



# **American University of Armenia**

Masters' Paper:

## **Domestic Violence against Women**

Prepared by the LLM 2<sup>nd</sup> year student

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Halvdan Skard (President of the Congress of Local and

Regional Authorities of the Council of Europe):

“Domestic violence is not a private matter. Domestic violence is a crime<sup>1</sup>”.

### **Abstract**

This paper focuses on domestic violence as one of the most widespread but rather hidden form of violence against women. Domestic violence is a health, legal, educational, developmental and, above all, a human rights issue. The paper looks at the size and universality of domestic violence, and its impact on the women. It highlights the need for harmonized and integrated policy responses, creation of legislation, its execution and larger responsibility from government in order to eliminate this violence.

#### **1. Transaction description. Public policy/private interest clarification**

This study is about domestic violence against women – a problem that is becoming more noticeable with each year in our society. Domestic violence is any incident of threatening behavior, violence or abuse between adults who are or have been in a relationship together, or between family members, regardless of gender or sexuality<sup>2</sup>. Domestic violence occurs in all cultures; people of all races, ethnicities, religions, and classes can be perpetrators and victims of domestic violence. It is perpetrated by both men and women, and occurs in same-sex and opposite-sex relationships. Domestic violence occurs when marital partners, former partners, or other adults who are in a close relationship, abuse their partner in a physical, sexual, emotional, or psychological way. It can be defined as any relationship of unequal power and control where there is emotional abuse, threats, isolation, denial of freedom, blame, or use of male privilege including spousal rape or economic denial.

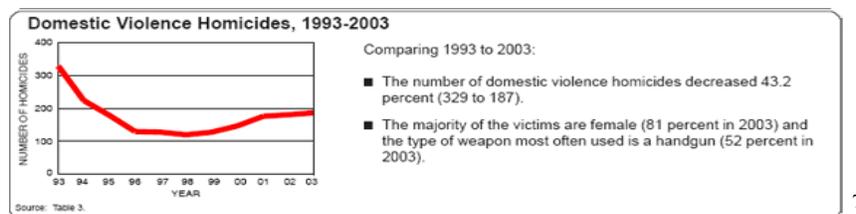
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<sup>1</sup> Speech by Halvdan Skard, Strasbourg, 27 March 2007 – link: <https://wcd.coe.int/ViewDoc.jsp?id=1111577&BackColorInternet=e0cee1&BackColorIntranet=e0cee1&BackColorLogged=FFC679>

<sup>2</sup> Analysis of family violence incidents: July 2003 - June 2004: final report, Natalie Taylor, 2 June 2006

Domestic violence is not an isolated, individual event but rather a pattern of repeated behaviors that the abuser uses to gain power and control over the victim. Unlike stranger-to-stranger violence, in domestic violence situations, the same perpetrator repeatedly assaults the same victim. Domestic violence is usually physical assault but is often sexual and can also be psychological as well. Psychological abuse means intense and repetitive humiliation, creating isolation, and controlling the actions of the victim through intimidation or manipulation<sup>3</sup>. Domestic violence tends to become more frequent and severe over time. Domestic violence is known by many names including spouse abuse, domestic abuse, domestic assault, battering, partner abuse, marital strife, marital dispute, wife beating, marital discord, woman abuse, dysfunctional relationship, intimate fighting, male beating and so on<sup>4</sup>. Some of the incidents may have fatal outcome and not only for the direct victim but for other family members as well<sup>5</sup>. Although domestic violence can include the abuse of parents, children, siblings and other relatives, it mainly involves violence against sexual partners with women being the most common victims and men being the aggressors<sup>6</sup>.

Chart about homicides resulting from domestic violence



<sup>3</sup> **Physical violence** (1. direct physical violence, ranging from unwanted physical contact to murder: hitting, punching, kicking, throwing, shoving, burning, choking, and anything else causing bodily harm or death, 2. indirect physical violence, including destruction of objects, striking or throwing objects near the victim). **Sexual abuse** (rape, sexual assault, sexual possessiveness, enforced prostitution, other sexual acts against the victims will). Emotional abuse (1. verbal threats of physical violence to the victim or others including children, 2. verbal violence, including threats, insults, put-downs, attacks, 3. nonverbal threats, including gestures, facial expressions, body postures). **Economic/social abuse** (1. controlling victim's money and other economic recourses, preventing victim from seeing friends and relatives, actively sabotaging victim's social relationships and isolating victim from social contacts, 2. forcing the victim to beg for the money until the abuser gives them some money (it's common to receive less money as the abuse continues), 3. preventing the victim from finishing education or obtaining employment). **Spiritual abuse** (using spouse's or intimate partner's religious or spiritual beliefs to manipulate them, preventing the partner from practicing their religious or spiritual beliefs, ridiculing the other person's religious or spiritual beliefs<sup>3</sup>) - *Domestic Violence and Abuse: Types, Signs, Symptoms, Causes, and Effects* [http://www.helpguide.org/mental/domestic\\_violence\\_abuse\\_types\\_signs\\_symptoms\\_causes\\_effects.htm](http://www.helpguide.org/mental/domestic_violence_abuse_types_signs_symptoms_causes_effects.htm), National Violence Against Women Survey, National Institute of Justice and Centers Disease Control and Prevention, July 2000 <http://www.acadv.org/facts.html>

<sup>4</sup> Domestic Violence in Australia - an Overview of the Issues. E-Brief: Online only issued 7 August 2003, updated by Janet Phillips, September 2006, Dr Kerry Carrington, Analysis and Policy

<sup>5</sup> Castle Rock v. Gonzales (2005), <http://www.now.org/press/06-05/06-28.html>

<sup>6</sup> Australian Bureau of Statistics 2006. Personal safety survey 2005. ABS cat. No. 4906.0. Canberra: Australian Bureau of Statistics.

<sup>7</sup> Criminal Justice Statistics Center (CJSC) Review of domestic violence statistics

It is inadequate to view domestic violence as an aspect of the normal conflicts that take place in most families. Family violence has existed since the conception of the family unit. The history of spousal abuse dates back hundreds of years and has just recently been recognized as a serious problem. There are many reasons why men abuse their wives and why wives allow themselves to be abused. One contributing factor among men in domestic violence cases is alcohol and/or substance abuse. The victim is often reluctant or hesitant to leave the situation or report it because of fear of the abuser, being humiliated, having other people find out what happened and to be alone. Also having to deal with social stigma, guilt, financial problems. Most victims of domestic violence fail to leave their abusive spouses for reasons like:

- Forgiven – spousal relationships are complex and exist on many different levels. There may be true repentance and forgiveness; it takes time for a victim to understand that things won't change.
- Economics - Many victims are trapped because they depend on support from their partners and feel they cannot survive financially on their own.
- Shame – many women prefer to hide the fact that they have been beaten by the husband because they are afraid of the attitude of the society, afraid to be pointed with fingers by neighbors and relatives.
- Love - yes, a woman can go on loving her husband despite his character and the way he treats her.
- Children – mothers don't want to send to prison the fathers of their children.
- Fear of the threats of the husband if she reports on him.

Some of them leave but experience stalking by an ex-partner. Physical and psychological abuse in the relationship, as well as substance abuse by the batterer, are strongly associated to stalking when the relationship is over, and women abused in the relationship are twice as likely to report being afraid of the stalker, thus leaving often does not end the violence<sup>8</sup>.

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<sup>8</sup> Davis and Frieze (2000)  
[http://www.psychpage.com/learning/library/assess/opportunity\\_control.html](http://www.psychpage.com/learning/library/assess/opportunity_control.html)

Domestic violence against women is highly spread in Armenia. Factors that perpetuate domestic violence may be different (political, economic, cultural, legal) but in our society they are mainly cultural:

- ✓ Gender-specific socialization
- ✓ Cultural definitions of appropriate sex roles
- ✓ Expectations of roles within relationships
- ✓ Belief in the inherent superiority of males
- ✓ Values that give men proprietary rights over women and girls
- ✓ Notion of the family as the private sphere and under male control
- ✓ Customs of marriage (bride price/dowry)
- ✓ Acceptability of violence as a means to resolve conflict<sup>9</sup>

Women for hundreds of years were viewed as less than human, property, in place to serve at the pleasure of their husband. Women, who grew up in homes where their mothers were beaten or hit, accepted it as their role as wife and most often married men who also abused them. Women in the early nineteenth century believed that being abused or used as a punching bag was just one of their duties as a wife. Many women believed that they deserved to be hit, they did something wrong and they needed physical punishment. Men who grew up in homes where their fathers beat their mothers continued the abuse in their own marriages and in most cases also abused their children.

Despite being widespread domestic violence remains unreported not only because of being hesitant to come forward and report it but also because the victims do not know where to apply for help. The state fails to effectively solve the problem; in fact, there is not even a significant law that could be used for the protection of the victims. The protection offered by the state is reflected in some articles of the Criminal Code, such as battery (Art. 118), torture (Art. 119), infliction of willful damage to health (Art 117), etc., but the problem and the procedure are too complicated and the victims, who

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<sup>9</sup> “Domestic violence against women and girls”, June 2000, pdf

are excessively vulnerable, do not know if their conditions will be improved after reporting their husbands. Because there is no significant law, there is no transparency of the consequences, a woman does not know what is going to happen to her next, what kind of protection is prescribed to her by law and by public officials, what measures will the police take, etc. For years anything that happened inside the family was considered to be a family matter and no one had the right to interfere. Lack of legal protection within the sanctity of the home, is a strong factor in perpetuating violence against women.

But these outdated views should be over: domestic violence is a social problem; it leads to extensive physical and psychological consequences, some with fatal outcomes and should be considered a separate crime with a separate law and regulation. Moreover, when domestic violence goes unpunished, the damage to the family, which is the nucleus of society, can be very great or immeasurable. Consequently, domestic violence makes a grievous damage to the state. For these reasons, it is essential for the bodies that should regulate this event to function competently, to help women in all the steps of receiving protection without being ashamed or afraid of public opinion. It is the responsibility of governments who have ratified international conventions regarding violence against women (Universal Declaration of Human Rights (UDHR), the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)) to harmonize their national laws in line with these conventions. Important step towards upholding the right of women to equal protection under the law is to pass domestic violence legislation that prohibits violence against women. Under this legislation, a woman should have protection from threats and acts of violence, safety and security for herself and assistance in continuing her life without further interference.

This study intends to disclose all possible solutions for this problem and explain to the involved private parties how to efficiently implement their rights.

## **2. Armenian Legal Framework**

Armenia is a party to some international conventions such as Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and The United Nations Declaration on the Elimination of Violence against Women<sup>10</sup>.

CEDAW which is guided by a broad concept of human rights that stretches beyond civil and political rights to the core issues of economic survival, health, and education that affect the quality of daily life for women. The Convention calls for the right to protection from gender-based abuse and neglect. The strength of these treaties rests on an international consent and the statement that all practices that harm women, no matter how deeply they are embedded in culture, must be eliminated. In 1992, the Committee on the Elimination of Discrimination Against Women (CEDAW) adopted General Recommendation 19, in which it confirmed that violence against women constitutes a violation of human rights and emphasizes that "States may also be responsible for private acts if they fail to act with due diligence to prevent violations of rights or to investigate and punish acts of violence, and for providing compensation"<sup>11</sup>. The Committee made recommendations on measures states should take to provide effective protection of women against violence, including 1. effective legal measures, as well as penal sanctions, civil remedies and compensatory provisions to protect women against all kinds of violence, including violence and abuse in the family; 2. preventive measures, such as public information and education programs to change attitudes concerning the roles and status of men and women; 3. protective measures, including counseling, rehabilitation action and support services for women who are experiencing violence or who are at risk of violence. The United Nations Declaration on the Elimination of Violence against Women also calls on States to "condemn violence against women and not invoke any custom, tradition or religious consideration to avoid obligations with respect to its elimination, to pursue by all appropriate means and without delay a policy of eliminating violence against women<sup>12</sup>," and, further to "exercise due diligence to prevent, investigate and, in

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<sup>10</sup> Armenia accessed to CEDAW in 13 September 1993

<sup>11</sup> CEDAW General Recommendation n. 19 (1992)

<sup>12</sup> Declaration on the Elimination of Violence against Women, Art 4

accordance with national legislation, punish acts of violence against women, whether those acts are perpetrated by the State or by private persons"<sup>13</sup>.

As there is no separate domestic law on family violence the matter is regulated by the criminal Code of RA. The articles are the following:

- ✓ Murder (Article 104)
- ✓ Causing somebody to commit suicide (Article 110)
- ✓ Infliction of willful heavy damage to health (Article 112)
- ✓ Infliction of willful medium-gravity damage to health (Article 113)
- ✓ Infliction of willful light damage to health (Article 117)
- ✓ Battery (Article 118)
- ✓ Torture (Article 119)
- ✓ Illegal deprivation of freedom (Article 133)
- ✓ Insult (Article 136)
- ✓ Rape (Article 138)

### **3. Case Studies of Regulated Event<sup>14</sup>**

Domestic violence is a crucial problem in the world and Armenia is no exception. Although everyone knows what is going on in our society and in the families in the relationships between the family members, usually both state officials and ordinary citizens do not agree that in Armenia the violence against women exists as a phenomenon. Silence can be viewed as a sign of acceptance and violent acts against women are committed on a regular basis. The number of the families in which relations have become tense has increased by 22%, and on the same percentage the number of families

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<sup>13</sup> Declaration on the Elimination of Violence against Women, Art 4(C)

<sup>14</sup> All the data is based on the sociological survey made by "Sociometer" independent sociological center

having warm relations has decreased. In the result the number of unsuccessful families has increased for 44% and reached 57%.

According to the survey made by independent sociological center “Sociometer”, the reasons that give rows and quarrels within the family are:

|  |       |
|--|-------|
| 1. financial problems                    | 47.9% |
| 2. problems associated with unemployment | 11.4% |
| 3. problems associated with work         | 6.4%  |
| 4. conjugal relations                    | 10.2% |
| 5. upbringing children                   | 8.9%  |
| 6. relations with the relatives          | 6.7%  |
| 7. issues associated with the neighbors  | 0.5%  |
| 8. there is no need for special causes   | 6.5%  |
| 9. other                                 | 1.5%  |

It becomes obvious from the chart that 66% of disputes are around financial and economic issues. When asked what the origin of quarrels is, 49% of women’s answer was the present difficult social and economic situation.

Women are subjected to violence for a number of grounds. But one of the major reasons is the way they treat themselves. Nearly the 24% of questioned women think that women indeed are inferior compared with men in many aspects. 14.3% find the cause in the history: in the East women were always classified as inferior. This could be the answer why and how women became tolerant of the acts of violence. But there is also a certain amount of women who are traumatized by those actions. 48% of the questioned women had long lasting tension, 3.1% attempted suicide, and to 6.5% they caused a psychological complex.

Women are not given sufficient knowledge concerning their rights and family life and their poor knowledge is another reason of being abused. Schools almost do not give information on women's rights and family life (2.7% and 1.81%). In order to have success in fighting against domestic violence girls should be given awareness at very young age.

As most incidences of domestic violence often go unreported, it is difficult to measure the true extent of the problem. The best indicators available to date about the levels of violence against women in Armenia are the statistics of the NGOs dealing with these kind of problems<sup>15</sup>. According to the "AYG" NGO that provides psychological help; in the year 2005, 360 persons (women and adolescents) were enrolled to get psychological help and support. Mostly they are victims of domestic

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<sup>15</sup> Armenia has number of NGO's dealing with violence against women: 1. Martuni Women's Community Council provides Gegharkunik region women and children who have experienced domestic violence with social, psychological, medical and legal and attorney services. Also, hotline is functioning for beneficiaries. The NGO also educates the public on the problem. 2. Armenian Caritas. In Giumry, Armenian Caritas, Arevamanuk Fund and Tiramayr Armenian Nunnery have established a hotline for victims of domestic violence. Beneficiaries receive psychological and medical assistance, and if necessary, are provided with shelter. 3. **Helsinki Assembly: Helsinki Association and "Tsovinar" Women Against Violence** NGO. They are striving to change the judiciary and law enforcement bodies' approach towards domestic violence through workshops and by revealing cases of domestic violence within Armenia's population and within the judiciary system. The results are periodically published in newsletters. The phenomenon is highlighted through mass media publications, radio and television. Beneficiaries are provided with psychological, legal and attorney assistance. 4. **ROA Maternity Fund**. It provides timely, accessible and flexible assistance to beneficiaries. The ROA Maternity Fund created the Hope Crisis Center. The Center has two departments: Relaxation Family Center and Mother and Child House. Victims of domestic violence also benefit from hotline. Beneficiaries are provided with consultancy, social, household and security services. Educational and publishing activities are carried out. 5. **Women's Rights Center**. Within the framework of the Women's Rights Center's project women and children who have experienced domestic violence will be provided with a service center, 24 hours hotline, emergency shelter and community outreach. To reach the goal beneficiaries will be provided with crisis intervention counseling, community referrals and information and shelter in a confidential location, clothing and support group services. 6. **Ajakits** NGO. Giumry based Ajakits NGO's purpose is to raise the level of Shirak region's women's awareness on their rights and to strengthen their capacities to prevent and struggle against violence. Beneficiaries will benefit from hotline and medical, psychological and legal consultancy and assistance. Also, seminars, trainings and roundtables on domestic violence will be conducted and relevant literature will be printed and disseminated. 7. **Young Family Support Center**. It contributes to the solution of socio-economic and legal problems of young families. The most important issue is health of young families (the reproductive health of the spouses, sexual education of young people, first medical aid). It studies young families in terms of the status of women and domestic relationship between the spouses.

violence<sup>16</sup>. Although domestic violence is chronically under reported, the victims are numerous.

Research by ROA Maternity Fund estimates that:

- ✓ 5526 women were given psychological help and legal consulting
- ✓ 1445 women were provided with legal consulting via Hot Line
- ✓ 106 victims of domestic violence were given shelters

#### **4. Steps of the Transaction**

As mentioned above there is no domestic law on family violence and the victim can only apply for one of the crimes mentioned in part 2. If a woman is a victim of one of those crimes (except the ones with fatal outcome) she may only call the police or emergency ambulance. However the police will arrive only in the case of continuing crime. Otherwise the victim has to go to the police station herself to make a report. The report is registered in the protocol of the investigation. The only remedy for domestic violence is prosecution and the criminal charges that a prosecutor will bring are the ones mentioned in part 2.

For charging a crime the prosecutor or the investigator must have a basis. The first stage is not discovering the crime and making a conclusion of the guilt of the person but finding the indicators of the crime for charging it. The stage of charging for a crime consists of:

- ✓ Collecting and checking the information about the committed crime
- ✓ Finding out conditions that exclude the charging of the crime
- ✓ Checking the legality of the grounds for charging the crime
- ✓ Making a decision about charging the crime or not<sup>17</sup>

The victim provides information about the crime, who committed it, where, when, the witnesses, after which the investigator interviews the victim, the witnesses if there are any, and the suspect. The investigator appoints a judicial medical expertise for the victim if there was a physical abuse and sends the gathered information to the prosecutor who makes a decision whether to charge the crime and if

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<sup>16</sup> From the interview of "AYG" NGO to Ministry of Justice in 2006

<sup>17</sup> Criminal Procedure Code of RA

the evidence is enough for charges the prosecutor then forwards the case to the court. The Criminal Procedure code of RA provides victims of crime substantial rights to participate in the criminal justice process, as well as allowing victims to proceed against the defendant in a civil trial that occurs simultaneously with the criminal trial.

There is no special treatment to the victims of domestic violence despite the fact that they are among the most vulnerable group of victims.

## 5. International Best Practice

In the 1990s, several aspects made major changes in domestic violence legislation in many countries. Women's agitation raised the profile of the issue of violence against women and several United Nations conferences (Vienna, 1993; Cairo, 1994; and Beijing, 1995) recognized women's rights as an absolute part of universal human rights. As a result laws on domestic violence were adopted in many countries: to date, a lot of countries have adopted specific legislation on domestic violence<sup>18</sup>.

International human rights instruments such as the Universal Declaration of Human Rights (UDHR), adopted in 1948, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), adopted in 1979, affirm the principles of fundamental rights and freedoms of every human being.

Countries that have ratified international treaties to enforce the protection of people from violations to their human rights are held accountable if these rights are violated. The following are some of the international legal instruments used to address violence against women:

- The **Universal Declaration of Human Rights** (1948) states that all men and women should enjoy all human rights equally.
- The **United Nations Convention on the Elimination of all Forms of Discrimination against Women** (1979) affirms that no “person, organization or enterprise” should discriminate against

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<sup>18</sup> Countries that have separate laws on domestic violence or articles regarding to it in Family laws - Argentina, Australia, Austria, Belgium, Belize, Bermuda, Brazil, Bolivia, Brunei, Chile, Cayman Islands, China, China--Hong Kong, China—Taiwan, Colombia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Germany, Guatemala, Honduras, Ireland, Japan, Luxembourg, Madagascar, Malaysia, Mauritius, Mexico, New Zealand Nicaragua, Panama, Paraguay, Peru, Portugal, Puerto Rico, Republic of Korea, Romania, Saint Lucia, Saint Vincent and the Grenadines, Singapore, South Africa, Spain, Trinidad and Tobago, United Kingdom, Uruguay, Venezuela

women. **The General Recommendation number 19** of the Committee on the Elimination of Discrimination against Women reiterates women's right to be free from violence.

- The **Declaration on the Elimination of Violence against Women** (1993) recognizes that violence against women is a human rights violation.
- The **Special Rapporteur on Violence against Women, its causes and consequences** is appointed by the Human Rights Council to report on violence against women, and appeal to governments on victims' behalf.
- The **Rome Statute of the International Criminal Court** (established in 1998) considers several crimes of violence against women as war crimes and crimes against humanity. "Rape, sexual slavery, enforced sterilization, or any other forms of sexual violence of comparable gravity" are considered as war crimes.

Second part of this summary is based on the methods and analyses on how this matter is regulated in common law countries UK and New Zealand, Islamic common law country Brunei, and civil law country Japan.

"Domestic Violence Act" of New Zealand covers the power to make protection order by the court. According to the Act the Court may make a protection order if it is satisfied that the respondent is using, or has used, domestic violence against the applicant, and that the making of an order is necessary for the protection of the applicant. The law gives the person who is or has been in a domestic relationship with another person opportunity to apply to the Court for a protection order. Standard conditions of protection order are that the respondent must not physically or sexually abuse the protected person, threaten to abuse her, damage or threaten to damage her property<sup>19</sup>. The law also covers the matter if the protected person and the respondent live in the same house stating that in such cases the respondent must not watch, loiter near or prevent or hinder access to or from the protected

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<sup>19</sup> Article 19 of Domestic Violence Act of NZ

person's place of residence or any other place that she visits often, follow her or make any other contact (whether by telephone, correspondence, or otherwise).

These procedures are for the effective security of the victim before the Court makes its final verdict concerning the problem.

“Family act law” of UK contains a non-molestation order which prohibits a person (“the respondent”) from molesting another person who is associated with the respondent. A non-molestation order may be made for a specified period or until further order. In deciding whether to exercise its powers and, if so, in what manner, the court shall have regard to all the circumstances including the need to secure the health, safety and well-being of the applicant.

Japan has a nearly perfect “Law for prevention of spousal violence and the protection of victims”, article 2 of which states that the state and local governments have responsibility to prevent spousal violence and provide appropriate protection for victims, including assistance in making them self-reliant. Also according to the law prefectural governments should authorize Women’s Consulting officers or other appropriate facilities within their jurisdiction to function as Spousal Violence Counseling and Support Centers which, in order to prevent spousal violence and protect victims, should undertake activities such as:

- providing counseling to victims regarding various problems affecting them or introduce them to women’s consultant or organizations that provide the counseling
- providing medical, psychological or other required guidance in order to help victims recover their psychological and physical health
- providing temporary protection for victims (and in cases where the victim is accompanied by family members, for the family members as well as the victim)
- offering information, advice and liaison and coordination with concerned organizations, as well as other forms of assistance, concerning measures including employment promotion, housing procurement and use of system for social assistance in order to promote the self-reliance of victims

- offering information, advice and communication with concerned organizations as well as other forms of assistance concerning use of the protection order system
- offering information, advice and liaison and coordination with concerned organizations as well as other forms of assistance concerning the use of facilities where victims can live and receive protection

The temporary protection should be provided directly by Women's Consulting officers or entrusted to parties meeting criteria established by the Minister of Health, Labor and Welfare.

In the opposite to Armenia where the victim of the violence should report to the police herself, in Japan if physicians or other medical personnel in the course of their duties, detect individuals who they consider to have suffered injuries or medical conditions resulting from spousal violence, they may notify them to Spousal Violence Counseling and Support Center or police officer. They also provide those patients with information at their disposal on the use of Spousal Violence Counseling and Support Centers and recommend receiving any protection that may be required. The law gives step by step description of the actions by the Prefectural police headquarters, Welfare Officers and of the cooperation among concerned organizations to help and protect victims and provide immediate help. The law demands that the concerned organization when receive complaints from victims regarding the performance of duties by personnel in charge of the protection of victims, they should endeavor to handle them in an appropriate and prompt manner - an important demand that none of other examined laws had.

The law at the same time protects spouses from unjust accusation stating that a petitioner for a protection order whose petition form contains knowingly false entries is a subject to a non-penal fine.

Japan also takes steps in training and educational activities needed to deepen understanding of the human rights of victims, the distinctive characteristics of spousal violence, etc. The state and local governments encourage education and enlightenment measures to deepen understanding among the public of the need to prevent spousal violence, provide necessary support to private bodies that are engaged in activities designed to prevent spousal violence and protect victims.

## 6. Procedure Evaluation

Unlike the discussed countries Armenia does not have a separate law on domestic and family violence. But the criminal code of RA includes crimes that may be committed when domestic violence occurs. The crimes which can typically occur when domestic violence occurs are mentioned in part 2.

Unfortunately, almost no cases regarding domestic violence that contain those crimes go to court and are not even reported. The reason is quite obvious: the victims do not trust the police. They are not sure whether the police will be on their side as the majority of the policemen are males who have prejudiced views about women that report on their husbands.

In a situation like this is a victim of domestic violence who I interviewed. After escaping from her husband and reporting on him nearly nothing was done by the police. The abusive husband was detained and later released. He continues disturbing her, making affrays, shouting threats under her window. When she calls to the police the only response is that she has to go to the department and make a statement, a fact that absolutely does not correspond with the international best practice. After doing this for many times and receiving no support the woman has lost all hope. The husband was only detained for some hours and released. It becomes obvious that the police operators are on his side stating that the “brawler” wife makes noise out of nothing. There are many women like this who stay silent knowing that the big list of criminal offenses will not protect them from the drunken abusive husbands if they decide to visit them at night. The negligence by the police may bring to fatal consequences.

Consequently, the statistics of this crime is increasing and there is no law and no enforcement. The only protection Armenia can offer to the victims of domestic violence at the moment are the shelters that NGOs provide, but a victim of domestic violence cannot live in a shelter all her life. Another negative factor is that Armenia is a small country and everyone knows each other – thing that makes hiding more ineffective.

## 7. Recommendations for Reform

The problem of domestic violence is itself big enough and needs to be regulated by a separate law, especially when the Criminal Code of RA does not contain crimes like:

- ✓ Affray
- ✓ Threatening behavior
- ✓ Harassment
- ✓ False imprisonment

which also may occur simultaneously with domestic violence. All these must be covered by a separate law on domestic and family violence. The law should include not only spousal violence but also violence against other family members such as children, elder people or cripples – no one is insured from family violence.

The law must take into account all possibilities as the international laws do, for example regarding the fact that the abuser and the victim live in the same house. It's not enough to make an order that prohibits the husband to abuse the wife (for example: New Zealand law covers this matter). This is important to prevent the domestic violence from repetition and protect the victim who does not have any place to go or has immature children.

It could be rather efficient to have a body that would deal with the victims of family violence and support them during all the steps. It is above doubt that in addition to the criminal act itself, subsequent criminal proceedings also may cause serious psychological harm to victims of crime. Victims not only have to struggle with primary injuries in the aftermath of a crime, but must also battle with secondary injuries. Secondary injuries occur when there is a lack of proper support. Law enforcement officers can cause secondary injuries. Those individuals may lack the ability or training to provide the necessary comfort and assistance to the victim. Often, those individuals blame the victim for the crime. Failing to recognize the crime appropriately or demonstrate adequate support may be damaging to the victim's self-worth and recovery process. Thus **Victim's Support Centers** are necessary. Not only for the victims of domestic violence but for all types of victims of criminal

offenses. These Centers should provide consulting, medical, psychological support, information about shelters for women and free of charge attorneys to the victims. Domestic violence often takes place in private and, at times, the victim may be the only witness. This can mean that unless the defendant pleads guilty or there is strong supporting evidence, it will usually be necessary for the victim to give evidence in court. A lot of victims of domestic violence will find this extremely difficult and may need practical and emotional support and specialist domestic violence advocacy services. Emotional and practical help for all victims of crime should be available from Victim Support Center. Also **Victim's Support Centers** should provide information for victims such as the type of services or organisations to which they can turn for support, the type of support which they can obtain, where and how they can report an offence, procedures following such a report and their role in connection with such procedures, how and under what conditions they can achieve protection.

Women usually do not report for reasons stated in previous chapters. In these cases, as in Japan, if the medical personnel detect women who they consider to have suffered injuries that were a result of domestic violence, they should notify them to the Victim's Support Center or the police. Complaints of domestic violence are not made straight away for fear of reprisals, intimidation or a number of other factors. Specialists of the Victim's Support Center will be able to offer help and advice to victims who are unsure about what action to take. The outdated views that domestic violence is a family matter and no one may "poke their noses into other people's affairs" should be over: domestic violence is a social problem. For this purpose there should also be training and educational courses that may deepen understanding of domestic violence and its harm to the people and to the society in a whole.

Important and crucial issue is the response of the police. Not always a woman can rush to the department to put in an application. The police need to be more reliable in such cases and support the victims not the abusers. Another problem is the subjective attitude of the police officers about women reporting their husbands, to avoid problems of this kind it will be supporting and effective if female police officers will deal with the problem.

The last, but not the least is the education: boys and girls should be educated, be given knowledge about family life from young age in order to be able to overcome the problems they may have in

grown up life. Seminars on this important topic must be held at schools and if necessary additional support from psychologists to children who have witnessed domestic violence.

These reforms are important in stopping domestic violence and in bringing offenders to justice. But it is hard to say that making all those changes will bring good results and stop domestic violence unless the State, instead of just making perfect laws and leaving them on paper will start enforcing the laws and when the bodies among which the problem is separated will fulfill their duties with all accessibility, responsibility and availability.

## **8. Reform Implementation**

The responsibility for implementation of separate law and reforms is the obligation of the State. The State needs to ensure the existence of necessary and efficient mechanisms, which will effectively fight against domestic violence and assist crime victims in overcoming the adverse consequences of the crime. The creation of significant law is the duty of parliament and its enforcement the government's responsibility. The educational programs should be made by the Ministry of Education and Science.

In case is the state does not make the changes that help to fight against any type of violence against women (including domestic violence) the UN with its Declaration on the Elimination of Violence against Women may enforce. Art. 3 of the Declaration states that "women are entitled to the equal enjoyment and protection of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field" and have the right "not to be subjected to ..... cruel, inhuman or degrading treatment". The Declaration demands that states develop national plans to promote the protection of women against any form of violence, to ensure that the re-victimization of women does not occur due to the law and enforcement. According to the Declaration the state should also take steps in ensuring that law enforcement officers are trained and competent<sup>20</sup> and adopt measures in the field of education to modify the social and cultural patterns of conduct of men and

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<sup>20</sup> Declaration on the Elimination of Violence against Women, Art 4(i)

women and to abolish prejudices, customary practices and “all other practices based on the idea of the inferiority or superiority of either of the sexes”<sup>21</sup>.

Another body that can force to make reforms is the council of Europe with its Recommendation no. r (85) 11 of the Committee of Ministers to Member States on the Position of the Victim in the Framework of Criminal law and Procedure. Art 1 recommends the governments of member states to review their legislation and practice in accordance with the guidelines such as having trained police officers to deal with victims in a sympathetic, constructive and reassuring manner and to effectively protect the victim and family against threats and the threat of reprisal by the abuser<sup>22</sup>.

Armenia has also accepted the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), thus is obliged to undertake a series of measures to end discrimination against women in all forms, such as elimination of all discriminatory laws and adoption of proper ones which prohibit discrimination against women, establishment of tribunals and other public institutions that guarantee the efficient protection of women against discrimination, ensuring abolition of all acts of discrimination against women by persons.

CEDAW General Recommendation n. 19 recommends that States parties should take appropriate and effective measures to overcome all forms of gender-based violence, whether by public or private act, ensure that laws against family violence and abuse, rape, sexual assault and other gender-based violence give adequate protection to all women<sup>23</sup>

## **Conclusion**

Domestic violence is a world problem and the proof is the amount of international treaties, campaigns against domestic violence that are held all over the world, different programs, NGOs, support centers and the laws worldwide that tend to fight against the problem. But so far the problem still exists. There is a need to:

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<sup>21</sup> Declaration on the Elimination of Violence against Women, Art 4(j)

<sup>22</sup> Recommendation no. r (85) 11 of the Committee of Ministers to Member States on the Position of the Victim in the Framework of Criminal law and Procedure., A, G

<sup>23</sup> CEDAW General Recommendation n. 19, Art 24 (a),(b)

- implement a separate significant law
- improve costs, including incidental economic consequences such as child care costs, housing costs and legal or court costs
- improve public awareness and education programs

But the existence of a legal system criminalizing and providing sanctions for family violence is not in itself enough; the government has to perform its functions efficiently to ensure that incidents of domestic violence are in fact examined and penalized. In order to combat the rising phenomenon of violence against women, investigating and prosecuting such crimes is an issue that has to be brought forward. States must ensure, under international law, that crimes of violence against women are prosecuted and that the economic and social rights of the victims are protected. Putting such a system in place will bring perpetrators to justice, encourage victims and witnesses to testify, and put an end to impunity for crimes of sexual violence against women.