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# Georgia

## Thousands suffering in silence

### Violence against women in the family



#### 1. Introduction

##### **“It was as if I had been in prison for years”**

Nino married when she was 17.<sup>1</sup> After their wedding her husband forced her to give up her studies in a music school where she was learning to play the violin and prohibited her to meet with friends. When the family had severe money problems Nino’s husband sold her violin. *“He phoned me all the time to make sure I was at home. At the same time he allowed himself everything; he always had new girlfriends,”* Nino told Amnesty International. She reported that her husband did not give her any money. *“He bought food for us but he forgot that we also needed clothes. My parents helped me with that,”* she said. She told Amnesty International that her husband beat her frequently and when he lost his job he started to drink heavily and the beatings intensified. When Nino was pregnant with her second child her husband reportedly hit her in the stomach. He said he did not want the child and would move to live with his lover unless the child was a boy. However, she said that when she gave birth to a boy, the beatings continued. As a result of the beatings Nino had to be taken to hospital twice. When asked about the origin of the bruises and why she lost consciousness she said it was because of an accident. Nino never called the police because she was afraid this would make her husband

so aggressive that he would kill her. When Nino told her husband that she would be a good mother to their children but she did not want to have sex with him anymore, he reportedly began a practice of raping her. Nino did not see a way out. *“I prayed that he would move out. We lived in his flat, so I could not leave. Otherwise the children and I would have ended up on the street”.* When she was pregnant with her third child she asked her parents if she could live with them. However, they asked her to endure the situation because they were not able to feed her and her children. *“I had a headache all the time from the beatings and I was covered in bruises. Had my children not helped me, I’m sure he would have killed me,”* recalled Nino. After over 20 years of marriage Nino’s husband moved out to live with his girlfriend. *“When he left I felt like a woman again, like a human being. I felt so free even though I had no money and could hardly feed my children,”* said Nino. Nino learnt later that he was now beating the other woman.

As in other countries throughout the world, thousands of Georgian women are subjected to domestic violence on a regular basis. They are hit, beaten, raped, and in some cases even killed. Many more endure psychological violence and economic control.

According to a recent submission by the Georgian government to the United Nations Committee on the Elimination of Discrimination

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<sup>1</sup> Nino is not her real name.

against Women (CEDAW), "*family violence is one of the most widespread problems in Georgia*".<sup>2</sup> Apart from women, other family members such as the elderly or children also frequently become victims of violence in families. While acknowledging that the Georgian 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.

Amnesty International is, among other issues, concerned about the widespread impunity of perpetrators of domestic violence in Georgia; insufficient measures and services to protect the victims of domestic violence including temporary shelters, adequate and safe housing; the absence of a functioning cross-referral system with regard to domestic violence cases between different agencies such as health workers, crisis centres, legal aid centres, and law enforcement authorities; the lack of mandatory government training programmes for police, procurators, judges and medical staff; and the failure to date by key players such as law enforcement officers and the courts to record cases of domestic violence in a systematic manner and to create reliable and comprehensive statistics disaggregated by sex and indicating the relationship between victim and perpetrator.

Amnesty International considers that the adoption by the Georgian Parliament on 25 May 2006 of the Law of Georgia on Combating Domestic Violence, Prevention of and Support to Its Victims (Law on Domestic Violence), that was drafted following extensive consultation with non-governmental organizations (NGOs), was an important step forward in meeting the government's obligations to prevent domestic violence and to protect survivors of such violence. The stated aims of the law include, among other things, to ensure "*cooperation between various institutions in order to prevent domestic violence from occurring*" and to provide "*access to justice to victims of domestic violence*".<sup>3</sup> The law introduces

<sup>2</sup> Responses to the list of issues and questions with regard to the consideration of the combined second and third periodic reports. Georgia, 13 July 2006, U.N. Doc. CEDAW/C/GEO/Q/3/Add.1, p. 7.

<sup>3</sup> Article 2. Amnesty International used unofficial translations of the law as well as other domestic

for the first time a definition of domestic violence into Georgian legislation. In addition, it provides a legal basis for the issuance of protection and restraint orders and stresses the need to set up temporary shelters for victims of domestic violence and rehabilitation centres for batterers.<sup>4</sup> The law also stipulates that a special plan outlining measures and activities necessary to implement the law shall be approved by the government within four months after the law's publication. In this context, at the time of writing, the Action Plan on Measures to Prevent and Combat Domestic Violence (2006-2008) was being drafted with significant NGO input. The draft plan that was made available to Amnesty International by a local NGO specifies which stakeholders, including government agencies and NGOs, will be responsible for implementing strategies to raise public awareness, protect and assist victims of domestic violence, prepare further legislation, and consider budgetary implications.

Much will depend on the implementation of the law and the Action Plan on Measures to Prevent and Combat Domestic Violence (2006-2008), which Amnesty International is intending to monitor. A major drawback of the law, however, is that while stipulating that temporary shelters for victims of domestic violence should be set up, the

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legislation cited in this briefing as no official up-to-date translations were available.

<sup>4</sup> While Amnesty International welcomes the intention to set up rehabilitation centres, such centres should operate under clear guidelines that have been agreed with victims and advocates on gender-based violence, and their work regularly monitored, as there is currently no conclusive evidence that programmes working with perpetrators bring about a permanent change in their behaviour. Rehabilitation centres should not be used as a substitute for criminal penalties for serious crimes. They should be one part of a wider programme of action on violence against women and should provide services which do not promote abuse, that support change, and that hold perpetrators accountable for their behavior. Violence should not be seen as simply caused by alcoholism or other complicating factors, but as part of a pattern of abusive and controlling behaviour which the perpetrator should learn to address. Women should not be held to account for the violence of their partners or coerced into mediation meetings, or otherwise pressurized to maintain the relationship.

implementation of this provision has been postponed until 2008.<sup>5</sup>

During a televised debate of the first reading of the law in parliament on 17 February 2006 many parliamentarians ridiculed the issue of domestic violence and made jokes about the law. Their behaviour demonstrated that discriminatory views towards women are still deeply entrenched in society. Amnesty International is also concerned that there were serious flaws in the implementation of previous government programmes regarding domestic violence in Georgia such as the National Action Plan for Combating Violence Against Women (2000-2005) and of several concluding observations made by CEDAW in July 1999 after considering Georgia's first periodic report on the implementation of its obligations under the Convention on the Elimination of All Forms of Discrimination against Women.<sup>6</sup> For example, there is still no law specifically criminalizing rape in marriage; the government has not put in place regular and comprehensive training on domestic violence for law enforcement officials and agencies; and the authorities have not collected comprehensive statistical information on domestic violence.

The organization believes that in order to put in place a system that provides protection to women and aims at eradicating domestic violence, strong political will is needed and concerted action must be taken by the authorities. Compliance with Georgia's international obligations pertaining to this issue should be made one of the government's priorities in the area of human rights. It is crucial that the Georgian authorities closely cooperate with local NGOs working on domestic violence when devising strategies on how to implement the relevant international principles and how to apply them in the Georgian context.

To date, in Georgia most work in relation to prevention of domestic violence and protection of victims has been carried out by NGOs with virtually no financial or other material support from the authorities. Their activities have included providing legal aid, psychological and other support to victims of domestic violence; initiating and participating in

discussions about relevant legislation; conducting training courses on domestic violence for law enforcement officers and medical personnel; and raising public awareness about the issue.

For reasons of personal safety the names of all women mentioned in this report who have experienced violence in the family have been changed and any case details that may make them identifiable have been altered. The only exception is the case of a woman whose husband has died. Including due to lack of available safe and affordable housing and access to independent means to support themselves, several women whose cases are mentioned in the report continue to live with their violent partner and risk reprisals if they are identified. The case examples included in this document were either obtained through interviews conducted by Amnesty International during a fact-finding visit to Georgia in April 2006 or provided by the following Georgian NGOs: Advice Centre for Women "Sakhli"<sup>7</sup>, Anti-Violence Network of Georgia, the Centre for Protection of Constitutional Rights, the Georgian Young Lawyers Association, and Saphari<sup>8</sup>.

Amnesty International is aware that strong and supportive family relationships are a core value of Georgian culture. Through this report and Amnesty International's campaigning on domestic violence the organization aims to contribute to efforts by local NGOs and committed government officials to ensure that many more women who suffer from violence in their homes will experience support in society and by the state in order to regain a home that is free from violence. In focusing on domestic violence in Georgia, Amnesty International does not suggest that violence against women is peculiar to Georgia, or that it is more widespread in Georgia than elsewhere. Amnesty International has documented in its reports on many countries – in the European context on Albania, France, Russia, Spain, Sweden, Turkey, and the United Kingdom – that women are subjected to violence by their husbands and partners regardless of where they live or of their social status.

These and other reports are part of Amnesty International's Stop Violence against Women

<sup>5</sup> The setting up of rehabilitation centres for batterers has also been postponed until 2008.

<sup>6</sup> The National Action Plan was initially due to expire in 2002. However, in January 2003 the timeframe was extended until 2005 by Presidential Decree.

<sup>7</sup> Georgian for "House".

<sup>8</sup> Georgian for "Shelter".

campaign, which was launched in March 2004.<sup>9</sup> The global campaign highlights the failure of countries around the world to prevent, investigate and punish violence against women. 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 justify violence against women. Human rights law and standards emphasise that violence against women is an inexcusable abuse of human rights and that governments are obliged to take measures to protect women from such violence and bring to justice the perpetrators.

## 2. Defining violence against women

According to CEDAW, gender-based violence against women is discriminatory because it is “*directed against a woman because she is a woman*” and it “*affects women disproportionately*”.<sup>10</sup>

The UN Declaration on the Elimination of Violence against Women 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).<sup>11</sup> Recent interpretations of this definition also include “*the withholding of economic necessities from the victim*”.<sup>12</sup>

In its preamble, the Declaration describes violence against women as “*a manifestation of historically unequal power relationships between men and women*” and as

<sup>9</sup> See Amnesty International, *It's in our hands – Stop violence against women*, March 2004 (AI Index: ACT 77/001/2004)

<sup>10</sup> Committee on the Elimination of Discrimination against Women, General Recommendation 19, Violence against women, (Eleventh session, 1992), Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, U.N. Doc. HRI\GEN\1\Rev.1 at 84 (1994), para. 6.

<sup>11</sup> G.A. res. 48/104, 48 U.N. GAOR Supp. (No. 49) at 217, U.N. Doc. A/48/49 (1993).

<sup>12</sup> 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.

one of the “*crucial social mechanisms by which women are forced into a subordinate position compared with men*”.

The World Health Organization has defined intimate 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.<sup>13</sup>

### Georgian domestic law

Article 3 of the Georgian Law on Domestic Violence adopted on 25 May 2006 defines domestic violence as a “*violation of constitutional rights and freedoms of one family member by the other, in conjunction with physical, psychological or sexual violence, coercion or threat to undertake such actions*”. Amnesty International welcomes that the law gives a broad definition of who is considered a family member for the purposes of this law. According to Article 4 (g), “*family members [are] mother, father, grandfather, grandmother, spouse, child (stepchild), adopted child, foster parents, grandchild, siblings, parents of the spouse, children-in-law [...] former spouse, persons in non-registered cohabitation, guardians, as well as persons who live or lived together*.” Article 4 defines the different types of violence as follows:

- “*Physical violence: battery, torture, injury, restriction of liberty or any other action that causes physical pain or suffering, restriction of food, accommodation and other conditions for normal development, as well as isolation of a minor from his/her parents (custodian), or failure to meet requirements concerning his/her state of health that may cause harm to the health of the minor, violate his/her personal dignity or lead to his/her death*.”

<sup>13</sup> World Health Organization, *World Report on Violence and Health*, Geneva, 2002.

- *“Psychological violence: offence, blackmail, degrading treatment, threat or any other act that violates the pride and dignity of a human being.*
- *“Sexual violence: an act that violates sexual liberty and integrity of the person, as well as sexual intercourse or other acts of sexual nature or immoral acts with a minor.*
- *“Economic violence: restriction of the right to property, the right to work and the right to enjoy shared property.*
- *“Coercion: physical or psychological coercion of a person to perform or to abstain from performing an act, performance or non-performance of which represents the right of the person, or coercion to endure certain pressure against his/ her will.”*

### 3. Georgia’s obligations under international human rights law and standards

Domestic violence severely restricts the enjoyment of a wide range of human rights, such as, for example, the rights to mental and physical integrity, the right to liberty and security of the person, the right to health, and sometimes the right to life. Further, CEDAW has clarified, in its General Recommendation 19, that gender-based violence, including domestic violence against women, is a form of discrimination.<sup>14</sup>

Georgia is a party to international and regional human rights treaties, all of which require the government to protect, respect and fulfil the human rights of those persons in its territory and subject to its jurisdiction.<sup>15</sup> Thus, Georgia is obliged under international law to act with due diligence to prevent and investigate violence against women and hold

<sup>14</sup> 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”.

<sup>15</sup> Relevant treaties include: The International Covenant on Civil and Political Rights (ICCPR); the Convention on the Elimination of All Forms of Discrimination against Women; and the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) and its protocols.

perpetrators of violence accountable, and ensure protection and reparation to victims.<sup>16</sup>

This includes an obligation to ensure a range of measures to facilitate women to leave a violent relationship. The Declaration on the Elimination of Violence against Women (DEDAW) stipulates that the obligation of states extends to the provision of shelters, to the staffing of hotlines, and to the training of law enforcement officers and public officials.

#### August 2006: Concluding observations by the UN CEDAW

As a state party to the UN Convention on the Elimination of All Forms of Discrimination against Women Georgia is under an obligation to bring its laws and practices into compliance with the Convention’s provisions including the whole range of civil, cultural, economic, political and social rights for women guaranteed by the Convention.

Governments which have ratified the Convention are obliged to submit reports to CEDAW on implementation of the Convention every four years. Georgia submitted its combined second and third reports in 2004.

On 15 August 2006 CEDAW considered Georgia’s state report and at the end of August it published its concluding observations.<sup>17</sup> While welcoming the adoption of the Law on Domestic Violence, CEDAW deplored that the provision in the Law on Domestic Violence to set up shelters and rehabilitation centres for batterers has been postponed. It also raised concern about the “*lack of information and statistics on domestic violence, and that such violence may still be considered a private matter*”. In addition, CEDAW urged Georgia to “*complete and implement promptly the national action plan to combat domestic violence*”. It also recommended to “*put in place a permanent institutional mechanism that recognizes the specificity of discrimination against women and is exclusively responsible for the promotion of formal and substantive equality of women and men and for the monitoring of the practical realization of that*

<sup>16</sup> UN Declaration on the Elimination of Violence against Women, G.A. res. 48/104, Article 4 (d), U.N. Doc. A/48/49 (1993).

<sup>17</sup> Concluding comments of the Committee on the Elimination of Discrimination against Women: Georgia, 25 August 2006, U.N. doc. CEDAW/C/GE0/CO/3.

*principle*". This mechanism should be endowed with the "necessary authority and human and financial resources".

Apart from that, CEDAW recommended to significantly strengthen government activities in the following areas in order to adequately address the issue of domestic violence in Georgia: protection of victims of domestic violence; data collection, research and evaluation of measures taken; training; and public awareness raising.

#### **Protection of victims of domestic violence:**

- "ensure that all women who are victims of domestic violence, including rural women, have access to immediate means of redress and protection, including protection orders, and access to a sufficient number of safe shelters and legal aid"; (para. 20)
- "[give] consideration [...] to addressing the problem of marital rape"; (para. 20)

#### **Data collection, research and evaluation:**

- "enhance [the] collection of data in all areas covered by the Convention, disaggregated by sex as well as by ethnicity, age and by urban and rural areas as applicable"; (para. 10)
- "conduct research on the prevalence, causes and consequences of domestic violence to serve as the basis for comprehensive and targeted intervention and [...] include the results of such research in [the] next periodic report"; (para. 20)
- "monitor, through measurable indicators, the impact of laws, policies and action plans and to evaluate progress achieved towards realization of women's de facto equality" (para. 10)

#### **Training:**

- "ensure that public officials, especially law enforcement personnel, the judiciary, health-care providers and social workers, are fully familiar with applicable legal provisions, and are sensitized to all forms of violence against women and adequately respond to them"; (para. 20)
- "implement programmes for prosecutors, judges, ombudspersons and lawyers that cover all relevant aspects of the Convention and the Optional Protocol"; (para. 14)

#### **Public awareness raising:**

- "place high priority on the implementation of the [Law on Domestic Violence] and [...] make it widely known to public officials and society at large"; (para. 20)
- "[undertake] sustained awareness-raising and legal literacy training campaigns targeting women, including rural women and non-governmental organizations working on women's issues"; (para. 14)
- "continue [...] efforts to eliminate gender stereotyping, and [...] strengthen the mainstreaming of gender perspectives in curricula and textbooks"; (para. 18)
- "take additional measures to disseminate information about the Convention, the procedures under the Optional Protocol and the Committee's general recommendations" (para. 14).

## **4. Dimensions of violence against women in the family in Georgia**

### **Scale of the problem**

The full extent of the problem in Georgia is not known. Although, as stated in Georgia's May 2004 report to CEDAW, the Ministry of Internal Affairs and the Procurator General's office were instructed by Presidential decree in 1999 to collect and process data "regarding every fact of violence against women" and to "provide [...] registration of facts of domestic violence,"<sup>18</sup> the authorities have not gathered comprehensive statistics on cases involving domestic violence disaggregated by sex and indicating the relationship between victim and perpetrator.

Only a small number of women who are believed to have been subjected to domestic violence call the police (for further information, refer to the chapter "Police response"). According to statistics compiled by the patrol police covering all regions of Georgia except for those territories currently outside the control of the Georgian government, they were approached for help 3,254 times in 2005 in relation to violence in the family.<sup>19</sup> During the first two months of 2006 they registered 670 calls. It is not known how many cases relate specifically to violence against women and there is no further information as to the nature of the cases. Reportedly, the majority of night calls to patrol police are related to domestic violence.<sup>20</sup>

There have been few large-scale quantitative studies to determine the scale of domestic violence in Georgia. Among the most comprehensive and reliable studies that have been carried out are: two Reproductive Health Surveys (RHS) conducted by the United Nations Population Fund (UNFPA) in 1999 and 2005 and the study entitled *Family Violence on Women. Multi-Component Research* conducted by the

<sup>18</sup> Combined second and third periodic reports of States parties, Georgia, CEDAW/C/GEO/2-3, para. 9.

<sup>19</sup> Information provided to Amnesty International by Tamar Romelashvili, head of the division on women's rights at the Ombudsman's office, on 12 April 2006. The patrol police are the agency that is usually the first contact point for victims of domestic violence who decide to call the police.

<sup>20</sup> E-mail correspondence with Gia Tarkhan-Mouravi, Institute for Policy Studies, 19 May 2006.



NGO Caucasus Women's Research and Consulting Network (CWN) published in 2006.<sup>21</sup>

According to both the 1999 and the 2005 RHS, five per cent of women interviewed in Georgia reported physical abuse by a current or former spouse.<sup>22</sup> According to the CWN study, 5.2 per cent of women responded that they had experienced frequent physical abuse by their partner.<sup>23</sup> In both RHS surveys approximately two per cent of women reported they had experienced sexual abuse at some point in their lives and one per cent in the past 12 months. According to the CWN, 25.5 per cent of all women interviewed stated that their *"husband [had] forced [them] to [...] sexual activity for which [they] were not ready at the moment"*.<sup>24</sup> Four per cent responded that this happened frequently.

While both the RHS and the CWN found that there were variations regarding the frequency and types of violence reported by women from different age groups and regions, the studies clearly demonstrated that violence is not confined to women from one particular section of society, region or age group.

In 2003 the US-based Centers for Disease Control and Prevention (CDC) published the findings of a comparative study looking at selected countries in Eastern Europe and Eurasia. According

to its findings, physical abuse against women in the family was lower in Georgia than in the other countries surveyed -- Azerbaijan, Moldova, Russia,<sup>25</sup> Romania and Ukraine. According to the survey, these findings *"may be attributed to differences in cultural definitions and perceptions or to a particularly strong role of the extended family and friends in the life of a Georgian woman"*.<sup>26</sup> Regardless of how Georgia compares to other countries, domestic violence affects tens of thousands of women across Georgia.

Amnesty International hopes that the authorities will live up to a number of recent commitments aimed at ensuring that a system of data collection is set up promptly and comprehensive statistics are compiled and published in the near future. Article 6 of the May 2006 Law on Domestic Violence stipulates that the state shall *"support and ensure introduction and application of mechanisms to prevent domestic violence"*. One of the stated measures is the *"maintenance of statistics"*. According to a submission by the Georgian government to CEDAW in July 2006, Georgia's state department of statistics *"is expected to develop special methodologies for collecting and processing data"* on violence against women following the adoption of the Law on Domestic Violence.<sup>27</sup> According to the draft Action Plan on Measures to Prevent and Combat Domestic Violence (2006-2008) available to Amnesty International, law enforcement agencies and the Ministry of Labour, Health and Social Affairs shall collect and submit to the state department of statistics data on domestic violence. The Human Rights Protection Unit of the General Procuracy informed Amnesty International on 24 August 2006 that *"the Office of the Prosecutor General of Georgia will take into consideration the element of domestic violence while analyzing information regarding certain statistic[al] data"*.<sup>28</sup>

<sup>21</sup> UNFPA: *1999 Georgia Reproductive Health Survey*, Atlanta 2001; UNFPA: *2005 Georgia Reproductive Health Survey*, Atlanta 2005; Caucasus Women's Research and Consulting Network (CWN): *Family Violence on Women. Multi-Component Research*, 2006. The 1999 RHS was the first population-based national survey of this type that was conducted in Georgia. A sample of 7,798 women aged 15–44 years was interviewed, including 1,655 internally displaced women living in government facilities. The second RHS was conducted in the first part of 2005. The surveys were similar in design and content, but the 2005 RHS did not include a separate sample of internally displaced women living in public housing. The CWN conducted interviews with 1,000 women across Georgia who had lived with a man for at least a year. The interviewees were randomly selected. Due to differences in methodology and wording of the questions the findings of the two RHSs on the one hand and the CWN on the other hand vary with regard to some of their findings.

<sup>22</sup> RHS 2005, p. 37.

<sup>23</sup> CWN 2005, p. 45.

<sup>24</sup> CWN 2005, p. 55.

<sup>25</sup> The survey only includes data obtained in three primarily urban areas of Russia.

<sup>26</sup> Centers for Disease Control and Prevention: *Reproductive, Maternal and Child Health in Eastern Europe and Eurasia: A Comparative Report*, Atlanta 2003, p. 214.

<sup>27</sup> Responses to the list of issues and questions with regard to the consideration of the combined second and third periodic reports. Georgia, 13 July 2006, U.N. Doc. CEDAW/C/GEO/Q/3/Add.1, p. 7.

<sup>28</sup> Tamar Tomashvili, Head of the Human Rights Protection Unit, 24 August 2006.

## Types and context of violence

In Georgia, violence against women by their partners and former partners spans the spectrum from depriving women of economic necessities to verbal and psychological abuse, to physical violence, sexual violence and killings.<sup>29</sup> Reports of physical violence that have come to Amnesty International's attention included cigarette burns, throwing objects at the woman, hitting her head against a wall, pulling her hair, and, most frequently, beating, hitting and kicking. Often the types of violence are interrelated or accompany each other. Cases of sexual violence often also involve other types of domestic violence or threats of violence. For example, Nato Shavlakadze, the chairperson of the NGO Anti-Violence Network of Georgia, reported that many victims of domestic violence had told her that their husbands put a gun to their heads, forcing them to submit to sexual intercourse.<sup>30</sup>

Of approximately 765 people who approached the NGO Advice Centre for Women "Sakhli" for psycho-social consultations since 2000, almost 60 per cent identified domestic violence as their main problem. The majority of them complained about psychological violence (62.4 per cent) while 24.3 and 6.1 per cent complained about physical and sexual violence respectively.<sup>31</sup> Other NGOs have also reported that psychological abuse prevailed over physical abuse. Reports of psychological domestic abuse in Georgia received by Amnesty International have included husbands/partners consistently prohibiting their female partners to leave the house; to meet her

<sup>29</sup> According to a survey sponsored by the Georgia office of the American Bar Association's Central European and Eurasian Law Initiative (ABA/CEELI), over 60 per cent of a total of 1200 interviewees were aware of at least one case where domestic violence had resulted in death. The interviews were conducted throughout Georgia from March to May 2006. The survey had not been published at the time of writing. This information was kindly provided by Melissa Moody, Criminal Law Liaison officer at ABA/CEELI's Georgia office, on 18 August 2006.

<sup>30</sup> Amnesty International interview, Tbilisi, 13 April 2006.

<sup>31</sup> In the same period of time the NGO Advice Centre for Women "Sakhli" also conducted a similar number of legal consultations, many of which were connected with domestic violence.

friends or relatives; to study or work; and constantly ridiculing and belittling her. Manana Sologakashvili, a psychologist with the Anti-Violence Network of Georgia, said that, in her experience, psychological and economic violence often lead to physical violence.<sup>32</sup>

Many acts of violence in the family take place in the context of extended families who share one household. Both in rural and, to a lesser degree, in urban settings in Georgia three generations of a family frequently share one household. Local NGOs have reported cases of violence in the family directed against any member of the family, including elderly people and children. Several NGOs pointed out that especially in extended families who share one household other members of the family often incite the husband to "punish" his wife for her "inappropriate behaviour". No data is currently available with regard to domestic violence in same sex relationships.

Many but not all cases of domestic violence that have been reported to Amnesty International were accompanied by alcoholism or drug use by abusers. While intoxication is often used by the batterer himself or by other family members as an excuse for the batterer's behaviour and claims are voiced that he was allegedly not able to control himself, the men were usually not violent towards people outside the family. In addition, batterers in many cases beat their partner in such places of the body where bruises would not be visible in public.

Economic hardship is seen by many local NGOs as an aspect contributing to domestic violence in Georgia. The economic and social upheaval that followed the break-up of the Soviet Union as well as civil war forced people in Georgia to restructure social and familial roles. Large segments of society were affected by poverty and unemployment. The psychologist Nana Agapishvili at the NGO Ndoba pointed out: "Women in many cases found the strength to just do any kind of work to feed their family while men were often sitting around unemployed. Often men couldn't bear that they were not the main bread-winners anymore and there are men who abuse their wives to retain control."

<sup>32</sup> Amnesty International interview, Tbilisi, 18 April 2006.

### **Bride-kidnapping**

The practice of bride-kidnapping continues to be reported.<sup>33</sup> In cases of bride-kidnapping women are often raped and expected to marry the man so as to avoid stigmatization and being “dishonoured”. According to information received by Amnesty International, the victims of bride-kidnapping rarely report bride-kidnapping to the police fearing public opinion, and the perpetrators are rarely brought to justice.

### **Obstacles to breaking the cycle of violence**

Women subjected to domestic violence face a number of obstacles preventing them from defending their human right to be free from violence. Often women do not turn for help out of shame and fear of stigmatization and the widespread belief that domestic violence is a “family matter” that should be solved inside the family. Other obstacles include inadequate police response; the lack of training of medical personnel on domestic violence; the lack of a sufficient number of temporary shelters; widespread impunity of the perpetrators; and the lack of long-term solutions including financial independence and access to adequate housing.

### **Domestic violence as a “family matter”**

Many women in Georgia who have been subjected to domestic violence have not sought outside help. In many cases it is a feeling of shame that prevents them from doing so as well as fear of “destroying their family” if they were to decide not to keep silent anymore. Many women blame themselves for the violence directed against them and try to behave differently to please their partner and avoid “punishment”. In many cases women believe that they deserve to be subjected to this treatment and that the man has a right to do so. Nana Agapishvili from the NGO Ndobba summed up a widespread societal attitude towards domestic violence: *“If a man beats a woman, that is considered bad behaviour in Georgia. However, if people find out that it happens in a family then it means it is somehow a bad family and the woman is probably doing something*

<sup>33</sup> Bride-kidnapping has to be distinguished from voluntary elopement of a couple which, although sometimes appearing to be cases of bride-kidnapping, are planned by both parties.

wrong.”<sup>34</sup> There is a fairly widespread belief that marital violence is justified in cases involving a woman’s adultery or if a mother “neglects her children”.<sup>35</sup> According to the above-mentioned CWN study, over 90 per cent of women across Georgia considered that the “woman should be more modest and try not to provoke violence”. Societal attitudes tend to strengthen the perception that domestic violence is an internal problem of the family and should be solved inside the family. Over 60 per cent of women responded that “no matter what, whatever happens in the family should stay within [the] family”.

Eka’s husband is alcohol dependent and reportedly beats his wife and two daughters almost every day. According to the NGO Anti-Violence Network of Georgia, Eka is not allowed to leave the house without her husband’s permission and their daughters are only allowed to wear clothes that he approves of. Eka turned to the NGO in 2006 and asked for help against her bouts of depression. She fears that if she divorces her husband it will be harder for her daughters, aged 12 and 19 respectively, to find “good husbands” because they will be stigmatized as coming “from a broken family”.

Local NGOs have pointed out that there is little awareness in society that sexual violence is a crime and a human rights violation. Nata Zazashvili, the director of the NGO Saphari, pointed out: *“Sexual violence in the family is one of the main taboos in Georgia. Women themselves usually don’t realize that they are victims of sexual violence.”* As a result, women tend to endure the situation.

Maia married her husband after he kidnapped her. According to the NGO Saphari, he beat her twice but she is physically strong and defended herself. Since then he has not beaten her anymore. However, he often verbally abuses her and their three children and frequently intimidates their nine-year-old son shouting *“What kind of man are you? You are such a softie! You won’t be a man when you grow up.”* Reportedly, he regularly forces Maia to have sexual intercourse with him but she does not protest because she sees it as her “duty as a wife”. Her husband

<sup>34</sup> Amnesty International interview, Tbilisi, 14 April 2006.

<sup>35</sup> According to the 2005 RHS, 28 per cent of all women interviewed found beatings justified in cases where “the wife has been unfaithful” and 13 per cent gave neglect of children as a legitimate reason. RHS 2005, p. 39.

shows signs of mental illness and he has several times tried to kill himself in front of his family.

It is worth noting, however, that there has been some progress in the area of public awareness about the unacceptability of domestic violence in recent years. Due to a number of talk shows on television and public awareness campaigns that have mainly been conducted by NGOs, talking about domestic violence has become less of a taboo than it was several years ago. Clips on television have publicized information about NGO hotlines and crisis centres offering help to victims of violence in the family.

It is important that the authorities also increasingly engage in raising public awareness about domestic violence. Government officials should at every opportunity declare their commitment to eradicating violence against women in Georgia and publicize the constructive action that the government will take to combat domestic violence. In addition, they should publicize the rights that women survivors have to assistance, and give information on how services can be accessed. The authorities should also ensure that awareness is raised in schools throughout Georgia that gender-based violence is a human rights violation, whether committed by a state or a private individual. Apart from that, the government should inform the public about the Optional Protocol to the Convention to which Georgia acceded in 2002, which enables individual women and groups to petition CEDAW directly about violations of their rights under the Convention.

Most NGOs dealing with the issue of violence in the family are based in Tbilisi. In the regions outside the capital the number of NGOs working on the issue and therefore access for victims of violence to NGO support is limited although there are offices of the Anti-Violence Network of Georgia in the following towns or regions: Ambrolauri, Akhaltsikhe, Batumi, Gori, Gurjaani, Kutaisi, Ozurgeti, Rustavi, Svaneti and Zugdidi. Other NGOs also are eager to be engaged in the regions, but due to lack of funding for such activities, their possibilities have so far been limited.

### **Police response**

A very small percentage of women call the police for help when they are subjected to domestic violence. According to the CWN study, while every seventh or eighth woman has considered calling the police to

protect herself from physical domestic violence (13.1 per cent), only 1.8 per cent of all women interviewed actually approached the police. According to the 2005 RHS, five per cent had reported domestic physical abuse to the police.

The reasons why women do not call the police include feeling ashamed for having to turn to outside help and lack of confidence that police could provide a constructive solution.

Comprehensive training on how to deal with cases of domestic violence has so far not been part of the regular training programme for police at the Tbilisi-based Police Academy, the Interior Ministry's training facility for police across Georgia. Many NGO activists told Amnesty International that a large number of patrol police officers they had met during NGO-led training courses expressed great interest in receiving training to help them deal with an issue that they were frequently confronted with in their professional lives.

According to the draft Action Plan on Measures to Prevent and Combat Domestic Violence (2006-2008) due to be approved by the government by the end of September 2006, the Ministry of Interior, the Ministry of Labour, Health and Social Affairs and relevant NGOs will conduct training courses on domestic violence for patrol police, other employees of the Ministry of Interior, procurators, judges, journalists, health workers and social workers. The Human Rights Protection Unit of the General Procuracy informed Amnesty International in a letter dated 24 August 2006 that the office of the General Procurator will conduct training for procurators before the end of the year.

During Amnesty International's fact-finding visit to Georgia in April 2006, the organization learnt of many cases demonstrating that reactions of police to domestic violence have been mixed. Often police officers share the attitude prevalent in society that domestic violence is a "family matter" and should therefore be dealt with inside the family. In many cases police believe that the woman "provoked" the violence and advise her to avoid beatings in the future by "complying" better with her partner's demands.

For example, Rusudan from a village in Western Georgia reportedly called the police several times because her husband used to beat her severely. According to the Anti-Violence Network of Georgia,

once when she went to the police station to ask for help, the officer told her to go home and not “*provoke*” any confrontations with her husband. She ran away from home several times, but her relatives always brought her back.

In other cases officers of the patrol police have come to the family house/flat and tried to calm down the batterer, sometimes taking him for a ride in the police car or to the police station for several hours. When he returns home the beatings often continue to “*punish*” the female partner for having called the police.

In some cases police reportedly did not react to calls about domestic violence at all, especially when they had frequently received calls from the same family where previous police interventions had not changed the situation.

Marina Lebanidze from the NGO Centre for Protection of Constitutional Rights recalled a case where a woman called the patrol police for help because her husband, who was heavily drunk, was beating her. When the police came they reportedly beat up the husband to stop him abusing his wife.

A woman interviewed by Amnesty International recounted an incident that took place several years ago. When she turned to the police to protect herself and her mother from her violent husband a senior police officer reportedly beat and attempted to rape her.

Keti told Amnesty International that her husband used to kick and beat her severely and she was frequently covered in bruises. Often he beat her in front of their children. Keti called the police three times; once because he was also beating her mother. “*When the police came the first time they looked at me in such a way as if to say that it was my fault. I had drunk alcohol and they seemed to think my husband was right to punish me,*” Keti recalled. Another time the police kept her husband at the police station for one night. When he returned he reportedly beat her even more because she had called the police. The third time Keti went to the police station to call for help, she recalled, “*a senior policeman called me into his office and closed the door. He tried to rape me and when I tried to run away he beat me.*” When she escaped she decided never to call the police again. Keti and her children left her husband three years ago and they now live with her parents.

Amnesty International also learnt of cases where police took women to the shelter of the NGO Anti-Violence Network of Georgia to protect them from further beatings. In another case police protected a woman, who had fled to the shelter with her four children in 2004, from her violent husband.

Manana’s husband found out about her whereabouts. According to the NGO Anti-Violence Network, he waited for her near the shelter and beat her up. She sustained a large bruise on her forehead. When staff of the shelter called the police they immediately came and Manana’s husband had to sign a written undertaking that he would not come to the shelter again. “*The police reacted as they should do. One police officer even gave us his mobile number and said we could call him any time. Her husband never came to the shelter again,*” said a member of staff at the shelter.<sup>36</sup>

Article 16 of the Law on Domestic Violence adopted on 25 May 2006 stipulates that “*police shall not be authorized to consider domestic violence cases inferior to other cases of violence*” and obliges police to “*immediately respond to [domestic violence calls] and take all legal measures*”. According to the same Article, the duties of the police include to “*separately interview the possible victim, witnesses, the abuser including children, and record the [interviews]*”; to “*inform the victim of domestic violence of his/her rights*”; and, upon request of the victim, “*to transfer the victim or his/her children to a shelter*”.

The law also gives powers to police and first instance courts to issue temporary protection measures. Police are entitled to issue restraint orders on abusers.<sup>37</sup> The order has to be submitted to the court for approval within 24 hours. First instance courts are entitled to issue protection orders except in those cases where there are grounds to instigate a criminal case against the abuser, in which case the suspect would be detained. If the abuser violates the conditions outlined in the restraint or protection orders he shall be brought to criminal responsibility.

<sup>36</sup> Amnesty International interview, Tbilisi, 18 April 2006.

<sup>37</sup> The Law on Domestic Violence obliged the Ministry of Internal Affairs to develop and approve a form for the issuing of restraint orders within one month of the adoption of the law. The Human Rights Protection Unit of the General Procuracy informed Amnesty International on 24 August 2006 that the Interior Ministry would draw up a list of police officers entitled to issue restraint orders.

According to Article 12, “protection orders may be annulled based on a court decision if the parties concerned reconcile and jointly address the court requesting that the order be abolished”.<sup>38</sup>

The organization considers it to be crucial for the effective implementation of these new legal measures that all law enforcement officials and judges who are involved in the issuing of protection and restraint orders, or cases involving the alleged violation or annulment of such orders, as well as lawyers and prosecutors, are fully trained. The training should take place promptly and throughout the country.

In addition, it will be key that the authorities and NGOs monitor and report on the implementation of these new protection mechanisms.

### **The healthcare system**

Many women in need of medical treatment as a result of domestic violence do not turn to the health care system for help. According to the CWN study, every twelfth woman required medical help at least once as a result of domestic violence (8.4 per cent). However, only 2.7 per cent actually sought medical treatment and one per cent did so many times. According to the findings of the 2005 RHS, four per cent of women had sought medical help following physical domestic violence.

Those who seek medical help often do not disclose the cause of the injuries and medical personnel mostly do not ask further questions. Women remain silent out of shame and/or because they do not believe that medical personnel could help them in any way to solve their problem of violence in the family.

During their studies medical personnel do not receive any training on domestic violence and there are no guidelines on how to respond to cases of domestic violence. Amnesty International considers that the authorities should introduce mandatory training for medical personnel including doctors, nurses, midwives, medical students and forensic medical practitioners so that health workers can provide support to victims of domestic violence and

<sup>38</sup> Protection orders cannot be annulled upon reconciliation of the parties in those cases where “the act of domestic violence violates the interests of other family member, especially minors” (Article 13).

refer them to other institutions or organizations that could provide further consultations and support. In addition, it is crucial to ensure that the medical files are kept strictly confidential. Currently medical records are usually easily accessible to family members.

Some NGOs have conducted training on domestic violence for medical personnel but due to lack of funding these projects have been limited in scale. Nana Narsia, a general practitioner in a polyclinic in the Didube district of Tbilisi who has been responsible for a neighbourhood of some 2400 adults for 20 years, is aware of the problem of domestic violence and has attended a training course conducted by the NGO Women’s Centre. She told Amnesty International that she treated victims of domestic violence on a regular basis and that some women talked about the origins of their injuries to her: “It is a new trend that some women manage to overcome the feeling of shame. Some even ask me to take down the injuries in great detail in case they need the medical record as evidence in court at some point.”<sup>39</sup>

Ia Verulashvili from the NGO Women’s Center pointed out that training of medical personnel on supporting victims of domestic violence was also important to ensure that they receive appropriate medical treatment: “Often women who have been victims of domestic violence turn to doctors with a variety of symptoms such as hypertension, infertility, sleeplessness, bleeding of the uterus or chronic headache. Nowadays doctors would usually not be aware of the root of the problem and this has serious implications on how much they can actually achieve through the treatment and so in the worst case scenario the lack of knowledge can render treatment ineffective.”

### **Need for shelters**

Shelters for victims of domestic violence are an important element in governments’ strategies to protect the human rights of women. They provide a temporary safe place for women who want to leave a violent relationship and have nowhere else to go.

There are no state-run shelters in Georgia and the government does not provide financial or other assistance to NGOs willing to set up shelters. Currently there are two NGO-run shelters in Georgia. Some victims of domestic violence have also been given refuge by religious communities such as the

<sup>39</sup> Amnesty International interview, Tbilisi, 18 April 2006.

Georgian Orthodox Church and the Evangelical Baptist Church of Georgia.

The NGO Anti-Violence Network of Georgia has run a shelter specializing in providing safe shelter and services to victims of domestic violence and human trafficking since 2003. The current shelter is located in a three-bedroom flat in Tbilisi that accommodates 10 people. In 2005 the NGO had to vacate the flat where the shelter was located and, for financial reasons, had asked the municipality in Tbilisi to provide them with a flat where the NGO could run a shelter. However, in a letter dated 8 July 2005 the Municipal Property Management Agency had turned down the request.

The other shelter is run by the NGO Saphari. It was opened on 2 July 2006 in Tbilisi and has room for a maximum of six people.<sup>40</sup>

The Law on Domestic Violence adopted on 25 May 2006 recognizes the need for additional shelters and stipulates that shelters should be set up under the Ministry of Labour, Healthcare and Social Protection or by NGOs, in line with guidelines to be issued by the Ministry. However, the implementation has been postponed until 2008. Eliso Amirejibi, the regional coordinator of the Anti-Violence Network of Georgia, commented on the decision to postpone the setting up of shelters until 2008: *“The demand is so high. How can we cope? On the one hand we want to raise public awareness about our organization and the issue of domestic violence and, of course, that is what we do. But on the other hand we only have one shelter. We can’t wait. We desperately need more shelters now.”*<sup>41</sup>

Tamuna has been married to her husband for eight years. She told Amnesty International that only during the first year did he not beat her. After that, he reportedly threw her at the wall, pulled her hair and beat her in places where the bruises would not be visible, often in front of their children. He tried to forbid her working but she did not give up her job as a librarian. *“He constantly shouted at me ‘you are not a human being. You are not a good wife. You are not a good mother’,”* recalled Tamuna. *“He would beat me for any small reason, for example, he would beat me to ‘punish’ me for*

*sleeping when he could not sleep or for not saying ‘good morning’ to him even though I did not greet him because I did not want to wake him up. Had I woken him up that would have been a reason to beat me.”* Tamuna was in constant fear of *“doing something wrong”*. *“He says he loves Tamuna but he regarded her as his property,”* said a representative of the Anti-Violence Network of Georgia. In October 2005 Tamuna heard of the existence of a shelter for the first time and turned to the crisis centre of the Anti-Violence Network. Shortly afterwards she moved into the shelter. *“For the first time in eight years I was able to sleep properly,”* she told Amnesty International. After several weeks in the shelter she decided to go back to her husband and give him another chance. *“He knows I am supported by the Anti-Violence Network and so far he has not beaten me again. But I can see how aggression is building up in him and I fear he will explode one day and he will become violent again.”*

Amnesty International urges the authorities to ensure that a network of shelters is set up throughout Georgia as a matter of urgency so as to provide a safe space for every woman and her children when she decides to escape from a violent relationship.

### **Widespread impunity**

According to the information available to Amnesty International, relatively few cases of domestic violence come to court. The criminal cases that are opened typically involve particularly serious physical injury or death.

It appears that women rarely file complaints against their intimate partners for domestic violence. Shame, reluctance to risk their family’s falling apart and lack of financial independence are some of the reasons why women in many cases do not consider the court system as a possible solution to their problems. In cases where women want to see their husbands brought to justice, those in the criminal justice system reportedly often do not pursue the case appropriately.

In a letter to Amnesty International dated 24 August 2006 the Human Rights Protection Unit of the General Procuracy acknowledged the problem of impunity with regard to domestic violence and stressed that *“ensuring prompt and effective investigation into the cases involving domestic violence is one of the priorities for Georgian investigative authorities”*.

<sup>40</sup> Nata Zazashvili pointed out that although her NGO also worked on victims of violence in the family other than women and children the shelter was reserved for women and their children.

<sup>41</sup> Amnesty International interview, Tbilisi, 13 April 2006.

Tinatin is not married but has lived with her partner in a village near Tbilisi since 2000. According to the NGO Centre for Protection of Constitutional Rights, he started to beat her several months after they moved in together; the frequency of the beatings increased until he beat her every day. He reportedly also subjected her to sexual violence. Tinatin allegedly turned to the police many times. Initially she called the police to her house several times urging them to protect her from the beatings but when her partner found out that she had called the police he became even more violent and continued to beat her after the police had left. When she could see no other way out she reportedly urged the police to open a criminal case against him. According to Sasha Noselidze of the NGO Centre for Protection of Constitutional Rights that took up Tinatin's case, the police only reacted "symbolically" to her request to open a criminal case against her partner but in fact took steps to ensure that the case would be closed. Reportedly, police did not question any of the neighbours and forged the testimony of one neighbour. This testimony was believed to have subsequently been used as the basis to close the case. Tinatin suspects that police did not act on her complaints in an appropriate manner and covered up for her partner's crime because he has close connections with police officers in the area. Tinatin continues to live with her partner as she has nowhere else to go. The NGO has lodged a petition with the procuracy urging them to investigate allegations of police misconduct and the fabrication of evidence by police. In addition, jointly with the NGO, Tinatin has submitted a second petition requesting the authorities to open a criminal case against her partner. The procuracy responded that an investigation had been opened into the offence of "falsification in service"<sup>42</sup> in February 2006 and that a criminal case had been opened against Tinatin's partner. However, the NGO informed Amnesty International at the end of May that it was not aware of any investigative actions undertaken in connection with the domestic violence.

Unless women have constructive options allowing them to leave a violent relationship, there is a risk that they might opt for extreme solutions such as suicide or killing the batterer. Eliso Amirejibi from the Anti-Violence Network of Georgia told Amnesty International that she was aware of several cases where women who had been regularly beaten by their

<sup>42</sup> Article 341 of the Criminal Code of Georgia.

husband for years eventually killed him. She recounted the following case: "Tamar Gakhokidze, who is 23 now, was sentenced to six years' imprisonment for killing her husband. She had regularly been beaten by her husband. Police didn't react to her calls anymore. To my knowledge, although the neighbours and other people around her knew that her husband regularly beat her, the judge of Vake-Saburtalo district court did not take this into account as a mitigating circumstance when pronouncing the verdict in February 2005."<sup>43</sup>

Impunity enjoyed by perpetrators of domestic violence helps to perpetuate domestic violence. It is important that the authorities send out a clear signal to society that domestic violence violates the human rights of the victim and is a crime. They must speak and act to ensure that strict measures will be applied; that the crime of domestic violence is not tolerated; and that survivors receive reparation, including protection.

#### *Domestic law*

Neither the Criminal Code of Georgia nor the May 2006 Law on Domestic Violence contains a specific article criminalizing domestic violence. However, Article 9 of the May 2006 law stresses that domestic violence must be treated as a crime when it "contains elements of a criminal offence". Several articles of the Criminal Code can be invoked to punish certain manifestations of domestic violence including murder, manslaughter, premeditated infliction of damage to health, assault, beating, driving a person to suicide, and rape.

Amnesty International is concerned, however, that, according to Article 27 of the Criminal Procedure Code of Georgia, crimes such as premeditated infliction of minor damage to health<sup>44</sup> and beatings<sup>45</sup>, even when committed in the context of domestic violence, can only be initiated following a complaint by the victim. The proceedings are usually

<sup>43</sup> Amnesty International interview, Tbilisi, 13 April 2006.

<sup>44</sup> Article 120 of the Criminal Code.

<sup>45</sup> Article 125 of the Criminal Code punishes "beating or other violence that causes the victim physical pain" but that does not amount to premeditated infliction of damage to health (Article 117).



terminated if the complainant and the accused are reconciled.<sup>46</sup>

Criminal cases on rape (Article 137, part 1 of the Criminal Code)<sup>47</sup> and coercion in sexual intercourse or other sexual acts (Article 139, part 1)<sup>48</sup> can only be initiated following a complaint by the victim unless the case is of “*particular social importance*” and the victim is unable to protect his/her rights due to his/her “*feeble state of dependency on the accused*”. In such cases the procurator is entitled to open a case, however, only if the victim agrees to this in writing. Neither of the above-mentioned articles expressly criminalizes marital rape, nor do they preclude their application to such cases. According to Georgia’s May 2004 report to CEDAW, during the period under consideration no criminal offences against women had been recorded under Article 139 (coercion in sexual intercourse or other sexual acts).

The international community has made it clear that “*the primary responsibility for initiating prosecutions lies with prosecution authorities and does not rest with women subjected to violence*”.<sup>49</sup> While Amnesty International considers women should of course have the opportunity to make reports and initiate private prosecutions, the primary onus should be on the state to initiate criminal prosecutions in cases where there is evidence that a crime has been committed. The woman should be requested to be a witness, rather than the initiator of a prosecution. The experience of many countries has shown that if the initiation of

criminal proceedings and their continuation depend on the woman victim of domestic violence the batterer often puts pressure on her to drop the case. If, however, the woman’s role is that of a witness in a case initiated by prosecutors, this helps protect her safety. Provisions should always allow a woman to refuse to be a witness. In such cases her reasons for doing so should be examined impartially and her concerns dealt with where possible (i.e. concerns about further violence, losing her home etc.).

In order to eradicate impunity for perpetrators of domestic violence it is also crucial to pay special attention to the issue of evidence that can be considered in court. Even though the police may have observed bruises or other injuries and authorized the victim to be seen by a forensic doctor, problems may arise in prosecuting cases in which there are often no witnesses, or the only witness is a child. It has been advocated that to assist in bringing prosecutions evidence provided by relevant experts such as social workers and women’s NGOs working with victims of domestic violence should also be presented to the court. Such evidence may include, but should not be limited to: evidence of previous incidents of domestic violence; and evidence relating to the physical or psychological effects of this violence.

At the time of writing domestic violence was not regarded as a possible mitigating circumstance in the Criminal Code of Georgia in cases when a victim of domestic violence commits a crime against the batterer. The Human Rights Protection Unit of the General Procuracy informed Amnesty International in a letter dated 24 August 2006 that -- as part of the Action Plan on Measures to Prevent and Combat Domestic Violence -- amendments would be introduced to the Criminal Code so as to ensure that domestic violence is included in the list of mitigating circumstances.

#### *Prosecutions*

As the authorities do not keep comprehensive statistics on investigations and prosecutions of cases involving domestic violence disaggregated by sex and indicating the relationship between the perpetrator and the victim, information available about court proceedings in domestic violence cases is scarce. It is not known how many cases involving family violence

<sup>46</sup> Proceedings cannot be terminated based solely on the parties’ reconciliation in those cases where a procurator got involved following the request of the parties or only of the victim or his/her legal representatives.

Procurators can participate in private prosecution cases if the case is deemed to be of “*particular social importance*”.

<sup>47</sup> Article 137, part 1 of the Criminal Code deals with rape, threat of violence or abusing the helplessness of a victim. Parts 2 to 4 of the Article address repeated rape; rape of persons under 14; and rape that is accompanied by other aggravating circumstances.

<sup>48</sup> Article 139, part 1 of the Criminal Code deals with coercion in sexual intercourse or other sexual acts. Part 2 deals with the same offence committed against a minor.

<sup>49</sup> Model Strategies and Practical Measures on the Elimination of Violence against Women in the Field of Crime Prevention and Criminal Justice adopted by the General Assembly by its resolution 52/86 of 12 December 1997, para 7 (b).

against women have been initiated and what the outcomes have been.

In January 2006 the Georgian Young Lawyers Association approached relevant courts in Tbilisi including the Supreme Court of Georgia, the Procurator General's office, the regional procuracy in the town of Kutaisi as well as relevant structures of the Interior Ministry, requesting statistics on domestic violence. The Tbilisi city court, Tbilisi appellate court and the Procurator General's office responded that they did not keep statistics on this issue as the Criminal Code of Georgia did not contain domestic violence as a specific crime.

The Supreme Court stated that 11 cases involving violence in the family were lodged with common courts. In all of these 11 cases the victims were women. In six of the cases, a husband physically and verbally abused his wife; in two cases the husband physically and verbally abused his former wife; in one case the husband abused his wife and children; and in one case a mother-in-law was the victim.

According to the Information and Analysis Department of the Ministry of Internal Affairs, 47 criminal cases were opened in connection with family conflicts out of which six cases were referred to the courts and the others continued to be under investigation. The Department did not provide information about the nature of the allegations and the family relationship of the perpetrators and victims.

The procurator's office of Imereti region stated that in 2005, 73 complaints had been lodged with procurators' offices in the region involving violence in the family. Eleven of these complaints involved premeditated murder and in four of these cases intimate partners reportedly murdered their wife or girl-friend. Other allegations involved murder attempts, premeditated infliction of damage to health, sexual abuse, and causing damage to objects. The procuracy did not give details about the family relationships in these cases.

The procurator's office responsible for the towns of Baghdati, Kutaisi, Tskaltubo and Tkibuli in Western Georgia informed the Georgian Young Lawyers Association which articles of the Criminal Code had been invoked in connection with 21 complaints about violence in the family lodged between 1 January 2005 and 1 January 2006. However, the procuracy did not specify the family

relationship of the perpetrators and the victims. The offences included premeditated murder, premeditated infliction of damage to health, premeditated infliction of less serious damage to health, less serious damage to health through negligence, threat of physical violence or destruction of objects and damage to property.<sup>50</sup>

### **Court cases under civil law**

In many cases women who want to leave a violent relationship have approached the courts not in order to ensure that the batterer is brought to justice but to file for divorce or, for example, to fight for their property rights. According to Alexander Shoshikelashvili from the NGO Centre for Protection of Constitutional Rights, *"the majority of victims of domestic violence who turn to us for legal aid actually want consultation on their property rights when they get divorced"*.<sup>51</sup> Often court proceedings take a long time and, especially if the woman still lives with her partner, the risk of violence during this time is particularly high. According to the law, the court has to rule on divorce cases within two month after it has received the legal suit. In practice, however, court proceedings in divorce cases often take much longer.<sup>52</sup>

Lali was married for five years and has two children. One year after their wedding her husband reportedly started to beat, intimidate and sexually abuse her. She often sustained wounds and bruises as a result of the beatings. When her daughter tried to protect her, he reportedly beat her too. Lali turned to the police several times but the police involvement had no impact on Lali's husband. In 2003 Lali divorced her husband and moved to another flat with her children. However, her financial situation deteriorated and when her husband told her he had changed she moved back with him. Soon afterwards he reportedly started to abuse her again. She is currently unable to move out because she does not have enough money to rent a flat for herself and her children. Her husband has so far refused to register the flat they currently live in with the public registry so as to avoid having to split the value of it between

<sup>50</sup> Articles 108, 117, 118, 124, 151 and 187 of the Criminal Code of Georgia.

<sup>51</sup> E-mail correspondence, 29 May 2006.

<sup>52</sup> E-mail correspondence with Alexander Shoshikelashvili, Centre for Protection of Constitutional Rights, 2 August 2006.

them if the flat were to be sold. The couple acquired the flat during their marriage. Lali has approached the court to demand that her husband register the flat and that it be split up so that she and her children can live apart from her violent ex-husband.

Amnesty International believes that cases in any jurisdiction (whether a family case such as divorce, a housing matter such as an order barring a violent man from the home, or a criminal complaint relating to assaults) filed by women who are at risk of domestic violence should be prioritized by procurators and the courts. Where domestic violence is an issue, the courts should take a comprehensive approach, with the priority being to secure immediate safety for women at risk of violence and their dependants. Courts addressing separate issues relating to family issues, housing issues and criminal complaints should coordinate their actions with this aim.

Measures of protection should be provided promptly and include access of women to a confidential advice service, by telephone or in person, to inform them about their options relating to civil and criminal legal rights, social and health services. The providers of this service should be trained and have close links with all relevant agencies, including police, social services, health and housing services, and focus on providing women a swift and comprehensive programme of assistance, with an emphasis on securing women's immediate personal safety.

### **Lack of long-term solutions**

While many women leave a violent relationship temporarily and, for example, stay with relatives or friends, many do not take the step of permanently leaving the violent partner. Often it is a lack of viable alternatives that prevents them from doing so.

Women with few or no financial means are in a particularly precarious situation when they wish to leave a violent relationship. Due to widespread economic hardship in Georgia this dilemma affects many women. Without a sufficient income of their own and without enough money to buy accommodation they often have nowhere to go unless friends or their family are prepared and able to take such women and their children in on a permanent basis.

In many cases the family's house or flat belongs to the husband or his parents. While in Georgia men and women are equal before the law regarding property and inheritance rights, houses and flats are traditionally passed on to male heirs.<sup>53</sup> According to the Civil Code of Georgia, only property acquired during marriage is considered common property and has to be shared upon divorce.<sup>54</sup> Property acquired before marriage as well as by inheritance or gift constitutes separate property of the spouse.<sup>55</sup> As a result, women often have to leave the family's house/flat if the couple is divorced. Many Georgian couples only celebrate a church wedding and do not register their marriage with the authorities. In such cases the civil law provisions mentioned above do not apply when a couple splits up.

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 in this context, stated in his February 2005 report to the UN Commission on Human Rights, *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. The lack of secure tenure also contributes to a women's decision to remain in an abusive situation."<sup>56</sup> In his 2006 report to the UN Commission on Human Rights on the same topic he stated that "some of the pervasive cultural assumptions about a woman's need to 'leave' a violent household -- as opposed to the need to remove a violent partner -- undermine women's enjoyment of the right to adequate housing".<sup>57</sup> He urged governments to "ensure that women can access temporary, appropriate shelters and

<sup>53</sup> Ketevan Dadunashvili et al, *Violence Against Women and Right to Adequate Housing: the Case of Georgia*, October 2003. (The report was prepared by the NGO Advice Centre for Women "Sakhli", the Georgian Young Lawyers' Association and Oxfam Georgia. It was delivered at the Asia Pacific Regional Consultations with the UN Special Rapporteur on the Right to Adequate Housing in New Delhi, India).

<sup>54</sup> Article 1158 of the Civil Code.

<sup>55</sup> Article 1161 of the Civil Code.

<sup>56</sup> U.N. Doc. E/CN.4/2005/43, II Thematic findings, A 43.

<sup>57</sup> U.N. Doc. E/CN.4/2006/118, II Thematic findings, B 33.

*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 laws include provisions to protect women's right to adequate housing".*<sup>58</sup>

While, as mentioned above, the Law on Domestic Violence stipulates that temporary shelters for victims of domestic violence are to be set up from 2008, there is little indication that measures are being considered in order to meet the government's obligation to deal with the long-term need to ensure women victims of domestic violence access to safe and adequate housing.

Representatives of the Anti-Violence Network of Georgia told Amnesty International in April 2006 that although places in their shelter are extremely limited and in principle they intended the shelter to be a temporary solution for a maximum of three months, the time period often had to be extended.<sup>59</sup> *"We do not put her out on the street if she has nowhere to go after the three months. What she needs at this point is a stable job so that she can sustain herself and her children and rent accommodation. We have tried to help women find jobs but this is one of the hardest tasks,"* said Nato Shavlakadze from the Anti-Violence Network of Georgia.<sup>60</sup> The NGO informed Amnesty International on 27 July 2006 that their group had to date not received any support from the authorities when trying to find work or permanent affordable housing for women survivors of domestic violence.

In order to create long-term solutions for victims of domestic violence and to fulfill the government's obligations to prevent discrimination

against women, including its manifestation in gender-based domestic violence, Amnesty International considers that the authorities must ensure the provision of and accessibility of women victims of domestic violence to vocational training, and assist them to find jobs to facilitate them in gaining economic independence from their (former) husbands or partners, and ensure the availability of adequate and safe housing.

<sup>58</sup> U.N. Doc. E/CN.4/2006/118, III Conclusions and recommendations, 83 (d) and (e).

<sup>59</sup> Article 6 of the Law on Domestic Violence stipulates that a stay in the shelter should not exceed two month. Depending on the wish of the victim and the charter of the respective shelter, the time period can be extended. According to the law, *"if the threat to the victim is still present after the expiry of the term, the shelter or specialized institution shall inform the law enforcement agencies for the purposes of providing a response to such threat."* No further information is given to clarify what kind of response law enforcement officers are expected and entitled to take.

<sup>60</sup> Amnesty International interview, Tbilisi, 13 April 2006.

## 5. Recommendations

In order to appropriately tackle the issue of violence against women in the family in Georgia, Amnesty International calls on the Georgian authorities to:

- Build on the positive step taken by adopting the Law of Georgia on Combating Domestic Violence, Prevention of and Support to Its Victims in May 2006 by making the elimination of domestic violence and compliance with Georgia's obligations under the United Nations (UN) Convention on the Elimination of All Forms of Discrimination Against Women one of the government's priorities in the area of human rights.
- Compile reliable and accurate statistics disaggregated by sex and indicating the family relationship of victim/s and perpetrator/s on reports, investigations and prosecutions of violence against women in the family across Georgia and make these statistics available to the public.
- Ensure that each relevant government agency establishes a focal point on domestic violence and that an effective cross-agency body is set up to coordinate and facilitate the smooth implementation of all legislation and government programmes relevant to domestic violence.
- Set up a functioning cross-referral system with regard to domestic violence cases creating strong links between key agencies such as medical institutions, legal aid centres, crisis centres, shelters and police.
- Cooperate with and publicly support the work of NGOs working 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. Closely cooperate with NGOs when devising strategies on how to implement Georgia's obligations under international human rights law and how to apply them in the Georgian context.
- Invite and facilitate a visit by the UN Special Rapporteur on violence against women, its causes and consequences, to Georgia according to existing Terms of Reference.
- Ensure sufficient information and points of access for women to report domestic violence such as hotlines covering all regions of Georgia and staffed by sufficiently trained personnel including legal experts and psychologists; brochures and posters disseminated at hospitals, primary health care centres and courts; and websites.
- Promptly allocate 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 non-governmental organizations (NGOs) experienced in working to protect women from violence.
- Ensure that rehabilitation programs for offenders convicted of violence against women concentrate not just on vocational skills but also incorporate non-violent conflict resolution skills, communications skills and education on women's human rights.
- Create a code of conduct for law enforcement officials on best practices in responding to women who are victims of violence.
- Ensure that legislation providing for the creation and enforcement of protection and restraint orders on violent men is fully implemented, including through the enforcement of penalties and criminal sanctions.
- Ensure that police officials, procurators and judges receive mandatory training to ensure that women are protected from violence in the community. Place special emphasis on guidelines regarding the issuing, monitoring and follow-up of protection and restraint orders envisaged in the Law of Georgia on Combating Domestic Violence, Prevention of and Support to Its Victims.
- Ensure that doctors, nurses, midwives, medical students and forensic medical practitioners are given training in identifying and responding to family violence.

- Ensure that medical files reflecting domestic violence are kept strictly confidential.
- Ensure that procurators and judges prioritize court cases of women who are at risk of domestic violence, no matter whether it is a family case, a housing matter or a criminal complaint and that they take prompt measures to secure their immediate safety. Measures of protection should include providing women with prompt access to a confidential advice service to inform them of their options relating to civil and criminal legal rights, social and health services.
- Ensure that women's complaints of violence by husbands, cohabitantes or other intimate partners, be promptly, impartially and thoroughly investigated, and that where there is sufficient admissible evidence, suspects are prosecuted in a fair trial. Complainants, witnesses and others at risk during such investigations and prosecutions should always be protected from intimidation and reprisals.
- Enforce laws that protect women and ensure that violence in the family is treated as seriously as assault in other contexts and that rape and other violence against women is criminalized in all contexts.
- Ensure that in all cases where there is evidence that domestic violence has taken place the primary onus to initiate criminal prosecutions is on the state rather than on the victim of domestic violence. This obligation of the state concerns all articles in the Criminal Code that can be applied in domestic violence cases including premeditated infliction of minor damage to health (Article 120 of the Criminal Code of Georgia), beatings (Article 125), rape (Article 137, part 1) and coercion in sexual intercourse or other sexual acts (Article 139, part 1).
- Take measures to ensure that in all criminal cases involving domestic violence evidence may be provided by relevant experts, including social workers and women's NGOs working with victims of violence. Such evidence may include, but should not be limited to: evidence of previous incidents of domestic violence; and evidence relating to the physical or psychological effects of this violence.
- Ensure that in investigations and prosecutions of cases where women are accused of the murder or manslaughter of a spouse or partner, and where a history of domestic violence is suspected, all relevant evidence relating to the relationship between the deceased person and the defendant is put before the court, including expert evidence as cited above; such evidence should be taken into account by the court, so it may decide whether an issue of self-defence arises, or whether there are grounds for mitigating the sentence.
- Ensure that all women who have been subjected to violence are provided with access to redress and reparation, including compensation and psycho-social and medical rehabilitation.
- Ensure the provision of and accessibility of vocational training, and assist them to find jobs to facilitate them in gaining economic independence from their (former) husbands or partners, and ensure the availability of adequate and safe housing.
- Raise public awareness across Georgia through mass media and throughout schools that gender-based violence is a human rights violation, whether committed by a state or a private individual.
- Raise public awareness of the constructive action that the government will take to combat domestic violence and publicly and at every opportunity declare its commitment to eradicating violence against women in Georgia.
- Inform the public about the Optional Protocol to the Convention to which Georgia acceded in 2002, which enables individual women and groups to petition the Committee on the Elimination of Discrimination Against Women (CEDAW) directly about violations of their rights under the Convention.