

Belarus:

Domestic Violence - More than a private scandal

1. Introduction

"A lot of people consider that violence is a normal part of life, and this attitude needs to be changed".
(1)

Violence against women in the family exists throughout Belarus. Women from all social levels and backgrounds fall victim to this form of gender-based violence. Violence against women is an abuse of their basic human rights, including their right to physical and mental integrity, their right to life and their right to equality with men. Throughout the world women are hit, beaten, raped, and in some cases even killed by their intimate partners, while many more endure psychological violence and economic control. The stories they tell differ little from one country to another.

In preparing this report, Amnesty International listened to the accounts given by Belarusian women and analysed the action being taken by the state to support the victims of violence and to prosecute the perpetrators. On the basis of this, the organization makes recommendations about how to combat impunity and better protect and support women.

Raisa:

"I had been married since 1984. He drank, but I should have understood the situation. I took the child and went to my mother's, because he didn't just drink dreadfully, he insulted me, beat me. I worked at a factory and once a neighbour called me and said: 'Raia, he's going to the factory with an axe!' He got into the factory and attacked me. It was pure chance that I survived. I still have the scar. It was hell. He had attempted to kill me at the factory not at home, so there was a court case and he got six years. In 1992, he was sent to prison and I stayed alone with the child. After the court case I divorced him. I blamed myself the whole time and when the six years were up I started to live with him again. I registered him in my flat. There was a feeling of fear that grew and grew."

Svetlana:

"A short time after we got married he started to go out at night. He didn't come home, he was having fun. I understood that he had not yet got it out of his system. A wife wasn't enough for him. We were 21 when we got married. The first time I took my things and went home to mother. He came after me a month later and begged forgiveness and said that it wouldn't be like that anymore. The second time I was pregnant. He was working and hiding the income from me. It was really difficult financially. Once he came home, there was nothing to eat in the house and he brought himself something and sat down to eat and only thought of himself. I left and went to my mother. He didn't want me to get pregnant, but again he came and said he was sorry. I decided to forgive him again. Our daughter was born and a short time later I was pregnant again. When I was pregnant he got drunk and bent my arms behind my back. He wanted to go out drinking, but I didn't let him go out and that is how it all started. He swore at me and called me names."

Yelena:

"The main problem was my former husband's drunkenness... He beat me up very badly when the child was three months old. He beat me so badly that he broke the bridge of my nose. And as he was doing it, he was holding... And you know the most terrible thing for a mother is when she sees that a child is involved in all this willy nilly, especially when the child is so young... He was holding the child in his arms and beating me... You know it is really terrifying when the child's clothes are covered in blood and he is laughing and saying: 'There, you'll get on your knees now and beg me not to kill you'."

These women had all benefitted from the assistance of the service providers who put Amnesty International in touch with them, but there are thousands more women who do not have access to support and who do not dare to report the violence they suffer to the authorities.

Vera:

Vera allegedly suffered beatings and sexual abuse at the hands of her husband for 23 years before the violence led to her death in July 2005. Vera married Oleg in 1982 and the couple lived in a three-roomed flat with Vera's mother and

sister. Vera's sister and mother could hear the sounds of fighting coming from the room where the couple lived, but Oleg put a lock on the inside of the door and locked Vera into the room with him. According to her sister, the police were called numerous times by neighbours who could hear the noise, and each time Vera's mother reported the violence. However, threatened by Oleg and fearful of his reprisals, Vera would withdraw the report. Vera's mother would sometimes try to defend her daughter, but she was also beaten by him. Vera reportedly confided in her sister that Oleg gained sexual enjoyment out of partially strangling her. Vera's sister knows of four occasions when she ended up in hospital because of the injuries inflicted by her husband. On each occasion, Oleg, a former policeman, checked her into the hospital under a false name. He boasted that he could bribe policemen and medical personnel so that his crimes would not be reported. On 25 July 2005, Vera was found dead in her room with a noose around her neck. On 26 May 2006, Oleg was charged with driving his wife to suicide, a crime which carries a maximum sentence of five years. Vera's family believe that she was murdered and are contesting the charge.

Amnesty International is concerned that despite measures that have been taken by the Ministry of the Interior and the Ministry of Labour and Social Welfare to combat domestic violence, Belarus is falling short of its international obligation to protect women's rights. The very low number of women reporting to the police means that impunity persists for domestic violence. There are insufficient measures and services to protect the victims of domestic violence such as temporary shelters and adequate and safe alternative housing. There is a lack of mandatory government training programmes for police, judges and medical staff, and staff of state crisis centres for women. Key agencies such as law enforcement officers and the courts fail to record cases of domestic violence in a systematic manner and to create reliable and comprehensive statistics disaggregated by sex, indicating the relationship between victim and perpetrator. As a result of a lack of public awareness and support many women are unable to escape the cycle of violence, and some return to violent situations even after the aggressor has been prosecuted and punished because they have nowhere else to go.

The information in this report has been gathered through interviews with victims, lawyers, social workers, psychologists, non-governmental organizations (NGOs), employees of the Ministry of Labour and Social Welfare, and policemen, and through correspondence with the Ministry of the Interior and others. It is by no means a comprehensive or definitive account, rather it is a contribution to efforts to combat the problem of domestic violence in Belarus.

Amnesty International representatives conducted one fact-finding visit to Belarus in February 2006 and visited state organizations and NGOs in Minsk, Homiel, Orsha, Barysau and Mazyr.⁽²⁾ Amnesty International is grateful to the dedicated men and women working in NGOs and within the state sector who have helped in compiling this report and hopes that the recommendations made to the Belarusian government will support them in their work. For reasons of personal safety, some of the names of women mentioned in this report have been changed.

This report is part of a series published during Amnesty International's Stop Violence against Women Campaign, which was launched in March 2004.⁽³⁾ The global campaign highlights the failure of countries around the world to prevent, investigate and punish violence against women. While acknowledging that the Belarusian government should take action to address all forms of violence within the family, this document focuses on violence against women perpetrated by their husbands or other intimate partners or former partners, more commonly known as domestic violence or intimate partner violence.

In focusing in this report on domestic violence in Belarus, Amnesty International does not suggest that violence against women is peculiar to Belarus, or that it is more widespread in Belarus than elsewhere. Amnesty International has documented in its reports on many countries – in the European context on France, Georgia, Russia, Spain, Sweden, Turkey, and the United Kingdom – that women are subjected to violence by their intimate partners regardless of where they live or their social status. In many cases, violence is seen as a normal part of the relationship between men and women, or it is justified on the grounds of jealousy, honour or tradition. Amnesty International believes that none of these excuses, or indeed any other grounds, can ever justify violence against women. Human rights law and standards emphasize that violence against women is an inexcusable abuse of human rights.

2. What is violence against women?

According to the Committee on the Elimination of Discrimination against Women (CEDAW),⁽⁴⁾ gender-based violence against women is "directed against a woman because she is a woman or that affects women disproportionately".⁽⁵⁾

The UN Declaration on the Elimination of Violence against Women⁽⁶⁾ defines violence against women as "any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life" (paragraph 1). Recent interpretations of this definition also include "the withholding of economic necessities from the victim".⁽⁷⁾

In its preamble, the Declaration describes violence against women as "a manifestation of historically unequal power relationships between men and women" and as one of the "crucial social mechanisms by which women are forced into a subordinate position compared with men".

The World Health Organization has defined partner violence as any behaviour within an intimate relationship that causes physical, psychological or sexual harm, including:

- acts of physical aggression, such as slapping, hitting, kicking and beating;
- psychological abuse such as intimidation, constant belittling and humiliation;
- forced intercourse and other forms of sexual coercion;
- various controlling behaviours such as isolating a person from their family and friends, monitoring their movements, and restricting their access to information or assistance.(8)

In Belarus, violence against women by family members spans the spectrum from depriving women of economic necessities through verbal and psychological violence, to beatings, sexual violence and killings.

Raisa had endured years of violence at the hands of her husband before he attempted to murder her with an axe. Svetlana's husband went on regular drinking sprees with his friends and spent all the family money on drink leaving her and two small children to go hungry. Svetlana described how he would bring food home for himself and eat it in front of the family without offering her any.

The crime sections of Belarusian newspapers regularly carry reports of violence in the family:

- In September 2005, in Navapolack, a man poured hot liquid over his wife causing fourth degree burns over 80 per cent of her body (*Khimik*, 13 September 2005).
- In Salihorsk, a man and woman were taken to hospital with burns. The woman claimed that her husband had poured acetone over her and set her alight. The man claimed that they had had an accident while decorating (*Sovetskaya Belarusiya*, 2 February 2006).
- In March 2006, as a result of an argument, a man threw his wife from the balcony of their ninth floor flat in Mahiliou. Her clothing caught on an aerial on the eighth floor, but by the time she was removed she was dead (*Sovetskaya Belarusiya*, 21 March 2006).

3. Belarus' obligations under international human rights law and standards

Violence against women is an abuse of women's basic human rights including their right to physical and mental integrity, their right to life and their right to equality with men. Belarus is a party to all major relevant international conventions which include:

- the International Covenant on Civil and Political Rights (ICCPR);
- the International Covenant on Economic, Social and Cultural Rights (ICESCR);
- the Convention on the Elimination of All Forms of Discrimination against Women (Women's Convention) and its Optional Protocol;
- the Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment (Convention against Torture);
- the UN Convention on the Rights of the Child (Children's Convention).

Under these conventions, Belarus is required to protect, respect and fulfil the human rights of people in its territory and subject to its jurisdiction without discrimination, including on the grounds of sex.(9) Article 8 of the Constitution of the Republic of Belarus recognizes the supremacy of international law.

The obligations of states under international law are not limited to ensuring that their agents do not commit violations; they are also required to take effective measures to prevent and punish violations by private individuals or groups. The UN Declaration on the Elimination of Violence against Women (DEVAW) holds that states should "exercise due diligence to prevent, investigate and, in accordance with national legislation, punish acts of violence against women, whether those acts are perpetrated by the state or by private persons." This is further expanded under CEDAW's General Recommendation 19 which states, "Under general international law and specific human rights covenants, states may also be responsible for private acts if they fail to act with due diligence to prevent violations of rights or to investigate and punish acts of violence, and for providing compensation."(10)

CEDAW, in its General Recommendation 19, also states that gender-based violence, including domestic violence against women, is a form of discrimination.(11) Thus as a state party to the Women's Convention, Belarus is obliged to "adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women".

Belarus is under an obligation to bring its laws and practices into compliance with the Women's Convention's provisions, including the whole range of civil, cultural, economic, political and social rights for women guaranteed by the Convention.

Governments that have ratified the Women's Convention are obliged to submit reports to CEDAW on implementation

of the Convention every four years. Belarus submitted combined fourth, fifth and sixth periodic reports in January 2004. In its concluding recommendations CEDAW called on Belarus to place high priority on implementing comprehensive measures to address violence against women in the family and in society in accordance with General Recommendation 19. In particular, CEDAW called on Belarus to ensure that:

- violence against women is prosecuted and punished with the required seriousness;
- the draft law on the prevention and suppression of domestic violence should be enacted;
- victims of violence have immediate means of redress and protection and access to legal aid;
- victims have access to shelters in sufficient numbers with adequate funding;
- public officials, especially police, judiciary and health care providers, are fully sensitized to all forms of violence against women;
- the state takes awareness-raising measures to prevent and combat violence against women through the media and public education programmes.(12)

To date, Belarus has not enacted these recommendations. This report will show that despite some excellent initiatives by dedicated individuals in the Ministry of the Interior, the Ministry of Labour and Social Welfare and other ministries, much still needs to be done if Belarus is to fulfil its obligations under international law.

4. Background

Political and economic conditions

Belarus has a population of 9,800,000 and gained its independence from the Union of Soviet Socialist Republics (USSR) in 1991. Belarus was one of the most affluent parts of the USSR, but since independence it has experienced economic decline. President Alyaksandr Lukashenka has been in power since 1994 and has preserved state control of the economy and civil society along with all the symbols of Soviet power. This has meant that Belarus has been sheltered from the worst effects of the painful transition to a market economy that other countries in the region have faced. However, disregard for political freedoms, including violations of the rights to freedom of expression and assembly, has led to international condemnation and isolation of the country. Large numbers of peaceful demonstrators were detained and beaten by riot police and anti-terrorist forces during demonstrations following the presidential elections on 19 March 2006, which reportedly failed to meet international standards. According to one local human rights group, a total of 686 people were detained between 19-25 March 2006. During 2005 and 2006 Amnesty International campaigned on behalf of 16 prisoners of conscience who have been imprisoned for the exercise of their rights to freedom of expression and assembly. Belarus is the only country in Europe that still executes prisoners – it maintains the death penalty for "premeditated, aggravated murder" and 12 other peacetime offences. Belarus is not a member of the Council of Europe and its special guest status was suspended in 1997 after reportedly unfair elections.

Status of women in Belarus

"The Committee is concerned about the feminization of poverty, particularly among vulnerable groups of women, such as those heading households, older women and rural women."

CEDAW's concluding observations on Belarus, 2004

The Constitution of Belarus guarantees all citizens equality before the law and guarantees women equal rights in education, employment and socio-political, cultural and other spheres of activity. However, despite the fact that women have equal access to education at all levels and that their educational achievements are greater than men's, there are still significant barriers to equality in Belarus.(13)

Once women enter the labour force they do not have equal opportunities with men and they are paid less. Women tend to be employed in low paid sectors, and are more likely than men to become unemployed.(14) According to the Shadow Report to the CEDAW, by Lyudmilla Petina of the Women's Independent Democratic Movement, and Svetlana Burova of the Belarusian Young Women's Christian Association, one of the reasons for this is that enterprises tend to employ men rather than women to avoid being bound by generous maternity packages.(15)

Women represent 31 per cent of deputies of the Council of the Republic (upper house of parliament) and 10 per cent of the deputies in the

House of Representatives (lower house). However, in reality, these bodies have little power and can be bypassed by the President, who often introduces new legislation by presidential decree.

Stereotypical views of the role of women in society persist. According to the state report to CEDAW, "any initiative to promote gender equality and equal rights comes up against traditional, stereotypical concepts of the role of women as being confined to the family, while professional activities are widely considered to be unfeminine or anti-family."(16)

Official documents and policies tend to reinforce the stereotypical view of women as mothers and wives rather than individuals in their own right. For example, in June 2006 Belarus hosted a Commonwealth of Independent States meeting of official women's organizations entitled "Woman. Mother. Peace". 2006 is the Year of the Mother in Belarus.

According to UN statistics, Belarus has a relatively high marriage rate⁽¹⁷⁾ and social pressure for women to marry is high. The Second World War had a particularly catastrophic effect on the demographic situation in Belarus, and for a long time the ratio of men to women was very low.⁽¹⁸⁾ One social worker working with victims of domestic violence gave this as one reason why women are willing to marry at any cost.

Trafficking

The Belarusian Young Women's Christian Association has been carrying out an anti-trafficking programme under the umbrella of the international anti-trafficking network, La Strada, for the past five years. Calls to their hotline demonstrate that Belarusian women and girls (and increasingly men) consider working – and therefore may become victims of trafficking – in over 82 countries. These countries include Germany (13 per cent), Russia (8.3 per cent), the UK (7.2 per cent) and the USA (6.6 per cent). Yemen, Burkina-Faso, Mali, Peru, South Africa and Oman are also possible destinations.

The International Organization for Migration (IOM) offered reintegration and assistance to 563 returned trafficked women in 2005 and the La Strada helpline has assisted 190 calls from trafficked women or their families over the past five years. According to the US State Department *Trafficking in Persons Report*, "the Government of Belarus does not fully comply with the minimum standards for the elimination of trafficking; but it is making significant efforts to do so."

There is no conclusive research on the link between trafficking and domestic violence, but women's NGOs in Belarus acknowledge that domestic violence is a significant push factor for trafficking, as women seek to escape their home situation and feel that they have nothing to lose.

5. Scale of domestic violence

Surveys by the World Health Organization show that, across the world, between 10 and 69 per cent of women reported being physically assaulted by an intimate partner at least once in their lives. In Australia, Canada, Israel, South Africa and the USA, 40-70 per cent of female murder victims were killed by an intimate partner.⁽¹⁹⁾

The real scale of the problem in Belarus is not known. Most cases go unreported because women either endure the violence or solve their problems without reporting the violence, such as by divorcing their husbands. However, there are indications that violence in the home is very widespread. In January 2004, Belarus presented its report on its implementation of the Convention on the Elimination of all Forms of Discrimination against Women to CEDAW. In the oral presentation, the state representative identified violence against women as one of the main challenges towards achieving gender equality and stated that 30 per cent of women in Belarus experienced violence in the home and 12 per cent were subjected to sexual harassment in the workplace.⁽²⁰⁾ A survey by the UN Development Fund for Women (UNIFEM), carried out from October 2001 to March 2002, concluded that 3.9 per cent of the women questioned in Belarus had been struck on the head or pushed frequently and that 20 per cent had been subjected to such treatment less frequently.⁽²¹⁾

There are no publicly available detailed government statistics concerning the problem of domestic violence and its impact on the lives of women and their families. The Ministry of the Interior website⁽²²⁾ gives statistics about crime figures and prosecutions, but these statistics do not include information about the victim or his or her possible relationship to the perpetrator. The Ministry of the Interior Department for the Prevention of Crime collates information from the duty officers who have responsibility for dealing with "domestic crimes"⁽²³⁾ (see section 7), but these statistics are not easily disaggregated by gender. In response to an inquiry, the Department reported to Amnesty International that in 2005, 166 people were murdered in the context of domestic relationships. In the same year, there were 396 cases of serious injury and 211 cases of less serious injury in the context of family relations. These figures cover all aspects of "domestic crime" and the victims include men, women and children. In total 2,736 women were victims of all types of crime in the home.⁽²⁴⁾

A policeman working in the Department for Crime Prevention in Barysau (population: 150,148) told Amnesty International representatives that in the month of January 2006 there had been 232 reports of "domestic crime" in the town. Another policeman told Amnesty International representatives that in one of five districts of the town of Mazyr (population: 110,700) two men had attempted to murder their wives in 2005.

Many women escape from violent relationships by divorcing their husbands. Belarus has a high divorce rate; in 2003 there were 31,700 divorces compared to 69,900 marriages. Svetlana Burova, a social scientist who works with the NGO Belarusian Young Women's Christian Association, carried out a survey in 1979 among recently divorced women and found that 64 per cent of divorces took place because of beatings and alcoholism.⁽²⁵⁾ Unfortunately, no more recent surveys have been carried out.

Public attitudes

*"Domestic violence is a secret problem – people just don't talk about it."
Member of an NGO in Orsha*

Article 5 of the Women's Convention calls on governments to "modify the social and cultural patterns of conduct of men and women" in order to eliminate prejudices and all practices based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women. The government of Belarus has not yet taken effective measures to combat such prejudices.

In addition, domestic violence continues to be viewed as a private matter and something that many people are reluctant to speak about. A member of an NGO in Orsha (population: 136,000) told Amnesty International representatives how they faced public stigma over the issue:

"When we went to talk to the city council about domestic violence the first time they told us not to use swear words."

Very often this stigma masks an acceptance of violence in the family. Yelena (see Introduction) said that social acceptance of violence means that a woman often cannot even count on the support of her close relatives:

"Here there are still old-fashioned people who say: 'Put up with it. We are all women, we also had to put up with it', or 'Whatever he is, he is still the child's father'. In such situations it is essential to work not only with the woman and her child, but with the relatives, who surround her, because sometimes there is such pressure from the relatives that no matter how much she wants to leave, a woman has nowhere to go."(26)

In 2001-2002, in the context of a regional public awareness campaign for Women's Right to a Life Free from Violence, UNIFEM carried out a survey of the level of public awareness of domestic violence and sexual harassment in the workplace and its reflection in the media in Azerbaijan, Belarus, Kazakhstan, Kyrgyzstan, Lithuania, Moldova, Russia, Tajikistan and Uzbekistan. The majority of the population in all countries considered violent relations between people to be acceptable. Violence as a normal part of a relationship between men and women was less accepted in Belarus than in Azerbaijan, Tajikistan and Uzbekistan.

During their visit to Belarus in February 2006, Amnesty International representatives were struck by the amount of public information available about the dangers of trafficking, including contact details for hotlines run by state bodies and NGOs. The International Organization for Migration was running a poster campaign in train and bus stations and at border crossing points, and the Ministry of the Interior website offered information about the La Strada hotline. There was no comparable information about domestic violence, despite the fact that, as a psychologist working on the La Strada project pointed out, a much higher percentage of Belarusian women are exposed to domestic violence than to trafficking.

Amnesty International believes that a public awareness campaign about domestic violence would help to overcome social stigma and acceptance of violence, and encourage women to speak out.

6. Legal framework

Domestic legislation

The Belarusian Criminal Code does not define or criminalize domestic violence and no distinction is made between violent crimes perpetrated by strangers and those by family members. The Ministry of the Interior classifies cases of domestic violence as crimes occurring in the context of domestic relationships (семейные бытовые отношения), and these crimes are most frequently prosecuted under the following provisions of the Criminal Code:

- Article 153: Deliberate infliction of minor bodily harm is punishable by community service, a fine, corrective labour of up to a year or imprisonment of up to three months.
- Article 154: Torture, the deliberate infliction of physical pain or mental suffering over a long period of time is punishable by three months' imprisonment or restriction of liberty of up to three years or detention for the same period. The same offence when committed knowingly against a pregnant woman or a minor carries a sentence of restriction of freedom from one to three years or imprisonment for one to five years.
- Article 186: Threat of murder, infliction of serious bodily harm or destruction of property is punishable by a fine, or corrective labour of up to one year or up to five months' imprisonment.
- Article 139: Murder carries a sentence of 6 to 15 years and in aggravated circumstances such as the murder of a minor, a pregnant woman or to cover up a crime it carries the death penalty.

Yelena called the police so many times during almost three years of a violent relationship that she cannot remember each call. Her husband was fined or detained for short periods. Finally, when he beat her up badly after their divorce, he was charged with torture (Article 154 of the Criminal Code) and also for refusing to pay child support, and was

sentenced to two years' imprisonment. Other articles of the Criminal Code may be used; Vera's husband has been charged with driving his wife to commit suicide (Article 145 of the Criminal Code) which carries a sentence of one to five years in prison.

The following article of the Administrative Code is also used in domestic violence cases:

- Article 156: Minor hooliganism, such as swearing in public, insult and other actions that disturb public order is punishable by a fine or corrective labour of one to two months with retention of 20 per cent of the earnings or administrative arrest of up to 15 days.

There is a provision for rape in the Criminal Code, which does not exclude the possibility of marital rape. However, there is no information available to indicate that there have been any prosecutions for rape in marriage or an intimate relationship.

The Criminal Code and Administrative Code do not offer adequate definitions of physical and psychological violence. As one policeman working in Barysau mentioned to Amnesty International representatives, it is particularly difficult to identify psychological violence. He had come across only one case where an administrative penalty was applied for insult. Article 154 of the Criminal Code which criminalizes torture only defines it as "deliberate infliction of lasting pain or torture in such a way as to cause particularly severe physical and mental suffering to the victim, or systematic beating" which does not offer enough guidance. Both police officers interviewed thought that it would make their job easier if there was a specific article on domestic violence which offered detailed definitions.

Draft law

"The Committee calls upon the State party to enact the draft law on the prevention and suppression of domestic violence and to ensure that violence against women is prosecuted and punished with the required seriousness and speed."

CEDAW Concluding Observations on Belarus, 2004

A draft law on the prevention and elimination of domestic violence was drawn up in 2002, discussed in parliament and approved by the Ministry of the Interior. However, it has not yet been passed by parliament, because there is not enough political support for the law. Amnesty International believes that, with some amendments, this law could improve protection for women at risk of violence in the home. However, it must also be supported by adequate funding and implemented by police, prosecutors and judges who are properly trained.

The draft law was based on UN model legislation.⁽²⁷⁾ It defines domestic violence as "any violent act of a physical, sexual, psychological or economic nature and (or) the threat of such acts within the sphere of day to day family relations, if these acts infringe on the constitutional rights and freedoms of members of the family and damage their physical or psychological health".

Amnesty International welcomes the fact that the law gives a broad definition of who is considered a family member for the purposes of this law. According to Article 1, the law applies to "the sphere of domestic-family relationships" and this is defined as "a sphere which includes the category of relationships between cohabiting couples, former spouse relations, and persons living, or who have lived together".

The law is a preventative law and does not provide for punitive measures against domestic violence. It outlines a number of measures for prevention and protection such as restrictive measures, including injunctions and official warnings, and protective measures such as protection orders. The draft law also calls for the victims of violence to be provided with access to a shelter on request.

Amnesty International is concerned that the draft law contains the concept of "victim behaviour" defined as "the behaviour of potential victims of domestic violence, expressed in violence, victimization, verbal abuse or other illegal acts, or in the creation of a psycho-traumatic situation, provoked by domestic violence". Articles 6 and 11 provide for a victim of domestic violence to be "given an official admonition on the inadmissibility of victim behaviour". The initiator of the draft law, Nadezhda Tsyrukun, a psychologist, believes that just as the aggressor exhibits identifiable behaviour patterns such as physical violence or psychological threats, the victim also may contribute to the situation through his/her behaviour and any attempt to eradicate domestic violence must be aimed at both the aggressor and the victim.⁽²⁸⁾

While it may be important to address the issue of behaviour patterns and attitudes in psychological counselling, Amnesty International believes that this concept must not be included in a law, and therefore should be removed from the draft law. The concept could easily be used to support the assumption that women are to blame for provoking violence and thus undermine the absolute obligation of states to protect women from violence. These provisions, if enacted, would give the police and other state agencies the legal mandate to direct their attention to advising victims

on how to "improve" their behaviour, rather than offering them effective protection from harm, or arresting the perpetrators of violence.

7. The criminal justice system

The Ministry of Internal Affairs – Domestic Crime Programme

*"Women who are subjected to violence should be provided with access to the mechanisms of justice".
EVAW, Article 4 (d)*

The Ministry of Internal Affairs has taken steps to improve access to justice for victims of domestic violence. In 1996, it set up the Domestic Crime Programme (Система «Быт») within the Crime Prevention Department. This programme addresses all crimes that occur in the home. It is not specifically aimed at combating domestic violence, although the majority of perpetrators are men and the majority of victims are women.

The programme has made a difference to the way women are treated by the police when they report domestic violence. Women who had suffered domestic violence commented to Amnesty International representatives that police attitudes have improved. The Domestic Crime Programme aims to cut down the number of serious crimes that result from family conflicts by working within the existing legislation and prosecuting lesser crimes that are often a precursor to murder or serious battery. According to the *Recommendations for the organization of work for the prevention of crimes in the context of family relationships* provided by the Crime Prevention Department in the Ministry of Internal Affairs, each police station carries out work to prevent domestic crimes, identifies and keeps records on perpetrators and, together with other organizations, develops strategies to prevent them from re-offending. Records of domestic crimes are kept separately from other records making it possible to provide figures for murders and other crimes committed in the context of family conflict. However, these figures cannot be easily disaggregated by gender and despite requests to the Ministry of the Interior, Amnesty International has not yet received information on the number of women murdered by their husbands in Belarus in 2005.

There is a dedicated duty police officer (участковый) in each police station who is required to devote a percentage of his time to this work – a policeman carrying out this work in Barysau told Amnesty International representatives that he devotes about 30 per cent of his time to work on domestic crime. Training is offered to those police who work within the Domestic Crime Programme, but it is offered in the form of voluntary continuing education courses. There is no training on domestic violence as part of the regular police training programme.

As well as prosecuting crimes, these police officers are often involved in the early stages of conflict in a relationship. One employee of the Ministry of Internal Affairs informed Amnesty International during a telephone conversation: "Here it is different. It is not like in your country where the police only get involved when there has been an act of violence. We have various articles such as hooliganism which mean that the police are involved when there are relationship problems." One woman told Amnesty International that after she had reported her husband to the police for beating her, a police officer regularly phoned her to check that she was alright. There are no female police officers doing this work. The authorities try to justify this on the grounds that the work is too risky for female employees. Amnesty International believes that an increase in the number of female police officers could encourage more women to report incidents of domestic violence and thus cut down on impunity.

Each police station also keeps a register of individuals who have allegedly committed acts of violence in the home known as "family scandalists" (семейные скандалисты). In order to be put on the register an individual must have been reported at least twice in the past year for acts of violence in the home. In February 2006, Amnesty International representatives were told that there were 20,000 men on the list of "family scandalists".(29) A criminal prosecution cannot be started until an individual has been reported three times for crimes in the home, and this list enables the police to monitor individuals who have been reported and may not have been convicted or who have been convicted under the Administrative Code for lesser offences.

The guidelines for the work of policemen within this department call on them to work with other organizations to prevent domestic crimes. The two police officers that Amnesty International representatives met in February 2006 were co-operating closely and effectively with a local women's NGO and a crisis centre run by the Territorial Centre of the Ministry of Labour and Social Welfare respectively.

A policeman working in Barysau explained the procedure that is followed when he receives a report of domestic crime. He interviews the parties concerned to clarify the following questions:

- Whether there was systematic abuse during the year and whether the complainant already reported to the police, doctors or other officials when it occurred. If there were allegations that the injuries were self-inflicted the police officer needs to clarify this.
- What is the relationship between the accused and the complainant?
- What is the reason for the conflict?
- Were any injuries caused during this or past conflicts, what, how and when did the complainant think that his/her life was at risk?

Following the interview, the policeman must add previous reports to the file and if necessary order forensic tests. If a woman refuses to lodge a report with the police, it is possible for the prosecutor to open a case without a report from her if it can be shown that she is dependent on the perpetrator, or unable to defend her own interests. (30) Three such cases were started in Barysau during 2005. If the court decides to proceed with a criminal charge or an administrative charge depending on the seriousness of the injury then further documentation needs to be added.

All witnesses are questioned to confirm physical injuries. A character reference from the place of work for the accused is required plus any additional information from the victim's medical file and information already on the register of "family scandalists". The police officer commented that it is often difficult to prepare an adequate case because most conflicts occur without witnesses or the witnesses are small children. If there are witnesses they are often reluctant to get involved. He told Amnesty International representatives that it may be necessary to draw their attention to crimes that have been committed locally because of such conflicts in order to stress the importance of their role as witnesses in preventing such crimes in the future. Another problem that police officers encounter is that conflicts often occur over a long period and the complainant may not always remember the details.

The Ministry of the Interior says that the number of convictions for crimes in the home has increased in recent years due to the work of the Domestic Crime Programme. In 2000, there were 419 convictions for minor bodily injury, torture, and threat of murder. In 2005, this figure rose more than sevenfold to 2,974.

Policemen who spoke to Amnesty International representatives complained of lack of resources for their work. One policeman said that he does not have access to a police car and when called he must either walk or take public transport. Only in extreme cases, such as attempted murder, does he have access to a police car.

Most victims and social workers who spoke to Amnesty International and who had contact with police officers expressed satisfaction with the work of the police. However, the system clearly failed to protect Vera from her abusive husband despite the fact that neighbours called the police on several occasions, and she was treated in hospital at least four times for her injuries, before her death in July 2005. Vera's sister informed Amnesty International that her sister's husband was not on the list of "family scandalists", and that he had avoided this and any police reports by bribing the police. After Vera's death, the district prosecutor initially refused to start a criminal case. The case was only brought to court after the family had repeatedly requested that a criminal case be initiated against Vera's husband and after the city prosecutor had become involved.

Forensic evidence

There are forensic medical departments in city and district hospitals where women can have a forensic examination free of charge if it is ordered by the police. A woman can also have an examination without a police request for about US\$3.

There can sometimes be delays which can be very distressing for women. In one rape case a woman was told to wait two days and ordered not to wash. Another woman told Amnesty International that when she arrived for her test she was told that the department was closed and that she should come back the following day, when it was again closed. She was not examined until the third day. Women who live in villages will be required to go to a city hospital and will in any case need to come to town to report to the police if there is no police station in their village. Some NGO staff complained that the forensic doctors are not all adequately trained.

Courts

"The court case took a year out of my life. It was so hard psychologically... The fact that you have live through it all again, the fact that they ask you masses of questions, the fact that they ask them again and again in different ways, and it seems that you have already answered the question, but they rephrase it and ask it again. It was very hard."

Yelena

Article 110 of the Constitution states that judges are independent. However, judges in Belarus are appointed and dismissed by President Lukashenko and therefore do not have the security of tenure that would enable them to be independent. Lawyers are subordinated to the Ministry of Justice, and are obliged to be members of the state-controlled Collegium of Advocates. The UN Special Rapporteur on the Independence of Judges and Lawyers has stated that "the administration of justice, together with all its institutions, namely the judiciary, the prosecutorial service and the legal profession, are undermined and not perceived as separate and independent. The rule of law is therefore thwarted."(31)

Within this flawed legal system, victims of domestic violence fare reasonably well, and once a woman has overcome all psychological and social barriers, and reported to the police, the perpetrator will usually get convicted. There are no specialized family courts so domestic violence cases are heard in general courts that hear all criminal cases. In criminal cases the woman is represented by the prosecutor, although the victim is entitled to have a representative

who can be a lawyer, but she will not receive legal aid to cover the costs.(32) One reason why perpetrators of domestic violence are usually convicted once accused may be the very low rate of acquittals in Belarusian courts. One former judge informed Amnesty International that if an acquittal occurs, an inquiry is held and something is said to have gone wrong.

Why women do not report

In Belarus, as in other countries, women who have suffered domestic violence rarely take the first step of approaching the police, yet criminal proceedings require a report by the victim. Tolerance of violence, fear of reprisals from abusive partners, fear of prosecution for other offences, self-blame, fear of shaming the family, low self-esteem and financial insecurity are some of the reasons that were given by NGOs and social workers who worked with victims of domestic violence in Belarus. Women may also be discouraged from reporting cases of domestic violence to the police because in many cases the perpetrator is fined and the money must be found from the family budget.

One woman interviewed by Amnesty International said:

"I was afraid to call the police because we were renting a flat illegally, they could have fined the owner and chased us out. I thought I would just go to a friend and cry. I wanted to call the police because I had decided that it was impossible to live with this man."

Vera, who finally died as a result of the violence she suffered at the hands of her husband, never went to the police. According to her sister, she was prevented from talking about the abuse she suffered out of shame for her husband and fear for her family, because he had threatened to kill them.

In Belarus it can be extremely difficult to access any kind of support. There are no widely advertised national support services. In some towns there are active NGOs or state centres that advertise, but some women simply have nowhere to go.

Nadezhda, a journalist with two teenage children, had tolerated violence for many years, and did not call the police because the children begged her not to. Her husband resented the fact that she earned more than he did, and was extremely jealous. When their relationship deteriorated further and he began to beat her daughter as well, she divorced him, but they were forced to continue living together, and the beatings continued. She finally started to call the police, and when she spoke to Amnesty International in February 2006, he had already been fined twice, but the situation had not improved. She was finally driven to desperation, and tried to find somebody who could help. She searched "directory inquiries", but could not find anything. Finally, as a journalist she did the only thing she could think of, and in February 2006, she called a press conference on domestic violence hoping that NGOs and other interested organizations would come. In this way she met women from the NGO Radislava. In Belarus, where very few support services are available and there is little information about those that are available, it is perhaps unsurprising that women do not see the benefit in reporting the violence that they suffer.

Police officers complain that women frequently withdraw reports of violence. Irina Kuchvalskaya, a member of the Belarusian Association of Women Lawyers, has suggested that women's reluctance to report domestic violence and their tendency to withdraw complaints is due to their fear of reprisals by the perpetrators of violence. She proposes that one solution would be to increase the number of cases that can be started by the prosecutor without a complaint from the victim. In Belarus, a criminal case is usually only started when the victim of domestic violence makes an official complaint, and thus the woman is exposed to the risk of reprisals and physical and psychological pressure from the perpetrator.

"The removal of any possibility for the victim to influence the outcome of a court case removes the motive for continuing the violence and for pressurizing the victim into withdrawing the accusation."(33)

The Council of Europe recommends that states should make provisions to ensure that criminal proceedings can be initiated by the public prosecutor so that "the primary responsibility for initiating prosecutions lies with the prosecution authorities and does not rest with the women subjected to violence".(34)

The Belarusian Criminal Procedural Code does have a provision for the prosecutor to open a criminal case (see above) and this could be used more frequently. By taking on the responsibility for initiating prosecutions in domestic violence cases, rather than leaving it in the hands of the victims, the Belarusian state would be complying with its obligations to protect women's rights to mental and physical integrity.

Finally, women will trust the legal system if they have reason to believe that a prosecution will result in a life free of violence for themselves and their children. Only once there is a co-ordinated cross-ministerial system of support and protection in place will women turn to the criminal justice system with confidence.

8. Protection mechanisms

The Beijing Platform for Action adopted by the Fourth UN World Conference on Women in 1995 states in paragraph 125 (d) that governments should "...take measures to ensure the protection of women subjected to violence, access to just and effective remedies, including compensation and indemnification and healing of the victims..."

It is important that the legal framework does not permit perpetrators of violence in the home to act with impunity. However, women must also be protected and offered access to shelters and housing as well as other support services, such as psychological counselling to help them recover from the trauma of years of violence and build their confidence and self-esteem.

Social services offered by the state

"I thought that nobody could help me as long as I did not help myself, but here they helped me, they gave me the opportunity to see my situation from outside. It is very difficult. Each time I thought I won't go today, but I can honestly say that now these women [at the crisis centre] are my closest friends and I come here with joy and they help me and support me and we discuss everything, but I take decisions myself. Nobody forces me to do anything here."

Woman speaking to Amnesty International representatives in Mazyr in February 2006

The Ministry of Labour and Social Welfare runs a system of Territorial Centres for Social Assistance to the Population (Territorial Centres). The first centres were set up in 1998 and there are currently 156 in different parts of the country. The Territorial Centres offer a wide range of social services, including assessing and dispensing financial aid to low income families and individuals, providing legal and psychological counselling, care of the elderly and child welfare. When Amnesty International representatives visited the Territorial Centre in Mazyr, the staff were conducting a survey of low income families throughout the district and grappling with the problem of how to help a family whose only source of income, their two cows, had died.

A ministerial resolution on the setting up of crisis centres for women within the Territorial Centres was passed in 2000. The resolution proposed that the crisis centres offer social, medical, psychological and legal advice and the possibility of setting up temporary shelters where women could stay for up to two months. There was no statutory requirement to set up such centres and therefore the existence of shelters depends totally on the interest and motivation of individual staff and on support from local authorities.

In Mazyr, all the elements have come together to make it possible for a women's crisis centre to be set up. Galina Dubina, the Director of the Territorial Centre, is highly energetic and motivated. She is supported by the Chairwoman of the local council of deputies, and in 2000 she set up the women's crisis centre. The Territorial Centre employs 62 people, five of whom work in the women's crisis centre – a director, an educational psychologist, a psychologist and a social worker. The annual budget for all the work of the Territorial Centre in Mazyr, including the crisis centre, is US\$46,000. Territorial Centres are encouraged to seek funding from local sponsors.

The women's crisis centre runs a telephone hotline and offers counselling and legal support to victims of trafficking and domestic violence. The staff have good relations with the police and will accompany women to their local police station to report cases of domestic violence. They also produce and distribute informational material, which includes information about domestic violence, and conduct awareness raising activities in schools and places of employment. The contact details of the crisis centre are widely advertised and women who call are offered a first consultation and then psychological counselling and legal advice.

Unfortunately, the crisis centre in Mazyr is one of only three such centres in the country that offer specialized support to women – the other two are in Smorgon and Pinsk. Amnesty International was informed shortly before the completion of this report that a decision was made by the Ministry of Labour and Social Welfare in July 2006 to set up women's crisis centres in all Territorial Centres, but at the time of writing the decision had not yet been published. Amnesty International welcomes this decision and hopes that it will be implemented without delay.

NGOs working on domestic violence

A number of NGOs are making a valuable contribution to providing support for women, but the difficult environment created by state controls on their activities limit their effectiveness. By contrast the state has welcomed NGO contribution to the fight against trafficking and has been willing to allow external funding for activities relating to protection and prevention. Some NGO representatives commented that trafficking suited the isolationist policies of President Lukashenka, because it allowed the government to restrict travel for students and young women under the pretext of protecting them from traffickers.

Obstacles faced by NGOs

"The Committee also recommends that the State party enable the establishment and operation of women's NGOs,

and encourage and facilitate the active participation of civil society in the full implementation of the Convention and the promotion of women's human rights."

CEDAW Concluding Observations on Belarus, 2004

The Constitution of Belarus guarantees every citizen the rights to freedom of association and assembly. Despite this, NGOs face a complicated, expensive and difficult registration process, and once registered they face increasingly stringent controls and checks on their activities. In order to register NGOs must present as many as 17 different documents and they are often refused for minor reasons.(35)

If an organization succeeds in registering it can be closed down if it receives two official "warnings" in any one-year period. The Women's Democratic Movement received a warning in July 2006 for a letter that had been written to the Prime Minister in March complaining that the elections held in March 2006 were unconstitutional and asking for all political prisoners to be released. If the organization receives another warning within a year it risks being closed down.

The number of regulations governing the activities of NGOs makes it difficult to avoid receiving "warnings". Article 22 of the Law on Public Associations states that public associations can only represent and defend the rights and legal interests of their members and not third parties. A guideline was introduced in June 2003, which enables a court to close down a public organization immediately if it has breached legislation with regards to public meetings. In March 2005, new rules regarding registration were introduced, allowing NGOs to register their offices only in non-residential premises. As a result of these restrictions and controls, 38 organizations were closed in 2003, 51 in 2004 and another 200 liquidated themselves in those years.

Increasingly the state seeks to control access to funding. A presidential decree passed in August 2005 prohibited international financial support for any activities that "aimed to change the constitutional order in Belarus, overthrow state power, interfere in internal affairs of the Republic of Belarus, or encourage the carrying out of such activities". (36) In any case, any project requiring foreign funding is subjected to a complex approvals process. This requirement applies not only to NGOs, but also to inter-governmental organizations. Every project that the Organization for Security and Co-operation in Europe (OSCE) office in Minsk wishes to fund must be approved by one of two governmental working groups under the auspices of the Ministry of Justice and the House of Representatives. A recent proposal for the NGO, Pravovaya Initsiativa, to run a training programme for employees of the Territorial Centres of the Ministry of Labour and Social Welfare was refused by one of the working groups on the grounds that the government could provide this training.

None of the NGOs that Amnesty International representatives met in February 2006 were currently receiving any funding for domestic violence work. Most NGOs found that their attempts to obtain money from international funders had been blocked by the authorities, and some found that funders were more reluctant to fund domestic violence projects. Some were receiving material assistance from the state, such as the use of office space, but all those offering services were doing so as volunteers.

Amnesty International has already expressed its concerns that such strict controls are stifling civil society.(37) The state is also wasting valuable resources that could be used to improve the lives of women at risk of violence in the home. It should support the work of women's NGOs and use their insight and experience to plan and implement joint projects.

In February 2006 Amnesty International representatives met volunteers working for the several organizations in Minsk, Orsha and Barysau. The following is not an exhaustive list of all organizations offering support to women; according to one source, there are as many as 40 locally registered women's organizations.

Radislava

This NGO was founded in 2000 and was originally created as part of a TACIS project.(38) Radislava runs the only shelter for victims of trafficking in Belarus. The shelter, which was established in Minsk in 2004, can accommodate four adults and three children and is funded by IOM. The shelter was originally established as part of a TACIS project to assist victims of domestic violence, but the centre was later reoriented to provide shelter for trafficked women and girls. The women who use the shelter are mainly referred by the IOM and UN Development Programme (UNDP). Radislava also runs a crisis line and offers group and individual therapy by professional psychologists for victims of trafficking and domestic violence. There are nine volunteers working for Radislava in their spare time and 50 to 80 other volunteers who help out at various times, including students gaining work experience. Radislava has an agreement with the Moscow State Sociological University based in Minsk whose law students offer legal advice. The organization will soon be moving to share the premises of the Territorial Centre of the Ministry of Labour and Social Welfare in Minsk.

Provintsiya

Provintsiya in Barysau, a small town near Minsk, runs a telephone hotline and offers counselling and legal aid to victims of domestic violence and trafficking. In its promotional materials the organization declares: "We helped ourselves and we can help you". The organization works closely with the officer in the Barysau regional police station who is responsible for the domestic relations programme. If they are advising a woman who is a victim of violence they will alert the police with her consent and encourage the woman to report the violence to the police. They told Amnesty International representatives that it is very important for the woman to take this step by herself so that she can feel she has control over her own life. For this reason they do not take her to the police themselves. The organization receives no funding and uses space in the office of a local newspaper. All the psychiatrists and lawyers involved are volunteers.

Doveriye

Amnesty International representatives met volunteers of Doveriya (Trust) who have formed an initiative group in Orsha to support women and children at risk of trafficking and domestic violence. The group offers legal and psychological counselling and runs awareness raising programmes. Its goals are to prevent domestic violence and trafficking, to promote a healthy lifestyle by raising awareness about the dangers of HIV, drugs and alcohol, and to promote successful parenting. The organization works out of two rooms in a local state children's clinic and many of the volunteers are doctors and psychologists who work in the clinic. According to a psychologist working with the centre, half the children she sees who have behavioural problems are victims of violence or witness violence in the home. The organization works with the Territorial Centre of the Ministry of Labour and Social Welfare, which refers families to them for counselling. In February 2006, the organization was working with 42 families.

Women's Independent Democratic Movement

The organization was first registered in 1993 as the Women's Christian Democratic Movement but reregistered and changed its name in 1999. Among its goals the organization lists providing legal and psychological support to women in crisis situations. The organization first began working on the issue of domestic violence in 1996 and in 1998 set up a women's consultation centre for victims of violence. The centre functioned for over five years and saw over 3,000 women and girls. The organization has plans to set up a resource centre to offer counselling to women in crisis situations.

Belarusian Young Women's Christian Association

The BYWCA was registered in 1996 and has 100 activists and eight regional offices. The BYWCA carried out a project in 1997 to analyse the scale of the problem of domestic violence in Belarus. They carried out a social research project in 2000 and in 2002 a public awareness campaign on sexual harassment supported by UNIFEM. The organization collaborated on the drawing up of the state programme on "Complex measures to combat trafficking and prostitution for 2002-2007" and also contributed to the Shadow Report to CEDAW in 2004. Since 2002, the organization has been implementing an anti-trafficking programme as part of the international La Strada network, and runs a free national hotline for potential migrants and victims of trafficking. Since July 2004, the organization has been operating a mini-shelter for trafficked women. It offers standard reintegration assistance – short-term accommodation; food; psychological, medical and legal assistance; and financial grants to cover travel expenses within the country. The shelter is staffed by two managers, a social worker and external experts (psychologists, lawyers, etc) who are hired according to need. The shelter can accommodate two women for an average stay of up to two weeks. In the period 2004-2006, 38 trafficked women were offered accommodation.

Pravovaya Initsiyativa

Pravovaya Initsiyativa (Legal Initiative) was first registered in 1996 and was formed by a group of lawyers who wanted to contribute to the creation of legislation and to analyse international legal practice. The organization has regional offices and more than 100 members. They have conducted awareness raising programmes for women on domestic violence, including one for female military personnel. The organization is currently conducting a programme to train staff of the Territorial Centres of the Ministry of Labour and Social Welfare, but without funding.

Shelters

"Women victims of violence should have immediate means of redress and protection, including protection orders and access to legal aid, as well as accessible shelters in sufficient numbers and with adequate funding."

CEDAW Concluding Observations on Belarus, 2004

In practice, victims of domestic violence do not have access to any shelters in Belarus. At the time of writing there was only one shelter in Minsk run by the NGO Radislava. However, the shelter is almost exclusively used by victims of trafficking. The Presidential Programme "Children of Belarus" for 2006-2010, which was approved in May 2006, is a broad programme of support for children and families. (39) One of its numerous goals is to develop the system of social support to families and children. As part of this, it proposes setting up shelters for women and children in crisis

situations.

Long-term housing

While many women leave a violent relationship temporarily and, for example, stay with relatives or friends, many do not leave permanently. Often the lack of viable alternatives prevents them from doing so. As women often do not have a sufficient income of their own to rent or buy accommodation, they have nowhere to go unless friends or their family are prepared to offer them accommodation on a permanent basis.

The UN Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination, stated in his February 2005 report, *Women and adequate housing*, that "women living in situations of domestic violence inherently live in inadequate housing, due to the violence they face within the home. Many women are prevented from leaving violent situations, because alternative housing and financial support are unavailable." He urged governments "to ensure that women can access temporary, appropriate shelters and retain access to adequate housing on a longer term basis so that they do not have to live in situations of violence in order to access adequate housing." In addition he called on governments to "introduce anti-violence provisions in housing legislation and policies and ensure that domestic violence law includes provisions to protect women's right to adequate housing."

Raisa told Amnesty International how she finally left her husband:

"I had a constant feeling of fear which grew and grew and I finally took the child and went to my mother's place. I left the flat which is a big step in these times. It wasn't easy at my mother's place. She also has a one-room flat. We were all together, me, my child, my mother and her husband. I slept on the floor for two months. Then my stepfather threw us out with the child right on the street. A woman I was working with put us up and let me stay in her home. I stayed there a year."

Even after she left her husband Raisa continued to go to the flat and to do his laundry so that he would not deprive her of the right to live in the flat. After he died, having sold everything in the flat including the light bulbs to feed his drinking habit, Raisa was able to move back in with her son.

When Yelena decided that she could no longer live with her parents after escaping a violent relationship, she applied to the council for alternative housing in a dormitory, but was refused because she had already been assigned the living space she was entitled to. In fact, she could not live in the flat that she had been assigned with her husband because of the risk that she would be exposed to violence. She finally solved the problem by negotiating with her husband that she would swap the large three-room flat they had lived in together for a small bed-sit, and he would move in with his parents and keep the cash that they received as part of the swap.

In Belarus, all property that is bought during a marriage is considered joint property, and can only be sold by agreement of both parties. If the property was acquired by one of the spouses before marriage or was inherited, then it belongs to that person, but the other person has a right of residence. In order to sell the flat regardless of who is the owner, all adult members of the family must agree to the sale.⁽⁴⁰⁾ Nadezhda divorced her husband because he beat her, but she is still sharing a flat with him and still being subjected to violence because he will not agree to sell the flat. According to the deputy head of the Ministry of Internal Affairs for the region of Minsk, housing problems often underlie domestic conflicts and up to 70 per cent of former married couples are still living together after divorce.⁽⁴¹⁾

There is a provision in the Housing Code that allows for compulsory eviction, but this only applies when the person to be evicted does not have a share in the ownership of the property and has already been convicted for some form of anti-social behaviour.⁽⁴²⁾

Due to the housing shortage many people apply for permission to divide an existing flat so as to create separate living space. In this case each person will have separate ownership of the subdivision that has been created. Amnesty International heard of one case where the only possible division resulted in the creation of a bedroom with no window. The divorced man was forced to live in this very inadequate accommodation.

9. Conclusions and Recommendations

The government of Belarus is failing to protect women from domestic violence. For various reasons, including lack of public information, access to support services, shame, and fear of reprisals, women do not report cases and perpetrators go unpunished. Women remain in violent situations because they do not have viable alternatives such as short-term shelters and long-term solutions to their housing problems. Some positive steps have been taken, such as the Domestic Violence Programme run by the Ministry of the Interior and the Women's Crisis Centres run by the Ministry of Labour and Social Welfare, but these initiatives are not enough to protect women sufficiently and to combat impunity. If it is to comply with its obligations under the Women's Convention, the government must make the elimination of domestic violence one of its priorities in the area of human rights. Amnesty International believes that the lives of women in Belarus could be significantly improved, and impunity for violence in the home reduced, if the

government enacts the following recommendations. These include the recommendations made by CEDAW in its Concluding Observations in 2004.

End impunity

- Undertake a review of those articles of the Criminal Code and the Administrative Code that are most commonly used in cases of domestic violence to ensure that they offer a definition of domestic violence in line with the definition in the UN Declaration on the Elimination of Violence against Women.
- Amend the draft law on the Prevention of Domestic Violence to exclude the concept of 'victim behaviour', and then implement the law.
- End the practice of imposing fines for acts of violence in the home, finding instead appropriate punishments commensurate with the crime that do not have an adverse impact on women survivors themselves.
- Enable support for and promote the recruitment and training of women police officers to provide a better gender balance within the Ministry of Internal Affairs and to encourage women to report incidents of domestic violence.
- Develop the systems already in use by the Department for the Prevention of Crime and compile reliable and accurate statistics disaggregated by sex and indicating the family relationship of victim/s and perpetrator/s on reports, and investigations and prosecutions of violence against women in the family across Belarus, and make these statistics available to the public.
- Create a code of conduct for law enforcement officials on best practices in responding to women who are victims of violence to ensure that women are not revictimized by gender insensitive law enforcement practices, and train all police officers in the use of this code of conduct. Also ensure that assessments of the effectiveness of training are in place and that action is taken to ensure that codes of conduct are enforced in practice.
- Make more use of the powers of prosecutors to initiate prosecutions in the absence of official complaints by victims in domestic violence cases and thus cut down the risk of retaliation by perpetrators and the number of complaints that are withdrawn by victims.
- Fund and implement training schemes for doctors, nurses, medical students and forensic scientists, so that victims of violence against women are treated with sensitivity throughout the legal process, and evidence of violence against women is properly collected, presented and considered.

Protect women against domestic violence

- Ensure that all women who have been subjected to violence are provided with access to full redress and reparation, including compensation and psycho-social and medical rehabilitation.
- Ensure sufficient public information and points of access for women to report domestic violence, such as hotlines covering all regions of Belarus and staffed by sufficiently trained personnel, including legal experts and psychologists. Ensure there are brochures and posters disseminated at hospitals, primary health care centres and courts, as well as websites;
- Ensure the provision and availability of adequate and safe housing for victims of domestic violence for both short-term and long-term needs.
- Promptly allocate secure, long-term government funding, or actively seek donor funding, to ensure that a sufficient number of appropriate shelters are set up across the country in collaboration with NGOs experienced in working to protect women from violence.
- Ensure that the staff of the Territorial Centres of the Ministry of Labour and Social Welfare are provided with adequate training in domestic violence and enforce codes of conduct so that appropriate services are provided to survivors.
- Co-operate with and publicly support the work of women's NGOs on violence in the family and community, using their insight and experience in planning and implementing joint projects for the prevention of violence against women in the family and the protection of victims.
- Facilitate the functioning of NGOs by making the necessary legal changes to ensure that the right to freedom of association is protected in Belarus, and that no one can be prosecuted for exercising this right
- Implement the decision of the Ministry of Labour and Social Welfare to establish crisis centres in every Territorial Centre.

Public awareness and information

- Fund and implement outreach and educational campaigns to address the underlying social and cultural attitudes that discriminate against women and that facilitate and perpetuate violence against them. These campaigns should: promote zero tolerance of violence against women, remove the stigma from women victims of violence, and encourage victims to seek redress. The campaigns should include community leaders, municipal politicians, the media and civil society, and could take place in schools, adult education facilities, citizens' forums, workplaces, through web pages, open lectures and debates.
- Raise public awareness across Belarus through mass media, public education campaigns, and in schools that gender-based violence is a human rights violation, and a crime which will be effectively sanctioned, whether committed by a state agent or a private individual.

- Inform the public about the Optional Protocol to the Women's Convention to which Belarus acceded on 3 May 2004, which enables individual women and groups to petition CEDAW directly about violations of their rights under the Convention.

(1) Svetlana Burova, a sociologist working with the Belarusian Young Women's Christian Association, during a meeting with Amnesty International representatives.

(2) It is common to find several different versions of Belarusian personal names and place names depending on whether they are transliterated from the Belarusian or the Russian version of the name. All place names in this report are transliterated from Belarusian. Personal names have been transliterated from the language in which they were given to Amnesty International (usually Russian).

(3) See Amnesty International, *It's in our hands – Stop violence against women*, March 2004 (Amnesty International Index No: ACT 77/001/2004).

(4) Article 17 of the UN Convention on the Elimination of All Forms of Discrimination against Women establishes a Committee on the Elimination of Discrimination against Women (CEDAW), consisting of 23 experts to oversee the implementation of the Women's Convention by states parties.

(5) CEDAW, General Recommendation 19, Violence against women, (Eleventh session, 1992), Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, UN Doc. HRI\GEN\1\Rev.1 at 84 (1994), para 6.

(6) G.A. res. 48/104, 48 UN GAOR Supp. (No. 49) at 217, UN Doc. A/48/49 (1993).

(7) Radhika Coomaraswamy, Special Rapporteur on violence against women, Report to the Commission on Human Rights, UN Doc. E/CN.4/2003/75, 6 January 2003, para. 30.

(8) World Health Organization, *World Report on Violence and Health*, Geneva, 2002.

(9) Article 2(1) and 3 of the ICCPR, Article 2(2) and 3 of the ICESCR.

(10) CEDAW, General Recommendation 19, Violence against women, (Eleventh session, 1992), Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, UN Doc. HRI\GEN\1\Rev.1 at 84 (1994), para. 9.

(11) Article 2 (b) of the Women's Convention requires states parties to "adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women".

(12) CEDAW, A/59/38 part I (2004).

(13) UN National report of the republic of Belarus: Status of achieving the millennium development goals, Minsk 2005, p.19.

(14) UN Population Fund (UNFPA), *Belarus: Ten Years after Cairo National Population Report*, 2004.

(15) *Shadow Report on the Implementation of the Convention on the Elimination of all Forms of Discrimination Against Women*, 2003, p.10.

(16) CEDAW, State Report 2002, CEDAW/C/BLR/4-6 (2002), p.16.

(17) UNFPA p. 12.

(18) UNFPA p.10. In 1959 there were 1,249 women for every 1,000 men.

(19) World Health Organization (WHO), *Multi-country Study on Women's Health and Domestic violence against Women*, 2005, http://www.who.int/violence_injury_prevention/violence/world_report/wrvh1/en/.

(20) Concluding Observations on Belarus, CEDAW, A/59/38, Part I(2004), para 323.

(21) S. Burova, E. Ezerska, T. Zabelina, *The Level of Public Awareness on Domestic Violence and Sexual Harassment at the Workplace and its Reflection in the Media*, UNIFEM, Minsk, 2003, p.112.

(22) <http://mvd-belarus.nsys.by>.

(23) The term "domestic crime" as used by the Ministry of the Interior covers all possible crimes that occur within the home, including domestic violence.

(24) Letter to Amnesty International from the Director of the Department for Crime Prevention in the Ministry of the Interior, 8 June 2006.

(25) S. N. Burova, *Sotsiologiya i pravo o razvodax*, Minsk, 1979.

(26) Telephone interview with Amnesty International, 17 August 2006.

(27) Report of the Special Rapporteur on violence against women, its causes and consequences, Radhika Coomaraswamy, submitted in accordance with Commission on Human Rights resolution 1995/85, A framework for model legislation on domestic violence, E/CN.4/1996/53/Add.2, 2 February 1996.

(28) Nadezhda A. Tsyrukun, "Psikhologicheskiie aspekty nasiliia i viktimnosti v sfere semeino bytovye otnosheniia" (Psychological aspects of violence and victimhood in domestic relationships), *Giurisprudenza* 2, 2006 (80), Mykolas Romeris University, Vilnius, pp.7-15.

(29) Interview with Iryna Chutkova, Ministry of Social Security and Labour, February 2006.

(30) The Criminal Procedural Code, Article 26, para 5 gives the procurator the right to start a criminal case in connection with certain crimes in cases where the victim has not made a report when those crimes concern state interest or are committed against a person who is professionally or socially dependent on the perpetrator.

(31) Report of the Special Rapporteur on the Independence of Judges and Lawyers, Dato' Param Kumaraswamy, submitted in accordance with Commission resolution 2000/42, Addendum Report on the mission to Belarus, 8 February 2001, E/CN.4/2001/65/Add.1.

(32) Criminal Procedural Code, Article 50, para 21. The victim has the right to have a representative or to remove the powers of a representative.

(33) Irina Kuchvalskaya, "Nasilie nad zhenshchinami: analiz deistvuiushchego zakonodatelstva i praktiki ego primeneniia", *Nasilie nad zhenshchinami: problemy i puti preodoleniia*, Zhenskoie nezavisimoe demokraticheskoie dvizheniie, Minsk, 2000, p.106.

(34) Article 7 (b), Model Strategies and Practical Measures; CoE CoM Rec (2002) 5, Article 39. Amnesty International notes that in some states, laws have been passed which fail to take the woman's view into account, and may potentially violate their rights.

(35) When Amnesty International members in Belarus attempted to register as an international organization in 2003 they received a letter explaining that there were problems with the use of the Amnesty International symbol, but no other explanation. When they tried to register as a local foundation in 2005 they were told that they could register if they agreed all activities with state bodies in advance. As this threatened their ability to function independently they decided not to register.

(36) Presidential Decree No. 382, 17 August 2005.

(37) for further information about restrictions imposed on civil society see: Belarus: Tightening the screws on dissent, 14 March 2006 (AI Index: EUR 49/002/2006), Belarus: Suppressing the last voices of peaceful dissent 26/04/2005 (AI Index: EUR 49/004/2005), Belarus: End the Silencing of Human Rights Defenders. The case of the Belarusian Helsinki Committee (AI Index: EUR 49/022/2004).

(38) The TACIS Programme was launched by the EU in 1991 to provide financed technical assistance to 12 countries of Eastern Europe and Central Asia (Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Ukraine and Uzbekistan), and mainly aimed at enhancing the transition process in these countries.

(39) Decree of the President of Belarus, 15 May 2006, No. 318, On the Presidential Programme "Children of Belarus" for 2006-2010, <http://www.president.gov.by/press28083.html>.

(40) Domashnee nasilie v Belarusi: sudebnaia praktika i obzor zakonodatel'stva, Belorusskaia Assotsiatsiia

zhenshchin iuristov, 2001.

(41) Aleksandr Naidenko, quoted in Belta, 6 July 2006.

(42) Housing Code (1999), 22 March 1999, No. 248-3, Article 39.

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