's house. The husband arrived drunk and was rude. Forensic report: broken teeth-medium injuries.	This is an "unquiet family". Defendant is convicted, forfeits 20% of salary for 18 months. Court takes into account that defendant has three children.
Art. 109 Intentional Light Injury	Younger brother is complainant; older brother is defendant	Younger brother claims older brother beat him with shovel. Older brother claims younger brother insulted his wife. Forensic report: cuts on head and back; bruises- light injuries	Older brother is convicted for insulting younger brother and beating him. Fined 25 times minimum wage (43,750 soum).
Art. 109 Intentional Light Injury	Woman's brother is complainant; defendant is woman's husband	Both drunk; brother insults husband in front of husband's family; husband beats brother. Forensic report: concussion, broken nose, bruises- light injuries.	Defendant forfeits 20% of salary for three years.
Art. 109 Intentional Light Injury	Younger sister is complainant; older brother is defendant.	Older brother beat younger sister. Sister knocked on door at midnight, woke brother, insulted him. During argument, he hit her.	Defendant is fined 30 times minimum wage (52,500 soum). Judge considers good references from mahallah, his regret, fact that he has a child, and that he admits his guilt.
Art. 109 Intentional Light Injury	Fight between stepson and stepfather.	Stepson alleges stepfather terrorized mother and attacked stepson. Stepfather says son hit and kicked him. Forensic report: both have injuries of the head and chest- light injuries.	Both are convicted under 109. Amnestied under President's edict of April 30, 1999. (All cases that do not "pose a danger to society" are amnestied.)

APPENDIX III

Transmission of "02" telephone calls in Tashkent, Uzbekistan¹



¹ From Interview, May 25, 2000 (police employee, Tashkent)

APPENDIX IV

Regulations on Forensic-Medical Assessment of the Degree of Bodily Injury⁴

...

Chapter I. Serious Bodily Injury

The following are symptoms of serious bodily injuries:

- danger to life;
- loss of sight, hearing or loss of any organ, or loss of the functions thereof;
- mental illness;
- health disorder accompanied by a persistent loss of at least a third of the capacity to work;
- termination of pregnancy;
- permanent disfigurement of the face.

Chapter II. Medium Bodily Injury

The following are symptoms of medium bodily injuries:

- absence of danger to life;
- absence of the consequences provided for by criminal legislation on serious bodily injuries and prescribed in Chapter I of these Regulations;
- long-term health disorder;
- significant persistent loss of less than a third of the capacity to work.

Long-term health disorder shall be understood as the consequences (illnesses, functional disorders, etc.) directly related to the injuries, that last more than three weeks (21 days).

Chapter III. Light Bodily Injuries

The following are symptoms of light bodily injuries:

- short-term health disorder;
- insignificant persistent loss of the capacity to work;

Light bodily injuries are subdivided into:

- 1) Light bodily injuries which cause short-term health disorder or insignificant persistent loss of the capacity to work;
- 2) Light bodily injuries which do not cause short-term health disorder or insignificant persistent loss of the capacity to work.

Short-term health disorder shall be understood as a disorder directly related to the injuries which last at least six days and no more than three weeks (21 days).

Light bodily injuries which have not caused short-term health disorder or insignificant persistent loss of the capacity to work shall be understood as injuries resulting in insignificant, short-term consequences which last for no more than six days.

¹ *Excerpted from Order No. 551, "On the Establishment and Introduction into Operation of the 'Instructions on Carrying out Forensic-Medical Expertise in the Republic of Uzbekistan' and other Normative Documents Regulated by the Forensic-Medical Service", Ministry of Health of the Republic of Uzbekistan (1992).*

Domestic Violence in Uzbekistan

Minnesota Advocates for Human Rights
310 Fourth Avenue South, Suite 1000
Minneapolis, MN 55415-1012
E-mail: hrights@mnadvocates.org
URL: www.mnadvocates.org

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