

# RUSSIA

## TOO LITTLE, TOO LATE: STATE RESPONSE TO VIOLENCE AGAINST WOMEN

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## SUMMARY

*Here a woman's dignity does not have any value.*

*-Zoya Khotkina*

*Moscow Center for Gender Studies*

*Moscow, April 25, 1996*

In March 1995, Human Rights Watch released *Neither Jobs Nor Justice*, a report documenting widespread employment discrimination on the basis of sex that was practiced, condoned, and tolerated by the Russian government. The report also described how Russian law enforcement agencies routinely denied women their right to equal protection of the law by failing to investigate and prosecute violence against women. In April 1996, we returned to Russia to further research this problem. This report examines in-depth the state response to sexual violence outside the home as well as to sexual and other violence by intimate partners inside the home.

Violence against women is a pervasive problem in Russia. According to government statistics, nearly 11,000 women reported rape or attempted rape in 1996; the government simply does not gather statistics on women assaulted or killed by their partners. Yekaterina Lakhova, President Yeltsin's advisor on women's issues, has estimated that 14,000 women in Russia are killed by husbands or family members each year. These statistics, however, by no means document the extent of the problem of gender-based violence. According to women's rights activists, only about 5 to 10 percent of rape victims report to the police, and the rate of reporting by domestic violence victims is even lower. While myriad factors contribute to a victim's decision to report or to remain silent, Human Rights Watch found that the inadequacy of the government's response to victims of violence plays a significant role in perpetuating the silence and underreporting.

The government of Russia fails to afford victims of violence the protection of the law required by the international human rights treaties to which Russia is a party. Although Russian law criminalizes acts that constitute sexual or domestic violence, Human Rights Watch found that Russian law enforcement does not effectively ensure that incidents of violence against women are actually investigated and prosecuted, and in fact has sometimes obstructed their investigation and prosecution. This discrepancy between the law as written and the law as applied demonstrates Russia's failure to fulfill its international human rights obligations. By tolerating violence against women, Russia has failed not only to ensure rights guaranteed to women in relevant international treaties but to enforce its own laws in a nondiscriminatory manner.

Our researchers visited Moscow, the capital of the Russian Federation, and St. Petersburg, the second largest city in the Russian Federation. We also visited Sergeyev Posad, formerly Zagorsk, a city near Moscow; Murmansk, a military port in the northwest of Russia countries; and Nizhni Tagil, an industrial city in the Ural mountains. We collected testimony from women who had experienced sexual or domestic violence. We spoke with activists who work with female victims of violence, police officers, prosecutors, and forensic doctors. Our researchers also met with several present and former members of the State Duma. Based on this research, Human Rights Watch found that rather than combatting violence against women, the Russian law enforcement system creates numerous and substantial obstacles toward that end. Human Rights Watch documented that from the moment that victims of violence first seek out the legal system until the close of their cases, these women consistently confront hostility, reluctance, and bias against their cases.

Our research revealed that police and prosecutors typically reject or discourage complaints, suggesting that female complainants either provoked or fabricated attacks and thus were not truly victims. In the limited instances when victims' complaints were accepted, this skepticism or hostility nonetheless persisted, manifesting in flawed investigations. The investigations entail seemingly irrelevant and unnecessarily invasive and broad inquiries into victims' reputations and sexual histories. Investigations also impose a number of other dubious requirements that appear to hold complainants of sexual or other violence to a higher degree of scrutiny than is the case for complainants of other types of crimes. These requirements include extensive psychological interviews of victims and traumatizing

face-to-face confrontations between victims and alleged offenders. In keeping with their general insensitivity or lack of concern for violence victims, law enforcement officials also routinely fail, during investigations, to protect complainants and their families from harassment by alleged offenders and their friends who aim to dissuade the victims from pursuing their cases.

Human Rights Watch also discovered serious failings in the government's collection of forensic evidence, evidence which is a practical requirement in the prosecution of sexual assault cases in Russia. In many instances, we found, police deny or unnecessarily delay giving women the official referrals necessary for examinations at government-run evidence centers. This unwarranted interference with prompt examinations is especially egregious because of the transient nature of forensic evidence and its critical importance, particularly in cases of sexual assault. Even when victims do undergo forensic examinations, we discovered that they still encounter substantial difficulty in securing meaningful evidence. Many of the forensic examinations are sorely inadequate, revealing a bias against women who are not virgins. Instead of collecting evidence to document the extent and severity of women's injuries and to identify offenders, many doctors focus exclusively on the hymen to determine whether and when it was broken.

Despite the flaws in the investigative process, Human Rights Watch found that all the municipalities that it researched boast perfect or near-perfect conviction rates for crimes of sexual violence. The apparent success in prosecuting such crimes is misleading, however. Upon closer examination these figures suggest a practice of closing all but the most foolproof of cases. The probable corollary to this practice is that cases that are not foolproof are abandoned.

Human Rights Watch also documented the particular difficulties faced by victims of domestic violence. Because law enforcement officials resist even recognizing that domestic violence is a crime, many police officers refuse to respond to women's calls for help. In the limited instance when the police do respond, they often will hold the batterer, if at all, for only a brief period of time and release him unattended; after the release, the battering usually resumes. Human Rights Watch found that the police's failure to respond is particularly egregious because, at this time, criminal sanctions are the only legal protection available to battered women in Russia: Russia has no civil protection regime that would allow women to secure state-enforced protection orders from batterers without pursuing criminal charges.

Human Rights Watch found that the severe shortage of battered women's shelters—there are only two in all of Russia—and of affordable housing further contributes to the physical and mental endangerment of domestic violence victims. The absence of alternative housing options means that women are substantially restricted in their ability to escape violent partners. In many cases, battered women, even those who have divorced their violent partners, and their children have no choice but to live in the same apartment with their batterers. Although Russian law appears to provide some housing remedies—such as eviction of violent household members or apartment division—for domestic violence victims, Human Rights Watch found that these remedies are available primarily in theory and rarely in practice.

As a result of significant pressure from Russian women's rights advocates and international publicity, the government of the Russian Federation has begun to acknowledge the gravity of the problem of violence against women and has indicated a desire to improve protections for women. In February 1996, the Yeltsin administration published a policy document or white paper on improving the position of women in the Russian Federation. Issued in response to the recommendations of the 1995 United Nation Fourth World Conference on the Status of Women in Beijing, this white paper called for the government to conduct an assessment of Russian legislation and to develop proposals for revisions necessary to guarantee women's rights. Stressing that violence should be prohibited in all spheres of life including workplace and home, the government pledged in the white paper to collect full and objective statistics relating to violence against women, to coordinate its efforts with nongovernmental women's crisis centers, and to develop criminal and civil sanctions for violence against women. In June 1996, President Yeltsin issued Decree 932, "On the Development of a National Plan of Action to Improve the Position of Women and Raise their Role in Society Before the Year 2000." This decree seeks to facilitate implementation of resolutions made at the Beijing conference and orders a draft plan to be developed.

It remains to be seen, however, whether the situation of women encountering violence will actually improve. Based on current indications, the prospects appear doubtful. For example, the 1997 budget adopted by the State Duma, the lower house of parliament, allocates no money toward implementing the goals outlined in the 1996 white paper and decree. The new criminal, labor, and family law codes, all adopted in the past two years, moreover, do little to improve the protection of women's human rights, particularly in regard to violence. Even the most ambitious step by the government, the drafting of a family violence law by the State Duma, is seriously flawed. As many women's groups, which have encountered substantial difficulty in accessing and commenting on drafts of the law, point out, the proposed law threatens to mitigate criminal penalties for violence, endangers the existence of independent women's crisis centers, and fails to create a civil protection regime. If the past and the present are any indication of the future, it appears that the outlook for the lives of real women in Russia, rather than the ones envisioned by current political rhetoric, remains bleak.

## RECOMMENDATIONS

### To the Russian Government

- Ratify the European Convention for the Protection of Human Rights and Fundamental Freedoms as required under its membership in the Council of Europe and take immediate steps to integrate its protections into Russian law.
- Denounce publicly domestic and sexual violence as crimes and make widely available information about how victims of such crimes can seek redress and identify services.
- Provide funds for nongovernmental and governmental shelters for victims of domestic violence and their dependent children and provide appropriate training for those who staff them. These funds should not carry restrictions on the basis of victim's marital status, family status as dependent or independent, nationality, language, or sex.
- Enforce housing code provisions to evict violent family members from public housing and provide assistance to battered women in dividing their apartments or in finding alternative housing.
- Work with federal and local legislators to repeal all legislative, judicial and administrative acts that stipulate *propiska* (official residence permit) requirements so that women and batterers are not restricted in their ability to locate new housing.
- Allow attorneys and advocates to accompany victims of sexual and domestic violence through the investigatory process, including during psychological interviews of victims.
- Develop appropriate standardized specific protocols for the collection and preservation of medical evidence for cases of sexual and domestic violence against women. Such protocols should be made available to the public, to health care providers, and to groups working on women's rights or women's health.
- Ensure that all government medical facilities are adequately supplied to conduct forensic examinations for physical and sexual violence cases.

### Interior Ministry

- Require a training program on domestic violence and sexual assault for all existing and incoming police officers. Individuals or organizations with expertise in investigating and working with victims of such crimes should be commissioned by the government to develop a training program and to achieve its national implementation. The training program should present effective procedures for investigating sexual and domestic violence. These should include: procedures for efficient intake of all complaints of sexual and domestic violence; effective and respectful interviewing procedures for victims of domestic and sexual violence; methods for gathering medical evidence; and methods for protecting victims and witnesses from harassment by defendants (including physical violence, threats and bribes to withdraw complaints).
- Gather and maintain accurate and comprehensive statistics detailing the nature and degree of sexual violence. These records should, at a minimum, set forth the number of complaints received, the number of complaints that are taken to court, and the conviction rates. The Ministry of Interior should implement a system for

collecting information based on reports filed with the police and those collected by independent hotlines and make such information publicly available.

- Gather and maintain accurate and comprehensive statistics detailing the nature and degree of violence in the home, including altering current statistical categories to include domestic violence. The Ministry of Interior should implement a system for collecting information based on reports filed with the police and those collected by independent hotlines and make such information publicly available.
- Designate one police officer in each local station to coordinate all complaints of sexual and domestic violence. The officer should be responsible for ensuring that the intake process functions effectively, i.e., ensuring that desk officers accept complaints appropriately and give prompt referrals for medical examinations; monitoring the investigations; communicating with complainants; and investigating complainants' reports of harassment from defendants.
- Discipline police officers who refuse complaints of sexual or domestic violence without cause, close cases without cause, or accept bribes to close investigations.
- Take affirmative measures to protect complainants and witnesses from harassment by defendants and their families.
- Provide female victims of violence with information about the names and methods for contacting groups that assist victims. This information should be available in all languages commonly spoken in the station's region.

### **Legislators**

- Amend the criminal procedure code to allow hospitals, clinics, or private doctors to be certified to conduct official forensic exams that will be admissible in sexual assault prosecutions. Require that all doctors in emergency rooms and injury clinics be trained in the collection of medical evidence for sexual assaults, and provide "rape kits"<sup>1</sup> to facilitate the collection of such evidence.
- Provide a civil remedy for domestic violence victims in the form of a legally enforceable protection order that is easily accessible and readily available. Courts should issue such orders to direct the alleged batterer to refrain from contacting, approaching, harassing, and assaulting the complainant. Violations of this order should be subject to criminal penalty. The police must enforce such orders diligently.
- Revise the criminal law to reinstate Article 118, which provided criminal sanction for forcing employees into sexual contact.
- Revise the criminal procedure code to institute protections for victims of sexual violence during psychological interviews and face-to-face confrontations with the accused offender in the course of police or prosecutorial investigations. Such protections may include provisions to allow women to have a therapist or nonlegal advocate present during the interviews and confrontations, and to train law enforcement officials in the symptoms and results of post-traumatic stress disorder so that they may be sensitive to any additional shock that women may be prone to as a result of the confrontations.
- Allocate funds for the provision of social services to victims of sexual and domestic violence.
- Ensure that crisis centers are not restricted in their ability to provide services for victims of sexual and domestic violence. Extensive scrutiny should be given to any proposed licensing scheme, examining whether requirements as to services provided and staffing prove essential to victims or instead create obstacles to the provision of services.

### **To the United States Government**

- Ensure that the Law Enforcement Assistance Program, which conducts seminars for Russian law enforcement bodies, continues to focus on investigating and prosecuting sexual and domestic violence.
- Ensure that the U.S. Agency for International Development (AID) legal education and reform projects include help in reforming the civil and criminal law to provide equal protection to victims of sexual and domestic violence.

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<sup>1</sup> Rape kits are designed to collect evidence of rape and sexual assault from the victim's body and contain items such as separate evidence bags for vaginal swabs, rectal swabs, pulled head hairs, saliva samples, pubic hair combs, outer clothing, foreign materials, and underwear.

- Amend Section 498A(a)(3) of the Foreign Assistance Act of 1961, which covers the newly independent states of the former Soviet Union and requires the president to “take into account not only the relative need but also the extent to which that independent state is acting to” progress toward democracy, market reform, arms control, and protecting human rights, to mandate specific documentation of the extent that independent state is acting to protect women’s human rights.
- Continue AID funding to nongovernmental and governmental crisis centers in Russia.

**To the United Nations**

- Draft a manual on the treatment of victims of crimes as directed in the Ninth U.N. Congress on the Prevention of Crime and Treatment of Offenders in Cairo, Egypt in 1995. This manual should specify particular measures that police, prosecutors, and courts should take to safeguard victims of sexual and domestic violence from retaliation by their assailants.

**To the European Union**

- Ensure that women’s human rights are respected as a condition of the Partnership Agreement on trade and cooperation with Russia.

**To the OSCE**

- Act on the recommendations adopted at the October 1997 seminar on women’s status and participation in society and insist that monitoring and reporting on women’s rights are a priority in future OSCE work. To this end, establish a high-level coordinator, preferably based in Vienna, with a mandate to ensure that women’s human rights are incorporated into all relevant OSCE operations.
- Call on each member state delegation to the OSCE to report to the Permanent Council and the Chairman-in-Office on efforts undertaken by its government to implement OSCE standards related to women’s status. Require each OSCE field mission to report on its efforts to monitor the implementation of such standards, on its outreach to local women’s organizations, and on the results of such activities. In Russia, OSCE monitoring of and support for women’s rights should emphasize the need for legal protection for victims of sexual or domestic violence.
- Develop the role of the Office for Democratic Institutions and Human Rights (ODIHR) in promoting women’s human rights by ensuring that ODIHR staff be trained in women’s human rights and that at least one permanent staff member has expertise in women’s human rights and a mandate to ensure that OSCE staff and field missions actively monitor and report on women’s human rights.

**To the Council of Europe**

- The Parliamentary Assembly should direct the Social, Health and Family Affairs Committee to appoint a rapporteur to study the problem of sexual and domestic violence in the Russian Federation and to develop recommended legal and policy measures to give women effective redress against such abuse.
- Monitor actively the problem of sexual and domestic violence and the response of law enforcement to such assaults in all member states, including the Russian Federation.

**To the World Bank**

- Require that the health sector reform projects in Russia that address women’s reproductive health issues include components for identifying and treating sexual and domestic violence.
- Facilitate the development and use of rape kits to collect admissible evidence of sexual assault.

**BACKGROUND**



With the collapse of the Soviet Union in 1991, the Russian Federation ("Russia") has emerged as the largest, richest, most populous, and most powerful successor state to the former superpower. In transitioning from one-party rule and a command economy to a multi-party political system and a market economy, however, Russia has undergone substantial economic and political turmoil. While the effects of this instability and dislocation have been experienced throughout Russian society, they have been particularly devastating for the lives of women in Russia. From the workplace and government to the streets and the home, Russian women are increasingly encountering discrimination, exclusion, and violence. Although Russian women's groups have begun organizing and demanding change, their voices unfortunately have largely fallen on deaf ears. In particular, the Russian government has failed to take measures to alleviate the severe situation, and in some cases has actually served to exacerbate it. In 1995, the Russian government pledged at the United Nations Fourth World Conference on the Status of Women in Beijing to take measures to protect and ensure women's human rights. As serious efforts in furtherance of this commitment remain elusive, the grave problems faced by Russian women continue to persist and are likely to intensify.

### **Women and the Workplace**

The Russian Federation's transition to a market economy has been marked by growing economic hardship and a collapse of government services. From 1991 to 1995, the real gross domestic product (GDP) fell by 34 percent.<sup>2</sup> It fell another 6 percent in 1996, 2 percent more than it had in 1995.<sup>3</sup> The drop in GDP halted in August 1997, and according to Prime Minister Viktor Chernomyrdin, "Russia objectively stands on the threshold of economic growth."<sup>4</sup> While the government and some economists now predict an upturn in the economy, unemployment and its devastating effects continue to intensify. The unemployment rate, according to Goskomstat, the state committee on statistics, is hovering at around 10 percent; yet unemployment in Russia, a January 1997 report released by the International Labour Organisation suggests, is chronically understated.<sup>5</sup>

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<sup>2</sup> Janet Guttman, "Russian Economic Problems Remain after IMF Handout," Reuters, February 9, 1997.

<sup>3</sup> Ibid.

<sup>4</sup> Maxim Filimonov, "Russian Economy Showed Growth Potential in August," Reuters, September 1, 1997.

<sup>5</sup> Guy Standing, "Russian Unemployment and Enterprise Restructuring" (Geneva: International Labour Organisation, 1997).

The impact of joblessness is felt disproportionately by women. Although women make up 53 percent of the population in the Russian Federation,<sup>6</sup> out of Russia's 2.3 million officially unemployed more than 70 percent are women.<sup>7</sup> According to the Moscow city employment committee, women account for about two-thirds of the unemployed in Moscow.<sup>8</sup> Hidden unemployment complicates the analysis. According to Goskomstat figures, 7.6 million jobs held by women were eliminated between 1990 and 1995, a fall of almost 20 percent.<sup>9</sup> In contrast, the number of positions held by men decreased by only 1.6 percent during the same period.<sup>10</sup>

Rising unemployment has been accompanied by a collapse in the purported official policy of women's equality in employment rights. Although Article 19 of the Russian constitution guarantees equal opportunities and equal rights to all citizens, government officials today publicly endorse discrimination against women. Former Minister of Labor Gennady Melikyan, for example, stated in a 1993 interview with CNN, "Why should we employ women when men are out of work? It's better that men work and women take care of children and do housework."<sup>11</sup> After making these statements, Minister Melikyan was promoted; after the merging of the Social Protection Ministry with the Ministry of Labor, President Yeltsin placed Melikyan at the helm.

The rhetoric of equality has been replaced by the rhetoric of "protection." Labor legislation effective July 1, 1996, increased the number of jobs closed to women by creating tougher working standards that employers must observe regarding women between the ages of fifteen and forty-nine. Citing considerations of women's health, and more specifically, reproductive functions, the law allows women currently employed in such positions to remain, but bans hiring women to fill new posts. It is difficult to estimate how many job opportunities—mostly in heavy industry—women have lost as a result of these new, more restrictive standards. Zoya Khotkina of the Moscow Center for Gender Studies, argued that these new standards in effect "take women out of the competition" for certain kinds of jobs.<sup>12</sup> According to Yelena Ershova, coordinator of the Russian Women's Consortium, women forced out of such jobs can only expect "lower-paid work or unemployment. This is just another attempt to keep women out of high-paying jobs."<sup>13</sup> Despite an appeal by fifty-three women's nongovernmental organizations that the legislation provide equal protection for women, the new version of the labor code, without such provisions, passed overwhelmingly in the Duma.<sup>14</sup>

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<sup>6</sup> Yelena Ershova, Yelena Kochkina and Marina Liborakina, "Komy gendernaya ekspertiza? (Who Needs Gender Analysis?)," *Nezavisimaya Gazeta*, February 2, 1996, p. 6.

<sup>7</sup> Sergei Strokan, "Russia: NGOs Condemn Sexual Discrimination in the Moscow Workplace," Inter Press Service, November 3, 1995, p. 3 (quoting *Izvestiya*).

<sup>8</sup> "Russia: Unemployment Among Women Accelerates the Pace in Moscow," *Moskovsky Komsomolets*, December 15, 1996.

<sup>9</sup> In addition, the wage differential between men and women has widened, with women's wages overall falling to 40 percent of men's earnings from a high of 70 percent in 1989. Swanee Hunt, "For East Bloc Women, A Dearth of Democracy," *International Herald Tribune*, July 10, 1997.

<sup>10</sup> "Rossiya v Tsifrakh (Russia in Statistics)," Goskomstat, 1995, p. 44, cited in, Zoya Khotkina, "Gendernaya Asimetriya v Sferye Zanyatnost' (Gender Asymmetries in the Labor Market)," VALDAI-96 Report, Moscow, 1996, p. 62.

<sup>11</sup> Lee Hockstader, "For Women, New Russia is Far From Liberating: Sexism, Violence Common in Post-Communist Era," *Washington Post*, September 1, 1995, p. A25.

<sup>12</sup> Telephone interview, Zoya Khotkina, Moscow Center for Gender Studies, December 17, 1997.

<sup>13</sup> Hockstader, "For Women, New Russia is Far From Liberating...," p. A25.

<sup>14</sup> Critics of the Labor Code included Presidential Advisor Ekaterina Lakhova, Duma Consultant Galina Sillaste, the Independent Women's Forum and the Krasnoyarsk Women Railway Workers.

The deterioration of the social safety net has exacerbated the dire situation of unemployment in Russia. No longer able to rely on the government for the provision of jobs or salaries, Russian citizens face high inflation, a cessation of basic social services, and a shrinking public sector.<sup>15</sup> Expenditures on health care, as a percentage of GDP, dropped from 4 percent in 1993 to 2.4 percent in 1995, and expenditures on social guarantees dropped from 4.4 percent in 1990 to 0.6 percent in 1994.<sup>16</sup> Consequently, pensions and welfare payments, which have gone unpaid for months in some locales, do not keep pace with inflation and have been dramatically reduced. Child-benefit payments for single mothers with children under the age of six, for example, fell from 14 percent of the average monthly wage in 1992 to 6 percent of the monthly wage in March 1995.<sup>17</sup>

### Women and Politics

As women disappear from the workplace, they are also becoming increasingly scarce in Russia's political institutions. In the Soviet era, quotas ensured female participation in the Communist Party and legislative bodies at a level of approximately 30 percent.<sup>18</sup> When quotas were partially lifted in early 1991, the proportion of women's deputies in the RSFSR Supreme Soviet dropped from 35 percent to 5 percent.<sup>19</sup> Due in part no doubt to the creation of a women's political bloc, Women of Russia, representation of women increased to 13.5 percent in the First Duma (the lower house of parliament) elected in 1993.<sup>20</sup>

In the 1995 Duma elections, female members lost sixteen seats in the Duma, leaving them with a total of forty-six seats, or approximately 10 percent.<sup>21</sup> The Women of Russia bloc failed by 0.39 percent to clear the 5 percent hurdle necessary to gain some of the 225 proportional representation seats available in the Duma. Many of the female Duma members who failed to win reelection were those most involved in pursuing women's issues and drafting such legislation; the loss of their seats thus threw into doubt the development of practical policy to implement Article 19 of the constitution, the guarantee of equal rights and equal opportunities.<sup>22</sup> Galina Klimantova, sponsor of the draft law on family violence, and Ludmila Zavadskaya, head of the Duma Committee on Human Rights and author of Article 19 of the constitution, for example, both lost their seats.

The executive branch is similarly devoid of women. Of the more than twenty ministers that currently make up Yeltsin's cabinet, only two are women: the minister of culture and the minister of health.<sup>23</sup> Two other women who are also influential in executive policymaking include President Yeltsin's advisor on women's rights, Yekaterina Lakhova, and the president's daughter, Tatiana Yeltsina. The Commission on the Improvement of the Status of Women,

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<sup>15</sup> See, for example, Michael Specter, "Pristine Russian Far East Sees its Fate in Gold," *New York Times*, June 9, 1997.

<sup>16</sup> Goskomstat, *Statistical Handbook: Standard of Living in Russia* (Moscow: 1996), p. 13.

<sup>17</sup> Martina Vandenberg, "Something to Celebrate," *The Moscow Times*, March 8, 1995.

<sup>18</sup> Valentina Konstantinova, "No Longer Totalitarianism, but Not Yet Democracy: The Emergence of an Independent Women's Movement in Russia," in *Women in Russia* ed. Anastasia Posadskaya (London: Verso Books, 1994), p. 68.

<sup>19</sup> Ibid.

<sup>20</sup> Yelena Kochkina, "*Vlast' v 0.39 protsenta ot zhenshin?* (Power in Only 0.39 Percent of Women?)," Moscow Center for Gender Studies, unpublished article, p. 3.

<sup>21</sup> Martina Vandenberg, "New Feminist Backlash," *Moscow Times*, March 8, 1996.

<sup>22</sup> Kochkina, "*Vlast...*," Moscow Center for Gender Studies, p. 7.

<sup>23</sup> During the Soviet era, two ministerial post were always reserved for women, a tradition which seems to have returned recently. Ibid.

however, was not directed by a woman; rather, its director was Deputy Prime Minister Oleg Sysoyev, a man with little prior experience in women's issues.<sup>24</sup>

### **Violence Against Women and the Absence of Reliable Statistics**

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<sup>24</sup> To his credit, Sysoyev was recognized by NGO representatives for his good faith efforts in this role.

Against this backdrop of women's growing marginalization in the economic and political sectors, violence against women in Russia persists as a chronic and overwhelming problem. Ascertaining the situation with any degree of precision, however, is quite difficult. The underreporting of sexual violence, for example, is an increasingly serious problem in Russia, and statistics based on official reports appear unreliable. According to official figures for 1995, rape and attempted rape accounted for 8.7 percent of all reported crimes against the person in Russia, a decrease from 14.1 percent in 1991.<sup>25</sup> The absolute number of registered rapes and attempted rapes in this period also decreased, from 14,073 in 1991 to 12,515 in 1995.<sup>26</sup> This decline continued through 1996. There were 10,888 registered rapes and attempted rapes in 1996, representing a 13 percent decline in the context of declining crime rates in nearly every category.<sup>27</sup>

Research by members of the Russian Association of Crisis Center Workers suggests that government figures vastly underrepresent the actual number of rapes. Based upon phone calls received on their hotlines, crisis center workers in Moscow and St. Petersburg estimate that only about 5 to 10 percent of rape victims report to the police and many of those reports are not accepted.<sup>28</sup> According to Syostri, only approximately 3 percent of rape victims have their cases presented to a court.<sup>29</sup> Women do not report for many reasons: the shame associated with rape; fear of retaliation from the rapist; and fear that her neighbors and colleagues may learn of her rape.<sup>30</sup> Significantly, hotline staff in Nizhni Tagil, Moscow, and St. Petersburg stressed that women have no faith that the criminal justice system would or could provide any measure of justice.<sup>31</sup> Even if all rape victims reported to the police, moreover, government statistics as currently maintained would not accurately reflect the full scope of sexual violence in Russia: the Russian government does not keep track of complainants whose attempted rape reports are rejected or whose reports do not reach the investigative stage.

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<sup>25</sup> Interstate Statistical Committee of the Commonwealth of Independent States, *Crime and Delinquency, 1991-1995* (Moscow: Ministry of Internal Affairs, 1996).

<sup>26</sup> Ibid.

<sup>27</sup> Data on the Number of Registered Crimes under Form 1-A of the Russian Federation Ministry of Internal Affairs, Procuracy General Department of Statistics and Analysis, Organization and Oversight Board.

<sup>28</sup> Moscow Sexual Assault Recovery Center "Center Syostri," *Annual Report 1996*. Syostri reported that approximately 12 percent of their callers contacted the police. Out of the 159 callers to the St. Petersburg Crisis Center that asked about reporting to the police, about fifty-one actually contacted the police, about 32 percent. Anecdotal evidence from the other crisis centers follows this model. Based upon the phone calls they have received, all the centers with whom we spoke estimated that about 5 percent of women report rape. The percentage of crisis center callers who contact the police is probably higher than the population as a whole because they have already made the crucial step of contacting a crisis center and have begun to receive counseling.

<sup>29</sup> Ibid.

<sup>30</sup> Tatyana Zabelina, "Sexual Violence Towards Women," in *Gender, Generation and Identity in Contemporary Russia*, ed. Hilary Pilkington (New York: Routledge Books, 1996), p. 175.

<sup>31</sup> Interview, Nina Vinogradova, Nizhni Tagil Crisis Center, Nizhni Tagil, May 8, 1996; interview, Lola Karimova, gynecologist, Moscow, April 22, 1996; interview, Marina Pisklakova, director, Moscow Crisis Center for Women, Washington, DC, April 10, 1997; interview, Natalya Khodireva, director, St. Petersburg Crisis Center for Women, St. Petersburg, April 30, 1996; and interview, Tatyana Lipovskaya, Moscow Sexual Assault Recovery Center, Moscow, April 23, 1996. According to a women's rights activist in Nizhni Tagil, some women have begun to request the assistance of their local mafia to punish the rapist. Interview, Svetlana Gibatinova, director, Nizhni Tagil Center "Lana," Nizhni Tagil, May 7, 1996.

Similar problems arise in attempting to document the extent of domestic violence. While there are no official statistics specifically on domestic violence, according to the Ministry of the Interior, in 1996, approximately 80 percent of violent crime occurred in the home.<sup>32</sup> Yekaterina Lakhova, head of the Presidential Commission on Women, Children, and Demographics, has asserted that 30 to 40 percent of murders in Russia are committed by one family member against another, and women and children are the most frequent victims. Lakhova also has estimated that 14,000 women in Russia are killed by husbands or family members each year.<sup>33</sup> According to the Procuracy General, the prosecutor's office for the Russian government, 78,916 women in 1996 were victims of crimes caused by jealousy, argument or other "everyday"[domestic] motives.<sup>34</sup> Yet, based on these numbers, one cannot accurately evaluate how many persons are subject to violence at the hand of family members. Nor can one break the figures down by gender. The category of "everyday motives," for example, would include domestic violence as well as violence against neighbors and street fights between acquaintances. Olga Samarina, head of the Department on Social and Economic Affairs of Women in the Ministry of Labor and Social Development, acknowledged the failure of the federal government to maintain adequate statistics on violence against women, but maintained that the government has been trying to improve its statistics gathering since 1993.<sup>35</sup> "Without [statistics]," she stressed, "it is impossible to fight the problem."<sup>36</sup>

As with sexual violence, the official figures relating to domestic violence dramatically underrepresent the level of violence against women in the home. Women's rights activists who staff violence hotlines estimate that many more women experience violence at the hands of an intimate partner but never report such abuse. One activist who staffs a crisis center hotline in Moscow, for example, told Human Rights Watch that her center receives about seventy to eighty domestic violence calls per month, but the overwhelming majority do not go to the police.<sup>37</sup> Larissa Korneva, from the St. Petersburg Crisis Center for Women, which receives about seventy to 120 calls per month, said that about 20 to 40 percent of their callers who experience domestic violence want to report to the police, but as a rule the police do not help.<sup>38</sup> Many cases of domestic violence are either rejected or not investigated because the police refuse to pursue criminal charges, making distinctions that are not justified in the law between assaults by strangers and those by relatives or domestic partners. As one counselor reported to us, because of police inaction, "women prefer to live with the violence or to help themselves, rather than call the police again."<sup>39</sup>

## **Growth of the Women's Rights Movement**

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<sup>32</sup> U.S. Department of State, Country Reports on Human Rights Practices for 1996, U.S. Government Printing Office, Washington, DC, February, 1997, p. 1099.

<sup>33</sup> RFE/Radio Liberty.

<sup>34</sup> Procuracy General Department of Statistics and Analysis, Organization and Oversight Board, Procuracy General.

<sup>35</sup> Interview, Olga Viktorovna Samarina, head, Department on Social and Economic Affairs of Women, Ministry of Labor and Social Development, Moscow, March 12, 1997. The Department on Social and Economic Affairs of Women is the only department that focuses on women's affairs. It is the department that prepares Russia's periodic reports for the Committee on the Elimination of All Forms of Discrimination Against Women.

<sup>36</sup> Ibid.

<sup>37</sup> Interview, Yelena Potapova, counselor, Moscow Crisis Center for Women, Moscow, April 23, 1996.

<sup>38</sup> Interview, Larissa Korneva, St. Petersburg Psychological Crisis Center for Women, St. Petersburg, April 29, 1996.

<sup>39</sup> Interview, Nina Vinogradova, Nizhni Tagil Center "Lana," May 8, 1996.

The deteriorating situation of women's lives in Russia has been met by a surge in the women's movement nationwide. Current estimates put the number of organizations working on women's issues in Russia at 400.<sup>40</sup> These groups represent a variety of interests and intentions. Coalitions such as the Independent Women's Forum, which unites over eighty regional women's organizations, and the Moscow-based Russian Consortium, which includes over seventy women's organizations, use their combined resources and strength to lobby the Duma for legislation on women's issues, provide educational programs on women's human rights, and assist women in retraining for the new labor market. Some organizations, such as Lubava in Kaluga, provide free legal services for women in employment termination suits, and others, such as Soldiers' Mothers, which lobbied to end the war in Chechnya, advocate for more general political causes.<sup>41</sup> Still others, such as the centers for gender studies in Moscow and St. Petersburg, engage in scholarly research of women's issues and seek to provide intellectual underpinnings for policy proposals.

The women's movement in Russia has gained significant strength since the first Independent Women's Forum was held in 1991. Russian women groups' participation in the United Nations Fourth World Conference on the Status of Women in Beijing provides an illustrative example of this rise in the women's movement. Much to the shock of the government of the Russian Federation, over 200 women leaders of nongovernmental organizations (NGOs) from Russia attended the NGO Forum of the Beijing conference. The Russian government, which had not anticipated any Russian NGO participation, had not arranged for Russian to be one of the official languages of the forum. Instead, the women leaders raised their own funds and hired eleven interpreters to work at the conference. Since the NGO Forum, the Russian government has begun to take the women's movement more seriously, inviting NGO leaders to parliamentary hearings, appointing them to the Presidential Commission on the Status of Women, and accepting a Charter of Women's Solidarity signed by many of the country's most powerful national women's NGOs.<sup>42</sup>

Also attending the forum in Beijing were the leaders of the newly founded, grassroots women's crisis centers, or *krizisnii tsentrii*, of Russia. A phenomenon of the last four years, there are now fourteen crisis centers throughout Russia that provide services such as hotlines, individual counseling, emergency shelters, and legal aid. Underfunded and understaffed, these centers provide the only services available to rape victims and battered women. Registered officially as nongovernmental organizations under Russian law, the first eleven crisis centers banded together in 1994 to create the Russian Association of Crisis Centers for Women (RACCW). The RACCW has documented the magnitude and response to violence against women in a report distributed at the NGO Forum.<sup>43</sup> In addition, the RACCW actively encourages regional women's groups to build crisis centers locally: its network, for example, has helped to write and distribute 5,000 copies of the Youth Institute's Center for Women, Family and Gender Studies book, *How to Start and Manage a Women's Crisis Center*.<sup>44</sup>

Crisis center activists have also mobilized to address the extreme underreporting of rape and domestic violence. After learning from their clients that the police often refused to take women's complaints, members of the ACCW initiated efforts to train the police to handle cases of violence against women more effectively. In March 1996, at the invitation of the RACCW, the European Network of Policewomen sent a delegation of Dutch sexual violence experts, including police officers, a forensic doctor, and a crisis center director, to Moscow, Murmansk, and St. Petersburg to train Russian women police officers. The delegation provided seminars jointly for police and crisis center workers in

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<sup>40</sup> "The Signing of the Charter of Women's Solidarity Took Place at the Parliamentary Center on March 4," *Agenstvo Sotsialnoi Informatsii [Agency for Social Information]*, March 6, 1997.

<sup>41</sup> Human Rights Watch Women's Rights Project, "Neither Jobs Nor Justice: State Discrimination Against Women in Russia," *A Human Rights Watch Short Report*, vol. 7, no. 5, March 1995.

<sup>42</sup> "The Signing of the Charter..." *Agenstvo*. The charter calls for unity among women's organizations and creates a mechanism for the exchange of information on the organizations' activities, problems, and initiatives. Ibid.

<sup>43</sup> Russian Association of Crisis Centers for Women: Research, Education and Advocacy Project, *Report for the Non-Governmental Forum of the United Nation's Fourth World Conference on the Status of Women* (1995).

<sup>44</sup> The book was edited by Tatiana Zabelina and Yevgenia Israelyan.

order to build trust, expertise, and greater cooperation between these institutions. With the hope that other regions of Russia will adopt its model, the RACCW has also initiated a local pilot project in Nizhni Novgorod, 300 miles east of Moscow, to address the problem of underreporting and violence against women. This project includes training local law enforcement officials, drafting regional legislation against domestic violence, and developing crisis centers in Nizhni Novgorod. The Moscow Sexual Assault Recovery Center "Syostri," moreover, has prepared a pamphlet for women with advice on how to navigate the process of drafting and filing a complaint and pursuing prosecution. Syostri has distributed the pamphlets to regional crisis centers, women's clinics, schools, universities and some police stations. Although Syostri received official permission to distribute the pamphlets in police stations, it remains unclear whether police follow-up and pass them on to women reporting violence.

Beyond its support of grassroots efforts to provide services for victims of violence, create crisis centers, and train police officers, the women's movement has also put tremendous pressure on the local and federal governments of the Russian Federation to deal with the issue of violence against women. Some progress has been made at the local level. The city government of St. Petersburg and the local administration in Langepas, a small Siberian city, for example, have funded the creation of Russia's first shelters for battered women. These victories, however, came only after local activists lobbied for years to persuade local authorities to fund the projects. When activist Marina Aristova first asked the St. Petersburg city government for support in creating Women's Home, the first Russian shelter for women, she was advised to find foreign sponsors; instead she lobbied for three years and eventually secured from the city an abandoned kindergarten to remodel. The shelter now has built its capacity to sixty women and children.<sup>45</sup>

Less progress has been made at the federal level, despite the sustained efforts over the past two years by the Independent Women's Forum and the Russian Consortium to lobby the federal government to pass legislation and develop serious policy initiatives to combat violence against women. As this report documents, the Russian government has generally demonstrated a record of inaction and inertia in response to the serious problem of violence against women. It has failed, for example, to pass a national domestic violence law, or to take even minimal steps in revising the legal code to remove biases against women. In other words, as this report makes clear, the government of the Russian Federation has failed to live up to its promises, made nationally and internationally, and its obligations to ensure and protect the rights of women.

## RUSSIA'S OBLIGATIONS UNDER INTERNATIONAL LAW

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<sup>45</sup> Nadezhda Ilina, "*V Peterburge ne khuzhe, chem v Norvegii* (It is Not Worse in St. Petersburg than in Norway)," *Nezavisimaya Gazeta*, February 20, 1997, p. 6.



Through its ratification of international human rights treaties, Russia has assumed the obligation to protect women from both state and private-actor violence. Under the International Covenant on Civil and Political Rights (ICCPR), which the Soviet Union ratified in 1973 and which Russia agreed to uphold, Russia must ensure the rights to life and to security of person of all individuals within its territory, without distinction of any kind, including sex.<sup>46</sup> The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), which the Soviet Union ratified in 1981 and whose obligations Russia agreed to uphold, also mandates that Russia take action to eliminate violence against women. As a party to CEDAW, Russia is obliged “to pursue by all appropriate means and without delay a policy of eliminating discrimination against women.”<sup>47</sup> This discrimination includes “any distinction, exclusion or restriction made on the basis of sex which has the purpose of impairing or nullifying the recognition, enjoyment or exercise by women, . . . on a basis of equality of men and women, of human rights and fundamental freedoms . . . .”<sup>48</sup> As the Committee on the Elimination of Discrimination Against Women has made clear, “Gender based violence is a form of discrimination which seriously inhibits women’s ability to enjoy rights and freedoms on a basis of equality with men.”<sup>49</sup>

Under the ICCPR, Russia must not only itself refrain from, but also prevent private actors from from committing, acts of violence against women.<sup>50</sup> Article 2 of the ICCPR requires signatories “to ensure” the rights recognized in the treaty to all individuals within their jurisdiction. In interpreting a nearly identical provision in the Inter-American Convention on Human Rights, the Inter-American Court on Human Rights in the late 1980s explained that the duty “to ensure” requires a state to prevent or respond actively to violations of rights recognized in the treaty.<sup>51</sup> The government must:

take reasonable steps to prevent human rights violations and to use the means at its disposal to carry out a serious investigation of violations committed within its jurisdiction, to identify those responsible, to impose the appropriate punishment and to ensure the victim adequate compensation.<sup>52</sup>

As the court made clear, the state’s duty extends to violations committed by private actors: the state “has failed to comply with [this] duty . . . when the State allows private persons or groups to act freely and with impunity to the detriment of the rights recognized by the Convention.”<sup>53</sup>

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<sup>46</sup> Arts. 2, 6, and 9. The same rights are guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention), to which Russia is a signatory. Arts. 2, 5, and 14. By virtue of its admission in 1996 to the Council of Europe, an intergovernmental organization which aims, among other goals, to protect human rights, Russia must ratify and adhere to the European Convention and must submit to the jurisdiction of the European Commission of Human Rights and the European Court of Human Rights, which enforce and interpret the European Convention.

<sup>47</sup> Art. 2.

<sup>48</sup> Art. 1.

<sup>49</sup> CEDAW Recommendation No. 19, para. 1.

<sup>50</sup> For additional discussion of international obligations with respect to violence against women by private actors, see Dorothy Q. Thomas and Michele Beasley, “Domestic Violence as a Human Rights Issue,” *Human Rights Quarterly*, vol. 15, no. 1 (February 1993); Human Rights Watch, *Global Report on Women’s Human Rights* (New York: Human Rights Watch, 1995), pp. 341-48; Human Rights Watch/Africa & Human Rights Watch Women’s Rights Project, *Violence Against Women in South Africa: State Response to Domestic Violence and Rape* (New York: Human Rights Watch, 1995), pp. 39-44.

<sup>51</sup> *Velázquez Rodríguez v. Honduras* (July 29, 1988), Inter-American Court of Human Rights (series C), No. 4.

<sup>52</sup> *Ibid.*, para. 174.

<sup>53</sup> *Ibid.*, para. 176.

In its Declaration on the Elimination of Violence Against Women, adopted in December 1993, the United Nations reaffirmed the state's obligation of due diligence, especially as it applies to the protection of women from violence.<sup>54</sup> The declaration denounces violence against women, including violence in the home, as "a violation of the rights and fundamental freedoms of women."<sup>55</sup> It provides that "states should condemn violence against women . . . [and] exercise due diligence to prevent, investigate, and in accordance with national legislation, punish acts of violence against women . . ."<sup>56</sup> As the declaration makes clear, the state's obligation applies regardless of "whether those acts [of violence] are perpetuated by the State or by private persons."<sup>57</sup>

## DOMESTIC LAW

### Sexual Violence

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<sup>54</sup> Declaration on the Elimination of Violence Against Women, U.N. Document A/Res/48/104, February 23, 1994. This declaration, adopted by the General Assembly in 1994, is a non-binding resolution that establishes an international standard.

<sup>55</sup> *Ibid.*, preamble.

<sup>56</sup> *Ibid.*, Art. 4(c).

<sup>57</sup> *Ibid.* In an effort to begin addressing the problem of violence against women, the United Nations High Commissioner on Human Rights appointed the first special rapporteur on violence against women in 1994. The special rapporteur's mandate is to research violence against women, its causes and consequences, and to recommend methods to eliminate such violence. In her first report, the special rapporteur stressed the state's obligation to respond in a nondiscriminatory manner to violence against women: "States are under a positive duty to prevent, investigate and punish crimes associated with violence against women." Preliminary Report Submitted by the Special Rapporteur on Violence Against Women, Its Causes and Consequences, U.N. Document E/CN.4/1995/42, November 22, 1994, p. 18. The report explained: "In the context of norms recently established by the international community, a State that does not act against crimes of violence against women is as guilty as the perpetrators." In a February 1996 report specifically addressing domestic violence, the special rapporteur emphasized that "the role of State inaction in the perpetuation of the violence combined with the gender-specific nature of domestic violence require that domestic violence be classified and treated as a human rights concern rather than as a mere domestic criminal justice concern." Report Submitted by the Special Rapporteur on Violence Against Women, Its Causes and Consequences, U.N. Document E/CN.4/1996/53, February 5, 1996, p. 9

Under the new criminal code that Russia adopted in 1996, there are four types of crimes of sexual violence. Under Article 131 of the code, rape, is defined as “sexual intercourse through the use of force, or through the threat of its use toward the victim or to other persons, or through taking advantage of the helpless state of the victim.”<sup>58</sup> The previous law had specified that rape involved the use of *physical* force or the threat thereof. By dropping the adjective “physical” before the word “force,” the 1996 law has broadened the crime of rape, including within its parameters sexual intercourse achieved through mental coercion or psychological manipulation. The penalty for rape is three to six years in prison, with two categories of various aggravating circumstances extending that time to four to ten years, or eight to fifteen years.

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<sup>58</sup> Article 131 of the code provides:

1. Rape, that is sexual intercourse through the use of force, or through the threat of its use toward the victim or to other persons, or through taking advantage of the helpless state of the victim, is punished by three to six years deprivation of freedom.

2. Rape:

- a) committed repeatedly or by an individual who previously committed violent acts of a sexual nature,
- b) committed by a group of individuals, a group of individuals under a premeditated plan or organized by a group,
- c) accompanied by the threat of murder or causing grievous harm to health, and also committed with special cruelty in relation to the victim or other persons,
- d) inflicting the victim with infection of venereal diseases
- e) of a known minor

is punished by four to ten years deprivation of freedom.

3. Rape:

- a) causing the unintended death of the victim
- b) causing the unintended grievous harm to the health of the victim, infecting her with HIV or other serious consequences
- c) of a victim who is known to not have reached fourteen years of age,

is punished by eight to fifteen years deprivation of freedom.

Article 132 defines the crime of “violent acts of a sexual nature.” Its definition is nearly identical to that of rape, except that it focuses on “sodomy, lesbianism or any other acts of a sexual nature” rather than “sexual intercourse.”<sup>59</sup> Prior to the adoption of the 1996 law, it was unclear whether the crime of rape or forced sexual relations included forms of sexual intercourse other than vaginal intercourse. A prosecutor in St. Petersburg, for example, told us that before the passage of the 1996 law, her office only prosecuted forced vaginal intercourse.<sup>60</sup> Article 132, which provides for the same penalties as Article 131, makes clear that other forms of forced sexual acts, including oral and anal rape, are equally grievous crimes.

The other two crimes of sexual violence are “coercion in acts of a sexual nature,” as defined by Article 133, and “sexual intercourse or other acts of a sexual nature with persons who have not reached sixteen years of age,” as defined by Article 134. The former, which extends to coercion “through blackmail, threats of destroying, damaging or confiscating property or by making use of the material or other dependence of the victim [male or female],” covers cases of sexual harassment in the workplace.<sup>61</sup> In contrast to other parts of the 1996 law, which generally reflect a heightened concern for crimes of sexual violence, Article 133 appears to take less seriously the crime of coerced sexual relations through exploitation of material relations. While the prior law specified punishment for this crime as imprisonment up to three years, the current law allows for penalties less severe than imprisonment, such as criminal fines.<sup>62</sup>

### **Domestic Violence**

Most reports of domestic violence that do not involve claims of sexual violence are covered under Articles 115 and 116 of the new criminal code. Article 115 prohibits “the intentional causation of harm to the health entailing short-term disruption of health or negligible loss of fitness for work.”<sup>63</sup> Article 116 covers lesser injuries defined as “beating or committing other violent actions causing physical pain but not resulting in the consequences stated in Article 115.”<sup>64</sup> Long-term domestic violence can be prosecuted under Article 113 of the code, which prohibits the “systematic infliction of blows or other acts bearing the nature of torture.”<sup>65</sup>

In 1995, the Duma’s Committee on Women, Family, and Youth began drafting Russia’s first law focusing on domestic violence, “On the Fundamentals of Social-Legal Defense Against Violence in the Family.” Already in its fortieth draft, the proposed law has proceeded slowly through the legislative process and has yet to reach its first reading in the Duma. Even if the proposed law were to pass in the Duma, the extent to which the situation of victims of domestic violence would improve remains unclear. Unfortunately, women’s groups, including crisis centers with first-hand field experience working with victims of domestic violence, have not had any formal consultative role in the drafting process. While Dr. Galina Sillaste, the drafting committee chair, has spoken at conferences and meetings sponsored by the crisis centers, these centers and other NGOs at first had almost no access to drafts of the law for comment. Later drafts were more readily available to interested parties outside the Duma. Lacking sufficient input from those who probably have the most sustained contact with, and thus significant understanding of the experiences

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<sup>59</sup> Art. 132.

<sup>60</sup> Interview, Tatyana Nikolaeva, prosecutor, St. Petersburg, April 30, 1996.

<sup>61</sup> Art. 133.

<sup>62</sup> Article 133 provides that coercion in acts of a sexual nature “is punished by a fine of 200 to 300 minimal monthly salaries of the amount of one to three months of the convicted person’s monthly salary or other income, or corrective labor for up to two years, or deprivation of freedom for up to one year.”

<sup>63</sup> Art. 115.

<sup>64</sup> Art. 116.

<sup>65</sup> Art. 113.

of, domestic violence victims, the most recent draft law contains serious flaws that dramatically undermine its usefulness. As of late 1997, crisis center representatives urged that the family violence law be rejected in its entirety as drafted because its provisions would do more harm than good.

The most troubling element of the proposed law is its apparent attempt to reduce the already limited role of criminal sanctions in addressing domestic violence. According to the Information Center of the Women's Independent Forum, the draft law relegates the law enforcement aspect of combatting domestic violence to the background and disproportionately assigns the responsibility for responding to domestic violence to the social services system. As a result, it is unclear whether, under the proposed law, a victim is supposed to turn to the police or to social services.<sup>66</sup> While the provision of social services to victims of domestic violence is critical, the focus on such services to the exclusion of criminal sanctions signals a failure to recognize that violence within the family is as serious as violence among strangers. The deemphasis on criminal sanctions, moreover, removes an important deterrent to domestic violence.

The draft law also seeks to limit the availability of crucial escape hatches for some victims of family violence. The draft specifies that emergency temporary shelter shall be provided only to "dependent family members," including the elderly, disabled, minors, and those with very low income. Excluded from this category are working women with at least a minimal level of income. Such women would have a right to shelter only after proving that they are in imminent danger of serious injury.

Even the provision of social services to those who are included in the draft law's contemplation remains in doubt. While the draft law calls for extensive social services, it appears unlikely that sufficient funds will be allocated to its implementation. Most of the social service programs that are supposed to deal with domestic assault are not yet in existence. Lyudmilla Zavadskaya, a former Duma member and now a deputy minister of justice, has pointed out, for example, that the law grants battered women a right to shelter for up to seven days but fails to specify or appropriate resources for the provision of such shelter.<sup>67</sup> In light of the fact that only 7 percent of the services set forth in the November 1995 Social Services Law have been established,<sup>68</sup> it is unlikely that the services specified in the draft domestic violence law would promptly be made available.

Another aspect of the draft law that threatens to worsen the situation for victims of violence is the proposed licensing scheme of crisis centers, the primary groups that are currently providing services to female victims. Under the proposed law, crisis centers would only be allowed to operate if they were to fulfill certain requirements, including, for example, the responsibility to serve an extremely broad range of clients, and minimum staffing of at least twenty persons, many of whom would be required to have college degrees in designated majors.<sup>69</sup> As one journalist has pointed out, this licensing scheme "could be used to wipe out the grassroots [efforts] that have started the whole movement on this issue [violence against women]."<sup>70</sup> According to Galina Sillaste, a consultant to the Duma, the licensing provision is necessary to review the crisis centers' "motives and professional competence," and to prevent such institutions from turning into brothels.<sup>71</sup> Because such problems, as Sillaste acknowledged, have not manifested in the past, and the crisis centers, which provide their volunteers with more than eighty hours of training, are generally well

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<sup>66</sup> Interview, Marina Liboraikina, Information Center, Women's Independent Forum, Moscow, May 8, 1997.

<sup>67</sup> Interview, Lyudmilla Zavadskaya, Moscow, April 24, 1996.

<sup>68</sup> Interview, Marina Liboraikina, Women's Information Center, Moscow, May 8, 1997.

<sup>69</sup> Statements made at the Russian Association of Crisis Centers Conference, Pushkin, April 27-28, 1996.

<sup>70</sup> Interview, Genine Babakian journalist, Moscow, April 26, 1996.

<sup>71</sup> Interview, Galina Sillaste, consultant, Moscow, April 25, 1996.

regarded,<sup>72</sup> the asserted justification for the licensing requirements appears doubtful. Before passing any such legislation, it is essential that the Duma examine the extent to which these measures may actually limit rather than improve critical services provided to victims of violence.

### STATE RESPONSE TO SEXUAL VIOLENCE

*When there is war, when there are moral tragedies in the country, there is no time to think about sexual violence. Because there are more important problems now, sexual violence does not deserve much attention. Women have other concerns. Russian women are strong and men know that.*

*-Alevtina Viktorovna Aparina,*

*Chair, Duma Committee on Women, the Family and Youth, Moscow, May 13, 1996*

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<sup>72</sup> For example, Olga Samarina, head of the Department on Women of the Ministry of Labor and Social Protection, mentioned both Syostri and the Moscow Crisis Center for Women as good organizations to which she would refer women. Interview, Olga Samarina, Moscow, May 8, 1996.

Bias against victims of sexual violence pervades the Russian criminal justice system. From their initial lodging of the complaints until the final resolution of the cases, victims seeking redress for sexual violence regularly confront law enforcement institutions and individuals hostile to and suspicious of their motives and intentions. According to Natalya Khodireva, general director of the St. Petersburg Psychological Crisis Center for Women, police, forensic doctors, prosecutors, and judges view victims of sexual violence skeptically and tend to believe that they brought the attack upon themselves.<sup>73</sup> Law enforcement officials overwhelmingly fail to respond to sexual assault as a crime unless the victim is a virgin, the offender is a stranger, and the violation entails the infliction of visible injury.

In interviews with Human Rights Watch, police repeatedly declared that women are to blame for sexual assault if they dress in an alluring fashion, drink alcohol, or stay out late at night. "Sometimes the woman is to blame," Yelena Kraskova, a major in the police force in Murmansk, stated, "for example, when a woman goes to a restaurant at two a.m. and after leaving the restaurant, she takes the man home."<sup>74</sup> In the sole rape case that she investigated, Natalia Averina, a sixteen-year veteran of the Moscow police force and former director of the All-Soviet Association of Policewomen, told us, the victims had been drinking and therefore were at least partly to blame for the rape, despite the fact that, after meeting four men in a restaurant, the two women were held for several days by the men who repeatedly beat and raped them.<sup>75</sup> According to a forensic doctor in Nizhni Tagil, the police often ask victims questions such as, "Why did you dress that way?" or "Why were you out at night?" These stereotypical conceptions of "real" victims of sexual violence, as opposed to those who asked for it, often result in policies outright refusals to accept reports of sexual violence from victims who do not conform to the traditional model of a young virgin with visible physical injuries.

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<sup>73</sup> Interview, Natalya Khodireva, general director, Psychological Crisis Center for Women, St. Petersburg, April 30, 1996.

<sup>74</sup> Interview, Yelena Kraskova, police major, Murmansk, May 3, 1996.

<sup>75</sup> Interview, Natalia Averina, police officer, Moscow, April 23, 1996.

In the limited cases where a victim's report is accepted, women often also encounter bias from prosecutors. Viktor Sukharinov, the head prosecutor for the Krasnosels region, a suburb of St. Petersburg, told Human Rights Watch that in the two sexual assaults reported in April 1996, the victims—one of whom was gang-raped—provoked the rapes through drinking and going home with men whom they had just met.<sup>76</sup> According to Sukharinov, 50 percent of all women reporting rape were themselves responsible for the assault. Another prosecutor from St. Petersburg told Human Rights Watch that “most rapes occur when a woman acts unreasonably. They go to places with men and drink alcohol, and willingly or unwillingly provoke the crime. Especially young girls who accept drink offers and car rides.”<sup>77</sup> Tatyana Nikolaeva, also a St. Petersburg prosecutor, stated that the main problem in prosecuting sexual violence is the behavior of the rape victim, during the rape and during the police and prosecutor questioning.<sup>78</sup> A prosecutor in Murmansk, Valentina Abanicha, told us, “Rape is very hard to investigate. Sometimes you learn that she has had sexual relations for several years. We try to convince the parents that there is not enough evidence to continue, and that you cannot prosecute on the girl's story alone.”<sup>79</sup> A prosecutor in Moscow told us that the main problems in rape investigations are that victims behave inappropriately during attacks and that women do not seem sufficiently distraught in police interviews.<sup>80</sup>

The bias also manifests in the courts. As a regional court judge in Murmansk, Boris Orlov explained, “The legal structures are in place only to protect the well-behaved woman, because in other cases they can see that the woman and her behavior caused the crime.”<sup>81</sup> According to Judge Orlov, the court always considers the behavior of the rape victim when determining the defendant's punishment. A 1977 handbook for defense attorneys in sex crime cases, which is still in use, illustrates the types of biased arguments against sexual assault victims that courts permit. Asserting that women always resist sexual relations, the handbook counsels that it is the degree of resistance that is critical in rape cases: “in most cases a woman at first will decline a man's suggestions [for intimate relations] giving in only after the latter's use of force.”<sup>82</sup> The handbook advises attorneys to “tak[e] into consideration the possibility that the woman claiming she was raped in some way provoked the act or had engaged in provocative behavior prior to the sex act.”<sup>83</sup> According to the handbook, drinking alcohol together, loose behavior, agreeing to be alone, and tendency toward conversation bearing sexual content, *inter alia*, all provoke a man into intimate contact with a woman.<sup>84</sup>

These law enforcement attitudes reflect a broader social suspicion of female rape victims. In 1995 RACCW, through its Research Education and Advocacy Project, conducted a survey of Russian attitudes about violence against women in Nizhni Tagil, Polevskoy, Ekaterinburg, Sergeyev Posad, and St. Petersburg. More than half of the survey respondents, men slightly more than women, agreed with certain popular myths about rape. For example, 78 percent of men and 54 percent of women believed that rape happens to women who speak to strangers. Many of the respondents

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<sup>76</sup> Interview, Victor Sukharinov, prosecutor, Krasnosels region, April 30, 1996.

<sup>77</sup> Interview, Yelena Stepanova, deputy prosecutor, Krasnosels region, April 30, 1996.

<sup>78</sup> Interview, Tatyana Nikolaeva, chief prosecutor, St. Petersburg, April 30, 1996.

<sup>79</sup> Interview, Valentina Abanicha, prosecutor, Murmansk, May 5, 1996.

<sup>80</sup> Interview, Margarita Paniflova, prosecutor, Moscow, April 26, 1996.

<sup>81</sup> Interview, Boris Orlov, regional court judge, Murmansk, May 6, 1996.

<sup>82</sup> V.D. Gennadiyev, *Defending Sex Crime Cases: Methodological Handbook for Defense Attorneys* (Leningrad: Leningrad Public Scientific - Research Institute for Court Defense, 1977), p. 12.

<sup>83</sup> *Ibid*, p. 13.

<sup>84</sup> *Ibid*, p.13.



suggested that they believed that women provoke rape. More than half the women and over two-thirds of the men believed that rapists target women who wear provocative clothing. Further, more than half of the men and women believed that a woman is largely to blame for her attack if she is raped after going to a man's house to listen to music. An article in the weekly, *Argument i Fakti*, stated, "It must be noted that in many cases, the women victims provoke the violent behavior."<sup>85</sup>

The reluctance by law enforcement officials to investigate violence against women combined with these societal misperceptions has created an environment in Russia where sexual violence is rarely acknowledged and punished. Law enforcement officials regularly block women's attempts to file formal complaints; obstruct or conduct haphazard and inadequate investigations; and dismiss all but the most clearcut and foolproof cases. Until government officials shed these biased and stereotypical conceptions of "real" victims versus "loose" women, sexual offenders will remain unpunished and the violence will continue unabated.

### **Processing of Complaints**

*From the stories I have heard, I would replace all of the police.*

*-Tatyana Lipovskaya*

*Moscow Sexual Assault Recovery Center*

*Moscow, April 23, 1996*

### **Refusal of Complaints**

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<sup>85</sup> "The Rape Game: According to Police Officials, the Majority of Those Convicted of Rape Are not Guilty," *Argument i Fakti* [Arguments and Facts] (Moscow), February 6, 1996.

The first obstacle that women face when reporting sexual violence to the police is the routine unwillingness of officers to register their complaints. In every region that we visited we heard reports of the police rejecting complaints without investigation. According to Lola Karimova, a gynecologist who works with victims of sexual violence in Moscow, the police officer who escorted home a fourteen-year-old girl who had been raped in the Arbat in Moscow told her not to file a report because there were no witnesses.<sup>86</sup> The mother took her daughter to the police station the next morning and waited there for several hours but was still unable to get the police to accept the complaint. In another case, Alexander Shestakov, who runs a counseling center for the mentally disabled in Nizhni Tagil, recounted the experience of a woman who had come to his clinic in 1995 because she was depressed. After some questioning, she told a staff member that she had been raped by a group of men in a car.<sup>87</sup> When the woman first tried to report the assault, the police told her they would not accept her report and instead asked her why she was walking in the middle of the night. According to Shestakov, the police accepted her report only after staff from the counseling center accompanied her to the police station and helped her to write the report. After a lengthy investigation, the defendant was convicted and sentenced to eight years in prison.

The police often justify their rejection of complaints of sexual violence by suggesting that the complaints are fabricated, especially in cases where the victim knew her attacker. Russian law does not distinguish between sexual assault by an acquaintance and the same act by a stranger, but in practice the assaults are treated quite differently. With regard to assaults by acquaintances, nearly every law enforcement official with whom we spoke pointed to cases that they believed were motivated by blackmail, revenge, or the desire to marry the alleged assailant. False and malicious allegations were quite common, they recounted. A Moscow police officer, Natalia Averina, for example, asserted that the severity of the penalty for rape led many women to make false accusations of rape in order to exact bribes from defendants.<sup>88</sup>

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<sup>86</sup> Interview, Lola Karimova, volunteer gynecologist, "Syostri" Moscow Sexual Assault Recovery Center, Moscow, April 22, 1996.

<sup>87</sup> Interview, Alexander Shestakov, Nizhni Tagil, May 8, 1996.

<sup>88</sup> Interview, Natalia Averina, police officer, Moscow, April 23, 1996.

The police are particularly likely to reject complaints of sexual violence from married women and single women who have been sexually active. In order to discourage these women from seeking redress, the police often suggest that their complaints are frivolous or groundless. In one case, the police attempted to convince Zoya Khotkina, a women's rights activist, to have a woman she was helping, L.B., withdraw her report: "They would say that people are murdered on the street, but here it is just rape. And what was so terrible, they said, was that she was not a virgin, she was not a child."<sup>89</sup> In another case, a forty-six-year-old Moscow woman was raped and beaten for three hours. Although the police ultimately accepted her complaint, the officer processing it asked her why she was so upset, she had not been a virgin for many years.<sup>90</sup>

Another reason why the police reject complaints is the perceived delay in reporting. They operate on the misperception, recounted to us by a police officer from Saratov, that, "[a]s a rule, women who are raped come to the police immediately."<sup>91</sup> They fail to recognize the many reasons, including shock, incapacitation, shame, and fear, that hinder victims from reporting assaults immediately. I.P., a woman who had been orally and anally raped and beaten by a visitor in her communal apartment in Moscow, reported the assault to the police approximately five days after the attack. After subjecting her to questioning by two officers, the police refused her complaint on the grounds that she had waited too long to report. I.P. persisted, and four days later, the police in the same station finally accepted her complaint.<sup>92</sup> In another case, a young woman who was raped at work by a colleague went to the police after a month but was told that too much time had passed; she was not permitted to file her complaint.<sup>93</sup> According to a police officer in Saratov, when women do not report immediately the police will do a preliminary investigation into the facts.<sup>94</sup> This investigation does not, however, guarantee that a criminal case will be opened.

### ***Mistreatment of Victims***

Beyond rejecting complaints outright, the police also frustrate the filing of reports by mistreating victims. Rather than processing the complaints in a neutral manner, the police often scold victims and attempt to frighten them by suggesting that they will suffer if a report is filed. Sometimes, the police emphasize that the investigation will be shameful and will involve collecting information about the victim's past sexual and other behavior. They threaten that they will have to contact the victim's employers and colleagues to find out more about her.<sup>95</sup> As the director of a psychological support center for girls explained, "Instead of helping you [the victim], they [the police] give you the sense that you should be embarrassed."<sup>96</sup> Zoya Khotkina, a researcher at the Moscow Gender Studies Center, told us of a twenty-year-old woman, L.B., who had been raped and beaten by her boss in September 1995 on her fourth day of work. L.B. suffered fifty-six bruises all over her body, a punctured ear drum, and a brain concussion. When she managed to escape from the office, she called her brother for help, and they immediately went to the police. For eight days, the police tried to convince her to rescind her report: "It is shameful," the police said, "There will be a court

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<sup>89</sup> Interview, Zoya Khotkina, senior researcher, Moscow Center for Gender Studies, Moscow, April 25, 1996.

<sup>90</sup> Interview, Natalia Gaidarenko, executive director, "Syostri" Moscow Sexual Assault Recovery Center, Moscow, April 22, 1996.

<sup>91</sup> Interview, Lyudmilla Pomomava, police officer, Pushkin, April 27, 1996.

<sup>92</sup> Interview, M.P., Moscow, April 27, 1996.

<sup>93</sup> Interview, Nina Vinogradova, Nizhni Tagil Center "Lana," Nizhni Tagil, May 8, 1996.

<sup>94</sup> Interview, Lyudmilla Pomomova, police officer, Pushkin, April 27, 1996.

<sup>95</sup> Interview, Tatyana Lipovskaya, deputy director, Syostri, Moscow, April 23, 1996.

<sup>96</sup> Interview, Olga Shestakova, director, Social Psychological Support Center for Young Girls, Nizhni Tagil, May 7, 1996.

hearing. It will take too long. It is shameful.”<sup>97</sup> In another case, in April 1995 in Moscow, a fifteen-year-old girl, accompanied by her mother, went to a police station to file a rape complaint. Attempting to discourage the report's filing, the police told her mother, “We haven't had such acts in our area in a long time. Don't spoil our record.”<sup>98</sup>

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<sup>97</sup> Interview, Zoya Khotkina, Moscow Center for Gender Studies, Moscow, April 25, 1996.

<sup>98</sup> Interview, Natalia Gaidarenko, former director, *Syostri*, April 22, 1996.

The police also mistreat and intimidate victims by subjecting them to an unnecessarily grueling process of repeated and sometimes pointless interviews. Victims of sexual assault have been required to return to the police station several times for questioning, often by many different officers. In cases reported to Human Rights Watch, women typically had to recount their experiences to at least four officers just to have their complaints accepted. These interviews were generally several hours long and conducted with little regard for the trauma experienced by the victims. A fifteen-year-old victim of gang rape from Moscow told us that she had told her story to police officials at least twenty times.<sup>99</sup> Another young woman who had been raped in Sergeyev Posad said with exasperation, "I am tired of telling my story to everyone. I have told it at least ten or eleven times." "It is like a marathon," said the director of a crisis center in Nizhni Tagil, when asked to describe the process of filing a complaint.<sup>100</sup> Although the repeated questioning may be attributable to a lack of police training on how to conduct investigations into sexual violence, the effect of this relentless process is that many victims become intimidated and dissuaded from pursuing their complaints. According to a children's gynecologist in Murmansk, almost all her clients who have experienced sexual violence refuse to go to the police because they are afraid of the questioning and investigation procedures: "It is very difficult for them, all these procedures, all these interrogations. It is a tragedy."<sup>101</sup>

The experience of I.P., a rape victim, illustrates that, unless a victim is resilient and determined, she will probably not succeed in filing a complaint. I.P. first tried to file a complaint at her local police station on November 10, 1995. After the police rejected her report, I.P.'s sister intervened and went to the Moscow central police station to determine whether the local police station was required to take I.P.'s report. She was told that the station was so obligated.<sup>102</sup> The next day, I.P., accompanied by her sister, returned to the local police station and recounted her story to a different officer on duty and then three more times to three additional officers. The officers then told I.P. and her sister to return to the station two days later, on November 13, when their supervisor would be in. On November 13, I.P. and her sister returned, only to be told that the supervisor was unavailable. When they returned the next day, another officer asked them to return the following day, I.P.'s sister demanded to speak to the police chief, with whom they had spoken on their first visit to the station. According to I.P.'s sister, the police chief was "shocked" that they had returned but gave his permission for the report to be filed.<sup>103</sup>

### **Forensic Examinations**

Forensic evidence is central to the successful prosecution of a sexual assault case. Often, the forensic evidence will be the only corroboration of the complainant's case, confirming not only the fact that sexual contact or intercourse took place, and with a particular individual, but also that such contact took place without the complainant's consent. While forensic evidence cannot prove the lack of consent, it can be strongly suggestive that sexual contact or intercourse was the result of assault and not agreement. Unfortunately, victims of sexual assault in Russia encounter substantial obstacles in securing this critical evidence. From their initial attempts to access forensic examinations to their experience once they do receive an examination, sexual assault victims are consistently thwarted by law enforcement officials and forensic doctors in their efforts to preserve meaningful and potentially powerful evidence.

### ***Delayed Referrals***

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<sup>99</sup> Interview, Z.T., Moscow, May 13, 1996.

<sup>100</sup> Interview, Svetlana Gibatinova, Nizhni Tagil Center "Lana," Nizhni Tagil, May 7, 1996.

<sup>101</sup> Interview, Irina Anpryevna, pediatric gynecologist, Murmansk, May 6, 1996.

<sup>102</sup> Interview, M.P., Moscow, April 27, 1996.

<sup>103</sup> The chief questioned I.P. in detail and wrote a formal complaint ("protocol"). He also accompanied I.P. to her home to question her communal apartment neighbor whom I.P. believed had hired the man to rape her, but the neighbor was not at home.

Because evidence of sexual assault such as semen and bruising will reduce and vanish over time, it is generally critical that the evidence be gathered and documented as soon as possible after the assault.<sup>104</sup> For most victims, the police are the first state actors whom they turn to in seeking redress for their assaults. Unfortunately, rather than promptly referring the complainants to forensic examinations, the police often block or delay women's access to them. Because some forensic doctors at state-run evidence centers will examine a victim only after she has been questioned by the police and received an official referral,<sup>105</sup> the failure of the police to provide timely referrals seriously impairs the chances that a victim's attacker will be brought to justice.

In some cases, the police deliberately refuse to provide referrals to victims, even those who affirmatively seek them. Consider, for example, the case of N.V., a fourteen-year-old girl who had been raped in Sergeyev Posad in August 1994. According to Y.V., N.V.'s mother, Y.V. took N.V. to a gynecologist for medical treatment ten days after the rape.<sup>106</sup> The gynecologist told them that N.V. had physical signs of being raped and that N.V. had to have an exam at the official evidence center in order to prosecute the crime. Y.V. and N.V. went directly to the Sergeyev Posad police station and filed a report. Despite Y.V.'s request for a medical referral, the police officer refused to give them one. Four or five days later, when their case was given to an investigator, Y.V. repeated her request for an official referral, this time from the investigator. The investigator replied, "I do not know the address of the center. I do not know how to get there," and told Y.V. to return in a week. When she returned the next week, the investigator again stated that she did not have the address and told Y.V., "Don't worry, it is not such a big deal that the girl was raped. Nothing happened to her. She is fine." Y.V. continued to request an official referral every day for the next six months. After losing her patience, Y.V. finally declared to the investigator, "Give me a referral or I will go find it myself." The investigator wrote down the address and threw it at Y.V. Seven months had passed since the rape. After the examination, the doctor told Y.V. and N.V., "You might as well have come in two years later. I tried to do everything, but you are too late."

In other instances, the police appear unaware of the urgency of forensic examinations and, by neglecting to inform victims of the importance of prompt examinations, to give them official referrals. Indeed, there is some confusion among police and prosecutors over who has the authority to refer women for forensic exams and when it is appropriate to do so. One prosecutor emphasized that she strongly disapproved of the police giving women referrals to evidence centers before the prosecution has had an opportunity to interview them.<sup>107</sup>

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<sup>104</sup> In some cases of major injuries, such as external bruising, it may in fact be more difficult to evaluate immediately after inflicted than several hours later.

<sup>105</sup> Interview, Larissa Romanova, forensic gynecologist, Moscow, April 24, 1996; interview, Yuri Solsov, forensic doctor, Moscow, April 25, 1996. However, one high-ranking police officer, Natalia Averina, stated that a woman could be examined at the evidence center without an official referral, but that it would go faster if she had a referral. Averina also suggested that a woman could write a fake referral. She also believed that it would be quite easy for a woman to go to a police station, report her rape, and immediately get an official referral to the evidence center. Interview, Natalia Averina, police officer, Moscow, April 23, 1996.

<sup>106</sup> Interview, Y.V., Sergeyev Posad, April 26, 1996.

<sup>107</sup> Interview, Tatyana Bogoliubova, Institute of the General Prosecutor's Office for Strengthening Law and Order, April 24, 1996.

Even when the police do give official referrals, they still delay women's access to the evidence centers by arranging for appointments well after the date of the referral.<sup>108</sup> According to Larissa Romanova, a forensic gynecologist in Moscow, a victim can undergo an examination at an evidence center on the same day that she acquires an official referral.<sup>109</sup> Nonetheless, she continued, it is common practice for the police to arrange appointments for rape complainants two or three days later. Sometimes, the police require that all outstanding legal issues be resolved before the victim is allowed to be examined at the evidence center. For example, I.P., who, as described above, encountered significant resistance when she tried to file a complaint, received a referral to the Moscow evidence center only after she had identified the accused in person.<sup>110</sup> She received her examination seven days after she had reported the rape, or twelve days after it had occurred. In another 1995 case in Moscow, a twenty-three-year-old woman, who had been gang-raped in an apartment by people she knew, reported the assault the next morning but was told to go to the evidence center three days later.<sup>111</sup> Only after her mother insisted that the examination be performed more quickly did the police change the appointment to two days later instead.

Beyond unnecessarily delaying the examination, the police also undermine the preservation of forensic evidence by failing to inform victims of the need to refrain from washing their clothes or themselves before the examinations. One gynecologist, for example, told us of an incident in which the police neither questioned an assault victim about whether she had washed herself or her underwear nor informed her of the need to refrain from doing so.<sup>112</sup> By the time of the examination, the gynecologist recounted, the woman had washed herself and her underwear several times. The evidence center thus refused to perform a pelvic exam, leaving the evidence incomplete and providing the investigators with a reason to close the case. As the executive director of a Moscow sexual assault recovery center stated, "We can regard these cases as sabotage, because it is hard to imagine that the police do not know how to proceed."<sup>113</sup>

### ***Inaccessibility of Doctors***

While there is no law in Russia that provides that only forensic evidence obtained by state-run evidence centers is admissible in court, in practice only evidence from these centers is admitted in sexual assault cases. Indeed, most of the nonforensic gynecologists, crisis center workers, and government officials we interviewed believed that this was required by law; of the few that believed that evidence from other sources was admissible, many asserted that such evidence did not carry the same weight as that from state-run centers. Unfortunately, however, our research revealed that it is very difficult for sexual assault victims, even after they have received official referrals, to undergo examinations at the state-run centers.

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<sup>108</sup> In addition, based upon our interviews, it appears that proper police protocol would include a police officer escorting the complainant to the evidence center. No one we interviewed was able to give us an actual example of this occurring. Larissa Romanova did note that sometimes the police will escort the woman to the evidence center. Interview, Larissa Romanova, forensic gynecologist, Moscow, April 24, 1996.

<sup>109</sup> Ibid.

<sup>110</sup> Interview, M.P., Moscow, April 27, 1996.

<sup>111</sup> Interview, Lola Karimova, Syostri, Moscow, April 22, 1996.

<sup>112</sup> Ibid.

<sup>113</sup> Interview, Natalia Gaidarenko, Syostri, Moscow, April 22, 1996.

With two exceptions, each region or city in Russia has only one state-run evidence center; Moscow and its surrounding region have three in total, and St. Petersburg and its surrounding region have two. Usually, the centers are inconveniently located. The evidence center in Nizhni Tagil, for example, the only center that we were permitted to visit, is located approximately forty-five minutes by car from the city. In Murmansk, the evidence center is located on the outskirts of the city. Similarly, the Moscow regional evidence center is difficult to access; one young woman who had been gang-raped told us that she had to search for the center for more than an hour.<sup>114</sup>

Not only are the evidence centers few and in isolated locations, but they are poorly staffed. Of the areas that we visited, only Moscow and St. Petersburg had gynecologists on staff at the evidence centers to perform sexual assault examinations. The Murmansk, Nizhni Tagil, and Moscow regional evidence centers had only a few doctors, and they performed all examinations, including autopsies.<sup>115</sup> In order to address the staff shortage and emergency situations, authorities in Moscow have made limited efforts to enable the gathering of forensic evidence outside of business hours. A team of forensic doctors, ready if necessary to go to the scene of a crime, is on duty in the Moscow Central Police station when the evidence center is closed.<sup>116</sup> This team covers all crimes, however, and is rarely available to investigate rapes because priority is given to murder investigations.<sup>117</sup>

In recent years, the Russian government has established separate commercial divisions of the state-run evidence centers in several municipalities, including Moscow and St. Petersburg. In these divisions, a sexual assault victim can be examined by government forensic doctors without an official referral; sometimes victims who have had their complaints rejected by the police will go to these centers and use the medical reports to urge the police to accept the complaint.<sup>118</sup> The victim must, however, pay a significant sum for an examination in the commercial division: in Moscow, the exam costs approximately 200,000 rubles (U.S.\$40 as of this publication), approximately 25 percent of the average monthly salary, and there is an additional fee for testing of any the samples gathered.<sup>119</sup> Although these commercial exams are performed by the same doctors who work at the official branch, the exams do not have the same legal effect. Even if a victim has been examined at the commercial center, once her complaint is accepted by the police she must be re-examined at the official evidence center; any evidence taken in the commercial division will simply be recorded in the protocol for the second examination.<sup>120</sup> Given the cost and limited value of the commercial reports, it should come as no surprise that few women go to the commercial branch. According to one forensic doctor in Moscow, the Moscow commercial branch examines fewer than ten sexual assault victims per year.<sup>121</sup>

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<sup>114</sup> Interview, Z.T., Moscow, May 12, 1996.

<sup>115</sup> The evidence center in Nizhni Tagil also serves as the morgue for all of Nizhni Tagil. Women seeking sexual assault examinations can enter the back door to avoid the dead bodies, but the smell of formaldehyde pervades the building as a reminder of its primary function.

<sup>116</sup> Interview, Larissa Romanova, forensic gynecologist, Moscow, April 24, 1996.

<sup>117</sup> Ibid.

<sup>118</sup> Interview, Natalia Gaidarenko, Syostri, April 22, 1996.

<sup>119</sup> Interview, Larissa Romanova, forensic gynecologist, Moscow, April 24, 1996.

<sup>120</sup> Ibid.

<sup>121</sup> Interview, Yuri Solsov, chief forensic doctor, Moscow, April, 1996.



Instead of going to state-run evidence centers, some sexual assault victims seek out the services of medical professionals at hospitals and government clinics. Yet here too, doctors prove to be quite inaccessible. Doctors working outside evidence centers are often reluctant to examine, or treat, victims of sexual violence.<sup>122</sup> In some instances, this reluctance may be based upon an unwillingness to be associated with a criminal case and the criminal justice system.<sup>123</sup> Many physicians do not want to treat rape victims because the doctors do not want to appear in court. In addition, one doctor told us that many of her colleagues find most victims' stories not credible.<sup>124</sup> According to one crisis center worker, the nonforensic gynecologists she contacted in search of medical assistance for her clients refused on the grounds that they (the gynecologists) did not have the right to collect admissible evidence and did not want to go to court.<sup>125</sup> The experience of R.C., a fourteen-year-old girl who was raped, provides a chilling example of the difficulties that sexual assault victims face in seeking medical help.<sup>126</sup> After the assault, R.C. began to run a high fever, experienced nausea and headaches, and exhibited signs of a brain concussion. Her mother called a number of doctors, but when they heard that R.C. had been raped, they refused to treat her. After R.C.'s mother contacted Lola Karimova through the Syostri crisis center, they called a general physician and told him that R.C. had fallen down the stairs. R.C. was subsequently treated by a neurologist and pediatrician.

### ***Inadequate and Abusive Examinations***

The purpose of forensic examinations of sexual assault victims is to collect physical evidence of the assault, both the physical signs that a violation has occurred and any materials that may identify the offender. In the United States, examiners are advised to look for evidence related to the use of force and penetration, materials from the offender, and substances from the location of the assault.<sup>127</sup> Doctors are also instructed to ask the victim about the assault and her activities and to tailor their examinations based on the information received.<sup>128</sup> According to one U.S. practitioner, "A successful sexual assault exam must incorporate not only sound medical treatment but also meticulous evidence collection technique and a special sensitivity to the psychosocial needs of the victim."<sup>129</sup> Only gynecological information relevant to the interpretation of physical findings or laboratory data should be recorded.<sup>130</sup>

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<sup>122</sup> Interview, Larissa Romanova, forensic gynecologist, Moscow, April 24, 1996.

<sup>123</sup> Interview, Natalia Averina, police officer, Moscow, April 23, 1996. For a study of public attitudes toward the criminal justice system, see Inga Mikhailova Borisova, *Crime: What We Know About It; Police: What We Think About Them*, (Moscow: Human Rights Project Group, 1995).

<sup>124</sup> Interview, Lola Karimova, Moscow, April 21, 1996.

<sup>125</sup> Interview, Larissa Korneva, Psychological Crisis Center for Women, St. Petersburg, April 29, 1996.

<sup>126</sup> Interview, Lola Karimova, Syostri, Moscow, April 22, 1996.

<sup>127</sup> Lee Madigan, *The Second Rape* (New York: Lexington Books, 1991), p. 85.

<sup>128</sup> *Ibid.*, pp. 85-86.

<sup>129</sup> William M. Green, *Rape: The Evidential Examination and Management of the Adult Female Victim* (Massachusetts: Lexington Books, 1988), p. 48.

<sup>130</sup> *Ibid.*, pp. 54-56. Such evidence includes the date of last menstrual period, any recent gynecological surgery, and any consensual sexual intercourse within seventy-two hours of the assault.

By contrast, Russian forensic doctors will only seek evidence and information that is requested by the police or the prosecutors, and do not consider the victim's description of the assault or their physical condition. According to a police officer in Moscow, the investigator must be very careful to specify all the information necessary to an investigation; otherwise the evidence will not be gathered.<sup>131</sup> While some doctors may choose on their own to question the victim about the assault or seek further evidence,<sup>132</sup> they are neither required nor advised to do so. To the contrary, they are often discouraged from taking the initiative by prosecutors who prefer that they not deviate from standard questions.

In sexual assault cases, forensic doctors tend to focus their examinations on the condition of the victim's hymen. "As a rule, the first question is whether the hymen is intact," stated Larissa Romanova, a forensic gynecologist at a Moscow evidence center.<sup>133</sup> If the hymen is torn, she continued, it must then be determined when the tearing occurred. This preoccupation with the hymen, however, has no legal or medical basis and instead reflects an inappropriate concern over the victim's alleged virginity status and popular misconceptions regarding the medical verifiability of virginity. Russian rape law does not distinguish between the sexual violations of virgins versus other women; single or married women who have engaged in sexual intercourse prior to the assault and whose hymens may already be torn are protected under the law no less than are virgins. Moreover, modern medical standards hold that the use of the condition of the hymen to indicate recent sexual intercourse, or even virginity status, is medically groundless and inaccurate.<sup>134</sup> The consequence of forensic doctors' practice of concentrating their examinations on women's supposed virginity status is that they fail to provide a thorough examination for the discovery of evidence of all forms of sexual violence, and especially deny non-virgins appropriate forensic examinations.

In addition to being inadequate, the forensic examinations tend to be abusive. Apparently poorly trained in conducting sexual assault exams,<sup>135</sup> forensic doctors tend to demonstrate little sensitivity to the potential trauma that the victim suffered through the sexual assault or continues to suffer because of the forensic examination. According to Dr. Lola Karimova, a private gynecologist in Moscow who had spoken with seven women examined at the Moscow evidence center between 1994 and 1996, "Not a single woman told us that she had been treated as a woman who had been through a personal tragedy."<sup>136</sup> Instead, many women are left with the impression that the doctors blame them for

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<sup>131</sup> Interview, Natalia Averina, police officer, Moscow, April 23, 1996.

<sup>132</sup> Larissa Romanova, a forensic gynecologist at the evidence center in Moscow, told Human Rights Watch that prior to conducting an examination she does question the victim about the circumstances of the rape to learn what kind of intercourse occurred and how injuries were inflicted so that she can tailor the exam. Interview, Larissa Romanova, forensic gynecologist, Moscow, April 24, 1996. Yuri Solsov, of the Moscow evidence center, also stated that he would ask questions that were not supplied if the examination suggested it. Interview, Yuri Solsov, head doctor, Moscow Forensic Evidence Center, Moscow, April 25, 1996.

<sup>133</sup> Interview, Larissa Romanova, forensic gynecologist, Moscow, April 24, 1996. Dr. Yuri Solsov also reported that he followed this procedure. Interview, Yuri Solsov, Moscow, April 25, 1996.

<sup>134</sup> According to Dr. Greg Larkin, director of research, American College of Emergency Physicians, an expert in the field of forensic documentation of intimate partner abuse, there is no reliable test for virginity. Hymens can be torn by many other common activities, and the presence of an intact hymen does not signify abstention from sexual intercourse. Human Rights Watch telephone interview, Pittsburgh, June 26, 1997.

<sup>135</sup> In most jurisdictions, the primary job of the forensic doctor is the performance of autopsies.

<sup>136</sup> Interview, Lola Karimova, Syostri, April 22, 1996.

the assault. "Now I understand that I am a second-rate woman," said one victim.<sup>137</sup> "I was treated like a bad woman who wanted to punish someone," said another.<sup>138</sup>

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<sup>137</sup> Ibid.

<sup>138</sup> Ibid.

The forensic doctors' insensitivity is manifest not only in their reportedly demeaning attitudes towards the victims but also in their complete disregard for the women's privacy interests. Our interviews indicated that at least two official persons, and often many others, are routinely present during the examinations. According to Svetlana Gibatdinova, president of the Nizhni Tagil Crisis Center, for example, approximately four people are typically present during rape examinations in Nizhni Tagil.<sup>139</sup> A forensic gynecologist from a Moscow evidence center told us that she and the nurse who writes the findings are present during her examinations, and the head of the forensic department also enters the room on occasion.<sup>140</sup> In the St. Petersburg evidence center, which consists of two small rooms, we were told, the door between the two rooms continuously opens and closes while the forensic doctor examines the assault victim in one room and a line of people wait their turn to be examined outside the door in the other room.<sup>141</sup> Although sexual assault victims frequently are reluctant to discuss the details of their assault in front of strangers, many, it appears, are too afraid to ask for a more private setting. According to Dr. Karimova, none of the seven women in Moscow whom she interviewed reported that they had requested a one-on-one interview, but they all stated that they felt humiliated in having to discuss the assaults and be physically examined in front of many others.<sup>142</sup>

Further demonstrating their lack of sensitivity to the needs of the sexual assault victims, the forensic doctors do not take steps to inform the victims, regardless of their age, of the nature of the examinations, and thereby fail to minimize the intimidation and foreignness associated with the examinations.<sup>143</sup> The women we interviewed were not told, for example, what samples would be taken or what would be done with those samples. As one gynecologist acknowledged, "Usually we do not explain the exam. Here, people understand that if they were referred for the exam, they must do it. In other countries, they pay more attention to the psychological state of the victim, but our exam has other requirements."<sup>144</sup>

Finally, the forensic doctors generally fail to provide even minimal treatment for the health consequences of the sexual assault. They do not, as a matter of course, provide counseling or tests for pregnancy or sexually transmitted diseases. Nor do they provide referrals. While there are some forensic doctors who do give tests or referrals,<sup>145</sup> the practice appears to depend upon the doctor and the day.

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<sup>139</sup> Interview, Svetlana Gibatdinova, Nizhni Tagil Center "Lana," Nizhni Tagil, May 7, 1996.

<sup>140</sup> Interview, Larissa Romanova, forensic gynecologist, Moscow, April 24, 1996.

<sup>141</sup> Interview, Lola Karimova, Syostri, April 22, 1996.

<sup>142</sup> Ibid.

<sup>143</sup> The impact of this inaction is particularly severe in Russia because the quality and availability of gynecological care are quite limited in Russia, and women thus often approach such examinations with fear and trepidation. Interview, Natasha Khodireva, St. Petersburg, April 30, 1996; interview, Svetlana Gibatdinova, May 7, 1996.

<sup>144</sup> Interview, Larissa Romanova, forensic gynecologist, Moscow, April 24, 1996.

<sup>145</sup> Dr. Romanova, for example, told us that she routinely refers women for tests for sexually transmitted diseases. Ibid.

When sexual assault victims seek out the same services in hospitals or clinics rather than official evidence centers, they usually fare no better, and sometimes, do worse. According to many gynecologists, women's rights activists, and law enforcement officers, the care and evidentiary examinations in clinics and hospital emergency rooms are likely to be even more hostile and inadequate than those in the evidence centers.<sup>146</sup> Not only do nonforensic doctors lack training in sexual assault examinations and generally fail to gather, and in fact sometimes destroy, forensic evidence,<sup>147</sup> but, like forensic doctors, they often treat victims as though they are to blame for the assault. At local clinics, the director of a crisis center in Nizhni Tagil told us, "Women are often accused of being prostitutes. The doctors talk about provoking behavior."<sup>148</sup>

### **Investigations**

After the police accept the sexual assault victim's complaint and arrange for her forensic examination, police involvement in the cases usually ceases. Except in cases where the defendant is a minor, the prosecutor's office assumes responsibility for the case, and investigators from the prosecutor's office, rather than the police, take over the investigatory process. During this process, the investigators will, *inter alia*, interview the victim, defendant, and any other witnesses; evaluate signs of violence; and analyze the scene of the crime. Based on the evidence collected, the prosecutors then decide whether to take the case to court or to close the case. In cases of sexual assault, this decision is made frequently after a preliminary investigation: the prosecution investigator concludes that no crime occurred, and the case is closed.<sup>149</sup>

Demonstrating a failure to take seriously crimes of sexual assault, prosecutors and prosecution investigators prove unwilling to conduct investigations, and when they do conduct them, reveal biases against and insensitivity towards victims of sexual violence.

### ***Unwillingness to Investigate***

Prosecutors in Russia generally approach cases of sexual violence with an unwarranted, high degree of skepticism. Espousing views similar to those of police officers, prosecutors we interviewed in Moscow, Murmansk, St. Petersburg, and the Krasnoselsk region tended to believe that women often file false reports or are themselves responsible for provoking the attacks. A prosecutor from St. Petersburg, Tatyana Nikolaeva, for example, alleged that one out of ten women reporting sexual violence fabricates the report.<sup>150</sup> Accordingly, Nikolaeva stated, she will not usually begin an investigation unless there is sufficient evidence that an assault took place. Cases that usually lack such evidence, she explained, include acquaintance rape and those without obvious signs of violence. In acknowledging that threats of violence rather than violence *per se* could lead to an assault, Nikolaeva added that, in those instances, a

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<sup>146</sup> Larissa Romanova, Presentation, Nurses Conference on Treating Victims of Violence, forensic gynecologist, Moscow, April 24, 1996; interview, Tatyana Bogoliubova, Institute for Strengthening Law and Order of the General Prosecutor's office, April 24, 1996; interview, Natalya Khodireva, Psychological Crisis Center for Women, April 30, 1996; interview, Lola Karimova, Syostri, Moscow, April 22, 1996.

<sup>147</sup> Larissa Romanova, Presentation, Nurses Conference on Treating Victims of Violence, Moscow, April 24, 1996; interview, Tatyana Bogoliubova, Institute for Strengthening Law and Order of the General Prosecutor's office, April 24, 1996; interview, Lola Karimova, Syostri, Moscow, April 22, 1996.

<sup>148</sup> Interview, Svetlana Gibatdinova, Nizhni Tagil Center "Lana," Nizhni Tagil, May 8, 1996.

<sup>149</sup> The majority of cases that are closed at the preliminary investigation stage are rape cases. The reason for this, a researcher at the Institute for Strengthening Law and Order of the General Prosecutor's Office in Moscow explained, is that the preliminary investigations focus on overt signs of violence and testimony of witnesses, both of which tend to be absent or unavailable in cases of sexual violence. Interview, Tatyana Bogoliubova, Institute for Strengthening Law and Order of the General Prosecutor's office, April 24, 1996.

<sup>150</sup> Interview, Tatyana Nikolaeva, prosecutor, St. Petersburg, April 30, 1996.

psychological examination would be necessary to determine whether the victim would be susceptible to such nonphysical coercion; one could not simply assume that an individual might submit to threats of violence. Nikolaeva justified her wary approach to sexual assault cases in part by pointing out that many victims change their testimony. This happens about ten to fifteen times per year, and when it does, she told us, she brings charges against the complainants for false testimony.

In many instances, prosecutors will also attempt to discourage women from continuing sexual assault investigations. Sometimes, the prosecutors or investigators will simply ask the complainant, or her representative, to drop the case. In one case, for example, a mother reported that the investigator handling her daughter's case requested that the mother sign a statement saying that she did not want to pursue the case, so that the investigator could close it.<sup>151</sup>

In another case, a researcher at the Moscow Center for Gender Studies who was helping a victim pursue a rape complaint, was continually urged by investigators to advise her client to drop the case.<sup>152</sup> Every time she called investigators to inquire about the case, they would repeatedly say, "[Your client] may want to drop the case." Other prosecutors may be less direct. For example, an eighteen-year-old woman, who was raped at a party by a friend of a friend and had reported the assault to her parents immediately and to the police about seven to ten days thereafter, received subtle but consistent pressure from the prosecutor's office to withdraw her complaint.<sup>153</sup> The defendant claimed that the woman had pursued sexual relations with him and that he had been unable to resist. Because the investigator continually relayed the defendant's assertions to the woman, she began to blame herself, internalizing the idea that she had provoked the attack. Eventually, she withdrew the report and told a counselor at a local crisis center, "I will feel better when it is gone."

Instead of attempting to convince the victim to drop the complaint, the investigator simply may decide to do so on his or her own. In the case of Z.T., the fifteen-year-old girl who was gang-raped near Moscow, for example, the prosecutor asserted that no crime had occurred and closed the case. The investigator told Z.T. that since her and her friend's testimony was too brief in comparison to that of the defendants, she had concluded that they must be hiding something.<sup>154</sup> The prosecutor also claimed that the forensic report indicated that Z.T.'s hymen was intact and that no semen had been recovered. Yet, according to Z.T., her mother read the forensic report and saw that it stated that the assault could have taken place without the hymen breaking and that Z.T.'s menstruation at the time of the assault could explain the lack of semen. Although the medical examiner found dark spots, which Z.T. said were blood, on her clothes, the examiner did not test the spots. In fact, the investigators did not have Z.T.'s clothes examined until six months after the attack. While Z.T.'s sister and mother want to try and reopen the case, Z.T. does not. Although some victims might challenge an investigator's decision, it appears that others refrain from doing so because of a sense of frustration and hopelessness with the justice system.

In some cases, the investigators do not even bother to inform the complainants that their cases have been closed. I.P., the woman described above who was raped in her Moscow communal apartment, for example, reported her rape to the police on November 10, 1995 and waited until late January 1996 for an update on her case. Having heard nothing, M.P., I.P.'s sister, finally called the investigator for information. At the investigator's request, M.P. and I.P. went to her office and then learned from the investigator's supervisor that the accused had been released from police custody on November 15, prior to I.P.'s forensic exam, due to lack of evidence. In addition, they learned that the police had lost I.P.'s original forensic report detailing her injuries. As of April 1996, the police were still unable to locate the accused and, according to M.P., appeared to be making little effort to do so. I.P. has never returned to the

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<sup>151</sup> Interview, Y.V., Sergeyev Posad, April 26, 1996.

<sup>152</sup> Interview, Zoya Khotkina, Moscow Center for Gender Studies, April 25, 1996.

<sup>153</sup> Interview, Nina Vinogradova, Nizhni Tagil Center "Lana," May 7, 1996.

<sup>154</sup> Interview, Z.T., Moscow, May 12, 1996.

apartment where the rape occurred. In another case, the assault victim's mother happened to meet the accused, whom she had believed to be in prison, at a bus stop. When she asked him where he was going, he replied that the prosecutor had let him go home.<sup>155</sup> According to the mother, the prosecutor told her that she (the prosecutor) had released the defendant shortly after his arrest because she (the prosecutor) did not think he was terrible and did not want to ruin his life. In June 1995, approximately ten months after the rape of her daughter and two months after the alleged court date, Y.V. learned that the court had not had any rape cases scheduled. When she asked the investigator why the case had been closed, the investigator responded that there was insufficient evidence. After that, Y.V. had the case reopened with a new investigator, and as of April 1996, when we interviewed them, Y.V. and N.V. were going to see the new investigator.

## **Invasions of Privacy**

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<sup>155</sup> Interview, M.P., Moscow, April 27, 1996.

Article 17 of the ICCPR guarantees to all the right to privacy. It provides that “[n]o one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation,” and that “[e]veryone has the right to the protection of the law against such interference or attacks.”<sup>156</sup> In interpreting this right, the United Nations Human Rights Committee has acknowledged that the right to privacy is “necessarily relative,” and there may be some instances in which the right to privacy must yield to other, more pressing rights or considerations.<sup>157</sup> These instances, however, are circumscribed. As the committee has stated, “the competent public authorities should only be able to call for such information relating to an individual’s private life the knowledge of which is essential in the interests of society as understood under the Covenant.”<sup>158</sup> In those limited circumstances where the right to privacy may be abridged, moreover, the committee has specified that “relevant legislation must specify in detail the precise circumstances in which such [authorized] interferences may be permitted.”<sup>159</sup>

The state should be especially vigilant in protecting the privacy rights of crime victims. In its Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, the United Nations General Assembly has stressed the need to treat victims with compassion and with respect for their dignity.<sup>160</sup> The declaration specifies that, consonant with these aims, the state, and in particular the judicial and administrative processes, should take measures to minimize inconvenience to victims and to protect their privacy.<sup>161</sup> This obligation to respect the victim’s right to privacy falls on all arms of the state’s justice system, including law enforcement officials and prosecutors. According to the United Nations Guidelines on the Role of Prosecutors, prosecutors shall “[k]eep matters in their possession confidential, unless the performance of duty or the needs of justice require otherwise.”<sup>162</sup> Similarly, according to the United Nations Code of Conduct for Law Enforcement Officials, “Matters of a confidential nature in the possession of law enforcement officials shall be kept confidential, unless the performance of duty or the needs of justice strictly require otherwise.”<sup>163</sup>

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<sup>156</sup> Art. 17, ICCPR.

<sup>157</sup> General Comment 16 to Article 17, “Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies,” U.N. Document HRI/GEN/Rev.1, July 29, 1994.

<sup>158</sup> *Ibid.*

<sup>159</sup> *Ibid.*

<sup>160</sup> Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, Adopted by U.N. General Assembly on November 29, 1985.

<sup>161</sup> *Ibid.*, Principle 6.

<sup>162</sup> Guidelines on the Role of Prosecutors, Adopted by the Eighth U.N. Congress on the Prevention of Crime and Treatment of Offenders, August 27 - September 7, 1990, Guideline 13(c).

<sup>163</sup> Code of Conduct for Law Enforcement Officers, Adopted by the U.N. General Assembly on December 17, 1979, Art. 4. The commentary accompanying this article explains:

By the nature of their duties, law enforcement officials obtain information which may relate to private lives or be potentially harmful to the interests, and especially the reputation, of others. Great care should be exercised in safeguarding and using such information, which should be disclosed only in the performance of duty or to serve the needs of justice.



Unfortunately, the Russian investigative process of crimes of sexual violence fails to safeguard the victim's right to privacy. Without any clearly delineated guidelines circumscribing their investigation,<sup>164</sup> investigators may interview the victim's family, neighbors, and colleagues (either schoolmates or coworkers) in order to prepare a psychological profile of the complainant or to surmise whether and to what degree she may have resisted the attack. While limited investigation into the victim's sexual past with the accused may be appropriate, many of these investigations appear to move far beyond these bounds, examining in detail the victim's entire past sexual history and background. Instead of focusing on whether the woman was involved with the defendant or had consensual sex shortly before the alleged attack, they focus on her general sexual reputation and behavior.

The investigative process may infringe on the victim's right to privacy in a number of ways. First, the interviews place an unnecessary, and often prejudicial, emphasis on the sexual experience and general behavior of the victim. The investigations suggest that the victim's character, rather than the alleged violation, is at issue. By attempting to expose the victim's entire sexual history, law enforcement officials are calling for information relating to an individual's private life that is difficult to justify as in the state's essential interests in a rape investigation. Instead of providing clearly relevant evidence as to whether unconsented intercourse took place in a particular instance, the information often merely serves to answer stereotypical questions that are irrelevant to the question of rape. In other words, the investigators' decisions about what information to gather are largely driven by prejudicial notions about rape victims, as discussed in the bias section of this report. According to Boris Orlov, a regional court judge in Murmansk, for example, when the victim's word stands against the defendant's, it is important to learn what the woman was like before the rape.<sup>165</sup> A prosecutor in Moscow told Human Rights Watch that if the defendant alleges that the rape victim was a "loose" woman, prosecutors feel compelled to call witnesses to discuss the personal characteristics of the victim, thus exposing her private life to public scrutiny.<sup>166</sup>

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<sup>164</sup> In some countries, including the U.S. and Canada, rape statutes have been reformed to protect rape victims from discriminatory and abusive cross-examination during the investigation and prosecution of rape charges by limiting what evidence can be used. Previously, there were few limits on what constitutes relevant evidence to be used in a rape defense. Most defenses centered around attacks on the victim's reputation and prior sexual conduct, thereby focusing on the victim's perceived morality. The reforms, now known as rape shield laws, are based on the recognition that such evidence and inquiry during the prosecution of rape charges was often prejudicial against the victim, leading to a low rate of conviction and also acting as a deterrent to the reporting and prosecution of rape. Although the rape shield laws vary from state to state, one common component is a rejection of the previously automatic admissibility of proof of the victim's sexual activity or perceived immodesty. The defense's ability to present, for example, the victim's sexual history, appearance or dress, level of resistance, and previous interactions with the defendant to discount her claim of rape has been limited, and the focus of rape trials has shifted away from judgements of the victim's sexuality. For a general discussion and analysis of rape shield laws in the U.S., see Harriett R. Galvin, "Shielding Rape Victims in the State and Federal Courts: A Proposal for the Second Decade," *Minnesota Law Review*, vol. 70. (April 1986), pp. 763.

<sup>165</sup> Interview, Boris Orlov, regional court judge, Murmansk, May 6, 1996.

<sup>166</sup> Interview, Moscow, April 1996.

Second, the investigative process often unnecessarily informs numerous outside parties that the victim was raped. Women's rights activists, for example, told us that investigators will require someone at the victim's workplace or school to write a letter of reference.<sup>167</sup> In one case in Moscow, investigators requested a letter vouching for a woman's character from her workplace even though she alleged that she had been raped at work. After receiving the letter, the investigators became reluctant to continue because the letter from work said the victim had a drinking problem, among other things.<sup>168</sup> A prosecutor from a St. Petersburg suburb asserted that "we must learn more about the personality of the victim by interviewing her and maybe her neighbors. We talk to people who know about the person regardless of whether they know about the rape."<sup>169</sup> Judge Orlov told us that although criminal procedure requires investigation to be confidential, when the investigator interviews persons, they usually learn about the rape.<sup>170</sup>

Those suspected of having mental illness or sexually transmitted diseases are particularly at risk that their right to privacy will be violated. In addition to conducting general third-party interviews, investigators may also require clinics that provide psychological counseling or treatment for sexually transmitted diseases to inform them whether or not the complainant is registered.<sup>171</sup> An official at a Murmansk AIDS clinic confirmed that investigators could attain such information from his clinic, as long as the information is deemed by an investigator or judge as necessary to the case and is to be used only as evidence for that case.<sup>172</sup>

As a result of these broad inquiries into the complainants' background and sexual history, many families discourage their daughters, wives, or girlfriends from reporting rape. Many are ashamed to have people know about the attack and do not want their loved ones subjected to additional trauma. Olga Shestakova, who works with minors who have been sexually assaulted, told Human Rights Watch of a client who had been raped. First, the investigator demanded a note from the girl's school describing her behavior; in the request they told the school that she had been raped. The investigators then stated that they needed a paper describing the neighbors' impressions of the girl. The parents consequently withdrew the complaint.<sup>173</sup> Karimova told us that a woman dropped her case after investigators visited her school several times. According to Karimova, the woman told her, "It is a shame for me. I cannot bear the pressure."<sup>174</sup> Based on our interviews with other victims, their fears were probably well-founded. For example, N.V., a fourteen-year-old victim of rape whose case is described above, told us, "It is very difficult at school. Some of my friends protect me and don't let the others hurt me. But all the people at school know."<sup>175</sup>

### ***Biased Use of Psychological Interviews***

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<sup>167</sup> Interview, Natalia Gaidarenko, Syostri, Moscow, April 22, 1996; interview, Tatyana Lipovskaya, Syostri, Moscow, April 23, 1996; interview, Larissa Korneva, St. Petersburg Crisis Center for Women, St. Petersburg, April 29, 1996; interview, Olga Shestakova, Nizhni Tagil, May 8, 1996.

<sup>168</sup> Interview, Zoya Khotkina, Moscow Center for Gender Studies, Moscow, April 24, 1996.

<sup>169</sup> Interview, Victor Sukharinov, prosecutor, Krasnosels region, April 30, 1996.

<sup>170</sup> Interview, Boris Orlov, regional court judge, Murmansk, May 6, 1996.

<sup>171</sup> Ibid.

<sup>172</sup> Interview, Murmansk, May 6, 1996. It should be noted here that if a rapist infects a victim with a sexually transmitted disease he faces an additional penalty.

<sup>173</sup> Interview, Olga Shestakova, Nizhni Tagil, May 7, 1996.

<sup>174</sup> Interview, Lola Karimova, Syostri, Moscow, April 22, 1996.

<sup>175</sup> Interview, N.V., Sergeev Posad, April 26, 1996.

Articles 78 and 79 of the Russian code of criminal procedure allow an expert opinion to establish the psychological state of the victim when there is doubt about her ability to understand the circumstances that are significant to her case and to give appropriate testimony.<sup>176</sup> In rape cases, this article is invoked to require victims to undergo psychological interviews so as to determine whether, *inter alia*, she was unable to defend herself from attack, or whether she was prone to “imagine” things, including the attack. While in certain cases psychological interviews can be an important tool in explaining how and if crimes occurred, in Russia it is primarily rape victims who are required to defend their actions and the veracity of their allegations through a psychological assessment. Although the use of psychological interviews is not limited to sexual assault cases,<sup>177</sup> Lyudmilla Konyesheva, a forensic psychologist in Moscow who has done about fifty psychological interviews, told us that 60 to 70 percent of the psychological interviews she conducted were with victims of sexual violence.<sup>178</sup>

The prevalence of psychological interviews in cases of sexual violence suggests that the mental fitness or stability of sexual violence victims is questioned, or viewed as suspect, in a ways that do not apply for other crimes. Based on the descriptions of the role of the interview by forensic psychologists and prosecutors, the interviews are employed to determine whether the woman was imagining or fabricating the assault. According to Yelena Makhmutova, a forensic psychologist in Bashkiria located in southeastern Russia, sometimes “the interview offers clues as to what actually happened, by looking at the mind of the victim.”<sup>179</sup> A prosecutor in Murmansk, Valentina Abanicha, told us that she sometimes refers women reporting rape to psychological interviews to ensure that their testimony is not a “fantasy.”<sup>180</sup> She also told us that she sometimes used the psychological interview to determine how to evaluate victim’s testimony on the basis of mental competency: the interviews help her to determine if “she [the victim] is the kind of child who tells the truth.”<sup>181</sup> Although it is always possible that an individual has invented or embellished on an attack, the widespread use of the interviews suggests that there may be an unwarranted presumption that women alleging assaults are lying or are mentally ill.

Since the late 1980s, accused rapists have also been subjected to psychological interviews.<sup>182</sup> Based on the statements of one forensic psychologist, it appears that these interviews are not simply used to determine the psychological state of the accused but, surprisingly, to shed light on the psychological state of the victim as well. According to Yelena Makhmutova, psychologists interview the accused to see if he could assess the mental state of the woman: “We want to know if he could tell whether the woman was scared to death or if he was oblivious.”<sup>183</sup> The ability of the defendant to discern so, according to Makhmutova, provides guidance as to whether the victim was inclined to fantasize.<sup>184</sup>

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<sup>176</sup> Interview, Yelena Makhmutova, lecturer, psychology, Bashkir Academy of State Service and Management, Moscow, April 20, 1996.

<sup>177</sup> *Ibid.*

<sup>178</sup> Interview, Lyudmilla Konyesheva, forensic psychologist, Moscow, April 25, 1996. Yelena Makhmutova, another forensic psychologist in a different region, provided the same percentage. Interview, Yelena Makhmutova, Bashkir Academy of State Service and Management, Moscow, April 20, 1996.

<sup>179</sup> Interview, Yelena Makhmutova, Bashkir Academy of State Service and Management, Moscow, April 20, 1996.

<sup>180</sup> Interview, Valentina Abanicha, prosecutor, Murmansk, May 5, 1996.

<sup>181</sup> *Ibid.*

<sup>182</sup> Russian Criminal Code Art. 79(2).

<sup>183</sup> Interview, Yelena Makhmutova, Bashkir Academy of State Service and Management, April 20, 1996.

<sup>184</sup> *Ibid.*

In undergoing psychological interviews, the victim may appeal to have a lawyer present; should the investigator decline the appeal, the victim can appeal the investigator's decision. This presents an additional burden to the victim which could deter her from requesting a lawyer. The problem with this inheres in the fact that information gleaned in this setting can be used to discredit the victim as a witness and can lead a prosecutor to drop her complaint. Whether or not the interview will be used in a fair or discriminatory manner will depend largely upon the psychologist. Konyesheva told us, for example, "I never did an interview when I could not offer a reason why she did not resist."<sup>185</sup> Because the interview may have an unfair, devastating effect on the outcome of the victim's complaint, the absence of an attorney or advocate may impinge on the victim's ability to seek justice.

Finally, although these interviews are often the only contact a victim has with a "counselor," they rarely involve any counseling for the emotional trauma of rape, nor are they intended to. The absence of counseling is particularly severe because victims, who are often already vulnerable and in need of counseling, are more likely to believe, based upon the questioning during the interview, that they are to blame for the attack. According to Makhmutova, she sees the victim only once, and she is usually the only psychologist or counselor that the victim will see. Makhmutova told Human Rights Watch that she would like to be able to refer victims of sexual violence to crisis centers from which they could receive comprehensive services and counseling.<sup>186</sup> In fact, such referral is required by the U.N. Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, adopted by the U.N. General Assembly in 1985.<sup>187</sup> Unfortunately, Russian officials rarely make such referrals. To provide that service, Makhmutova makes the last part of the interview therapeutic even though that is not required by law. According to her, "As a human being and a psychologist, I cannot just close my book and say you must go."<sup>188</sup>

### ***Traumatizing Use of Face-to-face Confrontations***

Under Article 162 of the Russian code of criminal procedure, crime victims may be required to recount their story in front of the defendant(s) if their testimony contradicts that of the defendant(s).<sup>189</sup> In rape cases, an investigator may use Article 162 in any case in which the victim's story contradicts that of the accused in order to evaluate the comparative credibility of the parties. The procedure for the confrontation, as set forth in Article 163, requires both the complainant and defendant to sign a statement saying that they will tell the truth. The complainant, who is not accompanied by a relative or parents unless she is a minor, is asked whether she knows the defendant and to describe the circumstances under which she knows him. After she speaks, the investigator asks the defendant to confirm or deny her story. The prosecutors question both parties, in their presence, to analyze the differences in their stories. The parties can also ask questions.

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<sup>185</sup> Interview, Lyudmilla Konyesheva, forensic psychologist, Moscow, April 25, 1996.

<sup>186</sup> Interview, Yelena Makhmutova, forensic psychologist, Moscow, April 20, 1996.

<sup>187</sup> Principle 14 provides, "Victims should receive the necessary material, medical, psychological and social assistance through governmental, voluntary, community-based and indigenous means." Principle 15 provides, "Victims should be informed of the availability of health and social services and other relevant assistance and be readily afforded access to them." Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, Principles 14 and 15.

<sup>188</sup> Makhmutova works in Bashkiria, which does not have a crisis center. Interview, Yelena Makhmutova, forensic psychologist, April 20, 1996.

<sup>189</sup> Article 162 provides, "An investigator may conduct a confrontation between two persons who have already been questioned and whose testimony is seriously contradictory."

While the criminal procedure code allows for the defendant to be accompanied by an attorney, no provision is made, either in law or in practice, for the protection of victims, such as permitting an advocate, counselor or family member to be present. Because these confrontations are fraught with stress for victims, the confrontation itself, rather than the victim's conscience or conviction, may impact the victim's demeanor or retelling of the assault. It is quite possible, for example, that influences on a victim's demeanor could be the result of rape trauma syndrome, a variation of post-traumatic stress disorder.<sup>190</sup> If the criminal procedure code continues to allow the use of this investigative technique in rape cases, it must permit women to have a therapist or nonlegal advocate present and must train prosecutors in the symptoms and results of post-traumatic stress disorder to ensure that the women do not suffer additional shock and that any side effects of their emotional trauma do not harm the criminal case.

Since the confrontation occurs so late in the investigative process and very few cases make it past the earlier obstacles to reach that stage, we spoke with only one woman who had undergone a confrontation. This case illustrates the danger of repeat confrontations for victims of gang rape. Z.T., a fifteen-year-old victim of gang rape, had to confront all ten defendants. Only in one instance, when the defendant was over twenty-one years old, was Z.T. allowed to have her mother in the room. According to Z.T., during these face-to-face confrontations, the defendants all recounted different stories.<sup>191</sup> Some said that the sexual contact was consensual, others said that she suggested it, and some said that they had never seen her. Z.T. told Human Rights Watch that despite the fact that the defendants all told different versions of the attack, the prosecutor indicated that she did not believe Z.T.'s testimony. The case was subsequently closed.

### ***Failure to Protect Complainants***

Almost all the activists we spoke to told us that victims do not feel safe during the investigative process. All but one of the rape victims we interviewed reported that defendants and their families or friends harassed, threatened, or attempted to bribe them in order to stop them from pursuing rape charges and that these actions occurred with the knowledge and, at times, complicity of the investigators. All of the women's rights activists with whom we spoke confirmed that almost all rape complainants reported such harassment and bribes to them. In no case they cited, however, did Russian law enforcement respond to the complainants' call for help. While law enforcement agents do not deny the allegations of harassment, and in particular bribery, they contest women's charges that police failure to protect complainants leads them to drop the charges. Rather, police claim that women accept the bribes and then drop the charges.<sup>192</sup> Reportedly, defendants also threaten and bribe government investigators.<sup>193</sup>

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<sup>190</sup> According to one article, "Victims also may demonstrate a wide range of emotions in one of two 'styles,' expressed or controlled. A victim with an expressed style would express her feelings of fear, anger and anxiety by crying, sobbing, smiling or acting restless or tense. A victim with a controlled style would hide her feelings and appear calm." Toni M. Masaro, "Experts, Psychology, Credibility and Rape: The Rape Trauma Syndrome Issue and Its Implications for Expert Psychological Testing," *Minnesota Law Review* 69 (February 1985): 425.

<sup>191</sup> Interview, Z.T., Moscow, May 12, 1996.

<sup>192</sup> Interview, Tatyana Nicolaeva, prosecutor, St. Petersburg, April 30, 1996.

<sup>193</sup> Nick Allen, "Thousands of Shady Police Fired in Cleanup," *Moscow Times*, May 30, 1997; interview, Lyudmilla Pomomava, police officer, Pushkin, April 27, 1996.

Numerous instances were reported to us where law enforcement officials failed to take action to protect complainants. The case of N.V., the fourteen-year-old girl raped near Moscow in 1994 discussed above, and her mother, Y.V., provides a chilling example of the severe harassment by alleged offenders and the gross indifference of law enforcement officials. According to Y.V., after N.V. filed her complaint, the police provided the defendant with the victim's address and notice that she had reported a rape. Two men, the rapist and a friend, then came to their house and broke the door down.<sup>194</sup> N.V. escaped through the window and ran to a police station nearby, while the two men beat Y.V., ripped her clothes, and threatened to rape her and to rape her daughter again. They also threatened to shoot Y.V. if she did not give her daughter to them. After the attack, Y.V. went to the investigator and requested a forensic medical exam in order to pursue charges for the assault.<sup>195</sup> The investigator questioned Y.V. but did not refer her for an exam or test the blood stains on her jacket. When Y.V. inquired about the status of her report, the investigator claimed that Y.V. had never filed a report about the assault. Since Y.V. did not have the report number, she could not prove that she had. The police never took any action. The harassment reportedly continued to occur almost nightly after eleven o'clock until the accused went into the army at the end of 1995. As of April 1996, it happened intermittently, when his friends were drunk. The accused also visited N.V.'s house three times to ask her forgiveness and that she withdraw her report. He also offered money, which N.V. refused.

Nina Vinogradova, a counselor at the Nizhni Tagil Crisis Center, told Human Rights Watch of another case illustrating law enforcement's refusal to protect complainants.<sup>196</sup> After a twenty-three-year-old woman who was raped by three men in 1995 reported the rape and had corroborating medical evidence collected, one man was arrested. Soon thereafter, someone set the victim's apartment on fire, and the defendant's relatives began to threaten her. She reported the threats to the police several times, but the police told her that the fire was an accident and took no measures to investigate or prevent the threats. Her relatives asked her to withdraw her report to protect herself, but she did not. The arrested man was convicted, and the other two were never found.

Because of the failure by law enforcement to respond to such harassment, sometimes women become intimidated and actually withdraw their complaints. In one case in 1994, for example, a seventeen-year-old girl who was gang-raped in Sergeyev Posad and her family were threatened while she was hospitalized after the attack.<sup>197</sup> The accused told the girl's mother that if the girl did not retract her report, she would not survive. The accused and his friends also threw stones at the girl's windows and screamed at her house. The family withdrew the complaint a week after filing it. The girl has permanent gynecological injuries resulting from the rape, has had subsequent infections, and has been reportedly told by doctors that she will be unable to bear children.<sup>198</sup> In another case, after a twenty-three-year-old woman in Moscow reported her gang rape to the police, the accused rapists came to her house to offer her money.<sup>199</sup> The defendants said that the investigators had told them everything, and then said to her, "You agreed to go with us on a camping trip. We will make it known to the whole town and college and you will be ashamed." When her mother reported the incident, the investigators said that they had sent the defendants to the house in order to settle the case "peacefully." The defendants continued to visit the victim's home to offer money and threatened to rape her younger sister. As a result of delays in receiving her forensic exam, partially caused by the investigators, the victim's exam was incomplete, and the investigators closed her case. She made no effort to reopen it. According to Lola Karimova, who counseled this woman at Syostri in Moscow, the woman told her, "It is a shame for me. I cannot bear the pressure. I do not want all my friends to know about this."

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<sup>194</sup> Interview, Y.V., Sergeyev Posad, April 26, 1996.

<sup>195</sup> Ibid.

<sup>196</sup> Interview, Nina Vinogradova, Nizhni Tagil Center "Lana", Nizhni Tagil, May 8, 1996.

<sup>197</sup> Interview, family center staff, Sergeyev Posad, April 26, 1996.

<sup>198</sup> Ibid.

<sup>199</sup> Interview, Lola Karimova, Syostri, April 22, 1996.

We also heard allegations that bribes and suspected bribes to investigators led to cases being closed. Y.V. believed that the delays in her daughter's case resulted from the investigator being bribed by the defendant's family.<sup>200</sup> Z.T.'s case was closed twice; she suspects the prosecutors were bribed. Pomomava told Human Rights Watch that it was common for defendants or their relatives to threaten or bribe investigators.<sup>201</sup>

In an attempt to provide better protection to crime victims and witnesses, the State Duma adopted in May 1997 the State Protection of Victims and Other Individuals Cooperating with Court Proceedings.<sup>202</sup> It remains to be seen, however, whether this law will be applied solely to high-profile organized crime cases or also to women reporting violence and other crime victims.

## **Prosecution**

### ***Closing of Cases Prior to Trial***

*My mother believes in justice, I can't believe how naive she is. I used to believe in justice. When I first went to the police station, I thought they would believe me. I wouldn't advise a friend to go to the police because of my experience—the case was closed and nothing helped.*

*-Z.T., Moscow, May 12, 1996*

Despite the flaws in the investigative process and the difficulty in proving rape, all the municipalities with whose officials we spoke reported perfect or near-perfect conviction rates. Normally, high conviction rates suggest diligent investigations and prosecutions. Yet perfect rates, particularly where there is ample evidence of inadequate investigations, tell another story: that prosecutors are only taking foolproof cases to trial.<sup>203</sup> This practice suggests that many cases that are meritorious but difficult to prove are being dropped and that many victims with legitimate cases are thus denied the opportunity to have their assailants brought to justice.

Law enforcement officials in Murmansk and St. Petersburg confirmed that, at a minimum, half of the reports accepted by the police never make it through the investigative process. Nikolaeva admitted that 50 percent of the reports of sexual assault filed with the police were not pursued or investigated by police or prosecutors.<sup>204</sup> According to two prosecutors in Murmansk, as a rule they close more than 50 percent of cases of sexual violence.<sup>205</sup>

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<sup>200</sup> According to Y.V., the town is very small and several neighbors reported this to her. Interview, Y.V., Sergeyev Posad, April 26, 1996.

<sup>201</sup> Interview, Lyudmilla Pomomava, police officer, Pushkin, April 27, 1996.

<sup>202</sup> This law has been hailed as the "first in Russian legal practice to introduce norms that envisage security measures to protect individuals [requiring such protection], including unpublished information about them, providing them personal guards, guards for their residence and property, new documents, and assistance in moving to a new residence, . . ." *Segodnya (Today)* (Moscow), May 15, 1997.

<sup>203</sup> According to Nikolai Panshev, former chief investigator in the internal affairs department of the Moscow police, "Many crimes do not get reported in Russia because the police don't report them. Not reporting crime has historically been a way of keeping the official crime rates down and the crime-solving rate up. Usually when investigators do this, it's a way of avoiding being responsible for unsolvable case." Matt Taibbi, "Top Cop: Crime Stats Lower than True Rates," *Moscow Times*, April 16, 1996.

<sup>204</sup> Interview, Tatyana Nikolaeva, prosecutor, St. Petersburg, April 30, 1996.

<sup>205</sup> Interview, Valentina Abanicha, prosecutor, Murmansk, May 5, 1996.

Human Rights Watch obtained statistics on the outcome of sexual assault cases that were officially registered in three municipalities—Krasnoselsk region (a suburb of St. Petersburg), St. Petersburg, and Murmansk. In each of these regions, the conviction rates for sexual assault cases were perfect or near-perfect, except for the cases in which they could not locate the defendant. In the Krasnosels region, prosecutors told us that of seven rape reports in 1995, four resulted in conviction. In the other three cases, investigators were unable to locate the accused.<sup>206</sup> According to a prosecutor from St. Petersburg, out of 275 rape cases started there in 1995, one hundred ended with convictions.<sup>207</sup> The accused was not found in the other 175 cases. In Murmansk, forty-five rapes were officially registered in 1995; in thirty-eight cases the defendants were found guilty. Again, in the seven remaining cases, the defendants were never located.<sup>208</sup>

When asked to explain their conviction rates, police and prosecutors usually told us they had closed all the cases that were not rape. According to Yelena Kraskova, a police officer in Murmansk, all forty-five registered rapes were “clear” rapes. A police officer from Saratov who had investigated more than 200 rape cases, including many that were never officially registered, told us that even when reports of rape were accepted it was common for them to be closed for lack of evidence.<sup>209</sup> She also told us that all of the cases she brought to court resulted in convictions.

## STATE RESPONSE TO SEXUAL AND OTHER VIOLENCE WITHIN THE HOME

Victims of sexual and other violence within the home tend to confront hostility and skepticism similar to that experienced by sexual violence victims more generally. They experience difficulties when attempting to file complaints, during the investigatory process, and in securing the prosecution of their cases. Yet because of the particular contexts of family, intimacy, and the home, and the traditional notions that these contexts summon, victims of domestic violence also encounter problems unique to their situation. Perhaps the most glaring form of injustice that domestic violence victims face is the tendency by law enforcement officials to underestimate, or even reject, the seriousness or severity of the violence. With reference to domestic violence, for example, Igor Khamenov, of the Duma’s Committee on Women, Family and Youth, stated, “Many of the Duma deputies think it is not an issue but a private matter that the state shouldn’t touch.”<sup>210</sup> Similarly, Olga Samarina of the Ministry of Labor and Social Protection told Human Rights Watch that she considers domestic violence to be a problem dominated by social, rather than a criminal, factors. Perceptions such as these frame the state’s failure to address adequately the problem of domestic violence.

### Condoning Domestic Violence

*A woman’s reception at the station depends on the individual officer. If he has any supportive feelings, at least there’s hope, otherwise there is none.*

*-Marina Pisklakova*

*Executive Director, Moscow Crisis Center for Women*

*April 10, 1997.*

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<sup>206</sup> Interview, Victor Sukharinov, prosecutor, Krasnosels region, April 30, 1996.

<sup>207</sup> Interview, Tatyana Nikolaeva, St. Petersburg, April 30, 1996. As of 1994, the population of St. Petersburg was 4,883,000. “*Rossiya v Tsifrakh* (Russia in Statistics),” Goskomstat, 1995.

<sup>208</sup> Interview, Yelena Kraskova, police officer, Murmansk, May 3, 1996. Murmansk’s population in 1994 was 440,000. “*Rossiya v Tsifrakh* (Russia in Statistics),” Goskomstat, 1995.

<sup>209</sup> Interview, Lyudmilla Pomomava, police officer, Pushkin, April 27, 1996.

<sup>210</sup> Katy Daigle, “Any’s Story: Fearing to Fight Domestic Abuse,” *Moscow Times*, January 15, 1997.



In the cities we investigated, female victims of domestic violence, crisis center staff, and activists all emphasized that women face extreme difficulty in getting the police to respond to their requests for help. According to Marina Pisklakova, executive director of Moscow Crisis Center for Women, "Very rarely do the police pursue a case. It used to be that murder or severe injuries [from domestic abuse] would be prosecuted. But now even murder is not punished or the punishment is very brief."<sup>211</sup>

We heard several accounts from activists and battered women of police refusing to respond to domestic violence. According to Yelena Potapova, the hotline director of the Moscow Crisis Center, in the six months from October 1995 to March 1996, ten women who contacted the crisis center did go to the police, but the police rejected all ten of their reports.<sup>212</sup> A women's rights activist in Nizhni Tagil told us that, when she was an ambulance driver, the police rarely came when the victim called. When the ambulance staff themselves called the police, she never saw them arrest the batterer, record the attack, or accept a complaint from the victim.<sup>213</sup> In a case in Nizhni Tagil, when a woman reported her husband's battering to the police, they told her, "What is so bad about it? He broke some dishes. Go home and you will be fine."<sup>214</sup>

Even if the police do not refuse a report outright, they often make the process of filing reports very difficult. For example, the police may reject a report because it does not follow proper format or include the required factual information. A volunteer attorney with a women's crisis center in Murmansk told us of a case in which a woman went to the police to report violence but was refused because she was unable to draft the report in the required format.<sup>215</sup> She said that women should always prepare two copies of the complaint: one for the police and one for herself, or else she will never be able to follow up on the case.

Even substantial evidence does not guarantee a report's acceptance. A thirty-six-year-old woman, T.A., who had been beaten regularly by her husband over their five years of marriage, told Human Rights Watch:

Last year [1995] in April, when I told [my husband] I was going to divorce him, he broke both my thumbs. He held me down on the bed and tried to rape me. He was holding me down by the thumbs and they broke when I was trying to get away.<sup>216</sup>

Because T.A. is a dentist, she was unable to work for two months while her thumbs were in a cast. When she contacted the police, they told her that it was a family fight and, if she did not have witnesses, she should file for divorce. Subsequent to her divorce, when she reported her ex-husband's continuing threats, the investigator told her, "He did not murder you" and refused to accept her complaint. Vinogradova told Human Rights Watch about a woman who collected from her neighbors written statements about her husband's abuse of her. In addition, she obtained a medical report of her injuries from a private clinic. When she first brought these documents to the police, the police officer refused them because they were not legal documents. Through her persistence, the police eventually accepted her report.

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<sup>211</sup> Interview, Marina Pisklakova, Moscow Crisis Center for Women, Washington, D.C., April 10, 1997.

<sup>212</sup> Interview, Yelena Potapova, Moscow Crisis Center for Women, April 23, 1996.

<sup>213</sup> Interview, Olga Shestakova, Nizhni Tagil, May 8, 1996.

<sup>214</sup> Interview, Natalia Tashinova, counselor, Nizhni Tagil Center "Lana," Nizhni Tagil, May 7, 1996.

<sup>215</sup> Interview, Irina Paikova, attorney, Murmansk Crisis Center, Murmansk, May 5, 1996.

<sup>216</sup> Interview, T.A., St. Petersburg, April 29, 1996.

Even when police are sympathetic to the problem of domestic violence, they are reluctant to help. One woman called a crisis center in Moscow and said she had been repeatedly beaten by her husband, who over the years had broken her teeth and cut her eyebrow.<sup>217</sup> The hotline counselor suggested she speak with her local police officer and find out if he would be willing to accept her report. Although she found the police officer supportive, he did not start a criminal case until the husband also beat the woman's aunt.

At times, the police have offered to take the husband to jail and beat him, rather than charge him with a crime. Potapova told Human Rights Watch of a woman who called the police and asked them to come over because she and her two children had locked themselves into a room and her husband was trying to break the door down. He had beaten her several times in the past. When the police arrived, they offered to arrest the husband and beat him at the police station in such a way that he would never beat her again. The woman refused. She contacted the Moscow Crisis Center for Women because she wanted to prevent her husband from beating her without having him arrested. In the absence of a civil protection regime—which would allow a woman to procure restraining orders against those who are threatening her with violence<sup>218</sup>—and given the unavailability of alternative shelter, the only option that the Moscow Crisis Center could offer was a personal safety plan for her, which set out safe places for her to stay and people she could contact in case of further violence.

When police do take action against domestic violence, it is usually delayed and inadequate. Vinogradova told Human Rights Watch about a forty-four-year-old woman whose husband was placed on six months of probation—his only penalty— at least twice for beating her.<sup>219</sup> Notwithstanding this supervision, his beatings of her became increasingly severe. Nonetheless, the police responded to her persistent attempts to report her husband's violence with sympathy toward her husband. The police told her, "It is no accident he is beating you, because you must be so hard to live with."<sup>220</sup> Ultimately, the police pursued the case and he was sentenced to a year in prison. In another case, recounted by Vinogradova, a woman lived with a man who beat her. She owned the apartment, and he did not have a propiska, an official residential permit, to live there. The woman contacted her district police office seven times about the abuse, but it never accepted her complaint. When she called the city police office, an officer came to her apartment and spoke to the man about his abuse but refused to accept her report or arrest the man. Only after he beat her so severely that he broke her ribs and she was hospitalized did the police act. He was convicted and sentenced to a month and a half of probation.

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<sup>217</sup> Yelena Potapova, Moscow Crisis Center for Women, Moscow, April 23, 1996.

<sup>218</sup> Under a civil protection scheme, a person who is facing violence from a family member or intimate parties may, on her own initiative without police support, get a legally enforceable order from a court that prohibits her batterer from, *inter alia*, beating, threatening, or contacting her. Violations of such an order may result in criminal penalties.

<sup>219</sup> Interview, Nina Vinogradova, Nizhni Tagil Center "Lana," Nizhni Tagil, May 8, 1996.

<sup>220</sup> *Ibid.*

The police have arrested batterers, held them overnight, and released them without charge them in the morning; the men then have attacked their wives again. Those attacks often are quite vicious, as punishment for contacting the police. A woman in Murmansk, S.P., who had been beaten by her husband for over twenty years, and is now lame from the beatings, told us that she would go to the police every few months and report her husband's beatings and threats. The police repeatedly came to the house, detained him overnight, and released him in the morning. According to S.P., "The police never keep him for more than one night. Just for twelve hours." She continued, "When he comes back, I must apologize or else he will beat me again."<sup>221</sup> She said, "I haven't gone to the police in one year because there's no use in it. I have tried to remove all the knives, but when he gets drunk he still beats me." In another case, in Sergeyev Posad, after a wife was beaten three times by her husband, she went to the police, and they arrested him.<sup>222</sup> An hour after the arrest, the police released him, and he beat her even more severely. The police did not give her a reason for releasing him. The woman reported to the Sergeyev Posad Family Center that although the battering continues, she no longer seeks or expects help from the police.

In some instances, women who are unable to get police protection murder their batterers. Inna Veigardt, a psychologist at a women's prison outside of Nizhni Tagil, told us that women imprisoned for murdering their batterers constituted about 10 percent of her patients. According to Veigardt, these women had been unable to get any help from the police and believed it useless to seek such assistance.<sup>223</sup> Even more troubling was the fact that when these women killed their batterers, they were often unable to present evidence about the battering at their murder trials because testimony from witnesses was required in order to offer evidence of previous abuse.<sup>224</sup> A journalist in Murmansk also told Human Rights Watch of a woman who was battered for two years until she killed her husband.<sup>225</sup> She was unable to report to the police because her husband's mother worked for the police. According to the journalist, the man's first wife had tried several times to file reports with the police, but had been unable to do so.

Women who are married to police officers may have a particularly difficult time getting police intervention in domestic violence cases. Potapova of the Moscow Crisis Center told Human Rights Watch of one case in which the wife of a high-ranking police officer suffered violence for fifteen years. The wife contacted the Moscow crisis center, ANNA, after he broke two of her ribs.<sup>226</sup> He also threatened to get her evicted from Moscow through using his official position to revoke her official residence permit. She felt that she could not go to the police because he was the supervisor of the local station. He told her that if she went to the police, whatever she said would be used against her. Marina Pisklakova, executive director of the Moscow Crisis Center for Women, told us, "Many wives of police and military officers call my hotline. They are a special group, because it is almost impossible for them to get help."<sup>227</sup> Pisklakova is advising a police officer's wife with two sons. According to Pisklakova, "Her husband is a police officer in her district, so it is very hard for her to get help. When the police come to the house, they are her husband's friends. And he tells them that . . . they are just wasting their time."<sup>228</sup> Although the woman called the police several times and

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<sup>221</sup> Interview, S.P., Murmansk, May 6, 1996.

<sup>222</sup> Interview, Larisa Voytkova, Family Center, Sergeyev Posad, April 26, 1996.

<sup>223</sup> Inna Veigardt, psychologist, women's prison, Nizhni Tagil, May 8, 1996.

<sup>224</sup> There are rarely any witnesses to domestic assault, and even if there were witnesses, as mentioned above, people in Russia are very reluctant to testify in court.

<sup>225</sup> Interview, journalist, Murmansk, May 6, 1996.

<sup>226</sup> Interview, Yelena Potapova, Moscow Crisis Center for Women, April 23, 1996.

<sup>227</sup> Interview, Marina Pisklakova, Moscow Crisis Center for Women, April 10, 1997.

<sup>228</sup> Ibid.

tried to call the city police, she was unable to get protection. The police arrested the husband only once, after he had harassed the officers. But even then, they released him once they arrived at the police station.

Police argue that they are reluctant to accept complaints of domestic violence because many women withdraw such reports. Many women who have suffered beatings by their husbands have told us that the police refused to come to their house unless they promised to press charges.<sup>229</sup> According to a police officer in Murmansk, 70 percent of women filing domestic violence reports later withdraw them.<sup>230</sup> But this officer did state that the police would keep a record of this family as a family at risk, and that eventually the state could prosecute under Article 113, the criminal code article covering bodily harm brought on by the victim's conduct. Although women frequently do withdraw reports of domestic assault several times before being emotionally and financially prepared to pursue a complaint, that is not a legitimate reason to reject women's reports of domestic abuse.<sup>231</sup> Further, our interviews indicate that the police have decided that domestic abuse is not an important enough crime to command already scarce resources. According to Potapova, "Police tell us that they have many cases of murder and burglary, so they cannot bother with the women."<sup>232</sup>

Our interviews also indicated that Russian law enforcement views on marriage and marital roles strongly influence their reluctance to punish domestic abuse. For example, although the police are generally more likely to respond to sexual violence outside the home than to domestic assault, law enforcement officials with whom we spoke told us that marital rape, which is criminalized under Russian law, is rarely prosecuted. A prosecutor in St. Petersburg told Human Rights Watch that her office does not release men arrested for sexual violence on bail, except in cases of marital rape.<sup>233</sup> In addition, according to a prosecutor, Yelena Stepanova, in the Krasnoselsk region, a suburb of St. Petersburg, her office will start domestic violence cases only when husband and wife are divorced or separated.<sup>234</sup> Nikolaevna also told us that she would take subsequent marriage between the complainant and the accused into account when determining the penalty.<sup>235</sup>

This attitude toward marriage and family life also affects how law enforcement agents view the credibility of women who report domestic violence. Olga Samarina, an official in the Ministry of Labor and Social Protection who had expressed frustration with the nonprosecution of rape complaints, nonetheless subscribed to the notion that a "victim can provoke violence," in domestic situations.<sup>236</sup> Stepanova further told us that it was the responsibility of law enforcement officials to protect the rights of men because women have too much power. When asked what percentage of women reported violence to the police, Stepanova told us that only delicate intellectual women who were mentally

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<sup>229</sup> Interview, Yelena Potapova, Moscow Crisis Center for Women, April 23, 1996.

<sup>230</sup> Interview, Irina Semenistina, police officer, Murmansk, May 5, 1996.

<sup>231</sup> Some women also withdraw reports because of harassment by their husbands or partners. A woman in Murmansk, for example, told us about her daughter who was severely beaten and raped by her husband after she left him and moved in with her mother. Her daughter's medical exam indicated that she had been severely bruised and had suffered damage to her kidneys. After she filed a report, her husband told her he would kill her if she pursued a complaint. When she informed the investigator of the threat, he told her he would be unable to protect her, so she withdrew her complaint. Interview, Murmansk, May 1996.

<sup>232</sup> Interview, Yelena Potapova, Moscow Crisis Center for Women, April 23, 1996.

<sup>233</sup> Interview, Tatyana Nikolaeva, prosecutor, St. Petersburg, April 30, 1996.

<sup>234</sup> Interview, Yelena Stepanova, prosecutor, Krasnosels region, April 30, 1996.

<sup>235</sup> Interview, Tatyana Nikolaeva, prosecutor, St. Petersburg, April 30, 1996.

<sup>236</sup> Interview, Olga Samarina, Moscow, May 8, 1996.

disturbed would not report violence. According to Stepanova, Russian women were strong and would file a report, and then withdraw if they got a sufficient bribe.<sup>237</sup>

### **Lack of Civil Remedies**

As noted above, criminal sanctions are the only legal protection available to battered women. Despite requests from women's rights groups, neither the Russian federal government nor any municipalities we visited provides a civil protection regime for victims of domestic violence, and none is provided by the draft family violence code. In addition, as described above, most women are unprotected by criminal sanctions because police frequently reject reports of such abuse. The police's failure to act has particularly harsh consequences for Russian women because, without an adequate civil option, they have no other means of seeking protection. They are thus left at the mercy of their batterers.

Even if Russian law enforcement officials diligently applied criminal sanctions to domestic assault, a civil protection regime would still offer critical protection to domestic violence victims. Many women hesitate to file complaints against their husbands for reasons other than police inaction. The terrible conditions in Russian jails, for example, discourage women from filing complaints against their husbands and/or fathers of their children. Many women, who are dependent on their husbands' incomes in part because of continuing employment discrimination, also fear the loss of economic support due to incarceration. Any money for criminal fines, moreover, comes from the family budget.

A civil protection regime, either federal or regional, would allow a person experiencing violence at the hands of a family member or person with whom she has an intimate relationship to get a legally enforceable order from a court based upon medical records and oral testimony, without any police help and with a lower standard of evidence than criminal charges. Such an order could prohibit the batterer from, *inter alia*, beating, threatening or contacting her and her children. It could also require that an allowance be subtracted directly from the batterer's wages and given to his dependents. This order would be enforced by the police, and violations could be subject to criminal penalties. A woman would thus be able to secure protection for herself and her family without relying on the police or prosecutors for initial action, jeopardizing her economic support, or choosing to put a husband or partner in prison. The creation of such a regime would be an important step in preventing women from being beaten by intimate partners. The effectiveness of the regime, of course, would still rely on the police's diligence in enforcing the orders and the willingness of judicial officers to issue them.

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<sup>237</sup> Interview, Yelena Stepanova, prosecutor, Krasnosels region, April 30, 1996.

In 1997 Russian women began to pursue civil cases for damages against their batterers. This trend is mostly the result of women's rights groups training interested attorneys to represent battered women.<sup>238</sup> One case that went to court in April 1997 involved a divorced woman with three children who still lived in a three-room apartment with her ex-husband. Although he had consistently abused her in the past, the police refused to press charges against him. However, when he struck his fourteen-year-old son in the chest, she sued him for thirty million rubles in damages (U.S.\$5200). The court fined him four million rubles (U.S.\$693), which the defendant paid to the court, not the plaintiff. Although this is a welcome additional tool to fight domestic violence, going to court in these cases is not only difficult in terms of getting legal representation but also because settling issues in court in Russia is considered shameful.

### **Lack of Shelter**

*I have never seen a battered woman without a housing problem.*

*-Lyudmilla Yaklontova*

*Psychological Crisis Center for Women*

*St. Petersburg, April 29, 1996*

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<sup>238</sup> Interview, Yelena Potapova, Moscow Crisis Center for Women, Moscow, May 9, 1997.

The lack of battered women's shelters and permanent housing options in Russia significantly exacerbates the problem of domestic violence. The difficulty, and sometimes impossibility, of finding safe places to live means that many women are unable to flee situations of abuse. Women's rights activists in St. Petersburg, Nizhni Tagil, and Murmansk related many accounts of women forced by circumstance to live with their batterers and remain in situations of physical endangerment. Olga Smotrina of Nizhni Tagil, for example, told Human Rights Watch about a divorced woman who still lives in the same apartment with her batterer ex-husband because he refuses to divide the apartment; he continues to beat her on a regular basis. According to Smotrina, when she told the woman to go to the police, the woman replied, "Of course I went to the police, but they just laughed at me."<sup>239</sup> Frustrated in their efforts to secure safe shelter and thereby protect themselves and their families from their batterers, women throughout Russia remain vulnerable and at risk to continued violence within the home.

The most immediate housing problem for victims of domestic violence is the absence of safe places that they may flee to in life-threatening emergency situations. Many battered women and their families cannot seek shelter with friends and relatives, who, due to a severe housing shortage, often already live in overcrowded apartments. Most of the women have no other options. As of May 1997, there were only two shelters for battered women in Russia, one in St. Petersburg and the other in Langepas, a town of 200,000 persons in western Siberia 2,000 kilometers from Moscow.<sup>240</sup> There were no shelters in Moscow. Although shelters are not a permanent housing solution for domestic violence victims, they provide a crucial resource for women facing immediate situations of danger at home.

Because subsidized housing is so scarce and the cost of rent is very high relative to Russian salaries, it currently is almost impossible to establish a shelter without financial and logistical support from the government. Russian federal and local governments, however, have been slow to provide such support. According to Marina Aristova, for example, she and her colleagues began trying to establish the St. Petersburg shelter in 1992, and for two years their interaction with the mayor's office ranged from minor to major bureaucratic blockage. Originally the city offered a list of ten potential locations for the shelter, all of which were occupied at that time. The city did not offer their current space, which still requires substantial renovation, until September 1995. Aristova told us, "Now we have space, but no money."<sup>241</sup> The shelter is responsible for paying for rent, water, and heating. Marina Pisklakova, the executive director of the Moscow Crisis Center for Women, has been trying to open a shelter for battered women in Moscow for several years.<sup>242</sup> She found a space in 1995 in a former kindergarten that was offered rent-free by the local government. City officials, however, then demanded rent that the Center could not afford. She remains hopeful that the shelter will be established because funding for renovations has been offered by several European governments. Operating expenses, however, remain unfunded. As of June 1997, Pisklakova was still searching for a space.

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<sup>239</sup> Interview, Olga Smotrina, Nizhni Tagil, May 7, 1996.

<sup>240</sup> Genine Babakian, "At Long Last, a Shelter for Women," *Moscow Times*, March 8, 1996, p. 1.

<sup>241</sup> Interview, Marina Aristova, St. Petersburg, April 30, 1996.

<sup>242</sup> Genine Babakian, *Moscow Times*, October 7, 1995.

Victims of domestic violence encounter difficulties securing not only temporary shelters in emergency situations but also permanent housing solutions. The overwhelming majority of urban Russians reside in apartments provided free by the government during the Soviet era.<sup>243</sup> Typically overcrowded, approximately 20 percent of the apartments in St. Petersburg are communal or shared by two or more families.<sup>244</sup> During the Soviet era, people waited for years for government apartments; the current Russian budget crisis and the resultant sharp decline in public spending has led to an even longer wait for subsidized housing. Because of the tremendous shortage of housing and the restricted ability to relocate under the propiska, or official residence permit, system,<sup>245</sup> many battered women continue living with their batterers, even after they have divorced and remarried.

Housing remedies purportedly available under Russian law that appear useful to domestic violence victims prove illusory.<sup>246</sup> Under Article 98 of the housing code, a tenant in a state-owned apartment may be evicted when it is impossible to live in the same apartment with that individual and all warning measures and community actions have not improved that person's behavior. Although the government has applied this provision to evict tenants in some situations, its application has been limited, and rarely has it been invoked on behalf of battered women.

Although the language of this law clearly could apply to situations of family violence, it was drafted to provide an out for people living in communal apartments with abusive individuals not related to them and has not, to our knowledge, been interpreted to apply to domestic violence situations.

Another potential remedy under Russian law that could be helpful to domestic violence victims is division of the apartment. A government-provided apartment may be divided voluntarily or pursuant to a court order by its occupants, who would create two apartments of half the size of the original apartment. Yet this rarely occurs, because of cost and complexity.<sup>247</sup> Even when the procedure is undertaken voluntarily, it is an extremely complicated and time-

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<sup>243</sup> Article 40 of the constitution of the Russian Federation, passed in 1993, guarantees a right to housing. Article 40 provides:

- (1) Everyone shall have the right to a home. No one may be arbitrarily deprived of a home.
- (2) State bodies and organs of local self-government shall encourage home construction and create conditions for the realization of the right to a home.
- (3) Low-income or other citizens, as defined by law, who are need of housing shall be housed free of charge or for affordable pay from municipal or other housing stocks in accordance with norms proscribed by law.

<sup>244</sup> According to the 1989 census, 6.8 percent of all Russians lived in communal apartments, with 8.7 percent of all urban Russians living in communal apartments. Current estimates indicate that communal apartments house 8 to 10 percent of Muscovites and approximately 20 percent of St. Petersburg residents.

<sup>245</sup> Under the propiska system, all Russian residents must carry an internal passport that conveys a stamp stating where they legally live. In 1991 the USSR Constitutional Court ruled that these restrictions on movement violate international protections, and these restrictions were formally revoked throughout the Russian Federation on July 17, 1995. But, authorities in large urban areas have perpetuated a *de facto* shadow residence permit regime that is at least as restrictive and punitive as its predecessor. For an evaluation of the propiska system, see Human Rights Watch/Helsinki, "Moscow: Open Season, Closed City," *A Human Rights Watch Short Report*, vol 9, no. 10(d), September 1997, pp. 7-11.

<sup>246</sup> The special rapporteur on violence against women has emphasized the importance of providing access to alternative housing when crafting effective measures to prevent domestic violence. She has recommended that states adopt "provisions for the removal of the abuser from the shared home and allow the victim-survivor to retain her present housing, at least until formal and final separation is achieved." Report Submitted by the Special Rapporteur on Violence Against Women, Its Causes and Consequences, U.N. Document E/CN.4/1996/53, February 5, 1996, p. 39.

<sup>247</sup> Interview, Lyudmilla Yaklontova, attorney, St. Petersburg Psychological Crisis Center for Women, St. Petersburg, April 29, 1996.



consuming process to divide an apartment through government channels. Private services that facilitate apartment divisions, moreover, usually charge high fees.<sup>248</sup>

Victims of domestic violence living in municipal apartments granted to employees of certain state organizations, such as the police, are even worse off: these apartments may not be split. Yaklontova of the St. Petersburg Crisis Center for Women told us about a woman whose ex-husband, a police officer, continued to live in the apartment with her and their son. He beat her constantly, threatened her, and broke household items. She reported to the police several times but never filed an official report. According to Yaklontova, "She was worried that if her husband were sent to jail then she would lose the apartment. She was not persistent with the police because of the apartment. I think if she was, her reports would have been accepted."<sup>249</sup> Because of her fears for the safety of herself and her child, the woman is now living in a room in a boarding house.

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<sup>248</sup> Ibid.

<sup>249</sup> Interview, Lyudmilla Yaklontova, Psychological Crisis Center for Women, April 29, 1996.

Because Russian law does not provide for the eviction of violent persons from private apartments, the privatization of Russia's housing market further weakens women's ability to protect themselves.<sup>250</sup> If both partners lease or own an apartment, neither may be evicted absent an order from the housing court. If only one partner owns or officially leases an apartment, however, the official lessee may evict his or her partner from the apartment: as apartments are usually in the man's name, a woman is more likely to be forced to leave.<sup>251</sup> Even if a woman individually owns an apartment, it may be difficult for her to evict a batterer. Vinogradova told Human Rights Watch about a woman in Nizhni Tagil who owned her apartment. Her partner, who was regularly beating her, had no legal interest in the apartment and no propiska.<sup>252</sup> Even after he was convicted for breaking her ribs, he was permitted by the police to spend his month and a half sentence in the apartment. He continued to beat her, but the police neither arrested him nor removed him from the apartment.

## INTERNATIONAL RESPONSE

### U.S. Policy

Since her appointment, Secretary of State Madeleine Albright has emphasized that promoting human rights and, in particular, combatting violence and discrimination against women are pillars of U.S. foreign policy. In the case of Russia, this commitment has been translated into an initial and potentially significant—though currently small-scale—effort to use U.S. assistance to Russian law enforcement to improve the latter's biased and obstructive response to violence against women.

In September 1996, the U.S. Congress directed that \$1 million be made available by the U.S. Department of State to support efforts by Russian health and law enforcement officials to combat violence against women. Both the U.S. Agency for International Development (USAID) and the State Department have initiated projects.

The State Department Bureau of International Narcotics and Law Enforcement Matters (INL), responsible for providing technical support to Russian law enforcement, first turned its attention to violence against women with an April 1997 seminar on organized crime and the "exploitation" of women and children. Although it allowed Russian NGOs to present U.S. and Russian officials with their concerns, the seminar wholly avoided confronting government responsibility for mistreating and ignoring female victims of violence. Since then, however, INL has supported a pilot program to train Russian police and law enforcement in the importance of and ways to respond appropriately and effectively to violence against women. Model programs in Moscow and Nizhny Novgorod are working to bring local women's crisis centers into a program that targets federal and regional government officials, police, judges, and prosecutors for improving the treatment of female violence victims. Also in 1997, John Shattuck, deputy assistant secretary of state for democracy, human rights, and labor, expressed concern over the extent of and lack of response to violence against women in Russia in bilateral meetings with his Russian counterpart, Teymuraz Ramashvili. Ramashvili dismissed the problem in a meeting with U.S.-based NGOs and asserted that Russian women are well protected by law. However, in late 1997, Ramashvili offered to host a 1998 Moscow conference on violence against women.

USAID funds training for lawyers working with crisis centers in Moscow, St. Petersburg, Murmansk, and Saratov on ways to combat violence against women through the legal system. The training emphasizes both how to use extant laws to provide victims with redress and how to initiate and implement legal reform. USAID is also supporting

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<sup>250</sup> As of February 1996, 36 percent of apartments in Russia were privatized. In the places we visited the numbers were: Moscow, 41 percent; St. Petersburg, 29 percent; Murmansk province, 37 percent; and Sverdlosk province, 39 percent. Goskomstat Rossii, *Sotsial'naya sfera Rossi, Statisticheskii Sbornik (The Social Sphere in Russia: A Statistical Handbook)* (Moscow: 1996), pp. 149-50.

<sup>251</sup> Interview, Zinaida Batrakova, prosecutor, Moscow, April 22, 1996.

<sup>252</sup> Interview, Nina Vinogradova, Nizhni Tagil Center "Lana," Nizhni Tagil, May 8, 1996.

an analysis by the Moscow Center for Gender Studies to assess the impact of Russian laws on employment, reproductive rights, mass media, and migration on respect for women's rights. Attempting to respond to women's long-ignored health needs, USAID supports women's wellness centers at twelve Russian hospitals. The centers provide, among other things, clinical and counseling services to improve the diagnosis and care of female victims of violence.

In late 1997, Congress expressed its intent again to target a portion of INL's money for Russia toward improving the response to violence against women. This continued prompting by Congress has forced the State Department to begin incorporating concern for women's human rights into its assistance to Russian law enforcement. These resources, however, are still limited and have done little to change high-level indifference to the brutality Russian women endure without recourse.

### **European Policy**

In October 1997, the Organization for Security and Cooperation in Europe (OSCE) held its first-ever seminar on the promotion of women's participation in society. Member states that participated in this seminar identified a wide range of concerns—from widespread employment discrimination based on sex to trafficking of women and girls to violence against women in conflict situations—almost none of which have been addressed by OSCE activities. If the OSCE is to promote effectively the status and rights of women in the region, it must move beyond preparing a seminar report. OSCE member states began in late 1997 to debate ways to ensure the integration of women's human rights into OSCE operations and policy decisions. A key proposal would establish a high-level coordinator, based in Vienna, with a mandate to ensure that women's human rights are incorporated into all relevant OSCE operations.

## **CONCLUSION**

*Things are starting to change [for women who experience violence] in that there are hotlines, support groups and women who understand them and are willing to listen. But I haven't seen a change in the government. If anything had changed, they would set up shelters and clinics.*

*-Lola Karimova*

*Syostri, Moscow, April 22, 1996*

Violence against women in Russia continues to be an enormous problem that Russian law enforcement appears to be uninterested in addressing. Russian law enforcement places significant obstacles and disincentives in the path of women seeking to report, and the Russian government, while having made several welcome statements about fulfilling its obligation to provide women equal protection of its laws through combatting violence against women, has yet to make substantive changes in how law enforcement deals with such abuse. Most important, the government has failed to demonstrate that it will prosecute sexual violence diligently or that domestic violence is a criminal act that will be punished accordingly.

The current process of filing and pursuing claims of domestic and sexual violence includes so many obstacles and disincentives for women that it effectively denies them their right to equal protection. The government has issued declarations against such violence and has begun to communicate with nongovernmental organizations, especially the crisis centers, that work on this issue. But, to our knowledge, all its recent efforts in prevention appear to be entirely concentrated in the Ministry of Labor and Social Protection rather than the Ministry of the Interior, which is responsible for enforcing the criminal laws. In order for the Russian government to "ensure" women's human rights as it is required to do under the ICCPR and CEDAW, it must reform the investigatory process to provide women equal protection of the law and to protect the human rights of victims. In particular, the collection of medical evidence needs to be facilitated, and law enforcement has to be trained in effectively investigating violence against women. Although the government has already begun that process, it now must follow through and continue its cooperation with the crisis centers, which at this time are the only organizations helping women navigate the obstacle course they face to pursue a claim of violence successfully.

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#### *Human Rights Watch Women's Rights Project*

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Its Women's Rights Project was established in 1990 to monitor violence against women and gender discrimination throughout the world. Dorothy Q. Thomas is the director; Regan E. Ralph is the Washington director; Samya Burney, LaShawn R. Jefferson, and Chirumbidzo Mabuwa are research associates; and Evelyn Miah and Kerry McArthur are the associates. Kathleen Peratis is chair of the advisory committee and Nahid Toubia is the vice chair.

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