

## UZBEKISTAN

### SACRIFICING WOMEN TO SAVE THE FAMILY? Domestic Violence in Uzbekistan

Summary .....	3
Background: Women and Uzbek Nationhood .....	5
Uzbek women Under Soviet rule .....	6
Post-independence Uzbekistan.....	7
Women's Status in the Family and Society .....	9
Uzbekistan's Obligations Under International Law .....	10
Domestic Law .....	12
State Response to Violence Against Women.....	13
The Scope of the Problem.....	13
Under-Reporting of Domestic Violence.....	14
Attitudes Towards Family Violence .....	15
Blaming the Victim.....	15
Other Explanations for Domestic Violence.....	16
No Exit: Violence in the Family.....	18
Leaving an Abusive Spouse .....	18
The Policy of Family Reconciliation .....	19
Mahalla and Other Community Government Bodies.....	20
District Women's Committees.....	24
Civil Remedies for Domestic Violence.....	24
Divorce.....	24
Family Violence in the Criminal Justice System.....	32
Forensic Evidence .....	36
Judicial Responses to Domestic Violence.....	37
Lack of Protection Under Criminal Law: Rape and Stalking .....	38
Suicide .....	41
Rhetoric Without Remedies.....	43
International and NGO response.....	45
Conclusion .....	47
Recommendations .....	49
To the Government of Uzbekistan.....	49
To Bilateral and Multilateral Donors: .....	50
To the United Nations:.....	50

To the OSCE:.....	51
To the European Union:.....	51
To the U.S. Government:.....	51
To the World Bank:.....	51
To the Asian Development Bank:.....	52
Acknowledgements .....	53

## SUMMARY

Uzbekistan's post-Soviet development, like that in most of the former Soviet Union, has entailed enormous and disproportionate obstacles to women's realization of their human rights. During the past ten years, Uzbekistan's government has attempted to institute some safeguards for women's rights, mainly in the area of social welfare support. Nevertheless, domestic violence remains a serious problem, against which the government has failed to take effective measures. On the contrary, state policies intended to keep families together and foster community assistance to those families experiencing conflict have compounded the situation of women facing abuse in the home, and often prevent them from obtaining either relief or redress.

Contrary to the government's assertions that women in Uzbekistan enjoy broad and effective human rights protections, Human Rights Watch found that women victims of domestic violence suffer doubly, both at the hands of husbands who physically and otherwise abuse them, and at the hands of the state. Local officials routinely refuse to take violence against women seriously, blaming the victims and blocking women's attempts to escape brutality and violence in their marriages. Those who commit physical abuse rarely face criminal prosecution. Instead, local authorities, under orders from central government officials, attempt to reconcile married couples, often sacrificing the women's safety for low divorce statistics. The main aim of these government-directed interventions is to "save the family." State officials accomplish this goal through coercing women victims to remain in abusive situations, ignoring violence against women, and perpetuating impunity for violent husbands.

This report focuses on the problem of domestic violence in Uzbekistan, with an emphasis on violence in rural communities, where over 60 percent of the population resides. It is based on detailed interviews with twenty victims of domestic abuse in four rural districts of two provinces, and one urban area. To obtain relief from family violence, each of the women had contacted their local community government organizations, or *mahallas*. The mahallas are traditional institutions charged by law with regulating communal life, and carrying out many state functions, such as community policing, political surveillance, and distributing social welfare payments. Human Rights Watch conducted these interviews in May and June 2000, and also interviewed dozens of women's rights activists, lawyers, judges, police, doctors, and government officials at the national, province, district, village, and mahalla level. All of these sources agreed to tell their stories only under conditions of complete anonymity, in the case of the victims, for fear of being singled out within their communities, and in the case of officials, for fear of political repercussions. Therefore, all information on the location of the interview, including even the province where the interview took place, is withheld, and all of the names of the witnesses in this report are given as pseudonyms.

Based on these findings, Human Rights Watch is making a series of recommendations to the Uzbek government, to Western governments and multi-lateral donor agencies. These are set out at the end of this report. In particular, Human Rights Watch is urging the government of Uzbekistan to take measures to ensure that domestic violence is prosecuted to the fullest extent of the law, and to pass legislation without delay to criminalize stalking and marital rape. The authorities should also take special care to ensure that women subject to or at risk of domestic violence have full access to community social services and material support, and to civil remedies, such as divorce.

### **Victims Speak:**

*Sharofat, a thirty-eight-year-old woman living in a rural community*

I have tuberculosis. In 1983 I got married.... I had a boyfriend whom I loved, but my mom gave me [in an arranged marriage] against my will. I could not go against my mother—I could not go against her will. I had four miscarriages because he beat me. I had only three children. Now I have only two children because one died when it was only one and a half years old.

After I left the hospital I did not want to go back to my husband, but my father told me not to make my children orphans [render them fatherless; see below] and told me to go back to him. I went to him, and I had the third child who died.

The beating happened in front of the children. My oldest son told my husband to stop. He said, "Our mom is sick and we need her still..."

He beat me so hard that I lost my teeth. The beatings happened at least one time each month. He used his fists to beat me. He beat me most severely when I was pregnant.... The first time he beat me, and I lost the baby. I was in the hospital. The second time was only a few days before a baby was born, and my face was covered with bruises. He beat me and I went to my parents. My father refused to take me to a doctor. He said, "What will I say, 'her husband beats her?'" Three days later I gave birth to the child....

I went to the mahalla committee and asked them to send my husband home to his family. He went home to his parents and then he came back to us again. The mahalla committee did not help me at all. After that I went to the village council [*selsovet*, the next administrative rung after the mahalla in some rural areas], and they made him go to work. He worked ten days but he did not bring even a kopek home. The family did not see any of that money at all.

My husband has married again, and he lives with his new family and his new wife. I live in our house. My husband married a very rich woman.

I don't have an official divorce, but he remarried anyway and no one asked me for my agreement that he take another wife. The mahalla committee tricked my brother. My brother signed that he agreed to the [second] marriage. They promised that I would get alimony and a charitable benefit payment.

The one thing that I want is alimony. Fine, let him live with the new wife, but I must take care of the children.

*Interview with Mukhabat, a mother of three, who fled to her parents' home*

I have a bad memory because my...husband beat me on the head. I have no memory anymore. He gave me head trauma.

My husband beat me very much. It began after the baby. Before that I did the housework. But after the baby was born, I had to take care of the baby, and I didn't finish the housework. I was busy with the baby. I heard from his brother that my husband complained that his mother had to do all the housework while I did nothing at all. The little brother also complained about me.

One day the baby was in the [traditional cradle], and my mother-in-law said that I could not even do that right. I asked her to show me how to do it. She began to scream at me, saying that I was ordering her to do something. She yelled at me so that the entire courtyard [the center of the multi-family household] heard her. She screamed, "You make me work!" At that moment my husband came home. He did not even give me time to explain. He hit me, and I hit the wall and hit my head. That was the first time.

I did not tell anyone that he beat me. I did not go to the mahalla committee. I told my parents, and they went to him and said that he should stop. They asked him to stop. They decided that we should live separately without my mother-in-law. My parents suggested that we get a new house.

For a year we were happy...then he began to beat me again.

He started to beat me on the head, and I grabbed his hands and tried to stop him. I begged him not to beat me—and not to beat me on the head. He beat me on my head even more with his fists. He beat the left side of my head especially.

I did not know what to do. I grabbed my baby and ran to the street. I had the children with me. I tried to run away, and he broke the mirror and all the dishes. I saw his sister on the street, and I ran up to her with the children. I ran, and he followed me and yelled at me saying I should never come back. His sister looked away and ignored me.

For three hours I sat on the street. It was very cold. It was December. I was wearing only a light dress, and the children were very lightly dressed. The neighbors saw us on the street and invited us in, but I was afraid that he would make a scandal with the neighbors if we went into their courtyard. The neighbors brought us warm clothes for the children...I went home and he was not there.

[He returned] He screamed, “You came back again?!” He picked one of the little children’s toilets and threw everything that was in it onto me. Then he picked up the teapot full of hot boiling water and threw it on me too as I was cleaning. He did this from behind. I did not hear him come back in the house. The neighbors heard this and came over to stop him. Two men came into the courtyard but I said that I would not leave. I cannot go back to my parents again with three children.

At that time, my head was spinning, and I saw spots before me. I lost consciousness, and I cannot remember what happened to me. My brother’s wife made food and tea, but I could not eat anything. My brother took me to the doctor. My parents did not know, and we did not tell them. They gave me three shots, and then I felt a little better. But I got worse again, and they took me back to the hospital. I told them that my husband beat me. They said that they would call the police. The policeman did not come to the hospital even though the doctor told them what had happened. I think that my husband went to the precinct police station and agreed to something with them. I was in the hospital for seven days.

Finally, a guy came... and said that someone from the precinct would come and take a longer statement from me. But no one ever came. No one asked me anything.

### **BACKGROUND: WOMEN AND UZBEK NATIONHOOD**

Uzbekistan, which became independent in 1991, is a young state with claims to an ancient past. The desire to reanimate and reinvent national tradition, and thus to solidify the newly independent state's claims to nationhood, has complicated women's exercise of their human rights in the post-Soviet era. Uzbekistan's government has exploited the rhetoric of women's rights as proof of the nation's modernity in the process of forging a new national identity. Contradictory streams of government rhetoric, however, have sent mixed

policy messages, since government also points to women's "traditional" role as the touchstone for its cultural heritage.<sup>1</sup>

Contradicting its claims to protect women's rights, the government has also at times urged the rejection of all things Soviet, and has invoked a particular, stylized version of "tradition" as a key strategy for developing a new national identity and national ideology, to substitute for defunct Soviet communism. This carried certain risks for the state, both because of the continuing political control of Soviet-era leaders, and also because the Soviet order had effectively laid the groundwork for Uzbekistan's claims on modern nationhood. It was Soviet rule that saw the creation of the republic as a territorial unit, the codification of languages, the writing of histories, the education of several generations of the elite, and the "liberation" of Uzbek women.

### **Uzbek women Under Soviet rule**

Contradictory assessments of the meaning of the Soviet legacy for Uzbek women continue to animate debates on the contemporary status of women in society. During the period of Soviet rule, the state promoted a laudatory history of its own role in freeing women from what it viewed as the oppressive strictures of Islamic religious law and local custom. What is often excluded from this narrative, however, is the contribution of the movement for Islamic modernization known as the *jadids*, led by prominent members of indigenous society, which predated Soviet efforts to transform local society and the status of women by almost a half century. Jadid approaches to the "woman question" focused on equality and secular education for women as a necessary step for the renewal and progress of the nation. They fought against the conservative elements in society that, in reaction to the Imperial Russian conquest of the region in the 1860s-70s, had tended to reinforce traditional forms of female seclusion and veiling.<sup>2</sup> Jadid efforts to promote women's education and freedom created a constituency for the more radical measures put in place following the Bolshevik Revolution of 1917.<sup>3</sup>

Seeking to transform what they viewed as the feudal social order in Central Asia into a socialist one, the Bolsheviks sought allies among the region's women, who they assumed would flock to support the new regime that promised women's emancipation.<sup>4</sup> In 1927, the Soviet government launched what it termed the *hujum*, or offensive, against all traditional, patriarchal social practices deemed oppressive to women, including the marriage of underage girls, brideprice, and the most visible symbol of this oppression, the veil. Though some women seized the opportunity to be integrated into public life, others resumed wearing their veils almost as quickly as they cast them off. Male resistance to unveiling was both extensive and violent, resulting in the death or maiming of many women throughout the country. At the same time the Soviet government recommenced its brutal campaign to suppress Islam, viewed by Moscow as one of the major obstacles to the transformation of women's social roles and as a threat to Soviet political primacy in the region.<sup>5</sup>

Though the Communist Party backed away from its most vigorous efforts to force social change in the early 1930s, recruitment of women into the party-state bureaucracy and into education continued.<sup>6</sup> The collectivization of agriculture, the extension of state control over the economy, and the promotion of universal primary education during this period laid the groundwork for the other fundamental feature of

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<sup>1</sup> Nick Megoran, "Theorizing gender, ethnicity and the nation-state in Central Asia," *Central Asian Survey* (1999), 18(1), pp. 99-110.

<sup>2</sup> Adeeb Khalid, *The Politics of Muslim Cultural Reform: Jadidism in Central Asia* (Berkeley, 1998), pp. 222-223.

<sup>3</sup> Marianne Ruth Kamp, "Unveiling Uzbek Women: Liberation, Representation and Discourse, 1906-1929," Ph.D. Dissertation, University of Chicago, June 1998.

<sup>4</sup> Gregory J. Massell, *The Surrogate Proletariat: Moslem Women and Revolutionary Strategies in Soviet Central Asia: 1919-1929* (Princeton, 1974).

<sup>5</sup> Dilorom A. Alimova, *Reshenie zhenskogo voprosa v Uzbekistane 1917-1941* (Tashkent, 1987).

<sup>6</sup> Douglas Taylor Northrop, "Uzbek Women and the Veil: Gender and Power in Stalinist Central Asia," Ph.D. Dissertation, Stanford University, March 1999.

Soviet-style women's emancipation: women's participation in paid employment outside the home.<sup>7</sup> Though some women of the older generation continued to veil, by the end of World War II veiled women became an increasingly rare sight.

By the 1980s, the Soviet modernization drive in the region had produced paradoxical results. The state claimed to have achieved near-universal literacy among men and women decades earlier. Though the Central Asian republics as a whole lagged behind the other Union republics in the number of persons indigenous to those territories with higher education, these figures moved closer to gender parity, with women comprising 41 percent of students enrolled in higher education. Similarly, the numbers of women who completed secondary schooling increased substantially.<sup>8</sup>

In the face of these markers of modernization, in the words of one scholar, "Central Asian women (and men), confronted with the headlong pace of change in the public sphere, reacted by holding on yet more firmly to the order they knew in the domestic sphere, where they had a greater degree of control."<sup>9</sup> Islamic ritual, relegated to the private sphere of life, continued to mark basic life-cycle events, although adherence to other Islamically prescribed norms, such as prayer, and dietary restrictions, declined precipitously.<sup>10</sup> Yet the patriarchal structures governing women's position in the family remained largely intact.<sup>11</sup> Nowhere was the contrast with outward markers of development more apparent than in the realm of marriage and family. Surveys in the early 1980s reported that Uzbek families aimed, on average, to have 5.58 children, far outpacing ethnic Russian expectations of 2.02 children per family. Between 1959 and 1989, the ethnic Uzbek population of Soviet Uzbekistan increased by 180.3 percent, confounding conventional wisdom that as female literacy increases, fertility rates drop.<sup>12</sup>

On the eve of independence, during the brief interlude of *glasnost* in the late 1980s, the Uzbek educated elites, together with their counterparts across the Union of Soviet Socialist Republics, began to decry the negative aspects of the Soviet legacy. Taking advantage of the new openness, initiated by First Secretary Gorbachev, Uzbek social critics of all stripes denounced women's so-called "double burden," created by women's integration into the labor force and expectations that women would continue to cover all of the domestic labor in the home.<sup>13</sup> Moscow's attempts to rein in the high population growth rates in the region also prompted heated criticism. Politicians and public figures began to call for a return to "traditional" roles for women, a stance that women's activists decried as decidedly "anti-woman," believing that it was designed to drive women out of the labor force and higher education and back into the home.<sup>14</sup>

### **Post-independence Uzbekistan**

After the dissolution of the Soviet Union in 1991, assertions of Uzbek "national tradition" came into immediate conflict with those elements of the Soviet legacy that promoted women's equality. As in many

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<sup>7</sup> Dilorom A. Alimova, *Zhenskii vopros v srednei azii* (Tashkent, 1991).

<sup>8</sup> Martha Brill Olcott, "Central Asia: The Reformers Challenge a Traditional Society," in Lubomyr Hajda and Mark Beissinger, *The Nationalities Factor in Soviet Politics and Society* (Boulder, 1990), p. 266; UNDP, *Human Development Report, Uzbekistan, 1997* (Tashkent, 1997).

<sup>9</sup> Shireen Akiner, "Between tradition and modernity: the dilemma facing contemporary Central Asian women," in Mary Buckley, ed. *Post-Soviet women: from the Baltic to Central Asia* (Cambridge, 1997), p. 276.

<sup>10</sup> Ibid.

<sup>11</sup> Dr. Nodira Azimova, Dr. Dilarom Alimova, "Women's Position in Uzbekistan Before and After Independence," in Feride Acar and Ayse Gunes-Ayata, eds., *Gender and Identity Construction: Women of Central Asia, the Caucasus and Turkey* (Leiden, 2000), pp. 294-295.

<sup>12</sup> Martha Brill Olcott, "Central Asia: The Reformers Challenge a Traditional Society," in Lubomyr Hajda and Mark Beissinger, *The Nationalities Factor in Soviet Politics and Society*, p. 261-2.

<sup>13</sup> Azimova and Alimova, "Women's Position in Uzbekistan..." pp. 294-295.

<sup>14</sup> Marfua Tokhtakhodjaeva and Elmira Turgumbekova, "The Female Intelligentsia of Central Asia: Old and New Problems," in Tokhtakhodjaeva and Turgumbekova, *The Daughters of Amazons: Voices from Central Asia* (Lahore, 1996), p. 27.

post-communist societies, attitudes regarding women's roles in society and the workforce, and the structure of family, grew more conservative during the turmoil that followed the break-up of the Soviet bloc.<sup>15</sup> Social scientists have noted that "one of the more fully elaborated and vigorously promulgated components of Uzbekistan's new national ideology is an imagined pre-revolutionary past in which the restriction of women to the private sphere supposedly enriched the lives of women and the entire nation."<sup>16</sup> Uzbekistan's post-independence government under President Islam Karimov straddles two conflicting positions, on the one hand claiming to promote the Soviet legacy of women's equality, but on the other, seeking to legitimate independence through the reassertion of national culture and selected aspects of pre-Soviet traditions.

This position is further complicated by the government's contradictory stance toward Islam, which it also promotes as a facet of national culture and identity, but suppresses when it challenges state authority.<sup>17</sup> Statements by government officials portray Islam on the whole as an encroaching threat to women's exercise of their rights, ignoring facets of the region's own Islamic heritage, such as the jadid movement, supportive of female emancipation. Since independence, the country has undergone a popular religious revival, although independent Uzbekistan has maintained the Soviet forms of state control over religion through a centralized bureaucracy. During the course of this revival, some Uzbek citizens, mistrustful of state-controlled Islam, and newly aware of the variations in Islam internationally, have sought out alternative forms of belief and practice, some more observant than the government-approved norm.<sup>18</sup> Though very few in number, some women, particularly the young, have begun to veil.<sup>19</sup>

Having crushed all secular opposition to the authoritarian rule of President Karimov by the mid-1990s, the state's attitude toward uncontrolled expressions of religious belief, as a potential vehicle to carry critical social messages and civil discontent, grew more hostile. Reacting to a perceived political challenge from independent Islam, the state passed a 1998 Law on Religion that sharply restricted all forms of religious practice not regulated by the state, and forbade the wearing of "religious dress" in public.<sup>20</sup> Shortly after the passage of this law, dozens of female students who refused to abandon their veils were expelled from institutions of higher learning.<sup>21</sup> Currently, women who choose to veil are subject to various forms of state harassment, including arrest and fines.<sup>22</sup> Ironically, as a justification for the state's campaign against independent Muslims, President Karimov has claimed that the Uzbek Islamic opposition forces outside the country aim to impose a Taliban-like regime on the country and force women to veil.<sup>23</sup>

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<sup>15</sup> Mary Buckley, "Victims and agents: gender in post-Soviet states," in Mary Buckley, ed. *Post-Soviet Women: From the Baltic to Central Asia*, p. 7. See also Lynne Attwood, "The post-Soviet woman in the move to the market: a return to domesticity and dependence?" in Rosalind Marsh (ed.), *Women in Russia and Ukraine* (Cambridge, 1996), pp. 255-266.

<sup>16</sup> Elizabeth Constantine, anthropologist, paper presented to a World Bank seminar, May 2000.

<sup>17</sup> *Republic of Uzbekistan. Crackdown in the Fargona Valley: Arbitrary Arrests and Religious Discrimination*. A Human Rights Watch Report, vol. 10, no. 4, May 1998; Mehrdad Haghayegi, *Islam & Politics in Central Asia*, New York, 1996.

<sup>18</sup> Haghayegi, *Islam & Politics*; Bakhtiiar Babajanov, "Vozrozhdenie deiatel'nosti sufiiskikh grupp v Uzbekistane," *Tsentrāl'naia Aziia i Kavkaz* no. 1 (2), 1999, pp. 181-182.

<sup>19</sup> Overwhelmingly, contemporary Uzbek women who choose to wear the *hijab*, or covering prescribed by some interpretations of Islam, have adopted dress similar to that worn by conservative Muslim women in Turkey and other parts of the non-Arab Muslim world: a long loose coat-like robe together with a headscarf covering the forehead and neck, and sometimes the entire face save for the eyes. The historical Central Asian variant, the *paranja* and *chachvan*, or total-body robe draped over the head and a netting covering the face, resembling the Afghan *burqa*, remains a rarity.

<sup>20</sup> Law on Freedom of Conscience, article 14.

<sup>21</sup> Male students who wore beards were also expelled. *Uzbekistan. Class Dismissed: Discriminatory Expulsions of Muslim Students*, A Human Rights Watch Report, vol. 11, no. 12, October 1999.

<sup>22</sup> Human Rights Watch interview, name withheld, Tashkent, May 26, 2000. This witness matriculated at a newly-formed Islamic school for girls after having been expelled from a secular university. She has been repeatedly fined and beaten by police for her persistence in covering her face in public.

<sup>23</sup> Kyrgyz Radio first program, as cited in BBC Monitoring, August 20, 2000.



In an attempt to salvage at least some of the Soviet heritage of women's nominal emancipation, Uzbekistan has nevertheless inscribed gender equality in its constitution and other laws, and instituted certain administrative measures to promote women's status. Article 18 of the 1992 constitution, currently in force, provides all citizens with equal rights without respect to gender, and article 46 repeats that women and men shall have equal rights."<sup>24</sup> Uzbekistan's Family Code, amended by parliament in 1998, likewise includes explicit guarantees of women's equality before the law, in article 2 on the "Equality of Women and Men in family relations," and in article 3, on "Citizen's equality in family relations."<sup>25</sup>

In addition, the Uzbek government has issued proclamations and implemented some minimal policies designed to protect women's rights. A 1995 presidential decree, on "Measures to Increase the Role of Women in State and Society," gave representatives of the national Women's Committee, heirs of the Soviet Women's Committee, official government posts.<sup>26</sup> According to the decree, the chairwoman of the national Women's Committee serves as deputy prime minister, and regional representatives of the committee at the provincial, district, and municipal level function as deputies to the appointed governors of these territories, the *khokim*.<sup>27</sup> As deputy governors and mayors, Women's Committee leaders carry responsibility for administering social welfare payments to women and families, and for other policies directly related to women. Despite this apparent power, some commentators have dismissed the committees as purely administrative bodies that lack a substantive role in the formulation of policy.<sup>28</sup>

### **Women's Status in the Family and Society**

Since independence, despite the administrative measures noted above, the government has taken little or no effective action to protect women's basic human rights, particularly access to education and employment, which have both eroded.

The past decade has seen the average marriage age, particularly for girls, decline, although the law sets the minimum age of marriage for girls at seventeen, and for boys at eighteen.<sup>29</sup> Although some women's committee leaders expressed to Human Rights Watch their desire to encourage girls to delay marriage, the practice of evading legal age limits through religious, not civil marriages occurs with the tacit approval of local authorities. Early marriage tends to limit women's access to education and employment outside the home.<sup>30</sup> The new bride, or *kelin*, occupies the lowest status rung in her new family, particularly until she produces a first child. Fundamental decisions about a young woman's life—whether or not she will work outside the home, continue with school, with whom she will socialize, and how often she will see her natal family—are made largely by her mother- and father-in-law.<sup>31</sup>

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<sup>24</sup> Constitution of the Republic of Uzbekistan, adopted December 8, 1992, part II, chapter 5, article 18; *ibid.*, chapter 10, article 46.

<sup>25</sup> Family Law Code, articles 2 and 3.

<sup>26</sup> For analysis of the history of the Soviet Women's Committee, "one of the institutional pillars of the old regime," see Mary Buckley, "Adaptation of the Soviet Women's Committee: Deputies' voices from 'Women of Russia,'" in Buckley, ed., p. 159.

<sup>27</sup> *Pravda Vostoka*, December 12, 1995.

<sup>28</sup> Shireen Akiner, "Between tradition and modernity," pp. 292-293.

<sup>29</sup> Family code, part II, article 15. Exceptions are provided for "with valid cause," in which "in exceptional cases, the *hokim* of the district or city in which the marriage is to be registered may, at the request of the parties to be married, lower the minimum age of marriage, though not by more than one year." State statistics show that the average age at first marriage remained at twenty-one (after dipping to 20.2 in 1995) between 1992 and 1998. UNDP, *Human Development Report: Uzbekistan, 1999* (Tashkent, 1999), p. 74. However, the reliance on religious marriage ceremonies, anecdotal evidence shows, indicates that many marriages are contracted in fact before being registered with state agencies. Indeed, some observers tie the trend toward religious marriage ceremonies to families' efforts to circumvent the minimum age of marriage laws.

<sup>30</sup> For a discussion of the human rights aspects of early marriage, see Early Marriage, Child Spouses, Innocenti Digest No. 7, March 2001, <http://www.unicef-icdc.org/publications/pdf/digest7e.pdf>, June 20, 2001.

<sup>31</sup> Human Rights Watch Interview, social scientist, name withheld, Tashkent, May 17, 2000.

Strongly correlated with the trend toward earlier marriages for women, women's educational attainment in the post-Soviet period has declined precipitously. Women made up fully half of the population, and 41 percent of students enrolled in higher educational institutions in 1991. By 1997, that figure had dropped to 37 percent. Most observers assert that the downward trend has continued since that time.<sup>32</sup> As well as shifting marriage patterns, changing social attitudes and unspoken state policies may be fostering this decline: higher education officials have expressed to Human Rights Watch the belief that post-secondary schooling should be limited to men.<sup>33</sup>

As elsewhere in the post-communist world, the economic hardship after the demise of communism has led to disproportionate declines in women's status and well-being. Overall economic contraction in Uzbekistan has led to an upsurge in unemployment; although official statistics minimize this problem.<sup>34</sup> Growth of women's unemployment in the state sector of the economy has been offset to some extent by rising employment in the informal sector and in agriculture. Women are increasingly concentrated in low-wage sectors of the workforce, and receive lower wages than men for the same work.<sup>35</sup>

### UZBEKISTAN'S OBLIGATIONS UNDER INTERNATIONAL LAW

Uzbekistan is bound under international law to respect, protect and fulfill the human rights of all persons within its territory regardless of gender. Uzbekistan is obligated under the International Covenant on Civil and Political Rights (ICCPR)<sup>36</sup> to prohibit discrimination on the basis of sex and to provide equal protection before the law. The 1979 Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), ratified by Uzbekistan in 1996, requires state parties to pursue a policy of eliminating discrimination and to ensure that public authorities and institutions act in conformity with this obligation.<sup>37</sup>

State responsibility for human rights violations is widely recognized to include not only acts by states and their agents, but a state's failure to act with due diligence to prevent, investigate, and prosecute violations by private actors. States are accountable for consistent patterns of discriminatory enforcement of criminal law. A state is therefore in violation of international law when it persistently fails to address abuses committed against women, whomever the perpetrator. This includes violations to the security of the person.

The 1988 *Velázquez-Rodríguez* case before the Inter-American Court of Human Rights articulated the principle that states must exercise "due diligence" to prevent human rights violations by private actors.<sup>38</sup> The

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<sup>32</sup> UNDP, *Human Development Report: Uzbekistan, 1999*, p. 74.

<sup>33</sup> Interview with Rector Damin Abdurakhimovich Asadov of Tashkent's Pediatric Medical Institute, Tashkent, June 3, 1998; see *Class Dismissed*.p. 16. Economic motives, beyond simple cost, may also play a role in discouraging women's higher education. One analyst notes that younger women command a much higher bride price than women over the age of twenty, even those with a university degree. Therefore, poverty may induce families to marry off their daughters earlier; and husband's families have little incentive to invest in the new bride's education. Anara Tabyshalieva, "Revival of Traditions in Post-Soviet Central Asia," *Making the Transition Work for Women in Europe and Central Asia*, World Bank Discussion Paper No. 411 (Washington, D.C., 2000), p. 53.

<sup>34</sup> UNDP, *Human Development Report: Uzbekistan, 1999*, p. 23.

<sup>35</sup> Committee on the Elimination of Discrimination Against Women, *Initial reports of States Parties*, Uzbekistan, CEDAW/C/UZB/1, February 2, 2000, pp. 59-61.

<sup>36</sup> International Covenant on Civil and Political Rights, G.A. res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force Mar. 23, 1976. Uzbekistan ratified the ICCPR in 1995. The ICCPR specifically prohibits sex discrimination in three articles. ICCPR, arts. 2(1), 3 & 26.

<sup>37</sup> Convention on the Elimination of All Forms of Discrimination against Women, G.A. res. 34/180, 34 U.N. GAOR Supp. (No. 46) at 193, U.N. Doc. A/34/46, entered into force Sept. 3, 1981, article 2.

<sup>38</sup> *Velázquez Rodríguez v. Honduras*, Inter-American Court of Human Rights (series C), July 29, 1988, No. 4. The Court stated: "An illegal act which violated human rights and which is initially not directly imputable to the State (for example, because it is an act of a private person or because the person responsible has not been identified) can lead to international

court found that a state must take “reasonable steps to prevent human rights violations committed by private actors and to use the means at its disposal to carry out a serious investigation of violations committed within its jurisdiction, to identify those responsible, to impose the appropriate punishment and to ensure the victim adequate compensation.”<sup>39</sup>

CEDAW provides standards for governments on meeting their obligation to eliminate all forms of discrimination against women. It contains the most authoritative and explicit protections against sex discrimination in the public and private spheres of women’s lives. Through its ratification of CEDAW, Uzbekistan assumed the obligation to protect women from sexual and other forms of gender-based violence perpetrated by state agents and private actors alike. As a party to CEDAW, Uzbekistan is obliged to “pursue by all appropriate means and without delay a policy of eliminating discrimination against women” (CEDAW, article 2) including “any distinction, exclusion or restriction made on the basis of sex which has the purpose of impairing or nullifying the recognition, enjoyment or exercise by women...on a basis of equality of men or women, of human rights and fundamental freedoms...”(CEDAW, article 11).

However, the convention did not directly address domestic violence. In 1985, the General Assembly adopted a resolution on domestic violence based on a recommendation from the U.N. Economic and Social Council (ECOSOC).<sup>40</sup> ECOSOC in 1986 recognized “violence in the family” as a “grave violation of the rights of women.”<sup>41</sup>

In 1992 the U.N. Committee on the Elimination of Discrimination Against Women addressed the issue of violence against women in its General Recommendation 19.<sup>42</sup> The committee stated: “Gender-based violence is a form of discrimination that seriously inhibits women’s ability to enjoy rights and freedoms on a basis of equality with men.” It infringes, among others, upon the rights to: liberty and security of the person; equal protection under the law; equality in the family; and the highest attainable standard of physical and mental health. The committee further stated: “Under general international law and specific human rights covenants, States may also be responsible for private acts if they fail to act with due diligence to prevent violations of rights or to investigate and punish acts of violence, and for providing compensation.”

The Declaration on the Elimination of Violence against Women, adopted by the U.N General Assembly in December 1993, is a comprehensive statement of international standards with regard to the protection of women from violence. The declaration denounces violence in the home as “a violation of the rights and fundamental freedoms of women.”<sup>43</sup> It affirms that “States should condemn violence against women ...[and] exercise due diligence to prevent, investigate and, in accordance with national legislation, punish acts of violence against women, whether those acts are perpetrated by the State or by private persons.”<sup>44</sup> It sets out a series of judicial, legislative, administrative and educational steps that a state should take to meet their obligation under international law to bring violence against women to an end.

The U.N. Special Rapporteur on Violence Against Women, in her first report, addressed the issue of state responsibility for domestic violence. She wrote: “In the context of norms recently established by the international community, a State that does not act against crimes of violence against women is as guilty as

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responsibility of the State, not because of the act itself, but because of the lack of due diligence to prevent the violation or to respond to it as required by the Convention.”

<sup>39</sup> Ibid., para. 176.

<sup>40</sup> General Assembly resolution 40/36, A/RES/40/36, November 29, 1985.

<sup>41</sup> ECOSOC resolution 1986/18, May 23, 1986, par 2.

<sup>42</sup> Committee on the Elimination of Discrimination against Women, General Recommendation 19, Violence against women, (Eleventh session, 1992), Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, U.N. Doc. HRI\GEN\1\Rev.1 at 84 (1994).

<sup>43</sup> Declaration on the Elimination of Violence Against Women, U.N. Document A/Res/48/104, February 23, 1994, article 4.

<sup>44</sup> Ibid.

the perpetrators. States are under a positive duty to prevent, investigate and punish crimes associated with violence against women.”<sup>45</sup>

The due diligence standard is not limited to legislation and criminalization, but includes an obligation to provide and enforce sufficient remedies for those whose physical integrity has been assaulted. The Special Rapporteur noted that due diligence encompasses a “whole range of approaches, including training of state personnel, education, ‘demystifying domestic violence’ and other measures, each of which if found an effective tool of preventing domestic violence, the state is obligated to adopt and apply with due diligence.”<sup>46</sup>

## DOMESTIC LAW

Several provisions of Uzbekistan’s domestic law formally guarantee women equality with men before the law. Likewise, its family law protects women’s equal access to, and equality within marriage, as well as the right to seek to dissolve marriage on an equal basis with men.

Uzbekistan has no specific criminal statute against domestic violence. Individuals who use physical violence against their spouses or others can, in principle, be prosecuted under the criminal code articles covering crimes against the life or health of persons.<sup>47</sup> The criminal code distinguishes premeditated murder, covered in article 97, from “murder carried out in a state of high psychological stress” [*v sostoianii sil'nogo dushevnogo volneniia*], covered in article 98, and also specifies penalties under article 103 for driving a person to suicide.<sup>48</sup> Articles 104-111, dealing with crimes against the health of a person, set out penalties for the purposeful infliction of either heavy (article 104), medium (article 105), or light (article 109) degrees of physical injury, also prescribing lesser penalties if the assault is carried out in a state of psychological stress.<sup>49</sup>

The criminal code specifies various penalties for assault depending on the injuries inflicted. Crimes of assault that cause light injuries not resulting in any health damage, or those that do not deprive the victim of the ability to work, if the perpetrator has previously been fined under the administrative code for the same offense, incur a fine of from twenty-five to fifty times the minimum monthly wage, or corrective labor of up to one year.<sup>50</sup> Light injuries which result in "short-term damage to health of more than six, but not more than twenty-one days, and insignificant loss of the ability to work" are punishable either by a fine of from twenty-five to fifty times the minimum monthly wage, by up to two years of corrective labor, or house arrest of up to

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<sup>45</sup> Preliminary Report Submitted by the Special Rapporteur on Violence Against Women, its causes and consequences, U.N. Document E/CN.4/1995/42, November 22, 1994.

<sup>46</sup> Ibid.

<sup>47</sup> Criminal Code, Part 1, chapters I (Crimes against Life) and II (Crimes against Health).

<sup>48</sup> Criminal Code, articles 97, 98, and 103. Article 97 carries a penalty of from ten to fifteen years imprisonment; the article also outlines aggravating circumstances for premeditated murder, including cases when the victim is a pregnant woman, or if the murder is accompanied by the rape of the victim, that may increase the penalty to a term of from fifteen to twenty years, or to the death penalty. Article 98 carries a penalty of up to five years imprisonment. For a discussion of article 103, see *Suicide*, below.

<sup>49</sup> Inflicting heavy injury, defined as life-threatening injury "accompanied by the loss of more than 33 percent of a person's ability to work, or the interruption of pregnancy, or the irreversible disfigurement of the body" is punishable by five to eight years of imprisonment. If the victim is a pregnant woman, or, if the assault is carried out "for reasons of hooliganism," the penalty may increase to eight to ten years. Medium injuries, defined as those that are not life-threatening, but which "result in the long-term effects on health, of more than twenty-one days but not more than four months, or in significant loss of the ability to work, from ten to thirty-three percent," are punishable by up to three years imprisonment. If the victim is a pregnant woman, the penalty increases to from three to five years. If the assault is carried out under significant psychological stress, article 106 prescribes up to three years imprisonment; and, if carried out in self-defense, the penalty is reduced to either corrective labor of up to two years.

<sup>50</sup> Criminal Code, art. 109.

four months.<sup>51</sup> Article 110, “Torture” [*istiiazanie*], punishes “systematic beatings or other actions constituting torture” with up to three years imprisonment.<sup>52</sup>

Assault resulting in light injury to the victim but without any short-term health consequences is punishable as a misdemeanor offense under the administrative code.<sup>53</sup> Penalties include fines of from one to four times the minimum monthly wage.<sup>54</sup> Misdemeanor charges of “minor hooliganism,” or “purposefully disdaining the rules of behavior in society, through public swearing, harassment of citizens and other similar acts which disturb public order” may also be brought against batterers, and are punishable by fines of from three to five times the minimum monthly wage.<sup>55</sup>

Uzbekistan’s Family Code, adopted in 1998, establishes the “equality of personal and property rights” as the basis for family relations.<sup>56</sup> Article 4 of the code provides for the state’s special protection for “the family, motherhood, fatherhood and childhood,” and for the defense of the interests of mothers and children. The code also explicitly provides for the primacy of international laws and treaties, if any of the provisions of domestic law are found to be in contradiction to international law.<sup>57</sup> Finally, article 37 guarantees the right of either spouse to apply to a court to dissolve their marriage (see *Divorce*, below).

## STATE RESPONSE TO VIOLENCE AGAINST WOMEN

*“Men never beat for nothing.”<sup>58</sup>*

### The Scope of the Problem

The government of Uzbekistan does not compile statistics on reported domestic violence cases. Uzbekistan’s first report to the Committee on the Elimination of All Forms of Discrimination Against Women, considered by the Committee in January 2001, provides only vague information on domestic violence.<sup>59</sup> Without statistics on the numbers of domestic violence complaints filed each year with the police and mahalla officials, it is difficult even to begin to assess the scale of this problem.

Research among a wide array of social scientists, government officials, domestic violence victims, police, and women’s non-governmental (NGO) activists, however, suggests that domestic violence against wives is common.<sup>60</sup> A survey conducted by one government institution in the late 1990s revealed that over 60 percent of female respondents considered domestic violence to be a “normal situation.”<sup>61</sup> The Tashkent-

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<sup>51</sup> Criminal Code, art. 109.

<sup>52</sup> Criminal Code, art. 110. If the victim is a minor, or a pregnant woman, the penalty may increase to five years imprisonment. Unlike torture as defined under international law, the perpetrator of this offense need not be a state actor.

<sup>53</sup> Administrative offenses are levied by judges; the maximum administrative penalty is fifteen days detention.

<sup>54</sup> Administrative Code art. 52.

<sup>55</sup> Administrative Code, art. 183.

<sup>56</sup> Family Code, art. 2. Article 19 of the code repeats that parties to a marriage enjoy equal rights and obligations; articles 24 and 25 set out the equal rights to joint property, defined as property acquired during the period of marriage.

<sup>57</sup> Art. 9.

<sup>58</sup> Human Rights Watch interview, district women’s committee chairwoman, May 20, 2000.

<sup>59</sup> For the purposes of this report, domestic violence is defined as “physical, sexual and psychological violence occurring in the family, including battering, sexual abuse of female children in the household, dowry-related violence, marital rape, female genital mutilation and other traditional practices harmful to women, non-spousal violence and violence related to exploitation.” United Nations Fourth World Conference on Women, Platform for Action, Section D, 112.

<sup>60</sup> See also Minnesota Advocates for Human Rights, *Domestic Violence in Uzbekistan*, December 2000.

<sup>61</sup> Interview, government human rights official, May 17, 2000.

based Law Office for Civil Cases and the Defense of Women's Rights received a total of 1,857 calls over two years from women seeking legal or psychological relief from family violence.<sup>62</sup>

### **Under-Reporting of Domestic Violence**

Even if the government were to collect statistics on the number of complaints filed, as it should, it is unlikely that the true scale of the problem would emerge. All the evidence suggests that domestic violence is a markedly under-reported crime. Of the twenty women victims of domestic violence interviewed by Human Rights Watch, only six had gone to the police. Of those six, in two cases, the perpetrators paid fines, and in one case, the perpetrator served fifteen days in jail—all administrative sentences. None of the cases resulted in criminal charges being filed.

According to many police, activists, and lawyers, and victims themselves, there are various social forces that greatly discourage women from divulging their experiences of domestic violence to anyone outside the home. The very act of complaining about family violence is widely considered to be humiliating for the woman herself, an indication that she is a “bad wife.”<sup>63</sup> Women prefer to return to their natal homes or appeal to the local authorities on the mahalla committee. One woman in a village told Human Rights Watch:

I did not go to the police [to report the violence] because I thought that I would get a divorce and I feared that he would hurt me or my family if I went to the police. I was afraid to go to the police. My husband would have been shamed if I went to the police.<sup>64</sup>

Women hesitate to involve the police so as not to bring shame on the family by airing the conflicts outside of the home. One women’s committee official told Human Rights Watch that she warns women who seek her help in response to domestic violence “not to let it get to that point [of calling the police] no matter what happens.”<sup>65</sup> According to one victim, Gulnora, whose husband hit her throughout her pregnancy and after she returned home with her newborn daughter: “I could have called the police, but I didn’t—I thought about the child...”<sup>66</sup> In the cases described to Human Rights Watch, in which the victims intend to remain in the marriage, they hesitated to involve the authorities for fear that their husbands would cast them out in retaliation.

Other women may even be unaware that they could go to the police. Dilfuza, for example, who resolved to end her abuse-filled twenty-four year marriage after her husband tried to choke her, stated, “I went to the ZAGS [civil registry office where marriages are conducted] and wrote a complaint. I wrote that I did not want to live with him anymore and that he did not work. I also wrote that he wanted to kill me...I did not know that you could go to the police and tell them.”<sup>67</sup> In some cases, the prospect of drawn-out investigations yielding few results dissuades women from appealing to the police, as in the case of one woman from a large city who decided against it:

I didn’t even call the police. It is no use. They will call you constantly to come to the precinct. I did not need that. I worked and I could not go to court every day.<sup>68</sup>

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<sup>62</sup> Unpublished report, Tashkent Legal Office for Women’s Rights and Civil Law, *Monitoring po Domashnemu nasiliuu provedennyi po rezul’tatam obrashchenii grazhdan v konsul’tatsiiu po grazhdanskim delam i zashchite prav zhenshchin*, May 2000.

<sup>63</sup> Interview, government human rights official, May 17, 2000.

<sup>64</sup> Interview, “Rano”, May 20, 2000.

<sup>65</sup> Interview, district women’s committee official, June 1, 2000.

<sup>66</sup> Interview, Gulnora, June 4, 2000.

<sup>67</sup> Interview, Dilfuza, June 4, 2000.

<sup>68</sup> Interview, Mukadas, May 24, 2000.

The reluctance to report domestic violence may also stem from the fear that criminal penalties, including fines and jail time, might be levied, as provided for by law in cases of injury, thus hurting the family budget and possibly depriving it of a breadwinner. In fact, as will be shown below, criminal penalties rarely result even in cases in which serious injuries have resulted from domestic violence. One village council secretary told Human Rights Watch:

The women are afraid that their husbands will go to jail. But I don't know of any cases where the husband has gone to jail. Mostly, the men beat their wives when the wives don't do their work...The [women] come here to the village council but they say that it is shameful.<sup>69</sup>

## Attitudes Towards Family Violence

### *Blaming the Victim*

Interviews conducted by Human Rights Watch with local government officials, law enforcement and medical personnel, and NGO activists demonstrated remarkably consistent attitudes about domestic violence within Uzbek society, almost without exception grounded in the conviction that women themselves bear the prime responsibility for their abuse. Officials' attempts to discuss what they viewed as the causes of domestic violence often took the form of justifying the abuse. On the whole, government officials spoke of family violence only reluctantly. Some even categorically denied its existence in Uzbekistan. And several officials came close to stating that women, in certain instances, deserve to be beaten. In practice, such attitudes constrain the range of remedies that state- and non-state actors are willing to adopt.

Views such as those expressed by a deputy district mayor and representative of the local women's committee were typical. She explained to Human Rights Watch:

Women are guilty if their husbands hit them. If a man is angry, the woman should approach him to calm him down. She has to be on a step lower than her husband. If she doesn't, her husband will hit her. Our men are hot-tempered. Men don't like it if women cross them. Therefore, in discussions we teach girls to take care of their husbands and prepare dinner on time. If a man hits her, usually by morning they have made up. A good wife will ask for forgiveness. A good wife will never complain, because she's guilty. A bad wife will complain. Beating is only a woman's fault. Men never beat for nothing.<sup>70</sup>

Another deputy mayor in a village expressed a similar viewpoint concerning a case where the wife had fled to her parents' home:

The reason she left was the beating. When I went to figure out why he beat her, it became clear that it was also her fault. She was lazy. The house was filthy. There is garbage everywhere. I warned the wife to bring order to the house. She has a rude way of speaking. She disrespects her husband and her mother-in-law. She creates scandals for nothing and so he beats her.<sup>71</sup>

A collective farm director who threatened to beat a man who had abused his wife, told Human Rights Watch:

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<sup>69</sup> Interview, village council secretary, May 21, 2000. Because of widespread torture in the criminal justice system, citizens of Uzbekistan fear interactions with law enforcement authorities generally. See Human Rights Watch, "'And It Was Hell All Over Again...': Torture in Uzbekistan," *A Human Rights Watch Report*, vol. 12, no. 12 (D), December 2000.

<sup>70</sup> Interview, district women's committee chairwoman, May 20, 2000.

<sup>71</sup> Interview, village rais, May 24, 2000.

[After I threatened him], he never beat her again. Three months later [the wife] came to see me on a different matter. I told her that in the case of fights, women are responsible in 80 percent of cases...I told her that women are guilty themselves [when their husbands beat them].<sup>72</sup>

Unfortunately, even women's rights activists on occasion blame the victims of the abuse. One women's rights NGO activist claimed that women often provoke their husbands into committing violence against them: "Women sometimes humiliate their husbands on material grounds, in a kind of blackmail... Women consider that men must support them; this is their psychological violence against men."<sup>73</sup>

### ***Other Explanations for Domestic Violence***

Local officials charged with mediating family disputes most often cited one of three causes for the instances of abuse they described: the youth of the couple involved, their poverty, and alcohol or drug abuse. Frequently, officials cited these factors not only to explain the violence, but also to justify why they did not consider it necessary to take measures to hold perpetrators of domestic abuse criminally accountable for their acts. Consequently, officials' attempts to resolve these "family conflicts" (the most prevalent euphemism for wife-beating) focused on ameliorating what they viewed as the causal factors, rather than on addressing the violence itself.

These officials often attributed the prevalence of domestic violence to the youth of the couple involved, and their lack of "preparedness" for family life, more often of women, than of men, notwithstanding the fact that reports of abuse emerged in all age cohorts. One civil-registry office (ZAGS) official called for raising the legal age of marriage for girls to nineteen from seventeen, an age she viewed as too young. "We tell the girls that they should not hurry and they should be ready for family life. Many continue their education."<sup>74</sup> However, this "lack of preparedness for family life" is often cited to imply that women are insufficiently mature to acquiesce to their low status within the marital family; women's insubordination thus justifies the violence against them. The chairman of a local mahalla committee supported this view:

Family conflicts occur mainly in young families, and the number one reason is that the women are guilty. It is usually because young girls in families are spoiled. When she goes to a new family, she must adapt. The girl usually does not conform to the traditions of the family and that's why conflicts arise. For example, if she can't bake or sweep the courtyard. If she doesn't do the work expected of her...if she doesn't cover her head or wear trousers, and she doesn't want to.<sup>75</sup>

The village council secretary, or *rais*, of one village, who was engaged in an attempt to reconcile a local couple, told Human Rights Watch,

They are both very young. They live together alone, away from his parents. They have no experience with family life. The mother came to see me, the *rais*, at home. I told her she was guilty for not preparing her daughter for family life... I don't know how many times he beat her. The young wife also came to me. She has a child. There are no serious reasons for them to fight. He won't listen to her and she won't listen to him. She cannot take care of the house and she is very spoiled. He wants a clean house.<sup>76</sup>

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<sup>72</sup> Interview, kolkhoz director, June 4, 2000.

<sup>73</sup> Interview, NGO activist, May 18, 2000.

<sup>74</sup> Interview, ZAGS official, June 4, 2000.

<sup>75</sup> Interview, mahalla chairman, May 20, 2000.

<sup>76</sup> Interview, village *rais*, May 24, 2000.



Those who cite youth as the cause of family conflicts often express the opinion that multi-generational households may exacerbate these problems; most commonly they refer to struggles between the mother-in-law and the kelin, or youngest bride, due to the kelin's insubordination.<sup>77</sup> In the case cited above, the rais argued that the couple enjoyed an ideal situation, because they lived alone, not with the husband's family. One senior female lawyer argued:

It can happen that women cause family conflicts. Uzbek custom holds that the young bride must fulfill her obligations to the older generation. Much depends on the attitude of the young...In order to save families the young bride must give way to the older generation. If relations with the older generation are good then the mother- and father-in-law would never allow the husband to beat his wife.<sup>78</sup>

Others, including an official of a government human rights institution, noted that young newly-married women are often under pressure from all members of the husband's family, including his siblings and their wives. "She must earn their respect through her labor."<sup>79</sup> The answer, in these cases, to the violence, is therefore sought by counseling the victims to better cope with the expectations and temperaments of their husband's family. However, local government officials also reported that mothers- or fathers-in-law sometimes interfered unreasonably in the lives of young married couples, contributing to domestic violence.<sup>80</sup> Sometimes, they pointed to the need to provide young couples with separate housing as the solution for family violence.<sup>81</sup>

Another frequently cited explanation for domestic abuse was poverty.<sup>82</sup> "We have conflicts over lack of money," according to a mahalla official.<sup>83</sup> A district women's committee chairwoman asserted that over 50 percent of family conflicts in her district arose due to male unemployment and the resulting lack of money for basic necessities.<sup>84</sup> Officials believe that a family's lack of income creates stress, which husbands are likely to express through violence.<sup>85</sup> A police officer in a rural village told Human Rights Watch, "There are many cases of violence. The main reason for the violence is poverty in the family...In one case the husband did not work and he beat his wife."<sup>86</sup> In response to reports of domestic violence, local officials sometimes attempted to find work for unemployed husbands as a means of ameliorating family stress. Here too, it is the victim who is often held responsible for inciting violence by complaining about the family's economic situation, and so victims are sometimes advised to be more pliable. In the words of one district women's committee official, "When a woman tells him to bring home money or food, then he starts to beat her of course!"<sup>87</sup>

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<sup>77</sup> Interview, psychologist, May 21, 2000.

<sup>78</sup> Interview, head of provincial Women Lawyers Association, May 22, 2000.

<sup>79</sup> Interview, government human rights official, May 18, 2000.

<sup>80</sup> Interview, mahalla chairman, May 20, 2000; Interview, village council chairman, May 20, 2000.

<sup>81</sup> Interview, mahalla chairwoman, May 24, 2000.

<sup>82</sup> Families with greatly varying levels of income were represented among the twenty cases of domestic violence documented by Human Rights Watch. Researchers have disputed the link between poverty and domestic violence. According to researchers Efrain Gonzales de Olarte and Pilar Gavilano Llosa, other factors are more important than poverty, including the man's age and employment status. They argue, as do other experts internationally, that domestic violence is found at all levels of society. See Morrison and Biehl, ed., *Too Close to Home: Domestic Violence in the Americas*, Inter-American Development Bank and Johns Hopkins University Press, 1997.

<sup>83</sup> Interview, kolkhoz chairman, June 4, 2000.

<sup>84</sup> Interview, district women's committee chairwoman, May 20, 2000.

<sup>85</sup> Interview, psychologist and women's NGO counselor, May 22, 2000.

<sup>86</sup> Interview, local precinct police officer, May 23, 2000.

<sup>87</sup> Interview, district women's committee official, June 1, 2000.

Increasing numbers of women have responded to Uzbekistan's economic crisis by taking up informal work such as petty trade in the bazaars. Government officials expressed mostly negative views about such work outside the home. Most local officials who commented on it looked upon it as a necessary evil; one official recalled advising a woman in an abusive marriage to leave her job in order to repair relations with her husband.<sup>88</sup> Some also noted that women's insistence on working outside of the home was sometimes the basis for disagreements with her in-laws and itself a cause of family violence.<sup>89</sup> In search of a solution to the violence, local authorities seeking to reconcile families often sought work for the male abuser, in order to persuade the woman to discontinue her work outside the home. As one rais told Human Rights Watch:

To save the family I found work for him myself...I called the husband to the village council and found work for him here. We are remodeling the city hall so I found a job for him. He'll earn money this way. He has to stop drinking and start working.<sup>90</sup>

Alcoholism or drug abuse was often cited as a factor which explained, although did not justify, family violence.<sup>91</sup> One local government official, one of the very few who condemned the male perpetrators rather than the women victims for the violence, told Human Rights Watch, "The men are guilty when there is beating. Most of the time they beat their wives when they are drunk. And they press all their evil feelings onto their wife."<sup>92</sup> Another local official concurred that alcohol often led to domestic violence, citing one particular case he had dealt with:

The first time they just had a fight...The second time he beat her. He came home drunk and he started to tease their child. Then he hit her. Before this he had never beaten her before.<sup>93</sup>

Consequently, officials responded to these situations by mobilizing community pressure on the abusive husband to stop drinking, while leaving the abuse in the home unaddressed.

### **No Exit: Violence in the Family**

When a woman is abused in her marital home, she must decide firstly whether to endure the abuse, or attempt to escape it, and secondly whether or not to seek assistance from local community officials or law enforcement. Aside from the criminal justice system (the police, procuracy and judiciary) there are two sets of state institutions involved in mediating and resolving family conflicts, according to Uzbekistan law and practice: local officials at the level of the mahalla, and representatives of the Women's Committee. Both answer directly to the local executive branch of government. The following section will set out how these two agencies have responded to instances of domestic violence based on interviews with victims as well as with over forty of the officials in question.

### ***Leaving an Abusive Spouse***

When the violence becomes too great for the victim to bear, a woman's primary recourse often is to leave her husband's family and return to her natal home. "If there was room for her in the womb, there is space for her back at home," goes the Uzbek saying.<sup>94</sup> But the material poverty of her birth home, as well as the social

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<sup>88</sup> Interview, village council chairman, May 20, 2000.

<sup>89</sup> Interview, mahalla chairman, May 20, 2000. Other researchers studying the Fergana valley region report local respondents' views that instances of domestic violence are becoming more common. These respondents blame women's engagement in small-scale trade to support their families, believing that women's involvement in these activities "dishonors" their husbands, who then turn to physical abuse. Dr. Barnett Rubin, Central Eurasia Project Open Forum, April 27, 2001.

<sup>90</sup> Interview, rais, May 24, 2000.

<sup>91</sup> Minnesota Advocates for Human Rights found similar attitudes among officials in Uzbekistan. See Minnesota Advocates for Human Rights, *Domestic Violence in Uzbekistan*, p. 28.

<sup>92</sup> Interview, village council chairman, May 23, 2000.

<sup>93</sup> Interview, village rais, May 24, 2000.

<sup>94</sup> *Tor koringa sikgan, keng yiga sigadi.*

stigma attached to a woman who leaves her husband, often discourages women from exercising this option. Most of the domestic violence victims interviewed by Human Rights Watch who left their marriages were accepted back by their parents. However, several of the victims were either unable or unwilling to return to their natal home, or were told by their parents that they must be patient, remain with their husbands and endure, often on the grounds of their children's well-being.

Women's birth families may also refuse to accept them back.<sup>95</sup> In many instances, parents are known to have delivered daughters back to their violent husbands, telling their daughters that children reared separately from their fathers will be considered "orphans."<sup>96</sup> Rano, a thirty-four-year-old woman with three young children who left her husband in 1997 after nine years of frequent and severe beatings recounted, "Every time he beat me I came home and my parents said, 'You have two children. How can you make them orphans?' They sent me back each time. Once he put a bag on my head and beat me with a big bat."<sup>97</sup>

Often, it is the victim's parents who decide for a woman about whether or not she should leave an abusive husband. In one case recounted to Human Rights Watch, a thirty-eight-year-old woman who had suffered brutal beatings for seventeen years told her parents that she did not want to return to her husband, only for her father to tell her "not to make orphans" of her children and force her to go back to her husband.<sup>98</sup>

In Rano's case, the husband also physically attacked her father when he visited with a group of elders from the village. The father told Human Rights Watch that he would "allow" his daughter to return to her battering spouse if her husband apologized:

I will allow her to go back if he apologizes and excuses himself and excuses himself before all the elders for beating me and throwing me out of the house.<sup>99</sup>

If a woman's birth family refuses to accept her back, domestic violence victims have few options other than to return to their marital homes. Given the strong social stigma attached to single or divorced women, even those women with the capacity to support themselves and their children independently find it difficult to contemplate the idea that they might live alone. Rano recounted that "my father does not want me to live on my own as a divorced woman."<sup>100</sup> Another woman interviewed in an urban area told Human Rights Watch, "If you have no husband you are considered bad and it's an immoral image."<sup>101</sup>

### ***The Policy of Family Reconciliation***

If women feel able to overcome their shame and fear, they may turn to one of two parallel government structures charged with mediating family disputes: the first are local community government bodies, or mahalla, and, in rural areas, the superordinate executive structures of the former state and collective farms (*selsovet* or village council); the second are the representatives of the women's committees within the municipal, district, or provincial governments. However, representatives of all of these agencies interviewed by Human Rights Watch exhibited a strong aversion to victims of domestic abuse leaving their abusive spouses, and against any criminal sanction for the perpetrator.

Local government officials charged with mediating family disputes uniformly spoke of family reconciliation as their main goal when faced with a report of domestic violence. They rarely pointed to the

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<sup>95</sup> Interview, provincial deputy mayor for women's affairs and members of the women's committee, May 20, 2000.

<sup>96</sup> Legally, fathers retain the responsibility to support their children in the case of a divorce or separation, although in practice, according to respondents, enforcing child support arrangements can be difficult or impossible.

<sup>97</sup> Interview, Rano, May 20, 2000.

<sup>98</sup> Interview, Sharofat, May 21, 2000.

<sup>99</sup> Interview, Rano's father, May 20, 2000.

<sup>100</sup> Interview, Rano, May 20, 2000.

<sup>101</sup> Interview, Karima, May 20, 2000.

rights or interests of individual women as values worth preserving or defending independent of women's function within the family unit. The patriarchal norms prevalent in society govern the modes and aims of state functionaries' intervention in family disputes.

### **Mahalla and Other Community Government Bodies**

The mahalla is a geographically self-contained neighborhood community, in which a committee of leaders, led by a chairperson, regulates community life. Historically, the mahalla evolved as a unit of community self-government in urban areas, whose elders, known as *aksakals*, or "white beards" administered the collective life of the residents.<sup>102</sup> In rural areas, village elders carried out similar functions.<sup>103</sup> Under Soviet rule, local state and party structures orchestrated the election of approved community leaders, and codified the responsibilities of the mahalla (village, settlement) committee, and the chief among them, known as the *rais* or secretary, who was paid by the state.<sup>104</sup>

Independent Uzbekistan further codified and expanded the responsibilities of the mahallas, in the 1999 Law on Citizens' Self-Government (hereafter Law on the Mahalla).<sup>105</sup> Although article 7 of the law explicitly states that "organs of citizens' self-government are not part of the system of state power," in practice the mahallas are subordinated to the local representative of the executive branch (the municipal, district or provincial khokim), who approves the selection of community leaders and pays the salary of the mahalla committee chairmen.<sup>106</sup> Since the passage of the Law on the Mahalla, these bodies are responsible for many additional governmental functions, such as oversight of tax collection, utilities payments, and the distribution of social welfare payments, and community policing, including registering the whereabouts of its members and monitoring their religious activities. These are to be performed in addition to the mahalla's traditional regulation of community life: holding celebrations such as weddings and funerals, organizing collective volunteer labor for the maintenance of roads and irrigation networks, and support for the community's poor.<sup>107</sup> Finally, the 1999 law requires that the mahalla committees "take measures directed towards protecting the interests of women, raising their role in social life, in forming the spiritual-moral atmosphere of families and the education of the young generation."<sup>108</sup>

In practice, this provision is carried out through the direct intervention of the mahalla chairman, the chairman of the village council (*selsovets*) or former *kolkhoz* *rais*, and the mahalla committee in regulating family conflicts, including those involving domestic violence. Although members of the official women's committees asserted that "No women, particularly Uzbek women, would go to a man to talk about these problems," Human Rights Watch found that in the eight rural districts studied, women tended to appeal directly to the chief authority figure, usually, although not always, a man.<sup>109</sup>

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<sup>102</sup> N.Kh. Azimova, "K voprosu o roli makhallia v sovremennoi zhizni sel'skogo naseleniia Andidzhanskoi oblasti," in Akademiia Obshchestvennykh Nauk pri TsK KPSS, *Voinstvuiushchii Islam i mery protivodeistviia ego vliianiiu* (Moscow, 1988), pp. 142-143.

<sup>103</sup> The word mahalla refers both to the geographic unit, the community which resides there, and to the authorities within it. While historically the mahalla evolved in urban areas, currently large villages may be divided into smaller administrative units known as mahallas. In such areas the mahalla chairmen are under the nominal authority of both the village council chair and the local executive.

<sup>104</sup> Azimova, "K voprosu o roli makhallia....," p. 150, citing regulations issued by the Uzbek SSR Supreme Soviet of July 4, 1983, which were never made public.

<sup>105</sup> In rural areas during the Soviet era, several villages may have been combined into collective or state farms, the administration of which carried out similar functions to those of urban mahallas.

<sup>106</sup> Interview, mahalla chairman, May 22, 2000.

<sup>107</sup> Law on the Mahalla, art. 12.

<sup>108</sup> Ibid.

<sup>109</sup> Interview, provincial deputy governor for women's affairs, May 19, 2000.

According to the officials interviewed, when victims appeal to the mahalla, the chairman forms a “reconciliation commission,” usually consisting of the chairman and a few of the unpaid community elders, and possibly the women community activists, or mahalla women’s committee, volunteers as well. In some cases, the initial interview with the couple might be performed only by the mahalla chairman alone, or by one of the community elders. If the conflict persists, then the entire reconciliation committee becomes engaged. The matter might be referred to the superordinate rural administrative body, the village council, in areas where such bodies exist, if the mahalla’s mediation is unsuccessful, and from there, to the court or to the police. There is no legal requirement that the mahalla become involved before the police are contacted, although mahalla chairmen interviewed by Human Rights Watch reported that they routinely decided whether or not to allow residents of their communities to refer such matters to the local police. If victims contacted the local police precinct themselves, local police would refer the matter to the mahalla before proceeding with any action (see *Domestic Violence in the Criminal Justice System*, below).

The primary objective of community mediation is to eliminate the need for legal action in family disputes. Victims of domestic violence may plead for months or even years for local government authorities to initiate criminal action, before a case is referred to the police, or before a victim is “allowed” to divorce (see below). One village council chairman recounted a case in which a victim of domestic violence had just been to court for a divorce hearing: “Two years ago she came three times to us. The husband was called here and told not to drink. He promised to stop. But ten to fifteen days later he was drunk again. We warned him that we would take him to the police if he continued the beatings. The case came three times before the village council in five months and then we sent it to court.”<sup>110</sup> In another case, a woman with four children, suffered severe beatings from her husband for nine years of their fifteen-year marriage. The beatings to her face had deformed the bone structure of her cheeks and nose. Despite the beatings, the local authorities tried to “reconcile the family.” The deputy mayor of the rural village told Human Rights Watch,

The entire mahalla has been working on this one family’s problems for five years. He constantly beat her—especially her face. We decided that she should file for divorce.<sup>111</sup>

How mahallas try to reconcile couples demonstrates a strong tendency to hold the woman accountable for her abuse. One village council chairman described the procedure to Human Rights Watch in these terms: “Mostly, the men beat their wives when their wives don’t do their work...We call the woman and ask her first why he beat her. Then we call the husband and ask him why he beat her. Most of the women realize their own guilt. They realize that they did not do something that they were supposed to do.”<sup>112</sup> Another mahalla elder explained his approach to mediating family conflicts by emphasizing religious obligations: “Muslims have one hundred responsibilities for women and one hundred responsibilities for men. I ask the woman if she has fulfilled all one hundred responsibilities. I do a test. If she answers no to the questions, I say to her, ‘It seems you do nothing for your family. Go back and live with your husband.’”<sup>113</sup>

Mahalla officials opt primarily for dispensing advice or using persuasion to address the problem of domestic violence, rather than taking punitive action. One rural district governor explained the essence of mahalla intervention this way: “If the husband is guilty, we will not punish him or fine him. We will just give him advice...In every mahalla there is an aksakal and he knows all of the people in the community.”<sup>114</sup> Only in cases of persistent family violence might the mahalla venture to take punitive action internally, for example, mild forms of social ostracism such as advising members of the community not to include the perpetrator as a guest at weddings and other local celebrations. However, such ostracism is more likely to

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<sup>110</sup> Interview, village council chairman, May 23, 2000.

<sup>111</sup> Interview, deputy mayor and “Jurakhon”, June 3, 2000.

<sup>112</sup> Interview, village council chairman, May 21, 2000.

<sup>113</sup> Interview, mahalla elder, May 23, 2000.

<sup>114</sup> Interview, district mayor, June 3, 2000.

result from other behavior judged to be illegal or anti-social, such as excessive drinking or drug abuse, rather than solely on grounds of domestic violence.<sup>115</sup>

Such actions depend largely upon the discretion of the individual mahalla chairman or equivalent local government official. One local village council chairman related his approach to dealing with these instances: “Sometimes women come to me. A woman comes and says her husband beats her. I call the husband and the woman, it turns out, was guilty for this herself. I yell at him that if he lifts a hand against her, I will beat him. After that, the family calms down.”<sup>116</sup> Such reliance by officials on a mixture of moral persuasion and the threat of punishment does not adequately protect victims against the possibility of further violence. “The mahalla women’s committee called him in and talked to him,” Jurakhon recalls of her husband. “And he was quiet for a week, but then he drank and beat me again.”<sup>117</sup>

While mahalla officials take pains to persuade women to remain with their husbands, even abusive ones, it appears that officials pursue reconciliation less energetically when it is the husband or his family that wishes to initiate a separation. Domestic violence usually comes to the attention of the mahalla when the wife leaves her husband’s family home of her own will, fleeing abuse. But it may also be revealed in cases when, although the woman wishes to remain in the marriage despite the abuse, she is thrown out by her husband’s family. Gulchekhra, though she suffered brutal beatings at the hands of her father-in-law, hoped to remain married to her husband. During her first years of marriage, her husband’s extended family left their home in the countryside to engage in agricultural labor near the capital, Tashkent, but when her infant son fell ill, Gulchekhra took him back to her parents’ home in the countryside. Her husband and his parents subsequently returned to their village, but several months later, when Human Rights Watch interviewed Gulchekhra, they still refused to take her back into their home to live with her husband.

My father-in-law brought the village elders to our house to try to arrange a divorce. [My husband’s family wanted the divorce.] The mahalla chairman also came. The elders told my father-in-law to sue for divorce himself. The mahalla chairman told my father to go and collect my belongings from them, but my father refused, saying that I wanted to live with my husband...My own neighborhood elders are also on the side of his family.<sup>118</sup>

In a similar case, Shahida’s in-laws threw her out of their home as a form of retribution against her family, after one of Shahida’s relatives, a man married to her husband’s sister, sent his wife [Shahida’s sister-in-law] back to her natal family. Although Shahida’s husband beat her severely as he sent her away, she nonetheless hoped that their marriage could be preserved. Her husband, however, had requested the papers necessary for divorce from the mahalla chairman and was immediately granted them.<sup>119</sup>

There are cases, however, in which mahalla’s attempt to prevent husbands from casting off their wives, in accordance with women’s wishes, notwithstanding the fact of abuse. Malika reported that her local mahalla prevailed upon her abusive husband not to cast her and their three daughters out, in favor of the second wife he wished to bring home.<sup>120</sup>

I called the mahalla chairman [to come] and asked my husband [in front of the mahalla chairman] if he has another woman. He said he does, and [he told me] ‘the day you leave I’ll bring her here.’ I said I have nowhere to go with two children. I explained it to him. The chairman said you yourself are good but your husband doesn’t like you...the chairman said to

<sup>115</sup> Interview, deputy district mayor, June 3, 2000.

<sup>116</sup> Interview, village council chairman, June 4, 2000.

<sup>117</sup> Interview, Jurakhon, June 3, 2000.

<sup>118</sup> Interview, Gulchekhra, May 21, 2000.

<sup>119</sup> Interview, Shahida, May 21, 2000.

<sup>120</sup> Interview, Malika, May 23, 2000.

my husband that your wife isn't leaving...Take her belongings back into the house, and let this conflict be your last.<sup>121</sup>

That mahallas are less likely to intervene to “save the family” when the separation is initiated by men indicates gender bias and tendency to wish to reinforce the asymmetrical distribution of power within the family, and it underlines too the lack of importance that mahalla officials attribute to domestic violence. A village council chairman with responsibility for eleven separate mahallas stated bluntly, “We keep marriages together even in cases when the husband beats his wife. This year three men wanted to divorce. I helped them get the papers so that they can go to court for divorce.”<sup>122</sup>

Only one woman told Human Rights Watch that the mahalla's intervention had quelled violent quarrels between her and her spouse that had not, for the time being, returned. Aziza described the occasional violence meted out by her husband that had caused her to turn to her local mahalla:

Once or twice he hit me, and we yell at each other. Once I went to the mahalla after a fight and told them I didn't want to live with him anymore. My husband went to the mahalla and they called me in. Uzbeks say that you must respect your husband no matter what. The mahalla said that you should treat each other kindly, and that everyone is having a tough time now. Then we came back and eventually our mood got better.<sup>123</sup>

In the instances of persistent family violence described by victims to Human Rights Watch, mahalla officials, when faced with resistance on the part of the husband or his family, failed to press effectively to obtain relief or redress for women victims. For example, when Rano returned to her natal home in November 1997, her father went to their local village council chairman to complain that her husband had beaten her. She recounted, “The committee said that they knew my husband had a difficult character and said that they would try to talk to him. The elders went with my father to him and asked him to stop. They tried to give him advice. But he then tried to strangle my father and threw them out of the house. He also beat me again and told me not to take the children anywhere...”<sup>124</sup> Rano then appealed to the village council repeatedly, in order to retrieve her documents and possessions from her husband, but without success:

I went to the village council a second time. I had left the house with just one dress—the dress I was wearing. I asked them to get my passport and my work permit. They called him in and he came. I was two months pregnant...he screamed at me when he came to the office and I fainted. I went again to the office but he said that he would not give me anything. The village council summoned him to the office again, but I fainted again because I was so afraid of him. Without my documents I couldn't get a job and could not file for a divorce. For twenty days I went to the village council office. Winter was coming and I only had the one dress. My son needed to go to school. All my son's things were at his house too. When I left, I had to leave everything. Twenty days later, one worker of the village council tried to get the things. But my husband refused...<sup>125</sup>

Mahalla personnel fail to address the real harm being done to the victims of domestic violence, and do not act on the principle that domestic violence is a criminal offense. They interpret “reconciliation” of family conflicts as the cessation of complaints, rather than an end to the violence. Their intervention, therefore, is often directed toward placating the abuser, rather than helping the victim.

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<sup>121</sup> Ibid.

<sup>122</sup> Interview, village council chairman, May 21, 2000.

<sup>123</sup> Interview, Aziza, May 23, 2000.

<sup>124</sup> Interview, Rano, May 20, 2000.

<sup>125</sup> Interview, Rano, May 20, 2000

## District Women's Committees

Women victims of family violence sometimes bypass local neighborhood committees and appeal directly to women's committee representatives, under the auspices of the district or provincial khokim, or appointed governor. Women's committee chairpersons hold the post of deputy khokim in their localities (district or provincial; at the national level the women's committee chair serves as deputy Prime Minister) and are responsible for the whole range of issues affecting women in that region. Each district-level chairwoman usually holds weekly receiving hours. In some areas a legal specialist on staff also offers advice to petitioners. The women's committee chairwomen are likewise entrusted with coordinating the programs for pre-marital education of girls and boys in the schools, dealing with the legal, economic, moral, and health aspects of family life. In the seven rural districts and one urban district studied by Human Rights Watch, women's committee representatives stated that they regularly received a steady stream of women petitioners. One district women's committee chairperson claimed that in her district, "women don't know their rights, and therefore they come straight to the khokim."<sup>126</sup> In the first five months of 2000 alone, over one thousand women appealed to this women's committee for assistance in addressing problems ranging from the failure to receive social welfare payments to private property disputes, as well as family violence.<sup>127</sup>

When presented with cases of family violence, women's committee chairwomen intervene directly or refer the matter to the victim's mahalla or village council. One deputy mayor of a district in a major urban area told Human Rights Watch that she may call in the volunteer female mahalla activists to critique their efforts and instruct them on how to handle the case when she receives a complaint about unresolved domestic violence.<sup>128</sup> None of the district deputy mayors for women's affairs interviewed by Human Rights Watch showed any greater inclination to attach priority to protecting women's rights than did the mahalla officials. Shakhnoza, a resident of the central town in her rural district, appealed directly to the local deputy mayor for women's affairs when she fled her four-year marriage after being subjected to battering. The deputy mayor, as she introduced the witness to Human Rights Watch, continually pressured her to return to her husband, saying, "Think about it, you have two little girls, after all."<sup>129</sup>

## Civil Remedies for Domestic Violence

### *Divorce*

Social, legal, and administrative barriers to divorce frustrate women's efforts to escape family violence. At this stage, Uzbekistan lacks important civil remedies—such as protective orders—for combating domestic violence. For many women, divorce appears to be their only potential escape hatch from a violent marriage. However, despite legal guarantees of equal access to divorce, women who attempt to dissolve their abusive marriages often find that mahalla officials, women's committee chairpersons, and even judges seek to prevent them from doing so.

In Uzbek society generally, divorce carries strong stigma, especially for women. A lawyer and women's activist stated: "By our standards, if a girl gets married and leaves of her own accord, she is damaged and cannot get married again."<sup>130</sup> A psychologist and counselor at a women's crisis center also commented: "For Uzbeks, divorce is unacceptable. There is a case right now of a woman who is thirty-six. She has five children and her husband beats her regularly. She thinks that if she will divorce people will speak badly of her. Our psychologists persuaded her father to take her back for a few months. It is unclear whether she will

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<sup>126</sup> Human Rights Watch interview, name and place withheld, May 20, 2000; Human Rights Watch interview, urban deputy mayor, June 1, 2000.

<sup>127</sup> The chairwoman declined to say what proportion of these appeals related to cases of domestic abuse.

<sup>128</sup> Interview, urban district deputy mayor for women's affairs, June 1, 2000.

<sup>129</sup> Interview, deputy district mayor for women's affairs, June 3, 2000.

<sup>130</sup> Interview, lawyer, June 8, 2000.



divorce. People will say she is a bad wife. If a woman doesn't have a husband then she's a bad woman."<sup>131</sup> Divorce is held to reflect badly on the whole family, not only the wife. Indeed, members of one prominent women's NGO told Human Rights Watch with some pride that they counseled men who planned to abandon their wives to remain with their families, citing the potential stigma of divorce, which would make it difficult later for couples to arrange marriages for their children.<sup>132</sup> More than half of the twenty victims of domestic violence interviewed by Human Rights Watch expressed a desire not to divorce their husbands. For example, Nozima, who suffered monthly beatings over the course of her six-year marriage before retreating to her parents' home, said that she would not consider divorcing her husband unless he caused her serious injury.<sup>133</sup>

Under Uzbekistan's Family Law code, either party to a marriage may initiate divorce proceedings. If by mutual agreement, and if the marriage has produced no children, the couple may dissolve the marriage administratively, by submitting affidavits to the civil registry office, or ZAGS.<sup>134</sup> If, however, there are children of the marriage, or if the divorce is not consensual, then one or other party must file for divorce in the court. Under the code, if a wife is pregnant, or if there are children under one year of age, a husband may not sue his wife for divorce.<sup>135</sup> In all cases, the judge may impose a waiting period of up to six months and then may hear the case again.<sup>136</sup> The family code states that "Marriages can be dissolved if the court establishes that the preservation of the family, and the cohabitation of the spouses has become impossible," giving judges considerable discretion as to whether or not to grant a divorce.<sup>137</sup>

Obtaining a divorce became more difficult in 1998, which the government dubbed "The Year of the Family." According to lawyers and NGO activists, state agencies made special efforts during 1998 to limit the number of divorces, as a means of "strengthening the family." One NGO leader and former Communist Party official told Human Rights Watch that "There was an order from above, an oral instruction, that if the number of divorces in any area was too high, then the administrators would be punished."<sup>138</sup> Civil registry offices denied divorces to couples who wished to divorce by mutual agreement, telling them that they could not do so because it was the Year of the Family.<sup>139</sup>

In practice, though the six-month waiting period is officially discretionary, lawyers and government officials told Human Rights Watch that since 1998 courts have almost always imposed it. Mahalla officials and other local authorities interviewed by Human Rights Watch indicated that they interpreted the six-month waiting period as mandatory, as did several judges.<sup>140</sup> "It's difficult for women to get divorces," one provincial lawyer observed. "They [judges] impose a cooling-off period, and carry out discussions. Judges tell the women to wait and to try to reconcile."<sup>141</sup>

Even before the 1998 policy of curtailing divorce to a minimum, waiting periods were imposed as a rule. Witnesses told Human Rights Watch that such delays, and the attendant bureaucratic wrangling and humiliation, were burdensome for them, and that once they decided to seek a divorce, it was important that it be granted quickly. Karima, who applied to divorce her husband in early 1995, was granted a divorce only at the end of the year, after the statutory six-month maximum period. "The first time I went to court was in

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<sup>131</sup> Interview, head of provincial university psychological research center, May 21, 2000.

<sup>132</sup> Interview, NGO activist, May 18, 2000.

<sup>133</sup> Interview, Nozima, May 21, 2000.

<sup>134</sup> Family Code, part VII, article 42.

<sup>135</sup> Family Code, part VII, article 39.

<sup>136</sup> Family Code, part VII, article 40.

<sup>137</sup> Family Code, part VII, article 41.

<sup>138</sup> Interview, NGO leader, May 23, 2000.

<sup>139</sup> Interview, Nozigul, May 17, 2000; Interview, lawyers' group, June 1, 2000.

<sup>140</sup> Interview, village council chairman, May 21, 2000; interview, former judge, June 2, 2000.

<sup>141</sup> Interview, head of provincial Women Lawyers Society, May 22, 2000.

May,” she recalled. “There was a judge and five other people on the panel. They asked questions. They wanted to help the family and to get us back together. The court was completely against the divorce. They gave us three months to reconcile...The second time we went to court we had a new judge. The three people on the panel were all men. The judge was on my husband’s side...This judge gave us another three months.”<sup>142</sup>

Simple bureaucratic obstacles, as well as attitudinal ones, impose severe difficulties on women who have resolved to leave their abusive marriages. One urban domestic violence victim, though she had the full support of her own family, and even enlisted the help of a lawyer, waited two years before finally obtaining a divorce in 1996:

If a woman applies for a divorce the judges look at her with disdain. The first time the clerk asked for a bribe to speed up the process. First, they lost my documents. They said that they were in the archives, but they could not find them there either. This is one year after I had to gather all the documents all over again. I had to start over from scratch and pay the court fee. I took all the documents myself. Everything has to be there otherwise they will not take it and they refuse to register the case...It took a week to gather all of the documents a second time. They gave me papers for my husband. I had to find him myself and send him to court. Two times he did not show up and said that he had not received the notice, even though I put the documents in his hands personally. If you have a child you have to get a note about the health of the child. You also have to get proof of marriage, copy of the birth certificate, and a character reference from your boss at work.<sup>143</sup>

Even after the initial court hearing, the judge imposed a three-month waiting period before agreeing to consider this woman's case.

Neither the family code nor the Law on the Mahalla provide for any formal role for mahalla officials in divorce proceedings. Nevertheless, Human Rights Watch found that mahalla officials routinely assume the role of gatekeeper, either permitting women to press ahead with divorce suits or blocking those plans by refusing to provide a letter of support, a “character reference,” to the court. One mahalla chairman told Human Rights Watch that “since 1999, courts will not set a divorce case in motion without the agreement of the mahalla,” as a prominent NGO leader also confirmed.<sup>144</sup> One deputy district governor openly described the policy of denying divorces: “There are three or four families on the list where the husband beats the wife. Those three or four, they all live together. They are not divorced. We do not let it get to the stage of divorce...Without a character reference you cannot get a divorce.”<sup>145</sup> Nearly all of the victims of domestic violence interviewed by Human Rights Watch who were seeking to divorce believed that they would have to obtain permission from their local mahallas in order to divorce, as statements by mahalla officials and judges also suggest, although there is, in fact, no such legal requirement.

Local government officials interviewed by Human Rights Watch frequently expressed pride in the low number of divorces in their communities, and of the success of their interventions in “reconciling” family conflicts. One village council chairman responsible for governing some of eleven villages with a population of 13,000, divided into four mahallas, said that there were ten to fifteen cases of family conflicts (not necessarily involving violence) in his community each year, but in the previous twelve months, all had been resolved without resorting to the police or to the courts.

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<sup>142</sup> Interview, Karima, May 20, 2000.

<sup>143</sup> Interview, Mukaddas, May 24, 2000.

<sup>144</sup> Interview, mahalla chairman, May 29, 2000; interview, NGO leader, May 23, 2000.

<sup>145</sup> Interview, deputy district mayor for women’s affairs, June 4, 2000.

Mahalla committees are, for the most part, anxious to prevent divorces even in cases of persistent physical abuse. The village council chairman mentioned above was one of the few local officials to approach the question of divorce differently. His attitude shifted somewhat, he said, after a 1999 case in which a woman who had repeatedly appealed to local officials to do something about the persistent beatings and rapes she suffered at the hands of her husband committed suicide (see below). “That case of the suicide influenced me a good deal. I realized that it is not necessary to force them to live together if he beats her. The cases that come to us—we try to make sure that the families are not torn apart. Those families where it is impossible to save the family, we divorce them.”<sup>146</sup>

Mahalla officials, as well as other local government officials, continue to pressure women to reconcile with their husbands and remain in an abusive marriage without acknowledging the further harm this may cause. Indeed, even the mahalla official mentioned above, despite the suicide case he had experienced, urged a woman who had complained for three years that her husband beat her and had begun divorce proceedings to remain with her husband.<sup>147</sup> Municipal and district executive bodies pressure mahalla officials to “resolve” such cases without divorce. One municipal women’s committee official described how her agency reacts to reports of couples intending to divorce:

When people go to court to get a divorce, the court sends us a letter and also to the mahalla in order to preserve the family. We call in the mahalla aksakals and heads of women’s council in order to discuss the situation and find out why they couldn’t bring them back together. Then we call in the family. In many cases, especially when there are children, they stay together. In three years there have only been one or two cases when we have not been able to preserve the family.<sup>148</sup>

Lola endured twenty-six years of violence in her marriage, which resulted in a punctured lung and resultant chronic illness; she had turned to local mahalla leaders many times before making her latest appeal to a newly-installed mahalla chairwoman, the former director of the local school. “We have a tradition that when you come with a complaint, two or three days go by and they promise to help, and then they start to persuade you to forgive him and to stay,” she recounted. “I came to the previous chairman three times, and after two or three days they start to persuade you to go back.”<sup>149</sup> Lola was finally motivated to seek assistance once more because her husband, together with his grown son from a previous marriage, was attempting to force her and the two young children of the marriage, from the family home. “If need be I’m even ready to go to court,” Lola maintained. “I came to her for help to defend me from these attacks...For twenty-six years I’ve waited for him to change but he hasn’t, and now I’ve come to her trusting in God and in the mahalla that they will help me.”<sup>150</sup> The mahalla chairwoman, however, was noncommittal, suggesting that the problems could be resolved without divorce. “I don’t know about going to court,” she hedged. “Naturally, we’ll try to reconcile the family.”<sup>151</sup>

One of the levers mahalla officials may deploy in order to pressure women to abandon plans to divorce is to threaten to withhold social welfare payments to which the women may be entitled. This was also noted by the United Nations Development Program (UNDP) in its 1999 Human Development report on Uzbekistan, which stated that mahallas employ “subjective factors” in distributing social support to needy families, sometimes withholding payments from those eligible to receive them.<sup>152</sup> “Women are very easy to convince to save their families,” one mahalla chairman told Human Rights Watch. “I have to talk to the wives who do

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<sup>146</sup> Interview, village council chairman, May 23, 2000.

<sup>147</sup> Interview, village council chairman, May 23, 2000.

<sup>148</sup> Interview, municipal district deputy mayor for women’s affairs, June 1, 2000.

<sup>149</sup> Interview, Lola, May 24, 2000.

<sup>150</sup> Interview, Lola, May 24, 2000.

<sup>151</sup> Interview, mahalla chairwoman, May 24, 2000.

<sup>152</sup> UNDP, *National Human Development Report: Uzbekistan, 1999*, p. 27.

not want to live with their husbands. I tell them they will not get any alimony, nor any assistance for their children at all.”<sup>153</sup> Mahalla and other local government officials also spoke of meeting with judges informally to express their views on divorce cases.<sup>154</sup>

Mahalla officials may also impede women's efforts to obtain divorces by refusing to issue particular documents, or by demanding illegal payments in order to issue them. Rano recounted that her village council gave up trying to retrieve relevant documents from her abusive husband, so she went to the civil registry office to seek a copy of her marriage certificate. But when she asked the village council to issue her letter attesting to her residence, the members refused, citing her lack of an identity document—which they had failed to retrieve from her husband. In the end, Rano stated, “I paid money to the village council and they gave it to me. I sold my earrings and with the money I paid for the copies of the certificate and the documents.”<sup>155</sup>

In some cases, mahallas may take it upon themselves to “divorce” couples informally, orchestrating a separation and a division of property without incurring an official divorce. The women in such arrangements can neither re-marry nor obtain court-ordered support payments, as they remain married in the eyes of the law. Gulchekhra recalled that a relative of her brother’s wife was abandoned by her husband and given an “Islamic divorce” with the approval of the mahalla.<sup>156</sup> Rather than officially dissolving their marriages, men simply conduct what is known as an “Islamic divorce,” pronouncing the Koranic triple renunciation of their wives [in Uzbek, *uch talak*] and thus freeing themselves to marry again. Their wives, however, often blocked in their attempts to obtain civil divorces, may not re-marry, and have no access to either the joint property of the marriage, the living space they are allotted by law, or sometimes even to their children.

Another victim, Sharofat, first appealed to her local mahalla after she was subjected to a particularly severe beating by her husband. After a brief initial separation, her husband then decided to re-marry and attempted to force her to sell part of the home where they had lived with their two children to finance his wedding:

I refused to give it to him and he beat me. After he beat me he told me to get the police and the mahalla to divide the property. At 5:00 p.m. a commission was to come to the house...The commission was made up of the mahalla committee from the place where he lived, and from the place we lived together, his father and brother and my mother and brother...They then decided that he should leave and I should stay... They also decided that my parents did not need to pay any money. The commission did not tell me what to do, how to get a divorce, or how to go to court...I asked the mahalla committee to give me a divorce before his wedding so that I could be a free woman, but they refused.<sup>157</sup>

In cases when one side, usually the husband, refuses the settlement that the mahalla proposes, there is no alternative but to turn to the courts. Mahalla officials initially told Mukhabat, whose husband beat her over a six-year marriage and then rejected her, that she could remain in the family home where they had lived together with their children. But when her husband objected and threatened violence if the mahalla imposed this settlement, the mahalla instructed her to file for a divorce and to vacate the property until the court ruled in both the divorce case and the issue of alimony.<sup>158</sup> After initially refusing to help her visit the one of their two children left with her husband, the mahalla eventually aided her in returning the child. Despite the serious injuries caused to Mukhabat, including partial paralysis and memory loss, mahalla officials still

<sup>153</sup> Interview, mahalla chairman, May 22, 2000.

<sup>154</sup> Interview, district mayor, June 3, 2000.

<sup>155</sup> Interview, Rano, May 20, 2000.

<sup>156</sup> Interview, Gulchekhra, May 21, 2000.

<sup>157</sup> Interview, Sharofat, May 21, 2000.

<sup>158</sup> Interview, Mukhabat, May 21, 2000.

hoped that they could still “reconcile” the couple. “We have one chance,” the mahalla chairman stated. “If we can make peace between them then the case will be closed...The mahalla committee would then go before the court and say that all is resolved...Why should the children suffer?”<sup>159</sup>

Courts, too, frequently perceive their function in such cases as the “preservation of families.” Current and former judges interviewed by Human Rights Watch insisted that preventing divorce was their primary aim when adjudicating divorce cases, explaining that the law, in fact, requires that every attempt be made to keep spouses together.<sup>160</sup> The chairwoman of one provincial civil court explained,

Before beginning a divorce hearing, the judge meets with each side in the case, either separately or all together. The goal of the judge is to preserve the family, especially if there are children. This is true in every case, whether a young family or whether the couple is older. Every judge tries to save the family. There are many cases when a judge refuses to give a divorce. The law requires serious reasons, not just ‘I don’t want to live with him or her.’ The judge can refuse to give a divorce in those cases. The judge may look at the effect of violence on a family, but in divorce cases, the children are the first question.<sup>161</sup>

Even in the face of evidence of domestic violence, judges insisted that waiting periods were required before granting a divorce.<sup>162</sup> In fact, in some cases, judges apparently disregard accounts of violence. For example, although Rano provided evidence of persistent battering, she was denied a divorce. After two years and three separate court hearings she abandoned her efforts and remains legally married to her husband. At first, she said, the judge refused even to accept her papers. “The judge said, ‘Why do you want a divorce? You have two children.’” Rano appealed to the court a second time after her husband continued to refuse to return her personal identity papers and other documents:

In court, the judge said, “You say he beats you, but he says everything is fine.” The judge asked for witnesses before the court to prove that I was beaten. The elders who went with my father went before the court, and told the judge that they had tried to reconcile us, and that my husband had beaten my father. They confirmed that my husband would not give me my documents back. My husband told the court that if I had asked he would have given me my documents back right away. The judge gave us six months to reconcile. This was in 1998, the Year of the Family, when divorces were not acceptable. So they gave us six months to reconcile and make up...They told me at the court that they have to save all the families. They said, “This year we have to reconcile all the families.”<sup>163</sup>

Sharofat, who ultimately went to court to sue for alimony after her mahalla-approved “Islamic divorce,” felt that the judges were skeptical about her allegations of battering. “They asked me in court for witnesses that he beat me.” When she said that her children had been the only witnesses, “They told me not to turn my children against their father. They told me that if the neighbor had seen something then they could do something. But they said that I should forgive him. I did not scream. It was all the same to me if he killed me. The neighbors neither heard nor saw anything. Only the children saw it.”<sup>164</sup>

When Rano returned to the court six months after being given a waiting period, shortly after the birth of her third child, the judge again refused to grant her a divorce. “The judge said to me, ‘He wants to live with you and you refuse.’” The judge refused to give us a divorce and gave us another year to reconcile. The

<sup>159</sup> Interview, mahalla official, May 21, 2000.

<sup>160</sup> Interview, former judge, May 31, 2000.

<sup>161</sup> Interview, provincial civil court chairwoman, May 22, 2000.

<sup>162</sup> Interview, former judge, June 2, 2000.

<sup>163</sup> Interview, Rano, May 20, 2000.

<sup>164</sup> Interview, Sharofat, May 21, 2000.

judge told me that I had an infant child and that I should wait until the infant was one year old.”<sup>165</sup> The judge ultimately refused to grant a divorce, finding that “in court it was clear that he does not beat her and that he loves her.”<sup>166</sup> One year later, not only did the court deny Rano’s petition for divorce, but effectively deprived her of the right to appeal by failing to notify her of the decision:

In 1999 a year had gone by and I wondered why they did not call me. I went to the court and asked them to get my case file. The case file was already in the archives. When they found the documents it became clear that the case was closed...The court decided that my petition to file for a divorce was denied. There was no reason given for the rejection...But I did not receive this decision. I only received this paper from the archive much later after it was too late to appeal this decision. My divorce was denied. My husband does not pay alimony to me. I have given up on getting a divorce now. The house we lived in together is in his mother's name and I have no right to the house. A neighbor told me to sign and his sister came to get a note from me stating that I have no claim on his property.<sup>167</sup>

Rano dismissed the possibility that a higher court might grant her a divorce. “I don't want to go to the provincial court. It is better to buy the children clothes and food. I'd have to spend money to travel and to file the papers. Then the same song would start all over again. Why should I go through all that again? It is better to save the money for the children...The court failed me.”<sup>168</sup>

Without a divorce, women have no hope of obtaining access to the joint property of the marriage. Even if women do choose to pursue divorce, however, their chances of being granted marital property by the court are not good, particularly for those women who live together with their husbands in multi-generational households where the home and other property is registered in the name of the husband’s father.<sup>169</sup> Although it is customary for women rejected by their husbands to be able to take away the possessions they brought with them as dowry, there are few potential sanctions against the husband’s family if they refuse to allow her to do so. In one instance reported to Human Rights Watch, the in-laws of a woman who fled her marital home and attempted to take her dowry items with her reported her to the police for stealing their property; the police questioned the woman but ultimately took no action against her.<sup>170</sup> It is customary for members of multi-generational households to remit any income they earn to the senior male of the household or his wife, but any items accumulated with those funds are normally considered to be the property of the household, not of the married couple.<sup>171</sup>

Some women, thrown out of their marital homes, are even deprived of the custody of their children. Shakhnoza endured five years of abuse before leaving her husband in October 1999. Her husband refused an offer to divorce, and her in-laws allowed her to take only her younger daughter but not the elder one. “I went two times to get her but they threw me out and told me I could not have her...I want my daughter first of all. Last time when I went for my daughter, not long ago, he [her husband] was drunk and he hit me.”<sup>172</sup> Shakhnoza had appealed to a court to obtain custody of her elder daughter two days before she was interviewed by Human Rights Watch, but did not know whether her appeal would be successful.

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<sup>165</sup> Interview, Rano, May 20, 2000. As noted above, however, Uzbekistan's Family Code limits divorces in the case when there are children under one year of age only in cases when the husband is seeking the divorce, not the wife.

<sup>166</sup> Unofficial translation of court decision.

<sup>167</sup> Interview, Rano, May 20, 2000.

<sup>168</sup> Interview, Rano, May 20, 2000.

<sup>169</sup> Interview, women’s NGO activist, May 16, 2000.

<sup>170</sup> Interview, Karima, May 20, 2000.

<sup>171</sup> Interview, district women’s committee head, June 1, 2000.

<sup>172</sup> Interview, Shakhnoza, June 3, 2000.

## Polygyny

Women's exercise of their right freely to leave a marriage, and therefore obtain relief from family violence, is complicated by the toleration of polygyny, the practice of taking multiple wives (*mnogozhenstvo*, or in Uzbek, *kop hotinli bolish*).<sup>173</sup> Anecdotal evidence suggests that polygyny is being practiced more widely than before Uzbekistan's independence a decade ago. Men may take second, or more rarely, third or fourth wives in a religious marriage ceremony, known as *nikokh*, conducted by a mullah, without obtaining a civil divorce. In some cases, first marriages may also be contracted through *nikokh*, bypassing civil registration of the union.

Officially, the state does not recognize such unions. Uzbek law accords legal status only to marriages contracted through civil registry offices, or ZAGS, and specifies that marriages concluded only through religious rite have no legal force.<sup>174</sup> Under the family code, those who are party to one registered marriage may not enter into another legal marriage.<sup>175</sup> The criminal code prescribes penalties for having multiple wives, in an ambiguously-worded article suggesting that for criminal responsibility to be invoked, all parties to the polygynous union must be resident in the same household.<sup>176</sup>

However, some officials apparently support the practice of polygyny on grounds of national tradition, and several articles in the government newspaper *Hurriyat*, including one in the form of a letter from a woman to the editor, have urged the legalization of polygyny.<sup>177</sup> This undercurrent of official support for the practice is expressed in the de facto toleration for polygyny as it is usually practiced.

Women's NGO activists related that criminal prosecutions for polygyny are exceedingly rare.<sup>178</sup> The government cited forty-one reported cases of polygyny in 2000, stating that "most of those cases had been investigated and those guilty had been punished under the law."<sup>179</sup> However, one experienced lawyer and women's rights advocate recounted that "it's very hard to prove bigamy and the participation of the mullah. Police don't want to get involved. Women who go to them and complain, they just send them away."<sup>180</sup> ZAGS officials spoke of educating local mullahs on provisions of the family code, saying, "without registration at ZAGS, the mullah cannot perform a wedding. We don't allow the mullah to do this." This official acknowledged, however, that cases of men with more than one wife are not uncommon.<sup>181</sup> Another official interpreted this law much more laxly, suggesting that mullahs were authorized to perform marriages

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<sup>173</sup> The United Nations Committee on the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) has concluded that polygamy (multiple marriages) violates provisions of article 5(a) of the Convention. "Polygamous marriage contravenes a women's right to equality with men, and can have such serious emotional and financial consequences for her and her dependents that such marriages ought to be discouraged and prohibited." <http://www.unhchr.ch/tbs/doc.nsf/184758d9fcd7a2b1c12565a9004dc312/7030ccb2de3baae5c125>, (May 2001).

<sup>174</sup> Family code, part II, art. 13.

<sup>175</sup> Family code, part II, art. 16.

<sup>176</sup> Criminal code, ch. V, art. 126. The article reads "Polygyny, or cohabitation with two or more women in a common household, is punished by a fine of from fifty to one-hundred times the monthly wage, or corrective labor of up to three years, or by imprisonment for up to three years." Most cases of men with multiple wives encountered during the course of this research involved men who had for all intents and purposes abandoned their legal wives and concluded second (or third) marriages in religious ceremonies, with each wife living in a separate household.

<sup>177</sup> *Hurriyat*, December 17, 1997, as cited in BBC worldwide monitoring, December 21, 1997. The alleged letter to the editor commented favorably on a previous article entitled "Is it a Vice to Have a Lot of Wives?"

<sup>178</sup> Interview, NGO activist, May 23, 2000.

<sup>179</sup> *Uzbekistan responds to over 100 questions as women's anti-discrimination committee concludes consideration of its report*, WOM/1260, January 30, 2001.

<sup>180</sup> Interview, lawyer, June 8, 2000.

<sup>181</sup> Interview, ZAGS official, June 4, 2000.

without a ZAGS registration certificate if one of the parties was already married (in other words, in polygynous unions).<sup>182</sup>

Polygyny has the effect of frustrating attempts by women who have chosen to leave abusive marriages, or who have been rejected by their husbands or their extended families, to obtain fair settlement of their rights to property and even to child custody. Because men may freely remarry in religious ceremonies, they have no incentive to cooperate in divorce proceedings. Mukhabat related that “I said to my husband that he should go and file for divorce. But he refused because he could marry again without getting a divorce.”<sup>183</sup>

In order to avoid the possibility that a woman will complain to the authorities if her husband takes a second wife, men sometimes pressure their legal wives to provide letters stating that they have no objection to their husband's remarrying, often through the agency of the mahalla. In cases where the first marriage is not legally dissolved, this enables such men to avoid division of family property and to evade the obligation to pay alimony. Although the husband of Rano had not, at the time of the interview, remarried, she recounted that “He demanded that I sign a paper saying that I had no claims against him marrying again—no claims on him or his property. I signed a letter saying that he could marry again... The neighbor was willing to be a witness to the letter freeing him to marry again, but where were they before?”<sup>184</sup>

Mahalla officials sometimes facilitate men's second marriages by obtaining these permission letters from wives who have been rejected by, or who have fled from their husbands. The involvement of the mahalla, combining the force of community opinion and the authority of the local government, makes it extremely difficult to refuse such requests. At times, the mahalla may obtain the letters from other family members without even consulting the wife. Sharofat, whose mahalla engineered her “divorce” and division of marital property, recounted that the mahalla pressured her family to issue such a letter. She said of her husband, “I don't have an official divorce, but he remarried anyway and no one asked me for my agreement that he take another wife. The mahalla committee tricked my brother. My brother signed that he agreed to the marriage. They promised that I would get alimony and a charitable benefit payment. My brother signed for me and I didn't even know that he had done it.”<sup>185</sup> Without an official divorce, which the mahalla had refused to help her obtain, she received no such payments.

The presence of second “spouses” may even inhibit some men from agreeing to a divorce, creating an insurmountable problem for their legal wives. Mavjuda's husband, who abused her from the beginning of her seven-year marriage, had taken a second wife three years before she discovered it. He initially blocked her efforts to obtain a divorce, by confiscating her personal identity documents. After some time, she stated: “He said, ‘Let's get a calm divorce if you won't write that I had a second wife.’ I said, of course I would [inform the court about the second wife]. He said then ‘I won't divorce you because I can go to jail’... He will never apply for a divorce because he is afraid. He doesn't want to live with me anymore but he is afraid [that he might be prosecuted].”<sup>186</sup>

## Family Violence in the Criminal Justice System

*It's his own wife, not a stranger.*<sup>187</sup>

Only a small minority of acts of domestic abuse ever come to the attention of law enforcement bodies. As noted above, women victims of domestic violence interviewed by Human Rights Watch gave two common

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<sup>182</sup> Interview, village council chairman, May 21, 2000.

<sup>183</sup> Interview, Mukhabat, May 21, 2000.

<sup>184</sup> Interview, Rano, May 20, 2000.

<sup>185</sup> Interview, Sharofat, May 21, 2000.

<sup>186</sup> Interview, Mavjuda, June 5, 2000.

<sup>187</sup> Interview, mahalla chairman, May 21, 2000.



explanations for their failure to report the abuse. The first was shame. A deputy mayor related the case of a woman whose husband sexually abused her and accused her of having sexual relations with other men, saying, “everyone knew about this but they did not tell the police. These people do not tell the police about such things.”<sup>188</sup> Another official told Human Rights Watch, “We Uzbeks do not call anyone. It is so shameful. The women cry and then they go back and reconcile.”<sup>189</sup> Women also feared abandonment, and described their desire to preserve their families and keep their children’s father involved in their upbringing. One woman explained, “My husband said that if I talked he would never live with me again.”<sup>190</sup>

One police officer sympathetic to abused women’s plight estimated that only one-third to one-quarter of women victims ever go to the police.<sup>191</sup> Human Rights Watch’s own research findings reflect that estimate: only six of the twenty women victims of domestic violence interviewed by Human Rights Watch had complained about their abuse to the police. Another police inspector, responsible for a community of 711 households, stated that he receives one or two reports of family violence every month.<sup>192</sup>

Of those instances that are reported, most, according to police officials, are usually dealt with directly by local police inspectors. In most cases, local police do not open criminal cases: of the six cases reported to Human Rights Watch where women reported the violence, not one led to a criminal case being opened. In two cases the perpetrators paid small fines; in another, the perpetrator served a fifteen-day sentence in administrative detention. One head of a police investigative department in a rural district reported that in the two years he had held the post, the only cases which had been reported were those resulting in light injury; these were resolved by the local officer fining the perpetrator on the spot.<sup>193</sup> “Family scandals,” he explained, “are usually not serious cases.”<sup>194</sup> A deputy police chief in another village echoed the attitude that domestic violence cases do not merit police attention, telling Human Rights Watch, “I don’t deal with family scandals.”<sup>195</sup>

Local police take part in mahalla efforts to mediate family conflicts. As part of its 1998 measures for the Year of the Family, the government instructed local police departments, in cooperation with local government and mahalla officials to maintain a record of each family to whom they have been called. Families remain on this registry for a period of three years, during which time police are supposed to regularly check in on them.<sup>196</sup> In 1999, in the wake of the law on the mahalla, the government created the new post of *posbon*, or civilian police deputy, in each neighborhood, and currently this monitoring may be carried out by the local *posbon*. It is unclear whether repeated instances of violence in families on this list will necessarily result in any criminal sanction for the abusers. According to victims interviewed by Human Rights Watch, the mere fact of being on the list is supposed to exert social pressure on those families, either to eliminate aggressive behavior or to conceal it better from the community. One local government official revealed that “we check them and then we take them off the list. We try to avoid having them on the list. We try to get them off as quickly as possible. It is shameful to be on the list.”<sup>197</sup>

More informally, police may take part in prophylactic discussions held by the mahalla with husbands reported to have beaten their wives. One village council chairman explained, “We call the husband if he

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<sup>188</sup> Interview, June 3, 2000.

<sup>189</sup> Interview, deputy mayoral staff, June 2, 2000.

<sup>190</sup> Interview, Khamida, June 2, 2000.

<sup>191</sup> Interview, police officer A, June 4, 2000.

<sup>192</sup> Interview, police officer, May 20, 2000.

<sup>193</sup> Interview, chief district police investigator, June 4, 2000.

<sup>194</sup> Interview, chief district police investigator, June 4, 2000.

<sup>195</sup> Interview, deputy police chief, June 4, 2000.

<sup>196</sup> One village council chairman claimed that the local *posbon* visited these families once a week. More commonly, police and local officials reported making monthly visits to families on the list. Interview, village council chairman, May 21, 2000.

<sup>197</sup> Interview, deputy district mayor for women’s affairs, June 4, 2000.

beats his wife and we speak with him in front of the precinct policeman and the head of the mahalla. We find out the reasons for this and we warn him. He signs a piece of paper that he will not do it again. If he does it again the police then have that letter and it is in the record...He must sign a form...and we tell him that we will turn him over to the police if he does it again. We try to scare him...In this case the husband has not repeated this—or no one has come to tell us about more beatings.”<sup>198</sup>

Sometimes the scare tactics exceed simple discussions. One young police officer recounted an approach that involved warning husbands the first time, and obtaining written pledges from them that they would not continue to beat their wife if there was a second report of assault. “If we feel that it won't stop, then...we calm him down in the cell...If he is very aggressive, then you can take physical measures. Different techniques are allowed.”<sup>199</sup> At this, the officer's superior interrupted, correcting, “We have the right to stop him [the abuser] and put his hands behind his back, not to beat him.”<sup>200</sup>

Police interviewed by Human Rights Watch indicated that they wished to respond as best they could to complaints of abuse from women. Generally, however, their intervention is limited by their own bias against criminally prosecuting battering husbands, and that of the mahalla. Indeed, police may sometimes discourage women from pressing complaints out of concern that the most likely punishment, an administrative fine, would serve only to harm the family further, and to provoke the husband.<sup>201</sup> One officer explained that if a woman was not injured seriously enough for her to require hospitalization, “there is no need for a fine,” and that his approach was to lecture the husband about his behavior or at most, detain him for a day. This officer also echoed mahalla officials' confidence in the effectiveness of obtaining written pledges from abusers that they would not continue to beat their wives.<sup>202</sup> Several women interviewed by Human Rights Watch, however, dismissed such warnings as ineffective at best. Lola recalled that mahalla officials warned her husband several times over the course of their twenty-six year marriage but to no avail.<sup>203</sup>

Not all police, it appears, are as responsive as those interviewed by Human Rights Watch. Several victims reported that their repeated appeals to the police had elicited no effective protection, or no response at all. After being hospitalized for injuries from her husband's beating, Mukhabat was again beaten by her husband when she attempted to visit the child he would not give up to her. “He beat me again on my head. I lost consciousness and the mahalla committee members took me home...and called the precinct police. The policeman said, ‘It's Sunday, leave me alone.’”<sup>204</sup> Police finally took Mukhabat's statement three days later, but she was never called as a witness and did not believe that her husband had been detained or prosecuted.

Of the six women interviewed by Human Rights Watch who had reported instances of family violence to the local police, most reported that the police had resisted taking their statements and had actively discouraged them from filing complaints. Lola recounted that she went to her local police precinct “four or five times” following beatings, “but [they] did nothing.”<sup>205</sup>

Police and judges insisted to Human Rights Watch that it was possible to mount criminal prosecutions of those who physically abused their wives without first receiving a complaint from the wife, but conceded that such prosecutions were very few. Police and mahalla officials reported frequently agreeing to women's requests to drop investigations of their abusers. One victim, however, did report that in her case, police

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<sup>198</sup> Interview, village council chairman, May 21, 2000.

<sup>199</sup> Interview, police officer A, June 2, 2000.

<sup>200</sup> Interview, police officer B, June 2, 2000. Interview, police officer A, June 2, 2000.

<sup>201</sup> Interview, police officer A, June 2, 2000.

<sup>202</sup> Interview, police officer, May 23, 2000.

<sup>203</sup> Interview, Lola, May 24, 2000.

<sup>204</sup> Interview, Mukhabat, May 21, 2000.

<sup>205</sup> Interview, Lola, May 24, 2000.

refused to allow her to withdraw her complaint after her husband's brother threatened her, because they were cognizant of the repeated nature of the abuse.<sup>206</sup>

As with divorce, mahalla officials exercise a gatekeeping function with respect to law enforcement responses to domestic violence.<sup>207</sup> In practice, in some cases, police may pursue criminal or administrative sanctions only with the assent of the mahalla or village council.<sup>208</sup> Mahalla officials may have criminal cases closed, or pressure women to withdraw complaints. The chairman of the mahalla where Mukhabat resides indicated that he had stopped any criminal investigation into the beating that resulted in Mukhabat's partial paralysis: "I told the woman that if it had been a stranger, we would have taken measures against him. I told her, 'But it's your husband so you must forgive him and take him back'...It's his own wife, not a stranger."<sup>209</sup>

Mahalla officials also are called on to provide written evidence to courts when abusers are charged with criminal offenses. Courts, in turn, refer cases of administrative fines and detention for domestic assault back to the perpetrator's mahalla "requesting that they take measures to save the family."<sup>210</sup>

Although hospitals are required by law to report injuries resulting from assault to the police, in cases of domestic violence, this practice is sometimes not followed even in the case of severe injuries. Many women, as was the case with Jurakhon, may be ashamed to seek treatment for their injuries.<sup>211</sup> Even if women do visit hospitals as a result of beatings, the fact of the assault may not be reported to police. A newspaper report on the conviction of a man for driving his wife to suicide suggests that hospital personnel may interpret this requirement as the patient's prerogative. The suicide victim, "could have asked the police to intervene after she was twice admitted to hospital for treatment of her injuries," but did not, according to the judge in the case.<sup>212</sup> As Lola explained, when she was hospitalized with a punctured lung as a result of her husband's beating, she did not think of informing the police. "I was young, I didn't think about it. My parents said 'don't, you have children' and I thought so, because I didn't want to be shamed. In the hospital they didn't inform the police because my mother asked them not to. 'She will stay with him,' she said, 'and the main thing is that she is still alive.'"<sup>213</sup> In another case, involving a young woman who suffered a miscarriage after being raped by her husband, the doctor who treated her injuries ignored the bruises covering her body, and attributed her miscarriage to "a weak organism."<sup>214</sup> Gulchekhra recalled that when her relative was hospitalized after a beating, "her husband arranged her discharge because he didn't want to go to jail."<sup>215</sup>

Hospital staff too may sometimes tend to see the victim as responsible for provoking her own abuse, and fail to accord domestic violence the seriousness it merits. This may lead both to their not reporting cases of assault, and to their minimizing the extent of women's injuries in their reports. One chief doctor in a district hospital with twenty-four years of experience insisted that his staff always reported instances of battering to the police, but then explained, "there are cases when she is guilty. For example, she does not look after the

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<sup>206</sup> Interview, village council chairman, May 23, 2000. Women may request authorities to drop complaints for a number of reasons, including fear that the batterer will retaliate, harassment by the batterer, or hope that the abuse will end. See Human Rights Watch, *Too Little, Too Late: State Response to Violence against Women in the Russian Federation*, December 1997, p. 44. See also Minnesota Advocates for Human Rights, *Domestic Violence in Uzbekistan*, p.41. Minnesota Advocates' review of case files indicated that "women who file complaints very often attempt to stop the case once it has started."

<sup>207</sup> Interview, female mahalla chairperson, June 4, 2000.

<sup>208</sup> Interview, village council chairman, May 21, 2000.

<sup>209</sup> Interview, mahalla chairman, May 21, 2000.

<sup>210</sup> Interview, former judge, May 31, 2000.

<sup>211</sup> Interview, Jurakhon, June 3, 2000.

<sup>212</sup> *Ishonch*, August 5, 2000, as reported in BBC Monitoring, August 5, 2000.

<sup>213</sup> Interview, Lola, May 24, 2000.

<sup>214</sup> Interview, Umida, June 1, 2000.

<sup>215</sup> Interview, Gulchekhra, May 21, 2000.

children, or does not have everything ready for him when he comes home from work. After these scandals they understand each other and love each other even more.”<sup>216</sup> Likewise doctors may discourage women victims from pursuing either divorce or criminal complaints, even when they have suffered considerable physical harm. “They have to go home,” the chief doctor explained to Human Rights Watch, “they have children.”<sup>217</sup> He said that domestic violence victims were usually hospitalized for three to ten days, and described one case in which he had intervened. “There was a case where a woman was beaten and we explained to her that families are all different.... I spoke to her as a doctor and as a human being...We have always worked to save the family.”<sup>218</sup>

Even when hospital staff do report cases of severe injuries, this does not insure that police or prosecutors will act on the reports. The hospital that treated Mukhabat for head injuries that ultimately resulted in the paralysis of one side of her face reported the assault to the local police when she was admitted in December 1999. “I told them that my husband beat me,” Mukhabat recounted. “They said that they would call the police. The policeman did not come to the hospital even though the doctor told them what had happened. I think that my husband went to the precinct and agreed to something with them. I was in the hospital for seven days...But no one ever came.”<sup>219</sup> In the case of Khamida, hospitalized repeatedly as a result of battering during her five-year marriage, police responded to hospital notification of her injuries, but then confined their actions to levying fines. Her husband, who was wealthy, simply paid the fines. And although her injuries could have formed the basis for a criminal assault charge, the victim denied to police that she had been beaten, telling Human Rights Watch, “I wanted to save my family.”<sup>220</sup>

### ***Forensic Evidence***

For legal action to be taken against their batterers, victims must first obtain a report from the State Forensic-Medical Service, an agency of the Ministry of Health. According to the Code of Criminal Procedure, only written injury reports from the forensic service constitute documentation of physical harm for the purposes of courtroom evidence; medical histories from hospitals or private doctors will not suffice.<sup>221</sup> In order to be examined by forensic service doctors, crime victims must receive an official referral from police or prosecutors; forensic service officials described sending women who come to them without such referrals back to the local police in order to obtain one.<sup>222</sup> Police related that they ask women victims if they want to go to the forensic service; if the women answer affirmatively, officers claimed, the issuance of these referrals is routine and automatic.<sup>223</sup>

Particularly for rural women, the requirement to obtain a forensic medical examination is burdensome. The services themselves are largely located in provincial capitals and only a few district towns in each province; smaller provinces may have only one such service.<sup>224</sup> Police officers in one district described arranging transportation and accompanying women to the forensic exam in another district, but such assistance does not seem to be common.<sup>225</sup> Some women also face threats of violence, abandonment, and retaliation from their husbands if they pursue a forensic medical exam. Khamida told Human Rights Watch, “My husband did not want me to go to the forensic medical expert. And he forbade me to go. He said that he would not live with me if I told anyone.”<sup>226</sup>

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<sup>216</sup> Interview, head doctor at district hospital, June 4, 2000.

<sup>217</sup> Ibid.

<sup>218</sup> Ibid.

<sup>219</sup> Interview, Mukhabat, May 21, 2000.

<sup>220</sup> Interview, Khamida, June 2, 2000.

<sup>221</sup> Code of Criminal Procedure, art. 172.

<sup>222</sup> Code of Criminal Procedure, art. 173, art. 180; interview, provincial forensic service physician, June 5, 2000.

<sup>223</sup> Interview, police officer A, June 3, 2000.

<sup>224</sup> Interview, forensic service official, June 9, 2000.

<sup>225</sup> Interview, police officer A, June 3, 2000.

<sup>226</sup> Interview, Khamida, June 2, 2000.

Even if women do gain access to the forensic examination, there is no guarantee that police will act on the findings of the expert. In December 1999, Mukhabat was referred to the forensic medical service in the provincial capital by the hospital in which she was treated for head injuries. She did not understand what to do with this referral, and ignored it. After being beaten once more by her husband, and receiving injuries that resulted in the paralysis of half of her face, she was again referred to the forensic service by the police, three days after the event. She then went to the forensic expert, was examined, and provided the forensic report to the local police.<sup>227</sup> At the time of the interview, five months later, she was unaware of any charges brought against her husband.<sup>228</sup>

The forensic service defines what constitutes a “light” injury, punishable under the administrative code by a fine or short detention, and what constitutes “heavy” injury, for which the perpetrator may be held criminally accountable. Under current rules, light injuries are those “which cause short-term health disorders or insignificant persistent loss of the capacity to work” or lesser forms of disability, with “short term” being defined as less than three weeks. In one case recounted by a precinct police officer, injuries that required a woman to be hospitalized for three days were defined as light, and the husband was subject to a 3,500 som fine.<sup>229</sup> According to forensic experts, nearly all of the injuries received as a result of domestic violence are classified as “light.”<sup>230</sup> Forensic doctors may also be influenced in their examination by their own views on the proper means of dealing with domestic violence. One senior forensic official explained that “our native population has a different mentality. Here the family is a sacred institution. If women are wise, they try at all costs to save the family. I feel that appeals to law enforcement agencies are not the way to strengthen the family.”<sup>231</sup>

Police may or may not be guided by the conclusions of the forensic expert in their response to acts of battering, and may bring lesser, misdemeanor charges, rather than pursuing a criminal case. According to a recent report based on a review of records of domestic violence cases brought to prosecution, the existence of a forensic report does not guarantee that the appropriate charges will be brought against the perpetrator, or that the level of sentencing will be consistent with the degree of injury.<sup>232</sup> Dilfuza told Human Rights Watch that police referred her to the forensic service after her husband choked her until she lost consciousness. “They gave me a piece of paper to go to the medical expert... I went to the forensic service and they gave me a report. The doctor told me that my husband should go to jail for three years. But he didn’t. They only fined him...I brought the conclusion from the medical expert back myself and gave it to the police...They called him to the police and they only demanded a fine.”<sup>233</sup>

### ***Judicial Responses to Domestic Violence***

None of the twenty cases of domestic abuse related by the victims resulted in criminal assault prosecutions; therefore, it is impossible to characterize judicial approaches to adjudicating these cases. Lawyers, judges, and police all indicated that most domestic violence cases, even those reported to the police, never reached the courts.<sup>234</sup> According to one judge: “When the victim herself enables the crime to happen, usually those cases are closed before they get prosecuted.”<sup>235</sup>

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<sup>227</sup> According to the Code of Criminal Procedure, the forensic medical service should not give the report to the victim, but should provide it directly to the police.

<sup>228</sup> Interview, Mukhabat, May 21, 2000.

<sup>229</sup> Interview, police officer, May 23, 2000. This amount is equal to roughly two minimum monthly wages, or at market exchange rates, approximately U.S. \$4.00.

<sup>230</sup> Interview, provincial forensic service physician, June 5, 2000.

<sup>231</sup> Interview, national forensic service official, June 9, 2000.

<sup>232</sup> Minnesota Advocates for Human Rights, *Domestic Violence in Uzbekistan*, pp. 44-45.

<sup>233</sup> Interview, Dilfuza, June 4, 2000.

<sup>234</sup> Interview, lawyer and women’s NGO activist, June 8, 2000.

<sup>235</sup> Interview, deputy chair of provincial civil court, May 22, 2000.

Given the lack of data, it is impossible to know how many of those charged with criminal assault in cases of domestic violence are ever convicted by the courts. The government does not make public information on the overall rate of convictions. According to unofficial sources, however, courts in Uzbekistan are known to issue convictions in all but a very small number of criminal cases, including those involving domestic assault charges.<sup>236</sup> One lawyer with considerable experience in domestic violence cases noted the tendency of police to presume the guilt of anyone they arrest, a tendency that is repeated in the courts.<sup>237</sup> Therefore, it is likely that in the rare cases when batterers are charged with criminal offenses, they are convicted.<sup>238</sup>

Courts, however, do play a role in depressing the number of criminal charges ultimately brought against batterers. The Code of Criminal Procedure mandates that judges open investigations into criminal acts that emerge in the course of hearings. They rarely do so, however, with regard to instances of domestic abuse, which come to light during divorce hearings or alimony proceedings. Dilfuza related that during her divorce hearing, "...I told the judge that he had beaten me. The judge said nothing."<sup>239</sup>

### ***Lack of Protection Under Criminal Law: Rape and Stalking***

#### *Rape in Marriage*

In general, rape is an underreported crime in Uzbekistan, due in part to cultural norms that place high value on women's sexual purity. In 1998, the last year for which figures were available, there were 675 cases of rape prosecuted in the country; no information was available on the number of convictions.<sup>240</sup> When pressed by members of the CEDAW committee examining its state report on January 30, 2001, the Uzbek government representative stated that 520 cases of violence against women (sexual violence) were reported in the year 2000, but acknowledged that there were no statistics on domestic violence as a separate category of crime.<sup>241</sup>

Uzbekistan's criminal statute on rape does not explicitly address the marital status of the victim; nor does it distinguish between rapes committed by an acquaintance or relative, or those committed by a stranger.<sup>242</sup> Nonetheless, in interviews with Human Rights Watch, government officials, police, and judges for the most part cast doubt on the idea that a married woman might legitimately claim to be the victim of rape by her husband.<sup>243</sup> One former judge expressed shock at the very concept, dismissing it as an oxymoron. "There are not cases of rape in marriage. They are husband and wife. She cannot refuse."<sup>244</sup> Even activists in the newly-formed NGOs devoted to promoting women's rights expressed the view that sexual violence within

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<sup>236</sup> Interview, head of municipal law office, January 17, 2001.

<sup>237</sup> Interview, lawyer and women's NGO activist, June 8, 2000.

<sup>238</sup> All of the eighteen cases cited by Minnesota Advocates resulted in convictions, although the sentences issued were often the lightest allowable by law, and sometimes even lower. *Domestic Violence in Uzbekistan*, Appendix II.

<sup>239</sup> Interview, Dilfuza, June 4, 2000.

<sup>240</sup> CEDAW/C/UZB/1, February 2, 2000, p. 28. According to this data, the number of reported cases has actually declined, from 791 cases in 1995, 808 cases in 1996, to 687 cases in 1997.

<sup>241</sup> Uzbekistan's responses to questions posed by CEDAW, the United Nations, New York, January 30, 2001.

<sup>242</sup> Criminal Code, Art. 118. The code defines rape as "sexual relations through the use of force, threats, or taking advantage of the helpless state of the victim," and sets the penalty at from three to seven years imprisonment. Aggravating circumstances, such as in the case when the victim is a minor or is a close relative, may increase the penalty to from ten to fifteen years. If the victim is under the age of fourteen, the court may impose the death penalty.

<sup>243</sup> Researchers on marital rape note that even in the United States, where prosecution of such crimes has been well established in law in many states since the 1970s, "wife rape is still generally regarded as a contradiction in terms." Patricia Mahoney and Linda M. Williams, "Sexual Assault in Marriage: Prevalence, Consequences and Treatment of Wife Rape," [http://www.nmfr.org/research/pv/pv\\_ch5.html](http://www.nmfr.org/research/pv/pv_ch5.html) (June 2001).

<sup>244</sup> Interview, former judge, June 2, 2000.

marriage could not constitute a crime. One psychologist and counselor at a woman's crisis center commented in relation to sexual violence "within marriage, this is not considered rape."<sup>245</sup> Similarly, the chairwoman of one of the most prominent women's crisis centers in Tashkent expressed an attitude typical of many local government and other officials: "The police would laugh if a married woman tried to report a rape case."<sup>246</sup>

Human Rights Watch learned of three separate cases in which rape had been identified by the victims as a form of spousal abuse. In two of these cases, the victim had appealed to the mahalla, but no criminal action was initiated against the perpetrator; in the other, the woman's family removed her from the marriage without complaining to outside authorities.<sup>247</sup>

Even when rape within marriage is acknowledged as abuse, state bodies frequently fail to take any action against the rapist. Thus, the local official who stated proudly to Human Rights Watch that all family conflicts in his community were resolved by the mahalla committees described a 1997 case of a woman who had committed suicide by self-immolation, after a history of beatings and rape by her husband. "Three years ago a husband raped his wife and she burned herself. She got sick of the situation...He raped his wife and beat her many times."<sup>248</sup> Although the woman complained repeatedly to the mahalla committee, and to the local executive, where she explained the extent of the abuse, the only action that was taken was to call the husband before the mahalla committee and warn him to stop. "She went many times to the mahalla and the village council," the official explained, but those bodies refused to facilitate a divorce, despite the woman's pleas. "She told the committee about the beatings and explained. She could have divorced if she had only one child, but with three children, there was nowhere for her to go."<sup>249</sup> The husband was later charged with driving his wife to suicide and sentenced to four years in prison, but was released before serving his full sentence. Custody of the couple's three children remained with the husband after his wife's death.

### *Stalking*

Neither criminal nor administrative law in Uzbekistan has any specific provision proscribing the persistent and threatening harassment of women who have attempted to escape physical abuse by their current or former husbands, or stalking. The reluctance to prosecute men to the full extent of the law for physical injuries they inflict, in addition to the practice of relying on the mahalla to find informal resolutions to all family conflicts, leaves women particularly vulnerable to this form of abuse. Two of the twenty victims of domestic violence victims interviewed by Human Rights Watch had separated from, but continued to be stalked by, their husbands. Though the women had notified either police or local officials, including the mahalla and the district-level women's committee, all of these state representatives explained that there was no legal action they could take against these men to stop the harassment.

Human Rights Watch spoke to Jurakhon together with the women's committee chairwoman from her district. After nine years of marriage during which her husband beat and physically humiliated her, Jurakhon turned to the district government for help. The women's committee chairperson recounted that her husband "constantly makes scandals. He said that she [Jurakhon] ran around with other men even though she never did. He had this idea that he would find her with another man. He walked around with a knife, looking for her and thinking she was cheating...He constantly beat her, on the face."<sup>250</sup> After five years of mahalla intervention, according to the chairwoman, "We decided that she should file for a divorce...After the divorce

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<sup>245</sup> Interview, head of provincial university psychological research group, May 21, 2000.

<sup>246</sup> Interview with women's crisis center head, May 19, 2000.

<sup>247</sup> Interview with Umida, victim's mother, June 1, 2000.

<sup>248</sup> Interview with Village Council secretary, May 23, 2000.

<sup>249</sup> Ibid.

<sup>250</sup> Interview, district women's committee chairperson, June 3, 2000.

he would not leave her in peace and went to her apartment all the time...He still follows her..." Jurakhon added: "He threatened me. He says that he wants the children. He thinks that if he takes the children I will go back to him...I am so scared that when I go to work I lock the children in the house with a key."<sup>251</sup>

Although the women's committee chairperson had attempted to enforce a separation, the authorities had no legal powers to assist Jurakhon. "There is no law to arrest him," the chairperson stated, adding:<sup>252</sup>

[Jurakhon] often went to the police. The husband then said that the policeman was her lover and for that reason she went to see him all the time...They can only hold him for ten or fifteen days. The police told me that there is no law to put him in jail. He is very afraid of the police and he stopped beating her. But now he follows her. In the apartment house [where Jurakhon resides] there is a room downstairs and he sits there and watches who goes in and out of the building. He sits on the roof and watches. He was on her balcony watching her. He only watches and follows...There is no criminal case against him for this."<sup>253</sup>

The sole measure taken by the community has been that members of the mahalla committee have offered to check on the family periodically.

In the case of Mavjuda, her husband did not honor the informal separation she requested after she learned that he had taken a second wife.

I said, "You promised not to bother me." He said, "Don't think you can find another man. I'll stop everyone. Don't plan to get married again." He started to attack me as unfaithful. We started to fight and he hit me, so I called the police and they took him away. His younger brother came to me and told me to take back my complaint. [She went] But the police wouldn't return it."<sup>254</sup>

A court found her husband guilty of an administrative offense for the beating and sentenced him to fifteen days in prison. Immediately upon his release, however, he continued to harass her. "My husband called and threatened to slit my throat. I went to the police and told them but they didn't take my statement, and that day they let him out."<sup>255</sup>

Repeated entreaties to the police yielded only a promise that they would continue informal pressure against Mavjuda's husband who, nevertheless, continued to hold his wife under constant, threatening surveillance.

The police called today and said he talked to my husband and he won't bother me anymore...The police told him on Saturday that I had gone to them and he stopped calling. He was jealous of everyone, even the young people at work. I think I'm safe for the time being. For at least two weeks or a month since the police called he'll be okay, but then he'll come again drunk or will start to threaten me. The policeman with whom I spoke gave me his number and told me to call if anything happens. All my neighbors know...He threatened to take my eldest daughter away through the court...I told him I might kill him, or myself...Last Friday he told me that he watches me all the time and follows when I leave work. I asked him why and he said that it's because he loves me."<sup>256</sup>

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<sup>251</sup> Interview, Jurakhon, June 3, 2000.

<sup>252</sup> Interview, district women's committee chairperson, June 3, 2000.

<sup>253</sup> Ibid.

<sup>254</sup> Interview, Mavjuda, June 5, 2000.

<sup>255</sup> Ibid.

<sup>256</sup> Ibid.



## *Suicide*

Often the only criminal sanction against the perpetrators of domestic violence comes when their victims have taken their own lives.

The problem of female suicide has long drawn the attention of government officials in Uzbekistan, particularly in cases when women end their lives by self-immolation.<sup>257</sup> Female suicide was one of the first social problems to be openly discussed during the brief interlude of glasnost from the late 1980s through the early 1990s, according to Uzbek social scientists.<sup>258</sup> Since that time, the government has not allowed the number of such deaths to appear in the press, although it was discussed in a report produced by the Gender in Development Unit of the Cabinet of Ministers for the United Nations, Beijing+5 review, and also in the government's report to the Committee on the Elimination of Discrimination Against Women, reviewed in January 2001.<sup>259</sup>

Although data are not available on the number of suicides linked with domestic violence, anecdotal evidence obtained by Human Rights Watch suggests a strong correlation between the two. Chronic inattention to violence within families, according to NGO activists, contributes to the number of female suicides. Often, as in the case of Jurakhon recounted above, local officials turn their attention to cases of family violence only when they fear that women may be on the verge of committing suicide.<sup>260</sup> Activists and government officials alike recognize the role played by domestic abuse, and by persistent inattention to this abuse, in cases of female suicide. In one 1999 case recounted by a women's NGO leader:

My stepsister was beaten by her husband because she gave birth only to girls. She hanged herself, leaving four daughters. They were together for sixteen years. She was sixteen when she married, and had only finished the 8<sup>th</sup> grade. She was in the hospital many times [for beatings]. One year before she hanged herself she tried to poison herself. They saved her life that time...Over the sixteen years of marriage she had four concussions. She never told anyone, but the neighbors could hear everything. She never went to anyone. Her relatives wanted to call the police but she would not let them. She sent the children outside to play and hanged herself in the bathroom. The children found her...The police came, they did an investigation, and did not find any signs of violence. There was no criminal case opened.<sup>261</sup>

Police occasionally warn violent husbands that they might face charges if their wives commit suicide. One police officer in a village told Human Rights Watch:

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<sup>257</sup> Some Central Asian Muslims believe that self-immolation frees the suicide from the sinfulness of that act according to Islam.

<sup>258</sup> Interview, sociologist, May 17, 2000. In 1989, Uzbek filmmaker Roza Mergenbaeva made a documentary about female self-immolation sponsored by the Communist party itself. She claimed in 1995 that there were 300 cases in 1990, but that since independence, state authorities have suppressed information on the problem and blocked her efforts to research it. *Los Angeles Times*, June 3, 1995.

<sup>259</sup> *Report on the Status of Women in Uzbekistan* (Tashkent, 1999), pp. 32-33; Committee on the Elimination of Discrimination Against Women, *Initial Reports of States Parties*, Uzbekistan, February 2, 2000, p. 29. According to the figures from the procurator general supplied in the latter report, the number of female suicides increased between 1995 and 1998, the last year for which figures were presented: In 1995, 1,327 cases; in 1996, 1,460; in 1997, 1,573; and, in 1998, 1,560. NGO activists caution that these figures are likely underestimates, because some deaths by poisoning are ruled to be accidental overdoses. Interview, NGO activist, May 30, 2000. The government does not publicize or distribute these documents in Uzbekistan.

<sup>260</sup> Interview, deputy mayor, June 3, 2000. The deputy mayor told Human Rights Watch, "She keeps herself alive only for her children. The police take him away for a night and then they send him back again. I am afraid that she will kill herself."

<sup>261</sup> Interview, women's NGO leader, May 30, 2000.

There was a woman but she did not want to complain at all. A neighbor came to us and asked us to take measures. The wife said that he beat her. But she said that she would not do a complaint because she had four children. She said, "If I go to court, my family will be ruined." I spoke to the husband and told him, "You have four children...There are cases of self-immolation. If she burns herself you will be responsible."<sup>262</sup>

Sharofat, whose husband beat her regularly over fifteen years of marriage, described the hopelessness that led her to attempt suicide. "The beatings happened at least one time each month. He beat me so hard that I lost my teeth. He beat me most severely when I was pregnant...I complained to his parents and they told me 'it's his business, let him beat you.'"<sup>263</sup> Sharofat suffered four miscarriages due to the beatings. Her own parents showed little more sympathy for her plight. "My father refused to take me to a doctor. He said, 'What will I say, 'her husband beats her?''...I am already so tired of the beatings I don't even feel the blows anymore. I can't feel anything anymore."<sup>264</sup>

Prosecutions for allegedly driving a person to suicide are not unheard of, although not routine, and are sometimes reported in the press.<sup>265</sup> But whether or not such cases will be initiated or pursued depends on the attitude of the local prosecutors and police investigator. In the case of a twenty-year old woman who committed suicide by drinking vinegar concentrate in early June 2000, police asserted that the victim's testimony made in hospital before she died would certainly result in a prosecution:

The doctors must call the police in these cases. We went to the hospital. The girl told us that she did it on purpose because her husband beat her up and her father-in-law cursed her. One year ago she had a ninth-month miscarriage, and after that, there were many arguments in the family. One day before she drank the vinegar...her father-in-law said to her "Give me some tea." She brought it to him, but not politely enough. He started to correct her and they got into an argument. Her husband heard this and began to beat her...The next morning at 7:30 or 8 a.m. she drank the vinegar. Her husband and his relatives brought her to the hospital. She was six months pregnant at the time...We started to ask her questions at first, when her condition was not so bad. She told us what happened, but then she lost consciousness...The investigators have taken over the case and will likely give it to the prosecutor.<sup>266</sup>

In other cases, even the presence of such testimony cannot guarantee a criminal case will be brought to trial. The daughter of Karima, whose two-year marriage was punctuated by frequent beatings, committed suicide by overdosing on tranquilizers in 1996. Karima recounted that "after six months she came home and said that her husband hits her, for no reason he hits and humiliates her. I didn't want their family to break apart because they had a child."<sup>267</sup> Karima told police investigators, according to case records, that before her daughter slipped into a coma, she said that her husband taunted her, "'You can't do it—just try to drink the medicine."<sup>268</sup> The district procurator's office initially opened an investigation, charging the victim's husband under article 103 of the Criminal Code, with causing his wife to commit suicide. When the local procurator unexpectedly closed the case, Karima hired her own lawyer to pursue it. His repeated complaints to the general procurator's office resulted in the case being closed and reopened five times, before a court eventually found the victim's mother-in-law guilty of a lesser offense, failing to provide timely medical

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<sup>262</sup> Interview, village precinct police officer, June 3, 2000.

<sup>263</sup> Interview, Sharofat, May 21, 2000.

<sup>264</sup> Ibid.

<sup>265</sup> *Ishonch*, August 5, 2000, as reported in BBC Monitoring, August 5, 2000.

<sup>266</sup> Interview, police officer B, June 4, 2000. Human Rights Watch was not able to ascertain whether or not a criminal case was in fact opened, or what was the result.

<sup>267</sup> Interview, Karima, May 27, 2000.

<sup>268</sup> Interview, Karima, May 25, 2000.

attention. However, upon her conviction she was immediately amnestied, in May 1999, and served no prison time.<sup>269</sup>

### Rhetoric Without Remedies

The Uzbek government has repeatedly declared publicly that it recognizes the significance of the problem of domestic violence. At the October 1998 Organization for Security and Cooperation in Europe Office of Democratic Institutions and Human Rights (OSCE/ODIHR) Implementation meeting in Warsaw, for example, government representatives stated that all types of violence against women are on the increase, and that this was due partly to social attitudes condemning women who complain, and a lack of effective law enforcement.<sup>270</sup> The government said it would review the country's laws "to strengthen the responsibility for all kinds of violence, [to] elaborate and put into effect the system of special services to render assistance to women and children who underwent violence, [to] elaborate special programme[s] of training law enforcement personnel, social and medical services and other social bodies of the methods of rendering assistance to victims of violence as well as to organize consulting and informational services for women on the problem of violence prevention, etc."<sup>271</sup>

The government's national program prepared in the wake of the U.N. Women's Conference in Beijing in 1995 asserts that the country's law enforcement agencies have paid increased attention to the issue.<sup>272</sup> However, in practice the government has implemented few of these laudable recommendations in its October 1998 declaration. Moreover, those state programs that have been implemented have not alleviated, and may have exacerbated, existing social attitudes that foster domestic violence.

Since 1998, "The Year of the Family," state agencies have begun to devote attention to problems of the family generally, and the various educational, public-awareness and welfare programs developed under these auspices have sometimes included components addressing domestic violence.<sup>273</sup> Generally, these efforts fall into three categories: legal reform, law enforcement policy changes, and public education and media discussions.

The most notable change in Uzbek state policy towards the family in the past few years came with the adoption of a new Family Law Code in April 1998 supplanting the Soviet code in force since 1969. Although some legal specialists and women's rights advocates proposed including specific language on domestic violence when the draft of the law was first circulated, no such provision was ultimately included in the law.<sup>274</sup> Government human rights officials explain this decision by stating that, in contrast to the West, the level of "consciousness" had not changed to the point where such a law would be appropriate.<sup>275</sup> Scholars and NGO activists also noted at the time that article 8 of the code, on the application of local traditions and customs in family life, likely contravenes the provision of CEDAW requiring state parties to

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<sup>269</sup> Interview, lawyer for Karima, May 25, 2000. Karima has referred the case to the parliamentary human rights ombudsman, who has reportedly submitted the case once again to the general procuracy for review.

<sup>270</sup> "Improvement of the Women's Status in Uzbekistan," IMP/98 no. 191E, October 30, 1998. See also F.Kh. Bakaeva, "Ombudsman respubliki Uzbekistan i problemy obespecheniia prav zhenshchin," in G.M. Tansykbaeva, ed., *Zhenshchina, pravo, obshchestvo* (Tashkent, 1999), pp. 75-76.

<sup>271</sup> *Ibid.*, p. 4.

<sup>272</sup> *Natsional'naiia platforma deistvii po uluchsheniuii polozheniia zhenshchin v Uzbekistane I povysheniuii ikh roli v obshchestve. Osnovnye mery po ee realizatsii.* Tashkent, 1999, pp. 67-68.

<sup>273</sup> Decree by the President of the Republic of Uzbekistan, December 9, 1998 (on the Year of the Woman), [http://www.undp.uz/GID/eng/Uzbekistan/Publications/uz\\_bul4\\_1.html](http://www.undp.uz/GID/eng/Uzbekistan/Publications/uz_bul4_1.html); "Uzbek Decrees to support families," BBC Worldwide Monitoring, December 10, 1997, from Uzbek Radio first program, December 9, 1997, on the creation of a national commission to "improve the conditions of family life."

<sup>274</sup> Interview, legal scholar, May 29, 2000; "Obsuzhdaem proekt Semeinogo kodeksa respubliki," *Vechernii Tashkent*, April 15, 1998.

<sup>275</sup> Interview, government human rights official, May 18, 2000.

“take measures to change or eliminate all laws, traditions and practices which promote discrimination against women.”<sup>276</sup> Article 8 of the amended Family Code, in the opinion of local legal scholars, reinforces the legitimacy of “traditional” understandings of family relations. It states:

If legislation lacks relevant norms to regulate family relations, local customs and traditions, not in contradiction to the legal principles of the Republic of Uzbekistan, may be applied.<sup>277</sup>

Despite the vague formulation and the reference to legal principles, which include gender equality, local lawyers and women’s rights activists fear that it may ultimately undermine provisions on equality.

One positive feature of the new law, from the perspective of women’s rights advocates, was the provision allowing couples to conclude pre-marital agreements specifying the terms for property division in the case of a divorce.<sup>278</sup> Women’s committee representatives describe actively promoting these contracts through their pre-marriage education program (see below), although the highest number of such pre-marital contracts actually concluded in any province had reached only thirty-four in mid-2000.<sup>279</sup>

In 1998, the government initiated some changes in law enforcement, although these do not include such basic measures as compiling national statistics on the number of reported cases of domestic violence. In its report to the United Nations Committee on the Elimination of Discrimination Against Women, the government said that it had implemented “a series of organizational and practical measures to prevent violence against women” since that time, but did not provide any details.<sup>280</sup> However, these measures included the creation of a coordinating council for law enforcement bodies (the police and the procuracy) for responses to domestic violence that met during both 1998 and 1999.<sup>281</sup> Neither the procuracy nor the Ministry of Internal Affairs responded to written requests from Human Rights Watch for information about the current activities of this council, though it is known to have implemented monthly police checks on families where violence has been reported.

The most extensive response to domestic violence by far has been the public education and training of government personnel and others. Within the framework of the 1998 Year of the Family program, the government began a nationwide program of pre-family education for children in the upper grades of high school. These programs, administered by district-level executive bodies, are largely within the purview of local women’s committees. In two of the three provinces surveyed by Human Rights Watch, district-level officials described participation in these courses by some quasi-, state-supported non-governmental organizations, including the organization For a Healthy Generation (*Soghlom Avlod Uchun*), the center for Women and Health (*Ael va Salomatlik*), and the Center for the Family (*Oila*). Medical and legal specialists may be invited to hold discussions, although according to one activist the topic of sex education has been removed from the official school curriculum.<sup>282</sup> In some provinces, non-state funded non-governmental organizations, such as the newly-formed crisis centers, may take part in designing or carrying out these education programs. In addition to school programs, the women’s committee and other state agencies such as the parliamentary ombudsman, hold training sessions for their local activists and volunteers at the district and mahalla level.<sup>283</sup>

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<sup>276</sup> *Vechernii Tashkent*, April 15, 1998 ; CEDAW, article 2(f).

<sup>277</sup> Family Law Code, article 8. This article of the family code may relegate women’s status in the family to the vagaries of customary law. Customary law rarely protects women’s interests in the family. For more information, see Human Rights Watch, *World Report 2001*, December 2000, p. 453.

<sup>278</sup> Family Code, articles 29-36.

<sup>279</sup> Interview, provincial women’s committee officials, May 20, 2000.

<sup>280</sup> CEDAW/C/UZB/1, February 2, 2000, p. 28.

<sup>281</sup> The state report did not provide any information on whether or not the body met subsequently.

<sup>282</sup> Interview, women’s NGO activist, May 23, 2000.

<sup>283</sup> Interview, national women’s committee official, May 16, 2000.

It is beyond the scope of this report to review in detail the curriculum of these educational programs for schoolchildren and for local activists. Because local-level government bodies are responsible for carrying them out, the programs vary widely across the country and even within a single province. Some certainly include considerable focus on the nature and impermissibility of domestic violence, while others pass over the topic peremptorily. Conversations with local government officials who actually implement the programs suggest that “preparing young people for family life” often involves reinforcing interpretations of “tradition” which tend to place blame for family conflicts on the woman.<sup>284</sup> Though family violence may or may not be mentioned by these programs as unacceptable, the fundamental emphasis on women's submission and subordination facilitates blaming the victim and impunity for the perpetrator. One NGO activist complained that “the contests organized by the women’s committee for the best kelin [young bride] are humiliating for girls: contests for ironing, for instance. It treats them like domestic servants.”<sup>285</sup> Comments by members of several of the government-sponsored organizations reveal that education directed at divorce-prevention places the absolute goal of preserving the family ahead of protecting the rights of its members.<sup>286</sup>

The mass-media devote considerable attention to family life and to promoting positive images and models for family behavior. Absolute state control over media ensures that reference to family questions and women carry approved political messages.<sup>287</sup> In general, the Uzbek media shy away from portraying much negative news at all, and so it is scarcely surprising that the issue of domestic violence per se does not receive much frank coverage.<sup>288</sup> According to surveys performed by a leading women’s rights NGO, the vision of women's proper role in the family promoted by state media compounds women's difficulties in obtaining relief or redress for family violence, by reinforcing the view that women are responsible for the violence they face.<sup>289</sup> Furthermore, predominant media messages emphasize to women and girls that because of their own inadequacies, as wives and daughters-in-law, they are the sources of family problems, and that they can only hope to avoid such problems by becoming ever more subservient and pliable. Some officials, including one former judge, endorsed this message as the only one with the potential to relieve family struggles. She commented: “There was a program on Tashkent TV entitled ‘How to Preserve the Family.’ It showed young women who understood the obligation to care for the older generation.”<sup>290</sup> Others, particularly some NGO activists, question the emphasis on female docility and subservience as one likely to undermine efforts to promote women’s rights, including the right to be free from violence.<sup>291</sup>

## INTERNATIONAL AND NGO RESPONSE

Beginning in 1996, with the establishment by the UNDP of a project on Gender In Development, international donors have committed significant resources to supporting both government initiatives to promote women’s rights, and the emergence of non-governmental women’s rights organizations in Uzbekistan. The growth in foreign assistance to promote the growth of “civil society” has fostered the

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<sup>284</sup> Interview, national women’s committee official, May 16, 2000; Interview, district women’s committee chair, May 20, 2000; interview, municipal women’s committee chair, June 1, 2000.

<sup>285</sup> Interview, women's NGO activist, May 23, 2000.

<sup>286</sup> Interview, head of provincial center “Oila,” May 22, 2000.

<sup>287</sup> The Uzbek government retains the practice of pre-publication censorship by the Committee to Preserve State Secrets, for all print media. Electronic media are subject to similarly rigorous reviews of content. See “Violations of Media Freedom: Journalism and Censorship in Uzbekistan,” *A Human Rights Watch Report*, vol. 9, no. 7, July 1997; U.S. Department of State Annual Human Rights Reports, Uzbekistan, 2000, <http://www.state.gov/g/drl/rls/hrrpt/2000/eur/index.cfm?docid=858>.

<sup>288</sup> The government claims that the newspaper of the Ministry of Internal Affairs, *Na postu*, regularly reports on police efforts against domestic violence. *Natsional’naia platforma* ... p. 67.

<sup>289</sup> M. Tokhtakhodjaeva, “Traditional Stereotypes and Women’s Problems in Post-Soviet Uzbekistan: A Survey of the Mass Media,” *Women living under muslim laws*, Dossier 22 (November 1999), p. 41.

<sup>290</sup> Interview, head of provincial Women Lawyers Association, May 22, 2000.

<sup>291</sup> Interview, women's NGO activist, May 23, 2000.

creation of as many as 200 non-governmental women's groups, according to the government, since 1997.<sup>292</sup> Major international donors include the OSCE, the Soros Foundation/Open Society Institute, the U.S. government through the United States Information Service and United States Agency for International Development, the European Union funding program TACIS, and Novib, the Dutch development agency. USAID alone has provided close to one million dollars to fund women's rights activities since 1995.<sup>293</sup> Together with the provision of direct grants to support the activities of local NGOs, agencies such as USAID and the OSCE/ODIHR have sponsored numerous training workshops to expose Uzbek NGO leaders to international theories and methodologies in the field of women's rights. In 1998-2000, these donors specifically focused their efforts around the issue of domestic violence. By 2000, this assistance had been used to create thirteen non-governmental women's crisis centers in provincial capitals, several of which operate telephone hotlines to provide advice and counseling to women, and conduct their own public education seminars.

Alongside the positive influence of these programs in raising awareness among activists and others, both donors and recipients of this assistance described to Human Rights Watch some significant shortcomings in the design, coordination and implementation of some of the aid programs to date. The first among these problems is the mismatch between the amount of assistance agencies have to distribute and the relatively small number of available recipients. Funding, to a large extent, preceded the creation of NGOs willing to tackle the problem of domestic violence.<sup>294</sup> This tendency may stem in part from donors' unwillingness to take the risk of funding more general human rights training programs given the current political climate in Uzbekistan.<sup>295</sup>

The international focus on promoting the growth of the non-governmental sector has inadvertently contributed to an element of competition and friction between nascent NGOs and the state women's committee. In some provinces, women's committee representatives seem to view the NGOs as interlopers in the sphere of their own competence and authority, and resent the fact that NGOs can receive foreign funding. Sometimes this leads women's committees to block or frustrate the activities of the women's NGOs. And while the international aid and training programs play an important role in developing a nascent anti-domestic violence NGO movement in Uzbekistan, there are still fewer NGOs than foreign donors would wish. This has led to competition between donors eager to expand their aid budgets, to identify local grantees and training-seminar attendees, which has had an adverse effect. Some women NGO leaders have shown a propensity to pick and choose among the available options according to which seminar attendance would bring the greatest financial inducement.<sup>296</sup> During the period Human Rights Watch carried out its field research for this report, five separate but overlapping training seminars took place simultaneously in the capital, Tashkent.

Such lack of coordination among individual donor agencies not only promotes competition for participants, but leaves NGO leaders little time to actually carry out the activities for which they are being trained.<sup>297</sup> From a grantee perspective, the content of some training seminars has been marked by a basic lack of understanding of Uzbek realities that has created the impression, at times, of condescension. Uzbek women leaders resent being likened to the denizens of an underdeveloped country, and such comparisons serve to alienate some of the participants in training activities. NGO activists have noted that various seminars they have attended are uneven in their usefulness and often repetitive, another sign that donor

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<sup>292</sup> In its report under CEDAW, the government claims that 2,000 national and local NGOs, 70 percent of which are headed by women (but do not necessarily deal directly with women's issues). CEDAW report pp. 33-34.

<sup>293</sup> E-mail communication, Sheila Scott, Winrock International, May 4, 2001.

<sup>294</sup> For the role of Western aid in driving and shaping women's movements and "civil society," see Valerie Sperling, *Organizing Women in Contemporary Russia: Engendering Transition*, (Cambridge: Cambridge University Press, 1999).

<sup>295</sup> Interview, international aid official, May 31, 2000.

<sup>296</sup> Report by an international women's rights trainer on results of a training seminar for women's NGOs, November 2000.

<sup>297</sup> Interview, aid agency official, May 18, 2000.

agencies have failed to coordinate content effectively. Consequently, Human Rights Watch welcomes the efforts being made by the OSCE's Tashkent Office and the Open Society Institute to better coordinate international donors in order to address this problem.

The actual content of training seminars and the design of grant programs are only slowly taking into account both the wishes of local NGOs and other leaders, and the specific aspects of the problem of domestic violence in Uzbekistan. It is significant that although considerable foreign assistance was provided to Uzbekistan before 2000, until that year no public international donor agency had allocated funds to support even a cursory study of domestic violence there.<sup>298</sup> But the funding that was then made available for programmatic activities, due to a lack of research and inadequate understanding of the phenomenon in Uzbekistan, led donor agencies to promote assistance strategies that simply replicated those employed in other countries. One donor representative told Human Rights Watch, "The donors have become very territorial, especially in the area of women's programs. It is bizarre...Everyone wants to do crisis centers and everyone wants to do women's NGOs...There are cowboy experts running into here with successful programs in Eastern Europe."<sup>299</sup>

Several local experts expressed doubt that current programs could provide much actual relief to victims of domestic violence. They questioned whether the Western crisis center model, with on the spot counseling and a telephone hotline, is the best approach to the problem in Uzbekistan, particularly in much of the country where phones are rarely reliable and where many women are discouraged from leaving the home unaccompanied, save to go to work or school. One NGO leader told Human Rights Watch, "No one would go to a crisis center. We did a survey and only one person said that they would go to a psychologist [in cases of domestic violence]."<sup>300</sup> Some NGOs and women's committees alike are devising alternative models for a center where victims can seek help, based on institutions seen as relatively unthreatening, such as medical clinics or employment training centers, but these have been slow to be established. Women interviewed by Human Rights Watch in rural and urban settings identified access to legal advice and assistance in defending their rights in the courts and in their communities as their key need in escaping situations of domestic violence. None of the rural women had ever heard of crisis centers. The nascent crisis centers as yet provide only sporadic legal assistance to women, especially to those outside of the cities where they are located.

Certainly, the international focus on women's rights generally and domestic violence specifically has the potential to aid Uzbekistan's citizens in their efforts to provide solutions for women victims. Internationally-sponsored programs that take pains to develop programmatic activities in close consultation with local experts, NGO and government activists may have a greater impact.

## CONCLUSION

The record of government actors described above constitutes a systematic failure on the part of the Uzbek state to protect women from domestic violence. As such, it contradicts Uzbekistan's own domestic statutory obligation to protect the right to life and security of all persons, regardless of their sex. Uzbekistan is also clearly in violation of its international obligations under the ICCPR and CEDAW.

Certain aspects of state policy, such as the encouragement of community involvement in cases of family abuse, are positive in that they remove the question of domestic violence from the private sphere of the family and implicitly recognize the social harm caused by this crime. However, the fact that mahalla officials, effectively representatives of the executive branch, consistently block women's access to legal

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<sup>298</sup> Funds from USAID through the contracting agency Winrock International sponsored an excellent study by the Minnesota Advocates for Human Rights, *Domestic Violence in Uzbekistan*, published in December, 2000.

<sup>299</sup> Interview, international aid official, May, 30, 2000.

<sup>300</sup> Interview, NGO activist, May 30, 2000.

remedies, to divorce, or to criminal justice, means that the state permits the existence of discriminatory barriers to women's equal protection under the law. Further, government policy ostensibly aimed at preserving the family provides a clear disincentive for mahalla officials and others to pursue or allow the criminal prosecution of abusers, or divorce. Such officials clearly fear that this would reflect badly on their community or bring upon them the censure of their superiors because of their failure to effect "reconciliation." Similarly, the failure of the police to respond effectively to women's complaints also indicates a clear breach by the state of its obligation to ensure legal equality to women. And judicial indifference to evidence of domestic violence provided by women seeking divorces also effectively blocks women's access to civil remedy, and displays a striking disregard for their rights.

The situation for women victims of domestic violence is undeniably bleak. It requires urgently to be addressed. While public education carried out by the women's committee, insofar as it addresses the impermissibility of domestic violence in all cases, is positive, it is clearly an insufficient response to the problem. In particular, the Uzbek government has an obligation to revise fundamentally its approach to battering and other forms of domestic abuse, and to ensure that at all levels of government and the criminal justice system it is recognized that domestic violence is inadmissible and will be punished with the full rigor of the law. This, however, will require leadership from the highest level and intensive action to ensure that mahalla and other officials, as well as police and others in the criminal justice system, are clearly charged with upholding the law and with protecting the rights of women.



## RECOMMENDATIONS

### **To the Government of Uzbekistan:**

- Enforce existing criminal laws against assault and prosecute perpetrators of domestic violence to the fullest extent of the law.
- Denounce publicly domestic violence and make information widely available about how victims can seek redress. Cooperate with non-governmental women's organizations to advertise anti-domestic violence public service messages and to publicize the existence of services for victims.
- Pass legislation to criminalize stalking. Provide in-depth training of police officers, prosecutors, judges, and mahalla officials to recognize cases of stalking and to intervene with criminal sanctions in a timely manner. Until legislation is passed, take affirmative measures to protect women from harassment and threats from their batterers, such as police protection, protection orders, and community sanctions.
- Pass legislation to create civil remedies, such as protection orders, for victims of domestic violence. The civil protection scheme selected should be appropriate to the conditions in Uzbekistan, ensuring that it is accessible to women and enforceable. After passage of the civil remedies legislation, the Uzbek government should train police officers and local officials to carry out the enforcement mechanism. In addition, the government should instigate a nation-wide public education campaign to alert citizens to the new law.
- Amend the rape law to clarify that rape within marriage is a criminally punishable offense, and train law enforcement officials to respond effectively to these charges.
- Compile accurate and comprehensive data on the number of domestic violence complaints filed with the police, on the number of misdemeanor citations issued, criminal cases opened, on the number of convictions, and the level of sentencing. The relevant ministries should create and implement a coordinated system for collecting that information and should make those statistics publicly available.
- Allocate and ensure the equitable distribution of funds for the provision of social services to the victims of domestic violence and their children.
- Amend the criminal procedure code to allow ordinary medical records to be submitted as evidence for the purpose of domestic violence prosecutions;
- Require a training program on domestic violence for all existing and incoming police officers. The training program should include: procedures for efficient intake of all domestic violence complaints; legal training on laws against domestic violence; creation of a protocol for handling domestic violence complaints; and training on the dynamics of domestic violence.
- Require a training program on domestic violence as part of the curriculum at medical schools and institutes. Such curricula should include training on how to document injuries related to battering—including marital rape—and how best to serve patients who exhibit such injuries.
- Admit women to the Ministry of Internal Affairs academy for training as law-enforcement officers, as was the case before 1998. Consider creating domestic violence units within police departments staffed with male and female officers.
- Train local government functionaries including mahalla officials, women's committee officials, and others under the rubric of female suicide prevention to prioritize protection of the complainant in their responses to domestic violence appeals.
- By law and practice, domestic violence should be sufficient grounds for granting a divorce without a waiting period. Courts and mahallas should also end practices that discriminate against women who attempt to initiate divorce proceedings. Judges should initiate criminal proceedings as required by law when allegations of domestic violence are made in divorce proceedings.
- Ensure that women who find themselves abandoned for second wives taken in religious ceremonies may obtain divorces without a waiting period and that their rights to joint property, alimony, and child support are protected.

- Amend the polygyny criminal statute to cover multiple simultaneous marriages, whether contracted through civil or religious procedures, whether or not the wives live in the same household. Enforce the law against polygyny.
- Encourage state media to cooperate with NGOs to develop public service announcements and other programs publicizing domestic violence cases and legal remedies for domestic violence.
- Cooperate with non-governmental organizations to ensure that state-sponsored pre-family education programs include components on domestic violence and on the available remedies for domestic violence. These programs should avoid reinforcing discriminatory attitudes toward women.
- Complete and submit all reporting required by the International Convention on Civil and Political Rights. That reporting should include information on violations of women's human rights, including statistics on domestic violence.
- Carry out the recommendations of the United Nations Committee on the Convention on the Elimination of all forms of Discrimination against Women (CEDAW), including taking urgent measures to overcome traditional stereotypes regarding the role of women and men in the society.

### **To Bilateral and Multilateral Donors:**

Donor organizations have squandered time, funds and good will through a lack of coordination and even competition among agencies. Positive initiatives, such as the donor community gender listserv, are to be commended. But far more cooperation is needed to remedy the current situation. Specifically, we recommend:

- Commit to raising the issue of violence against women as a part of ongoing dialogue with the government of Uzbekistan on human rights issues, and urge it to implement CEDAW recommendations and those contained in this report.
- Shift some resources from funding of training seminars for NGO activists to end-user assistance, with particular focus on the need for legal assistance programs and public education initiatives.
- Include local NGO leaders in curriculum development and as experts in the distribution of funding. Scale back or cancel training seminars found to be repetitive or irrelevant. Rely on local organizations and other experts for direction as to the usefulness and cultural appropriateness of programs.
- Coordinate to provide effective training programs and grant schemes. Avoid competing for program participants. Instead, coordinate schedules, cooperate on curriculum development to prevent duplication, and agree upon geographical coverage for each program. Increase resources devoted to monitoring results of grants. Develop comprehensive and effective evaluation mechanisms to collect feedback from program participants. Implement the changes recommended in the evaluations.
- Fund legal assistance programs for women seeking to escape domestic violence and battering relationships. Provide training for paralegals or advocates to assist women in navigating the criminal and civil legal institutions. Provide funding for lawyers to take domestic violence cases and training for lawyers considering taking such cases.

### **To the United Nations:**

- Assist the Uzbek government in collecting statistics on violence against women as well as on other indicators of women's status. Make these statistics publicly available.
- The Special Rapporteur on Violence Against Women, its Causes and Consequences should request an invitation to visit Uzbekistan to examine the state response to domestic violence.
- UNIFEM should expand the focus of its Working Group on Women in Central Asia to include discussions of violence against women in Uzbekistan.

**To the OSCE:**

- Act on the recommendations adopted at the June 1999 supplemental meeting on Gender Issues and insist that monitoring and reporting on women's rights are a priority in all OSCE work.

**To the European Union:**

- Raise the issue of violence against women in meetings with senior Uzbek officials, including in the context of the EU-Uzbekistan Cooperation Council meetings, and the EU-Uzbekistan Interparliamentary Dialogue. Encourage the government of Uzbekistan to carry fully out these recommendations and those issued by CEDAW, to enforce laws against domestic violence and to collect accurate data on the prevalence of domestic violence in Uzbek families.
- Commission an independent and thorough evaluation of the effectiveness of projects funded to date. Continue TACIS funding for women's human rights programs in Uzbekistan, modifying programs as indicated by the results of the independent evaluation.
- Fund legal aid programs for victims of domestic violence as well as for victims of other serious human rights abuses in Uzbekistan.

**To the U.S. Government:**

- Raise the issue of violence against women in meetings with senior Uzbek officials. Encourage the government of Uzbekistan to enforce laws against domestic violence and to collect accurate data on the prevalence of domestic violence in Uzbek families.
- Commission an independent and thorough evaluation of the effectiveness of projects funded to date. Continue USAID funding for women's human rights programs in Uzbekistan, modifying programs as indicated by the results of the independent evaluation.
- Fund legal aid programs for victims of domestic violence as well as for victims of other serious human rights abuses in Uzbekistan.
- Increase reporting on domestic violence, gender discrimination, and the government's willingness to hold perpetrators accountable in the State Department Annual Reports on Human Rights.

**To the World Bank:**

- Conduct a country gender review to assist in the formulation of lending programs and to ensure that gender considerations are incorporated into country strategies. Coordinate new gender programs with existing activities sponsored by other donors;
- Form external gender consultative groups including Uzbek NGO leaders and social scientists to advise staff on gender issues in Uzbekistan;
- Establish programs to increase women's access to the judicial system and to educate judges about domestic violence as a part of any future programs in legal and judicial reform;
- Incorporate training on domestic violence into the World Bank Health Project for Uzbekistan, including 1) training on screening for and treatment of domestic violence by doctors particularly in rural areas; 2) training on domestic violence, including marital rape, for the new cadre of medical personnel; 3) capacity building at the national level for the collection and dissemination of statistics on domestic violence and the medical cost of domestic violence. In addition, include information on domestic violence in training programs designed to strengthen primary health care services. In the medical education component of the health project, include training for trainers on domestic violence for practicing physicians, medical students, and nurses.
- Recognizing the negative economic effects of gender discrimination and domestic violence in particular, any programs to provide poor women with income-generating activities or micro-credits should include domestic violence education as a part of the associated training activities, in order to inform program participants about the currently available forms of relief from and redress for domestic abuse.

**To the Asian Development Bank:**

- Integrate women's human rights into development of the Senior Secondary Education Project, funded with a \$57 million loan from the ADB and carried out by the Ministry of Higher and Senior Secondary Education. Include seminars by experts on violence against women in all local and international training programs for school directors, staff, teachers, and policy makers.
- Continue to target women in all poverty reduction programs in Uzbekistan, as well as through the Small and Medium-Sized Enterprise (SME) Development program, funded with a \$50 million credit line from the ADB, and to ensure that women have access to support for small and medium enterprises, in light of the need for women to gain economic independence in order to escape from violent husbands.
- Include domestic violence education as a part of the training activities for all income-generation programs targeted to women, in order to inform program participants about the currently available forms of relief from and redress for domestic abuse.

## ACKNOWLEDGEMENTS

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