

# Violence Against Women: Consciousness and Law in Four Central European Emerging Democracies—Poland, Hungary, Slovakia, and the Czech Republic

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## I. INTRODUCTION

Domestic violence is a worldwide problem.<sup>1</sup> It is, perhaps, most tragic in regions of the world, such as the newly emerging democracies of Central and Eastern Europe (CEE), that have already seen more than their fair share of brutality. Held in the firm grip of Communist control for over forty years, their single decade of newfound freedom has brought social upheaval and led to an increase in domestic violence. Various solutions to this problem have been proposed, but none are easily transferable to CEE.

Some theorists argue that international law is the only effective vehicle for preventing domestic violence because local norms and official inertia in patriarchal systems stymie enforcement of anti-violence laws.<sup>2</sup> This Article suggests that the enforcement model itself is

1. The social costs of domestic violence are enormous. LORI L. HEISE ET AL., *VIOLENCE AGAINST WOMEN: THE HIDDEN HEALTH BURDEN* 17 (World Bank Discussion Paper No. 255, 1994) (reporting that one in five healthy years of life are lost in women aged fifteen to forty-four through disability and death from domestic violence).

2. See Julie Mertus & Pamela Goldberg, *A Perspective on Women and International Human Rights After the Vienna Declaration: The Inside/Outside Construct*, 26 N.Y.U. J. INT'L L. & POL. 201, 226 n.78, 230 (1994) (arguing that adding women to the social contract will not help

counterproductive in CEE because of general anti-authoritarian attitudes in Post-Communist populations, inapplicability of Western feminist theories, and unwillingness of the sexes to be Balkanized into male versus female stances. These countries must find their own "third way" into civil society, a way that builds on their past and takes what is appropriate from the experience of older democracies, without embracing one approach in its entirety. This Article discusses the reasons existing legal and social solutions are inappropriate to Central Europe and proposes an alternative that takes into account the unique history of the family and its role in society in this region. The four countries of Poland, Hungary, Slovakia, and the Czech Republic were chosen as representative of this area. This Article explores the various approaches to addressing domestic violence in these four nations, and suggests that Western solutions must be modified to fit the peculiar set of problems found in the former Communist states.

Part II defines the problem of domestic violence and contrasts Western family structure with that of CEE families.<sup>3</sup> Next, Part III looks at three approaches to domestic violence: the normative model of United Nations (UN) human rights conventions, the educational model employed by the European Union (EU), and the prosecutorial model of the United States. It also includes a separate discussion of Western feminism's impact on the U.S. system.<sup>4</sup> Family life during the transition from Communism to a free economy is examined in Part IV.<sup>5</sup> It examines the rejection of Western feminism, the growth of regional nongovernmental organizations (NGOs), and the indifference to domestic violence on the part of all four governments. Part V then examines attitudes, statistics, laws, and government and private programs in Poland, Hungary, Slovakia, and the Czech Republic.<sup>6</sup> Differences

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and that states are complicitous because nonintervention in domestic violence promotes "masculinist, heterosexist, and classist ideologies"); see also *Report of the Committee on the Elimination of Discrimination Against Women*, U.N. GAOR, 53d Sess., pt. 1, Supp. 38, para. 184, U.N. Doc. A/53/38 (1998) (describing the Czech Republic government's "overarching tendency" to view females as "mothers and within the context of the family" as "a major obstacle to implementation of the Convention [on the Elimination of All Forms of Discrimination Against Women]"); Rhonda Copelon, *Recognizing the Egregious in the Everyday: Domestic Violence As Torture*, 25 COLUM. HUM. RTS. L. REV. 291, 291-99 (1994) (comparing domestic violence to other violations of international law); Lenore E. Walker, *Psychology and Domestic Violence Around the World*, 54 AM. PSYCHOL. 21, 23 (1999) (discussing the obstacles that domestic institutions present for dealing with violence against women).

3. See *infra* notes 9-18 and accompanying text.

4. See *infra* notes 19-79 and accompanying text.

5. See *infra* notes 80-149 and accompanying text.

6. See *infra* notes 150-250 and accompanying text.

between the West and the four countries studied are reviewed in Part VI.<sup>7</sup> Finally, Part VII suggests an approach to reducing domestic violence that recognizes the financial limitations, cultural uniqueness, and political realities of Central Europe.<sup>8</sup>

## II. DEFINING DOMESTIC VIOLENCE

Western nations agree that protection from abuse is a basic human right, but defining that right is a complex process.<sup>9</sup> In defining domestic violence, most researchers include any kind of bodily harm carried out with the intent to injure another.<sup>10</sup> Psychological control may also be considered abusive. While not generally criminalized in the United States, psychological control is included in several other nations' definitions of spouse abuse.<sup>11</sup> The mechanisms of control vary and are more difficult to quantify than physical abuse. This Article will focus solely on physical violence between partners in a legally recognized, committed relationship—i.e., a marriage. Limiting study of abuse to marital relationships has two advantages. First, it provides a clear demarcation between criminal and noncriminal behavior in countries whose codes do not recognize intrafamily violence as prosecutable. Second, it allows us to evaluate changes in behavior within relatively long-term relationships that existed both before and after the fall of Communism in CEE.

In general family literature, several societal factors have been linked to an increase in domestic violence:

- (1) increases in societal violence lead to increased intrafamily violence;
- (2) physical force learned in family roles in one generation will be used by the next generation;
- (3) psychological absence of the father leads to patterns of behavior variously called protest masculinity, hyper-aggressive masculinity, or compulsive masculinity—precursors to a preference for segregated sex

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7. See *infra* notes 251-260 and accompanying text.

8. See *infra* notes 261-277 and accompanying text.

9. Mary Collins et al., *Unveiling the Hidden Data on Domestic Violence in the European Union*, Final Report, European Women's Lobby Study 19-22 (Nov. 1999). The report provides a compilation of national approaches to domestic violence in Europe in concise chart format.

10. RICHARD J. GELLES & CLAIRE PEDRICK CORNELL, *INTERNATIONAL PERSPECTIVES ON FAMILY VIOLENCE* (1983).

11. See, e.g., P. Loizos, *Violence and the Family: Some Mediterranean Examples*, in *VIOLENCE AND THE FAMILY* 183-96 (J. Martin ed., 1978) (reporting that researchers in Mediterranean countries define spouse abuse as physical abuse with intent to injure or as necessary to maintain the moral code of the society).

roles, subordination of women, aggressive sexuality, and high incidences of wife beating;

(4) male-dominated social structure which places the full burden of child-rearing on the wife, backed-up by a male-dominated legal and judicial system that makes protection of women against spousal assault unlikely except in extreme circumstances;

(5) periods of high social/economic stress increase levels of violence against the weak and dependent, particularly when societal bonds in general break down; and

(6) availability of alternatives to tolerating violence: self-support, return to parents' home, and shelters.<sup>12</sup>

In addition, certain familial or personality factors may predispose males toward violent behavior: alcohol or drug abuse, morbid jealousy, and difficulty tolerating frustration.<sup>13</sup> Battered wives may also fall into certain types: women raised in abusive relationships whose current relationship mirrors the first; highly competent women who see marital failure as personal failure; and women who are dependent on the abusive spouse, have little self-confidence or personal skills, and have no alternative living arrangements.<sup>14</sup> The list is not exhaustive and is subject to some controversy, but it generally reflects Western nations' tendency to see domestic violence from the standpoint of individual behavior, uncontrolled by the society at large, reflecting the sharp preference for individualism and individual responsibility in these nations. From their constitutions guaranteeing individual rights, to their child-rearing habits which isolate children from the day they are born, Western marital partners are trained to see themselves as a lone social unit. Together they are responsible for their own and their children's economic, social, psychological, and moral well-being, with little help from the state, the business world, or the extended family. While they are not usually aligned against the larger society, in many ways they are not a part of the larger society in the way families under Communist rule were integrated into the political and social system.

The family in CEE under Communism was a safe harbor, a refuge against the brutality and the inanity of a totalitarian regime.<sup>15</sup> It was not, however, an enemy of the state. In fact, it was supported in many ways by the Communist regime, which provided childcare, old age pensions,

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12. GELLES & CORNELL, *supra* note 10, at 30-39.

13. *Id.* at 125-28.

14. *Id.* at 130-33.

15. See generally SLAVENKA DRAKULIC, *HOW WE SURVIVED COMMUNISM AND EVEN LAUGHED* (1993).

job security, and a minimum standard of living.<sup>16</sup> The state penetrated every aspect of life, but once the door to the family residence closed, a zone of privacy and quietude emerged. This was created in large part by the hard work and patient queuing for food and supplies by the women in the family. The family became the place where one could be oneself without danger. As Croatian author Slavenka Drakulic observed, "To be yourself, to cultivate individualism, to perceive yourself as an individual in a mass society is dangerous. You might become living proof that the system is failing."<sup>17</sup> The family carried a heavy burden. Being oneself also meant letting off steam in safety. No statistics exist to measure the incidence of domestic violence during the Communist era, but most observers believe the incidence was high before 1989 and is growing as social controls ease and economic pressures increase.<sup>18</sup>

### III. WOMEN'S RIGHTS IN THE CONTEXT OF HUMAN RIGHTS

When the issue of violence against women is placed within the framework of human rights arguments, three models emerge: (1) the normative model found in UN conventions; (2) the educational model of the EU; and (3) the legalistic, prosecutorial model of the United States.

Each model's usefulness in addressing the question of domestic violence in emerging democracies can be discussed in the context of the unique cultural, social, economic, and political history of CEE. Under such an analysis, it becomes apparent that the American prosecutorial model, which focuses on state interference in private life, is unsuitable for former Communist-dominated countries. A profound distrust of state interference in private life works against adoption of the U.S. model. This distrust, when coupled with an unwillingness to see a partner, even an abusive partner, as an adversary, makes punishment-oriented programs difficult to implement. The international human rights norms embodied in UN conventions offer a philosophical ideal that most of these nations have incorporated into their constitutions. In practice, however, they operate merely as idealized constructs, not as models for daily behavior. On the other hand, the EU model has the potential to accommodate both distrust of authority and lack of funding because this model focuses on media promotion, self-help, education, and support

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16. Julie Mertus, *Human Rights of Women in Central and Eastern Europe*, 6 AM. U. J. GENDER SOC. POL'Y & L. 369, 377 (1998).

17. See DRAKULIC, *supra* note 15, at 26.

18. *After the Fall: The Human Impact of Ten Years of Transition*, The MONEE Project, Regional Monitoring Report No. 6, at 22 (the UNICEF Innocenti Research Center, Florence, Nov. 1999) [hereinafter *After the Fall*].

programs. This “soft” approach stands the greatest chance of stemming the tide of domestic violence in CEE. This Article will examine each model separately.

A. *The United Nations: International Standards—Normative Model*

The United Nation’s peace-making and peace-keeping functions are well-known, but its other, less publicized functions may be more important in the long view of history. Operating much like the Vatican in pre-Westphalian Europe, the UN provides a substitute for moral law that crosses all borders. Its rules are couched in human rights rather than religious terms, but the idealized standards of behavior function similarly in the global arena. Rather than Papal Bulls, the UN promulgates international conventions on human rights.

The horrors of World War II (WWII) prompted the Universal Declaration of Human Rights, a general document much like a constitution.<sup>19</sup> Later conventions defined more specific rights for specific populations or minorities. These included the *International Covenant on Civil and Political Rights*,<sup>20</sup> the *Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*,<sup>21</sup> and the *International Covenant on Economic, Social, and Cultural Rights*,<sup>22</sup> all of which focus on public rights and public behavior. Various attempts to bring violence against women under the purview of each of these documents has forced interpreters to stretch language beyond its original intent and treat women as an afterthought in the framework of human rights instruments.<sup>23</sup> Other attempts have been made to fit domestic violence into the rhetoric of existing international norms. The most well publicized are arguments that domestic violence is parallel in the private realm to torture in the public realm.<sup>24</sup> A second argument, again extrapolating from the public to the private, suggests that domestic violence constitutes persecution that reaches a level which would qualify its victims for asylum in other countries.<sup>25</sup> Thus far, both arguments

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19. G.A. Res. 217 A (III), U.N. Doc A/810, at 71 (1948).

20. 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.

21. G.A. Res. 39/46, annex, 39 U.N. GAOR Supp. (no. 51) at 197, U.N. Doc. A/39/51 (1984).

22. G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 49, U.N. Doc. A/6316 (1966), 993 U.N.T.S. 3.

23. Copelon, *supra* note 2, at 291.

24. *See id.*

25. *See Matter of R-A-*, BIA Decision, The Women’s Committee for Refugee Women and Children, National Immigration Project of the National Lawyers Guild and the American Immigration Law Foundation, *Practice Pointers* (Feb. 2000), available at <http://www.aifl.org>;

remain largely in the theoretical realm, although a few asylum petitioners have been granted international protection.<sup>26</sup>

These arguments represent an expanding discourse about domestic violence itself, but they also illustrate the need to address the issue on its own terms—as a violation of the rights of women.

The distinction between public and private behavior is important. Until recently, all international norms regulated public behavior, not activity in the private, personal sphere of the home.<sup>27</sup> Domestic violence, on the other hand, is acted out in the home. Home life has not traditionally come under the purview of matters about which the UN is concerned. Before it could craft a declaration, study, or address the issue of domestic violence, the UN itself was forced to change its perspective from public to private concerns.<sup>28</sup> This was a dramatic change in perspective, pushed by global feminists. Early in the 1990s, pressure from feminist scholars around the world led to this first international document specifically protecting women.<sup>29</sup> This came about because women's groups realized that fitting women's rights into general human rights documents failed. The UN faced the problem head-on when it adopted the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).<sup>30</sup>

#### 1. The United Nations Declaration on the Elimination of Violence Against Women

CEDAW was a failure from the beginning. By the time of the 1993 UN World Conference on Human Rights in Vienna, failure of the 1979 UN *Declaration on the Elimination of Violence against Women* prompted a massive outcry by feminists and women's groups worldwide.<sup>31</sup> An organized demand that the UN adopt a firm resolution on violence

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Pamela Goldberg, *Anyplace But Home: Asylum in the United States for Women Fleeing Intimate Violence*, 26 CORNELL INT'L L.J. 565 (1993); Nancy Kelly, *Gender-Based Persecution: Assessing the Asylum Claims of Women*, 26 CORNELL INT'L L.J. 625 (1993).

26. Todd Stewart Schenk, *A Proposal to Improve the Treatment of Women in Asylum Law: Adding a Gender Category to the International Definition of "Refugee,"* at <http://www.law.indiana.edu/glsj/vol2/schenk.html> (last visited Mar. 17, 2000).

27. Ursula O'Hare, *Realizing Human Rights for Women*, 21 HUM. RTS. Q. 364, 368 (1999).

28. *Id.*

29. *Id.*

30. G.A. Res. 34/180, U.N. GAOR Supp. (No. 46) at 193, U.N. Doc. A/34/180 (1981); see Jutta Joachim, *Shaping the Human Rights Agenda: The Case of Violence Against Women*, in GENDER POLITICS IN GLOBAL GOVERNANCE 142-58 (Mary K. Meyer & Elizabeth Prugl eds., 1999).

31. See O'Hare, *supra* note 27, at 369.



against women took the Vienna Convention by surprise and resulted in the 1993 *Declaration on the Elimination of Violence against Women* (DEVAW).<sup>32</sup> DEVAW defined violence as any act, including threats, coercion, or arbitrary deprivation of liberty that results or is likely to result in physical, sexual, or psychological harm or suffering to women.<sup>33</sup> It included violence within the family, in the general community, or violence perpetrated or condoned by the state.<sup>34</sup> DEVAW encouraged national legislation to protect women, punish perpetrators, develop prevention programs, and to support educational initiatives and research.<sup>35</sup> In addition, the UN committed itself to fostering regional cooperation through information sharing and data gathering.<sup>36</sup>

Couching women's rights in the language of universal human rights was more than a semantic trick. It represented a logical outgrowth of expanding human rights values. It also provided a vehicle for individuals to hold states responsible for actors within their boundaries who violate the rights of women. By establishing the standard that domestic abuse violates international norms, the UN provided a legal mechanism for arguing that the state bears responsibility for domestic violence within its borders. Signatory states bear a responsibility both to prevent violations of human rights and to provide effective remedies when violations occur.<sup>37</sup>

In reality, there's a long road and more than one bolted door between the lofty language of a UN declaration and the angry outbursts of a violent spouse in Warsaw, Prague, Bratislava, or Budapest. How much impact can a UN agreement have on individual lives and individual behavior? In the absence of state action, the UN solution of providing a means of individual complaint against the state is one way to give teeth to international conventions. In October 1999, the *Optional Protocol to the Convention on the Elimination of All Forms of Discrimination Against Women* was adopted, allowing individual women to bring complaints against states.<sup>38</sup> Twenty-eight states have signed thus far.<sup>39</sup> Similar to the

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32. G.A. Res. 48/104, 48 U.N. GAOR Supp. (No. 49) at 217, U.N. Doc. A/48/49 (1993); see also Mertus & Goldberg, *supra* note 2, at 201 (discussing Vienna debates).

33. G.A. Res. 48/104, *supra* note 32, art. 1.

34. *Id.* art. 2.

35. *Id.* art. 4(c)-(k).

36. *Id.* art. 5.

37. Rebecca J. Cook, *State Responsibility for Violations of Women's Human Rights*, 7 HARV. HUM. RTS. J. 125 (1994); Dorothy Q. Thomas & Michele E. Beasley, *Domestic Violence As a Human Rights Issue*, 15 HUM. RTS. Q. 36 (1993).

38. G.A. Res. 54/4, U.N. GAOR, 54th Sess., art. 2 (1999).

39. *International Women's Day: Empty Rhetoric and Unfulfilled Promises*, News Release, Issued by the International Secretariat of Amnesty International (Mar. 9, 2000).

right of individual complaint under the *European Convention on Human Rights*,<sup>40</sup> the mechanism is viewed as one way to enforce women's rights against states which fail to live up to their obligations under the Women's Convention.<sup>41</sup> However, the complaint mechanism itself is arduous and of limited use to all but the most determined of women.<sup>42</sup>

## 2. Regional Initiatives

Failure of top-down vertical integration has been a principal criticism of UN initiatives by women's groups in CEE, who argue that discrimination in prosecuting sexual and domestic violence continues in the form of extensive evidentiary requirements, low conviction rates, and victim credibility denials.<sup>43</sup> Growing concern over state accountability for private acts of violence suggests that incorporation of international norms into domestic law is a slow and evolving process, and that much more has been said than done, with little impact on the real lives of real women.<sup>44</sup> These criticisms are valid.<sup>45</sup> International norms represent idealized standards and models for national governments;<sup>46</sup> they are abstract concepts, far removed from local politics. Thus, international standards represent a consensus of values that is difficult to reach at the national level.<sup>47</sup> Precisely because of their distance from local partisanship, they provide a basis for national dialogue and promote passage of legislation on the state level.<sup>48</sup>

### B. Women's Rights Policies in the European Union

The EU, originally and still primarily an economic union, came late to the general arena of human rights.<sup>49</sup> In 1992, the Maastricht Treaty

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40. CONVENTION FOR THE PROTECTION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, Nov. 4, 1950, 1955 U.N.T.S. 220 [hereinafter EU HUMAN RIGHTS CONVENTION].

41. See *International Women's Day*, *supra* note 39.

42. G.A. Res. 54/4, *supra* note 38, art. 4 (requiring the complainant to exhaust all local remedies before filing a complaint through the Protocol), art. 7-8 (outlining the complaint and investigation procedures).

43. See *International Women's Day*, *supra* note 39.

44. Layli Miller Bashir, *New Trends in Addressing Violence Against Women*, 2 Human Rights Brief 10, 11 (Fall 1994).

45. Moira L. McConnell, *Violence Against Women: Beyond the Limits of the Law*, 21 BROOK. J. INT'L L. 899, 912 (1996).

46. *Id.*

47. See *id.* at 912-13.

48. *Id.* at 913.

49. The OECD identified European women as a major source of labor for the expanding European economies of the 1950s and 1960s. Combined with a rising wave of feminism in Western Europe, the EU saw a way to increase its labor force without overtly tinkering with

created a vaguely defined European "citizen" and several umbrella organizations for social policy, including the European Women's Lobby.<sup>50</sup> With this treaty, economic policy expanded to include issues of childcare and parental leave,<sup>51</sup> but carefully avoided women-centered noneconomic social issues, such as violence against women. Though nondiscrimination language was included in the original convention, the EU itself was not a party to the convention.<sup>52</sup> Not until 1997, with the adoption of the Amsterdam Treaty, did the EU firmly focus on human rights, incorporating an anti-discrimination clause which bars discrimination on the bases of "sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation."<sup>53</sup>

The EU provides little leadership in fighting domestic violence because of its reluctance to infringe on national sovereignty in regard to social policy. A first, tentative step came when the Directorate General X set up Information for Women Department in 1987.<sup>54</sup> Characteristic of the EU's general approach to domestic violence, this department does not take a proactive stance because its two objectives are informational rather than action-based: (1) disseminating information to women and (2) linking the Commission in dialogue with women in the member states.<sup>55</sup> Over a decade after establishment of this Department, the EU's major initiative to prevent violence against women in 1999 follows the same pattern: it is a campaign to raise awareness, the *Daphne Initiative*.<sup>56</sup> The primary and only active prong of the EU's campaign, the *Daphne Initiative*, is composed of a Secretariat, a newsletter, a Web site, a call for proposals, and another secretariat who will follow-up on the campaign to raise awareness.<sup>57</sup>

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national social policies by adopting article 119 of the Treaty of Rome (1957). See Catherine Hoskyns, *Gender and Transnational Democracy*, in *GENDER POLITICS*, *supra* note 30, at 76.

50. TREATY ON EUROPEAN UNION, O.J. (C 224) 1, 31 I.L.M. 247, art. 8-8e (1992) [hereinafter TREATY].

51. *Id.*

52. EU HUMAN RIGHTS CONVENTION, *supra* note 40, art. 14 (prohibiting discrimination based on "sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status").

53. TREATIES ESTABLISHING THE EUROPEAN COMMUNITY, Oct. 2, 1997, O.J. (C 340) 173, art. 13 (limiting the Commission's power to take action to protect against such discrimination where the protective measures are implemented by unanimous consent).

54. *The Daphne Initiative: Measures for Combating Violence Against Children, Young Persons, and Women; Second Call for Proposals—1999*, Official Journal of the European Communities (1999/C 69/11) [hereinafter *Daphne Initiative*].

55. *Id.*

56. *See id.*

57. *See id.*

Essentially, this is a campaign to run a campaign. NGOs, individuals, and institutions may apply for grants to write anti-domestic violence programs for their home countries. The programs themselves are run by qualified NGOs or volunteer groups, with preference given to those with bases in more than one country.<sup>58</sup> The second prong is a vague assertion that the Commission “likewise intends to undertake specific programs to tackle the problem of violence.”<sup>59</sup>

The *Daphne Initiative* intends to communicate that domestic violence is a crime that ruins lives, that there is help for victims and abusers, and that the wall of silence surrounding abuse must be broken down.<sup>60</sup> Unfortunately, the EU’s simple “awareness” approach is underfunded and lacks sound research.<sup>61</sup> In addition, the EU collects no statistics on its own,<sup>62</sup> even though the economic impact of violence against women is widely held to be significant.<sup>63</sup>

Data collection at the national level in EU countries is likewise problematic. Experts believe the vast majority of assaults by intimate partners are never reported and many countries lump these complaints in with general crime statistics.<sup>64</sup> Many laws are so recent that data is not available,<sup>65</sup> and reporting from different departments in different formats complicates statistical collection.<sup>66</sup> Despite these shortcomings, the EU performs a major service by defining the problem and establishing a framework for centralized data collection.

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58. *Id.*

59. *European Campaign to Raise Awareness of Violence Against Women*, EU Website of Directorate General X, [http://www.europa.eu.int/comm/dg10/women/violence/index\\_form](http://www.europa.eu.int/comm/dg10/women/violence/index_form) (last visited May 22, 2000).

60. *Id.*

61. EU grants for proposals amount to 1.9 million Euros. In contrast, various programs to promote EU awareness of *itself* total more than 10 million Euros under just one Directorate General, for example, Directorate General X.

62. E-mail from Directorate General 10, Anthony Simpson (Feb. 2, 2000): “Each country compiles its own [statistics] to a greater or lesser degree of competence. The EU has no overall statistics.” (on file with author).

63. Costs include lost hours at work, lost realization of talents, costs to the health care and social services system, lost economic development opportunities, and numerous other less visible costs, according to Roxanna Carrillo, *Violence Against Women: An Obstacle to Development, in WOMEN’S LIVES AND PUBLIC POLICY: THE INTERNATIONAL EXPERIENCE* 108-13 (Meredeth Turshen & Briavel Holcomb eds., 1993). See also Rachel Jenkins, *The Impact of Violence Against Women on Sexual and Reproductive Health*, International Planned Parenthood Federation Report (1999), <http://www.ippf.org/resource/gbv/chogm99/jenkins>.

64. Collins, *supra* note 9, at 13-18.

65. *Id.* at 14.

66. See *Daphne Initiative*, *supra* note 54, at 30-37, for charts and discussion of the difficulty of comparing data collected by diverse bureaucracies in numerous formats, without standardized definitions.

### C. *The United States: A Legalistic, Prosecutorial Model*

The United States is in the vanguard of collecting statistics, promoting research, funding shelters, supporting education and awareness programs, and utilizing the law to stop violence against women, both in the private and public sphere. The 1994 federal *Violence Against Women Act* (VAWA) supports collaboration between social service, criminal justice, educational, and religious systems and the victims of domestic violence.<sup>67</sup> It creates new federal offenses for violent acts against women. Among these are violation of restraining orders and stalking women across state lines. Likewise, the law prohibits gun ownership by those under restraining orders or convicted of misdemeanor crimes of domestic violence.<sup>68</sup> It also provides for civil damages against some attackers.<sup>69</sup>

Federal action focuses on education and prevention, as well as enforcement, with VAWA at the heart of this coordinated effort.<sup>70</sup> VAWA represents the general punishment-oriented approach of the United States to the problem of domestic abuse.<sup>71</sup> Much of the push for this law came from feminist-based nongovernmental agencies, which have developed a body of expertise and a base of power unique in women's history.<sup>72</sup> It is based on the adversarial, confrontational approach of Western feminists to the issue of male dominance in society.

### D. *Western Feminism: Adversarial, Confrontational*

While women under both the Communist and the capitalist systems observed that men fared better, had greater opportunities, and dominated the system, perceptions as to the cause of this favored treatment are markedly different. Western feminists frequently characterize men as the cause of their oppression.<sup>73</sup> They see males controlling the economic, political, and social systems, while females are disenfranchised, held

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67. 42 U.S.C. § 13931 et seq. (2000).

68. *Id.*

69. *Id.*

70. *Women 2000, A Five Year Review of Federal Programs Benefiting Women and New Initiatives As a Follow-up to the UN 4th World Conference on Women* (2000), available at <http://www.secretary.state.gov/picw/2000commitment/violence>.

71. *Id.*

72. *See id.*

73. *See* Simon Duncan, *Structure and Difference in Gender Relations*, in *WOMEN OF THE EUROPEAN UNION, THE POLITICS OF WORK AND DAILY LIFE* 74-108 (Maria Dolores Garcia-Ramon & Janice Monk eds., 1996); *see also* Lindsey German, *The Western Women's Movement from a Socialist Perspective*, in *SEX, CLASS, AND SOCIALISM* 163-201 (1989).

back, controlled, and brutalized.<sup>74</sup> In the most litigious society in the world, the obvious answer to this oppression was use of the courts and the legal system to stop violence against women.<sup>75</sup> Confrontation divided the sexes, marginalized feminism from mainstream life, and discredited many of its early proponents.<sup>76</sup> *Sleeping with the Enemy*,<sup>77</sup> was more than the title of a book. The catchy phrase illustrated the conflict of many early feminists as they attempted to reconcile positive relationships with individual "enemies," their male partners, and the perception of all men as co-conspirators in a repressive patriarchal system.<sup>78</sup> It also, however, reflected the essential conflict between the genders that formed the basis of the United States' adversarial model.

Each of the three models—human rights, educational, and prosecutorial—have produced some success in raising awareness of the problem of domestic violence and in reducing its incidence, but none have eradicated the problem. In fact, in most regions of the world, experts believe violence against women is on the increase, especially in countries under stress, as is the case in CEE.<sup>79</sup> The unique history of gender relations in Central and Eastern Europe, combined with the difficulty of obtaining statistical data on domestic violence, have directly affected the usefulness of the three models in reducing violence against women in this region.

#### IV. THE IMPACT OF POST-COMMUNIST TRANSITION ON FAMILY LIFE

While the West wallowed in consumerism, civil rights battles, and feminism, the countries of CEE struggled with heat and electrical outages, food shortages, cramped living quarters, repression, travel restrictions, unending bureaucracy, and decay.<sup>80</sup> It wasn't always so. The early days of socialism were filled with re-building a war-shattered world.<sup>81</sup> Socialist parties existed before the war and gained a foothold in CEE soon after its end.<sup>82</sup> Within this system, women were crucial to the rebuilding process. As in the West, women had worked throughout the

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74. See Duncan, *supra* note 73, at 75-76.

75. See *id.*

76. See German, *supra* note 73, at 165.

77. NANCY PRICE, *SLEEPING WITH THE ENEMY* (1987).

78. See German, *supra* note 73, at 166.

79. *After the Fall*, *supra* note 18, at 24.

80. See DRAKULIC, *supra* note 15, at 25.

81. Bogdan Mieczkowski, *Social Services for Women and Childcare Facilities in Eastern Europe*, in *WOMEN, STATE, AND PARTY IN EASTERN EUROPE* 257-69 (Sharon L. Wolchik & Alfred G. Meyer eds., 1985).

82. See *id.*

war.<sup>83</sup> After the war, however, their roles diverged sharply due to the differences between their forms of government.<sup>84</sup>

In the early years, socialism provided many of the social benefits Western feminists are still demanding: equal pay for equal work, free education in nationalized universities, social security, preventive health care, and disability, maternity, and family benefits, including childcare from six months to six years.<sup>85</sup> The state subsidized housing, guaranteed jobs, and provided low-cost cultural facilities.<sup>86</sup> Family oriented legislation mandated equal duties in marriage, equal ownership during and after the marriage, and recognized the economic value of child rearing.<sup>87</sup> The system included communal vacations and worker retreats to build solidarity.<sup>88</sup> Some urban areas even had centralized laundry services with pick-up and delivery, plus a forerunner of today's take-out meals.<sup>89</sup> Hungary not only provided childcare, but also provided the alternative of staying home for three years with the benefit of a guaranteed job upon return to work. In addition, it offered both a child and a family supplement from the state.<sup>90</sup> Feminism could hardly promise more.

With the collapse of Communism, CEE women lost these "benefits." Almost simultaneously, Western feminists appeared on the scene. Seeking solidarity with their sisters who were formerly behind the Iron Curtain, Western feminists were confounded by their CEE sisters' reluctance to join the gender wars. Instead, they frequently look upon Western feminists as though they were beings from another planet.<sup>91</sup> CEE women have heard all the promises before and they are certain no

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83. *See id.*

84. *See id.*

85. *See id.*

86. *See id.*

87. As early as 1945, Czechoslovakia, in its Kosice Program, declared that "care for mothers and children will be a primary concern of social welfare. The costs of social insurance of all types will be met from the resources of the state budget." HILDA SCOTT, DOES SOCIALISM LIBERATE? EXPERIENCES FROM EASTERN EUROPE 86 (1974).

88. *See id.*

89. *See id.* at 89 (discussing women's lives under the Communist system, both before and after the Russian takeover).

90. SCOTT, *supra* note 87, at 90; see also Barbara Einhorn, *Concepts of Women's Rights*, in DEMOCRATIC REFORM AND THE POSITION OF WOMEN IN TRANSITIONAL ECONOMIES 51 (Valentine M. Moghadam ed., 1993) (reporting that in 1985, Poland provided crèche places for 5% of children under 3 and kindergarten for 50%, while Hungary provided such support for 14.4% pre-school children, and kindergarten for 85%).

91. Slavenka Drakulic, *What We Learned from Western Feminists*, TRANSITIONS ONLINE 2-4 (1998).