

# Domestic Violence in Armenia



December 2000



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

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## TABLE OF CONTENTS

I.	PREFACE	1
	A. Summary of Findings .....	3
	B. Recommendations .....	4
II.	DOMESTIC VIOLENCE IN ARMENIA	6
	A. Introduction .....	6
	B. Historical Background .....	7
	C. Soviet Rule and the Transition from Communism .....	9
	D. Evidence of Domestic Violence .....	12
	1. Evidence from the Legal Community .....	14
	2. Evidence from the Medical Community .....	18
	E. Police Response to Domestic Violence .....	20
	F. NGO Response to Domestic Violence .....	23
	G. Domestic Violence: Causes and Complicating Factors .....	25
III.	ARMENIAN LAWS AND THEIR IMPLEMENTATION	28
	A. The Armenian Constitution .....	28
	B. Criminal and Administrative Law .....	29
	1. Law .....	29
	2. Procedure .....	32
	3. Problems with Implementation .....	33
	C. Forensic Regulations .....	36
	1. Regulations .....	36
	2. Procedure .....	37
	3. Problems with Implementation .....	38
	D. Family Law .....	38
	1. Divorce Procedure .....	39
	2. Obstacles to Divorce .....	40
IV.	ARMENIA'S OBLIGATIONS UNDER INTERNATIONAL LAW	42
	A. The United Nations .....	42
	B. The Council of Europe .....	45
V.	CONCLUSION	45
	APPENDIX	i

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## **DEDICATION**

This report is dedicated to all Armenian women.

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## DOMESTIC VIOLENCE IN ARMENIA

*I married the first man who asked me even though I did not love him because I wanted to prove that I was normal. . . . I obeyed my husband and followed all of the rules. His mother told me to wash his feet and I did. I gave him my body and my time and he still wanted my soul. He tried to control me and crush my spirit. He wanted me to work in a kindergarten instead of the job for which I was trained. He beat me because I would not obey. The violence escalated and he began beating me for any reason: because my cousin kissed me, because I made his friends happy at a party or because a party went well. He became very jealous and possessive.*

*Finally I had had enough. When my daughter was two months old, I told my husband I was leaving him. He laughed at me. Then he locked me in a room with my baby. He stayed home from work so I could not get away. After a month, he had to go back to work so he asked his mother and sister to guard me. One morning, he accidentally left the door unlocked and I escaped. I went to my grandmother's house. When I got there, I could not pick up a cup of tea and realized that my arm had been broken. My husband came to the house to get me and beat my grandmother when she would not let him in. He would not agree to get a divorce so I had to go through a complicated legal procedure to leave him.<sup>1</sup>*

### I. PREFACE

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

The United Nations has recognized domestic violence as a violation of the fundamental human rights of women.<sup>3</sup> A government's responsibility for protecting all

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<sup>1</sup> Summarized from interview, February 17, 2000 (victim, Yerevan).

<sup>2</sup> 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 3, 8.

<sup>3</sup> 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."

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 a serious problem in Armenia. Surveys conducted by non-governmental organizations (“NGOs”) found high levels of domestic violence in Armenia. Additionally, the surveys revealed that many instances of domestic violence were never reported to legal authorities. When reported, they were insufficiently prosecuted or were penalized in ways that were detrimental to the victims. In many cases, women in Armenia suffer serious injury or even death at the hands of their husbands. In a comprehensive study of murder committed in the home, a criminologist at Yerevan State University found that over 30% of all murders between 1988 and 1998 were committed within the family. He also determined that 81% of domestic murders were committed by men, and in 35% of all cases, the victims were wives or girlfriends.<sup>4</sup>

In February and May 2000, a delegation from Minnesota Advocates for Human Rights (“Minnesota Advocates”) visited the Armenian cities of Yerevan and Gyumri. The delegation conducted more than 60 in-depth interviews with women, representatives of women’s NGOs, doctors, psychologists, attorneys, police officials, prosecutors, judges, journalists, human rights groups, academics and government officials to determine the extent of domestic violence in Armenia and to analyze the government's response to the problem.<sup>5</sup> 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.*<sup>6</sup>

The delegation met with officials at all levels of government and was given access to the files and records of law enforcement agencies. Despite a widespread tendency to

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<sup>4</sup> Sergey Vaganovich Arakelyan, *Ubistva v sfere semeino-bitovikh otnoshenii i ikh preduprezhdeniye*, (“Murder in the Sphere of Domestic Relations and its Prevention”) (dissertation, 1999, Yerevan), Section 1.1., 1.2.

<sup>5</sup> The research was conducted during two visits. The first delegation traveled to Armenia from February 14 to February 26, 2000. It consisted of Belinda Cooper, Elisabeth Duban, Denise Gamache, Joan Kuriansky and Robin Phillips. Between May 2 and May 26, 2000, Belinda Cooper, Elisabeth Duban and Nicole Willis-Grimes returned to complete the research.

<sup>6</sup> 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).

minimize or deny the problem of domestic violence, government and law enforcement officials were generally interested in discussing the subject and answered questions freely and openly. Government officials expressed a commitment to fulfilling Armenia's international obligations to protect the human rights of women.

## **A. Summary of Findings**

Domestic violence is widespread in Armenia. In interviews conducted by Minnesota Advocates, government officials and members of the legal system initially denied the existence of the problem, but in the course of the interview were able to describe numerous cases that correspond to the United Nations' definition of domestic violence. Despite this evidence of domestic violence, the government of Armenia has not taken adequate steps to address the issue. Armenian law punishes physical assault but has no legal provisions that specifically proscribe domestic violence.

Government officials at all levels either minimize the problem or consider it a matter of private concern outside the purview of the legal system. Police reportedly discourage women from making complaints against abusive husbands, and abusers are rarely removed from their homes or jailed. The overwhelming response of the legal system to domestic violence is to urge women to reconcile with their abusers. In cases in which women seek to prosecute abusive husbands, they receive little assistance or protection from the government. Monetary penalties for assault often deter women from making a complaint, especially when fines are paid from their family budgets. Although law enforcement officials acknowledge that women turn to divorce as an escape from abuse, divorce procedures fail to take domestic violence into consideration. The Armenian government generally does not support the efforts of NGOs working to meet the needs of victims. Further, the government 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. This type of information is necessary to identify data related to violence against women or domestic violence.

Armenia is a member of the United Nations and has committed itself to adhere to internationally recognized human rights norms. Armenia is a party to the International Covenant on Civil and Political Rights and the Convention on the Elimination of All Forms of Discrimination Against Women. In failing to respond to widespread abuse against women in Armenia, the Armenian government is not in compliance with its obligations under these treaties. The Armenian government has failed to protect the human rights of domestic violence victims:

1. Violence against Armenian women in their homes is a violation of their fundamental right to security of person as guaranteed in the Universal Declaration of Human Rights<sup>7</sup> and to freedom from torture and cruel and inhuman or

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<sup>7</sup> G.A. Res. 7 A(III) December 10, 1948, U.N. Doc. A/810 (1948).

degrading treatment as guaranteed in the International Covenant on Civil and Political Rights;<sup>8</sup>

2. Armenian victims of domestic violence have been denied their right to an effective and adequate remedy. By failing systematically to ensure effective prosecution of crimes of domestic violence and failing to enforce criminal laws on behalf of domestic violence victims, Armenia 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

3. The Armenian government is not in compliance with the provisions of the Convention on the Elimination of all Forms of Discrimination Against Women<sup>9</sup> (including General Recommendations 12 and 19 of the Committee on the Elimination of Discrimination Against Women<sup>10</sup>) and the Declaration on the Elimination of Violence Against Women,<sup>11</sup> including the following:

- a. Armenia has not met its obligation to protect women from violence;
- b. Armenia has not met its obligation to ensure that women who are victims of violence are provided with health and social services, facilities and programs to promote their safety and rehabilitation; and
- c. Armenia has not met its obligation to develop comprehensive legal, political, administrative and cultural programs to prevent violence against women.

## **B. Recommendations**

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

1. The Armenian government 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.

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<sup>8</sup> 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 Armenia on June 23, 1993.

<sup>9</sup> G.A. Res. 34/180, U.N. GAOR Supp. (No. 46), U.N. Doc. A/Res/34/180, *entered into force* September 3, 1981. Accession by Armenia on September 13, 1993.

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

<sup>11</sup> G.A. Res. 48/104 (1993). Interview, February 17, 2000 (NGO activist, Yerevan).

2. The Armenian government should evaluate whether the existing criminal penalties for domestic violence offer an effective and appropriate remedy to women who are victims of domestic violence. In particular, the government should examine the use of the “signed statement” as a remedy for domestic violence and should evaluate whether civil remedies would be an effective and appropriate way to compensate women for abuse and protect women from further violence.

3. The Armenian government should consider modifying the divorce procedure to take into account the unique circumstances faced by women who attempt to leave domestic violence situations.

4. The Armenian government should ensure the safety of victims of domestic violence and remove obstacles to women seeking redress in the criminal justice system. In particular, the government should consider amending the forensic regulations to more accurately reflect the specific nature and severity of the types of injuries women typically suffer in domestic violence cases.

5. The Armenian government 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 Armenian government should undertake educational programs at all levels of the judicial system, including law enforcement, 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.

7. The Armenian government should work to ensure that there is specialized assistance available to women subjected to violence, in particular women who have children as well as women who have divorced or left abusive husbands, such as the social services enumerated in the Declaration on the Elimination of Violence Against Women, including assistance in child care, counseling, health services, welfare benefits and housing assistance.

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

9. The Armenian government should encourage and facilitate the efforts of NGOs that assist women in cases of domestic violence. They should collaborate with such organizations in their work, such as educational programs and creation of shelters and telephone hotline services for victims of domestic violence, and should ensure increased access to government-run media outlets to promote their activities.

10. The Armenian government should promote cooperation between the law enforcement system and NGOs in an effort to raise awareness and address the problem of domestic violence.

## **II. DOMESTIC VIOLENCE IN ARMENIA**

### **A. Introduction**

Domestic violence is widespread in Armenia, yet government leaders do not view it as a serious problem. The government is largely silent about domestic violence, and there are no official statistics on its prevalence. Additionally, due in part to Armenia's difficult economic circumstances and in part to an unwillingness to acknowledge the problem, the government has failed to take necessary steps to combat domestic violence. Presently, no state-run shelters have been established for abused women, and the few informal shelters that exist enjoy no government support.<sup>12</sup> An official in the Ministry of Social Security suggested there is little interest in state-supported shelters or in developing joint programs with NGOs to offer women protection.<sup>13</sup> Armenia provides no organized system of support services for women victimized by a family member. Furthermore, although few social benefits are available for Armenians in general, the lack of services is most detrimental to women, who bear the brunt of the economic crisis. It is particularly acute for women who experience domestic violence.

The only legal options available to women are to initiate a criminal action or to file for divorce. In reality, the vast majority of domestic violence cases are never prosecuted and the perpetrators are never brought to court. Further, the Armenian government offers no legal alternatives for women who do not want to pursue criminal action but would like to protect themselves from continued abuse. There are no restraining orders or other significant non-criminal remedies that might provide a "cooling off" period while keeping the woman safe. Therefore, a woman's most realistic options are to end the marriage or reconcile with her abuser.

Women are severely underrepresented in all areas of government and in the legal system. Many government departments charged with working on issues of importance to women consist solely of men. Several NGOs mentioned that this lack of representation has hindered government responsiveness to their work and made it more difficult to alleviate the many problems Armenian women face.<sup>14</sup>

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<sup>12</sup> Interview, May 9, 2000 (NGO activist, Gyumri); May 11, 2000 (Ministry of Social Security, Yerevan).

<sup>13</sup> Interview, May 11, 2000 (Ministry of Social Security, Yerevan).

<sup>14</sup> Interview, May 13, 2000 (NGO activist, Yerevan); February 17, 2000 (NGO activist, Yerevan).

## B. Historical Background

Armenia is a small republic located in the Caucasus Mountains and bordered by Azerbaijan to the east, Georgia to the north, Iran to the south and Turkey to the west. Armenians refer to their country as the “cradle of civilization.”<sup>15</sup> Armenia has a rich history that includes relatively brief periods of self-rule interspersed with lengthy intervals of rule by Macedonians, Romans, Persians, Byzantines, Mongols, Turks and Russians. Armenians trace the formation of their country to the second millennia B.C. Armenia was the first country to adopt Christianity as its state religion in 301 A.D., and Christianity has remained a major distinguishing feature for Armenians over the centuries as neighboring regions adopted Islam. Armenians created a written language in 410 A.D. The creation of an Armenian script contributed to the development of the Armenian culture, through religion, philosophy and literature. Located at the crossroads of empires, Armenia saw little peace, but when it did, trade, art, science and literature flourished.

The close-knit Armenian family structure is an important characteristic of the Armenian identity. It may have developed in response to frequent invasion or because the country’s remote geography meant that families could only survive by working together as “kin groups.”<sup>16</sup> Historically, the Armenian extended family, with as many as 20 to 50 relatives living together, was headed by a patriarch (usually the oldest male relative) and consisted of his wife, their sons, the son’s wives and all unmarried daughters.<sup>17</sup> Family work was clearly divided into male and female duties,<sup>18</sup> with women responsible for the domestic sphere and men working outside of the home. Traditionally, “the ideal Armenian woman was chaste, restrained and passive.<sup>19</sup> She cared for her household and obeyed her husband and elders without protest.”<sup>20</sup> When a girl married, she became part of her husband’s family and was expected to be obedient and perform specific chores, such as washing the feet of the men.<sup>21</sup> To some extent, this family structure still influences how family conflicts are perceived today.

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<sup>15</sup> Meline Karakashian, *Armenia: A Country’s History of Challenges*, 54 J. SOCIAL ISSUES 381 (Summer 1998).

<sup>16</sup> *Id.* and MARY KILBOURNE MATOSSIAN, THE IMPACT OF SOVIET POLICIES IN ARMENIA 3 (1962).

<sup>17</sup> See MARY KILBOURNE MATOSSIAN at 3 (1962); Nora Dudwick, *Out of the Kitchen into the Crossfire: Women in Independent Armenia*, in POST-SOVIET WOMEN: FROM THE BALTIC TO CENTRAL ASIA 235 (M. Buckley ed., 1997).

<sup>18</sup> Interview, May 8, 2000 (ethnographer, Yerevan).

<sup>19</sup> Many people interviewed for this report noted that in Armenia a woman’s virginity at the time she is married is still considered important. Interviews, February 17, 2000 (gynecologist, Yerevan); February 19, 2000 (sociologist, Yerevan); May 3, 2000 (gynecologist, Yerevan). When asked, however, some people agreed that a man’s virginity at the time of marriage should be equally important but that it generally is not in Armenian society.

<sup>20</sup> MARY KILBOURNE MATOSSIAN, *supra* note 17 at 11.

<sup>21</sup> *Id.* at 5.

Armenia's relationship with Turkey has significantly marked its history. Beginning in the 15<sup>th</sup> century, Armenia came under Turkish rule. Although Armenians were treated relatively well at the height of the Ottoman Empire, they were later persecuted by their Turkish rulers, and several massacres of Armenians by Ottoman Turks were reported in the late 1800s.<sup>22</sup> Armenians who lived in rural areas, however, remained relatively independent of Ottoman influence.

In the late Ottoman period of the 19<sup>th</sup> century, a nascent feminist movement emerged in urban areas,<sup>23</sup> producing an Armenian "feminist manifesto." This manifesto included such basic human rights as freedom to choose an occupation and elimination of the dowry system and other inequalities in marriage.<sup>24</sup> It was not well received; "resistance to women's rights arose from the need for family solidarity . . . because Armenians, as a subject people, had long depended on family networks for protection and survival."<sup>25</sup>

Seeking security from aggression by the Ottoman Turks, some Armenians turned for help to the Russian Empire, which had expanded into the Transcaucasion region in the early 19<sup>th</sup> century. The integration of the Armenian province of the Persian empire into the Tsarist empire perpetuated a longstanding divide between western and eastern Armenia. The eastern portion fared far better under Tsarist rule than the western portion, which was part of the ailing Ottoman Empire.

Armenia's conflicts with the Ottoman Empire culminated in events that have been called the 20<sup>th</sup> century's first genocide. These events continue to define Armenia's relationship with modern day Turkey.<sup>26</sup> From 1915 to 1918, the governing "Young Turks" organized the murder and deportation of at least one million Armenians.<sup>27</sup> Speaking of his observations as Ambassador to the Ottoman Empire from 1913 to 1916, Henry Morgenthau stated, "the Turks never had . . . the idea of reestablishing the Armenians . . . They knew that the great majority would never reach their destination and that those who did would either die of thirst and starvation . . . When the Turkish authorities gave the orders for these deportations, they were merely giving the death warrant to a whole race . . . ."<sup>28</sup> Hitler referred to the Armenian genocide and the world's

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<sup>22</sup> Meline Karakashian, *supra* at note 15.

<sup>23</sup> Lou Ann Matossian, *Armenian Women in a Changing World*, OFF OUR BACKS 18 (1995).

<sup>24</sup> *Id.*

<sup>25</sup> *Id.* at 19.

<sup>26</sup> See, e.g., Diane F. Orentlicher, *Genocide*, in CRIMES OF WAR: WHAT THE PUBLIC SHOULD KNOW 156 (R. Gutman & D. Rieff eds., 1999).

<sup>27</sup> In 1915, the former British Ambassador to the U.S. reported that as many as 800,000 Armenians had been killed in six months as a result of a "deliberate and premeditated policy of the gang now in possession of the Turkish Government." *800,000 Armenians Counted as Destroyed*, in NYT, October 7, 1915 at 3-4.

<sup>28</sup> HENRY MORGENTHAU, AMBASSADOR MORGENTHAU'S STORY 307-309 (1919).

indifference to it when planning the invasion of Poland. He is said to have stated, “Who, after all, speaks today of the annihilation of the Armenians?”<sup>29</sup>

Although some Turkish leaders were tried for their participation in the massacre of Armenians,<sup>30</sup> the Turkish government has never agreed with the characterization of the killings as a genocide. Turkey contends that “the Ottoman authorities did the best they could to protect their Armenian citizens during World War I.”<sup>31</sup> Even today, this lack of recognition causes Armenia to regard Turkey as a threat to its national security.<sup>32</sup> The Armenian experience of persecution also became a factor in the development of a strong Armenian identity.

Soon after the October Revolution of 1917, the Russian portion of Armenia gained its independence. The new Republic of Armenia instituted land reform and women’s suffrage, among other policies, but independence was short-lived. To obtain Russia’s protection, Armenia became a Soviet Socialist Republic in 1920. In 1922, the Soviets ceded the country’s western region to Turkey, while the rest of the country remained part of the Soviet Union.<sup>33</sup>

### **C. Soviet Rule and the Transition from Communism**

Although many Armenians suffered under Soviet rule, the country made advances in economic and social development, including improvements in literacy and education. The Soviets sought to “modernize” Armenia. In particular, the government regarded the Armenian family structure as “backward” and an impediment to the development of communism.<sup>34</sup> The Soviet regime sought to replace traditional family ties with individual loyalty to the state through programs designed to emancipate Armenian women, such as education, work outside the home and increased participation in public life.<sup>35</sup> The Soviets also made significant changes to the legal system. For example, state

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<sup>29</sup> VAHAKN N. DADRIAN, *THE HISTORY OF THE ARMENIAN GENOCIDE* xix (1995) (citing KEVORK B. BARDAKJIAN, *HITLER AND THE ARMENIAN GENOCIDE* (1985)). For a discussion of this statement and the influence of the Armenian massacres on Hitler, see DADRIAN at 402-412.

<sup>30</sup> TELFORD TAYLOR, *THE ANATOMY OF THE NUREMBERG TRIALS* 18 (1992).

<sup>31</sup> See Robert Fisk, *Slaughter Should Not Have Been Included in Genocide Exhibition, Say Turks in The Independent*, August 21, 2000 at 8 and *Armenia Welcomes US Congress Recognition of 1915 Genocide by Turks from British Broadcasting Corporation*, October 4, 2000.

<sup>32</sup> Emil Danielyan, *Armenia: 1915 Genocide Influences Relations with Turkey* (RFE/RL April 24, 1998), available at <<http://www.asbarez.com/archives/1998/980424ed.htm>>.

<sup>33</sup> For a time Armenia was part of the Transcaucasian Socialist Federative Soviet Republic. After 1936 it became a Union republic.

<sup>34</sup> MARY KILBOURNE MATOSSIAN, *supra* note 16 at 63.

<sup>35</sup> *Id.*

punishment for murder replaced the “family vendetta,” a traditional form of vigilante justice. Rape was also criminalized. In the family, the state outlawed dowry or bride price, required the mutual consent of both spouses for marriage and granted women legal rights to inheritance and land.<sup>36</sup>

While the policy toward women in Armenia, as in the rest of the Soviet Union during this period, was one of formal equality,<sup>37</sup> in reality, women were never truly equal. The Soviet approach to equality was not only paternalistic but also involved “a shift of functions from the private domain to the public rather than, as in contemporary feminist strategy . . . a redefinition of male and female roles.”<sup>38</sup> Thus, special provisions (including paid maternity leave and various other benefits) helped women combine paid employment with motherhood. The system also included quotas for women holding political office. Because of these quotas, women made up 30% of members of the Armenian parliament in 1990.<sup>39</sup> Women comprised a high percentage of both students and the labor force,<sup>40</sup> but they continued to shoulder most of the burden of household labor and childrearing. In addition, they were excluded from “male” jobs, especially those requiring night work or heavy lifting.

Armenia became independent in 1991, and since then many of the political, economic and social advances Armenian women made under Soviet rule have been lost. Throughout the former Soviet region, women’s representation in government has declined, unemployment has soared and patriarchal attitudes toward women have reemerged.<sup>41</sup> The post-Soviet Armenian government “has done nothing to overcome the stereotypical understanding of women’s role and place in society. In fact, government officials continue to refer to the ‘natural’ roles of women.”<sup>42</sup> By 1999, the percentage of women in the Armenian parliament had fallen to 3%, and only 2% of ministers and

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<sup>36</sup> *Id.* at 64.

<sup>37</sup> The Constitution of the Union of Soviet Socialist Republics, Article 35 (1) provided “women and men have equal rights in the USSR.”

<sup>38</sup> Gail Warshofsky Lapidus, *Gender and Restructuring: The Impact of Perestroika and its Aftermath on Soviet Women*, in DEMOCRATIC REFORM AND THE POSITION OF WOMEN IN TRANSITIONAL ECONOMIES 138 (V. Moghadam ed., 1993).

<sup>39</sup> Mapping Progress-Assessing Implementation of the Beijing Platform 1998 at 24.

<sup>40</sup> *Status of Women in Armenia*, 2000, United Nations Development Program Draft Report (unpublished) at 46.

<sup>41</sup> Valentine Moghadam, *Gender Dynamics of Economics and Political Change: Efficiency, Equality, and Women*, in DEMOCRATIC REFORM AND THE POSITION OF WOMEN IN TRANSITIONAL ECONOMIES 138 (V. Moghadam ed., 1993).

<sup>42</sup> International Women’s Rights Action Watch (“IWRAW”) to the Committee on the Elimination of Discrimination Against Women (“CEDAW”), Country Report on Armenia at 3 (1997).

deputy ministers were women.<sup>43</sup> It is currently extremely difficult for women to enter politics without the backing of men, and when they do, it is almost impossible for them to avoid the assumption that they are the political tools of men.<sup>44</sup>

In 1988, Armenia became embroiled in a dispute with Azerbaijan over the status of the enclave of Nagorno-Karabagh, located in Azerbaijan. Nagorno-Karabagh was historically a part of Armenia and was populated primarily by Armenians.<sup>45</sup> The conflict erupted into war in 1993, killing over 30,000 people and displacing a million more.<sup>46</sup> A cease-fire has been in effect since 1994. This conflict, as well as civil war in neighboring Georgia, has led to a flood of refugees into Armenia.<sup>47</sup> The war led to blockades by Turkey and Azerbaijan and shortages of fuel, raw materials and food, as well as a decline in industrial production.

Also in 1988, a devastating earthquake left over 25,000 dead and 500,000 homeless in Armenia.<sup>48</sup> The cities most devastated by the earthquake have still not been completely rebuilt. In Gyumri, a city heavily affected by the earthquake, some residents who lost their homes have been living in temporary shelters for the past twelve years. A representative of an NGO reported that the slow recovery from the disaster complicated the work of local NGOs. She stated, “somehow the mentality is different in Gyumri. People see no change in the twelve years since the earthquake and this creates a sense of apathy.”<sup>49</sup>

Armenia is currently experiencing a severe economic crisis. In 1992, 97% of the population was designated as living below the absolute poverty line fixed by economists.<sup>50</sup> Since then, the economy has improved only slightly, and poverty figures have been estimated most recently at 54%.<sup>51</sup> Unemployment is high; even when people have jobs, salaries are low and payment is very often delayed. Well over half the

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<sup>43</sup> REPUBLIC OF ARMENIA MINISTRY OF STATISTICS, STATE REGISTER AND ANALYSIS, *Women and Men in Armenia* at 48-49 (1999).

<sup>44</sup> Dudwick, *supra* note 17 at 245.

<sup>45</sup> Fact Sheet: Nagorno-Karabagh. American Research Center 3 The University of Michigan-Dearborn. (1996) available at <<http://www.umd.umich.edu/dept/armenian/facts/karabagh.html>>.

<sup>46</sup> *International Mediators in Baku for Talks on Nagorno-Karabagh*. Agence France Press, December 14, 1999.

<sup>47</sup> The Europa World Year Book, volume I (1999).

<sup>48</sup> *Id.*

<sup>49</sup> Interview, February 21, 2000 (NGO activist).

<sup>50</sup> *Status of Women in Armenia*, 2000, United Nations Development Program Draft Report at 34 (2000) (unpublished).

<sup>51</sup> *Id.*

population earns a monthly income of US \$34 or less.<sup>52</sup> Women make up 70% of the registered unemployed.<sup>53</sup> The Armenian government explains that a disproportionately high number of women are unemployed because “traditionally, women are more oriented towards family and children.”<sup>54</sup> Still, many women work in the unofficial economy, often supporting their families by buying and selling goods abroad.<sup>55</sup> In addition to the high unemployment rate, the rate of property ownership for women is low. As land was privatized in Armenia, it was only registered in women’s names in cases where the man in the family was absent.<sup>56</sup> Many government social services to aid families have also largely disintegrated. For example, many state run child-care centers have been forced to close or offer inferior facilities due to loss of resources.

The economic situation has led to a mass emigration of Armenians. Today more than half the world’s Armenians live outside of Armenia. The International Migration Office in Yerevan reports that an estimated one million people have left the country since 1992, of an original population of 3.7 million.<sup>57</sup> Although the diaspora population retains strong contacts with relatives in Armenia, this emigration has also caused dislocations in Armenian society. The departure of many men for work abroad has begun to change the roles of men and women within the family.

#### **D. Evidence of Domestic Violence**

Domestic violence is a more common problem in Armenia than is either reported or officially acknowledged. The Armenian government currently provides no official statistics on domestic violence or other crimes within the family.<sup>58</sup> Available data and research, however, indicate that domestic violence is a serious problem that affects all levels of society in Armenia.

Women in Armenia do not customarily speak openly about abuse suffered in the home. In recent years, however, many women’s NGOs have emerged and some have begun to document systematically the problem of domestic violence. In 1998, the Women’s Rights Center in Yerevan surveyed 100 women and found that 46 had experienced some form of violence in the family, including sexual violence. Of these

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<sup>52</sup> *Id.* at 30.

<sup>53</sup> UNICEF/ Save the Children/ Government of Armenia, A SITUATION ANALYSIS OF CHILDREN AND WOMEN IN ARMENIA 113 (1998).

<sup>54</sup> IWRAW to CEDAW, Country Report on Armenia, *supra* note 42 at 7.

<sup>55</sup> Dudwick, *supra* note 17 at 241-42.

<sup>56</sup> *Id.* at 8.

<sup>57</sup> Interview, May 12, 2000 (IOM, Yerevan).

<sup>58</sup> Officials at all levels of the justice system do, however, keep extensive records and several said it would be possible to compile information on crimes involving women if this were to be required.

women, only six had complained to legal authorities.<sup>59</sup> In Gyumri, Armenia's second largest city, another women's NGO surveyed 100 married women from a variety of backgrounds; 80 admitted to experiencing domestic violence, and 20 of these said it happened "often."<sup>60</sup>

Several NGOs have started hotline services and crisis centers in various Armenian cities, and some women have begun to turn to these places for support. A 24-hour crisis hotline for women in Gyumri received 216 calls in the first three months of 2000. The staff estimated that 50% of these calls involved some type of domestic violence.<sup>61</sup> A hotline sponsored by a Yerevan NGO<sup>62</sup> recorded 97 calls in the three-month period from September to December 1999.<sup>63</sup> Of these, 39 involved some form of domestic violence, including ten cases of sexual violence.

Armenian scholars, especially sociologists, have begun to research domestic violence issues. A sociologist who interviewed 400 women for a survey on domestic violence found that 63% knew of women in violent relationships.<sup>64</sup> Sociologists at the university in Yerevan have interviewed approximately 40 women as part of a project on violence in society and have documented many cases of domestic violence.<sup>65</sup> Among the cases was that of a woman, now 70, who had been married at age 16. She was often beaten by her husband because his mother complained about her. Another case concerned a mother of three whose husband beat her and attempted to kill her. She left him but is not able to see her children now. According to these researchers, she has been unable to assert her rights because she has no money to bribe police or judges, unlike her wealthier husband.

A number of cases of domestic violence leading to death were reported to Minnesota Advocates by people outside the legal system. A doctor who was herself a victim of domestic violence said she personally knew of three such cases. An NGO activist pointed out a man from her neighborhood whom she claimed had never been punished for killing his wife. In another case recorded by one of the hotlines, a pregnant woman lived in a rural community and worked as a nurse. She called the hotline several times to say she was being beaten by her husband and sisters-in-law. Her husband had

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<sup>59</sup> Questionnaire and explanation of survey; *Status of Women in Armenia*, 2000, United Nations Development Program Draft Report at 39 (2000) (unpublished).

<sup>60</sup> See *infra* Appendix.

<sup>61</sup> Interview, May 9, 2000 (NGO, Gyumri).

<sup>62</sup> The hotline operates from 12:00 p.m. to 6:00 p.m. Monday through Friday.

<sup>63</sup> The actual number may have been higher due to irregular record-keeping.

<sup>64</sup> Hazmik Gevorgian, *Ya Rodilas Zhenshinoi: Za i Protiv* ("I was Born a Woman: For and Against"), sociological survey (1999). (unpublished manuscript).

<sup>65</sup> Interview, February 19, 2000 (sociologists, Yerevan).

two children from a previous marriage and did not want additional children. The woman was told repeatedly by her in-laws that she had been brought to the home to look after the children rather than to work. Fearing she would have nowhere to go, the woman resisted seeking a divorce. This woman was ultimately killed by her husband.<sup>66</sup>

## 1. Evidence from the Legal Community

Minnesota Advocates interviewed judges, police, prosecutors, private lawyers and court medical experts to determine the government's response to the problem. Although they could not cite official data, these legal professionals described many cases in which women were seriously injured or killed. There is no specific statute prohibiting domestic violence, and the data on other crimes, such as assault and murder, are not categorized in a manner that allows for information on domestic violence to be determined. Even if statistics were readily available, they would not accurately reflect the rates of violence because many women do not report domestic assaults to police or prosecutors, nor do they pursue any legal remedies to protect their human rights.<sup>67</sup> In the NGO survey mentioned previously, of the women who stated they had been abused, fewer than 10% had reported it to the police or prosecutor.<sup>68</sup> One judge estimated that only 5% of all domestic violence cases are ever reported to the police.<sup>69</sup> Many of those interviewed in the criminal justice system stated that the cases reflect only a small portion of the real number of assaults.

Even in extreme situations, women seldom view the legal system as a source of assistance. Often cases that do enter the system are withdrawn during the process. A young woman in Yerevan described seven years of abuse by her husband and sometimes also by the woman with whom her husband was having an affair:

*I married a man I did not truly love. He appeared to be a decent and normal person. . . . Soon after we were married, I noticed that my husband's behavior changed -he was often abusive, both physically and verbally. He would beat me at random times and I never knew why. . . . I also suspected that he was having an affair. . . . [and] recall seeing [my husband and his girlfriend] together on a few occasions. . . . Once, my husband came home and told me to come downstairs to the street. The other woman was there. We began discussing our relationship and began to quarrel. We were having the discussion in his car. . . .*

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<sup>66</sup> Interview, May 9, 2000 (NGO activist, Gyumri).

<sup>67</sup> Interviews, February 16, 2000 (Ministry of Internal Affairs official, Yerevan), (sociologist, Yerevan); February 17, 2000 (Ministry of Internal Affairs official, Yerevan) (NGO, Yerevan); February 22, 2000 (police official, Yerevan), May 3, 2000 (lawyer, Yerevan). People interviewed within the Ministry of Internal Affairs as well as private attorneys and NGO representatives all agreed that women will call police only after repeated abuse, or when the violence is especially severe. Generally, however, they will not call the police about domestic abuse.

<sup>68</sup> See *infra* Appendix.

<sup>69</sup> Interview, May 10, 2000 (judge, Gyumri).

*[Then] the other woman grabbed an empty glass bottle . . . and began beating me over the head with it. Each time I tried to get out of the car, my husband blocked the way and pushed me back in.*<sup>70</sup>

The only time the woman contacted the police was after the assault described above. She did not want her husband to be jailed, however, and the case was never prosecuted.

Women withdraw cases of domestic violence after complaining to the police for a variety of reasons. These women may fear breaking up the family and being on their own. In the current economic climate, they may be unable to support themselves and their children alone. They may face pressures from their families or husbands. The lack of societal or legal support for victims of domestic violence often leaves women with little recourse but to remain in abusive relationships and keep the abuse to themselves.

In those cases in which victims of domestic violence do turn to the authorities, they are first seen by the police. A police chief informed Minnesota Advocates that his officers see an average of five to eight “quarrels” a month that involve hitting, in a district presently numbering approximately 130,000.<sup>71</sup> A review of the police case files in this district showed that the police may not always accurately register cases of domestic violence. For example, according to police files, between November 18 and December 19, 1999, there were 21 reported cases with female victims. Of these, two were clearly cases of domestic violence, two others were classified as suicide attempts and 11 were recorded as suspicious falls or accidents but may have, in fact, been incidents of domestic violence.<sup>72</sup>

Another Yerevan police chief in charge of a district of lower economic status agreed that domestic violence is a major problem. In his district, 20 out of 80 registered “problem families” were involved in violence, of which only five cases actually went to court.<sup>73</sup> “Problem families” are generally defined as families prone to causing disturbances through drunkenness and “quarreling.”

Workers at the emergency police line, called the “02” line,<sup>74</sup> also receive domestic violence calls. The head of public relations for the emergency police line, a part of the Ministry of Internal Affairs, said the line receives calls almost every day from women who have been beaten. He added that he believes the actual rate of domestic violence is

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<sup>70</sup> Interview, May 25, 2000 (victim, Yerevan).

<sup>71</sup> Interview, February 22, 2000 (police chief, Yerevan).

<sup>72</sup> *Id.*

<sup>73</sup> Interview, May 25, 2000 (police chief, Yerevan).

<sup>74</sup> The “02” line is routed only to the police. Calls to the ambulance service, “03,” and the fire department, “01,” are directed through separate lines.

higher than the number of calls they receive.<sup>75</sup> A prosecutor reported that approximately 80% of the cases he sees in which women are victims involve violence by a family member.<sup>76</sup> A district judge estimated that approximately 20-30% of her criminal cases involve men beating women.<sup>77</sup>

Cases often reach the legal system when neighbors intervene in a violent situation. A judicial clerk reported two cases in which men beat their wives and the police came in response to calls from neighbors. In one of the cases, the man hit his wife after seeing her with a female friend he disliked. Neighbors called the police, and he was fined.<sup>78</sup>

Many cases that involve elements of violence are not immediately obvious as domestic violence cases because they are brought to the court on other charges.<sup>79</sup> For example, a case may be registered as a man disobeying a police officer when the initial conflict actually involved a fight with his wife. Taking account of this fact, a judicial clerk estimated that 30% of the cases in his court involved domestic violence.

Cases reviewed at a prosecutor's office revealed a number of instances of serious abuse by current and former husbands.<sup>80</sup> In one case, a man threatened to burn down the house when his wife would not let him enter. He ultimately did set the house on fire with his wife inside it (she survived).<sup>81</sup> In a second case, a man whose ex-wife had divorced him while he was in prison brought a grenade and knife to her house and threatened to kill her. He was ultimately convicted of criminal hooliganism and illegal weapons possession.

Members of the legal community also told of cases they had seen in which Armenian women were killed by their abusive husbands. A forensic psychologist told Minnesota Advocates that she sees many domestic murders in her practice, including a woman beaten to death when she came home too late and one whose husband murdered her because he was "delirious with jealousy."<sup>82</sup> A district judge described a case from the

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<sup>75</sup> Interview, February 16, 2000 (Ministry of Internal Affairs official, Yerevan).

<sup>76</sup> Interview, February 16, 2000 (prosecutor, Yerevan).

<sup>77</sup> Interview, February 16, 2000 (judge, Yerevan). (A review of some case files, however, revealed that of the 67 cases heard in the final four months of 1999, only three were described as cases of domestic violence.)

<sup>78</sup> Interview, May 3, 2000 (judicial clerk, Yerevan).

<sup>79</sup> *Id.*

<sup>80</sup> Interview and review of cases, February 16, 2000 (Yerevan). Of 290 criminal cases that came to court in a population of 140,000, 23 involved female victims. Of these 23, twelve were cases of family violence (in one case, a dispute between sisters-in-law).

<sup>81</sup> Review of files, February 16, 2000 (Yerevan).

<sup>82</sup> Interview, February 18, 2000 (forensic psychologist, Yerevan).

end of 1999 in which a husband who habitually beat his wife stabbed her twice and killed her in the presence of their children.<sup>83</sup> The husband's statement was included in the case file:

*[My wife] began to drink. . . . I used to beat her and accuse her of drinking a lot. I argued with her. The neighbors knew about the arguing. I was ashamed of her behavior. [Then she] began to go out and stay out. . . . I became suspicious of her unfaithfulness but had no proof. . . . Because of jealousy and drink, I beat her. . . . I took the knife only to threaten her, but stabbed her by accident.<sup>84</sup>*

The forensic doctor's report indicated that the woman had stab wounds, as well as a broken nose, bruises and a black eye. The man was charged with murder and sentenced to nine years in prison. According to the judge, the children believed their mother was unfaithful and took the father's side. The judge explained that she imposed a less severe sentence on the man than the law permitted because he was the only parent the children had left.<sup>85</sup>

Sometimes women also kill their abusive husbands during a violent episode, often after years of abuse.<sup>86</sup> Even when a woman kills a man who is attacking her, she may be convicted of murder under the statute that criminalizes murder when excessive force is used in self-defense.<sup>87</sup> A judge described a recent case in which a man attacked his wife with a knife. During the altercation, the woman wrestled the knife from the man's hand and stabbed him to death. According to the judge, the prosecutor charged the case as premeditated murder and it was still pending before the court.<sup>88</sup> Another judge described a 1998 case in which a 65-year-old woman killed her 73-year-old husband after he continually beat and sexually abused her. She was sentenced to seven to eight years in prison.<sup>89</sup>

In a case described by a prosecutor, a man threw a chair at his wife and threatened her with an ax.<sup>90</sup> The assault took place in the kitchen. The woman picked up a knife

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<sup>83</sup> Interview, February 16, 2000 (judge, Yerevan).

<sup>84</sup> Review of files, February 22, 2000 (Yerevan).

<sup>85</sup> Interview, February 16, 2000 (judge, Yerevan).

<sup>86</sup> Interview, February 18, 2000 (criminologist, Yerevan).

<sup>87</sup> Interviews, February 17, 2000 (prison, Abovyan); February 16, 2000 (judge, Yerevan); February 15, 2000 (prosecutor, Yerevan). *See also* Criminal Code Article 102.

<sup>88</sup> Interview, February 16, 2000 (judge, Yerevan).

<sup>89</sup> Interview, May 10, 2000 (judge, Gyumri).

<sup>90</sup> Interview, February 15, 2000 (prosecutor, Yerevan).

from the counter and stabbed the man in the heart. In this case, the prosecutor proved that the man had intended to kill his wife and therefore the woman had acted in self-defense.

Because of the difficulties in obtaining a legal remedy for domestic violence, many women turn to divorce as a solution to their abuse.<sup>91</sup> The president of a lawyer's organization that provides free legal services estimated that 25-30% of the divorce cases he sees involve violence against women.<sup>92</sup> Judges and lawyers confirmed that many divorce cases involve elements of violence.<sup>93</sup>

In Armenia, forensic experts are involved in every criminal case in which the victim is injured. They are medical professionals who work in the criminal justice system and are specifically charged with classifying the degree of physical injury. The forensic experts with whom Minnesota Advocates spoke claimed to have seen very few cases of violence against women in the family.<sup>94</sup> One forensic expert who had been practicing medicine for over 30 years estimated that he had only seen roughly ten such cases in his career.<sup>95</sup> In an article published in an Armenian newspaper concerning domestic violence, however, national forensic experts reported seeing between two and eight cases per month.<sup>96</sup>

In one case described by a forensic doctor, a husband beat his wife while she was pregnant, causing her to lose the child.<sup>97</sup> In another case, a man assaulted his wife after finding her with a lover.<sup>98</sup> Forensic experts were also able to recall many instances in which women were sent for forensic examinations with suspicious injuries and appeared to be hiding the real cause, claiming, for example, that they had fallen.

## 2. Evidence from the Medical Community

Many members of the medical community are likely to see victims of domestic violence, including emergency medical personnel, gynecologists and psychiatrists. Members of the medical community interviewed by Minnesota Advocates, however,

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<sup>91</sup> See *infra* Section III D.

<sup>92</sup> Interview, February 15, 2000 (lawyer, Yerevan).

<sup>93</sup> Interviews, May 10, 2000 (judge, Gyumri); February 15, 2000 (lawyer, Yerevan).

<sup>94</sup> Interview, February 22, 2000 (forensic expert, Yerevan).

<sup>95</sup> Interview, February 21, 2000 (forensic experts, Gyumri).

<sup>96</sup> Asya Tsaturova, *Molilas li ti na noch, Dezdemoni?* ("Have you Prayed Tonight, Desdemona?"), NOVAYA VREMYA at 3 (February 22, 2000).

<sup>97</sup> Interview, February 21, 2000 (forensic experts, Gyumri).

<sup>98</sup> *Id.*

reiterated that women rarely seek medical assistance for injuries received in the home, unless they present a serious health risk. Even then, many attempt to conceal the cause of their injuries in the belief that family issues should remain private.<sup>99</sup> Both emergency doctors and specialists emphasized their view that when women lie about their injuries, the doctor has no right to investigate further.<sup>100</sup>

By law, doctors are required to report suspicious injuries to the police,<sup>101</sup> including injuries resulting from domestic violence. Some members of the medical community nonetheless believe that domestic violence is a private matter and not one to be discussed with patients. Doctors from out-patient clinics and the ambulance service maintained that they do not report such injuries because they are “family problems”<sup>102</sup> and doctors can do nothing about them.<sup>103</sup> Because they do not question patients further as to the causes of their injuries, the doctors may not even be aware that they are treating cases of domestic violence.

Representatives of the emergency health service and clinic doctors said that they see very few patients with domestic violence injuries. Ambulances are typically only called to family conflicts in order to treat secondary symptoms such as rise in blood pressure or alcohol related problems and not because of injuries directly related to the conflict.<sup>104</sup> An emergency doctor also explained that women know the incident will be reported to the police if they call for an ambulance or come to the emergency center, suggesting that women will therefore forego treatment rather than risk publicizing domestic violence.<sup>105</sup>

Abused women who do not seek help from the legal system may still confide in a psychiatrist or psychologist. While women do not generally visit psychiatric clinics (known as neurosis centers or stress centers) for this reason, doctors acknowledged that stories of violence frequently emerge during treatment. The director of such a clinic outside Yerevan estimated that 80-90% of the clinic’s cases (approximately 400 in-patients, 60% of them women) were family conflicts and that 30-40% of these included

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<sup>99</sup> Interview, February 17, 2000 (doctor, Yerevan).

<sup>100</sup> Interview, February 17, 2000 (doctor, Yerevan).

<sup>101</sup> Interview, February 21, 2000 (forensic expert, Gyumri). This duty is established under Decree C-240570 of the Ministry of Health and the Ministry of Internal Affairs, dated August 5, 1996, on doctors’ obligations to report to the police cases that involve symptoms of violence (beating, bruises, etc.). Violation of this duty incurs criminal liability. A more general prohibition on concealing crimes against life and health is found in Article 206 of the Criminal Code.

<sup>102</sup> Interview, February 17, 2000 (doctor, Yerevan).

<sup>103</sup> Interview, May 4, 2000 (doctor, Yerevan).

<sup>104</sup> Interview, May 4, 2000 (doctor, Yerevan).

<sup>105</sup> Interview, May 4, 2000 (doctor, Yerevan).

an element of physical or psychological violence. The same doctor described five cases involving domestic violence, including one in which a man hit his wife because she complained of his inattention to the family. In another case, a woman was abused because she “didn’t iron and cook well.” This woman was afraid to seek a divorce because of her husband’s threats to keep the children. The doctor also described a third case in which a woman began to spend time with another man because her husband routinely beat her:

*[When the husband] saw his wife with another man, he beat her. . . . Then the husband began to torture the wife. Whenever there were small quarrels, he constantly reminded her of [the infidelity], saying she was immoral. He also hit her. . . . Whenever he saw his relatives mocking him, he beat her. He was drinking to forget and was forcing her to have sex. The wife didn’t want sex and she was beaten again. . . . This lasted about two years. The wife was brought to the clinic in a heavy depression.*<sup>106</sup>

A doctor at a stress center in Yerevan said family conflicts are common, giving an example of a case in which a man with a sexual dysfunction beat his wife because she wanted to have sex. She added that psychological pressure on women is even more common, explaining that people believe “since the man is the head of the family, he has the right to make any decision and the woman must obey.”<sup>107</sup>

## **E. Police Response to Domestic Violence**

Police are usually the first within the legal system to encounter victims of violence, either when a woman submits a complaint or, more commonly, when the police are called to the scene of a domestic dispute.<sup>108</sup> The police officials most closely involved in dealing with domestic violence incidents are local district inspectors (uchastkovii inspektor). These local inspectors, most often men, are responsible for “preventive work,” including information gathering and communication. Local inspectors are first on the scene when police are called to a domestic violence incident. They are expected to reprimand the man involved in cases where no criminal punishment is imposed. Inspectors are assigned to specific districts, each having several thousand families, where they monitor and exercise control over “problem families.” Lists of problem families are kept on file at the police station.

According to some interviewees, police are willing to take the initial step of registering cases in certain circumstances. A district police chief told Minnesota Advocates that telephone calls to the station are also tape-recorded. Other people interviewed, however, said that police generally do not take domestic violence as

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<sup>106</sup> Interview, May 6, 2000 (doctor, outside Yerevan).

<sup>107</sup> Interview, May 5, 2000 (doctor, Yerevan).

<sup>108</sup> Interview, May 3, 2000 (judicial clerk, Yerevan).

seriously as other crimes.<sup>109</sup> Accounts by women who have contacted the police indicate that the police attempt to dissuade women from pressing charges against abusive husbands.<sup>110</sup> One woman reported that she felt she could not go to the police to report abuse by her husband because it would not be kept confidential. She feared the negative effect on her child's life if other people learned about her situation. Furthermore, she said police will not pursue a case because they believe that if the abuser is a woman's husband "he can beat [her] once [and] this is nothing extraordinary."<sup>111</sup> A lawyer recounted the story of a client who went to the police to initiate a criminal proceeding after her husband threatened her with a knife and kicked a glass door that broke over her, causing injuries.<sup>112</sup> The police refused to take the case when the woman went to the station alone, saying it was a "family matter." Only when she returned accompanied by a lawyer was the woman able to start a criminal proceeding.

In another case, a woman who was being beaten by her husband, a policeman, tried to get help by speaking with his superior.<sup>113</sup> Even though the husband threatened his wife with a gun, the police chief took no action beyond talking with the man. A staff member of a women's NGO explained this lack of response by the fact that the police consider beating normal and feel that since everyone is experiencing it, women should tolerate it.<sup>114</sup> Others suggested that police think that if women are being abused, they have done something to deserve it.<sup>115</sup>

An instructor at the police college in Yerevan acknowledged that police were less interested in domestic violence than in what are seen as more serious crimes.<sup>116</sup> Police justified their inaction by pointing to the women's behavior when they intervene in conflicts. For example, a police chief in Yerevan noted that women sometimes criticize the police for interfering in private matters.<sup>117</sup> He also said that women frequently withdraw complaints after they have been made.<sup>118</sup>

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<sup>109</sup> Interviews, May 3, 2000 (judicial clerk, Yerevan); May 4, 2000 (lawyer, Yerevan), May 9, 2000 (victim, Gyumri).

<sup>110</sup> This was also noted by a court clerk, interview, May 3, 2000, Yerevan.

<sup>111</sup> Interview, May 9, 2000 (victim, Gyumri).

<sup>112</sup> Interview, February 19, 2000 (lawyer, Yerevan).

<sup>113</sup> Interview, May 9, 2000 (NGO activist, Gyumri).

<sup>114</sup> *Id.*

<sup>115</sup> Interview, February 24, 2000 (sociologist, Yerevan).

<sup>116</sup> Interview, May 6, 2000 (instructor, police college, Yerevan).

<sup>117</sup> Interview, February 22, 2000 (police chief, Yerevan).

<sup>118</sup> See discussions *supra* Section II D and *infra* Section II G.

A police representative stated that women should be ashamed to report cases of domestic violence because such reporting could lead to divorce.<sup>119</sup> A judicial clerk noted that a policeman also “feels shame for his nation” when registering a case of domestic violence,<sup>120</sup> another reason police may prefer not to accept complaints from women in such circumstances.

Local inspectors work with perpetrators of domestic violence as part of their crime-prevention duties. In the case of first time offenders, the local inspector may ask a man to sign a statement promising not to disturb his wife again.<sup>121</sup> The paper functions as an alternative to criminal or administrative penalties and carries no specific legal sanction. Local inspectors take abusers to the police station to sign the statement. The men are then supposed to be closely monitored. The signed statement is used both in cases where arguments occurred but no beating was recorded<sup>122</sup> and in cases of physical violence.<sup>123</sup>

Police suggested that they use the signed statement in cases where the wife withdraws or refuses to lodge a complaint.<sup>124</sup> Since one reason women are often afraid to complain to the police is the risk of fines or imprisonment for their husbands, the signed statement may be a preferable alternative for some women. In some cases, however, local inspectors may actively influence women to use this method rather than lodge a complaint. Further, whether due to lack of resources or lack of interest, local inspectors do not always monitor the families in which domestic violence has occurred.<sup>125</sup> It is not clear whether the signed statement serves as a deterrent or performs any other useful function in the handling of domestic violence cases. Its effectiveness appears to depend heavily upon both the abuser’s response to moral persuasion and the conscientiousness of the individual local inspector in monitoring these cases.

The signature procedure may delay punishment for repeat offenders because of many women’s reluctance to report domestic violence to the police. Although this procedure is limited to first-time offenders, many perpetrators identified as first-time

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<sup>119</sup> Interview, May 10, 2000 (Ministry of Internal Affairs official, Gyumri).

<sup>120</sup> Interview, May 3, 2000 (judicial clerk, Yerevan).

<sup>121</sup> Interviews, February 15, 2000 (lawyer, Yerevan); February 16, 2000 (judge, Yerevan ); February 22, 2000 (police chief, Yerevan); May 6, 2000 (instructor, police college, Yerevan); May 10, 2000 (worker, Ministry of Internal Affairs, Gyumri).

<sup>122</sup> Review of police files, April 2000 (Yerevan); interview, February 22, 2000 (judge, Yerevan).

<sup>123</sup> Interviews, February 17, 2000 (Ministry of Internal Affairs official, Yerevan); February 22, 2000 (police chief, Yerevan); May 3, 2000 (lawyer, Yerevan).

<sup>124</sup> Interview, February 22, 2000 (police chief, Yerevan).

<sup>125</sup> Interview, May 4, 2000 (human rights lawyer, Yerevan).

offenders may simply be repeat offenders whose wives have not previously reported them to police.

In addition to problems with police attitudes and insufficient penalties, material shortages also present obstacles to effective police response. For example, local police inspectors, though responsible for serving several thousand families, often do not have cars. Further, salaries tend to be low (though police are better paid than many Armenian workers<sup>126</sup>) and may not be paid on time. To illustrate this problem, a lawyer described her experience in a theft case. The police were unwilling to accept her complaint and an investigator explained to her that “low salaries lead to low motivation.”<sup>127</sup>

There are no domestic violence units in the Armenian police. At present, 10-15% of students at the police college are women. Most women in the police force are employed in jobs such as passport control, car inspection and juvenile crime.<sup>128</sup> Only a few women are investigators at the prosecutorial level.<sup>129</sup> A police chief in Gyumri explained that it is “not typical” for women to work the 24-hour shifts required for most police work, and that police work is not seen as appropriate for women.<sup>130</sup>

## **F. NGO Response to Domestic Violence**

The Armenian government is not adequately responding to the problem of domestic violence. As a result, NGOs have begun to address the issue. These organizations generally depend on donor funding from foreign aid organizations. Many have established crisis centers (sometimes referred to as “trust centers”) for women to provide support, advice and educational services. These centers sometimes sponsor telephone hotlines for women, including women who are victims of domestic violence. Crisis centers favor reconciliation of families. The centers may try to involve women’s husbands in counseling, although some men resist taking part. Many victims of domestic violence fear their husbands’ reaction if they discover that they have spoken to someone outside the family about the abuse and do not want to involve their husbands in counseling. Crisis center services, therefore, tend to focus on women.<sup>131</sup>

Because these institutions have only emerged in the last few years, they are still developing effective procedures. Statistics compiled from calls to telephone hotlines are not being kept systematically and they have not been published. Hotlines themselves

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<sup>126</sup> Interview, May 6, 2000 (instructor, police college, Yerevan).

<sup>127</sup> Interview, February 25, 2000 (lawyer, Yerevan).

<sup>128</sup> Interview, May 10, 2000 (Ministry of Internal Affairs official, Gyumri).

<sup>129</sup> Interview, February 25, 2000 (lawyer, Yerevan).

<sup>130</sup> Interview, May 10, 2000 (Ministry of Internal Affairs official, Gyumri).

<sup>131</sup> Interview, May 9, 2000 (NGO activist, Gyumri).

face problems in a country with sporadic telephone service. Some rural areas have no telephone service at all. In addition, though crisis center workers agreed that hotline use increases when they are advertised, such advertising is often too expensive for struggling NGOs. Even government-owned television generally will not broadcast such advertisements free of charge. Consequently, hotlines have been able to advertise on television and radio only because of donor funding.

Hotlines and crisis centers are highly professionalized and staffed mainly with psychologists, doctors and lawyers, rather than volunteers or survivors of domestic violence. Minnesota Advocates was told of only one case in which a formerly battered woman was involved in creating a crisis center. Currently, no battered women's shelters exist, although some NGOs provide temporary housing to women on an informal basis.<sup>132</sup>

A number of lawyers' organizations offer free legal assistance to women seeking to prosecute or divorce abusive husbands, and some individual lawyers donate their services to NGOs working with women. There is no consistent legal practice concerning advocacy for women who have been abused, and many women simply cannot afford lawyers to assist them in divorce or criminal proceedings.<sup>133</sup> Further, NGOs that provide legal assistance in cases of general human rights abuses showed little awareness of the problem of domestic violence. The directors of two such NGOs maintained that domestic violence was not a problem in Armenia, although lawyers at one of these NGOs later described several cases of domestic violence with which they had dealt.<sup>134</sup>

Acting in part in response to donor interest, NGOs are working to empower women through legal literacy training, which includes seminars and lectures in schools and rural community centers. Many people spoke of the importance of women "knowing their rights."<sup>135</sup> NGO educational work focuses on a woman's right to be free of violence and the legal options available to her in Armenia.

NGOs have succeeded in stimulating some media interest in the issue of domestic violence. Newspapers have occasionally published objective articles on the problem,<sup>136</sup> and local television stations have broadcast films on the subject. Also, radio and television have carried paid advertisements for crisis hotlines. An article published in an Armenian newspaper in June 1998, however, denied the existence of a domestic violence problem and blamed women for triggering the violence.<sup>137</sup> Likewise, a journalist who

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<sup>132</sup> *Id.*

<sup>133</sup> Interview, February 19, 2000 (sociologists, Yerevan).

<sup>134</sup> Interviews, February 15, 2000 (human rights lawyer, Yerevan); February 16, 2000 (human rights lawyer, Yerevan); May 14, 2000 (human rights lawyers, Yerevan).

<sup>135</sup> *E.g.* Interviews, February 21, 2000 (NGO, Gyumri); May 10, 2000 (judge, Gyumri).

<sup>136</sup> *See supra* note 97 at 3.

<sup>137</sup> Grigor Emin-Deryan, *Ankhelke jrhori mej kar gtsets ...* ("The fool threw a stone in the well"), HAYASTANI HANRAPETUTIUN, 18 June 1998.

produces a television show on family issues said she had never come across any stories of domestic violence and had not addressed it in her show, which espoused a return to the “traditional family model.”<sup>138</sup>

### G. Domestic Violence: Causes and Complicating Factors

Domestic violence is a complicated social phenomenon, and there are no simple explanations for its causes. Research indicates that domestic violence has its roots in the subordinate role women have traditionally held in private and public life.<sup>139</sup> The United Nations, in the Declaration on the Elimination of Violence Against Women, recognized domestic violence as “a manifestation of historically unequal power relationships between men and women” and condemned the violence as one of the “crucial social mechanisms by which women are forced into a subordinate position compared with men.”<sup>140</sup>

Many of those interviewed represented Armenian culture as traditional and patriarchal. Men spoke of women in protective, paternalist terms, glorifying the role of mother. Women in Armenia are expected to support family peace and raise children.<sup>141</sup> Because of the traditional view that men are the heads of families, women often feel that they must endure whatever violence and abuse they encounter in their homes. Additionally, some women and law enforcement officials explained that society considers less serious violence, such as slapping, to be acceptable within the family.<sup>142</sup> An NGO representative recounted the experience of a colleague who received little support when she was beaten and threatened by her husband:

*Her husband beat her for no reason. He would just come home and start hitting her and then leave. . . . Even the woman’s parents-in-law did not consider this abnormal. Her father-in-law said “You think that’s a beating? When I beat my wife, that was a beating.” [The woman] was sure her parents would take her back after a divorce and they did, so she was able to divorce [her husband].<sup>143</sup>*

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<sup>138</sup> Interview, February 19, 2000 (journalist, Yerevan).

<sup>139</sup> 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).

<sup>140</sup> G.A. Res. 48/104 (1993).

<sup>141</sup> Interview, February 15, 2000 (prosecutor, Yerevan).

<sup>142</sup> For example, a forensic doctor stated that slapping was merely a “method of upbringing”. Interview, February 21, 2000 (forensic expert, Gyumri). This was confirmed by others. *E.g.* Interview, February 18, 2000 (criminologist, Yerevan).

<sup>143</sup> Interview, May 9, 2000 (NGO activist, Gyumri).

Many people, particularly government officials, began interviews with detailed explanations of patriarchal cultural norms in Armenia. Some began by stating that Armenian men respect women and would do nothing to harm them. One prosecutor said that mothers, wives and daughters are “sacred.”<sup>144</sup> Notably, in almost every case, these same people gave compelling examples of serious abuse and injury that Armenian women experienced at the hands of their husbands and boyfriends. Other officials recognized the patriarchal culture as a cause of domestic violence. For example, a representative of the Ministry of Internal Affairs stated, “if women are assaulted in their homes, it is not considered a crime. According to Armenian tradition, a man has a right to beat his wife in his home.”<sup>145</sup> Another government official explained that when men provide financially for their families, they “set the rules.”<sup>146</sup> The men who set the rules in their families maintain control in a variety of ways, including physical violence.<sup>147</sup> Some men will attempt to control all aspects of women’s lives, including money, time, dress and even visits to parents and friends.<sup>148</sup> In a few extreme cases, men who killed their wives explained that they were trying to punish them for not obeying.<sup>149</sup>

Patriarchal norms also discourage women from reporting crimes committed against them to the police and other authorities. When women do report violence, family, friends and neighbors often try to persuade them not to pursue their cases. There is no societal support for women who leave their husbands.<sup>150</sup> When women do leave, they are often blamed for breaking up the family.

Many people interviewed focused on the behavior of women rather than on the criminal conduct of abusers. For example, some people said that women provoke domestic violence by being “too demanding” of their husbands.<sup>151</sup> An Armenian writer maintained that women’s behavior was the main cause in domestic violence cases he had encountered: “When the overly jealous wives . . . would attack their tired husbands as they arrived home . . . the husbands could not bear it . . . and [it] would end with female tears.”<sup>152</sup> In an interview conducted by Minnesota Advocates, a mental health professional reported that he told a patient whose husband hit her that she was “too

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<sup>144</sup> Interview, February 17, 2000 (prosecutor, Yerevan).

<sup>145</sup> Interview, February 16, 2000 (Ministry of Internal Affairs official, Yerevan).

<sup>146</sup> Interview, February 15, 2000 (Ministry of Justice official, Yerevan).

<sup>147</sup> *Id.*

<sup>148</sup> Interview, February 19, 2000 (sociologist, Yerevan).

<sup>149</sup> Interview, February 18, 2000 (criminologist, Yerevan).

<sup>150</sup> Interviews, May 3, 2000 (judicial clerk, Yerevan); May 3, 2000 (lawyer, Yerevan).

<sup>151</sup> Interview, February 22, 2000 (police chief, Yerevan).

<sup>152</sup> Grigor Emin-Derian, *supra* note 13.

demanding” and should “remember that [she was] a woman and her husband needed love and warmth.” The same doctor stated that he advises other female patients to “accept men as they are and “change [their own] attitude.”<sup>153</sup>

Women face many pressures not to leave family relationships, even when they are abusive. Men and women identified a woman’s concern for the well-being of her children and a desire to keep the family intact as an explanation for women staying with abusive husbands.<sup>154</sup> Women may also continue to endure abuse for fear of harming their children by depriving them of fathers.<sup>155</sup> In fact, research suggests that “children who witness violence between parents often develop many of the same behavioral and psychological problems as children who are themselves abused.”<sup>156</sup>

Most of the people Minnesota Advocates interviewed also attributed high levels of domestic violence to the devastating economic conditions in Armenia. International research indicates that women who live in poverty are more likely to experience violence than women of higher socio-economic status.<sup>157</sup> Armenia’s poor economy and the resulting emigration have had significant social consequences for families and women.<sup>158</sup> Although the men who have left frequently send money back to their families, many couples have divorced as a result of the separation. Even when couples do not divorce, women often take a more central role in the family, and may become its sole economic support. In families where husbands are present, women may be the sole wage earners because of their willingness to take on jobs, such as selling goods, that men would not consider. Although Armenian women worked outside the home during the Soviet era, they were not commonly the family’s main breadwinners.<sup>159</sup> In a patriarchal society in which men are accustomed to supporting families, ceding this role to women has proven difficult and conflict-ridden. Some people cited this shift as a factor contributing to increased rates of domestic violence in Armenia.

At the same time, women’s formal unemployment exceeds the rate of unemployment for men.<sup>160</sup> According to an Armenian ethnographer, “women without

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<sup>153</sup> Interview, May 6, 2000 (doctor, outside Yerevan).

<sup>154</sup> Interviews, May 9, 2000 (victim, Gyumri); May 3, 2000 (judicial clerk, Yerevan).

<sup>155</sup> Interview, February 19, 2000 (sociologists, Yerevan).

<sup>156</sup> 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 20.

<sup>157</sup> *Id.* at 8.

<sup>158</sup> *Status of Women in Armenia* United Nations Development Program Draft Report (2000) (unpublished).

<sup>159</sup> Interview, February 19, 2000 (sociologist, Yerevan).

<sup>160</sup> Women are 70% of the officially registered unemployed, *Status of Women in Armenia* at 59.

outside employment have become like ‘household slaves.’ Their housework has increased enormously, while their inability to contribute cash to the family economy has reduced their authority and independence in the family.”<sup>161</sup> Thus, the economic situation has had the dual effect of increasing women’s dependency on men, in some cases, while placing many others in the role of primary family breadwinner.

A common belief, cited by many of those interviewed in Armenia, is that alcohol causes domestic violence. Many of the domestic assaults described to Minnesota Advocates took place while the abuser was drunk. According to a recent research study in Armenia, 69% of domestic homicides were committed while the perpetrator was under the influence of alcohol.<sup>162</sup> The lack of alcohol treatment facilities compounds the problem. However, alcoholism and drug abuse alone do not cause domestic violence.<sup>163</sup> Though alcohol consumption may trigger a particular attack or cause a batterer to be more reckless or violent, the violence often continues when these factors are removed.<sup>164</sup>

### **III. ARMENIAN LAWS AND THEIR IMPLEMENTATION**

Women who attempt to access the legal system in Armenia often encounter significant obstacles. In addition to police, prosecutors and judges minimizing the problem by discouraging women from bringing claims, the majority of domestic violence cases are charged under the criminal and administrative provisions that carry the lightest sentences. In general, the legal system focuses on reconciling spouses in situations of domestic violence, rather than on penalizing the acts of the abuser.

#### **A. The Armenian Constitution**

The Armenian Constitution was adopted in 1995. It ensures basic rights to both men and women, protects mothers and families, and incorporates international law and treaties into the domestic legal system. Article I proclaims “the Republic of Armenia is a sovereign, democratic state, based on social justice and the rule of law.” Article 4 articulates the basic constitutional protection of human rights: “The state guarantees the protection of human rights and freedoms based on the Constitution and the laws, in accordance with the principles and norms of international law.”

The second section of the Constitution is dedicated entirely to fundamental human rights and freedoms. Article 15 sets forth equality as a fundamental principle, providing that “citizens, regardless of national origin, race, sex, language, creed, political or other persuasion, social origin, wealth or other status, are entitled to all the rights and freedoms,

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<sup>161</sup> See Dudwick, *supra* note 17 at 240.

<sup>162</sup> See Arakelyan, *supra* note 4 at Section 1.2.

<sup>163</sup> Howard Holtz and Kathleen Furniss, *The Health Care Provider’s Role in Domestic Violence*, 8 TRENDS IN HEALTH CARE, LAW & ETHICS 48 (Spring 1993).

<sup>164</sup> *Id.*

and subject to the duties determined by the Constitution and the laws.” Article 16 provides that “all are equal before the law and shall be given equal protection of the law without discrimination.” Article 32 provides special protections for the family. It states, “the family is the natural and fundamental unit of society. Family, motherhood and childhood are placed under the care and protection of society and the state. Women and men enjoy equal rights when entering into marriage, during marriage and in the course of divorce.” Finally, the Constitution guarantees every citizen the right to self-defense. Article 38 stipulates “everyone is entitled to defend his or her rights and freedoms by all means not otherwise proscribed by law.”

According to Article 6 (4), “international treaties that have been ratified are a constituent part of the legal system of the Republic. If norms are provided in these treaties other than those provided by laws of the Republic, then the norms provided in the treaty shall prevail.” This provision allows lawyers to argue international human rights law in Armenian courts.<sup>165</sup>

## **B. Criminal and Administrative Law**

### **1. Law**

Armenia’s current Criminal Code was adopted during the Soviet era and amended several times. A new Criminal Code is being drafted and is expected to be adopted within the next two years. A new Code of Criminal Procedure was adopted in January 1999.

Armenian law contains no specific provisions on domestic violence. Most instances of domestic violence violate the articles of the Criminal Code dealing with assault and criminal hooliganism. Assault laws are based almost exclusively on the seriousness of the injury rather than the nature of the assault. In all cases of assault, the level of injury is established by a forensic expert. The criteria for deciding the level of injury include time required to heal and loss of ability to work suffered as a result of the injury. The report of the forensic expert is used, in turn, to determine the article under which the crime will be charged. Hooliganism, which is a crime against public order rather than one of personal injury, requires no forensic report.

Domestic assault cases are generally charged under Article 109 (causing intentional light injury)<sup>166</sup> and Article 110 (deliberate striking or beating as well as other

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<sup>165</sup> Interview, May 4, 2000 (human rights lawyer, Yerevan).

<sup>166</sup> *Article 109. Intentional light injury*

(1) Intentional light injury which has caused short-term health disorder or insignificant persistent loss of the capacity to work is punishable by imprisonment for a period of up to two years or by correctional work for a period of up to one year.

(2) The same acts which have not caused the consequences set forth in paragraph 1 of the present article are punishable by imprisonment for a period of up to six months or by correctional work for the same period, or by public censure.

violent acts that result in physical pain, intentionally hitting or beating, or systematic beating).<sup>167</sup> Criminal Code Article 222<sup>168</sup> prohibits hooliganism, disruptive behavior that violates public order. It is used to punish family quarrels, particularly those that involve behavior such as swearing, throwing and breaking furniture, or attempting to beat or kick someone.<sup>169</sup>

Armenia's Administrative Code is also frequently applied in cases of domestic violence. The article most often applied is Article 172 (minor hooliganism).<sup>170</sup> Administrative infractions are considered less serious than criminal violations and are not passed on to higher-level investigators. They are processed more expeditiously than criminal cases and carry a lesser penalty. The original decision to deal with an incident as an administrative offense is made at the police level.<sup>171</sup>

The Criminal Code includes several other levels of assault that are less frequently applied to domestic violence cases. These include Article 105 (infliction of serious

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<sup>167</sup> *Article 110. Beating and torture*

(1) Deliberate striking or beating as well as other violent acts that result in physical pain are punishable by correctional work for a period of up to one year or by fine in the amount of ten to twenty times the established minimum wage or by public censure or imposition of measures of public coercion.

(2) Systematic beating or other acts with the nature of torture, if they do not result in the consequences indicated in Articles 105 and 106 of this Code, are punishable by imprisonment for a period of up to four years.

<sup>168</sup> *Article 222. Hooliganism*

Hooliganism, that is, intentional actions that constitute gross violations of public order and express an obviously disrespectful attitude towards society, is to be punished by imprisonment for a period of up to one year or by correctional work for the same period or by fine in the amount of twenty to thirty times the established minimal wage.

Malicious hooliganism, that is, acts set forth in paragraph 1 characterized by exceptional cynicism or particularly disrespectful behavior or committed in connection with the performance by the victim of his official or public duty, as well as committed by a person previously convicted for hooliganism, is to be punished by imprisonment for a period of one to five years.

The acts set forth in paragraphs 1 and 2 of the present article, committed by using fire-arms or knives or other weapons, or resulting in bodily harm, are to be punished by imprisonment for a period of three to seven years.

<sup>169</sup> Review of files, February 16, 2000 (Yerevan).

<sup>170</sup> *Article 172. Minor Hooliganism*

Minor hooliganism, that is, swearing in public, offensive accosting of other people, as well as other acts in violation of public order and citizens' security, is punishable by fine in the amount of one and a half to three times the minimum established wage or by correctional work for a period of one to two months or by administrative detention for up to 15 days.

<sup>171</sup> Interview, February 22, 2000 (police chief, Yerevan).

injuries that endanger the life of the victim, result in miscarriage, or cause death)<sup>172</sup> and Article 106 (medium injury which does not endanger the life of the victim but causes prolonged damage to health).<sup>173</sup> Article 107 punishes intentional serious or medium injury caused by severe emotional agitation or gross insult by the victim,<sup>174</sup> and Article 108 punishes the infliction of serious or medium injury in excess of necessary self-defense.<sup>175</sup> These sections are also less commonly used in domestic violence cases.

In particularly severe cases of abuse leading to death, a violent partner may be charged under several articles dealing with murder.<sup>176</sup> Rape is punished under Article 112 of the Criminal Code.<sup>177</sup>

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<sup>172</sup> *Article 105. Intentional serious injury*

Intentional serious injury which endangers life or results in loss of vision, hearing, speech or any organ or the loss of function of any organ, mental illness or some other health disorder involving the persistent loss of at least one-third of the capacity to work, or resulting in the termination of pregnancy, or exhibited in the permanent disfigurement of a person, is to be punished by imprisonment for a period of two to eight years.

Intentional serious injury resulting in the death of the victim, or committed by a method with the nature of torture or cruelty, or inflicted on a person in connection with the performance of his official or public duty, or committed by an especially dangerous recidivist, is punishable by imprisonment for a period of five to ten years.

<sup>173</sup> *Article 106. Intentional medium injury*

Intentional injury which does not endanger life or result in the consequences indicated in Article 105 of this Code, but which causes prolonged damage to health or significant chronic loss of less than one-third of the capacity to work, is punishable by imprisonment for a period of up to three years or by correctional work for a period of one to three years.

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

<sup>174</sup> *Article 107. 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 a 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 heinous consequences for the guilty party or his loved ones, is to be punished by imprisonment for a period of up to three years or by correctional work for a period of up to two years.”

<sup>175</sup> *Article 108. Serious or medium injury when the limits of necessary defense are exceeded*

Serious or medium injury when the limits of necessary defense are exceeded is to be punished by imprisonment for a period of up to two years or by correctional work for a period of up to one year.

<sup>176</sup> *Article 99. Premeditated murder:*

- 1) committed for profit;
- 2) committed out of hooligan motives;
- 3) committed in connection with the performance by the victim of his official or public duty;
- 4) of two or several people;
- 5) of a woman whose pregnancy is known to the perpetrator;
- 6) committed with special cruelty or by a method which endangers the lives of many people;
- 7) committed with the purpose of concealing another crime or of facilitating the commission of such a crime or involving rape;

## 2. Procedure

Domestic abuse may come to the attention of the police through a woman's written complaint at the police station, through a call to police or the emergency line, or through a report from a doctor or hospital. The police have ten days in which to carry out an initial investigation of the case, which includes sending the woman to be examined by a forensic expert. Because they are considered lower-level crimes, violations of the assault and hooliganism provisions of the Criminal Code are usually investigated by the police alone. The prosecutor's office is charged with investigating crimes that are considered more serious, such as premeditated murder and rape.<sup>178</sup> When the police find sufficient evidence to charge the suspect with one of these crimes, they send the materials to the prosecutor's office.

Under the Criminal Procedure Code, prosecutions for assaults leading to serious or medium injuries may be initiated by the police without a complaint from the victim. In contrast, for cases charged under Article 109(2) (injuries defined as light and causing no health damage according to the forensic report) or under Article 110(1) (beating without physical injury), the injured party must submit a written complaint to initiate a

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- 8) committed by an especially dangerous recidivist or by a person who has previously committed a premeditated murder (except murder committed in a state of severe emotional agitation and murder committed when the limits of necessary defense are exceeded);
  - 9) of a handicapped person or in connection with depriving the victim of his/her freedom in any way, is punishable by the death penalty or by imprisonment for a period of eight to fifteen years."

Article 100 provides that "premeditated murder committed without the aggravating circumstances indicated in Article 99 of this Code is to be punished by imprisonment for a period of five to twelve years."

Article 101 provides that "Premeditated murder committed in a state of severe emotional agitation which has arisen suddenly, caused by violence or gross insult on the part of the victim or by other unlawful acts on the part of the victim, if such acts involved or could have involved heinous consequences for the guilty party or his loved ones, is punishable by imprisonment for a period of up to five years or by correctional work for a period of up to two years."

Under Article 102, murder committed when the limits of necessary defense are exceeded is punishable by imprisonment for a period of up to two years or by correctional work for the same period.

<sup>177</sup> According to Article 112 paragraph 1, 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 three to seven years imprisonment.

Rape under aggravating circumstances (i.e. by a person who has previously committed the same crime, committed by a group of people, rape of a minor, rape committed by an especially dangerous recidivist, or resulting in especially heinous consequences), laid out in paragraphs 2, 3 and 4 of the same article, is punished by imprisonment for a period of five to twenty-five years or by the death penalty.

<sup>178</sup> Criminal Procedure Code, Article 190.

prosecution.<sup>179</sup> Cases requiring the victim's complaint cannot be continued if the victim withdraws the complaint.<sup>180</sup>

### 3. Problems with Implementation

There is no legal definition of domestic violence under Armenian law. The typical injuries sustained by a victim of domestic abuse (cuts, scratches, black eyes, bruises) are almost always classified as light injury by forensic experts, and subsequently by investigators and prosecutors determining how to charge the perpetrator. Little evidence was found to suggest that investigators, prosecutors or judges disagree with the classifications made by forensic doctors.

The majority of these cases are charged under the Administrative Code or under the criminal provisions that carry the lightest punishment (specifically Article 109). These lighter charges minimize the significance of domestic assaults.

In administrative cases, the most common punishment is an administrative fine or up to 15 days of detention in the police station jail. Often, however, a signed statement substitutes for an administrative penalty without the involvement of the judge. In practice, judges rarely impose jail sentences on first-time offenders. A judicial clerk described one case in which a man was jailed for five days for beating his wife when she protested that he was spending his money on alcohol rather than food.<sup>181</sup> More commonly, the penalty is an administrative fine. For example, a man who beat his wife after seeing her with a friend he disliked was fined 1,500 dram, or approximately US\$3.<sup>182</sup>

Repeat cases of domestic violence or cases considered too serious for an administrative fine may be punished under Article 109 of the Criminal Code. Article 109 carries a prison term of up to two years or "corrective labor" penalties for up to one year. These penalties require the convicted person to pay a part of his salary, generally 10-20%, to the government. In a typical example of sentencing under Article 109, a man who was convicted of beating his mother-in-law and causing light injury was ordered to pay 10% of his salary to the state for one year.<sup>183</sup> The mother-in-law requested leniency. In another case, a judge sentenced a man with a record of prior theft convictions to a year

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<sup>179</sup> Criminal Procedure Code, Article 33.

<sup>180</sup> Criminal Procedure Code, Article 183.

<sup>181</sup> Interview, May 3, 2000 (judicial clerk, Yerevan).

<sup>182</sup> The average monthly salary is approximately US\$8. In this report, all approximate equivalents in U.S. dollars are based on the official exchange rate in May 2000 of 525 dram per US\$1.

<sup>183</sup> Review of files, February 16, 2000 (Yerevan).

in prison for giving his wife a black eye.<sup>184</sup> The files of another judge contained the following case:

*The parties were an ex-husband and wife who had never registered their marriage. Although he had not liked her, he married her, hoping he could “change” her. He felt she needed “upbringing.” They had a child. She left him and went to her parents. He accused her of hitting him and his mother when she returned to his home for her property. She claimed that her former mother-in-law tried to force her and her child out of the house, at which time her ex-husband kicked and punched her. He called her “hysterical” and “capricious” and said she had hit herself.<sup>185</sup>*

According to the forensic report, the wife, ex-husband and husband’s mother all exhibited bruises and scratches; however, the wife also suffered a head injury. Both the ex-husband and the wife were found guilty under Article 109 because, according to the judge, each lacked remorse and blamed the other. The judge sentenced the wife to three months of corrective labor at 10% of her salary and the ex-husband to six months at 10% of his salary.<sup>186</sup>

These penalties do not function well as a deterrent, since only particularly severe or repeated cases of domestic abuse actually reach the court. The common “preventive” measure, the signature and promise not to repeat, is even less likely to deter abusive men. No civil penalties are available in domestic violence cases, such as temporary restraining orders that would remove the man from the household for a short time. In addition, no civil damage remedies exist that might allow women to collect material reparations for injuries they suffer.

When cases involve both domestic violence and other criminal charges, prosecutors and judges frequently treat the violence as a secondary charge. For example, after being beaten by her husband, a woman filed a complaint about the beating and added that her husband was a drug user. Upon investigation, the police discovered marijuana in the man’s possession. Although the case was prosecuted as both a light injury and a drug offense, an assistant to the prosecutor told Minnesota Advocates that the case was viewed primarily as a drug case. The man was sentenced to one year in prison on the drug charge and six months for beating his wife. The court allowed the man to serve the sentences concurrently.<sup>187</sup>

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<sup>184</sup> Interview, May 10, 2000 (judge, Gyumri).

<sup>185</sup> Review of files, May 12, 2000 (Yerevan).

<sup>186</sup> *Id.*

<sup>187</sup> Review of files, February 16, 2000 (Yerevan).

Some judges see their main role as “preservation of the family,” and therefore impose lighter sentences on batterers.<sup>188</sup> Judicial discretion in sentencing is broad and takes into account such factors as the man’s prior record and his level of remorse. Both prosecutors and judges also take women’s wishes into account when determining sentences. They reported that if a woman asks for leniency for her husband, courts will consider this request or even reduce the sentence based on that request alone.<sup>189</sup>

A woman’s desire to pursue prosecution also affects whether the prosecutor will pursue a case. The Criminal Procedure Code requires a victim’s complaint for prosecution under parts of Articles 109 and 110, and prosecution must be stopped if the woman withdraws her complaint. Minnesota Advocates was told, however, that even a medium injury case under Article 106 involving domestic violence would be dismissed at the victim’s request.<sup>190</sup> Only prosecutions for serious injuries will be continued once they are set in motion, regardless of whether the victim wishes to prosecute.

Under Armenian law, crimes that are committed “in a state of severe emotional agitation,” such as assault that results in medium or serious injury (Article 107) or murder (Article 101), are separate crimes with lower sentences. In order for these Criminal Code provisions to apply, the emotional agitation must be caused by “violence or gross insult on the part of the victim.” A forensic psychologist described a case in which a man heard a knock at the window at night, suspected it was his wife’s lover, and stabbed her to death. The man’s reaction to his suspicion was considered a type of temporary insanity that lowered his sentence.<sup>191</sup> In addition, courts consider the victim’s behavior in sentencing under Article 109. One judge told Minnesota Advocates he would look at whether a victim in a domestic violence case “provoked or stimulated” the criminal act. If the husband physically abused his wife because she was unfaithful, this judge would consider the infidelity a mitigating circumstance and reduce the sentence.<sup>192</sup> As a result, domestic violence and murder attributed to jealousy or other real or imagined “gross insult” may lead to lower penalties.

These mitigating circumstances may also be applied to a victim who acts in self-defense. A forensic psychologist described a case in which a woman killed her husband while he was beating her, after eight years of abuse.<sup>193</sup> Although the woman was convicted of murder, the court reduced her sentence from twelve to seven years to take into account the cumulative affect of the years of violence.<sup>194</sup> A judge related a case in

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<sup>188</sup> Interview, February 16, 2000 (judge, Yerevan).

<sup>189</sup> Interview, February 16, 2000 (prosecutor, Yerevan); February 16, 2000 (judge, Yerevan).

<sup>190</sup> Interview, May 18, 2000 (law professor, Yerevan).

<sup>191</sup> Interview, February 18, 2000 (forensic psychologist, Yerevan).

<sup>192</sup> Interview, May 4, 2000 (judge, Yerevan).

<sup>193</sup> Interview, February 18, 2000 (forensic psychologist, Yerevan).

<sup>194</sup> *Id.*

which a woman's sentence was reduced even though she killed her husband as he slept, because his systematic abuse constituted a mitigating circumstance.<sup>195</sup>

Problems of evidence also arise in the context of domestic violence. Without the woman's testimony, a case cannot go forward. Women, however, frequently withdraw their complaints. A case also may not be opened without a forensic report, regardless of whether hospital records or police observations indicate the presence of injury. Therefore, when a woman refuses a forensic examination, police have little recourse other than the "preventive" work of reprimanding the abuser and asking him to sign a pledge not to disturb his wife.

Finally, corruption was frequently identified as a major problem at every level of the Armenian legal system. Like many other officials, judges and forensic doctors were reported to take bribes to ensure favorable outcomes.<sup>196</sup> Minnesota Advocates was told anecdotally of several recent cases, including a rape case, in which judges were prosecuted for taking bribes.<sup>197</sup> An instructor at a police college admitted the existence of cases of bribery in the police.<sup>198</sup> A university professor mentioned that a good attorney is one with connections to the judge.<sup>199</sup> The prevalence of corruption often means that the economically stronger party to a case will succeed, often an important factor in domestic violence cases.

## C. Forensic Regulations

### 1. Regulations

Forensic experts 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 regulations<sup>200</sup> that establish categories of bodily injury which correspond to the categories set forth in the Criminal Code.<sup>201</sup> Serious injuries are defined as those causing long or short-term danger to life, loss of sight, hearing or organs or their functions, termination of pregnancy, permanent disfigurement or mental

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<sup>195</sup> Interview, May 4, 2000 (judge, Yerevan).

<sup>196</sup> Interviews, February 19, 2000 (sociologists, Yerevan); May 3, 2000 (lawyer, Yerevan); May 5, 2000 (lawyer, Yerevan).

<sup>197</sup> Discussion, May 3, 2000 (individual, Yerevan).

<sup>198</sup> Interview, May 6, 2000 (instructor, police college, Yerevan).

<sup>199</sup> Interview, February 18, 2000 (law professor, Yerevan).

<sup>200</sup> *Regulations on Forensic-Medical Assessment of the Degree of Bodily Injuries*, March 30, 1970, Ministry of Health.

<sup>201</sup> *Id.* at Part 2.

illness.<sup>202</sup> They also include injuries that permanently reduce the victim's capacity to work by at least one-third. Medium injuries are those which, while not life-threatening, take more than three weeks to heal and cause less than one-third incapacitation.<sup>203</sup> Light injuries are further subdivided into those that take between six and 21 days to heal and cause less than 15% incapacitation, and those with a healing period of less than five days ("insignificant incapacitation").<sup>204</sup> Section 32, which defines light injuries, contains the following note:

*Beatings are characterized by blows, most often multiple ones. If the beatings did not result in visible injuries (bruises, scratches, etc.), the forensic doctor shall include in his report the complaints of the victim and indicate that no objective symptoms of injuries have been found and therefore no assessment of the degree of injuries is carried out.*

The regulations list the level of incapacity believed to result from specific injuries. They also include a detailed listing of serious injuries. Other than the note above, however, there is no detailed description of injuries that fall into the medium or light categories.

## **2. Procedure**

Forensic experts are integral to the prosecution of domestic violence, since prosecutors will not open a case of criminal bodily injury without a forensic report on the degree of physical injury. Typically, a case comes to the police and the police officer refers the woman for a forensic examination. If a victim seeks emergency treatment, the hospital will alert the police and the police will authorize a forensic examination. Before making a referral, the investigator usually asks the treating doctor specific questions about the type of injury and its probable cause.

Forensic doctors describe injuries and determine the level of injury as defined in the forensic regulations. These definitions are in turn determined by the degrees of injury identified in the Criminal Code. Forensic experts may take into account the findings and reports of other doctors, clinics and hospitals. The doctor's task, however, is not to determine the legal classification of the crime under the Criminal Code. According to the Criminal Procedure Code, that is the responsibility of the prosecutor or the investigator.<sup>205</sup> After the forensic doctor examines the patient, he or she provides the investigator with a report that includes a conclusion. Based on the conclusion, the

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<sup>192</sup> *Id.* at Chapter I, section 8.

<sup>203</sup> *Id.* at Chapter II, section 28.

<sup>204</sup> *Id.* at Chapter III, sections 31, 32.

<sup>205</sup> Interview, May 5, 2000 (law professor, Yerevan); *see also* Code of Criminal Procedure, Articles 54, 55.

investigator can decide under which article of the Criminal Code to charge the perpetrator.

### 3. Problems with Implementation

All doctors are obligated to report to the police cases of injury that appear suspicious, including suspected cases of domestic violence.<sup>206</sup> Forensic doctors, like other medical personnel, however, showed little concern about cases in which women do not disclose domestic violence as the cause of their injuries.<sup>207</sup>

Although the Criminal Procedure Code does not give forensic experts the right to classify injuries in legal categories, Minnesota Advocates found that forensic doctors nevertheless do so. Both a forensic doctor and a prosecutor told Minnesota Advocates that the forensic doctor's determination of the level of injury essentially determines the charge.<sup>208</sup>

The classification of injuries under the forensic regulations is a significant obstacle to successful prosecution of domestic abuse. The most common results of domestic violence, including bruises, contusions, concussion, broken noses and broken teeth, are customarily classified as light injuries. Light injuries are punished with the lowest level administrative or criminal penalties. There is no provision to document the types of repeated light injuries common in cases of domestic violence. The forensic regulations also do not provide for documentation of cumulative injuries or multiple light injuries received at one time. For example, a single bruise and multiple bruises both constitute light injury.

Other weaknesses in the forensic law compound the problem. The regulations leave large areas of ambiguity and allow forensic doctors great discretion in their application. Levels of injury are described in vague terms, with no examples except in the case of heavy injuries. Also, defining an injury by the time it takes to heal or the resulting level of incapacitation appears arbitrary.

#### D. Family Law

The Armenian Family and Marriage Code ("Family Code"), adopted in 1969 and amended in 1992, stipulates the legal age of marriage as 17 for women and 18 for men.<sup>209</sup>

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<sup>206</sup> Decree C-240570 of the Ministry of Health and the Ministry of Internal Affairs. *See supra* note 101

<sup>207</sup> Interview, February 21, 2000 (forensic doctor, Gyumri).

<sup>208</sup> Interview, February 16, 2000 (prosecutor, Yerevan); Interview, February 21, 2000 (forensic expert, Gyumri).

<sup>209</sup> Family and Marriage Code, Article 14; Consideration of Reports Submitted by States Parties under Article 18 of the Convention on Elimination of All Forms of Discrimination Against Women, CEDAW/C/ARM/1/Corr. 1, February 11, 1997, at Article 4, # 17.

Under the Family Code, marriages are only legal if registered at a civil registry office, known as “ZAGS.”<sup>210</sup> Many people, however, including a ZAGS official, told Minnesota Advocates that couples frequently marry in church but do not register their marriages under civil law.<sup>211</sup> Women who live in unregistered marriages do not receive full legal protection in cases of divorce.

## 1. Divorce Procedure

Many divorce cases involve elements of violence.<sup>212</sup> Because women often prefer not to bring criminal charges against their husbands, divorce appears to be the most common alternative solution in cases of abuse. In fact, a domestic violence victim maintained that women will only turn to the police after they have decided to seek a divorce.<sup>213</sup>

Lawyers from a human rights NGO described recent divorce cases they had seen involving violence against women.<sup>214</sup> In one, a female client reported that her husband beat her. He was unemployed, but made her work and took the money she earned. The woman said she had never asked the police for help because her husband had threatened her and because she did not want him to be arrested. In a second case, a woman inquired whether the fact that her father-in-law and brother-in-law forced her to have sex with them and prohibited her from leaving the house was grounds for divorce.<sup>215</sup>

The Family Code provides that “a marriage may be dissolved by divorce at the request of one or both spouses,” except 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.”<sup>216</sup> There are two methods of divorce. When both spouses consent to divorce, a marriage may be dissolved at the ZAGS registry office. To use this procedure, the spouses must be married for at least one year, they must not have minor children together and they must have no disputes regarding the division of common property.<sup>217</sup> The formalities of the divorce are completed and a certificate of divorce is issued after three months.

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<sup>210</sup> *Id.*, Article 12. ZAGS stands for *organ zapisi aktov grazhdanskovo sostoyaniya* or “the office of registration of civil acts”.

<sup>211</sup> Interview, May 10, 2000 (ZAGS worker, Gyumri).

<sup>212</sup> *E.g.* Interviews, May 10, 2000 (judge, Gyumri); February 15, 2000 (lawyer, Yerevan).

<sup>213</sup> Interview, May 9, 2000 (victim, Gyumri).

<sup>214</sup> Interview, May 4, 2000 (lawyers, Yerevan).

<sup>215</sup> *Id.*

<sup>216</sup> Family and Marriage Code, Article 31.

<sup>217</sup> *Id.*, Article 38.

Where children or property issues are involved, the divorce process becomes more complicated and the couple must apply to the court. Although divorce, in theory, does not require a showing of fault, courts consider it their primary responsibility to take measures to reconcile the spouses.<sup>218</sup> To this end, the judge may postpone hearing the case, at his or her discretion, and may establish a “reconciliation period” of up to six months. The marriage is dissolved when the court determines that the spouses can no longer live together and maintain the family. If the spouses cannot agree on custody of the children or the amount of child support, the court will decide these issues.<sup>219</sup> The court may also decide on the division of common property.<sup>220</sup>

## 2. Obstacles to Divorce

While judges are not required to impose a reconciliation period on a divorcing couple, cultural attitudes in Armenia on the importance of family ensure that they routinely do so. According to one judge, the divorce process may take anywhere from ten days to nine months, “depending on the attitude of the judge towards the family.”<sup>221</sup> One woman recounted seeking a divorce from her abusive husband. The judge imposed a six-month reconciliation period despite the fact that the spouses were no longer living together and, according to the woman, there was no chance they would reconcile.<sup>222</sup>

International research shows that abuse continues or even intensifies when a woman tries to leave her husband.<sup>223</sup> The reconciliation period may therefore present a real danger to a woman and her children. Even when a couple has separated, but has not yet divorced, the husband may try to control or terrorize the wife. One woman left her husband and went to her parents’ house, but her husband pursued her and beat her

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<sup>218</sup> *Article 33. Judicial Dissolution of Marriage*

. . . The court takes measures to reconcile the spouses. The court has the right to postpone hearing the case and set a reconciliation period for the spouses. This period may not exceed six months.

The marriage is dissolved if the court establishes that the further joint life of the spouses and support of the family has become impossible.

When carrying out a decision on the annulment of marriage, in necessary cases, the court takes measures to protect the interests of under-aged children and a spouse who is unable to work.

<sup>219</sup> Family and Marriage Code, Article 34.

<sup>220</sup> *Id.*, Article 36.

<sup>221</sup> Interview, February 22, 2000 (judge, Yerevan).

<sup>222</sup> Interview, May 9, 2000 (victim, Gyumri).

<sup>223</sup> A woman’s attempt to leave her abuser, which includes divorce and separation, is considered a “red flag” or trigger for lethal abuse. See Neil Websdale, Maureen Sheeran and Byron Johnson, *Reviewing Domestic Violence Fatalities: Summarizing National Developments* (1999), available at <<http://www.vaw.umn.edu/FinalDocuments/fatality.htm>>.

brother's child.<sup>224</sup> In some cases, men threaten to take custody of the children if women continue with their divorce actions.<sup>225</sup> Some even threaten to kill their wives.<sup>226</sup>

Although the Family Code presumes that all marital property is common and will be divided equally at the time of divorce, in practice women often get less than half. Couples often use premarital contracts to avoid the common property law.<sup>227</sup> Women may be pressured to sign unfavorable contracts, particularly given the young age of marriage and the traditional Armenian family structure. A women may have no rights to property if her marriage is unregistered, especially if her home is registered in her husband's name. The Family Code requires parents to provide child support, but in reality ex-husbands often do not pay it. In one case, a divorced woman succeeded in getting her ex-husband to pay child support only after a friend in the police force interceded.<sup>228</sup>

The state provides little, if any, support for women after divorce. In the past, the government paid a special subsidy to single mothers, but these benefits have now been subsumed under a more general family subsidy.<sup>229</sup> According to an employee of the Ministry of Social Security, the average family subsidy is very low and sufficient for little more than buying bread.<sup>230</sup>

Finally, the societal attitude toward divorce may also prevent women from leaving their husbands. Many women observed that a woman's ability to divorce depends on whether her parents will accept her back into their home. Others stay because they believe divorce would be harmful to their children.<sup>231</sup> Some women also fear that if they are divorced, they will be unable to remarry.<sup>232</sup>

Significantly, abusive behavior sometimes continues after a divorce. An NGO staff member recounted a story of a woman who was beaten by her ex-husband every week when she picked up her child from visitation.<sup>233</sup> Thus, although it may be one of

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<sup>224</sup> Interview, May 9, 2000 (NGO, Gyumri).

<sup>225</sup> Interview, May 10, 2000 (judge, Gyumri).

<sup>226</sup> Interview, May 9, 2000 (NGO activist, Gyumri).

<sup>227</sup> Interview, May 10, 2000 (judge, Gyumri).

<sup>228</sup> Interview, May 25, 2000 (victim, Yerevan).

<sup>229</sup> Interview, May 11, 2000 (Ministry of Social Security official, Yerevan).

<sup>230</sup> *Id.*

<sup>231</sup> Interview, May 9, 2000 (NGO activist, Gyumri).

<sup>232</sup> Interview, February 19, 2000 (sociologists, Yerevan).

<sup>233</sup> Interview, May 9, 2000 (NGO activist, Gyumri).

the few remedies for domestic violence utilized by Armenian women, divorce does not always solve the problem of domestic violence.

#### IV. ARMENIA'S INTERNATIONAL LEGAL OBLIGATIONS

Interviews with both government officials and human rights NGOs in Armenia indicated that an active discussion of human rights norms is currently underway, along with some effort to observe international standards. Nevertheless, Armenia is not yet in full compliance with international human rights law relating to domestic violence. Armenia is a member of the United Nations and will likely be admitted to the Council of Europe by the end of 2000.

##### A. The United Nations

As a member of the United Nations, Armenia is obligated to protect human rights as set forth in the Universal Declaration of Human Rights. Armenia has ratified the International Covenant on Civil and Political Rights<sup>234</sup> and the Convention on the Elimination of All Forms of Discrimination Against Women (“Women’s Convention”)<sup>235</sup> and has, therefore, committed itself to comply with the terms of these treaties. Armenia is also bound by the provisions of the United Nations Declaration on the Elimination of Violence Against Women.

The international norms described in these instruments condemn violence against women and domestic violence. The Universal Declaration of Human Rights<sup>236</sup> 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.”<sup>237</sup> The United Nations has recognized 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. Domestic violence is a widespread problem in Armenia. The Armenian government’s failure to respond appropriately to domestic violence violates internationally recognized human rights standards.<sup>238</sup>

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<sup>234</sup> See *supra* Section IA.

<sup>235</sup> *Id.*

<sup>236</sup> *Id.*

<sup>237</sup> 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.

<sup>238</sup> 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, 329-330 (Rebecca Cook, ed. 1994); Katherine Culliton, *Finding a Mechanism to Enforce Women’s Right to State Protection from Domestic Violence in the Americas*, 34 HARV. INT’L L.J. 507 (1993), and

Evidence indicates that despite the prevalence of domestic violence, the government does not respond adequately to the problem. Police 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 consistent procedure to deal with abuse in the family. The Armenian government has not created a criminal justice system that provides adequate security to women who are beaten by their husbands or intimate partners. By failing to protect women from private perpetrators of violence, Armenia has failed to adhere to its obligations under the Universal Declaration of Human Rights and the International Covenant of Civil and Political Rights.

International human rights law provides individuals with the right to an effective judicial remedy when their human rights are violated. For example, the Universal Declaration of Human Rights (Article 8) 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 constitution or by law. When women in Armenia are unable to obtain appropriate redress for acts of domestic violence, they are being denied their right to an effective remedy for human rights violations.

As set forth in detail above, the Armenian 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 have a specific procedure to deal with perpetrators of domestic violence, and therefore abusers are rarely arrested and often are not even removed from the home. The police dissuade women from pursuing legal remedies against their abusers, often because they view domestic violence as a problem to be solved within the home. As a whole, the legal system focuses on persuading the victims of domestic assault to reconcile with their spouses rather than on effective prosecution of the abusers.

Even when a woman successfully prosecutes a complaint, the system does not protect her from further abuse. Men rarely serve jail time if they are convicted and are often punished by a fine or a reprimand. The courts rarely force a man who has assaulted his partner to leave the family home, and economic problems and housing shortages preclude many women from seeking alternate living arrangements. The government's failure to provide women with effective recourse against their violent husbands, either through the Armenian legal system or through alternative state-sponsored programs, leaves women at serious risk of experiencing continued violence. The legal system's failure to protect women from domestic violence and to punish perpetrators violates Armenia'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.

Both the Women's Convention and the Declaration on the Elimination of Violence Against Women forbid discrimination against women. The Committee on the

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Dorothy Thomas and Michele Beasley, *Domestic Violence as a Human Rights Issue*, 15 HUM. RTS. Q. 36 (1993).

Elimination of Discrimination against Women (“CEDAW”) in its General Recommendation 19 has further 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.”<sup>239</sup> General Recommendation 12 recommends that all parties to the Convention report to CEDAW on the existence of support services for victims of family violence, relevant legislation, statistical data and measures adopted to eradicate violence against women in the family.<sup>240</sup>

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.”<sup>241</sup> 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 appropriate measures to promote their safety and physical and psychological rehabilitation.”<sup>242</sup>

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.<sup>243</sup>

The Armenian government is not in compliance with the Women’s Convention or the Declaration on the Elimination of Violence Against Women. The government of Armenia, furthermore, fails to meet many of the international standards outlined in these instruments. As discussed above, crimes of domestic assault are often not adequately

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<sup>239</sup> U.N. Doc. A/47/38 (1992).

<sup>240</sup> U.N. Doc. A/44/38 (1989).

<sup>241</sup> G.A. Res. 48/104 (1993).

<sup>242</sup> *Id.*

<sup>243</sup> Beijing Platform for Action, U.N. Doc. A/Conf.177/20 (1995).

prosecuted and women are not provided adequate protection from further acts of violence. There are no government-supported domestic abuse advocacy programs in Armenia 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 shelters or safe houses and no social programs to deal with the problems created by domestic violence. There are no government services available to victims of violence, as outlined in the Declaration on the Elimination of Violence Against Women and CEDAW General Recommendation 19, and there is no support of the NGOs that are attempting to provide such services.

## **B. The Council of Europe**

Since 1996, Armenia has had special guest status with the Council of Europe and has participated in various Council activities. Armenia formally applied for membership in March 1999, and in November 2000 the Committee of Ministers resolved to invite Armenia to become a full member and accede to the Statute of the Council of Europe.<sup>244</sup> In order to conform to European practice, Armenia is in the process of changing various aspects of its government and legal structure.

Membership in the Council of Europe means that Armenia undertakes a commitment to become a party to the organization's conventions, which includes ratification of the European Convention for the Protection of Human Rights and Fundamental Freedoms.<sup>245</sup> The fundamental rights set forth in the European Convention include the right to life (Article 2), the right to liberty and security of the person (Article 5) and the right to an effective remedy for human rights violations (Article 13), all of which are violated when a woman is a victim of domestic violence and the government does not effectively address the problem.

## **V. CONCLUSION**

Women in Armenia are routinely denied their fundamental right to be free from violence. Legal, economic and social structures prevent women from obtaining appropriate redress for domestic violence crimes. There is a lack of understanding of the

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<sup>244</sup> See Committee of Ministers' Resolution, Res(2000)13, Invitation to Armenia to become a member of the Council of Europe, adopted November 9, 2000. For further information, *see also* Armenia's application for membership of the Council of Europe, Opinion No. 221, Parliamentary Assembly, *available at* <<http://www.coe.fr>>.

<sup>245</sup> 213 U.N.T.S. 222, *entered into force* September 3, 1953.

phenomenon of domestic violence on the part of the Armenian legal system and thus a failure of the system to respond appropriately. By inadequately prosecuting domestic violence and failing to provide state support for organizations that offer aid to victims, the Armenian Government has not upheld its obligations as a member of the United Nations and is not in full compliance with international human rights law.

## APPENDIX

### Survey of 100 Married Women

This survey was conducted orally with 100 urban and rural women in December 1999 by an NGO in Gyumri, following seminars on women's rights. Participants included teachers, doctors, nurses, homemakers and other women recruited through television announcements. Twenty-five to thirty percent of the women asked to take part in the survey refused.<sup>1</sup>

(1) Do you consider your life with your husband to be normal?

Yes: 30 women

Partially: 50 women

No: 20 women

(2) Have you ever experienced psychological or physical domestic violence?

Yes: 80 women

No: 20 women

(a) If you answered 'yes' to question (2), do you often experience domestic violence?

Yes: 20 women

Sometimes: 60 women

(b) If you answered 'yes' to question (2), did you ever go to the police or a court?

Yes: 8 women

No: 72 women

(c) Would you like help applying to the police or law enforcement bodies?

No one answered 'yes.'

(d) Do you know your rights?

Yes: 50 women

No: 30 women; these 30 women also said they did not want to know their rights.

(e) Have you ever gone to a forensic expert in case of injury?

Yes: 8 women

No: 72 women

(f) Why didn't you go to a forensic expert?

- Couldn't imagine a normal life with husband afterwards.
- People might find out and women would be shamed.

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<sup>1</sup> Information on the survey from interview, May 9, 2000.

**Domestic Violence in Armenia**

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