

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.¹ 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.² 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.³ 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.⁴ Family life during the transition from Communism to a free economy is examined in Part IV.⁵ 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.⁶ Differences

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.⁷ Finally, Part VII suggests an approach to reducing domestic violence that recognizes the financial limitations, cultural uniqueness, and political realities of Central Europe.⁸

II. DEFINING DOMESTIC VIOLENCE

Western nations agree that protection from abuse is a basic human right, but defining that right is a complex process.⁹ In defining domestic violence, most researchers include any kind of bodily harm carried out with the intent to injure another.¹⁰ 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.¹¹ 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

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.¹²

In addition, certain familial or personality factors may predispose males toward violent behavior: alcohol or drug abuse, morbid jealousy, and difficulty tolerating frustration.¹³ 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.¹⁴ 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.¹⁵ 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,

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.¹⁶ 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."¹⁷ 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.¹⁸

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

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.¹⁹ Later conventions defined more specific rights for specific populations or minorities. These included the *International Covenant on Civil and Political Rights*,²⁰ the *Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*,²¹ and the *International Covenant on Economic, Social, and Cultural Rights*,²² 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.²³ 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.²⁴ 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.²⁵ Thus far, both arguments

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.²⁶

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.²⁷ 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.²⁸ 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.²⁹ 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).³⁰

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.³¹ An organized demand that the UN adopt a firm resolution on violence

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).³² 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.³³ It included violence within the family, in the general community, or violence perpetrated or condoned by the state.³⁴ DEVAW encouraged national legislation to protect women, punish perpetrators, develop prevention programs, and to support educational initiatives and research.³⁵ In addition, the UN committed itself to fostering regional cooperation through information sharing and data gathering.³⁶

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.³⁷

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.³⁸ Twenty-eight states have signed thus far.³⁹ Similar to the

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*,⁴⁰ 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.⁴¹ However, the complaint mechanism itself is arduous and of limited use to all but the most determined of women.⁴²

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.⁴³ 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.⁴⁴ These criticisms are valid.⁴⁵ International norms represent idealized standards and models for national governments;⁴⁶ 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.⁴⁷ Precisely because of their distance from local partisanship, they provide a basis for national dialogue and promote passage of legislation on the state level.⁴⁸

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.⁴⁹ In 1992, the Maastricht Treaty

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.⁵⁰ With this treaty, economic policy expanded to include issues of childcare and parental leave,⁵¹ 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.⁵² 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."⁵³

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 1987.⁵⁴ 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.⁵⁵ 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*.⁵⁶ 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.⁵⁷

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.⁵⁸ The second prong is a vague assertion that the Commission “likewise intends to undertake specific programs to tackle the problem of violence.”⁵⁹

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.⁶⁰ Unfortunately, the EU’s simple “awareness” approach is underfunded and lacks sound research.⁶¹ In addition, the EU collects no statistics on its own,⁶² even though the economic impact of violence against women is widely held to be significant.⁶³

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.⁶⁴ Many laws are so recent that data is not available,⁶⁵ and reporting from different departments in different formats complicates statistical collection.⁶⁶ Despite these shortcomings, the EU performs a major service by defining the problem and establishing a framework for centralized data collection.

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 (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.⁶⁷ 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.⁶⁸ It also provides for civil damages against some attackers.⁶⁹

Federal action focuses on education and prevention, as well as enforcement, with VAWA at the heart of this coordinated effort.⁷⁰ VAWA represents the general punishment-oriented approach of the United States to the problem of domestic abuse.⁷¹ 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.⁷² 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.⁷³ They see males controlling the economic, political, and social systems, while females are disenfranchised, held

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.⁷⁴ 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.⁷⁵ Confrontation divided the sexes, marginalized feminism from mainstream life, and discredited many of its early proponents.⁷⁶ *Sleeping with the Enemy*,⁷⁷ 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.⁷⁸ 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.⁷⁹ 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.⁸⁰ It wasn't always so. The early days of socialism were filled with re-building a war-shattered world.⁸¹ Socialist parties existed before the war and gained a foothold in CEE soon after its end.⁸² Within this system, women were crucial to the rebuilding process. As in the West, women had worked throughout the

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

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.⁸⁵ The state subsidized housing, guaranteed jobs, and provided low-cost cultural facilities.⁸⁶ Family oriented legislation mandated equal duties in marriage, equal ownership during and after the marriage, and recognized the economic value of child rearing.⁸⁷ The system included communal vacations and worker retreats to build solidarity.⁸⁸ Some urban areas even had centralized laundry services with pick-up and delivery, plus a forerunner of today's take-out meals.⁸⁹ 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.⁹⁰ 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.⁹¹ CEE women have heard all the promises before and they are certain no

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).

magic wand or imported ideology will wave away the mountains of dirty laundry and whip the unpeeled potatoes into a soufflé.⁹²

Socialism promised much more than capitalism: full employment, equality, and freedom from household drudgery. It not only failed, it also brought in the repressive Russian regime.⁹³ It is this part of history, more than the failed promises, that prevents the women of CEE from embracing feminism as a solution to their problems.

Living under repressive conditions, both men and women suffered shortages, long hours, and lost opportunities.⁹⁴ As the promise of socialism gave way to the Russian behemoth, men, women, and families united in a struggle to stay afloat, to beat the system, to find food, goods, and a way to make it from one day to the next.⁹⁵ In contrast to the anti-patriarchal stance of Western feminism, the oppressor in CEE was the repressive state, the secret police, the Russian overseers, and the entire corrupt and mishandled system.⁹⁶ Gender roles grew more flexible in the postwar decades, but the imbalance in earning power, opportunity, and home duties continued.⁹⁷ In contrast to the West, the cause of this imbalance was attributed to the state, not to a male patriarchy.⁹⁸ Women and men were united in their cause against the state and had neither the time nor the energy to wage war against each other.

Women worked beside men in battling the system, risking imprisonment and death to change the system. They supported and actively participated in anti-communist political groups. Women in dissident groups in Hungary, such as the Dialogue peace group and the Danube Circle environmental group, did not perceive their interests as separate from men's.⁹⁹ Throughout the development of the Polish Solidarity movement, women protested, planned and spoke for the workers' movement.¹⁰⁰ Opposition within some female-dominated

92. See DRAKULIC, *supra* note 15, at 66-75 (discussing the difficulties of running a household in a period of shortages).

93. See SCOTT, *supra* note 87, at 91.

94. See DRAKULIC, *supra* note 15, at 69.

95. See *id.*

96. See *id.*

97. See *id.*

98. Renata Siemienska, *Women, Work, and Gender Equality in Poland: Reality and its Social Perception*, in *WOMEN, STATE, AND PARTY IN EASTERN EUROPE*, *supra* note 81, at 305-22 (recording the marked disparity between Polish men's and women's satisfaction and optimism levels in regard to work, opportunity, and status).

99. SCOTT, *supra* note 87, at 134-35.

100. See Einhorn, *supra* note 90, at 55.

industries, such as textiles, was completely organized by women, although merged nationally with the male-directed national movement.¹⁰¹

Employment, a divisive issue in the West, was a nonissue in CEE. More women in absolute percentages were employed in CEE countries than in the West.¹⁰² Even so, parallels existed, with women occupying lower paying posts in general and reaching management positions less often.¹⁰³ Quotas, however, placed far more CEE women in engineering, medicine, and economics than they occupied in the West.¹⁰⁴ With an educational level that often exceeded Western women's,¹⁰⁵ an employment level higher than the rest of Europe,¹⁰⁶ and a state-enforced equality that delivered much less than promised in real social change, CEE women were trained in skepticism about the power of the political system to improve their lives.¹⁰⁷ They are too cynical, too well-educated, and too overworked to be seduced by political rhetoric again.

A. *The "New" Central European Woman—A Return to Tradition?*

The new Central European woman isn't much different from the old—except that she's poorer and could buy more goods *if* she had the money.¹⁰⁸ The negative impact of the fall of Communism was greatest on women, whose employment plummeted for several reasons.¹⁰⁹ As factories closed and jobs disappeared, women were the first to go.¹¹⁰ Reduction in external markets, especially of East Germany and certain Arab states during the gas crisis, caused further decline in female employment.¹¹¹ Cutbacks in employment-sponsored childcare and elder care have led to further decreases in employment for women,¹¹² because

101. Barbara W. Jancar, *Women in the Opposition in Poland and Czechoslovakia in the 1970s*, in *WOMEN, STATE, AND PARTY IN EASTERN EUROPE*, *supra* note 81, at 52.

102. *See id.* at 53.

103. *See id.*

104. Einhorn, *supra* note 90, at 52-54.

105. Jirina Siklova, *Are Women in Eastern Europe Conservative?*, in *GENDER POLITICS AND POST-COMMUNISM* 80 (Nanette Funk & Magda Mueller eds., 1993).

106. Monica Fong & Gillian Paull, *Women's Economic Status in the Restructuring of Eastern Europe*, in *DEMOCRATIC REFORM*, *supra* note 90, at 218-23. For example, in 1989, Czechoslovakia reported 94% of all adult women were employed. *See Siklova, supra* note 105, at 74-75.

107. The double burden of work and home had one advantage for Communist era women: they had no spare time for Communist party activities. Today, they are much less compromised by having collaborated with the Communists as informers. *See Siklova, supra* note 105, at 79-80.

108. *Id.*

109. *See Fong & Paull, supra* note 106, at 223-38 (discussing unemployment trends).

110. *See id.* at 237.

111. *See id.* at 238.

112. Marilyn Rueschemeyer, *Concluding Observations*, in *WOMEN IN THE POLITICS OF POST-COMMUNIST EASTERN EUROPE* 232 (Marilyn Rueschemeyer ed., 1994).

women are perceived by employers as more expensive (maternity benefits and time-off) and less reliable workers.¹¹³

An additional factor is also involved. Since full employment was a Communist goal, opposition to the former system is strongly linked with women's desire to stay home.¹¹⁴ Paradoxically, freedom in the CEE countries means the opposite for women than it does in the West: it means freedom to be a housewife.¹¹⁵

The fall of Communism in CEE has worsened the situation for women in significant areas: in social services mentioned above,¹¹⁶ in political representation (former quotas in government are gone),¹¹⁷ in employment, and in a surge of traditional attitudes toward gender roles.¹¹⁸ Violence in the home is on the rise, but intimate partner violence has not become a rallying point for CEE women. Much to the consternation of Western feminists, grass roots women's support groups grounded in opposition to male-dominated society have not developed in this part of Europe.

B. *Why Not Feminism?*

Eastern women reject Western feminism for a variety of reasons. One is the name itself. They have had enough of the destructive, authoritarian effects of foreign ideologies and "isms," including feminism.¹¹⁹ The very language of Western feminists alienates their

113. A. Geske Dijkstra, *Women in Central and Eastern Europe: A Labor Market in Transition*, in GENDER AND ECONOMICS, A EUROPEAN PERSPECTIVE 128-33 (A. Geske Dijkstra & Janneke Plantenga eds., 1997).

114. Siklova, *supra* note 105, at 75-76 (reporting that, because women's salaries averaged half of men's, and gender segregation in the job market was extensive, the stereotype of the man as primary bread-winner was as least as strong as in the West).

115. Paradoxically, the post-Communist outcry is not for equal wages and an end to gender segregation in the workplace, but for a "family wage" for men, high enough to take women with children out of the job market. See Alena Heitlinger, *The Impact of the Transition from Communism on the Status of Women in the Czech and Slovak Republics*, in GENDER POLITICS AND POST-COMMUNISM 96-97 (Nanette Funk & Kagda Mueller eds., 1993).

116. See *supra* notes 108-115.

117. Rueschemeyer, *supra* note 112, at 233.

118. Poland and the Czech Republic have introduced regressive abortion statutes, while simultaneously reducing availability of child care services and care for the elderly, effectively putting many women back in the home and forcing them into unemployment. See Marjana Ule & Tanja Renne, *Nationalism and Gender in Post Socialist Societies*, in ANA'S LAND, SISTERHOOD IN EASTERN EUROPE 220-28 (Tanja Renne ed., 1997) (discussing this process); Barbara Einhorn, *Where Have All the Women Gone?*, in CINDERELLA GOES TO MARKET, CITIZENSHIP, GENDER AND WOMEN'S MOVEMENTS IN EAST CENTRAL EUROPE 148-61 (1993); Heitlinger, *supra* note 115, at 95-106.

119. See Alena Heitlinger, *Framing Feminism in Post-Communist Czech Republic*, 29 COMMUNIST & POST-COMMUNIST STUDS. 77, 80-84 (1996).

Eastern sisters: forming “committees” echoed the language of the hated Communist “women’s committees,” “sisterhood” sounded a lot like the international “brotherhood” pushed by the Russian invaders, and “organizing” and “unity” carried Communist overtones.¹²⁰ The bottom line was that by the time Communism collapsed, the women of Eastern Europe were worn out from years of hard work.¹²¹ The promise of Western consumerism looked good.¹²²

A second reason lies in the function of the home. Confronted by the bullying, crudity, bureaucracy, and outright cruelty of day-to-day Communism, the Eastern European home was a refuge, not a civil rights battleground.¹²³ Having dealt with the brutality and restrictions of the Communist regime for decades, women were now ill-prepared to speak out against family members who might be guilty of domestic abuse.¹²⁴ Domestic abuse is a private matter, not a subject of public prosecution.¹²⁵ In addition, the emerging democracies have more pressing problems than human rights: namely, privatization; job loss; social instability; international crime; inflation; corruption; and the slow, sometimes painful process of learning how to be a democracy. Allocating scarce resources to human rights is a luxury these states cannot afford.

They view feminism, with its left-leaning tendencies and international organization, as alien and dangerous. National women’s groups,¹²⁶ formed under the Communists, were instruments of the state and training grounds in dogmatism, with no positive impact on women’s lives. Women’s groups represented control and burden, rather than liberation and support.¹²⁷ Ironically, freedom today is freedom not to organize, not to work, not to participate.¹²⁸

Where women’s groups have developed, they tend to be “for” women’s development in a single arena, rather than “against” men or the oppressive system.¹²⁹ Denied identity and uniqueness under the

120. *Id.*

121. *Id.*

122. *Id.*

123. *Id.*

124. See *supra* notes 92-107 and accompanying text.

125. *Id.*

126. These included the *Women’s Council* in Hungary and the *League of Czech Women*. Heitlinger, *supra* note 115, at 95-106.

127. Jirina Siklova, *McDonald’s, Terminators, Coca Cola Ads—And Feminism?*, in ANA’S LAND, SISTERHOOD IN EASTERN EUROPE, *supra* note 118, at 76-77.

128. *Id.*

129. The language of Western feminism is problematic: *power struggle*, *conflict*, *solidarity*, and *emancipation*, bring to mind old ideological battles CEE women want to forget. Even innocent sounding words that might be used in the names of women’s groups are suspect:

Communists, women want to see the men in their lives as persons, not as groups or categories.¹³⁰ It is as if they have skipped the stages of anger and antagonism of the women's movement and moved directly into the more organizationally mature stages of support, self-help, and education.¹³¹ Western feminism, which lumps men together as oppressors, runs against the grain here.¹³²

Programs dedicated to self-help are often modeled after Western organizations, but with significant differences. In CEE, domestic violence rarely results in removal of either the abuser or the abused from the household.¹³³ Lack of housing and independent income are obvious explanations, but the real reasons lie in the political, cultural, and social complexities of this region. In cases of domestic violence, divorce is more likely than prosecution, possibly because divorce requires less state involvement than does prosecution for abuse. This historic aversion to state interference in personal matters is a significant barrier to employing the Western punishment-oriented model in domestic violence cases. It affects both the methods used in addressing the problem and recognition of the problem itself. For example, concrete data about the extent and level of domestic violence in CEE is almost nonexistent.¹³⁴

C. *The Absence of Data*

The first step toward correcting any social problem is defining the problem and then quantifying its extent. In CEE, large segments of the population fail to recognize the existence of domestic violence, let alone see it as a problem.¹³⁵ Domestic violence and gender issues have largely been ignored both in the Communist and Post-Communist eras.¹³⁶ General crime data is available, but it is not broken down into segments that enable analysis of the level of domestic violence. This is not peculiar

Association/Organization/Alliance all recall Communist rhetoric. Einhorn, *supra* note 90, at 185-200.

130. *Id.*

131. *Id.*

132. DRAKULIC, *supra* note 15, at 110-12; Heitlinger, *supra* note 115, at 86.

133. See Siklova, *supra* note 127, at 77.

134. See *id.* at 78. To an outsider, this result may seem just like one of many Eastern European paradoxes in women's lives: for example, most birth control methods were unavailable during the Communist era, but abortion was easy and, in some countries, equaled the number of live births. Today, in Russia, the same shortage continues, but with twice the number of abortions as births. The same pattern may explain the reluctance to report abuse: women are more willing to end the marriage than to request police help, thus increasing the divorce rate without lowering the incidence of abuse.

135. See *id.* at 79.

136. *Id.*

to CEE. Much of Western Europe, outside of the United Kingdom, keeps little in the way of statistics in this emerging area of the law.¹³⁷ Human rights groups themselves have just begun to observe and record data on domestic abuse in CEE.¹³⁸ *Helsinki Watch* will not issue its first report until later this year.¹³⁹ The absence itself of studies speaks to the low priority these countries place on the issue. Lack of data is a minor impediment compared to distrust of the police, lax enforcement of existing law, growing patriarchal attitudes, and reluctance of women to seek political power, to organize, and to protest unequal treatment.¹⁴⁰

Statistics are not totally nonexistent. A few official references indicate domestic violence is on the increase. For example, according to UNICEF, "Violence against women is nothing new in the transition countries, but the issue was rarely discussed before reform. The last ten years have seen an upsurge of all kinds of violence, including violence against women."¹⁴¹ UNICEF is singular in its effort to compile data on domestic violence in the CEE/CIS region, though this is largely based upon extrapolations and reading between the lines about its extent and increase in the transitional countries.¹⁴² All types of violence are on the rise due to the huge stresses placed on these countries, the growth of lawlessness, and the widespread failure of law enforcement.¹⁴³ UNICEF found one extremely troubling statistic: reported incidents of rape are down significantly in CEE, with convictions even lower.¹⁴⁴ Since all other forms of violent crime are on the increase, and women around the world are reluctant to report sexual crimes, UNICEF theorizes that the failure to report rape hides an even greater problem: knowledge that reporting is useless if enforcement is unlikely or maltreatment of the victim is probable.¹⁴⁵ In a region where the police have traditionally been an instrument of oppression, citizens are reluctant to ask directions of the police on the street, let alone call them into the home in an emergency.¹⁴⁶

Post-Communist countries are beset with huge transitional problems: corruption in government and the police force, international

137. *Id.*

138. *See id.* at 75.

139. *See id.*

140. *See id.*

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

142. *See id.* at 21.

143. *Id.*

144. *See id.* at 24.

145. *Women in Transition*, Regional Monitoring Report No. 6, at 1-4 (the UNICEF Innocenti Research Center, Florence, Oct. 1999).

146. *Reproductive Rights in Central and Eastern Europe*, Helsinki Citizens' Assembly Women's Commission 40 (1992).

pressures to conform to EU standards without the money or the knowledge to do so, psychic exhaustion from the waves of social change that have washed across this region in the last half century, and economic instability and political inexperience.¹⁴⁷ The West is just opening its eyes to domestic abuse as a serious social problem.¹⁴⁸ In the face of major economic problems, the CEE countries can hardly be faulted for their neglect.¹⁴⁹

V. FOUR COUNTRIES IN TRANSITION

While Western Europe moved slowly toward a grudging admission that women have human rights,¹⁵⁰ CEE has not even thought about the question. In some ways, this may be advantageous: these countries start with a clean slate and can look at the question from their unique perspective. The attitude of the abused woman herself can be very different from that of Western victims of abuse. Few CEE women have the sense of "victimization" to which abused women in the West are prone.¹⁵¹ Accustomed under Communism to accept responsibility for both work and home, to provide a buffer against the harsh realities of political life, and to contribute to the family income on an equal basis, they have long held a stronger sense of self than their Western sisters.¹⁵² Theoretically equal in both the family and the economy, women were also essential to the survival of every member of the family.¹⁵³ The fall of Communism made their lives harder in very tangible ways. By eliminating the social safety net of childcare, family subsidies, and other support systems which primarily helped women, more duties were placed

147. *Women in Transition*, *supra* note 145, at 21.

148. *Id.* at 22.

149. *Id.* at 23. The extent of the problem can most clearly be seen in the "solution"—filled with impossibilities—posed by UNICEF in its summary paper:

The prevalence of violence in transition societies needs urgent attention. Violence, especially domestic violence, must be more strictly defined in criminal law and more vigorously pursued by justice systems. Victims of violence need to be treated more sensitively and supported in the legal, health and social systems. Avenues must be developed to allow women to leave abusive environments and to allow society to intervene in situations of risk with an eye to prevention. A culture of non-violence needs to be cultivated, beginning in school.

150. See generally INT'L ORGANIZATION FOR MIGRATION, *TRAFFICKING IN WOMEN TO AUSTRIA FOR SEXUAL EXPLOITATION* (1996), available at http://www.iom.ch/IOM/Publications/books_studies_surveys/MIP_Austria_Trafficking (noting the problems of exploitation in Austria and Western Europe).

151. Slavenka Drakulic, *What We Learned from Western Feminists*, in *TRANSITIONS ON LINE*, Feb. 22, 2000, at www.transitions-online.org.

152. See *id.*

153. See *id.*

on women's shoulders.¹⁵⁴ The combination of social upheaval with the rapid collapse of CEE economies created intense pressure on the family. Incidents of domestic abuse mounted, while fantasies of old-fashioned families with mother at home and children clean, polite, and smiling took over national imaginations.¹⁵⁵ These countries avoided looking at the dark side of the family. It is only with pressure from the West, especially from the UN and EU, that governments are evaluating the extent of a problem they do not want to see.¹⁵⁶

Four Central European countries—Hungary, Poland, Slovakia, and the Czech Republic—have been selected as examples of states in transition, subject to extreme social and economic stress, but with strong ties to Western Europe prior to the Communist take-over. Looking westward both socially and economically, each is on the “fast track” toward membership in the European Union.¹⁵⁷ They are laboring to harmonize their law with EU law, and violations of human rights, including violence toward women, can work against their aspirations to join the community of Western nations.¹⁵⁸ It is in their self-interest to remedy this growing problem. A summary of conditions and laws within each of the four nations follows. As discussed above, data is scarce, but discussion of each of the four nations provides insight into variations in the perception of domestic violence as a social issue. Statistics and law, in whatever form available, are presented, along with a review of assistance programs and of national attitudes toward violence against women.

Poland, largest of the four, manifests both a higher level of violence and a greater recognition of the problem, providing a logical place to start.

154. See *id.*

155. Julie Mertus, *Human Rights of Women in Central and Eastern Europe*, 6 AM. U.J. GENDER SOC. POL'Y & L. 369, 378 (1998).

156. See, e.g., 2000 Regular Report from the Commission on the Czech Republic's Progress Toward Accession (Nov. 8, 2000), at <http://www.europa.eu.int/comm/enlargement/czech/index.htm> [hereinafter Czech Report] (comparing Czech with EU standards).

157. See Milada Anna Vachudova, *EU Enlargement: An Overview*, 9 E. EUR. CONST. REV. 64, 69 (2000) (discussing the likely accession schedules of these countries).

158. See generally Czech Report, *supra* note 156; 2000 Regular Report from the Commission on Hungary's Progress Toward Accession (Nov. 8, 2000), at <http://www.europa.eu.int/comm/enlargement/hungary/index.htm> [hereinafter Hungary Report]; 2000 Regular Report from the Commission on Poland's Progress Toward Accession (Nov. 8, 2000), at <http://www.europa.eu.int/comm/enlargement/poland/index.htm> [hereinafter Poland Report]; 2000 Regular Report from the Commission on Slovakia's Progress Toward Accession (Nov. 8, 2000), at <http://www.europa.eu.int/comm/enlargement/slovakia/index.htm> [hereinafter Slovakia Report] (discussing the obstacles to accession of these countries, including human rights violations, mostly dealing with minority issues).

A. Poland

On paper, Poland's approach to domestic violence is exemplary. In cooperation with the United Nations Development Program (UNDP), Poland instituted a national program, *Counteracting Violence—Equalizing Chances*.¹⁵⁹ Regional centers were planned to provide preventive education, family counseling, and counselor training.¹⁶⁰ A system of loans for abused women was also proposed. Aimed at prevention and education, it would have created a comprehensive system of support for victims and families.¹⁶¹ However, the road between enactment and implementation is long: Poland's Women's Rights Center (WRC) reports little has been done to carry out the plan.¹⁶² After the 1997 election of the SLD conservative government, other women's initiatives, such as the *National Plan of Action for Women* and local programs for the advancement of women, have also been suspended.¹⁶³

1. Statistics

According to 1993 and 1996 polls by Poland's Public Opinion Research Center, eighteen percent of Polish women have been victims of domestic abuse, nine percent repeatedly.¹⁶⁴ The WRC claims the actual incidence is much higher, as evidenced by reports from divorced wives, forty-one percent of whom say they have been abused.¹⁶⁵ The WRC believes the tradition of shame and guilt at admitting abuse is at work, and that one in six Polish women live in abusive relationships.¹⁶⁶

2. Law

Polish law addresses domestic violence in article 207, section 1 of its Family Code:

Whoever abuses physically or psychologically a member of a family or an intimate relation, or any other permanently or temporarily dependent person, or a physically or mentally disabled person, or a juvenile, may be

159. Maria Smereczy, *Answers to the UN Questionnaire on the Implementation of Beijing Platform of Action by the Government of the Republic of Poland*, Government Plenipotentiary for Family Affairs, Warsaw (Nov. 8, 1999).

160. *Id.*

161. *Id.*

162. Urszula Nowakowska, *Polish Women in the 90's, the Report by the Women's Rights Center*, WOMEN'S RIGHTS CENTER, Warsaw (2000).

163. *Id.* at 11.

164. *See id.* ch. 6, at 153.

165. *See id.* at 154.

166. *See id.* at 155.

found guilty and sentenced to a minimum of three months and a maximum of five years in jail.

Article 207, section 2, allows a sentence of one to ten years if the perpetrator acted with *extreme cruelty*. Section 3 imposes a minimum sentence of two years and a maximum of twelve if the victim attempts suicide as a result of the abuse.

Police must investigate domestic violence reports and, at the request of the victim, can detain the perpetrator for forty-eight hours.¹⁶⁷ In reality, this rarely happens because victims' families are charged the costs of detention, must provide and pay for all evidence, and must also find doctors who will sign reports attesting to abuse.¹⁶⁸ Forensic medical tests alone can cost nearly four percent of an average annual salary.¹⁶⁹

Filing a complaint can be dangerous and the system is unresponsive.¹⁷⁰ The housing shortage and poor economy often force even divorced couples to remain together.¹⁷¹ Most victims do not report the crime, and those who do go through the lengthy (sometimes up to three years), expensive, and demeaning judicial system find that their evidence is discounted and the convictions are meaningless because most sentences are suspended.¹⁷² Police are reluctant to investigate, often do not file reports, and are not required to collect evidence.¹⁷³

3. Assistance: NGOs

Poland may have more NGOs helping women than the other three countries combined.¹⁷⁴ Since alcohol abuse is highly correlated with domestic violence, some programs have sprung from alcohol-related programs.¹⁷⁵ Women's groups run programs offering legal and psychological aid and support hotlines and shelters.¹⁷⁶ A leading NGO, the Women's Rights Center in Warsaw, publishes educational brochures, offers legal and psychological assistance, runs training seminars for police and prosecutors, lobbies the legislature, and conducts media and

167. *Id.* at 149.

168. *Id.* at 150.

169. *Id.*

170. *See id.* at 152.

171. *See id.*

172. *Id.* at 156.

173. *See id.* at 151.

174. *See id.*; WAVE Newsletter, No. 4, at 4, AUSTRIAN WOMEN'S NETWORK (1998) (supported in part by EU Daphne Initiative funds).

175. *See id.* at 4-5.

176. *See id.*

public information campaigns.¹⁷⁷ The WRC is a primary source of training and information for the Polish legal system.¹⁷⁸ Numerous other women's groups have sprung up, often around the catalyst of abortion;¹⁷⁹ they also lobby legislators, hold conferences, publish journals, promote international discourse, and support women in the legal profession.¹⁸⁰

4. Assistance: Government Programs

A system of shelters operates for homeless women and children, but sexual assaults and harassment are common because former alcohol or drug abusers often run the shelters. These "directors" are generally male and frequently have criminal histories.¹⁸¹ Poland approved a series of Crisis Intervention Centers in 1999 but few have opened.¹⁸² Other programs include an abuse hotline, donated by the national telephone company, and a Blue Card record-keeping system run by the police.¹⁸³

5. Attitudes

Violence against women is hidden and surrounded by taboos.¹⁸⁴ Entrenched beliefs about traditional family roles, in combination with the culture of silence and unwillingness to get involved, allow violence to flourish.¹⁸⁵ Polish folk sayings typify the attitude and help explain nonenforcement of the law: "a husband who does not beat his wife does not love her . . . if a husband does not beat his wife, her liver rots."¹⁸⁶

Nearly all observers maintain that the Catholic Church not only fails to address the problem, it also contributes to it by promoting traditional

177. *See id.* at 6.

178. *Id.* at 7.

179. TransMONEE database 2000/*EBRD UNICEF Innocenti Research Center, Florence, Italy. The extent of the Church's influence in Poland is reflected in the remarkable drop in abortions in Poland from 1989 to 1998, compared with the other three countries under discussion. The abortion rates are abortions per 100 live births:

	1989	1998
Poland	14.6	0
Czech Republic	98.6	61.5
Hungary	87.8	85.9
Slovakia	70.3	46.3

Id.

180. Einhorn, *supra* note 90, at 190-96.

181. *See* Nowakowska, *supra* note 162.

182. *Id.*

183. *See id.*

184. U.S. STATE DEPARTMENT, 1999 COUNTRY REPORT ON HUMAN RIGHTS PRACTICES IN POLAND 14-15 (Feb. 25, 2000).

185. *See id.*

186. *See* Nowakowska, *supra* note 162, at 147.

gender roles, opposing divorce, and encouraging women to remain in abusive relationships.¹⁸⁷ Its anti-abortion stance has encouraged conservative elements in the government to neglect women's programs¹⁸⁸ but this has also had the paradoxical effect of contributing to the rise of strongly feminist organizations.¹⁸⁹

B. Slovakia

Slovakia's human rights record in general is problematic. The secret police are believed to have kidnapped and tortured the son of the last president, and majority parties refuse to accept results of democratic elections; wire-tapping, death-threats, bombings, and intimidation of journalists and opposition political leaders are also reported.¹⁹⁰ There is little confidence in the independence of the judiciary or the police.¹⁹¹ When the system itself is abusive, it can offer little hope for battered women.

1. Statistics

Violence against women is on the rise. Ministry of Interior statistics from 1997 record 1000 cases of public violence and 2656 cases of domestic violence.¹⁹² In 1995, 1874 cases of domestic violence were reported.¹⁹³ The U.S. State Department believes these numbers are

187. Urszula Nowakowska, feminist leader and Director of Poland's Progressive Women's Rights Center, reported to the UN: "[T]he Catholic Church and the conservative politicians hold that women's primary role must again consist of child-bearing and child-rearing: women may only be allowed to have professional careers provided that these do not interfere with their basic responsibilities of looking after the children and taking care of the home." REPORT TO THE THIRD COMMITTEE (SOCIAL, HUMANITARIAN, AND CULTURAL) OF THE UN ON IMPLEMENTATION OF THE FOURTH WORLD CONFERENCE ON WOMEN (Beijing 1995) 1996.

188. See *id.* (noting that the Polish national legislature strictly limited abortion, banned sex education, eliminated state subsidies for contraception, and dropped gender equity programs).

189. Urszula Nowakowska, *Violence Against Women: Issues and Mechanisms, Public and Private Aspects* (presentation prepared for the Regional Meeting in Yalta on Human Rights for Human Development, organized by UNDP, Sept. 1998):

Violence against women remains a grave problem all over Eastern and Central Europe and the former Soviet Union countries. And it will almost certainly grow even more serious, at least in Poland, where the new minister for family affairs refused to recognize the very existence of the problem. Recently, he criticized the campaign against domestic violence as aimed against the family and as irrelevant, since, according to the minister, "Polish husbands are kind and they treat their wives gently."

190. THE BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR, U.S. DEPARTMENT OF STATE, 1999 COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES (Feb. 25, 2000), at www.state.gov/global/human_rights/1999_hrp_report/slovakia.

191. See *id.*

192. *Id.*

193. See *id.*

extremely low and one NGO reports that thirty to forty percent of all Slovak women are victims of domestic violence.¹⁹⁴

2. Law

No specific domestic violence law exists in Slovakia; law enforcement agencies assert that women are covered under the general law and should have no special treatment.¹⁹⁵ Domestic violence is treated like any assault: the victim files a complaint, the police contact the perpetrator and invite him to the police station.¹⁹⁶ This process takes several days while the batterer remains in the home.¹⁹⁷ The extent of injury determines whether a civil complaint (with a \$12 fine) or a criminal complaint is filed.¹⁹⁸ Only when the injuries are serious will the batterer be taken into custody.¹⁹⁹ Various sections of the criminal code are used in domestic abuse cases, including clauses referring to abandonment, neglect, harm to health, participation in suicide, deprivation of freedom, violation, sexual abuse, and murder.²⁰⁰

3. Assistance

The Gender Center for Equal Treatment of Men and Women started in 1997 under the UN Development Program, and Slovakia's Coordinating Committee for Women's Affairs also assists battered women.²⁰¹ A national action plan was adopted in 1997 to reduce violence against women, but none of its proposals have been implemented.²⁰²

Slovakia has one consulting center for battered women and one shelter for homeless families, but no facilities to protect women in danger.²⁰³ In 1998, a UN training program consisting of twenty-five women lawyers, judges, and state representatives sought to establish a legal clinic for battered women in Prague, which would also assist Slovak

194. *See id.*

195. *See id.*

196. *See id.*

197. *See id.*

198. *See id.*

199. Martina Pisarova, *Domestic Violence Remains Concealed*, in THE SLOVAK SPECTATOR, CENTRAL EUROPE ONLINE, at <http://www.centraleurope.com/slovakiatoday/localpress/slspect.php3> (last visited Aug. 17, 1999).

200. *See Slovakia Report*, *supra* note 158.

201. *See id.*

202. *See id.*

203. *See id.*

women.²⁰⁴ A proposed hotline and counseling center are not yet running.²⁰⁵

4. Attitudes

Many Slovaks do not consider domestic violence criminal.²⁰⁶ Local folk wisdom suggests that a man beats his wife either because she likes it or because she deserves it.²⁰⁷ In some rural areas, wife beating carries positive cultural overtones: "When a man beats his woman, it is as if he was ploughing his own field."²⁰⁸ In addition, family crime is considered a private matter in Slovakia, where a high tolerance for violence is part of the culture.²⁰⁹ Escape from the situation is rare because fear, scarce alternative housing, and lack of money keep women in the home with a batterer.²¹⁰ A reactionary idealization of the traditional family, with the wife under the control of the husband, further jeopardizes women's safety.²¹¹

C. Hungary

Shame and fear surround the issue of domestic violence in Hungary, resulting in an unwillingness to report incidents and a corollary official nonresponsiveness.²¹² Women's rights groups claim one woman in ten is a victim of domestic violence,²¹³ but there are no official statistics. Legally, women have the same rights as men but the basic cultural attitude is reactionary.²¹⁴ Women are paid less than men, are frequently in segregated work situations, suffer from an epidemic of sexual harassment, and fear reporting rape and other crimes to the police.²¹⁵ Police will not interfere in domestic violence cases until blood is shed. As in Poland, they do not collect evidence, and victims of

204. *Advocats for Women*, WAVE Newsletter No. 4, 1998, Austrian Women's Rights Group WAVE, at <http://www.wave.network.org/news> (last visited Apr. 18, 2000).

205. *See id.*

206. *See* Pisarova, *supra* note 199; 1999 COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES, *supra* note 190.

207. *See* 1999 COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES, *supra* note 190.

208. *Id.*

209. *Id.*

210. *See id.*

211. *See id.*

212. BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR, U.S. DEPARTMENT OF STATE, 1999 COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES, HUNGARY (Feb. 25, 2000).

213. *See id.*

214. *See id.*

215. *See id.*

marital rape have been required to provide witnesses to prove the assault.²¹⁶

1. Statistics

Official data on domestic violence is unavailable, but a 1998 survey by feminist Olga Toth indicates that forced sex occurs in eight percent of all marriages and twenty-five percent of marriages that end in divorce.²¹⁷ Toth reports that domestic violence is commonly accepted by both men and women as part of their private lives.²¹⁸ It is also dangerous. A Hungarian woman is eight times more likely to be killed by an intimate partner than by a stranger; fifty-four percent of all homicides are the result of family violence; and the majority of homicides involve spouses or live-in partners.²¹⁹ Extrapolating from homicide statistics, research suggests that battering is extensive and that many murders are cases of extreme battering.²²⁰ Unofficially, Women Supporting Women Against Violence reports that twenty-five to fifty percent of Hungarian women are abused.²²¹

2. Law

In 1997, the national legislature enacted a marital rape law, but the criminal code does not address domestic violence specifically.²²² The Constitution, however, guarantees equal rights: "The Republic of Hungary shall ensure the equality of men and women in all civil, political, economic, and cultural rights."²²³ Women rarely report domestic crime because they must provide all evidence in proof of domestic or sexual assault and legal proceedings are costly and degrading.²²⁴

216. Geda Szamosi, *Taking a Stand Against Wife Beating*, THE BUDAPEST SUN, Vol. 7, Iss. 11, Mar. 18, 1999 (discussing International Women's Day actions by NANE) (Women for Women Against Violence).

217. Olga Toth, Abstract, *Violence Against Women*, Tarki Social Research Informatics Center, Budapest, Hungary, at <http://www.tarki.hu/index> (last visited Apr. 4, 2000).

218. *Id.*

219. *Id.*

220. Krisztina Morvai, Assoc. Professor, Lorand Eotvos Sci. U. L. Sch., Budapest, Hung., *Safe Haven?*, CENT. EUR. REV., May 28, 2001, at www.ce-review.org/01.19/csardas19.html.

221. *See id.*

222. *See Mertus, supra* note 16, at 416.

223. HUNGARIAN CONST. ch. XII, art. 66(1).

224. *See Mertus, supra* note 16, at 417.

3. Assistance

Twenty-five percent of women who report domestic violence claim the police do not take their reports seriously. One-sixth report rude, sarcastic comments from police and two-thirds of women who report abuse claim the police offer no practical help.²²⁵

The shelter situation is similarly bleak. One home for abused women provides shelter for only five families.²²⁶ Homeless shelters often refuse battered wives, for fear the batterers will follow them.²²⁷ Hungarian women stay in violent home situations because they have nowhere to go and no financial means to leave.²²⁸

4. NGOs

A hotline and a referral service provide lawyers, social workers, and other volunteers to assist battered women.²²⁹ The Feminist Network translates and publishes feminist literature, organizes consciousness-raising seminars, contributes to research and teaching of Women's Gender Studies, opposes restrictive changes in the abortion law and is planning a Women's Information Center.²³⁰ Other groups bring women together for various projects, although not necessarily related to violence issues:²³¹ an informal but apparently close-knit group of women is the impetus behind a growing women's studies program in Hungary at the Central European University and Budapest University of Economic Sciences.²³²

5. Attitudes

Verbal humiliation of the wife is seen as a private matter in Hungary, and psychological violence is not taken seriously, even though it has been shown to be a prelude to wife battering.²³³ Some analysts argue that the Western concept of abused women as victims is inapplicable to Hungary because the vocabulary of victimization has not

225. Toth, *supra* note 217.

226. *See id.*

227. *Women's Refuges in Hungary*, WAVE Newsletter No. 4, 1998 Austrian Women's Rights Group WAVE, <http://www.wave-network.org/articles> (last visited Apr. 18, 2000).

228. Szamosi, *supra* note 216.

229. *See id.*

230. *See id.*

231. *See id.*

232. *See id.*

233. Gusztav Kosztolanyi, *The Invisible Majority: Cosmopolitan and the Cruel Reality for Hungary's Women*, 1 CENT. EUR. REV. (Sept. 1999), at <http://www.CE-Review.org>.

entered the national dialogue.²³⁴ Wife beating has a long history in the countryside and alcoholism, common among men, contributes to the behavior, which is pervasive and widely accepted in the society.²³⁵

D. *The Czech Republic*

Numerous legal, social, and cultural obstacles keep domestic violence off the national radar screen in the Czech Republic. First, the law requires that the victim press charges against her abuser.²³⁶ Stranger assaults, in contrast, are pursued by the police, regardless of consent of the victim.²³⁷ Second, the victim must provide medical affidavits stating that the injuries were sufficient to prevent her from working for seven days. Third, a profound disrespect for, and distrust of, the police leads women and men to expect little support from the official system.²³⁸ All three factors work to discourage reporting of domestic violence to authorities.

1. Statistics

The U.S. State Department reports that the statistics are unavailable, but several indicators suggest that domestic violence is on the rise: it estimates that ten percent of all women are abused and thirteen percent have been raped, half by spouses. No statistics on nonrape assaults of women are available.²³⁹

2. Law

The criminal code does not address domestic abuse, but the Czech Constitution provides that “[f]undamental human rights and freedoms are guaranteed to everybody irrespective of sex, race, color of skin, language, religion, political or other conviction, ethnic or social origin, membership in a national or ethnic minority, property, birth, or other status.”²⁴⁰

234. *See id.*

235. *See id.*

236. Czech Rep., *National Report on Implementation of the Beijing Platform for Action*, Response to UN Questionnaire by the Ministry of Labor and Social Affairs, Plan of Action Annex: “To Achieve Equality for Women and Men” (Czech Non-Governmental Organizations ed., 1999).

237. BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR, U.S. DEPARTMENT OF STATE, 1999 COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES: CZECH REPUBLIC 2-4 (Feb. 25, 2000).

238. *See id.*

239. *See id.*

240. CZECH REP. CONST. ch. I, art. 3(1) (incorporating the UN Charter of Fundamental Rights and Freedoms).

3. Assistance

In 1998, twenty Czech NGOs submitted a Plan of Action to the government, noting an "urgent need" to train police and the judiciary in procedures for handling female victims of all types of violence, to criminalize domestic violence, and to fund NGOs working on women's issues.²⁴¹ Some progress has been made. The U.S. State Department reports that the Ministry of the Interior has begun training officers in protocols for investigating family violence and sex crimes, and several NGOs provide support, training, legal assistance, therapy, and medical assistance.²⁴²

4. Attitudes

Domestic violence as a phenomenon, let alone a problem, has not reached the level of awareness and national discourse in the Czech Republic.²⁴³ Even the well-known feminist, Jirina Siklova, sees the issue of violence and women as a question of rape, not of battering or other physical abuse within the home.²⁴⁴ This national obliviousness was listed as one of the "subjects of concern" in the report of the UN Committee on the Elimination of Discrimination against Women in 1998, which noted the lack of data, research, legislation, remedies, support, training of professionals, or any source of information on domestic violence in the Czech Republic.²⁴⁵

241. Czech Rep., *supra* note 236.

242. See <http://www.wave-network.org/articles>. The WAVE women's network in Austria provides social service information for several countries.

243. See Jirina Siklova & Jana Hradilkova, *Women and Violence, in ANA'S LAND, SISTERHOOD IN EASTERN EUROPE*, *supra* note 118, at 82-86; *Report of the Committee on the Elimination of Discrimination Against Women*, U.N. GAOR, 53d Sess. U.N. Doc. A/53/38 (Part I) (1998).

244. See Siklova & Hradilkova, *supra* note 243, at 82-86; *Report of the Committee on the Elimination of Discrimination Against Women*, U.N. GAOR, 53d Sess., U.N. Doc. A/53/38 (Part I) (1998).

245. The Committee notes with particular concern the absence of special legislation on violence against women and is alarmed by the Government's perception that there is no need for such legislation. The Committee considers the absence of data on the extent and prevalence of such violence in the Czech republic to be a critical deficiency. It also expresses concern about the lack of information on any preventive measures and/or programs to support victims of violence, raise public awareness of the issue and sensitive health professionals and law-enforcement personnel on the topic.

The Committee also urges the enactment of a special law and introduction of policies to combat all forms of violence against women, together with promotion of education and media programs sensitizing the public on this issue. In addition, it recommends introduction of training for the judiciary, law enforcement officers, lawyers, health professionals and others whose works is relevant in the context of violence against women. The Committee strongly recommends that

In response, the Czech Government, still exhibiting skepticism, updated its 1998 statement of priorities in promoting the equality of women.²⁴⁶ It acknowledged that "the proportion of women who are victims of crime is growing" and stated that new forms of violence were emerging, including domestic violence, which are difficult to "quantify legally" and therefore also "difficult to penalize."²⁴⁷ Despite these professed difficulties, the government resolved to "evaluate the efficacy of present legislation" and to propose measures to increase "their efficiency" but only if it found, after study, that the current law was inadequate.²⁴⁸ It also proposed increases in the number of shelters for victims of violent crime, although not specifically for victims of domestic abuse.²⁴⁹ These functions are to be divided among four ministries: Justice, Interior, Labor and Social Affairs, and Health, an approach that seems destined for confusion and failure, with no one held accountable.²⁵⁰

VI. IS RESOLUTION AT THE NATIONAL LEVEL POSSIBLE?

For Poland, Hungary, Slovakia, and the Czech Republic, creation and implementation of effective law remains a long way off. Even where laws are in place, as in Poland, lack of enforcement, police refusal to act, and court failure to convict indicate that eliminating abuse is not a high priority.²⁵¹ Left to their own devices, these states ignore the problem. International norms, specifically as promulgated in the DEVAW, provide an ideal to work toward in terms of consciousness-raising; however, as in other areas of emerging human rights law, the UN initiatives lack teeth. It remains up to individual states to implement these policies.

Change is slow, but not imperceptible. Across Europe, at one time, many national laws permitted a certain level of spousal abuse, but both Communism and Western democracy have virtually wiped out this particular inequality. New constitutions in CEE, written after the fall of Communism, guarantee human rights, often in more specific terms than older Western constitutions. The Czech Republic, for example, has

the Czech Republic initiate comprehensive research to assess the extent and nature of violence against women in the country.

246. Czech Government Decree no. 452, art. 6: *Priorities and Procedures of the Czech Government in Promoting the Equality of Men and Women* (May 10, 1999).

247. *Id.*

248. *Id.*

249. *See id.*

250. Czech Government Decree no. 452, art. 6: *Priorities and Procedures of the Czech Government in Promoting the Equality of Men and Women* (May 10, 1999).

251. *See supra* notes 159-250 and accompanying text.

incorporated every word of the *UN Declaration of Human Rights* into its own constitution.²⁵² International models to weed out and reduce domestic violence are available to CEE countries, but the resolve to pass implementing legislation is lacking.

It is easy to excuse the neglect of women's safety by looking at the multitude of problems facing countries in transition from Communism to Democracy. Yet it is hard to deny something deeper is also holding back progress. Legislation in other areas is passed everyday. Money is allocated for other social programs.²⁵³ The reluctance to examine domestic violence, however, goes to the heart of the problem: the family. For nearly half a century, the family was the only place where individuality could be expressed, where no one watched, no one judged, and, perhaps, no one punished. Public and private reluctance to cross this final barrier is deeply rooted in national psyches. The specter of a policeman at the door has overtones of arbitrary incarceration, accusations, loss of jobs, and just plain fear. When coupled with the reported reluctance of police across the region to act in domestic abuse cases, the legislative, prosecutorial solution has little chance of success.

It is easy to ignore the issue and only constant grassroots organizing, education, and lobbying keeps it in front of the public.²⁵⁴ A decade ago, in 1992, NGOs forced discussion of violence against women at the Vienna Conference.²⁵⁵ Their power is again being tapped by the EU, which has chosen a "soft" approach, rather than confronting the issue through legislation.²⁵⁶ The recently announced Daphne Project aims at education, prevention, and rehabilitation rather than prosecution and punishment. It is a variation of this "soft" approach that may prove most effective in CEE.²⁵⁷ All four countries under discussion have at least a few women's organizations dedicated to improving women's social position through education, support, and protection.²⁵⁸ Some provide training to police and the courts, as well as educating the general public.²⁵⁹ Most have sprung from local initiatives and later gained

252. ÚSTAVNÍ ZÁKON ČESKÉ REPUBLIKY [CONSTITUTION OF THE CZECH REPUBLIC] art. 2.

253. See generally TEN YEARS OF REBUILDING CAPITALISM: CZECH SOCIETY AFTER 1989, at 137-56 (Jiří Veřmík & Petr Matěj eds., 1999) (evaluating the trend in the level of Czech government spending for social programs).

254. *Prevention of Violence Through Media Support Program (Russia)*, in GENDER MATTERS, USAI for International Development, <http://www.gendereach.com/B3%20-%20Projectmap/topics>.

255. Nowakowska, *supra* note 189.

256. See *id.*

257. See *id.*

258. See *id.*

259. See *id.*

financial support through UN, EU or USAID programs.²⁶⁰ These systemic, endogenous programs have developed from perceived needs within each country and stand the greatest chance of success.

VII. RECOMMENDATIONS

Because of the unique experience of women under Communism, importation of exogenous human rights programs to prevent violence against women will meet with strong resistance in CEE. The region's unique history, emerging suddenly and unexpectedly from the authoritarian and repressive control of Russian Communists, requires an equally unique approach to domestic abuse issues.

Western nations have served their Eastern sisters well in raising awareness of violence, but Western, particularly American, punishment-based solutions are not the answer in this part of the world. Here, widespread and deep-rooted distrust of the police and the judicial system combine to make a legal-judicial approach to ending domestic violence impractical. In addition, these four countries show little interest in eliminating a problem they are not sure exists. In Poland and Hungary, cultural acceptance of a certain level of domestic abuse makes law enforcement unlikely.²⁶¹ The Czechs do not believe the problem exists, and the Slovaks have too many other problems to worry about. All are experiencing major transition-based stress on their economic, legal, and political structures. Enacting laws that cannot, or will not, be enforced creates disrespect for authority and undermines the rule of law. In addition, money spent locking up perpetrators, removing the wage-earning spouse, and destabilizing an already stressed part of society is not in the best interests of the family. CEE's severe housing shortage militates against the solution most obvious to the West—moving the wife and children. The East lacks housing, money to build shelters, and the supervision and support necessary to effectively prosecute abusers. It *must* look for other solutions.

Three approaches have been discussed in this Article. Each model provides a solution to the problem that is neither ideal nor complete, but reflects the character and purpose of its originators. To address the problem of domestic violence in CEE successfully, these emerging democracies must adopt an approach that incorporates their recent history and current social reality.

260. See *id.*

261. See Nowakowska, *supra* note 189.

have done so. The rational observer would expect signatories to exhibit greater commitment to women's rights than nonsignatories. The opposite, however, is true. Both the United States and Poland have done more in the areas of data collection, record keeping, development of shelters, and implementation of law than the other three states.²⁶³

It is up to national legislatures to adopt and implement these norms. Just as it was difficult to fit women's rights into general human rights declarations at the international level, it is equally difficult at the national level. Each of the four nations discussed in this Article is currently facing this conundrum.

The second model for moving from international norm to national implementation is the United States VAWA. This law represents a criminal prosecution and punishment model. Prevention and education programs supplement it, but the clear intent is to send a message to abusers that the nation as a whole is committed to halting domestic violence.²⁶⁴ As a model for CEE, the U.S. program fails. It allows the long arm of the state and its police force to reach into the heart of CEE social organization—the family. Police entry into the home carries with it the burden of recent history in CEE, replete with arbitrary searches, unjustified imprisonment, and spying neighbors. The U.S. model invades the private space of the home, the last, and perhaps only, barrier against total state control under Communism.

Significantly, only Poland has adopted legislation directly addressing domestic violence,²⁶⁵ but the procedural and social barriers to implementation are so great that few women take advantage of the law. Reactions of the Roman Catholic Church and stonewalling by conservative elected officials have eviscerated the most progressive domestic violence law in CEE.

In all four countries, a growing attraction to “traditional family values” and “traditional families” has threatened abortion laws and resulted in abandonment of several social welfare programs of the past. Poland's loss of momentum reflects the wave of the future if U.S. style legislation is embraced throughout CEE: women's groups in Poland, notably the WRC, but also research arms of the UN, have documented

263. See *supra* notes 174-183 and accompanying text.

264. *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*, at <http://www.secretary.state.gov/PICW/2000commitmnet/violence>.

265. See *supra* note 167 and accompanying text (reviewing Family Code, art. 207, sec. 1).

The UN model reflects an evolution from its first general statement on human rights—the *International Convention on Human Rights*—to later, more specific statements about human rights. Early documents enumerated rights that reflected strongly held Western values. These were reflected in the *International Covenant on Civil and Political Rights* and the *International Convention Against Torture*. Concerns of developing nations, the so-called “second-tier rights,”²⁶² are reflected in the *International Convention on Economic, Social, and Cultural Rights*. While innovative in defining and promoting human rights, these declarations are traditional law in the sense that they address only public behavior and public concerns. Private behavior within the home, beyond the purview of public scrutiny, requires a change of perspective.

In the legal world, rights and law evolve naturally and slowly from what has been done before. For three decades after WWII, legal scholars attempted to squeeze the square peg of women’s legal rights into the round hole of general human rights. Women were not consciously included in original human rights documents. A discussion of the reasons for this social and historical oversight are beyond the scope of this Article, but it took the rise of feminism and international women’s NGOs to bring international attention to bear on the issue. The latter half of the twentieth century saw the UN write and implement numerous conventions covering the rights of those it forgot in its first round of post-World War II documents. This is less the fault of the documents themselves than of the unwillingness of the world to recognize the rights of ethnic minorities, indigenous peoples, and one-half of the world’s population: women.

It was these UN documents that often served as prototypes for the newly emerging democracies as they wrote their constitutions. Their newer constitutions are more human rights oriented than the much older U.S. Constitution and thus specifically include gender rights. Like UN declarations, however, they still lack implementing legislation and are more an idealized standard than quantifiable law.

The history of the *Convention on Elimination of All Forms of Discrimination Against Women* illustrates both the ability and the failure of UN declarations to influence national outcomes. In 1979, the UN General Assembly adopted CEDAW. To date, 165 of the 188 UN member states have ratified this Convention. The United States and Poland have not signed, but the Czech Republic, Slovakia, and Hungary

262. D. Neil Snarr, *Human Rights*, in *INTRODUCING GLOBAL ISSUES* 55-56 (Michael T. Snarr & D. Neil Snarr eds., 1998).

the connection between increasing church influence, conservative politics, and Poland's failure to enforce its domestic abuse laws.²⁶⁶

Parallel forces are at work in Slovakia, Hungary, and the Czech Republic.²⁶⁷ In addition, across the board denial of the problem in the Czech Republic,²⁶⁸ and social values which essentially turn a blind eye to domestic violence in Hungary and Slovakia²⁶⁹ suggest that consciousness-raising and education must become priorities because legislation has little chance of succeeding if women will not use it, men do not believe in it, at least one major religion opposes it, and social conservatives refuse to enforce it. Reluctance of police to interfere in domestic matters and the significant procedural and financial hurdles women face in prosecuting abusers also militate against a punishment-oriented solution.

The third model discussed, the EU's *Daphne Initiative*, offers a possible alternative. This educational and consciousness-raising model has several advantages. First, coming from Western Europe, it has more of the flavor of an indigenous solution to a domestic problem. Justifiably suspicious of outside intervention as a result of German and Russian takeovers of CEE in the twentieth century, these four countries only reluctantly embrace outside solutions. On the other hand, they want to be seen as European and have spent considerable political and economic effort harmonizing their laws and socio-economic programs with those in the EU. Thus, an approach adopted by the EU has the merits of being both a "soft," nonlegislative solution and one which is likely to be embraced by the political powers and the general population. It also reflects the social realities of CEE. Legislation, despite UN encouragement and norm setting, has either not been adopted (the Czech Republic, Hungary, and Slovakia) or not been enforced (Poland).

Originally an economic union, the EU, in practice, maintains the public-private divide, although its recent forays into classic human rights arenas indicates both its need to develop a broader base of support for its economic goals and its maturing as a union in more than a purely economic sense. Even so, the EU's general pattern in social issues has avoided legislative proscriptions in favor of studies and workshops, with

266. See *supra* notes 159-189 and accompanying text; see also Adam A. Hetnal, *The Polish Catholic Church in Pre- and Post-1989 Poland: An Evaluation*, 32 E. EUR. Q. 503 (1999); Timothy A. Byrnes, *The Catholic Church and Poland's Return to Europe*, 30 E. EUR. Q. 433 (1997).

267. See *supra* notes 190-250 and accompanying text.

268. See *supra* notes 236-250 and accompanying text.

269. See *supra* notes 233-235, 206-211 and accompanying text.

the results going back to individual states for adoption, rather than legislating on a Union-wide basis.²⁷⁰

Evidence that domestic violence limits women's ability to function in the economic sphere has been used to crack the hard shell that protects private life from public EU scrutiny.²⁷¹ It is this argument that may have the most impact on the CEE mindset: victims of abuse themselves for decades, it is difficult for these countries to admit that they may, in turn, perpetrate abuse. Couching the *effects* of abuse in economic terms moderates the social stigma. CEE's eager embrace of UN norms in its constitutions and its valiant attempts to harmonize national laws with the EU's *acquis communautaire* indicate a willingness to accept standards which further the goal of admission to the EU. Coupled with the message that domestic violence hurts the economic bottom line, the EU soft sell against domestic violence appeals to national self-interest without raising the specter of a police state or assaulting the national self-image.

The second advantage of the EU's focus on NGOs as vehicles of change is that it capitalizes on existing organizations, encourages their growth, and promotes development of new social action agencies. All four countries have some women's groups which work to raise awareness of domestic violence. At least one in each country has worked with the government to promote official awareness of domestic violence and to improve police and judicial sensitivity in handling domestic violence complaints.²⁷² With adequate funding, these educational programs can expand across the four countries. Several sources of funding already exist. Grants for NGOs are part of the EU's annual budget. Direct expansion from an EU program, such as the *Daphne Initiative*, may not be possible under EU guidelines, but use of an alternative EU financial mechanism, such as the *Phare Program*,²⁷³ can solve this problem. *Phare* provides financial support to country-based programs which further EU

270. Hoskyns, *supra* note 49, at 79-81.

271. Jalna Hanmer, *Common Market of Violence*, in *SEXUAL POLITICS AND THE EUROPEAN UNION, THE NEW FEMINIST CHALLENGE* 139-41 (R. Amy Elman ed., 1996).

272. See *supra* notes 176-180, 201-205, 229-232, 241-242 and accompanying text.

273. The Phare Programme is currently the main channel for the EU's financial and technical cooperation with the countries of Central and Eastern Europe. Set up in 1989 to support economic and political transition, Phare's assistance takes the form of grants and its work has grown to encompass a wide range of activities. Phare has shown a continuing flexibility in adapting to the changing priorities and character of the reform process in each of its partner countries. Phare supports development of legislative frameworks and administrative structures. It funds projects which promote democratization and civil society, and invests in infrastructure, including cross-border cooperative projects. See PHARE'S PRE-ACCESSION ASSISTANCE PROGRAM, at <http://www.Europa.eu.int/comm/enlargement/PAS/phare.htm> (last visited Aug. 6, 2001).

objectives. *Phare's* current focus under the European Union's Agenda 2000 is on institution building and investment support, making it a logical vehicle for funding domestic abuse programs.²⁷⁴

Incorporating *Daphne*-based programs into the *Phare Assistance Programs* would utilize existing bureaucracies to promote goals which already have the legitimacy of official EU sanction. This framework for disseminating information and funds requires little in new expenditures. In addition, successful models for this proposed program also exist in CEE, notably *Phare's* "Civil Society Development Foundation" in Slovakia. Since 1993, this foundation has supported 387 Slovak NGO projects on human rights, health, social service, education, and volunteer development.²⁷⁵

The *Daphne Initiative* is well suited to promoting awareness of domestic violence. Its mandate is to fund training of personnel in NGOs that:

- (1) prevent violence against women and children;
- (2) sponsor pilot projects;
- (3) develop reporting and data gathering mechanisms;
- (4) train legislators, court personnel, and law enforcement officers in the psychological care, support, and assistance of victims; and
- (5) disseminate information through seminars, conferences, campaigns, etc., which raise awareness and promote non-violence.²⁷⁶

By combining the *Foundation's* organization with *Daphne's* program and *Phare's* funding mechanisms, a comprehensive plan to counteract domestic violence can be crafted under EU auspices.

Other EU programs can provide prototypes and expertise. Simple ideas with significant impact include the Niki Prize, which supports

274. *Phare's* institution building goal is to adapt government, administration and organizations to democratic processes through training civil servants, public officials, professionals, and private sector actors, including judges, financial controllers, environmental inspectors, and statisticians. It is the main channel for the EU's financial and technical cooperation with Central and Eastern Europe and its mandate is to promote the economic and political transition to democracy. See *id.*

275. In addition to providing grants, the *Foundation's* assistance is targeted at improving:

- (1) awareness of the role and functioning of NGOs in an open civil society;
- (2) the level of information exchange among NGOs;
- (3) the ability of NGOs to influence policy;
- (4) the organizational capacity of NGOs; and
- (5) networking and cooperation among NGOs.

See <http://www.Europa.eu.int/enlargement/PAS/Phare/PT/civil.htm> (last visited Aug. 6, 2001).

276. Anthony Simpson, Justice and Home Affairs Task Force, Brussels, *The Daphne Initiative, Measures for Combating Violence Against Children, Young Persons, and Women*, OFFICIAL JOURNAL OF THE EUROPEAN COMMUNITIES, doc. 1999/dg 69/11 (Dec. 3, 1999), at <http://www.Europa.eu.int/comm./dg/daphne/en/index.htm> (last visited Aug. 6, 2001).

television shows depicting women in active roles, working toward equal rights for men and women.²⁷⁷

Public awareness campaigns are essential to changing behavior. In many fields, NGOs have been effective in bringing social problems to the public's attention and in providing research and expertise to assist legislatures and international organizations in their search for solutions to complex problems. It is an approach worth supporting in the democracies of CEE. Nonconfrontational, supportive, country-specific educational awareness programs, conflict resolution training, and *Daphne*-like NGO strategies are the better approach in these transitional societies. Both the historical and contemporary character of CEE countries necessitates a nonpunitive, cooperative, education-based approach rather than the law enforcement, confrontational model that has evolved in English speaking nations. In view of the pitifully few programs existing in CEE, scarce aid money would be best spent in funding embryonic NGOs and their programs.

VIII. CONCLUSION

Central Europe, at the crossroads of East and West, has always defied easy categorization. In the sensitive areas of intrafamily relations and domestic violence, its unique history takes on an importance Western observers have been slow to recognize. In the Post-Communist era, the CEE family remains a strong support system and a bastion against interference from the state. While the totalitarian state no longer exists, remnants of the fear and distrust engendered by it linger in attitudes toward political and police authority and the effects of a half-century of fear and surveillance must be taken into account when devising programs which interfere with the internal workings of the family. It is the premise of this Article that public awareness, education, and family support programs will produce more significant results than punitive, police based programs which will engender fear and hostility rather than cooperation and heightened consciousness.

277. The Niki Prize of the European Commission, DGX, at http://www.Europa.eu.int/comm./dg10/women/niki/index_form.htm (last visited Aug. 6, 2001).