

HUMAN RIGHTS OF WOMEN IN CENTRAL AND EASTERN EUROPE

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I. INTRODUCTION

Recent changes in Central and Eastern Europe (CEE)² have jeopardized women's human rights, rather than enhanced them. Most studies of women's human rights in Central and Eastern Europe treat the region as a generic entity, as if the history and culture of the enormous region could be blended into a single phenomenon—the so-called 'countries in transition'. Yet, the nature and degree of the problems faced by women vary significantly from country to country and, within each country, from social group to social group. The elderly and disabled, single mothers and girls, refugee and migrant women, and women from minority ethnic, religious, national or linguistic groups face the greatest obstacles to full participation in society and realization of human rights. Women living in countries recovering from or in the throes of armed conflict, as well as women in countries facing acute economic crises, have their own sets of issues and, thus, their own strategies for promoting their status as women. International and regional governmental and non-governmental organizations interject their own varied agendas into the region. Women advocates for human rights in CEE shape their particular responses to foreign interventions in accordance with their own historical survival tactics and existing opportunities for progress.

To underscore both continuity and difference, this article offers a country-by-country comparative analysis of the region, drawing extensively from reports by lawyers, scholars and activists (not mutually exclusive groups) in the region. Core information, including the selection of topics, is drawn from the results of a ten-

2. Central and Eastern Europe (CEE) refers to all of Europe other than the area identified as 'Western'; thus, many parts of the Newly Independent States fall into CEE.

country survey³ administered by the author in August 1996 which is located at Part V. In Part II, the article presents the status of women under prior socialist regimes. Part III provides an analysis of the impact of recent economic, political and social changes in CEE on women's human rights. Next, Part IV discusses the current status of women in CEE. Finally, Part V is a country-by-country analysis that presents factual information concerning the law and reality in the three areas that women in the region identified as most pressing: (1) economic conditions and discrimination in employment; (2) domestic violence, rape and other forms of violence against women (including trafficking in women and forced prostitution); and (3) women's low rate of participation in political life. In addition, other issues are identified as areas of concern: abortion and women's health, sexual harassment, maternity leave and childcare, family law (with particular reference to divorce), and discrimination against lesbians and single women.⁴ By providing such detailed information, this article seeks to serve as a resource for women, both in the region and elsewhere, who seek to understand the complex nature of change in CEE and its impact on women.

II. THE LEGACY OF FORMAL EQUALITY

Under the socialist systems of Central and Eastern Europe, women gained equality on formal grounds in areas such as integration into the labor market, access to education, and formal inclusion into governmental structures. If discrimination is defined narrowly as 'different treatment' (treating women and men differently),

3. The survey will be referred to generally as "Author's survey." The author chose countries according to availability of information and with a desire to present regional diversity. In each country, relevant laws were collected and at least three people with knowledge about both law and practice were asked about the state of the formal law and the status of women with regard to each of the topics examined below. In addition, they were encouraged to provide information as to actions taken by women's groups. Where the information provided was incomplete, the country was not included in the final report for that question. The information was supported by published sources. For the subjective parts of the survey, cross-sections of at least 100 women were surveyed in the region. Although this sample is not scientific, the results were checked against and supported by other published and unpublished sources. Due to space constraints, the entries for Germany were abbreviated. Countries included in whole or in part are: Albania, Bulgaria, the Czech Republic, Croatia, Germany (primarily concerning the former East Germany), Poland, Romania, Serbia (Yugoslavia), Slovakia, and Ukraine. In addition, the geographic region of Kosovo is included separately from Serbia, as the issues regarding women's human rights in Kosovo differ significantly from Serbia and the status of Kosovo has yet to be resolved.

4. Additional issues identified as sources of concern for women include: discrimination against older women, discrimination against women from particular ethno-national/racial groups, use of culture or religion to oppress women, lack of opportunities for village and rural women, drug and alcohol abuse, lack of opportunities for girls, environmental degradation, and negative stereotypes of women in the media.

ideologically, women did not experience discrimination under socialism. Employment in CEE was equated with women's emancipation and both men and women were workers equally obligated to contribute to their party/state.⁵ The gap between ideology and reality in CEE, however, is renowned. As Barbara Einhorn observed, "[s]tate socialism 'emancipated' women not as equal citizens but as worker-mothers."⁶

To balance full-time employment with the notion that women should maintain their "natural" role as mothers, however, the socialist system did treat women differently from men.⁷ Protectionist legislation prohibited pregnant women, women with small children, and, in some cases, all women from holding dangerous or taxing jobs.⁸ Compensatory legislation granted benefits and allowed exceptions for working mothers, such as maternity benefits, childcare, and leave for caring for sick family members.⁹ By further entrenching the patriarchal division of labor and reaffirming women's primary role as one of reproduction and caretaking, the social benefits system "isolated women and [caused men to feel] largely relieved from their responsibilities as fathers and husbands."¹⁰ Ultimately, the benefits worked against women's equality.¹¹

To supplement the protectionist measures and further promote ideological equality, states enacted a number of so-called 'positive' discriminatory measures, which had a dark underside for women.¹² Quotas were set to ensure women's participation in the political sphere, but few women had access to leadership positions or the ability to impact decision making.¹³ The doors of higher education swung open to women, but women's returns on their education were

5. See UNITED NATIONS, ECONOMIC AND SOCIAL COUNCIL, HIGH-LEVEL REGIONAL PREPARATORY MEETING FOR THE FOURTH WORLD CONFERENCE ON WOMEN, *THE ROLE OF WOMEN IN THE TRANSITION PROCESSES: FACING A MAJOR CHALLENGE*, E/ECE/RW/HLM/5, ¶ 9 (1994) [hereinafter U.N. ESCOR, *THE ROLE OF WOMEN*].

6. BARBARA EINHORN, *CINDERELLA GOES TO MARKET: CITIZENSHIP, GENDER AND WOMEN'S MOVEMENTS IN EAST CENTRAL EUROPE* 40 (1993).

7. U.N. ESCOR, *THE ROLE OF WOMEN*, *supra* note 5, at ¶ 15.

8. See Kim Lane Schepple, *Women's Rights in Eastern Europe*, 4 E. EUR. CONST. REV. 66 (1995).

9. See U.N. ESCOR, *THE ROLE OF WOMEN*, *supra* note 5, at ¶ 17 (noting that although in some countries men, as well as women, could take childcare leave, very few men did).

10. U.N. ESCOR, *THE ROLE OF WOMEN*, *supra* note 5, at ¶ 17.

11. See U.N. ESCOR, *THE ROLE OF WOMEN*, *supra* note 5, at ¶ 20 (noting that women's status under the socialist regime had more to do with their being mothers than individuals, which in turn, caused very different perceptions of women).

12. U.N. ESCOR, *THE ROLE OF WOMEN*, *supra* note 5, at ¶ 8.

13. See U.N. ESCOR, *THE ROLE OF WOMEN*, *supra* note 5, at ¶ 8 (maintaining that women's decision-making role existed to meet administrative quotas).

far less than those of men.¹⁴ The door to the labor market opened wider, but women were segregated into lower paid industries and occupations.¹⁵

Despite the formal guarantees, if discrimination is defined more broadly as unequal access to power and resources, discrimination was indeed rampant.¹⁶ Men earned considerably more money than women,¹⁷ because they held higher positions and received favorable treatment within the same industries and positions, and because women were concentrated in less prestigious, lower paid industries and occupations (particularly, education and health care).¹⁸ As a general rule, wherever women worked, the profession was of lower status and tended to be of a clerical nature.¹⁹ Indeed, although a large number of women were lawyers, judges, physicians, accountants, economists and teachers,²⁰ women in these professions were generally low-paid and poorly regarded.²¹

14. Ireneusz Bialecki & Barbara Heyns, *Educational Attainment, the Status of Women, and the Private School Movement in Poland*, in *DEMOCRATIC REFORM AND THE POSITION OF WOMEN IN TRANSITIONAL ECONOMIES* (Valentina M. Moghadam ed., 1993). See also U.N. ESCOR, *THE ROLE OF WOMEN*, *supra* note 5, at ¶¶ 10, 11 (showing jobs women received were less prestigious, lower salaried, and in lighter industries than those received by their male counterparts).

15. See U.N. ESCOR, *THE ROLE OF WOMEN*, *supra* note 5, at ¶ 10 (indicating women's participation rate in the labor market was extremely high, approximately 80%).

16. See BARBARA JANCAR, *WOMEN UNDER COMMUNISM* 88 (1978); ALENA HEITLINGER, *WOMEN AND STATE SOCIALISM: SEX INEQUALITY IN THE SOVIET UNION AND CZECHOSLOVAKIA* 20 (1979); GAIL W. LAPIDUS, *WOMEN IN SOVIET SOCIETY: EQUALITY, DEVELOPMENT, AND SOCIAL CHANGE* 166 (1978); HILDA SCOTT, *DOES SOCIALISM LIBERATE WOMEN?* (1974); Renate Siemieniska, *Women, Work and Gender Equality in Poland: Reality and Its Social Perceptions*, in *WOMEN, STATE AND PARTY IN EASTERN EUROPE* 10 (Sharon Wolchik & Alfred Meyer eds., 1985); Sharon Wolchik, *Eastern Europe, in THE POLITICS OF THE SECOND ELECTORATE: WOMEN AND POLITICAL PARTICIPATION* 252-277 (Joni Lovenduski & Jill Hills eds., 1981); and Belinda Cooper, *The Truth About Superwoman: Women in East Germany*, 5 *MICH. FEMINIST STUD.* 59 (1990).

17. During the 1980s in Bulgaria, Poland, Hungary, and the former Czechoslovakia, women professionals within the same occupational category as men earned between 73% and 78% of what men earned. Larger differences between male and female workers prevailed in other categories. Sabine Hubner et al., *Women's Employment in Central and Eastern Europe: Status and Prospects*, in *STRUCTURAL CHANGES IN CENTRAL AND EASTERN EUROPE: LABOUR MARKET AND SOCIAL POLICY IMPLICATIONS* (Gerog Fisher & Guy Standing eds., 1993), cited in U.N. ESCOR, *THE ROLE OF WOMEN*, *supra* note 5, at ¶ 13.

18. U.N. ESCOR, *THE ROLE OF WOMEN*, *supra* note 5, at ¶¶ 10-13.

19. U.N. ESCOR, *THE ROLE OF WOMEN*, *supra* note 5, at ¶¶ 10.

20. For example, in the former Soviet Union, women accounted for 89% of all bookkeepers, 87% of economists, 70% of teachers, and 67% of physicians. Natalia Rimashevskaja, *Perestroika and the Status of Women in the Soviet Union*, in *WOMEN IN THE FACE OF CHANGE: THE SOVIET UNION, EASTERN EUROPE AND CHINA* 11 (Rai Shirin, Hilary Pilkington & Annie Phizacklea eds., 1992).

21. Men held the more prestigious posts within each of these professions: the lawyer permitted to work on foreign business contracts; the chief of the hospital or school; or the government economist in charge of economic policy. See Jirina Siklova, *Report on Women in the Post-Communist Central Europe (Personal View From Prague)* (1996) (unpublished unpaginated manuscript, on file with author).

The gender-segregated labor market can be at least partially explained by traditional attitudes about men as decision-makers and women as family caretakers—attitudes that persisted both *despite* and *because of* the system. Despite the rhetoric of equality, men had careers while most women just “went to work.”²² Men were more likely to find an environment for meaning and self-realization in the workplace. Women were still expected to find fulfillment within their family.²³ Their jobs were intended to be complementary to, but never competitive with or in lieu of their family obligations.²⁴ Shortage economies required women to wait in line for food and scavenge for goods.²⁵ By holding lower-status jobs, women could more easily slip away from the workplace to attend to family emergencies, from finding milk to taking a sick child to the clinic.²⁶

These deeply ingrained social practices²⁷ had long-term consequences on women’s images as workers, limiting their chances of being hired for posts that are more prestigious and reducing their opportunities for promotions.²⁸ Actual and imagined “female” attitudes toward work emerged “such as poor assertion skills, evading success, fear of responsibility, and determination of job satisfaction by social conditions (company atmosphere, opportunity for personal communication) rather than by objective criteria (income, promotion prospects, leverage in collective bargaining).”²⁹ Managers came to view women as less “reliable” and more “expensive” workers.³⁰

The State, thus, used the notion of formal equality for its own purposes. The social system demanded such an instrumental use of

22. *Id.*

23. *Id.*

24. See CHRIS CORRIN, *SUPERWOMEN AND THE DOUBLE BURDEN: WOMEN'S EXPERIENCE OF CHANGE IN CENTRAL AND EASTERN EUROPE AND THE FORMER SOVIET UNION* 78 (1992).

25. U.N. ESCOR, *THE ROLE OF WOMEN*, *supra* note 5, at ¶ 11.

26. U.N. ESCOR, *THE ROLE OF WOMEN*, *supra* note 5, at ¶ 11.

27. The International Labour Organization (ILO) has found that such practices have survived to a certain extent in State enterprises. An ILO survey conducted in the Czech and Slovak republics in 1991-92 found that 70% of women could leave their workplace to “attend to urgent personal matters” without much difficulty. Thirteen percent said they could leave “any time,” 24% “sometimes,” and 33% “exceptionally.” PORI, 1991/92, *Zamestnanost Zen: Zaverčna sprava z vyzkumu*, Public Opinion Research, Prague, *cited in* U.N. ESCOR, *THE ROLE OF WOMEN*, *supra* note 5, at ¶ 11.

28. Siklova, *supra* note 21.

29. Hildegard Maria Nickel, *Women in the German Democratic Republic and in the New Federal States: Looking Backward and Looking Forward*, in *GENDER POLITICS AND POST-COMMUNISM* (Nanette Funk & Magda Muller eds., 1993), *cited in* U.N. ESCOR, *THE ROLE OF WOMEN*, *supra* note 5, at ¶ 12.

30. U.N. ESCOR, *THE ROLE OF WOMEN*, *supra* note 5, at ¶ 12.

women. Women became a reserve labor pool, to be pushed into jobs where needs arose and dismissed during times of surplus. The State could use women's "natural role as mothers" and its need to "populate the nation" to justify segregating women into lower paid jobs, forcing women to retire early, or declaring that certain activities are too dangerous to women's child bearing capacities.

Men, similarly, used the rhetoric of equality to keep women from demanding actual equality. "Any claims or complaints by women about the excessive burden [of daily household chores and labor in state enterprises] provoked aggression: '[y]ou wanted equality. Now you've got it. You have only yourself to blame.'"³¹ State-sanctioned women's organizations offered little retreat as they championed the glorious role of women as only mother-worker. Restrictions on civil and political rights curtailed further possibilities for public associations that would work for change.

The lack of equality in the economic sphere affected various groups of women differently. Single mothers, elderly women, rural women, disabled women, and members of minority ethnic groups³² were less likely to earn a decent living.³³ These women fared best only if they could earn a second income, through bribes, black market barter or, in some cases, through private, legal markets for food, goods, and private-sector services.³⁴ However, the possibilities for secondary income varied greatly from country to country and, within countries, between rural and urban areas.³⁵

Women, like men, entered the private sphere where societies were more communal and based on family and inter-personal

31. Irina Jurna, *Women in Russia: Building a Movement*, in FROM BASIC NEEDS TO BASIC RIGHTS: WOMEN'S CLAIMS TO HUMAN RIGHTS 477, 482 (Margaret A. Schuler ed., 1995).

32. Women of minority ethnic, national, or religious groups face discrimination everywhere, including Rom (gypsies) scattered throughout Central and Eastern Europe, but particularly in Romania, Slovakia and Hungary; Hungarians in Slovakia, Romania, Serbia, and Ukraine; Albanians in Kosovo, Serbia proper, and Macedonia; Slovaks in Hungary; Jews throughout Eastern Europe, especially in Hungary, where the Jewish population totals roughly 85,000 and Poland where anti-Semitism is particularly strong; Germans in Poland, the Czech Republic, and Hungary; and Russians in Ukraine, Estonia, Latvia and elsewhere. See *That Other Europe*, THE ECONOMIST, Dec. 25, 1993, at 17.

33. See, e.g., Frances Pine, *Uneven Burden: Women in Rural Poland*, in WOMEN IN THE FACE OF CHANGE: THE SOVIET UNION, EASTERN EUROPE AND CHINA 15 (Shirin Rai, Hilary Pilkington & Annie Phiaclear eds., 1992).

34. U.N. ESCOR, THE ROLE OF WOMEN, *supra* note 5, at ¶ 14.

35. U.N. ESCOR, THE ROLE OF WOMEN, *supra* note 5, at ¶ 14. Women in large urban areas of Hungary, for example, had the possibility of renting out parts of their flat to tourists, while such practice was largely unheard of in rural areas within Hungary, and strictly forbidden in other countries, such as Ukraine and Romania. In some countries, such as Yugoslavia and Hungary, women with higher education, particularly doctors and lawyers, could combine state jobs with private practice. In general, however, men tended to dominate such private practices. *Id.*

relationships than modern and impersonal societies based on performance and contracts. "It was only important to conform, to hunt for goods, arrange for kids to be accepted into schools, hold values of basic survival, [and] maintain hearth and home"³⁶ Women and men faced one common enemy: the regime. Women blamed communism, the rhetoric of communism, and themselves for their misfortune.³⁷ For many women, opposing the formal equality and double burden that went along with it was "part of opposing Communism."³⁸

III. HUMAN RIGHTS OF WOMEN IN TRANSITION ECONOMIES

The collapse of socialist regimes raised women's expectations for realizing their human rights.³⁹ Indeed, almost overnight, women (and men) gained several social and political rights, including the rights to free association, travel, speech and press, and the freedom to organize political parties and participate freely in the political process. Yet, few of these rights have led to significant improvements in the ability of women to participate in political and social life.⁴⁰ Women are instead losing many of the benefits acquired in the past.⁴¹

The changes most affecting women's human rights in CEE are part of larger shifts in the global economy. The entities that now virtually dictate global economic policies—the World Bank, the International Monetary Fund (IMF) and the United States—promote policies of "structural adjustment," which reward states' attempts to promote the market orientation of economies (instead of valuing states' equitable distribution of social benefits).⁴² In exchange for cash grants or commodity transfers, countries agree to measures that will increase exports, promote private and direct foreign investment, privatize public-sector enterprises, and cut back on state provided social

36. Zora Butorova, FOCUS Agency, Alliance of Slovak Women, Men and Women at the Crossroads of Social Expectations (1996) (unpublished unpaginated article, on file with author).

37. Krisztina Morvai, *Continuity and Discontinuity in the Legal System: What it Means for Women: A Female Lawyer's Perspective on Women and the Law in Hungary*, 5 UCLA WOMEN'S L.J. 63, 66 (1994).

38. *Id.*

39. Elzbieta Matynia, *Women After Communism: A Bitter Freedom*, 61 SOC. RES. 356 (1994).

40. U.N. ESCOR, THE ROLE OF WOMEN, *supra* note 5, at ¶ 2.

41. U.N. ESCOR, THE ROLE OF WOMEN, *supra* note 5, at ¶ 2. See also Sharon Wolchik, *International Trends in Central and Eastern Europe: Women in Transition in the Czech and Slovak Republic—The First Three Years*, 5 J. WOMEN'S HIST. 100-107 (1994).

42. Rebecca A. Sewall, *Reconstructing Social and Economic Rights in Transitional Economies*, in FROM BASIC NEEDS TO BASIC RIGHTS: WOMEN'S CLAIMS TO HUMAN RIGHTS 155, 159 (Margaret A. Schuler ed., 1995).

welfare services.⁴³ To varying degrees across CEE, governments have withdrawn from economic management of economic activities and turned the reigns over to private companies.⁴⁴ In return, private and governmental investment in CEE has soared while social conditions for the majority of the population have plummeted.⁴⁵

Five attributes of the transition to a market economy have had a particular impact on women's human rights: (1) the dismantling of the welfare state; (2) increased unemployment and non-employment; (3) declining levels of income and increased poverty; (4) overt job discrimination and continued occupational segregation; and (5) a surge of traditional attitudes towards gender roles.⁴⁶

A. *The Dismantling of the Welfare State*

In the new market economies of CEE, the conceptualization of social and economic rights has been transformed. Under the old command (or quasi-command) economies, social and economic rights were "defined in terms of goods and services" and social outcomes, while "employment-related rights [were] the means through which these goods and services had been disbursed."⁴⁷ Under this scheme, the state enterprise distributed the material that made economic and social rights, such as childcare, pensions, and health care, a reality. In contrast, under the free market economies of the industrialized west, "social and economic rights are defined within the context of the market" and, thus, "employment-related rights are largely limited to granting women equal access to the market."⁴⁸ This reconceptualization resulted in a net loss for women since women in CEE have always had access to the labor market. In effect, they gained something they already had, while losing social and economic rights.

Under the centrally planned economies, the social safety system provided guaranteed employment, housing, health care, childcare,

43. *Id.*

44. See ECE, *Economic Survey for Europe 1992-1993*, Geneva, Sales No.E.93.II.E.1, ch. 3 (discussing process of privatization).

45. UNICEF, *Public Policy and Social Conditions*, Regional Monitoring Report [Eastern Europe], No. 1, Nov. 1993.

46. See generally U.N. ESCOR, THE ROLE OF WOMEN, *supra* note 5 (examining the role of women in the transition process in CEE); and UNITED NATIONS CONFERENCE ON TRADE & DEVELOPMENT, PRIVATIZATION IN THE TRANSITION PROCESS: RECENT EXPERIENCES IN EASTERN EUROPE, U.N. SALES NO. E.94.II.D.25 (1994) [hereinafter U.N.C.T.A.D. EXPERIENCES IN E. EUROPE].

47. Sewall, *supra* note 42, at 166.

48. Sewall, *supra* note 42, at 166.

vacation, education, livable pensions and emergency support.⁴⁹ With increasing independence from the state, enterprises have discontinued most benefits, forcing the government and specialized private agencies to fill in the gap.⁵⁰ Moreover, unemployment rates have continued to grow, straining already over-extended public and private resources.⁵¹ The message to the employed, as well as the unemployed, is that unless they can afford to pay for benefits, they will have to do without.

Women bear a large share of the burden of dismantling the welfare state. As in other countries that are undergoing structural adjustment, the protective labor laws that once, to some degree, favored the rights of women are now being viewed as impediments to economic growth.⁵² Child support systems, including family and child allowances, nurseries, and kindergartens, are now entirely or partially closed, or privatized and open only to those who can afford to pay.⁵³ Declines in family benefits have increased women's caring responsibilities.⁵⁴ When the state does not pay for the care of the elderly, women must fill in, finding themselves spending more time caring for family members than ever before.⁵⁵ Thus, deteriorating economic conditions have increased pressure on women to earn more while simultaneously limiting their ability to do so.

Threats to women's economic and social rights place all the rights of women in jeopardy. As long as women are impoverished and overburdened, they cannot begin to participate fully in society. Accordingly, "the shift from one economic system to another signals

49. Violeta Roxin & Janos Hoos, *Social Services in Eleven Central and East European Countries—Comparative Aspects*, in REFORMING SOCIAL SERVICES IN EASTERN EUROPE—AN ELEVEN NATION OVERVIEW 281-318 (Victor A. Pestoff ed., 1995).

50. See Lucjan T. Orlowski, *Social Safety Nets in Central Europe: Preparation for Accession to the European Union?*, 37 COMP. ECON. STUD. 29 (1995), available in LEXIS (page references unavailable) (stating that pension funds, travel companies, private schools, and health care providers have been forced to step in where state-owned enterprises once provided such benefits).

51. See *id.*

52. See Guy Standing, *Feminism Through Flexible Labor*, 17 WORLD DEV. 1077-95 (1989).

53. The closures were extremely fast. Of 773 kindergartens run by Slovak enterprises in 1989, only 196 remained in 1992. In Hungary, only 1% of children of the relevant age group attend enterprise-run kindergartens. U.N. ESCOR, THE ROLE OF WOMEN, *supra* note 5, at ¶ 49. Although the old system of childcare was infamous in some places for its low standard of care, particularly in an area with a high child to career ratio, many women still long for the old system. See Ewa Ruminska-Zimny, *The Family and Society: Facing Socio-Economic and Political Crisis*, Address at the United Nations Interregional Seminar on Women in Development (May 29-31, 1989).

54. U.N. ESCOR, THE ROLE OF WOMEN, *supra* note 5, at ¶ 19 (stating that the double burden of work and family on women increased during the 1980's when centrally planned economies in Europe became "dysfunctional").

55. U.N. ESCOR, THE ROLE OF WOMEN, *supra* note 5, at ¶ 19.

the need for a redefinition for women's social and economic rights, and new employment-related mechanisms to uphold these rights."⁵⁶ Women in the region identify the right to return to work after pregnancy, a right once enjoyed under the old regimes, as one that must be protected in the new market systems.⁵⁷ Some activists argue that the legal approach to maternity leave should be changed to challenge the stereotype of "women's duties" and to foster the father's involvement in raising children. As the country-by-country survey indicates, with respect to maternity leave,⁵⁸ certain countries have adopted these measures while others are still waiting.

B. Increased Unemployment and Non-employment

With respect to access to the labor market, women have been the main losers in the restructuring of CEE economies.⁵⁹ A decline in employment in the manufacturing industry occurred more quickly for women than for men; female administrative and clerical jobs were drastically reduced while male production line jobs experienced less drastic decreases.⁶⁰ In countries with a large agricultural sector, structural changes have adversely affected women's employment as, traditionally, women were employed in large numbers on state farms, particularly in administration.⁶¹ Unemployment rates for women increased in all countries except for the Czech Republic and, apart from Hungary and Slovenia, the gap between female and male unemployment widened.⁶² In the Russian Federation and in other Commonwealth of Independent States countries, an estimated 70% to 80% of women are unemployed.⁶³

56. Sewall, *supra* note 42, at 156.

57. See U.N. ESCOR, THE ROLE OF WOMEN, *supra* note 5, at ¶ 17 (explaining that the denial of right of mothers to work may impinge on women's ability to affect change because their position in the economy will decrease).

58. See *infra* at pp. 176-83.

59. See generally WOMEN IN THE AGE OF ECONOMIC TRANSFORMATION: GENDER IMPACT OF REFORMS IN POST-SOCIALIST AND DEVELOPING COUNTRIES (Nahid Aslanbeigui et al. eds., 1994) (providing case studies on occupational segregation and wage differentials in Germany, Poland, and Russia). For background on the privatization process in Eastern Europe generally, see U.N.C.T.A.D. EXPERIENCES IN E. EUROPE, *supra* note 46.

60. U.N. ESCOR, THE ROLE OF WOMEN, *supra* note 5, at ¶ 39.

61. U.N. ESCOR, THE ROLE OF WOMEN, *supra* note 5, at ¶ 40.

62. UNITED NATIONS, ECONOMIC AND SOCIAL COUNCIL, ECONOMIC COMMISSION FOR EUROPE, WOMEN'S ACCESS TO EMPLOYMENT AND ENTREPRENEURSHIP; REPORTED BY THE ECE SECRETARIAT AND THE ILO, at ¶ 30 & Table IV, U.N. Doc. E/ECE/RW/HLM/4 (1994) [hereinafter U.N. ESCOR, WOMEN'S ACCESS].

63. Guy Standing, *Structural Changes and the Labor Market Crisis in Eastern and Central Europe, in STRUCTURAL CHANGE, EMPLOYMENT AND UNEMPLOYMENT IN THE MARKET AND TRANSITION ECONOMIES*, DISCUSSION PAPERS (Gerog Fisher & Guy Standing eds., 1993). See also E. Gruzdeva, L. Rzhantitsyna, & S. Khotkina, *Women in the Labour Market*, in 25 PROBS. IN

This percentage is misleading and may be lower than the actual employment picture. One method by which states hide underutilization of labor is to encourage workers to leave the workforce. Early retirement schemes are popular throughout the CEE region, particularly in the Czech Republic, Hungary, Romania and Slovakia.⁶⁴ The 'non-employment rate'—that is, the rate of the population that is not seeking work and thus cannot be counted as unemployed—has increased in CEE much more rapidly than the unemployment rate. In Hungary, for instance, the non-employment rate rose from sixteen percent to thirty-two percent between 1990 and 1993.⁶⁵ Frequently, because either unemployment benefits are extremely low or other social benefits induce women to exit the workforce altogether, women have little incentive to register as unemployed.⁶⁶ Thus, unemployment figures alone do not accurately reflect women's social situation.

A survey carried out by a Bulgarian national public opinion research institute in 1992 found that 77.7% of all respondents viewed unemployment as the most acute problem facing Bulgarian women.⁶⁷ That percentage is likely to be even greater today as economic conditions in Bulgaria have deteriorated. Economic conditions vary greatly from country to country within the region and, as the Bulgarian example shows, conditions are subject to cyclical variations. Yet, out of over 100 women surveyed from the region, all except for those from the Czech Republic, list "economic conditions," "unemployment," or "poverty" as the top concern facing women in their country.⁶⁸ When asked to explain, women stressed the inter-relationship between these rights and all other rights.⁶⁹

TRANSITION (Feb. 1993).

64. See Orlowski, *supra* note 50 (stating that rising structural unemployment has increased the number of those seeking early retirement and pension benefits).

65. Martin Godfrey, *The Struggle Against Unemployment: Medium-term Policy Options for Transitional Economies*, 134 INT'L LAB. REV. 3 (1995).

66. For example, under Hungarian law, mothers can receive, in addition to a five-month maternity leave, 75% of their previous salary until the child is two years old. The child allowance is greater than unemployment benefits and the entitlement period lasts longer. Klara Foti, *Rising Unemployment in Hungary: Causes and Remedies* (Hungarian Academy of Science Working Paper No. 24, Aug. 1993).

67. U.N. ESCOR, *THE ROLE OF WOMEN*, *supra* note 5, at ¶ 43 (citing Nacionalen Centr za Izuchavane na Obschestvenoto Mnenie (National Center of Public Opinion Research), Socialniat Status na Svremennata Blgarska Zhena, October 1992, Sofia, mimeographed).

68. The author's survey of women in the region for subjective preferences was supplemented with other sources from the region. Thus, although the sample is in no way scientific, the finding that women tend to be most concerned with economic issues is supported by a variety of sources.

69. Author's survey, *supra* note 3.

C. Declining Levels of Income and Increases in Poverty

In all countries in CEE, real wages have decreased over the past five years⁷⁰ and poverty has increased in turn.⁷¹ The impact on women and children has been particularly severe⁷² because women were already at the bottom of the pay scale and were less likely to participate in the black market or private sector activities that offset the decline in official wages. To make ends meet many women in CEE now work several part-time jobs in addition to their household tasks.⁷³ Perhaps therefore, the overall health of women has fallen dramatically as physical and emotional demands on women have increased.⁷⁴ In addition, severe environmental degradation has only exacerbated health problems.

Single mothers and large families are among those most likely to be impoverished. By 1993, in Poland "three-quarters of single mother families and over half of families with at least four children were living below the poverty line."⁷⁵ Elderly women, the disabled, migrants and refugees (mainly women and children), and members of minority ethnic, national or racial groups are also particularly vulnerable.⁷⁶ While these groups are vulnerable in Western Europe and the United States,⁷⁷ they face particular hardships in CEE where severe poverty and lack of economic opportunities are barely addressed by social institutions, either because such institutions do not exist or because they are inoperable.⁷⁸

70. The cumulative fall in real wages from 1990 to 1993 varied from 12% to 15% for Hungary and the Czech Republic to around 30% for Poland. The fall was even worse in countries in conflict, such as those of the former Yugoslavia, and countries where the economic transition was accompanied by an abrupt disintegration of the former federal structures, such as in Ukraine and Moldova. U.N. ESCOR, *THE ROLE OF WOMEN*, *supra* note 5, at ¶ 44.

71. U.N. ESCOR, *THE ROLE OF WOMEN*, *supra* note 5, at ¶ 44.

72. U.N. ESCOR, *THE ROLE OF WOMEN*, *supra* note 5, at ¶ 44.

73. *Bulgaria—Situation of Women, United Nations National and Global Development, NGO Report for Beijing*, U.N. Development Programme, at 4 (1995) [hereinafter *UNDP Bulgaria Report*].

74. *See id.* at 8 (stating that the decline in women's health further impinges their ability to return to work). For example, according to data from medical checkups in Bulgaria in 1993, only 30% of all women were healthy or practically healthy; but prior to restructuring in 1983, 68% of women were said to be healthy or practically healthy. *Id.*

75. Beata Aciak, *Family Benefits and Social Policy in Poland*, in *FAMILIES, POLITICS AND THE LAW: PERSPECTIVES FOR EAST AND WEST EUROPE* 284 (Mavis Maclean & Jacek Kurczewski eds., 1994) (citation omitted).

76. *See* Mort Rosenblum, *Europeans Target Immigrants with New Hatred*, *CHI. TRIB.*, Nov. 16, 1995, at 8; and Jennifer Monahan, *Fortress Europe (Backlash Against Refugees)*, 8 *NEW STATESMAN & SOC'Y* S10 (1995), available in 1995 WL 12437425 (finding that xenophobia has grown in Europe in recent years).

77. *See* Pauline Conroy & Niamh Flanagan, *Women and Poverty in the European Community: Issues in the Current Debate*, Commission of European Communities, V/4294-EN (1993).

78. *See* U.N. ESCOR, *THE ROLE OF WOMEN*, *supra* note 5, at ¶ 3 (explaining that women in CEE are poorly organized so that their marginalization sometimes goes unnoticed).

Poverty and marginalization have led to a rapidly declining birth rate.⁷⁹ Gail Kligman has underscored that "[i]t is a significant anomaly that while the economic needs of Eastern Europe may be compared with those of developing countries, demographic trends (especially declining birthrates) mirror those of Western Europe."⁸⁰ Fertility rates dropped in all CEE countries in the early 1990s.⁸¹ In East Germany, for example, births in 1992 had declined to forty-four percent of the total births in 1989.⁸² Many women in CEE view eradication of poverty as an essential component to improving women's reproductive freedom.⁸³ While supporting safe and legal abortion for women and advocating for improvements in women's health care, many women find that the freedom to *have* children does not exist in the wake of poverty.

D. Overt Gender Discrimination and Continued Job Segregation

Although formal equality still exists in theory, gender discrimination has intensified in the workplace.⁸⁴ Women have a hard time breaking into new jobs that have been created in the transition, which include high paid positions with foreign firms, the private service sector, and entrepreneurial activities.⁸⁵ Businesses overtly give preference to male workers in recruitment, job training, and promotion.⁸⁶ Except for the textile industry where women still tend to predominate, the preference is particularly marked in the areas of professional and technical work and skilled manual labor.⁸⁷ Newspapers display gender-segregated advertisements stating that men with good education and training are wanted for managerial, sales and decision making positions, and that pretty, young, slim

79. Nicholas Eberstadt, *Demographic Shocks in Eastern Germany, 1989-93*, 46 EUR. ASIA STUD. 519, 520 (1994).

80. Gail Kligman, *Gendering the Postsocialist Tradition: Women in Eastern Europe*, AAASS NEWSNET, Mar. 1994, at 3.

81. See International Child Development Centre, *Central and Eastern Europe in Transition: Public Policy and Social Conditions*, 1 REGIONAL MONITORING REP. 73 (1993).

82. Eberstadt, *supra* note 79, at 520.

83. Author's survey, *supra* note 3.

84. See Scheppele, *supra* note 8 (discussing Eastern European constitutional rights for women that are not enforced).

85. See U.N. ESCOR, THE ROLE OF WOMEN, *supra* note 5, at ¶¶ 61-66 (examining hiring preferences during the transition period in Eastern Europe).

86. See Liba Paukert, *Women's Employment in East-Central European Countries During the Period of Transition to a Market Economy*, (ILO Working Paper, 1993), cited in U.N. ESCOR, THE ROLE OF WOMEN, *supra* note 5, at ¶ 41 (discussing an International Labour Organisation survey on gender discrimination in the labor market).

87. U.N. ESCOR, THE ROLE OF WOMEN, *supra* note 5, at ¶ 41.

women can apply for positions as secretaries.⁸⁸ Advertisements for female occupations sometimes "feature code words like 'available' or 'open-minded' to signal that successful applicants must be sexually available to their superiors."⁸⁹ Foreign firms, unable to place gender specific advertisements in their own countries, take advantage of the discriminatory hiring laws in CEE.⁹⁰

Young women face extreme obstacles in hiring. While older women may be hired for their skills and potential contribution to the workplace, younger women are hired primarily to "improve the social climate" of the workplace. Romania has one of the worst records in this regard, where according to government statistics, women aged fifteen to twenty-four are twice as likely to be unemployed as men of the same age.⁹¹

Women tend to be more educated than men in most CEE countries.⁹² However, the return on their education continues to be lower. In all CEE countries, women continue to earn less than men⁹³ due to "inequalities in the distribution of men and women across occupations . . . the low valuation attached to jobs where women predominate, and inequality in pay across these divisions. . . . [A]n inverse correlation exists between the employment share of women in an industry and the relative level of pay in that industry."⁹⁴ Women

88. See Scheppele, *supra* note 8, at 66 (describing employment advertisements for men and women).

89. Scheppele, *supra* note 8, at 66.

90. Not only does the law not forbid gender specific advertisements, but also public opinion appears to accept such practices. In surveys conducted with youth groups in Romania, for example, less than 5% of the young people surveyed saw any problem with gender specific advertisements. The practice, in the words of one young woman, was "natural." Author's survey, *supra* note 3.

91. ILO Yearbook of Labour Statistics 1993; ILO World Labour Report 1994, *cited in* U.N. ESCOR, WOMEN'S ACCESS, *supra* note 62, at 31, Table IV. The official statistics are thought to be low as more women are more frequently counted as inactive and non-employed and, therefore, are not included in the labor statistics. *Id.* at ¶ 27.

92. According to the United Nations Educational, Scientific and Cultural Organization (UNESCO) the only countries in CEE that have more males than females studying at a university-level education are the Czech Republic, Romania and the Federal Republic of Germany (up to 1990). The highest ratios of female students to male students in the entire European Economic Community ("ECE") region are in Iceland (144); Poland (127), Portugal (127); Sweden (117) and Ukraine (117); the lowest are in Turkey (52) and Switzerland (54). UNESCO, STAT. Y.B. (1993), *cited in* UNITED NATIONS, ECONOMIC AND SOCIAL COUNCIL, ECONOMIC COMMISSION FOR EUROPE, DEMOGRAPHIC TRENDS AND STATISTICAL ISSUES; REPORTED BY THE SECRETARIAT, at 16-17, U.N. Doc. E/ECE/RW/HLM/3/Add.1 (1994).

93. For example, in 1990, unskilled Hungarian male workers earned on average 15% more than women in the same occupation did. Gyorgy Sziraczki and Jim Windell, *The Impact of Employment Restructuring on Disadvantaged Groups in Bulgaria and Hungary* (ILO Working Paper No. 62, WEP 2-43/WP.62, Jan. 1993), *cited in* U.N. ESCOR, WOMEN'S ACCESS, *supra* note 62, at ¶ 30.

94. U.N. ESCOR, WOMEN'S ACCESS, *supra* note 62, at ¶¶ 65, 73.

also continue to be segregated in lower paying jobs and occupations. In Slovakia, women comprised over half the workforce in 1995 in the following branches of the economy: health and social care; education; clothing and textiles; banking and insurance; and hotels and restaurants.⁹⁵

Even if women have a job, they are unlikely to keep it. Job security has decreased dramatically for women in CEE.⁹⁶ New market conditions can explain only part of the decrease; discrimination explains a large share of the rest. In the name of economic efficiency, women are likely to be the first to be fired.⁹⁷ Employers still view women as more expensive and expendable workers, and fail to offer them flexible work schedules that would allow them to meet multiple demands. Some women have taken drastic measures to keep their jobs while attempting to comply with their employers' direct or indirect challenges to fundamental freedoms relating to bodily integrity, life and health. According to Editha Beier, Secretary for Women in Saxony-Anhalt (Germany), some women are even "having themselves sterilized either because their employers tell them they must, or because they believe it to be their only chance."⁹⁸ Other women are turning a blind eye to sexual harassment, which has developed into an epidemic in CEE workplaces.⁹⁹

Migrant women in or from CEE¹⁰⁰ are particularly susceptible to human rights abuses because they often work as domestic workers, in isolation and without social or legal protections. Similarly, employers often take advantage of women from minority ethnic, religious or linguistic groups. Women's groups in CEE have begun to address the needs of these populations. For example, Rom (gypsy) women's groups in Hungary have organized to address human rights and

95. See Siklova, *supra* note 21 (stating percentages as follows: clothing industry 90% female; health care and social care 80% female; textile industry 79% female; education 78% female; banking and insurance 70% female; hotels and restaurants 66% female).

96. For an overview of the problem of women and employment in CEE, see Barbara Lobodzinska, *The Family and Working Women During and After Socialist Industrialization and Ideology*, in FAMILY, WOMEN AND EMPLOYMENT IN CENTRAL-EASTERN EUROPE 3, 19 (Barbara Lobodzinska ed., 1995).

97. U.N. ESCOR, THE ROLE OF WOMEN, *supra* note 5, at ¶ 42.

98. *Berlin Wall Down, Gloom and Sterilization Up*, INT'L HERALD TRIB., May 25, 1992.

99. Women have long faced sexual harassment in CEE workplaces. "While the display of naked female bodies is a new social phenomenon accompanying political thaw and the advent of mass culture and advertising, the communication of dirty jokes and innuendoes in the workplace is not new." The only new component is that some women are now beginning to label the behavior as impermissible and intolerable. Butorova, *supra* note 36.

100. Migration from East to West has increased due to increasing wage differentials, growing unemployment in the East, and an influx of refugees from war-affected zones. See RICHARD LAYARD, OLIVIER BLANCHARD, RUDIGER DORNBUSCH, & PAUL KRUGMAN, EAST-WEST MIGRATION: THE ALTERNATIVES 1, 13, 21-25 (1992).

labor abuses in both the public and private spheres. In Croatia, Slovenia, Bosnia-Herzegovina and Serbia, a number of women's groups (including those organized by women refugees for women refugees) promote the social, economic and political rights of refugees. In Russia, women from the Caucasus and other areas in conflict have spearheaded anti-war and human rights campaigns.

E. Surge of Traditional Attitudes Toward Gender Roles

Traditional attitudes toward gender roles have resurfaced and gained prominence in CEE since the transition. The resurgence comes in many flavors. The ability of the ideology to influence social behavior depends on the country's particular history and culture, its present economic and political status, and the fortification efforts already undertaken by women to resist either the traditional attitudes or alternative values of feminism (which has been rejected by many in CEE as another oppressive 'ism' or an irrelevant foreign implant). In some countries, society trumpets the "right not to work" as a new choice delivered by democracy.¹⁰¹

In a boon to the regional cosmetic industry, some CEE women have developed a "Cinderella complex", hoping that the man of their dreams will come and sweep them away from daily drudgery and make their dreams come true.¹⁰² In reality, few women have the viable option to not work. Not only does economic necessity force women into the labor force, but many women also seek fulfilling and interesting careers. After all, the female labor force in CEE is one of the most highly educated in the world. The Cinderella complex has limited appeal for many women who, like men, wish to make the most of the transition through increased professional and personal travel and international collegial exchanges, better working conditions and improved chances for advancement, and new avenues for personal growth and enrichment.

In other areas, traditionalism entwines itself with the platform of nationalists. "[N]ationalism needs women, but only women constructed in a nationalist image," Andjelka Milic has noted.¹⁰³ Women's bodies become the vessel for new foot soldiers for the national cause; women's homes become the training ground in

101. See Larissa Lissytukina, *Soviet Women at the Crossroads of Perestroika*, in *GENDER POLITICS AND POST-COMMUNISM* 274 (Nanette Funk & Magda Muller eds., 1993) (discussing Russian women's views on their new political freedom since the fall of communism).

102. See *id.* at 277 (analyzing Russian women's desire to be pampered by men).

103. Andjelka Milic, *Nationalism and Sexism: Eastern Europe in Transition*, in *EUROPE'S NEW NATIONALISM* 169-183 (Richard Caplan & John Feffer eds., 1996).

which dutiful members of the nation¹⁰⁴ are nurtured and indoctrinated. To do their part for their nation, women must simply fulfill their sacred role as mothers.¹⁰⁵ In Croatia, for example, anti-abortion forces, working closely with Croatian nationalists, have exerted pressure on Parliament to adopt measures that would foster "demographic renewal of the nation."¹⁰⁶ Linking their call to increase the birth rate among Croat women with the demands that immigration of non-Croats be curtailed and that non-Croat refugees (Bosnians) be returned to their country, anti-abortion organizations succeeded in pressuring Parliament to pass a National Program for Demographic Development.¹⁰⁷ Adopted in January 1996, this program calls for a "positive spiritual atmosphere" that will be created through "protection of the family as a basic social unit" and recognition that the family is the "headquarters of the renewal of the nation and state."¹⁰⁸ The Program simultaneously warns against the massive immigration of "demographically stronger peoples" (i.e., refugees from Bosnia), and advocates giving privileges for Croatian families with three or more children.¹⁰⁹

One particular variant of the resurgence in traditionalism is found in countries that are also experiencing the reemergence of a powerful, state-aligned religion. Poland is often held out as an

104. The use of the word "nation" here is in line with CEE usage. Here, "nation" signifies a people, not a state (the United States equivalent of nation). Although the people may be an "ethnic" group, ethnicity may not be the market for the nation. People from the same ethnic groups can be said to be of different nations (for example, Slavic people can be Russian, Serb, Croat, Slovak, etc.). The literature on nationalism presents conflicting definitions of the term. See, e.g., ERNEST GELLNER, *NATIONS AND NATIONALISM* (1983); BENEDICT ANDERSON, *IMAGINED COMMUNITIES: REFLECTIONS IN THE ORIGIN AND SPREAD OF NATIONALISM* (1993); JOHN BREUILL, *NATIONALISM AND THE STATE* (1994); WILL KYMLICKA, *MULTICULTURAL CITIZENSHIP: A LIBERAL THEORY OF MINORITY RIGHTS* (1995); DAVID MILLER, *ON NATIONALITY* (1995); SUKUMAR PERIWAL, *NOTIONS OF NATIONALISM* (1995); MONTSERRAT GUIBERNAU, *NATIONALISM: THE NATION-STATE AND NATIONALISMS IN THE TWENTIETH CENTURY* (1996). For an excellent overview of the debate over "ethnicity," see JOHN HUTCHINSON AND ANTHONY D. SMITH, *ETHNICITY* (1996).

105. See Julie A. Mertus, *Behind the Veil of Equality: Voices from Czechoslovakia* (unpublished manuscript on file with author) (examining Czech women's views); see also LUCIANO CHELES, RONNIE FERGUSON & MICHALINA CAUGHAN, *THE FAR RIGHT IN WESTERN AND EASTERN EUROPE* (2d ed. 1995) (analyzing the rise of the far right in Europe).

106. *Croatian Pro-Lifers Attacking Women's Rights*, B.A.B.E. BULLETIN, (Jan. 31, 1996) <BABE_ZG@ZAMIR-ZG.ZTN.APC.ORG> [hereinafter *Croatian Pro-Lifers*]; interview with B.a.B.e. members, in Zagreb, Croat. (Feb. 1996) [hereinafter B.a.B.e. Interview]. Note that the use of the term 'nation' here refers to the Croat people, not to the Croat State.

107. *Croatian Pro-Lifers*, *supra* note 106.

108. *Croatian Pro-Lifers*, *supra* note 106.

109. *Croatian Pro-Lifers*, *supra* note 106. For a discussion of similar pro-nationalist policies in Serbia, see Julie Mertus, *Gender in the Service of the Nation: Female Citizenship in Kosovar Society*, 3 SOC. POLITICS 261, 266-67 (1996); and RENATA SALECL, *THE SPOILS OF FREEDOM: PSYCHOANALYSIS AND FREEDOM AFTER THE FALL OF SOCIALISM* (1994).

example of a state closely tied to the Roman Catholic Church.¹¹⁰ The Church plays a crucial role in political attempts to roll back women's rights and to reinforce women's "natural" role as mother and caretaker. The Roman Catholic Church also plays a similar role, albeit with perhaps less state-sanctioned power, in Croatia and Slovakia. The Orthodox Church in Serbia and Romania has also entered the ideological debate over the role of women. In these countries and elsewhere, so-called 'religious' values are used strategically to promote the country's own particular brand of nationalism. In power struggles that have emerged in these contested states, politicians who never professed a religious faith in the past are suddenly arguing that, in the name of church and state, women should return to the family.

Equal enjoyment of human rights entails much more than enacting legislation that affirms equal rights for women or, in the words of many constitutions, mandating equality between men and women. It also involves the breaking down of gender stereotypes, which alter the balance of power between men and women and prevent women from realizing their rights.¹¹¹ The newly free press in CEE has catered to nationalists and traditionalists and promoted gender stereotyping. Several women's groups in CEE, particularly in Russia, have launched alternative media campaigns to challenge gender stereotypes. Despite the immediate, short-term political costs, such women's groups in many countries have challenged the rhetoric of nationalists and neo-traditionalists.

IV. EXAMINING THE STATUS OF WOMEN TODAY

At first glance, women's positions under the various laws of Central and Eastern Europe appear to be similar.¹¹² The constitutions of all countries in CEE boast a provision formally mandating gender equality. Although most provisions of the laws are gender-neutral, some countries' constitutions, and all countries' labor and family codes, still have remnants of the protectionist legislation of prior regimes.¹¹³ Many labor codes prohibit sex-based discrimination,

110. See Ann Snitow, *Poland's Anti Abortion Law: The Church Wins, Women Lose*, THE NATION, Apr. 26, 1993, at 556, 556-57 (discussing the Roman Catholic Church's influence on politics and people in Poland).

111. UNITED NATIONS, HUMAN RIGHTS COMMITTEE, INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS, GENERAL COMMENTS; ADOPTED BY THE HUMAN RIGHTS COMMITTEE, at 5, U.N. Doc. CCPR/C/21/Rev.1/Add.1, (1989).

112. See *infra* text accompanying notes 161-178 (providing a list of constitutional provisions).

113. *Infra* text accompanying notes 161-178.

although none of the countries provide women subjected to discrimination with an effective means for explicit redress.¹¹⁴ Furthermore, none of the countries sufficiently safeguard a woman's right to freedom from violence, and all neglect to address issues such as marital rape, domestic violence and sexual harassment.

Significant differences also exist between countries. Although narrowly defined, Albania's law on sexual harassment is one of the most explicit in Europe and Albania has one of the only women-run psychological counseling centers for women and children victims of violence. The wage gap in Hungary is among the worst in all of Europe.¹¹⁵ Nevertheless, Hungary, along with Slovenia, remains one of the only countries in CEE where the official unemployment rate for women is lower than that of men.¹¹⁶ While the abortion rate has declined in nearly all countries as contraceptives have become more accessible,¹¹⁷ the rate has soared in Bulgaria. Women entrepreneurs tend to be more readily accepted in the Czech Republic than in any other country,¹¹⁸ but women in Ukraine have been among the most active in promoting women in small business.¹¹⁹

Some differences may be anticipated. Romania is the only country in which lesbians may still be sent to prison if their mere existence causes a "public scandal". Not surprisingly, Romanian lesbians are among the most invisible in all of CEE.¹²⁰ While Polish women have faced the toughest challenges to women's reproductive freedom, Polish women's reproductive rights advocates have been among the most highly organized and effective human rights groups in CEE.¹²¹

114. *Infra* text accompanying notes 161-178.

115. See Katalin Koncz, *The Position of Hungarian Women in the Process of Regime Change*, in FAMILY, WOMEN, AND EMPLOYMENT IN CENTRAL-EASTERN EUROPE 140, 145 (Barbara Lobodzinska ed., 1995) (analyzing the wage difference between Hungarian men and women).

116. See *id.* at 146 (discussing the difference in unemployment between men and women in Hungary).

117. The only exceptions are Bulgaria and Romania. Still, abortion remains widespread, ranging from an average of 2.5 to 4 abortions per woman (over the course of her lifetime) in the former USSR to 1.5 in the rest of CEE. Daniel Pierotti & Chantal Bloyo, *The Long March from Abortion to Contraception in Eastern Europe*, 47 WORLD HEALTH 18 (May 1994). In Western Europe and the U.S., the figure is no higher than .63 per woman. *Id.*

118. See Alena Heitlinger, *Women's Equality, Work, and Family in the Czech Republic*, in FAMILY, WOMEN, AND EMPLOYMENT IN CENTRAL-EASTERN EUROPE 87, 93 (Barbara Lobodzinska ed., 1995).

119. See Martina Helmerich, *Protection for Ukrainian Women at Work a "Luxury,"* DEUTSCHE PRESSE-AGENTUR, Sept. 5, 1997 (page references unavailable) (discussing Ukrainian women's organizations' focus on protecting women workers).

120. See *Britain Repression of Gays Worldwide*, L.A. TIMES, Feb. 26, 1997, at A11 (referring to an Amnesty International report calling for the decriminalization of homosexuality in Romania).

121. See Magdalena Kulig, *Polish Abortion Reform Ok'd*, CHI. SUN-TIMES, Oct. 25, 1996, at 31 (discussing Polish women's rights activists' success in changing Poland's abortion law); see also

In 1996, advocates succeeded in pressuring the Polish legislature to liberalize the abortion law.¹²² Forced prostitution and sex trafficking is a problem for women in every country,¹²³ but it has been identified as a primary concern only by women's groups in the Czech Republic (where gender studies programs are strong and individual women academics and activists have taken a primary interest in the issue), Ukraine, and Russia (two of the main countries from which sex traffickers "recruit").¹²⁴

Respondents to the author's survey were asked, "What are the top issues facing women in your country?" Women in every country, except for the Czech Republic, listed "poor economic conditions" or "unemployment among women" as their primary concerns. In justifying their choice, they pointed to the interconnectedness of social, economic, civil, and political rights. Without resources, they said, women cannot begin to form women's organizations or run for political office and exercise their rights to free association and speech. Women still burdened with housework, childcare, and outside employment have little time to advocate for their right to be free from violence. The collapse of the welfare state and burden of privatization has weakened women's ability to effectuate any of their human rights.¹²⁵

Another issue identified by women in nearly all countries as a primary concern is violence against women, including domestic violence, rape, and other forms of assault.¹²⁶ Social and economic changes accompanying structural transformation have led to an increase in violence.¹²⁷ Every country has women's groups that work specifically on the issue of violence against women and nearly all have shelters. However, these efforts are limited mainly to large urban areas and, for the most part, violence against women remains a

Jeffrey C. Goldfarb, *Why is There No Feminism After Communism*, 64 SOC. RES. 235 (1997) (discussing Polish women's advocates' focus on reproductive rights).

122. See Kulig, *supra* note 121, at 31 (summarizing Poland's new abortion law).

123. See Tamar Diana Wilson, *Trafficking and Prostitution: The Growing Exploitation of Migrant Women from Central and Eastern Europe*, 31 INT'L MIGRATION REV. 490 (1997) (book review) (discussing forced and involuntary migration for the purposes of prostitution affecting women around the world).

124. See *Europe Takes on Growing "Sex-slave" Industry*, AGENCE FRANCE-PRESSE, Apr. 23, 1997 (discussing Council of Europe's call to curb forced prostitution; noting Russia and Ukraine as two countries providing the most women).

125. See generally VALENTINE M. MOGHADAM, *PRIVATIZATION AND DEMOCRATIZATION IN CENTRAL AND EASTERN EUROPE AND THE SOVIET UNION: THE GENDER DIMENSION* (1992).

126. Author's survey, *supra* note 3.

127. Author's survey, *supra* note 3.

hidden social problem.¹²⁸ Women still burdened with housework, childcare, and outside employment have little time to press for their right to be free from violence.

The degree of attention now paid by women's groups to violence, some CEE women activists say, may be influenced greatly by the agendas of foreign women's groups (particularly women from Western Europe and the United States) who list violence as a primary concern of their own.¹²⁹ Women in CEE, like women in Western Europe and the United States, are unlikely to report instances of domestic violence to police or to seek legal redress.¹³⁰ Similarly, women in CEE fear the social stigma accompanying the reporting of the crime. However, CEE women are motivated by another consideration that perhaps only minority women in Western Europe and the United States face: there is no tradition of turning to the police or the legal system for assistance.¹³¹ For these women, the legal system has traditionally existed to oppress and deny rights.¹³² Addressing the problem of domestic violence, thus, entails tackling the fears of generations toward the state institutions and their agents—the police, prosecutors and judges.

Another phenomena that CEE women experience differently is forced prostitution and trafficking in women. Quite simply, women in CEE are more likely to be targets of "the trade". CEE women are increasingly being marketed in the sex trade of the West because they are more likely to be free of AIDS.¹³³ Answering advertisements for waitresses, dancers, models and wives in Western Europe, few women have any idea what to expect from their new positions; they hope only to escape the desperate economic situation back home. Their "handlers" often take their passport as collateral, thus denying them any possible escape route. Most European organizations have done little to address this problem. For example, Europol, the European organization for police cooperation, concentrates on

128. Author's survey, *supra* note 3.

129. "It is impossible to separate out some 'natural' urge we have to work on these issues from the influence of the West. Who knows what we would have done if we were somehow in a bubble?" Interview with Z., a Croatian women's activist, in Boston, Mass. (Nov. 1996).

130. See HELSINKI CITIZENS' ASSEMBLY WOMEN'S COMMISSION, REPRODUCTIVE RIGHTS IN CENTRAL AND EASTERN EUROPE 40 (1992) [hereinafter REPRODUCTIVE RIGHTS IN CEE] (discussing the inability of women to report incidents of domestic violence in Serbia).

131. *Id.*

132. See Urszula Nowakowska, Women's Rights in Poland (unpublished manuscript on file with author) (discussing how Polish officials dismiss domestic violence charges).

133. See *European Parliament Debates Growing Trade in Women and Children*, REUTER EUR. COMMUNITY REP. (European Parliament Session News Press Release), Jan. 19, 1996 (unpaginated); Gail Kligman, *supra* note 80, at 3.

tracking down stolen cars in Europe, yet does not pursue cases of stolen women.¹³⁴

The final issue identified as a primary concern is women's low participation in political life. Only Serbian women activists have given the matter attention; nearly all independent women's groups in Serbia have stressed the refusal to cooperate with the official regime in any respect. Because women were not compromised to the same degree as men by their collaboration with former regimes, one would expect them to be more politically active today.¹³⁵ Instead, women are grossly underrepresented in formal political life. The phenomenon is particularly acute in nationalist dominated areas. Nationalists' implicit "tactic is to retard any open politicization of women: what is called for from them instead is patience, solidarity, participation and tolerance of initial hardships."¹³⁶ When women enter the political stage set by nationalists, they often adopt "a role circumscribed for them by the very nationalist discourse they opposed—the role of mothers."¹³⁷ Hence, we see the long chain of mothers marching for peace in Croatia, Serbia, and the Caucasus.¹³⁸

Moreover, to the extent that women are active in the social and political issues of CEE, their activities are concentrated predominately on the local level—outside of formal politics—addressing such issues as the improvement of education, social services, and the environment.¹³⁹ Joanna Regulska has suggested two explanations for the high concentration of women in nongovernmental organizations (NGOs).¹⁴⁰ First, the move may be calculated.¹⁴¹ The newly gained rights to association and speech provide women with an opportunity to test the benefits of

134. *Euro Drive for Women's Rights Pledged*, IR. TIMES, May 16, 1996, at 7 (demonstrating how Nel van Dijk, Chairperson of the European Parliament's Committee on Women's Rights, is attempting to make trafficking in women a priority).

135. Siklova, *supra* note 21.

136. Ewa Hauser, Barbara Heyns & Jane Mansbridge, *Feminism in the Intersection of Politics and Culture*, in GENDER POLITICS AND POST-COMMUNISM 259 (Nanette Funk & Magda Mueller eds., 1993).

137. Milic, *supra* note 103, at 181.

138. See Milic *supra* note 103, at 180 (discussing women's and mother's activities in opposition to war in the states of the former Yugoslavia in 1991).

139. Joanna Regulska, *Political Rights and Their Meaning for Women: Transitional Politics in Poland* (unpublished unpaginated article, on file with author).

140. *Id.* See also Joanna Regulska, *Transition to Local Democracy in Poland: Do Polish Women Have a Chance?*, in WOMEN IN THE POLITICS OF POSTCOMMUNIST EASTERN EUROPE 35-62 (Marilyn Rueschemeyer ed., 1994) (discussing local Polish women political leaders and their experiences, political agendas, and barriers overcome to attain leadership positions).

141. Regulska, *supra* note 139.

transition.¹⁴² Women believe NGOs provide an arena where they can make a difference—a place where political activism translates into practice.¹⁴³ Second, the move to NGO work may represent a default position.¹⁴⁴ NGOs may be the *only* place where women can engage in politics.¹⁴⁵ Perceived as weak by men, NGOs are the one area of activity open to women, although this phenomenon changes after the NGO attracts foreign funds or achieves power locally.¹⁴⁶

Even within the new NGO structure, women try their best not to rock the boat.¹⁴⁷ Most women are hesitant to push for women's human rights, and instead concentrate their efforts on humanitarian concerns more akin to charity than empowerment.¹⁴⁸ In the case of Bulgaria, Ralitsa Muharska explains, "[i]n addition to coming out of a society which they denounce and accuse of having caused the ills inflicted upon them, Bulgarian women tend to have a conformist attitude toward their new society, unless they want to be associated with the left—which is really the right in terms of economic power, resting on bleached communist money [it presumably having been red before]."¹⁴⁹ Activities of women's NGOs are also adversely affected by the existence of previous official women's organizations, which promoted the party state and not women's rights.¹⁵⁰ The continuing operation of the stepdaughters of these organizations—Mirjana Markovic's "women's activities" in Serbia provide an extreme example¹⁵¹—gives women's groups everywhere a bad name.

142. Regulska, *supra* note 139.

143. Regulska, *supra* note 139.

144. Regulska, *supra* note 139.

145. Regulska, *supra* note 139.

146. Author's research with Romanian NGOs, Spring 1996; *see also Guide to Romanian NGOs* (1994, 1995 & 1996) (on file with author) (revealing that Romania provides an excellent example of this phenomenon, that few men were interested in NGO work in Romania, until it became clear that through NGOs they could control foreign funding and exert power; although most of the workers in Romanian NGOs are women, leadership positions of the most powerful and wealthiest NGOs tend to be given to men).

147. *See* Ralitsa Muharska, *What Kind of Feminism for Bulgaria*, in *GAINS AND LOSSES: WOMEN AND TRANSITION IN EASTERN AND CENTRAL EUROPE* 74, 77 (Leland C. Barrows & Laura Grunberg eds., 1994).

148. *See id.* (explaining focus of female NGOs in Bulgaria).

149. *Id.* at 80.

150. *See id.* at 75-76 (analyzing the Democratic Union of Women (DUW)—the formerly government-sponsored, single official women's organization in Bulgaria). In 1988, the official Czechoslovakian women's organization announced that the main issue for women was "beautification of the cities." The leader of one Czechoslovakian women's group said, "[w]e really have to get women to stop hanging their dirty laundry out of the window." *See* Mertus, *supra* note 105, at 18.

151. Complicating Serbian women's decision to become involved in politics is the presence of Mirjana Markovic, President Slobodan Milosevic's wife. Markovic has at times organized "women's groups" for holding and attending international conferences. These groups

Many women, whose past experience with politics consisted of symbolic, mandatory activities organized by the Communist Party, are eager to withdraw from politics altogether.¹⁵² "Such attitudes," Sharon Wolchik has noted, "were part of a more general reaction to the fact that women's equality was, to a large extent, imposed on the population from above, as well as disappointment with the uneven pattern of gender role changes that resulted in the communist period."¹⁵³

Despite many obstacles, women in CEE are increasingly using the political sphere to advance women's human rights. Albanian women are holding voter education workshops for women in over fourteen towns and villages.¹⁵⁴ Croatian women are collecting tens of thousands of signatures on pro-choice petitions and lobbying Parliament.¹⁵⁵ Russian women are monitoring their country's compliance with CEDAW (Convention on the Elimination of All Forms of Discrimination Against Women) and presenting their own alternative country report.¹⁵⁶ In sum, women in CEE are defining the issues for themselves and finding the best means to realize their goals.

The path taken by women in CEE is likely to be different from that of women in the West, as the nature of the problem and socio-political-historical context differs. For example, language of human rights focuses on the empowerment of women to make their own reproductive choices.¹⁵⁷ In the West, women often face the problem of not being given the authority for making decisions about their lives.¹⁵⁸ With few exceptions, in CEE women have the authority to

disappear after the conferences. The independent groups in Serbia that are working on women's human rights issues are not invited to their gatherings or given governmental support for attending them. With few exceptions, independent women's groups in Serbia do not accept government funding for any activities. Nevertheless, Markovic's "women's efforts" cause great confusion among the general public. Widespread television coverage of Markovic's "women's meetings" leads people to equate any group working on women's issues with Markovic's agenda. Author's observation of media coverage in Serbia, 1993-95. "As long as women's political work prompts the vision of Mirjana Markovic, women will run away as fast as they can." Interview with "K," in New York, N.Y. (June 1996).

152. Sharon L. Wolchik, *Women's Issues in Czechoslovakia and in the Communist and Postcommunist Periods*, in WOMEN AND POLITICS WORLDWIDE 210, 214 (Barbara J. Nelson & Najma Chowdhury eds., 1994).

153. *Id.* at 214.

154. Author's survey, *supra* note 3.

155. Author's survey, *supra* note 3.

156. Author's survey, *supra* note 3.

157. See Katarina Tomasevski, *Reproductive Rights, and Reality: How Facts and Law Can Work for Women: European Approaches to Enhancing Reproductive Freedom*, 44 AM. U.L. REV. 1037, 1038 (1995).

158. See *id.* at 1048.

make decisions; however, they lack the information and the economic means to make choices.¹⁵⁹ At present, the strategies of women's groups in CEE are likely to include as a central aim the advancement of women's economic status and control over information.¹⁶⁰ The following comparative analysis addresses some of the central issues defined by women in CEE as central to advancing the status of women. It is within this legal and social context that women and men in CEE will work for positive social change.

159. *See id.* at 1049.

160. *See id.* at 1051.

V. COMPARATIVE ANALYSIS OF WOMEN'S HUMAN RIGHTS IN CENTRAL AND EASTERN EUROPE

A. *Constitutional Provisions Prohibiting Discrimination*

Albania:

The Albanian Constitution¹⁶¹ contains the following equal rights clause: "All persons are equal in law and before the law. No one may be discriminated against on account of sex, race, ethnicity, language, religion, economic and financial, educational and social conditions, political opinions, parentage or any other personal circumstance."¹⁶²

Albania is under pressure for various reasons to enact a new constitution, but it will probably contain a similar clause (perhaps modified by the omission of the words "or any other personal circumstance").¹⁶³

Bulgaria:

According to Bulgaria's Constitution, citizens are equal before the law regardless of sex.¹⁶⁴ "There shall be no privileges or restrictions of rights on the grounds of race, nationality, ethnic identity, sex, origin, religion, education, opinion, political affiliation, personal or social status, or property status."¹⁶⁵

Croatia:

The Croatian Constitution contains a general equality provision, which states that "citizens of the republic of Croatia enjoy all rights and freedoms regardless of race, color, sex, language, religion, political or other opinion, national or social origin, property, birth, education, social status, or other characteristics. All shall be equal before the law."¹⁶⁶

161. Albania has a Constitution, although was designated as "transitional" when enacted in April 1991, after Albania completely repealed its last Communist constitution. This document was intended to be replaced by a new Constitution, but instead it has been supplemented several times, most recently on March 31, 1993, when a human rights chapter was added. See ALB. CONST..

162. ALB. CONST. ch. VII, art. 25.

163. Author's observation.

164. BULG. CONST. ch. I, art. 6(2).

165. *Id.*

166. CROAT. CONST. ch. III, pt. I, art. 14.

Czech Republic:

The Charter of Fundamental Rights and Freedoms in the Constitution of the Czech Republic states that "[f]undamental human rights and freedoms are guaranteed to everybody irrespective of sex, race, color of skin, language, religion, political or other conviction, ethnic or social origin, membership in a national or ethnic minority, property, birth, or other status."¹⁶⁷

Hungary:

The Constitution of Hungary ensures equal rights. "The Republic of Hungary shall ensure the equality of men and women in all civil, political, economic, social and cultural rights."¹⁶⁸

Poland:

The Constitution of Poland provides that "[c]itizens of the Republic of Poland shall have equal rights irrespective of sex, birth, education, profession, nationality, race, religion, social status, and origin."¹⁶⁹ A further article develops the general equality principle, declaring "[w]omen . . . shall have equal rights with men in all fields of public, political, economic, social and cultural life."¹⁷⁰

Romania:

In addition to a general equality provision, the Romanian Constitution specifically provides that "[o]n equal work with men, women shall get equal wages."¹⁷¹

Russia:

The Russian Constitution contains both a general and specific provision mandating women's equality:

The state shall guarantee the equality of rights and liberties regardless of sex, race, nationality, language, origin, property or employment status, residence, attitude to religion, convictions, membership of public associations, or any other circumstances. Any restrictions of the rights of citizens on social, racial, national, linguistic, or religious grounds is forbidden.¹⁷² . . .

167. CZECH REP. CONST. (Constitution Act, 1991) ch. I, art. 3(1) (Charter of Fundamental Rights and Freedoms).

168. HUNG. CONST. ch. XII, art. 66(1).

169. POL. CONST. ch. VIII, art. 67(2).

170. *Id.* at art. 78(1).

171. ROM. CONST. tit. II, ch. II, art. 38(4).

172. RUSS. CONST. ch. II, art. 19(2).

Man and woman shall be duty bound to respect the rights and freedoms of others and shall be held responsible for it.¹⁷³

Serbia:

The Constitution of the Republic of Serbia (which is part of the Federal Republic of Yugoslavia) states that "[c]itizens are equal in their rights and duties and have equal protection before the State and other authorities, irrespective of their race, sex, birth, language, nationality, religion, political or other belief, level of education, social origin, property status, or any other personal attributes."¹⁷⁴

Yugoslavia:

The Constitution of the Federal Republic of Yugoslavia includes a similar provision, with the addition that "[e]veryone shall be equal before the law"¹⁷⁵ and "[e]ach person shall be duty bound to respect the rights and freedoms of others and shall be held responsible for it."¹⁷⁶

Slovakia:

The Constitution of Slovak Republic ensures equality for all citizens, stating that

[b]asic rights and liberties... are guaranteed to everyone regardless of sex, race, color of skin, language, creed and religion, political or other beliefs, national or social origin, affiliation to a nation or ethnic group, property, descent, or another status. No one must be harmed, preferred, or discriminated against on these grounds.¹⁷⁷

Ukraine:

The Ukrainian Constitution provides that "[all] citizens have equal Constitutional rights and freedoms and are equal before [the] law. There are no privileges or restrictions based upon race, color of skin, political and other beliefs, gender, ethnic and social origin, property ownership, position, place of residence, language, religion or other circumstances."¹⁷⁸

173. *Id.* at art. 19(3).

174. SERBIA CONST. ch. II, art. 13.

175. YUGO. CONST. § II, art. 20(2).

176. *Id.* at art. 20(3).

177. SLOVK. CONST. ch. II, art. 12(2).

178. UKR. CONST. ch. II, art. 19.

*B. Primary Areas of Concern**1. Discrimination in Employment and Unemployment**Albania:*

The Constitution¹⁷⁹ and the Labour Code both prohibit discrimination against women in employment. The Labour Code reads as follows:

Equality in Pay Between the Sexes

(1) The employer shall give the same pay to women and men who perform work of an equal value.

(2) Differences in pay based on objective criteria independent of sex, such as the quality and amount of work, professional qualification and seniority, are not considered discriminatory¹⁸⁰

Despite these strong provisions, in practice men predominate in higher paid jobs.¹⁸¹ Although the level of educational achievement is higher for women than men up to age forty, women's rate of unemployment is higher at each level of education.¹⁸² In 1993, the official unemployment rate for women was 17.9%, compared with fourteen percent for men.¹⁸³

An estimated seventy percent of women work for private businesses without a contract, making them susceptible to exploitation.¹⁸⁴ Women only own a small percent of private businesses.¹⁸⁵ The World Bank has given small credits (up to 3,800) to families for small enterprises and other initiatives.¹⁸⁶ Women have signed only two percent of the notes.¹⁸⁷

179. See *supra* notes 161-162, and accompanying text.

180. LABOUR CODE art. 115 (Alb.).

181. See FOURTH WORLD CONFERENCE ON WOMEN, BEIJING, CHINA, ACTION FOR DEVELOPMENT, EQUALITY, AND PEACE, NATIONAL REPORT ALBANIA, at 28, U.N. Doc. ALB/93/005 (1995) [hereinafter ALBANIA NATIONAL REPORT] (analyzing statistics showing that women are usually found in low level, non-decision making positions).

182. *Id.* at 19.

183. See *id.* at 18 (chart analyzed).

184. *Id.* at 19.

185. See *id.* (explaining that only 18% of small businesses are owned by women; however, this does not include small businesses owned by both husband and wife or family ownership).

186. See ALBANIA NATIONAL REPORT, *supra* note 181, at 20 (analyzing World Bank credits given in rural areas of Albania).

187. ALBANIA NATIONAL REPORT, *supra* note 181, at 20.

The Albanian labor market has one very unique phenomenon—enormous emigration.¹⁸⁸ Hundreds of thousands of Albanians, especially men, live abroad as legal or illegal ‘guest workers’, sending most of their paychecks home to support their families.¹⁸⁹ However, young women and girls also participate in the emigration, as they are lured and tricked into prostitution in neighboring Italy, Greece, or elsewhere in Europe.¹⁹⁰

Bulgaria:

The provision in the Labour Code that guarantees the principle of equal pay for work of equal value was removed in 1992.¹⁹¹ Today, women’s right to freedom from discrimination in employment stems from general constitutional provisions.¹⁹² Despite constitutionally mandated equality, discrimination against women takes many forms. “For example, the private companies set an age limit for women applicants. Women are usually those offered manual, repetitive or unattractive work. Apart from that they are appointed to positions at a lower level in the hierarchy and . . . [where they have] limited opportunities for a career and promotion.”¹⁹³

Many women report discrimination in connection with maternity.¹⁹⁴ The Labour Code obligates employers to grant certain privileges to pregnant women and mothers of young children, such as allowing them to work in less hazardous positions and prohibiting night work and business travel.¹⁹⁵ For these reasons, employers often indirectly discriminate against women when they apply for work, pursue additional job qualifications, or ask for leave.¹⁹⁶

188. See ALBANIA NATIONAL REPORT, *supra* note 181, at 15 (estimating that 300,000 people have emigrated from Albania beginning in the early 1990s until 1995).

189. See ALBANIA NATIONAL REPORT, *supra* note 181, at 15 (noting that family economic situation depends on wages remitted by male family members who have emigrated).

190. See ALBANIA NATIONAL REPORT, *supra* note 181, at 15 (describing that many young girls become victims of violence, discrimination, and sexual abuse).

191. See UNDP *Bulgaria Report*, *supra* note 73, at 3 (discussing need to restore equal pay provisions of the Labour Code).

192. See UNDP *Bulgaria Report*, *supra* note 73, at 3 (explaining inability of women to rely on Bulgarian constitutional provisions or the Labour Code to prove a job dismissal was based on sex discrimination).

193. UNDP *Bulgaria Report*, *supra* note 73, at 2.

194. See UNDP *Bulgaria Report*, *supra* note 73, at 2-3 (discussing maternity as an indirect form of discrimination when pursuing a job).

195. See, e.g., LABOR CODE [LABOR C.] art. 140(4) (Bulg.) (“The following shall be prohibited from night work . . . (2) pregnant women and mothers of children below the age of 3; (3) mothers with children aged 3-6 and mothers taking care of handicapped children, regardless of the latter’s age, except on their own.”). Article 147 prohibits overtime work for the same groups of employees. *Id.* at art. 147.

196. UNDP *Bulgaria Report*, *supra* note 73, at 2-3.

On average, women earn seventy-two percent to seventy-four percent of men's earnings.¹⁹⁷ They are also more likely to be unemployed, especially if they are under the age of thirty.¹⁹⁸ Additionally, women who are employed find themselves segregated into public sectors—industry, agriculture, trade, education and health care.¹⁹⁹

Large families, families of unemployed, the elderly, and the disabled have been hit hardest by economic crises in Bulgaria.²⁰⁰ In 1995, four-fifths of the population lived under the social minimum.²⁰¹ With the increase in inflation over the past year, that percentage is likely to be higher today.

Croatia:

Article 2 of the new Labour Law prohibits, in very general terms, unequal treatment in employment. Other provisions of the Labour Law are protectionist in nature. Article 52 prohibits night work for women,²⁰² and Chapter IV, "Protection of Maternity", purportedly provides benefits for mothers, although such benefits can easily be used against women.²⁰³ For example, the Chapter provides for mandatory maternity leave during the first six months of the child's life for the mother only, but not for paternity leave.²⁰⁴ Employers have used this provision as an excuse to avoid hiring "expensive" female workers.²⁰⁵

Legaline, a women's human rights hotline in Zagreb, has reported a sharp rise in the number of calls connected with employment since the new Labour Act became effective in January 1996:

There were a number of calls received from women employed by private employers, complaining that some of their basic rights were being denied to them, such as the right to weekly rest days and annual leave for the prescribed length. Nevertheless, they do not

197. UNDP *Bulgaria Report*, *supra* note 73, at 3.

198. UNDP *Bulgaria Report*, *supra* note 73, at 4.

199. See UNDP *Bulgaria Report*, *supra* note 73, at 2 (commenting that women constitute 47% of the workforce and are in a more unfavorable position than men in both the private and public sectors).

200. See UNDP *Bulgaria Report*, *supra* note 73, at 19 (discussing that these groups have the worst economic situation in Bulgaria).

201. See UNDP *Bulgaria Report*, *supra* note 73, at 19 (depicting the poor situation of families in relation to the social minimum).

202. LABOUR CODE [LAB. C.] art. 52 (Croat.).

203. *Id.* at ch. IV.

204. *Id.*

205. Report on the Activities of Legaline, *Legal Status of Women in Croatia* (Dec. 1996) <<http://www.ztn.apc.org>> [hereinafter *Legal Status of Women in Croatia*].

dare to do anything for fear that they will be fired. In some cases, women who are employed by private employers are being paid less than was mutually agreed when they took the job in question.²⁰⁶

Many women complained that employers disregarded their rights pertaining to maternity leave, particularly in connection with remuneration of salary during this period.²⁰⁷ Under the new Labour Act, a woman with four or more children has status as "Mother Nurturer" and is entitled to certain benefits such as: salary, health and disability protection and recognition of working years in lieu of employment.²⁰⁸ However, the legislature failed to pass a corresponding budgetary provision that would create the funds to pay the Mother Nurturers.²⁰⁹

The new Labour Act also increases employers' ability to dismiss workers.²¹⁰ This has intimidated working women and limited their ability to object to their employer's labour practices.²¹¹ The new law makes no provision for protection of women from sexual harassment, coercion or molestation in the work place.²¹² Furthermore, there are no mechanisms built into the Act to ensure women equal opportunities in employment, professional promotion, advancement or training.²¹³

Czech Republic:

The Labour Code of the Czech Republic contains two primary provisions mandating equality in the workplace. First, Article 3 states "all citizens shall have the right to work, and to a free choice of employment, along with decent working conditions, and protection against unemployment. These rights belong to all citizens regardless of race, skin color, language, gender, social origin"²¹⁴

Second, Article 7 provides specific gender equality language: "[w]omen shall have the right to the same status at work as men.

206. *Id.* Legatine reports that in order to avoid high payroll taxes, employers often register women at minimum wage, although the agreed upon wage is significantly higher. *Id.* Consequently, women will be entitled to only minimum pensions. *Id.* There is a growing trend for private employers towards not registering at all, and consequently their workers are left with no rights whatsoever. *Id.*

207. *Id.*

208. *Id.*

209. *Id.*

210. *Legal Status of Women in Croatia, supra* note 205.

211. *Legal Status of Women in Croatia, supra* note 205.

212. *See generally* LAB. C. (Croat.) (omitting protection for women from sexual harassment at work).

213. *See generally id.* (neglecting to ensure equal career opportunities for women).

214. LABOUR CODE [LAB. C.] art. 3 (Czech Rep.).

Working conditions for women must not only conform to their physiological constitution, but also take into account their social role as mothers and their obligations in caring for children.²¹⁵

Provisions prohibiting women from performing night-work were recently revoked in response to the International Labour Organization.²¹⁶ However, provisions remain barring all women from performing various types of work, such as mineral extraction and mining,²¹⁷ as well other types of work which are deemed "physically inappropriate or harmful to their [bodies], in particular work which might endanger their Role as mothers."²¹⁸

Women are underrepresented in professional management positions, comprising only thirteen percent of top and middle-level managers and five percent of the top executive positions in banks, insurance companies and financial consulting firms.²¹⁹ They are concentrated in lower-paid areas of employment such as education and culture, administration, finance, insurance, social services, health care, communications, and domestic and foreign trade.²²⁰ Sex-specific hiring practices are common and there is no legal precedent for combating such practices. Furthermore, women's hourly incomes comprise 75.3% of men's hourly incomes in the blue-collar sector.²²¹

Surveys demonstrate that, while women tend to be dissatisfied with their employment prospects and their supervisors, they consider discriminatory practices a fact of life. According to the women's right group Profem, "the predominating attitude in the Czech Republic is that sex discrimination per se does not exist, and that these trends which would generally be attributed to discrimination elsewhere, simply reflect women's decisions to remain dominant in the family."²²²

215. *Id.* at art. 7.

216. Survey response of Kate Shaw, Profem, in Prague, Czech. (Aug. 1996) [hereinafter Shaw Survey].

217. See LAB. C. art. 150(1) (Czech Rep.) (limiting women's employment options).

218. See LAB. C. art. 150(2) (Czech Rep.) (preserving women's opportunity for motherhood by limiting their employment options).

219. Shaw Survey, *supra* note 216.

220. See Jirina Siklova, *Feminism and the Roots of Apathy in the Czech Republic*, 64 SOC. RES. 258, available in 1997 WL 11171180, at *8-*10 (1997) (publication page references unavailable on Westlaw) (describing women in the labor force in Eastern Europe).

221. Figures for 1993; more recent figures are estimated to be worse for women. See U.N. ESCOR, WOMEN'S ACCESS, *supra* note 62, at 40, Table X (showing 1993 figures depicting disparity between women' and men's hourly earnings).

222. Shaw Survey, *supra* note 216.

Hungary:

Although Hungarian law formally mandates equality between men and women, discrimination is widespread in the workforce. In the private sector, employers commonly fire women for taking maternity leave;²²³ women are discriminated against in finding employment and in advertisements;²²⁴ women with small children, elderly and young women face the greatest discrimination.²²⁵ Although slightly more women than men in the workforce are university graduates, educational achievements do not translate into economic security; more than 75% of men have some kind of skill qualifications, compared with only 44% of women.²²⁶

The wage gap in Hungary is among the worst in all of Europe.²²⁷ Female manual laborers earn approximately 67% of male wages; female non-manual workers earn between 54% and 63% of their male counterparts.²²⁸ This gap has been steadily increasing since 1989.²²⁹ Women workers tend to be concentrated in low-paying traditionally female jobs—such as the garment textile and leather industries, trade economics, postal services, and some medical fields.²³⁰

Nevertheless, Hungary, along with Slovenia, remains one of the only countries in CEE where the official rate of unemployment for women is lower than that for men.²³¹ It is perhaps the only country in CEE where official statistics show a higher rate of unemployment for male youth than for female youth. In 1993, according to official

223. SHARIN LADIN, INTERNATIONAL WOMEN'S RIGHTS ACTION WATCH, IWRAW TO CEDAW COUNTRY REPORTS ON CUBA, CYPRUS, ETHIOPIA, HUNGARY, ICELAND, PARAGUAY, PHILIPPINES, UKRAINE, RWANDA 52 (1995).

224. Advertisements from Hungary, on file with author.

225. Interview with Antonia Burrows, NaNel, Budapest, Hung. (1996).

226. See Katalin Koncz, *Hungarian Women's Political Participation in the Transition to Democracy*, in WOMEN AND POLITICS WORLDWIDE 348, 354 (Barbara J. Nelson & Najma Chowdhury eds., 1995) (citation omitted) (illustrating that although more women are highly educated than men, they aren't considered skilled).

227. Along with the United Kingdom and Luxembourg. See U.N. ESCOR, WOMEN'S ACCESS, *supra* note 62, at 40, Table X.

228. Figures for 1993; more recent figures are estimated to be worse for women. See U.N. ESCOR, WOMEN'S ACCESS, *supra* note 62, at 40, Table X (showing 1993 figures depicting large wage gap).

229. See Koncz, *supra* note 226, at 354 (stating that in 1989, female blue-collar workers earned 76% of men's salaries and female white-collar workers earned 61% of men's salaries).

230. See Koncz, *supra* note 226, at 354 (demonstrating unequal employment trends for women).

231. See U.N. ESCOR, THE ROLE OF WOMEN, *supra* note 5, at 26, Table 2 (stating that in 1990, the unemployment rate for women was 1.4% and 1.8% for men; in 1991, 7.6% for women and 9.2% for men; in 1992, 10.5% for women and 14.0% for men.)

labor statistics, 23% of males aged 15-24 were unemployed, compared with 14% of females in the same age bracket.²³² However, a far higher percentage of men are employed "unofficially" than women, and women of this age bracket are far more likely than men to drop out of the labor market altogether for education or child-reassuring, and thus not be counted by unemployment statistics.²³³

After 1989, harassment and prejudice towards the Rom have intensified along with a sharp drop in their economic status. Rom women are among the lowest paid and least likely to be employed segment of the Hungarian population. Two Rom organizations deal especially with issues facing Rom women: The Association of Rom Women in Public Life and The Union of Rom Mothers. In addition, the Open Society Institute has funded education programs on diversity which include discussion of gender and ethno-national identity.

Kosovo.²³⁴

Kosovo has two governments: (1) the Serbian government which rules through the force of law, and (2) the Albanian government which, although elected illegally, rules through the force of moral authority. The legal provisions pertaining to women's human rights are thus the same for Kosovo as for Serbia (see Serbia below). The moral force of leadership and tradition, however, differs.

Before 1990, 20.9% of the workforce in Kosovo was female.²³⁵ The rate for urban areas was much higher, approximating that of women in the rest of Yugoslavia; in rural areas, most women were not counted in the workforce, although they labored on family lands and in family businesses.

232. U.N. ESCOR, WOMEN'S ACCESS, *supra* note 62, at 31, Table IV (illustrating that young men between 15 and 24 have a higher unemployment rates than their female counterparts).

233. Burrows Interview, *supra* note 225.

234. Kosova is the Albanian, Kosovo the Serbian, spelling for the part of the former Yugoslavia that is almost 90% ethnic Albanian ("Kosovar Albanian") and 10% ethnic Serb. As most world atlases use the Serbian spelling, I will do so here. Under the 1974 Constitution of Yugoslavia, Kosovo was an autonomous province of Serbia, which in turn was a Republic of Yugoslavia. In 1989, the regime controlled by Serbian President Slobodan Milosevic revoked Kosovo's autonomous status. Kosovar Albanians contest the legitimacy of that move, and argue that since Yugoslavia has disintegrated the status of Kosovo is unclear. The Milosevic government argues that Kosovo is part of Serbia and Yugoslavia (Serbia and Montenegro). Because the conditions in Kosovo differ from Serbia proper (or, alternatively, the rest of Serbia), especially with respect to women's human rights, Kosovo is included separately in this article. However, this separate listing does not denote recognition (or failure to recognize) Kosovo as a separate entity.

235. Survey response of Sevdie Ahmeti, Centre for the Protection of Women and Children, in Priština, Kosovo (Aug. 1996) [hereinafter Ahmeti Survey].

When the Belgrade regime tightened control over Kosovo in the early 90's, Albanians employed in state enterprises, including many female doctors and teachers, either were fired or quit in protest. Today, according to the Centre for the Protection of Women and Children, less than 3% of women work for pay in the official workforce.²³⁶ Many women, however, are employed in "volunteer" and "solidarity" labor, working as teachers, doctors and administrators in alternative Kosovar Albanian institutions.²³⁷

Kosovo is one of the poorest areas in Europe. Women's groups in Kosovo²³⁸ have organized projects to boost women's skills and employment, including holding sewing classes in villages and educating young women in journalism.²³⁹

Poland:

The Constitution of Poland requires that men and women be given equal pay for equal work.²⁴⁰ In addition, the Labour Code, newly amended in 1996, prohibits discrimination based on gender.²⁴¹ However, the Code does not cover hiring, the point at which discrimination is widespread. As of this writing, the law has yet to be tested through any court action.

In the name of protecting women's health and preserving their procreative capacity, the Labour Code prohibits the employment of women in certain hazardous positions.²⁴² Women thus find themselves effectively banned from over 90 occupations in 20 fields of employment.²⁴³ These occupations and jobs are usually better paid. Employers are obligated to transfer the pregnant woman to another position if she performs work forbidden for pregnant women.²⁴⁴ Moreover, the law bans night work, overtime work, and

236. *Id.*

237. *Id.*

238. Groups include: the Centre for Protection of Women and Children; League of Albanian Women; Sisters Qiriazii; LDK Women's Forum; Women in Black of Kosovo; Aureola; Group of Women Veterans of Teaching, Writers and Artists; and Media Project.

239. See Mertus, *supra* note 109, at 271.

240. See *supra* text accompanying notes 170-71.

241. See generally POLISH COMMITTEE OF NGOS, THE SITUATION OF WOMEN IN POLAND (REPORT FOR THE FOURTH WORLD CONFERENCE ON WOMEN IN BEIJING, CHINA) 6 (1995) [hereinafter WOMEN IN POLAND] (proposing recommendations regarding provisions of the Polish Constitution).

242. LABOUR CODE [LAB. C.] art. 176 (Pol.).

243. WOMEN IN POLAND, *supra* note 241, at 9.

244. LAB. C. art. 179(1) (Pol.).

business trips for pregnant women and for women bringing up children of less than one year of age.²⁴⁵

Women's earnings have on average, been 30% lower than those of men.²⁴⁶ Women also face a far greater risk of being unemployed.²⁴⁷ In addition, men have an easier time finding a job, and women must change jobs more frequently than men.²⁴⁸ Furthermore, at any given time, the available jobs are more likely to be incompatible with the skills possessed by women. Women hold far fewer management positions than men, especially in the private sector.²⁴⁹

The group most at risk of layoffs and with the most difficulty finding new jobs is women over the age of 40 employed in state sector office jobs. Due to age related psychological barriers, they have a hard time retraining and qualifying for other positions. The Center of Women's Activation and Employment, the Association for Women and Their Families, and the Center for the Advancement of Women Foundation (all of Warsaw) organize training for women job seekers, provide legal assistance, and encourage media to get involved. The Women's Rights Center in Warsaw provides legal assistance to women who are discriminated against in employment.

Russia:

Although Russian law formally provides for equality between women and men, women's position in the economy has continued to decline since the onset of privatization. During the process of transferring ownership and control of property to private interests, many former factory directors have obtained controlling interests in their factories. Former managers have had privileged access to information about ongoing privatization efforts, and have claimed controlling rights over inventories, or essential machinery. Although women were employed to perform both the highest and least-skilled tasks in factories, they were seldom present on the boards of directors of the enterprises. As such, they have been largely excluded from decision-making and profit-sharing in formerly state-owned enterprises.²⁵⁰

245. *Id.* at art. 178. See also WOMEN IN POLAND, *supra* note 241, at 8.

246. WOMEN IN POLAND, *supra* note 241, at 7.

247. See U.N. ESCOR, THE ROLE OF WOMEN, *supra* note 5, at 26, Table 2 (stating that in 1993 the official unemployment rate was 14.9% for women and 11.8% for men; in 1991, 11.4% for women and 7.9% for men; in 1990, 3.8% for women and 3.2% for men).

248. Renata Siemienska, *Polish Women as the Object and Subject of Politics During and After the Communist Period*, in WOMEN AND POLITICS WORLDWIDE 610, 616 (Barbara J. Nelson & Najma Chowdhury eds., 1995).

249. *Hidden Victims Women in Post-Communist Poland* (Helsinki Watch, New York, N.Y. & Women's Rights Project, Washington, D.C.), Mar. 12, 1992, at 6.

250. Survey response of Louise Grogan, Economist, in Moscow, Russia (Aug. 1995)

The problem of non-payment and late payment of the workforce will lead to a further concentration of interests amongst the former directors of enterprises. Workers are being offered shares in the enterprise in lieu of paychecks. These shares are commonly bought back privately by key shareholders in the enterprise, who offer a price which reflects the desperate situation of the unpaid worker.

Mass layoffs have been common in state-owned enterprises, which must now compete with an unchecked influx of products from Western Europe and Asia. Those with controlling interests in factories have adopted strategies to scale down their workforces with a minimum of organized resistance. As a group, women are poorly represented in the governing boards of enterprises, and so can only protest their lay-offs after the fact.

Popular and emerging Russian corporate culture promotes the return of women to their biologically determined roles as mothers and homemakers.²⁵¹ The Government of the Russian Federation is actively seeking a rise in the birth rate, and has begun to restrict the types of occupations and times of day at which women may work.²⁵²

Women in Russia continue to earn far less than men.²⁵³ A 1996 poll by the Public Opinion Fund found that eighty-seven percent of Russian urban workers with a personal income of less than 100,000 rubles (twenty-one dollars) a month are women.²⁵⁴ The percentage of employed women declines as the income level rises.²⁵⁵ Women constitute seventy-one percent of those with earnings between 200,000 and 400,000 rubles; fifty-seven percent of those earning 400,000 to 600,000 rubles; forty-five percent of those with incomes between 600,000 and 1 million; thirty-eight percent of those earning from 1 to 1.5 million; and only thirty-two percent of those earning more than 1.5 million.²⁵⁶

[hereinafter Grogan Survey] (describing interview with Elena Kotchkina, Sociologist, Moscow Center for Gender Studies and Expert of the Russian State Duma).

251. "Many Russian organizations have traditionally viewed the firing of women as financially disadvantageous because they perceive a conflict between a woman's professional and domestic responsibilities." Phoebe Brown, *Russian Women Lawyers in Post-Soviet Russia*, 12 GA. ST. U. L. REV., 381, 382 (1996) (citation omitted).

252. See Genine Babakian, *Population Drop in Russia Spurs Fear that 'We Will Cease to Exist'* *Someday*, USA TODAY, Feb. 27, 1997, at A4.

253. See Lee Hockstader, *For Women, New Russia Is Far From Liberating: Sexism, Violence Common in Post-Communist Era*, WASH. POST, Sept. 1, 1995, at A25 ("Three out of four jobless Russians are women. Women who work earn less than half what men average, a sharp decline from just four years ago.").

254. See Swanee Hunt, *'Feminization of Poverty' in East Europe; Western-Style Safeguards Are Foreign to Women in Post-Communist Nations*, BALTIMORE SUN, July 13, 1997, at F5.

255. *Id.*

256. OPEN MEDIA RESEARCH INSTITUTE DAILY DIG., Mar. 8, 1996 <<http://search.omri.cz/bin>

Women also constitute sixty-two percent of the officially registered unemployed.²⁵⁷ Older women have been disproportionately represented amongst those laid off during the transition.²⁵⁸ The savings they accumulated during their working lives disappeared overnight during price reforms. These women were trained and educated for a different society from that in which they now live. If they are divorced or widowed, they will be expected to survive on a forty dollar monthly pension, less than a third of that which is necessary to live. Older men, unlike women, have additional sources of income, such as pensions for participation in the armed forces.²⁵⁹

Although estimates vary, most commentators agree that at least sixty percent of Russians are living below the poverty line. Women and children are most likely to live in poverty, particularly the elderly and disabled, and single mothers (about fifteen percent of all Russian mothers are unmarried).²⁶⁰

The political faction "Women of Russia," which lobbies in the State Duma, has initiated a special decree that would protect jobs in the textile industry, where a large portion of employees are women. Women of Russia also supported proposed minimum wage legislation that would benefit all workers, but particularly women as they are most likely to be low paid.

Serbia:

Serbia and Yugoslavia do not have specific legal provisions pertaining to equal employment in the workplace, only the general constitutional provisions cited above.²⁶¹ The rule of law has not

/OMRI.acg: \$main_search> [hereinafter OMRI DAILY DIG.].

257. OMRI DAILY DIG., Mar. 5, 1996, <[http://search.omri.cz/bin/OMRI.acg: \\$main_search](http://search.omri.cz/bin/OMRI.acg: $main_search)>. According to Economics Ministry data, at the beginning of December 1994, 10 million people were unemployed or partly unemployed, or more than 13% of the working population. OMRI DAILY DIG., Jan. 12, 1995 <[http://search.omri.cz/bin/OMRI.acg: \\$main_search](http://search.omri.cz/bin/OMRI.acg: $main_search)>.

258. See Lincoln Chen, Friederika Wittgenstein, & Elizabeth McKeon, *The Upsurge of Mortality in Russia: Causes and Policy Implications*, 22 *Population & Dev. Rev.* 517, 521 (1996).

259. Anastasia Poskadskeya, Director of the Moscow Center for Gender Studies until 1995, recently finished an oral history project on the lives of older women in Russia. Tatiana Gerasimova, a lawyer from St. Petersburg, has begun research on the legal status of older generations of Russian women.

260. See Nadezhda Ashgikhina, *A Movement is Born: Russian Women are Coming Together to Create a New Fabric of Life*, 51 *BULL. ATOMIC SCIENTISTS* 47 (1995). Workers wishing to keep their jobs will generally continue to work for an employer who falls behind in paying salaries. After several months of working without pay, employees realize that they will never be paid the months of salary owed them if they leave the firm. In this way, workers become increasingly bound to the firm. The legal system is unwilling to take in such cases, as they account for at least 30% of the workforce in Russia. Grogan Survey, *supra* note 250.

261. See *supra* notes 174-176, and accompanying text.

operated independently in Serbia for some time; women's groups do not see legal recourse as the most effective way to advance the status of women at this time.

Women's position in the workplace worsened during the war. Women were among the first to be fired or frozen out of their jobs. Employers enjoyed considerable leverage to hire women according to their own "conditions", including willingness to submit to harassment, sporadic pay and irregular hours. Men were more likely to be employed in the most profitable job sectors of the time: by foreign organizations and in the black market. Managerial positions and directorships are almost exclusively men. Accurate figures on employment and unemployment do not exist at this time.

Slovakia:

Women formally enjoy equality under Slovakia's constitution.²⁶² However, women are pressed into the lowest paying jobs and, even in the same jobs, women earn less than men. In 1993, the average monthly wage was 5,310 Sk. As many as 73% of women earned less than 5,000 Sk, while only 46% of men were in this wage bracket. Only about 11% of women earned more than 6,000 Sk, while 31% of men did so.²⁶³

Even though the percentage of women working in the private sector is increasing, for the most part women work as employees and not self-employed entrepreneurs. In 1994, female entrepreneurs represented 21.6% of the total number of entrepreneurs with no employees and 19.7% of the total number of entrepreneurs with employees. In the second quarter of 1995, the numbers were slightly higher: women comprised 25.7% of entrepreneurs with no employees and 25.5% of the entrepreneurs with employees.²⁶⁴ To improve the balance in the future, women's groups in the Czech Republic have initiated training and support programs for women-owned small businesses.

Ukraine:

Apart from the general provision of equality in the constitution, no specific laws prohibit discrimination against women in employment in Ukraine. By law, women may be excluded from certain hazardous jobs, night work and overtime.²⁶⁵ In the 1980s, women in Donetsk,

262. SLOVK. CONST. ch. II, art 12(2).

263. Butorova, *supra* note 36.

264. Butorova, *supra* note 36.

265. LABOR CODE art. 14 (Ukr.) (Protection of the Labor of Women).

the eastern mining region, unsuccessfully fought the prohibition on women working in underground mines, one of the highest paid occupations in Ukraine. The court at that time reasoned that the prohibition was necessary for the children's welfare, as it assured that at least one parent would survive.²⁶⁶

According to United Nations' figures, living standards in Ukraine declined 80% in a 28-month period after independence.²⁶⁷ Rural families in Ukraine face the greatest poverty; very few income-producing activities exist for rural women. About 70% of the unemployed are women.²⁶⁸ Among specialists with higher and specialized secondary education, women comprise 61% of the jobless.²⁶⁹

Very few women have opened private enterprises. To aid women entrepreneurs, the League of Ukrainian Women of Transcarpatian has built a credit union for women, Women in Agrobusiness has provided start-up support for women in business, the Women's Legal Center provides legal assistance to unemployed women, and a variety of women's groups have provided seminars and training on self-employment (for example, in Soyuz Ukrainok, and Lviv). In addition, after the July 1995 review of Ukraine's implementation of the Women's Convention, the Ukrainian Parliament agreed to initiate proposals that would enhance women's access to self-employment and job training. These proposals have yet to be implemented.

2. Violence Against Women

a. Family Violence

Albania:

Albania's new Criminal Code, enacted in June 1995, does not contain specific provisions on domestic violence. Instead, domestic violence may be prosecuted under general penal provisions, including the crimes of: "threat;" "torture resulting in serious consequences;" "serious intentional injury;" "non-serious intentional injury;" and "other intentional harm."²⁷⁰

266. Interviews with women teachers and lawyers, in Donetsk, Ukr. (Mar. 1995).

267. *Ukraine in 1995: Forging an Identity*, UKRAINIAN WKLY., Dec. 31, 1995.

268. Swanee Hunt, *Women's Vital Voices: The Costs of Exclusion in Eastern Europe*, FOREIGN AFF., July 1, 1997.

269. Survey response of Olena Suslova, in Kiev, Ukr. (Aug. 1996) [hereinafter *Suslova Survey*].

270. CODE CRIMINAL arts. 84, 87, 86, 89, 90 (Alb.), cited in MINNESOTA ADVOCATES FOR

Under the Code of Penal Procedure, domestic violence cases can only be brought if the victim files a complaint. In other words, the victim must prepare and present the entire case herself, without state assistance.²⁷¹ Exceptions are made only if the woman has been killed or permanently injured. A 1995 study of the Minnesota Advocates for Human Rights concluded that

Police, prosecutors and judges treat domestic violence as a situation for which each party bears equal responsibility. They invariably try to persuade women to pardon their abusers at each stage of the legal process. The result of this focus . . . is that the vast majority of women drop charges of assault before a trial is commenced . . . In addition, the government does not provide any social services to victims of domestic assault nor does it attempt in any way to prevent these crimes from occurring.²⁷²

In 1995, the women's advocacy group Refleksione ("Reflections") conducted an extensive countrywide survey with 1,400 respondents.²⁷³ It found that women of all religious faiths and social backgrounds experience violence in the family in Albania. One in five women are physically abused by their partner, one in seven by family members, one in thirteen by perpetrators qualified as known, and one in fourteen by abusers outside their home.²⁷⁴ The study concluded that the political and economic transition has had a particularly detrimental effect on the incidence and severity of violence, explaining that

women fired from their jobs, and who have become housewives against their will, feel not respected in the individual and social sphere; they are psychologically frustrated because their professional abilities do not respond to their existing situation. [In addition], the hard economic situation and inappropriate living conditions make them more [prone] to aggravated physical and psychological violence²⁷⁵

Bulgaria:

Domestic violence cases are almost impossible to bring successfully under the criminal law in Bulgaria. The Penal Code in Bulgaria establishes three levels of criminal assault based on the severity of

HUMAN RIGHTS, DOMESTIC VIOLENCE IN ALBANIA 14-15 (1996) <mnadvocates@igc.apc.org> [hereinafter MINNESOTA ADVOCATES, ALBANIA REPORT].

271. *Id.* at 15.

272. *Id.* at 3.

273. SILVANA MIRIA, REFLEKSIONE, VIOLENCE AGAINST WOMEN AND THE PSYCHOLOGICAL TABOOS FAVORING VIOLENCE (1996).

274. *Id.* at 13.

275. *Id.* at 19.

injury: grave, medium, or light injury. In order to meet the threshold requirement for a grave injury, the victim must experience "permanent impairment of health;"²⁷⁶ for a medium injury there must be at least "short, lasting danger to health."²⁷⁷ The examining physician makes the legal determination as to the severity of the injury.

The state does not participate in the prosecution in the case of light injuries.²⁷⁸ When medium injuries occur, the state will only participate in the prosecution if the victim and perpetrator are not related.²⁷⁹ This means that women will not receive state assistance in bringing a domestic violence case unless they can show severe and permanent impairment to health. "A victim of domestic violence who attempts to prosecute her batterer alone in the Bulgarian criminal justice system faces a daunting task."²⁸⁰ For these reasons, very few cases of domestic violence are ever brought in Bulgaria.

The Minnesota Advocates for Human Rights, has detailed other shortcomings of Bulgaria's legal system with respect to domestic violence.

The law exempts from prosecution certain types of assault if committed by a family member, although the state prosecutes the same act if committed by a stranger Even when the woman is permanently injured, the state does not always prosecute. The courts do not take seriously their obligation to punish perpetrators of violence against women in the home. In addition, the government does not provide any social services to victims of

276. CODE PENAL [C. PENAL] art. 128 (Bulg.) (defining grave injury as: "continuous distortion of consciousness; permanent blindness of one or both eyes; permanent deafness; loss of speech; reproductive inability; disfigurement which forever causes a disturbance of speech, or of a sense organ; loss of a kidney, the bile, or a lung lobe; loss of maiming of a leg or arm; permanent general health impairment, dangerous to life.").

277. C. PENAL art. 129 (Bulg.) (defining medium injury as "permanent weakening of eyesight or hearing; permanent embarrassment of speech, of the movement of the extremities, the body or neck, of the functions of the sexual organs without causing reproductive incapacity; breaking of a jaw or knocking out of teeth, without which chewing or speech are obstructed; disfigurement of the face or other parts of the body; permanent impairment of health not dangerous for life or impairment of health temporarily dangerous to life; injuries which penetrate into the cranial, thoracic and abdominal cavities. Anything that causes short, lasting danger to health.").

278. See MINNESOTA ADVOCATES FOR HUMAN RIGHTS, DOMESTIC VIOLENCE IN BULGARIA 10 (1996) <mnadvocates@igc.apc.org> [hereinafter MINNESOTA ADVOCATES, BULGARIA REPORT] (stating that after filing a complaint, women receiving light injuries must proceed through the justice system with no assistance).

279. See *id.* (noting that victims of domestic abuse who receive medium injuries must proceed through the justice system alone, just as those with light injuries).

280. *Id.* at 11. See also UNDP *Bulgaria Report*, *supra* note 73, at 15 (commenting that the Bulgarian legislation does not criminalize the assault of wives and that there are no out-of-court protections for victims of domestic violence).

domestic assault nor does it attempt in any way to prevent those crimes from occurring.²⁸¹

Since 1989, domestic violence appears to have increased in Bulgaria.²⁸² A report prepared by the United Nations Development Programme for the Fourth World Conference on Women noted:

[U]nder the conditions of crisis and increasing tension in society, the family becomes a convenient place for transferring negative emotions. Most often women and children are the objects of aggression and physical violence Bulgarian men have no skills acquired to express or transform their negative moods and aggression into actions that are not directed to those close to them.²⁸³

Croatia:

According to women's rights experts in Croatia, "[t]he only crimes [in Croatia recognized] by the criminal code which can be applied to domestic violence cases are insult, assault, and battery."²⁸⁴ The criminal code does not recognize other forms of violence against women.²⁸⁵ For example, stalking, telephone harassment, sexual harassment on the street or in the workplace, insulting forms of address, and other forms of disdainful behavior exhibited towards women are not considered criminal acts.²⁸⁶ No law exists to challenge abusers' attempts to forbid women from leaving their homes or communicating with friends or relatives, to prohibit women from accepting employment, or to prevent the threatening of women with economic or social retribution.²⁸⁷

Both lawmakers and judges view civil suits as the most appropriate remedy in cases concerning family violence.²⁸⁸ Advocates for women in Croatia find that "it is almost impossible to imagine how a civil suit could provide any fair or just resolution in the case of domestic violence."²⁸⁹ Plaintiffs must bear the cost of civil suits, and

281. MINNESOTA ADVOCATES, BULGARIA REPORT, *supra* note 278, at 3.

282. MINNESOTA ADVOCATES, BULGARIA REPORT, *supra* note 278, at 19.

283. UNDP *Bulgaria Report*, *supra* note 73, at 15. See MINNESOTA ADVOCATES, BULGARIA REPORT, *supra* note 278, at 19 (reporting that "increased alcoholism since the transition from communism [has] aggravate[d] the problem of domestic violence").

284. B.A.B.E., LEGAL STATUS OF WOMEN IN CROATIA, REPORT ON THE ACTIVITIES OF LEGALINE 3 (1996) <BABE_ZG@ZAMIR-ZG.ztn.apc.org> [hereinafter B.A.B.E., WOMEN IN CROATIA].

285. *Id.*

286. *Id.*

287. See Survey response of B.a.B.e., in Zagreb, Croatia (Aug. 1996) [hereinafter B.a.B.e. Survey]; B.A.B.E., WOMEN IN CROATIA, *supra* note 284, at 3.

288. B.A.B.E., WOMEN IN CROATIA, *supra* note 284, at 3.

289. B.A.B.E., WOMEN IN CROATIA, *supra* note 284, at 3. "When a case is brought before the

proceedings are usually exceedingly long.²⁹⁰ Even in rare cases where a woman does instigate criminal proceedings against a perpetrator, the statute of limitations often expires before the case is filed.²⁹¹ Courts in Croatia tend to be overworked and have no experience or special expertise in handling domestic violence complaints.²⁹² "The net result is a systemic failure of the judicial system to effectively address the issue of violence against women."²⁹³

The law requires a physician treating an injured person to submit a criminal report naming the perpetrator of violence.²⁹⁴ Some women, wishing to avoid disclosure, refuse medical treatment while others fabricate the source of their injuries.²⁹⁵ However, even when women want their physician to take action, their physicians fail to report the crime.²⁹⁶ Generally, "physicians demonstrate little . . . sensitivity to women who suffer from domestic violence."²⁹⁷

Furthermore, no specialized police exist to deal with domestic violence. Croatian judges and police officers are not trained to deal with cases of domestic violence. Standard operating procedures allow police involved in domestic violence situations to do nothing until something "serious" happens—that is, until someone is killed or seriously injured.²⁹⁸ For these reasons, women rarely report domestic violence.²⁹⁹

The first hotline in CEE for victims of domestic violence was established in Zagreb in 1987.³⁰⁰ Since then, hotlines have spread to

court, both the assailant *and* the victim are fined for disturbing the peace." *Id.* at 2 (emphasis added).

290. B.A.B.E., WOMEN IN CROATIA, *supra* note 284, at 2.

291. B.A.B.E., WOMEN IN CROATIA, *supra* note 284, at 2.

292. B.A.B.E., WOMEN IN CROATIA, *supra* note 284, at 2. Women do not report violence to the District Attorney because of the judicial system's ineffectiveness, lack of understanding displayed by the judges and lawyers, and belief that nothing positive will develop after a criminal proceeding. *Id.*

293. B.A.B.E., WOMEN IN CROATIA, *supra* note 284, at 3.

294. B.A.B.E., WOMEN IN CROATIA, *supra* note 284, at 3.

295. B.A.B.E., WOMEN IN CROATIA, *supra* note 284, at 3. Most women are afraid that the assailant would become more violent, that they would be killed, or that they would be victimized by the organizations that are supposed to protect them. *Id.* at 2.

296. B.A.B.E., WOMEN IN CROATIA, *supra* note 284, at 3.

297. B.A.B.E., WOMEN IN CROATIA, *supra* note 284, at 3.

298. B.A.B.E., WOMEN IN CROATIA, *supra* note 284, at 2. Officers do not want to intervene because they do not want to interfere with a married couple's privacy. *Id.*

299. B.A.B.E., WOMEN IN CROATIA, *supra* note 284, at 2. Because of the nature of the assault, most women do not want to begin criminal proceedings. The act usually takes place in private with no witnesses, making it her word against his. Many women also feel that their spouse has connections in the legal system, and the case would not be given a fair hearing. *Id.* at 3.

300. THE CENTER FOR REPRODUCTIVE LAW & POLICY, MEETING THE HEALTH NEEDS OF WOMEN SURVIVORS OF THE BALKAN CONFLICT 43 (1993).

every major city. In December 1990, Autonomous Women's House, the first shelter in CEE for abused women and their children, was started in Zagreb.³⁰¹ The Autonomous Women's House has also provided training for sister projects in Croatia and abroad.³⁰² Moreover, the women's human rights group Be active Be emancipate ("B.a.B.e.") provides free legal assistance to women regarding their rights to be free of violence to exercise reproductive choice, and to have equal participation in their government.³⁰³

Czech Republic:

While family law grants men and women equal rights and assigns them equal responsibilities, both the family law and the criminal law fail to address domestic violence.³⁰⁴ Present criminal law and practice presents many obstacles to domestic violence claims. The penal code states that victims of certain criminal acts must consent to criminal proceedings if the offender is related to the victim at the time when the crime is committed.³⁰⁵ If the victim does not agree to press charges, criminal proceedings are not commenced, and the accused's activities remain unmonitored.³⁰⁶ Once a victim decides not to prosecute, the decision cannot be reversed. In contrast, if these same acts had been committed against a stranger, they would have been punishable by imprisonment, with or without the victim's consent.

A number of women's non-profit organizations offer aid to women and children who are victims of violence.³⁰⁷ Activists working with battered women report that police require that a victim of domestic violence procure a doctor's note verifying that the injuries she has

301. AUTONOMOUS WOMEN'S HOUSE ZAGREB, PROJECT DESCRIPTION (1995).

302. Interviews with Autonomous Women's House staff, in Zagreb, Croatia (Aug. 1995) (including groups in Croatia such as the Center for Women War Victims, Rosa House, Women's Studies; and abroad: Medica – Bosnia and Herzegovina, SOS Hotline for Abused Women – Slovenia, and NaNe/SOS Telephone – Hungary). Many "trainers" from the United States and Western Europe have offered training to the Autonomous Women's House and other groups. After working on the issue, the staff began to reject most would-be trainers, and began to offer their own wisdom and experience for women's groups elsewhere. *Id.*

303. B.A.B.E. PROJECT DESCRIPTION (1997).

304. See Kamila Michalkova, *Coalition Protects Victims of Domestic Violence*, PRAGUE POST, May 14, 1997 (describing that law enforcement officials dismiss domestic violence as "a couple of slaps between partners").

305. PENAL CODE [PENAL C.] art. 163 (a) (Czech Rep.).

306. *Id.* See also Michalkova, *supra* note 304 (commenting that the responsibility for prosecution is on the victim, but due to "[p]oorly enforced laws and flippant attitudes toward domestic violence[,] prosecution is unlikely).

307. See Michalkova, *supra* note 304 (listing the organizations making up the Coordinating Circle for the Prevention of Violence Against Women as Profem, Nadace Rosa, Gender Studies Center, and Elektra).

sustained will prevent her from working for a period of seven days.³⁰⁸ Only then will police consider referring the case to court and the victim to a social worker.³⁰⁹

*Hungary.*³¹⁰

The Hungarian public perceives violence against women as a problem, but domestic violence is largely unacknowledged.³¹¹ Studies of women's advocacy groups in Hungary have found that violence against women occurs in all strata of society throughout the country.³¹² Because of recession, high unemployment, and general uncertainty about the future, frustration and tensions have escalated, and incidents of domestic violence have increased.³¹³ Still, only a small number of battered women report the incidents because of the treatment they fear at the hands of police, the emotional trauma, and the fear of revenge and further violence.³¹⁴ The general provisions of the criminal code in Hungary provide insufficient recourse to victims of domestic violence.³¹⁵

NaNe! (Women for Women Against Violence) launched Hungary's first hotline for battered women and children in February 1994.³¹⁶ Another civil organization, the Ombudswomen project in Budapest operates, among other things, a Women's Information and Resource Center that provides the services of lawyers, social workers, and lay activists to assist women in crisis.³¹⁷ Both governmental and nongovernmental organizations have established battered women's shelters.

308. See Emma McClune, *Shelter is Planned for Women Whose Suffering Even Language Denies*, PRAGUE POST, Mar. 22, 1995, at News Section (noting that if a woman wants to press charges against her aggressor, her doctor must certify that "she has sustained injuries sufficient to justify seven days of sick leave").

309. Shaw Survey, *supra* note 216.

310. See generally Catherine Hichley, *New Epidemic of Violence: Political Changes Bring Wave of Trouble at Home*, BUDAPEST SUN, June 2, 1994.

311. See LADIN, *supra* note 223, at 53.

312. LADIN, *supra* note 223, at 53.

313. LADIN, *supra* note 223, at 53.

314. See LADIN, *supra* note 223, at 54 (detailing the "appalling" treatment women receive from the police).

315. See LADIN, *supra* note 223, at 54 (noting that provisions of Hungarian law, such as marital rape laws, need revision).

316. LADIN, *supra* note 223, at 53.

317. LADIN, *supra* note 223, at 54.

Kosovo:

Kosovo, being subject to the laws of Serbia and Yugoslavia, does not have a specific law on domestic violence.³¹⁸ Kosovar Albanian women's groups have put "creating a law on domestic violence" on their wish list for changes should a democratically elected government take power in Kosovo.³¹⁹ Independent Kosovar Albanian women's groups report that the incidence of domestic violence has increased since 1991 due to worsening economic and political conditions.³²⁰

*Poland.*³²¹

The penal code in Poland, unlike the law of most countries, explicitly recognizes domestic violence as a criminal act.³²² Article 184 of the code states that anyone who commits physical and psychological abuse over a member of his or her family (or another person in a permanent or temporary relationship of dependency to the perpetrator) could be punished with up to five years of imprisonment.³²³ If the abuse results in a suicide attempt by the abused, the penalty may increase to ten years.³²⁴

Other provisions of the penal code that can be used in cases of domestic violence include prohibitions against: violating personal safety,³²⁵ the use of vulgar words to degrade or incite violence,³²⁶ battery at any location,³²⁷ the use of force or threats to make another person behave in a certain manner;³²⁸ and verbal threats or threats through express body language which may lead the victim to have reason to fear that the threat is real.³²⁹

318. See *infra* note 364 and accompanying text (describing Serbian law on domestic violence).

319. Interviews with Kosova Women's Center, in Kosovo (1996) [Hereinafter Kosova Interviews].

320. *Id.*

321. See generally *Hidden Victims Women in Post-Communist Poland* (Helsinki Watch, New York, N.Y. & Women's Rights Project, Washington, D.C.), Mar. 12, 1992 (examining the increasing discrimination against women in post-communist Poland with reference to violence).

322. See Isabel Marcus, *Dark Numbers: Domestic Violence in Poland* 16 (1996) (unpublished manuscript, on file with author) (noting that the penal code on domestic violence encompasses a broad range of behaviors).

323. PENAL CODE [PENAL C.] art. 184 § 1 (Pol.).

324. *Id.* at art. 184 § 2.

325. *Id.* at art. 184 § 1.

326. *Id.*

327. *Id.* at art. 156.

328. PENAL C. art. 167 § 1 (Pol.).

329. *Id.* at art. 166. See Marcus, *supra* note 322, at 17 (reporting on results of survey on domestic violence in Poland).

However, "[t]he codified law and its application are usually two different realities."³³⁰ Police rarely react when violence occurs in a home or between family members; most cases are dismissed or punishment is suspended.³³¹ In order to make a case under Article 184 of the Penal Code, prosecutors must show "serious injury."³³² Bruises are deemed insufficient injury.³³³ In order to meet the evidentiary standard, doctors must certify that the target of violence is unable to function for more than seven days.³³⁴

A 1993 survey of 1,087 women by the Public Opinion Research Center found that eight percent of them had been repeatedly beaten by their husbands, and a further eight percent had been beaten sporadically.³³⁵ The actual figures are likely to be much higher as domestic violence is a traditionally under reported crime.³³⁶ In the same survey, divorced women, who apparently felt more comfortable speaking about abuse, reported far higher incidents of violence: forty-one percent said they had been beaten repeatedly; twenty-one percent said that it happened sporadically.³³⁷ When these same women were asked whether they knew about any women who were beaten by their husbands, forty-one percent of the married and sixty-one percent of the divorced women answered affirmatively.³³⁸

Women's NGOs provide various kinds of assistance and support to victims of violence. For instance, the Women's Rights Center provides legal assistance to battered women and has launched a campaign to raise public awareness. The campaign has caught the interest of newspapers and television, and pressure has mounted for better implementation of the criminal law.³³⁹ Other groups working

330. WOMEN IN POLAND, *supra* note 241, at 14.

331. See Marcus, *supra* note 322, at 17 (describing how police consider domestic violence cases as family matters and will refuse to intervene or will issue a warning to the abuser, leading to no further action).

332. PENAL C. art. 184 § 1 (Pol.). See also Marcus, *supra* note 322, at 19.

333. Marcus, *supra* note 322, at 19.

334. See Marcus, *supra* note 322, at 19 (noting that the seven-day standard does not allow women who experience low-level or intermittent violence to seek relief since their injuries do not leave them unable to function for seven days). This standard allows perpetrators to practice non-prosecutable violence with impunity, thus ensuring the perpetrator's authority over the family. *Id.*

335. WOMEN IN POLAND, *supra* note 241, at 50.

336. See Lisa Marie De Sanctis, *Bridging the Gap Between the Ruler of Evidence and Justice for Victims of Violence*, 8 YALE J.L. & FEMINISM 359, 389 (1996) (noting under-reporting of domestic violence); M. Mercedes Fort, *A New Tort: Domestic Violence Gets the Status it Deserves in Jewitt v. Jewitt*, 21 S. ILL. U. L.J. 355 (1997).

337. WOMEN IN POLAND, *supra* note 241, at 50.

338. WOMEN IN POLAND, *supra* note 241, at 50.

339. Telephone interview with Urszula Nowakowska, Warsaw Women's Rights Center (Nov.

with victims of domestic violence include the Society for Intervention in Crisis Situation, Women Against Violence, Women's Foundation eFKa from Krakow, and Associations of Battered Wives from Bydgoszcz.

*Romania.*³⁴⁰

Domestic violence can be prosecuted under the general provisions applicable to assault and battery.³⁴¹ The Romanian Penal Law defines five levels of assault: (1) battery, (2) bodily injury, (3) unintentional bodily injury, (4) aggravated bodily injury, and (5) battery causing death.³⁴² The injured party is primarily responsible for preparing the case, unless the crime can be defined as an aggravated bodily injury or battery causing death.³⁴³ This means that in nearly all cases the aggrieved is responsible for bringing the case.

If the parties in a domestic violence dispute reconcile, the case is dismissed.³⁴⁴ Sentences vary according to the level of injury, as determined by the number of days for which medical treatment is required.³⁴⁵ Women report being humiliated and mistreated during the mandatory examination by the physician and in the police station.³⁴⁶ Some women fear bringing a case against their batterer because of the infamously low respect for human rights demonstrated by Romanian police.³⁴⁷ One man who was arrested for beating his wife purportedly died from the beating he received in police custody.³⁴⁸

1, 1997) [Hereinafter Nowakowska Interview].

340. See generally DAVID FORSYTHE, HUMAN RIGHTS AND PEACE: INTERNATIONAL AND NATIONAL DIMENSIONS (1993) (outlining a case study of domestic violence in Romania (as well as Sri Lanka and Liberia)).

341. MINNESOTA ADVOCATES FOR HUMAN RIGHTS, LIFTING THE LAST CURTAIN: A REPORT ON DOMESTIC VIOLENCE IN ROMANIA 11 (1995) [hereinafter MINNESOTA ADVOCATES, ROMANIA REPORT].

342. PENAL CODE [PENAL C.] arts. 180-84 (Rom.).

343. MINNESOTA ADVOCATES, ROMANIA REPORT, *supra* note 341, at 11.

344. PENAL C. art. 180 (Rom.); MINNESOTA ADVOCATES, ROMANIA REPORT, *supra* note 341, at 11.

345. PENAL C. arts. 180-84 (Rom.); MINNESOTA ADVOCATES, ROMANIA REPORT, *supra* note 341, at 11.

346. MINNESOTA ADVOCATES, ROMANIA REPORT, *supra* note 341, at 12-13 (noting victims are humiliated because (1) men have authority in households and can not be questioned or (2) physicians, when certifying the treatment period, consider mitigating factors such as victims' intoxication or other actions which are believed to provoke the violence).

347. MINNESOTA ADVOCATES, ROMANIA REPORT, *supra* note 341, at 12.

348. MINNESOTA ADVOCATES, ROMANIA REPORT, *supra* note 341, at 12 (describing the police department's reputation for brutality).

Romanian police only investigate homicides and serious assault cases.³⁴⁹ A study of the Minnesota Advocates for Human Rights found that:

if the police are called on [in] a domestic assault case, the common practice is to counsel or advise the couple at the scene of the assault. The police may occasionally fine the abuser or require him to return the victim's property. Police do not, however, generally make arrests in these situations.³⁵⁰

Romania has no infrastructure to support women who have been battered; not a single shelter exists for battered women in the country.³⁵¹ Given the severe housing shortage in Romania, few women can hope to ever leave their husbands.³⁵² Moreover, few people in Romania can imagine that the police or courts will ever be a source of justice.³⁵³

Russia:

Domestic violence has been increasing in Russia in recent years.³⁵⁴ Issues of violence within the family are grossly underreported, with many cases not receiving attention until the woman is killed.³⁵⁵ The number of spousal murders in Russia has tripled in the last ten years. In 1993, out of a total of 29,213 homicides and attempted homicides, more than 6,000 perpetrators were husbands or male partners who killed or attempted to kill their wife or female partner and 9,700 were murders by other family members of relatives.³⁵⁶ It is estimated that 7,000 children are victims of sexual violence annually.³⁵⁷

349. See MINNESOTA ADVOCATES, ROMANIA REPORT, *supra* note 341, at 12.

350. MINNESOTA ADVOCATES, ROMANIA REPORT, *supra* note 341, at 12.

351. MINNESOTA ADVOCATES, ROMANIA REPORT, *supra* note 341, at 18.

352. MINNESOTA ADVOCATES, ROMANIA REPORT, *supra* note 341, at 13.

353. Interviews with students and activists, Romania (Feb.-June, 1996).

354. See Mairead Carey, *Home News*, IRISH TIMES, Mar. 15, 1997, at 8; and James Meek, *Domestic Violence: Homes is Where the Heart is for Women in Russia*, LONDON OBSERVER, reprinted in OTTAWA CITIZEN, June 24, 1995 at B1 (reporting that, according to official reports, 14,500 women died in incidents of domestic violence in 1993; in 1994, 15,500 women died and more than 56,000 women were disabled or seriously injured).

355. Carey, *supra* note 354 (quoting Marina Pisklakova, with the Women's Crisis Centre in Moscow, "Wife-battering is socially acceptable in Russia . . . Women are afraid to turn to the police for help. If they do not totally dismiss what they say, they treat them like they have betrayed their husbands. They will rarely investigate a complaint unless the woman has been murdered.").

356. The Moscow Center for Gender Studies and Network of East-West Women Project of Committee of the Rights of Women, Report on the Legal Status Of Women In Russia: Contemporary Debates (1996) (unpaginated draft on file with author) [hereinafter Moscow Gender Studies Report]; Hunt, *supra* note 254, at F5 ("In . . . Russia, where an estimated 80% of violent crimes take place in the home, 15,000 women are killed by their husbands each year.")

357. Moscow Gender Studies Report, *supra* note 356.

In 1994, Galina Sillaste began working on a new legislative bill, "About Prevention of Domestic Violence."³⁵⁸ In July 1995, the Committee on Women, Family, and Youth of the State Duma of the Russian Federation included this bill in the parliamentary schedule for October 1995.³⁵⁹ Russian NGOs were not included in the development of this legislation, despite their experience with the issue.³⁶⁰ The draft provided strict regulations for crisis centers working on violence against women, raising objections from existing women's crisis centers.³⁶¹

An analysis of one of the early versions of the bill (June-July 1995) showed that the definition of the family offered in the document was vague and unclear.³⁶² Among other problems, it did not provide for inclusion of the legal status of partners or cohabitants whose marriage was not officially registered (which account for forty-six percent of all relationships).³⁶³

Serbia:

The criminal law does not have a domestic violence provision per se, but the general provisions of the law cover such potentially applicable crimes as murder, serious physical injury, less-serious physical injury, unlawful deprivation of a person's freedom, endangering a person's security, threatening the "inviolability of the apartment," incest, abusing a juvenile person, insult, slander, and coercion.³⁶⁴

According to the Autonomous Women's Center in Belgrade, the rate of domestic violence, rape and other forms of violence against women has increased since the war began in the former Yugoslavia.³⁶⁵ Activists attribute the increase to violent men returning from battle, an increasingly misogynist and violent culture, poverty and frustration among the general population, and increased numbers of

358. Moscow Gender Studies Report, *supra* note 356.

359. See *No laws Protect Women in Russia from Domestic Violence* (NPR, segment no. 06, show no. 1703, Sept. 27, 1995), available in 1997 WL 9485913.

360. Moscow Gender Studies Report, *supra* note 356.

361. Moscow Gender Studies Report, *supra* note 356.

362. Moscow Gender Studies Report, *supra* note 356.

363. Moscow Gender Studies Report, *supra* note 356.

364. Survey response of Zorica Mrsevic, Belgrade Women's Law Group, Belgrade, Serb. (Aug. 1996) [hereinafter Mrsevic Survey].

365. See *Report of State Parties, Federal Republic of Yugoslavia (Serbia & Montenegro)*, Convention on Elimination of Discrimination Against Women, 13th Sess., at 13, U.N. Doc. CEDAW/C/Yug/SP.1 (1994) [hereinafter CEDAW, *Yugoslavia*] (stating that the war has "increased the scale of violence and forms of victimization of women and children."); and Jo Anne Howlett, *Activism Without Borders*, 4 CIRCLES: BUFF. WOMEN'S J.L. & SOC. POL'Y 70, 70 (1996).

"vulnerable" women, including refugees and displaced people, young girls on the street, and drug addicts.³⁶⁵

Women's groups in at least five cities offer SOS Hotlines, support to battered women, legal aid, shelters, and counseling.³⁶⁷ The Center for Girls in Belgrade works specifically with young women and girls, offering youth chat groups, and counseling and exercises to raise self-esteem. Women in Serbia have found especially creative ways to support their projects. One women's shelter near Belgrade supports itself from a chicken farm run out of the basement. Another group runs a second-hand shop that employs women from the shelters during their transitional stage.

*b. Rape and Trafficking in Women*³⁶⁸

Albania:

The Albanian Penal Code does not criminalize marital rape.³⁶⁹ A survey by the Albanian women's group Refleksione ("Reflections") found that twenty percent of all women had been forced by their husbands to have sexual relations against their will.³⁷⁰ Another study conducted by Albanian women activists found that only ten percent of women interviewed had a clear understanding of what constituted marital rape.³⁷¹

In June 1996, women in Tirana opened the first counseling center for women, children, and victims of sexual violence.³⁷² Soon after, a hotline called "Advice for women and girls" began taking calls from people needing emotional support.³⁷³ The hotline also provides medical and legal information, and resources to facilitate decision-

366. See CEDAW, *Yugoslavia*, *supra* note 365, at 13 (noting that domestic violence is a social problem that must be addressed by social measures).

367. See CEDAW, *Yugoslavia*, *supra* note 365, at 13 and Howlett, *supra* note 365, at 70 (describing the activities of women's groups in Serbia).

368. Survey responses to the author's questions about the trafficking in women were often incomplete. Absence of information about this issue for a particular country does not mean that it is not a problem for that country.

369. Survey response of Tefta Zaka & Kathleen Imhotz, in Tirana, Alb. (Aug. 1996) [hereinafter Zaka & Imhotz Survey]; MINNESOTA ADVOCATES, ALBANIA REPORT, *supra* note 270, at 15.

370. Miria, *supra* note 273, at 7.

371. SAIMIRA GJIPALI & MIMOZA XHAFA, DOMESTIC VIOLENCE AGAINST WOMEN: A VIOLATION OF HUMAN RIGHTS (1995) (monograph), *cited in* MINNESOTA ADVOCATES, ALBANIA REPORT, *supra* note 270, at 15.

372. Interviews, in Alb. (June 1996).

373. See *First Telephone Hotline in Albania*, DEUTSCHE PRESSE-AGENTUR, Oct. 15, 1996 (page references unavailable).

making.³⁷⁴ There are still no shelters for raped or battered women in Albania.³⁷⁵ In addition, although Albanian women are prey to the growing sex trade in Europe,³⁷⁶ women's groups have yet to address the issue of forced prostitution and trafficking in women.³⁷⁷

Bulgaria:

The Criminal Code in Bulgaria requires a witness in order to prosecute a rape case.³⁷⁸ Prosecutions for spousal abuse are permitted only if "the wife has been killed or permanently injured."³⁷⁹

Croatia:

Under the Penal Code of Croatia, rape occurs if someone, through use of physical power, or threat to life, body or property, or life, body or property of someone close to her, forces a woman into a sexual act. The law does not include marital rape.³⁸⁰

Local women's groups in Croatia, often in conjunction with foreign groups, provide counseling and assistance to women who have survived wartime rape and other wartime sexual abuse. The Center for Women War Victims in Zagreb offers on-going counseling sessions, which are frequently led by women refugees who have survived traumas themselves. Additional projects by and for women refugees exist in Osijek, Dubrovnik, Split, Rijeka and several other cities and towns.

Czech Republic:

The Penal Code of the Czech Republic defines rape as follows:

(1) Whoever, by means of violence or threat of imminent violence, coerces a woman into copulation, or takes advantage of her defenselessness for such purpose, will be punished with imprisonment for two to eight years.

(2) An offender will be imprisoned for five to twenty years if (a) the offender commits the crime described in paragraph 1 when the

374. *Id.*

375. ALBANIA NATIONAL REPORT, *supra* note 181, at 34.

376. See Helena Smith, *Albanian Women Fall for Traffickers' Line*, CALGARY HERALD, July 28, 1996 (page references unavailable) (reporting that, out of more than 3,500 teenage girls are believed to have been tricked into the sex trade).

377. See *Social Democrat Paper Concerned at Growing Prostitution* (BBC Broadcast, July 1, 1992) (commenting that the rate of prostitution has increased and the social problem must be addressed as an important priority).

378. Hunt, *supra* note 254, at F5

379. Hunt, *supra* note 254, at F5

380. B.A.B.E. Survey, *supra* note 287. See also *Discrimination Against Women Around the World*, WIN NEWS, June 22, 1995, available in 1995 WL 15187655.

act has a serious, detrimental affect on the victim's health, or (b) commits such crime against a woman younger than 15 years.

(3) An offender will be imprisoned for ten to fifteen years if the crime stipulated in paragraph 1 results in the victim's death.³⁸¹

There are no provisions referring to marital rape.³⁸² Research conducted on sexual behavior in 1993 indicated that one-eighth of Czech Republic women had been raped; fifty percent of these women were raped by their husbands; thirty-eight percent by acquaintances, and eleven percent by strangers. Three out of one hundred women raped reported the incident to the police.³⁸³

Prostitution and trafficking in women have both experienced fantastic growth in the Czech Republic since 1989. Between 1993 and 1994, criminal activities connected with trafficking increased by sixty-seven percent in Prague, 264% in Western Bohemia, 500% in Southern Moravia, and by ninety-seven percent in the Czech Republic as a whole.³⁸⁴ The women's group "Profem" has been especially active in studying and bringing attention to this issue.

Germany:

Germany recently passed a law whereby women can file rape charges against their husbands. The crime is punishable by up to five years in jail.³⁸⁵

Hungary:

Hungarian penal legislation does not recognize marital rape, although the Constitutional Court is reviewing the matter and the law may soon change.³⁸⁶ Another peculiar provision of the criminal law which advocates are trying to change states that if a rapist marries his victim, he is entitled to a reduction in his prison sentence.³⁸⁷

381. PENAL C. art. 241 (Czech Rep.).

382. See Jirina Siklova & Jana Hradilkova, *Women and Violence*, in BODIES OF BREAD AND BUTTER: RECONFIGURING LIVES IN THE POST-COMMUNIST CZECH REPUBLIC 59, 60 (Susanna Trnka ed., 1993) (commenting that rape can only be committed upon a woman who is not the offender's wife because the law's purpose is to ensure that women can make independent decisions about their sexuality; however, unmarried women who are dependent on the offender (e.g., father or ex-husband) can bring a cause of action since their dependence limited their free will).

383. Shaw Survey, *supra* note 216.

384. Shaw Survey, *supra* note 216.

385. See *Marital Rape Law OK'd*, HOUSTON CHRON., June 7, 1997, at A26 (reporting that less than 5% of the 350,000 rapes of wives by their husbands or partners in the last four years have been reported).

386. Interviews, in Budapest, Hung (May 1996).

387. Agnes Lovasz, *Medieval Rape Laws Set to be Reformed*, BUDAPEST SUN, May 8, 1997 (reporting that sections of Hungarian code regarding rape are being debated in Parliament).

Since 1989, there has been a steady increase in forced prostitution and the trafficking in women in Hungary.³⁸⁸ Hungary is also reportedly the largest producer of pornography in the region. One main area of debate among women's groups in Hungary is whether to legalize prostitution.

Kosovo:

Marital rape is not recognized as a crime under Serbian law.³⁸⁹ "In the rural, traditional areas of Kosovo, women are treated as the property of their husband and mother-in-law," one Kosovar activist explained, "[m]ost women in these areas believe that their husband can do with them as they please."³⁹⁰

Historically, nationalist leaders have used the issue of rape to ignite tensions between ethnic Serbs and Albanians. In the late 1980s, the Serbian and Yugoslav media ran numerous stories about Albanian men raping Serbian women.³⁹¹ Nearly all of these accounts evaporated after 1991. Federal crime statistics for the late 1980s show fewer rapes per capita in Kosovo than in any part of the former Yugoslavia, with only a small percentage of the cases involving an Albanian perpetrator and a Serbian victim.³⁹² However, statistics matter little. The stories of rape served to spread fear and to create division. To this day, some Kosovar Albanian women fear bringing charges in rape cases where the perpetrator is of the same ethnic group (the vast majority of cases)³⁹³ as the case could be used to justify past and present discrimination against Albanian men.³⁹⁴

Local women's groups have begun to break the silence about forced prostitution and trafficking in women. In 1994, Xerhi Bucinca, a woman journalist, published the first article about the

388. See LADIN, *supra* note 223, at 55. See also Nick Thorpe, *Field Day for Illegal Hunters; A Conference on Trafficking in Women Highlights a Growing Problem*, THE GUARDIAN, Apr. 25, 1997, at 010 available in 1997 WL 2377948.

389. Serbian law governs Kosovo. See *supra* note 234, and accompanying text.

390. Interview with [identity withheld upon request] in New York, N.Y. (May 1995).

391. See, e.g., V. Zivkovic, "Sestre mete neprijatelja," (Nuns: An enemy target), *Politika Ekspres* (Belgrade Daily), Sept. 2, 1988; 2.2, "Na pad na igumariju," (Assault on Mother Superior), *Politika Ekspres*, Aug. 31, 1988; Rajko Djurdjevic, "Pale siluju, tuku, kamenuju, ruse, lime, skrnave," (setting fires, raping, beating, stoning, destroying, breaking, desecrating) *Duga* (Belgrade Weekly), Sept. 17, 1988.

392. Author's analysis of federal crime statistics and interviews with Serbian criminologists, Belgrade 1993-1994. See also Conference in Ljubljana, *Kosovo-Serbien-Jugoslawien* (1989) (report on file with author); Srdja Popovic et al., *Kosovski Cvor: Drešiti ili seci?* (Beograd: Kronos, 1990), p. 47 (giving extensive statistics); MARK THOMPSON, A PAPER HOUSE: THE ENDING OF YUGOSLAVIA 130 (1992); Cornelia Sorabji, *Crimes Against Gender or Nation?* 18 WAR REPORT 16 (1993).

393. See Mertus, *supra* note 109 at 264-265.

394. Interviews in Priština, Kosovo (1995).

subject to appear in an Albanian-language journal.³⁹⁵ Although she was criticized heavily for the piece, it has opened discussion on the problem.

Poland:

The Penal Code defines rape as an offense against personal freedom, stating that "[w]ho by means of unlawful threat, or deceit, forces a lewd act on another person is liable to penalty of one to 10 years."³⁹⁶ Where the judge finds that the rapist acted with "cruelty," the penalty may increase to up to twenty-five years. Polish law permits the prosecution of marital rape, but there are few such cases.

According to data from the Ministry of Justice, fifty-one percent of the defendants are sentenced for one to two years of imprisonment, thirty percent for two to five years and twenty-one percent for more than five years. Moreover, approximately thirty percent of the judgments passed are changed to suspended sentences.³⁹⁷ According to Urszula Nowakowska, of the Women's Rights Center, "in practice, cases of rape are often treated as incidents resulting from the provocative behavior of women."³⁹⁸

Romania:

Marital rape is not a crime under Romanian law. Women are deeply suspicious and fearful of the criminal justice system and thus extremely reluctant to report cases of rape. Thus, most of the reported cases involve situations in which the woman is severely injured and left with no way to hide the crime.³⁹⁹

A large number of Romanian girls and young women have been tricked into work in prostitution rings abroad.⁴⁰⁰ The issue of trafficking in women, however, has received little attention in Romania and the extent of the exact problem is unknown.

395. Xheraldina Bućinca, *Mos me pyatni pse shes trupin tim (Don't ask me why I am selling my body)* KOSOVARIA, Dec. 25, 1994.

396. PENAL C. art. 168 (Pol.). In the new criminal code for Poland, which is scheduled to take effect in January, 1998, this provision will be article 197. The language of the new code is only slightly different; instead of the word "lewd," the code mentions "sexual acts." Nowakowska Interview, *supra* note 339.

397. Survey response of Urszula Nowakowska, Women's Rights Center, in Warsaw, Pol. (Aug. 1996) [hereinafter Nowakowska Survey].

398. *Id.*

399. Interview with Laura Grunberg, in Bucharest, Rom. (June, 1996).

400. *Id.*

Russia:

Russian law identifies only females as possible victims of rape.⁴⁰¹ The Penal Code specifies different penalties for rape according to the nature of the crime. There is no specific law regarding marital rape. Following are the rape penalties:

(1) Rape, sexual intercourse with the use of physical violence or threat to victim or to other persons or with using an uninvolved bystander. Rape is punished by the deprivation of freedom for a period from three to six years.

(2) Rape:

a) when committed several times or by the person who had previously committed offenses of a sexual nature;

b) when committed by a group of persons, group of persons by a prior agreement or by an organized group;

c) when connected with threat of murder or with threat of causing the severe injury to health, and also committed with intentional cruelty for the victim or for other people;

d) when committed against a girl under the age of 18, is punished by deprivation of freedom from four to ten years.

(3) Rape:

a) resulting in the death of victim;

b) resulting in serious injury to the health of the victim, contamination by AIDS, or other serious consequences;

c) against victims obviously under the age of 14 years, is punished by deprivation of freedom for the period from eight to fifteen years.⁴⁰²

In 1993, the Moscow Crisis Center for Women was established; it now operates in several major Russian cities.⁴⁰³ The Sexual Assault Recovery Center set up telephone hotlines in Moscow. In 1995, Moscow's first women's shelter was established.⁴⁰⁴

Serbia:

The minimum penalties for rape in Serbia are among the lowest in Europe. The law provides:

(1) whoever compels a female person into a sexual relationship with whom he is not living in marital community, by using force, or

401. CRIMINAL CODE [CRIM. C.] art. 117 (Russ.).

402. *Id.* at art. 132.

403. Deborah Seward, *Russia: Crisis Centre Offers Comfort to Legions of Battered Women*, OTTAWA CITIZEN, Sept. 16, 1995, at A15.

404. *Id.*

threatening to directly attack the life and the body of the female person or of someone close to her, will be punished by a prison term from one to ten years.

(2) if, as a consequence of the deed from (section 1) of this article, serious physical injury of the female person resulted, or if the deed was done by a few persons, or in a specially cruel or humiliating way, the perpetrator will be punished by a prison term of at least one year (the maximum is 20).

(3) if the deed from (1) of this article was committed against a juvenile person, or if as a consequence the death of the female person occurred, the perpetrator will be punished with a prison term of at least three years.⁴⁰⁵

Marital rape is specifically excluded from the law.⁴⁰⁶ In practice, "it is the raped woman who is treated as the guilty one."⁴⁰⁷

Ukraine:

In Ukraine, the definition of rape neither includes nor excludes marital rape. An extremely small number of women in Ukraine report cases of sexual violence, "because they are afraid of the police or afraid to appear in court, and they may have nowhere to go."⁴⁰⁸

The trade of women and young girls—within Ukraine and abroad—is a serious problem. Newspapers commonly run advertisements for dancers, nannies, waitresses, entertainers or other positions abroad.⁴⁰⁹ Many of these ads are thinly veiled attempts to recruit young women and girls for prostitution.⁴¹⁰ Lawyers in Ukraine complain that it is virtually impossible to stop these practices under current law.⁴¹¹ Prostitution is not a crime under the Ukrainian criminal code, unless a third person facilitates the transaction.⁴¹² Many advocates for women in Ukraine would support stricter laws addressing forced prostitution and the trafficking of women.⁴¹³

405. PENAL CODE [PENAL C.] art. 103 (Serb.) (translated by Zorica Mrsevic).

406. *Id.*

407. Mrsevic Survey, *supra* note 364 (describing respondent's explanation of rape perceptions).

408. Suslova Survey, *supra* note 269.

409. See LADIN, *supra* note 223, at 63.

410. See LADIN, *supra* note 223, at 63.

411. See LADIN, *supra* note 223, at 63.

412. See LADIN, *supra* note 223, at 63.

413. Summary finding based on author's field research in four cities in Ukraine (Mar. 1995 & Feb. 1996) (finding that advocates realize a problem and support efforts to curb the selling of sexual services).

3. *Women's Political Participation*

Albania:

Under the old regime in 1990, women held thirty percent of the seats in Parliament.⁴¹⁴ After the first free elections, in March 1991, that figure dropped to 3.6%.⁴¹⁵ Thereafter, elections applied a mixed system, which combined the majority system with proportional representation.⁴¹⁶ This process appeared to increase women's involvement in politics. In 1995, women members of parliament ("MPs") held 5.7% of the seats.⁴¹⁷ More women were victorious in the 1996 elections, but the legitimacy of the elections was disputed.⁴¹⁸

In 1994, women parliamentarians formed a caucus, the Group of Parliamentary Women, to work on women's rights. The same year, the government created a department of "Woman and Family" as a focal point for women's issues within the Ministry of Labour.

Women in Albania are extremely active in the leadership of NGOs, with at least eighteen NGOs dedicated to women's issues.⁴¹⁹ Before the May 1996 elections, these NGOs developed projects to identify, train and help women candidates.⁴²⁰ A coalition for women's groups held voter education campaigns throughout the country to increase women's turnout and political involvement.

Despite these efforts, women's overall participation in Albanian government remains among the lowest in Europe. In the four governments formed after the first pluralist elections (1991-1995), women did not hold a single ministerial function.⁴²¹ In 1995, only 1 of twenty ministers was a woman, and only seven percent of all deputy ministers were women.⁴²² Although forty percent of leaders in local administration in 1990 were women, no local leaders were women in 1994.⁴²³ Before 1991, women were prohibited from working as professional diplomats, but in 1994, twenty-four of 231

414. ALBANIA NATIONAL REPORT, *supra* note 181, at 7.

415. ALBANIA NATIONAL REPORT, *supra* note 181, at 7.

416. ALBANIA NATIONAL REPORT, *supra* note 181, at 8.

417. ALBANIA NATIONAL REPORT, *supra* note 181, at 8.

418. Zaka & Imhotz Survey, *supra* note 369.

419. Brochures of Albanian women's groups (on file with author).

420. ALBANIA NATIONAL REPORT, *supra* note 181, at 9.

421. ALBANIA NATIONAL REPORT, *supra* note 181, at 8 (denoting women's low participation as a result of pluralist elections).

422. ALBANIA NATIONAL REPORT, *supra* note 181, at 8.

423. ALBANIA NATIONAL REPORT, *supra* note 181, at 8.

diplomats were women.⁴²⁴ In 1995, however, there still was no woman ambassador.⁴²⁵

Bulgaria:

Women's participation in Bulgarian government, although lower than under the prior system, is higher than in some CEE countries. In 1995, women held thirteen percent of the seats in Parliament, twenty percent of the elected offices in municipal councils and commissions, thirteen percent of superior administrative positions, eight percent of mayor posts in large municipalities, and twenty-three percent of mayor posts in small municipalities.⁴²⁶

In 1994, when the President appointed a caretaker Government for the first time in the country's history, a woman was appointed Prime Minister.⁴²⁷ In 1995, there was one woman minister in the cabinet and six women deputy ministers.⁴²⁸ Bulgaria does have a women's political party, but it does not have wide political support.⁴²⁹

Croatia:

On the one hand, war has led to the creation and expansion of many women's initiatives in Croatia, particularly humanitarian efforts connected with refugees. On the other hand, war has had a particularly negative impact on women's formal political participation in Croatia, as

resurgent traditional catholic values within the context of nationalism and war also limits women's ability to speak out and take action as they would be branded as traitors if they were to criticize an act of the government that is unfavorable to women, or if they were to rebel against the propaganda encouraging women to do their job and [replenish] the nation [through reproduction].⁴³⁰

The impact of the extremely low level of female politicians is compounded by their lack of influence over legislative decisions and exclusion from informal gatherings where a majority of decisions are made. This causes general political apathy among female citizens, which in turn fosters a low rate of female participation in the political

424. ALBANIA NATIONAL REPORT, *supra* note 181, at 8.

425. ALBANIA NATIONAL REPORT, *supra* note 181, at 8.

426. UNDP *Bulgaria Report*, *supra* note 73, at 26.

427. UNDP *Bulgaria Report*, *supra* note 73, at 26.

428. UNDP *Bulgaria Report*, *supra* note 73, at 26. (denoting women's increased political stature).

429. UNDP *Bulgaria Report*, *supra* note 73, at 26.

430. B.a.B.e. Survey, *supra* note 287.

process. In 1996, women comprised eight percent of the members in Parliament.⁴³¹ At the local level, women held a higher percentage of leadership positions; in Zagreb in 1996, they held twelve percent of the seats in local political bodies.⁴³² There is no official women's party, but some of the political parties have women's initiatives.

Women's NGOs in Croatia have worked together to lobby political bodies. Before the October 1995 parliamentary elections, fourteen women's groups⁴³³ established a Women's Election Platform addressing women's concerns.⁴³⁴ The Election Platform demanded: the establishment of a Ministry for Gender Equality, quotas for women representatives in Parliament, prevention of all forms of violence against women, governmental programs and measures for improving the economic independence and status of women, elimination of the Department on Demographic Development, and freedom of choice on reproductive rights.⁴³⁵ In each election since 1995, women's groups have promoted the candidates who addressed women's human rights.⁴³⁶

Czech Republic:

As in other CEE countries, during the old regime, women were better represented among governmental elites; however, their access to power remained limited.⁴³⁷ Women were always less likely than men to be members of the Communist Party, despite growth in their educational and employment opportunities.⁴³⁸ Unlike Polish women, Czech women rose to leadership positions in important dissident movements.⁴³⁹ Above all, they took an active role in Charter 77, the intellectual dissident organization that played a major role in activities that led to the fall of the Communist Party.⁴⁴⁰ In addition,

431. B.a.B.e. Survey, *supra* note 287.

432. B.a.B.e. Survey, *supra* note 287.

433. The organizations in the coalition included the: Autonomous Women's House; Ariadna-Rijeka; B.a.B.e.; Center for Women War Victims; Center for Women's Human Rights-DOS; Center for Peace, Non-Violence and Human Rights-Osijek; Rosa House; Women's Infoteka-Zagreb; Women's Group-Losinj; Women's Group-Split; Women's Peace Workshop-Rijeka; Workshop Open Doors-Split; SOS Hotline-Zagreb; Women from the Anti-War Campaign of Croatia.

434. B.a.B.e. Interview, *supra* note 106.

435. B.a.B.e. Interview, *supra* note 106.

436. Lobbying material from Zagreb women's groups on file with author.

437. See Sharon Wolchik, *Women's Issues in Czechoslovakia in the Communist and Postcommunist Periods*, in *WOMEN, STATE AND PARTY IN EASTERN EUROPE* 213 (Sharon Wolchik & Alfred Meyer eds., 1985).

438. *Id.*

439. *See id.*

young women became more vocal in the last years of communist rule, and many emerged as leaders in independent student organizations and demonstrations between 1987 and 1989.⁴⁴¹

Despite the unusually strong presence of women in dissident organizations, few women emerged as leaders in the new government.⁴⁴² After the June 1990 federal elections, women comprised just 10.7% of the deputies elected to the Federal Assembly.⁴⁴³ This figure has risen only slightly in recent years. After the 1996 elections, women constituted fifteen percent of the Parliament.⁴⁴⁴ Nevertheless, there were no women in the new minority cabinet; there was one woman⁴⁴⁵ among the five chairpersons of the House of Deputies; and there was one woman chairperson⁴⁴⁶ among the twelve percent expert parliamentary committees.

The Czech Republic has neither a women's party, nor serious efforts to organize one.⁴⁴⁷ Women's NGOs have undertaken voter education efforts in an attempt to increase women's political roles.⁴⁴⁸ For example, in 1996, the Gender Studies Center in Prague hosted a daylong seminar on women and politics that brought together women politicians, professionals, and academics.⁴⁴⁹

Hungary:

Women did not fare well in the first free Hungarian elections held on March 25, 1990. Twenty-six women, 6.7% of all parliamentarians, were elected to Parliament.⁴⁵⁰ In contrast, in the early 1980s almost one-third of the parliamentarians were women.⁴⁵¹

440. See *id.*; see also Barbara Jancar, *Women in the Opposition in Poland and Czechoslovakia in the 1970s*, in *WOMEN, STATE, AND PARTY* 169-72 (Sharon Wolchik & Alfred Meyer eds., 1985) (showing Czech women's great political impact). Charter 77 became the core group that organized the demonstrations that led to the end of the reign of the Communist Party, that is Civic Forum in Bohemia and Moravia and Public Against Violence in Slovakia. *Id.*

441. Jancar, *supra* note 440, at 169-72 (citations omitted) (elaborating on the previously illustrated Czech women's political impact).

442. Jancar, *supra* note 440, at 213-14.

443. Wolchik, *supra* note 437 at 214.

444. Siklova, *supra* note 220, at *11; Shaw Survey, *supra* note 216.

445. Petra Buzkova (CSDP).

446. Anna Roschova, Committee on Mandates and Immunities (Christian Democratic Alliance/CDA).

447. Shaw Survey, *supra* note 216.

448. See Zillah Eisenstein, *Stop Stomping on the Rest of Us: Retrieving Publicness from the Privatization of the Globe*, 4 *IND. J. GLOBAL LEGAL STUD.* 59, 87 (1996) (describing a national network formed by the Political Party of Women and Mothers).

449. Shaw Survey, *supra* note 216.

450. Koncz, *supra* note 226, at 350 (demonstrating Hungarian women's low initial election

These numbers tell only part of the story. Even when women are elected, they do not hold positions of leadership and power.⁴⁵² In 1990, there were no female ministers and only three women among the thirty-three under-secretaries.⁴⁵³ Although women's representation has improved slightly, women are still dramatically underrepresented, particularly in positions in power.

This phenomenon demonstrates continuity with, and not a break from, the past. As Katalin Koncz has observed: "Under the old regime, many women were elected only to improve statistics; they did not demonstrate their abilities or their commitment to their electors."⁴⁵⁴ Although the public technically elected the parliament members, the party organization played a strong role in the selection of candidates.⁴⁵⁵ Thus, "loyalty to the party was stronger than loyalty to group interests."⁴⁵⁶ Under such conditions, women in parliament rarely spoke out in favor of women's interests.

In Hungary, fewer women are elected where voters directly elect their representatives than where voters cast their ballots for party lists, who in turn are responsible for choosing the individuals.⁴⁵⁷ In the first democratic government, more than eight percent of the women representatives in Parliament had won their seats by local and national party lists, and only 18.5% by direct election.⁴⁵⁸ Still, the proportion of women in the new political parties remains low, again especially in positions of leadership.

In Hungary, popular opinion supports the practices of parties in promoting men in leadership positions. Electors believe that because of practical experience men can perform better as representatives than women, who are too burdened with family affairs and household chores to have enough time left for the tasks expected on [a Member of Parliament].⁴⁵⁹

rate).

451. Koncz, *supra* note 226, at 350 (illustrating the adverse impact of Hungarian free elections). See *Women Hurt By Transition*, THE BUDAPEST SUN, Sept. 28, 1996 (page references unavailable) ("The number of women in the Hungarian Parliament has dropped 11.2% in 1994 from a record 30.1% in 1980 . . .").

452. Koncz, *supra* note 226, at 350.

453. Koncz, *supra* note 226, at 350.

454. Koncz, *supra* note 226, at 350.

455. Koncz, *supra* note 226, at 350 (citing Istvan Kukorelli, *Igyvalasztottunk* (So we elected . . .) (Budapest: Eotvos Lorand Tudományegyetem Állam és Jogtudományi Kar Politikatudomány: Tanszecsoport, 1988), 23.)

456. Koncz, *supra* note 226, at 350.

457. Koncz, *supra* note 226, at 350.

458. Koncz, *supra* note 226, at 350-51 (showing the adverse impact of direct elections in the movement to increase Hungarian women's political participation).

459. Koncz, *supra* note 226, at 351.

Kosovo:

Women play a limited role in the "parallel" Kosovar Albanian government. The fourteen member Presidency of the Democratic League of Kosovo (LDK, the ruling, although illegal, Kosovar Albanian government), includes only one woman. She travels widely as a spokesperson for Kosovo, but her role is restricted by her high position to "greater" political issues—defined as the ultimate freedom for Albanians.⁴⁶⁰ Women's additional involvement in LDK politics is channeled through special women's branches, more akin to a "ladies auxiliary" than an independent women's voice.⁴⁶¹

Most Kosovar Albanian political leaders treat women's issues as a luxury that cannot be addressed until the larger political issues for Albanians are decided.⁴⁶² Yet, some Albanian women (including women affiliated in some way with the LDK), particularly intellectuals from urban areas, reject this reasoning.⁴⁶³ Since 1993, women's groups in Kosovo have become more numerous and powerful, thus increasing their indirect influence on the organization and conduct of Kosovar Albanian society.⁴⁶⁴

Poland:

As in other CEE countries, women's formal participation in politics was relatively high under the prior regime, yet women held few positions of leadership. Between 1944 and 1979 only thirteen women had held top state positions.⁴⁶⁵ Eight of these women were on the Central Committee of the ruling Communist Party (the Polish United Workers' Party).⁴⁶⁶ Women were denied positions in the state administration due to "such things as officials' unwillingness to appoint women, women's fear of responsibility, and women's heavy family commitments."⁴⁶⁷

460. Mertus, *supra* note 109, at 271.

461. Mertus, *supra* note 109, at 271.

462. Mertus, *supra* note 109, at 271.

463. Mertus, *supra* note 109, at 271.

464. See Julie Mertus, *Women In Kosovo: Contested Terrains—National Identities' Roles in Shaping and Challenging Gender Identity*, in *WOMEN, SOCIETY AND POLITICS IN YUGOSLAVIA AND THE YUGOSLAV SUCCESSOR STATES* (Sabrina P. Ramet ed., forthcoming 1998) (pagination not yet available) (showing women's increasing political power in society).

465. Siemienka, *supra* note 248, at 613.

466. Siemienka, *supra* note 248, at 613 (illustrating the lack of women in positions of political power).

467. Siemienka, *supra* note 248, at 613 (citing Mino Vianello, *GENDER INEQUALITY: A COMPARATIVE STUDY OF DISCRIMINATION AND PARTICIPATION* (1990)).

"During periods of political destabilization (such as the crises of 1956 and the 1980s), when there was a struggle for power and political influence, women were the first to be deleted from candidate lists [and eliminated from positions of power.]"⁴⁶⁸ The heyday of the Solidarity independent trade union movement proved to be no exception. Although women comprised about half of Solidarity's members, they rarely held positions of power.⁴⁶⁹ At the onset of Solidarity's confrontation with authorities in the 1980s, "the trade union's only demands specifically concerning women included three-year paid maternity leave and a guarantee of sufficient places for children in kindergartens and nurseries[,] . . . demands . . . [which would create] conditions that would improve women's ability to fulfill their traditional roles."⁴⁷⁰

After the local government elections in 1994, women constituted about 13% of local politicians and 6% of local political leadership positions.⁴⁷¹ The percentage of women in the Sejm (lower house of Parliament) as well as in the Senate (upper house) was around 13, a slight increase from 1991-1993.⁴⁷²

In 1991, women parliamentarians formed a women's parliamentary caucus known as "The Parliamentary Group of Women" to increase women's political influence in the Parliament.⁴⁷³ Its current members cross party boundaries and number over two thirds of women members in both houses.⁴⁷⁴ The Caucus, along with women's human rights activists and academics, pressured the prime minister to fill the long-vacant position of Government Executive Officer for Women's and Family Affairs, a remnant from the old government but a post that could potentially increase attention on women's issues.⁴⁷⁵ Although the post was eventually filled in 1994, it

468. Siemieniska, *supra* note 248, at 613. See Siemieniska, *Women and Social Movements in Poland*, in WOMEN AND POLITICS 6, 23-26 (1981) (denoting men's ultimate power over women).

469. Renate Siemieniska, *Women and Solidarity in Poland in the Early 1980s*, in WOMEN AND COUNTER POWER 33-45 (Yolande Cohen ed., 1989) (reinforcing prior showing of men's ultimate political power).

470. *Id.*

471. Survey response of Women's Law Center, Cracow, Pol. (Aug. 1996). See WOMEN IN POLAND, *supra* note 241, at 24-25.

472. In 1991, women constituted 9.1% of the Lower House and 6% of the Upper House. See Barbara J. Nelson and Najma Chowdhury, *Poland*, in WOMEN AND POLITICS WORLDWIDE 608-609 (1995) (showing the Caucus' accomplishments in increasing women's membership in parliament).

473. See WOMEN IN POLAND, *supra* note 241, at 22.

474. WOMEN IN POLAND, *supra* note 241, at 22.

475. See WOMEN IN POLAND, *supra* note 241, at 23.

remained largely perfunctory and ineffective.⁴⁷⁶ Women had greater representation in other forms of public life. In 1996, women comprised 60% of the active staff in education, 52% in health care, 49% in cultural institutions, 45% in tourism and 35% in trade unions.⁴⁷⁷

The informal group "Women Also" was active in the local elections in 1994. Women Also actively campaigned to encourage women to run for local council elections, supported women who decided to run, and canvassed the public to vote for the female candidates.⁴⁷⁸ Moreover, women's NGOs such as The Center for the Advancement of Women ran training courses for women in media relations and in conducting public meetings. However, the women's party in Poland has not been active in recent years. The only party promoting women is the Labour Union, which reserves 33% of seats of the party's electoral list for women.⁴⁷⁹

*Russia.*⁴⁸⁰

The participation of women in Russian politics has plummeted since the onset of democratization. In 1995, "of 450 Duma members, only fifty-seven were women, while there were only 9 women among the 176 Federation Council members."⁴⁸¹

Women's groups have criticized their lack of representation in Parliament and have organized, often albeit unsuccessfully, to elect women candidates. "The National Council for the Fourth World Conference on Women has sent a letter to President Yeltsin, the leaders of both chambers of parliament, and Russia's political parties expressing concern about the low number of women in the parliament."⁴⁸² On March 4, 1996, among the many other political actions undertaken by women in Russia, "representatives of fifty-three women's associations appealed to the Duma [legislature] to improve the legal status of women" in the workforce.⁴⁸³ They "proposed that

476. See WOMEN IN POLAND, *supra* note 241, at 23.

477. Nowakowska Survey, *supra* note 397.

478. Nowakowska Survey, *supra* note 397.

479. Nowakowska Survey, *supra* note 397 (stating statistics supplied by the Women's Legal Center in Kiev).

480. See generally Wendy Slater, *Women's Representation in Russian Politics*, in RUSSIA IN TRANSITION: POLITICS, PRIVATIZATION AND INEQUALITY (David Lane ed., 1995).

481. Robert Orttung, *Women's Group Criticizes Lack of Representation in Parliament*, OMRI DAILY DIG., Aug. 1, 1995 <[http://search.omri.cz/bin/OMRI.acg:\\$main_search](http://search.omri.cz/bin/OMRI.acg:$main_search)>.

482. *Id.*

483. Penny Morvant, *Women's Groups Appeal to Duma*, OMRI DAILY DIG., Mar. 5, 1996, <[http://search.omri.cz/bin/OMRI.acg:\\$main_search](http://search.omri.cz/bin/OMRI.acg:$main_search)>.

the Duma create a body to assess all draft legislation from the point of view of equal opportunities for men and women."⁴⁸⁴

On the local level, women have been extremely influential in the nongovernmental provision of social services.⁴⁸⁵ Women's NGOs have established links with local governments; procured subsidies for the poor, the elderly, and the handicapped; pressed for environmental and educational reforms, and advocated against abuses in and of the military.⁴⁸⁶

Serbia:

The situation regarding women's participation in Serbia is much different than other parts of CEE. This is due to the war in the former Yugoslavia and independent women's near refusal to take part in the Milosevic regime.⁴⁸⁷ Given the extreme policies of the present government, the high degree of corruption in both the legal and political system, the lack of an independent judiciary, and the absence of the rule of law, autonomous women's groups prefer to work outside official channels.⁴⁸⁸

Women are a rarity in the federal level of Serbian politics, comprising less than five percent of elected posts. At the local level, women make up less than ten percent of the elected politicians.⁴⁸⁹ Women's rights groups have not attempted to make a women's party.

Ukraine:

In 1996, women held approximately four percent of the high ranking political positions.⁴⁹⁰ Not a single minister in the federal Parliament was female.⁴⁹¹ Ukraine has a woman's party—the Ukrainian Women Christian Party—but its influence on public life is "negligible."⁴⁹²

Several administrative entities in both Parliament and the Cabinet of Ministers are ostensibly concerned with women's issues.⁴⁹³ For

484. *Id.*

485. Nadezhda Ashgikhina, *A Movement is Born: Russian Women are Coming Together to Create a New Fabric of Life*, 51 BULL. ATOMIC SCIENTISTS 47 (discussing several social issues addressed by women's groups).

486. *Id.*

487. Interviews in Serbia (1993-1995).

488. *Id.*

489. Mrsevic Survey, *supra* note 364 (comprising a slightly higher percentage of local elected posts, but still alarmingly low).

490. Suslova Survey, *supra* note 269.

491. Suslova Survey, *supra* note 269.

492. Suslova Survey, *supra* note 269.

493. EUROPEAN NETWORK FOR WOMEN'S STUDIES, GAINS AND LOSSES: WOMEN AND

example, Parliament has a Commission on Health Care, Mother and Child Protection; the Commission on Human Rights has a sub-commission on Enforcement of Rights of Women, Family and Children; and the Office of the President of Ukraine has a Committee for Women's Affairs, Motherhood and Childhood.⁴⁹⁴ However, none of these entities have much say over budgetary matters and, to date, they have been largely symbolic.⁴⁹⁵

Under the former regime, women received thirty-six percent of the seats on the Supreme Council.⁴⁹⁶ In the first democratic elections in 1990, women won only three percent of the seats. In 1994, this figure increased by only one percentage point.⁴⁹⁷ There is not a single woman minister. Political parties do not have quotas for women on their electoral lists, and do not include women in places of leadership in their activities.⁴⁹⁸

Women in Ukraine have targeted "women in politics" as one of their primary goals.⁴⁹⁹ Groups such as Women's Fate, the Ukrainian Center of Independent Research, and the Humanitarian Initiative have held workshops and training sessions to promote women's participation in politics. In addition, women have created coalitions to push women's agendas during electoral campaigns.⁵⁰⁰ After the July 1995 hearing on the implementation of the Women's Convention in Ukraine, the Ukrainian Parliament agreed to take steps to increase the participation of women in executive offices on parity with men.⁵⁰¹

TRANSITION IN EASTERN AND CENTRAL EUROPE 13 (1994).

494. *Id.*

495. *Id.*

496. LADIN, *supra* note 223, at 63.

497. Suslova Survey, *supra* note 269.

498. Suslova Survey, *supra* note 269.

499. Suslova Survey, *supra* note 269.

500. Suslova Survey, *supra* note 269.

501. Suslova Survey, *supra* note 269.

*C. Other Areas of Concern**1. Abortion and Women's Health*⁵⁰²*Albania:*

In January 1992, the abortion law in Albania was revised, making abortions legal.⁵⁰³ Previously, abortions were only permitted when the pregnancy endangered the health of the mother. During the time in which abortions were illegal, many women turned to unsanitary and illegal procedures. An estimated fifty percent of women who had illegal abortions suffered grave health consequences.⁵⁰⁴ The 1992 law permitted abortions before the twelfth week of pregnancy for anyone over the age of sixteen.⁵⁰⁵ Women seeking abortions after the twelfth week of pregnancy and young women seeking abortions were forced to see a special commission who would decide whether the abortion was necessary.⁵⁰⁶ In December 1995, the Albanian parliament passed legislation further liberalizing abortion, allowing abortion as a "family planning method," thus opening abortion to women upon demand.⁵⁰⁷

An estimated 30,000 abortions take place every year in Albania.⁵⁰⁸ Although it is likely that the number is higher due to the large number of illegal procedures that are still performed, especially in rural areas.⁵⁰⁹ The number of abortions now exceeds the number of reported births.⁵¹⁰ Contraceptives are still scarce in Albania and accurate family planning information is still hard to come by.⁵¹¹

Bulgaria:

Under the old regime, married women with one or no children were forbidden to have an abortion unless a medical problem

502. Although it is an issue affecting women's health, few respondents to the survey provided information about HIV/AIDS. Absence of data, however, does not mean that the problem does not exist. The rate of HIV infection in CEE has been rising steadily and, despite scattered education campaigns, prejudice toward HIV positive people and ignorance about the virus is high.

503. REPRODUCTIVE RIGHTS IN CEE, *supra* note 130, at 13.

504. REPRODUCTIVE RIGHTS IN CEE, *supra* note 130, at 13.

505. REPRODUCTIVE RIGHTS IN CEE, *supra* note 130, at 13.

506. REPRODUCTIVE RIGHTS IN CEE, *supra* note 130, at 13.

507. OMRI DAILY DIG., Dec. 8, 1995 <[http://search.omri.cz/bin/OMRIacg:\\$main_search](http://search.omri.cz/bin/OMRIacg:$main_search)>.

508. *Id.*

509. *Id.*

510. *Id.*

511. Zaka & Imhotz Survey, *supra* note 369.

existed, while other women could freely obtain an abortion.⁵¹² The restrictions on married women were lifted in 1990 and, today, abortion is legal for all women under the same criteria. Abortions can be performed for any reason up to the tenth week of pregnancy and, in some cases, up to the twelfth week. In addition, abortions for medical reasons are allowed up to the twenty-second week of pregnancy.⁵¹³

Abortions are free of charge if it is being performed for "health reasons", but otherwise a fee is required.⁵¹⁴ The cost of abortion procedures has risen significantly over the past three years.⁵¹⁵ Due to the lack of funding and information, many women continue to have high-risk illegal procedures. A record high 120,000 women in Bulgaria had an abortion in the first five months of 1996, of which 100,000 were legal and the rest illegal.⁵¹⁶ According to official data, 150,000 pregnancies were interrupted in 1995, while only 72,000 babies were born.⁵¹⁷

Many contraceptives, including the pill and the IUD, are available in Bulgaria without prescription. Condoms are available but are not widely used due to social taboos. The most widely used form of birth control, the withdrawal method, is the least effective. For the most part, very little sex education exists in the school system, but family planning clinics provide contraceptive information and counseling. The rate of teenage pregnancy in Bulgaria is extremely high.⁵¹⁸

The general standard of health in Bulgaria is rapidly deteriorating. According to data from medical reports in 1993, only thirty percent of all women are healthy or practically healthy, while in 1983, sixty-eight percent of women were said to be healthy or practically healthy.⁵¹⁹ The maternal mortality index (number of deaths per 100,000 live births) is among the highest in Europe.⁵²⁰

512. REPRODUCTIVE RIGHTS IN CEE, *supra* note 130, at 15.

513. REPRODUCTIVE RIGHTS IN CEE, *supra* note 130, at 15.

514. REPRODUCTIVE RIGHTS IN CEE, *supra* note 130, at 15.

515. OMRI DAILY DIG., Dec. 8, 1995 <[http://search.omri.cz/bin/OMRI.acg:\\$main_search](http://search.omri.cz/bin/OMRI.acg:$main_search)>.

516. *Id.*

517. OMRI DAILY DIG., June 26, 1996 <[http://search.omri.cz/bin/OMRI.acg:\\$main_search](http://search.omri.cz/bin/OMRI.acg:$main_search)>.

518. Survey response of Dimitrina Panajotova, Bulgarian Free Feminist Group, Sofia, Bulg. (1992) (updated with interviews with Bulgarian Free Feminist Group, in Sofia, Bulg. (May 1996).

519. UNDP *Bulgaria Report*, *supra* note 73, at 8.

520. In 1993, the index was 20 in Bulgaria, compared with 12.8 in Poland, 8.1 in Great Britain and 1.6 in Denmark. UNDP *Bulgaria Report*, *supra* note 73, at 8.

Croatia:

The old law on abortion from the former Yugoslavia still governs access to abortion in Croatia.⁵²¹ The 1978 Act of Health Measures for Free Decisions on Child Bearing "determines the rights and duties of people to freely make decisions in matters relating to procreation . . . [including] birth control, abortion, [and] medical help for those who desire, but cannot have children."⁵²²

The 1978 Act establishes a general right to procreative liberty, declaring that "[t]he right of a person to make autonomous decisions on issues relating to procreation can only be restricted because of health reasons and under circumstances prescribed by this act."⁵²³ The 1978 Act establishes a specific "right to be informed of the advantages and methods of family planning," a "right to use birth control devices," a limited right to abortion, and a "right to medical help" for "women and men who cannot fulfill their desire to have descendants on their own" (a limited right to artificial insemination).⁵²⁴

Abortions are permitted under the 1978 Act for any reason up to ten weeks after conception.⁵²⁵ After ten weeks, a woman must obtain permission from a special commission.⁵²⁶ Two physicians and one social worker or registered nurse form this commission. Young women under the age of sixteen seeking abortions must also receive the consent of one parent or guardian.⁵²⁷

The Commission is legally able to grant exceptions when

it is medically established that it would be impossible to save [the women's] life or prevent damage to her health during pregnancy, delivery or postpartum condition, . . . when there is a medically established probability that the child would be born with serious congenital, physical or psychological handicaps, [or] when the conception is the consequence of a criminal act of rape, a criminal act of sexual intercourse with an incompetent person, a criminal act of sexual intercourse that is a consequence of an abuse of

521. This section is drawn from research the author conducted in Croatia in January and February 1993. The research was published in THE CENTER FOR REPRODUCTIVE LAW AND POLICY, MEETING THE HEALTH CARE NEEDS OF WOMEN SURVIVORS OF THE BALKAN CONFLICT 17-20 (1993).

522. *Id.* at 17.

523. *Id.* at 17 (quoting Act of Health Measures for Free Decisions on Child Bearing art. 2 (1978) (Croat.)).

524. *Id.* at 17 (highlighting provisions of Act of Health Measures for Free Decisions on Child Bearing arts. 6, 15-27, 29-34 (1978) (Croat.)).

525. *Id.* at 18.

526. CENTER FOR REPRODUCTIVE LAW AND POLICY, *supra* note 521, at 18.

527. CENTER FOR REPRODUCTIVE LAW AND POLICY, *supra* note 521, at 20.

authority, a criminal act of sexual intercourse with a child, or a criminal act of incest.⁵²⁸

In addition, abortions can be performed at any time "where there is immediate danger to the life or health of the pregnant woman; [or] where the abortion has already been initiated."⁵²⁹ If the Commission denies a woman's request, she has the right to appeal to a second commission.⁵³⁰

While the 1978 Act sets no time limit for abortions, most hospitals will not perform an abortion after twenty-two weeks gestation, while others set the time limit at twenty or even fourteen weeks.⁵³¹ Advocates for women in Croatia report that accessibility to second trimester abortions varies widely from hospital to hospital and from physician to physician. Women who show that their pregnancy causes only psychiatric distress are unlikely to be able to obtain a legal abortion.⁵³² According to the women's advocacy group B.a.B.e., "doctors and hospital workers fear the reactions of the government supported⁵³³ pro-life movement and the [Roman Catholic] Church."⁵³⁴ The cost for abortion varies, but the average cost in August 1996 was 1.500 kuna, approximately the average monthly salary.

An abortion law proposed in 1995 would require obligatory counseling for women by a doctor, social worker, and a priest and would shorten the legal time for abortions to ten weeks. Some anti-abortionists in Croatia, who are often tied closely to the Roman Catholic Church and/or nationalists groups, advocate that a ban on

528. CENTER FOR REPRODUCTIVE LAW AND POLICY, *supra* note 521, at 18 (quoting Act of Health Measures for Free Decisions on Child Bearing art. 22 (1978) (Croat.)).

529. CENTER FOR REPRODUCTIVE LAW AND POLICY, *supra* note 521, at 18 (referring to Act of Health Measures for Free Decisions on Child Bearing art. 25 (1978) (Croat.)).

530. CENTER FOR REPRODUCTIVE LAW AND POLICY, *supra* note 521, at 19.

531. See CENTER FOR REPRODUCTIVE LAW AND POLICY, *supra* note 521, at 19.

532. CENTER FOR REPRODUCTIVE LAW AND POLICY, *supra* note 521, at 18.

533. In the Spring of 1992, the Croatian government established the Ministry for Renewal with a special Department for Demographic Renewal, headed at that time by Don Ante Bakovic, a former Priest and staunch nationalist anti-abortionist. The Department proposed motherhood as the highest vocation for women and presented a strategy for the development of an "ethnically clean" birth rate. Local and international pressure led to the removal of Bakovic from this post and the formal dismantling of the Department. Bakovic, with support of leading politicians including President Tudjman, subsequently established a quasi-NGO, the Croatian Population Movement, to carry out his agenda. Meanwhile, the Department, renamed the National Program for Demographic Development, was recognized by Parliament in January 1996. The proposed work of the new Program includes much of Bakovic's original agenda, including elimination of non-Croat immigration and return of refugees, accompanied by incentives to increase the Croat birth rate. *Croatian Pro-Lifers*, *supra* note 106; B.a.B.e. Survey, *supra* note 287.

534. Survey response of [anonymous], Zagreb, Croat. (Aug. 1996).

abortion be accompanied by pro-natalist and anti-immigrant policies to support an increase in the Croat birth rate.⁵³⁵

Contraception is still legal, but it also remains inaccessible for many women because the services are not covered by social insurance. Due to increasing pressure from the Church, sex education has disappeared from most schools.

Czech Republic:

In the former Czechoslovakia, the first abortion law passed in 1958, permitting abortions when authorized by a special commission.⁵³⁶ After 1986, the law was liberalized. Early procedures, up to the forty-second day of pregnancy, were not even counted as abortions; but instead called "menstrual regulation."⁵³⁷ Women could receive two abortions free each year, as long as they were performed within the first eight weeks of pregnancy, otherwise they were required to pay a fee.⁵³⁸

Despite the efforts of a small but vocal Catholic anti-abortion movement, abortion remains legal and widely available in the Czech Republic. However, women now must pay for the procedure. The Ministry of Health establishes the cost of abortions, and they are as follows: procedures performed in the first eight weeks of pregnancy: CZK 2,876 (forty-one percent average monthly wage); procedures performed between the eighth and the end of the twelfth week of pregnancy: CZK 3,634 (fifty-two percent average monthly wage).⁵³⁹ Physicians are prohibited from performing abortions on women who are neither citizens nor long-term residents.

After an initial increase in abortions in the late 1980s, the incidence of abortion has been declining steadily. The number of abortions fell from 49.7 abortions per 1,000 women in 1988 to 23.3 in 1994. In 1993 alone, the abortion rate dropped twenty-three percent.⁵⁴⁰ While this marks a significant decrease, the incidence of abortion in the Czech Republic is still much higher than it is in Western Europe.⁵⁴¹ The decrease has been attributed in part to the

535. See *Croatian Pro-Lifers*, *supra* note 106.

536. See G. Niksova, *The Legal Provisions Governing Abortions in Czechoslovakia*, 20 BULL. CZECH. LAW 172, 176 (1981) (discussing § 227 of the penal code).

537. REPRODUCTIVE RIGHTS IN CEE, *supra* note 130, at 18.

538. REPRODUCTIVE RIGHTS IN CEE, *supra* note 130, at 19.

539. Rate for 1996. At this time, the average monthly salary was approximately CZK 7,000. Shaw Survey, *supra* note 216.

540. Scheppele, *supra* note 8, at 68.

541. Scheppele, *supra* note 8, at 68.

greater availability of contraceptives.⁵⁴² However, the price of contraceptives has risen due to the recent termination of state-subsidized contraceptives.⁵⁴³ Family planning services are available and sex education, referred to as "family life education", can be found in some form in schools.⁵⁴⁴ Despite such services, family planning specialists in the country decry these measures as grossly inadequate.⁵⁴⁵

Germany:

The abortion law of the former East Germany, from 1972 onward, made abortions legal for any reason, up to the twelfth week of pregnancy.⁵⁴⁶ After the twelfth week, abortions were available only in cases of serious medical consequences, as determined by a special medical committee.⁵⁴⁷ Generally abortions were not allowed if the woman had an abortion within the past six months.⁵⁴⁸ Women under the age of eighteen needed parental consent to receive abortion services.⁵⁴⁹

In contrast, the law on abortion in the former West Germany, beginning in 1976 prohibited nearly all abortions. Abortions could only be performed when four indications were met: (1) a medical indication of danger to the life or health of the pregnant woman; (2) a eugenic indication of a child's physical or mental handicap; (3) an ethical indication in the case of rape; (4) a social indication of an emergency situation in the life of the pregnant woman.⁵⁵⁰ The law further required a woman to undergo counseling with a doctor other than the one performing the procedure.

After unification, as an interim solution East Germany's abortion law was allowed to remain in effect until the end of 1992.⁵⁵¹ In 1993,

542. Scheppele, *supra* note 8, at 68.

543. Scheppele, *supra* note 8, at 68.

544. Scheppele, *supra* note 8, at 68.

545. Scheppele, *supra* note 8, at 68.

546. See REPRODUCTIVE RIGHTS IN CEE, *supra* note 130, at 21 (discussing issues of reproductive rights in Germany).

547. REPRODUCTIVE RIGHTS IN CEE, *supra* note 130, at 21.

548. Interview with [identity withheld upon request], in 1995.

549. REPRODUCTIVE RIGHTS IN CEE, *supra* note 130, at 21.

550. REPRODUCTIVE RIGHTS IN CEE, *supra* note 130, at 22; PENAL CODE [PENAL C.] art. 218 (Ger.).

551. Section 153 of the East German Criminal Code of January 12, 1968, in its new version of December 14, 1988 (Gesetzbl. DDR I, 1989, 33), amended in the 6th Criminal Law Amendment Act of June 29, 1990 (Gesetzbl. DDR I, 526), remained in force on eastern German territory. This was also true of the provisions of the Law on Interruption of Pregnancy of Mar. 9, 1972 (Gesetzbl. DDR I, 89) and its implementing regulations (Gesetzbl. DDR II, 149).

the Federal Constitutional Court held that Basic Law protects the right to life of the unborn and, thus, abortion was to be generally regarded as unlawful.⁵⁵² The compromise law, the Court ruled, did not adequately protect the life of the unborn.⁵⁵³ In particular, the Court found that the neutral counseling required by the compromise law was insufficient and that a more explicitly normative form of counseling was warranted.⁵⁵⁴ In a lengthy and complex decision, the Court essentially made "detailed and substantive policy more so than in virtually any other Constitutional Court decision, thereby limiting legislative prerogative."⁵⁵⁵ Legislatures were still free however to permit abortions in exceptional circumstances.⁵⁵⁶

The Penal Code of the United Germany, thereafter, permitted abortions on two limited grounds: (1) if a physician determined that the continued pregnancy would endanger the life of the woman or pose injury to her physical or mental health, or (2) if the physician determined that the fetus suffered from irremediable damage.⁵⁵⁷ In the latter case, the abortion had to be performed within the first twenty-two weeks of pregnancy,⁵⁵⁸ the pregnant woman had to receive counseling at least three days before the performance of the abortion, and also had to obtain permission from her doctor or a public health official.⁵⁵⁹

Germany's new abortion law, which took effect in January 1996, expands the circumstances under which women may have early abortions.⁵⁶⁰ A woman may receive an abortion provided that she receives counseling from her doctor and an outside counseling center.⁵⁶¹ The abortions must be performed within the first twelve weeks of pregnancy.⁵⁶² In addition, abortions may be performed in the cases of rape or when the pregnancy poses a threat to the health

552. Decision of the Second Senate, German Constitutional Court of May 28, 1993 (2 BvF 2/90, May 28, 1993, NJW 1993, 1751).

553. *Id.*

554. *Id.* at 1761.

555. REPRODUCTIVE RIGHTS IN CEE, *supra* note 130, at 23.

556. Decision of the Second Senate, German Constitutional Court of May 28, 1993 (2 BvF 2/90, May 28, 1993, NJW 1993, 1751).

557. PENAL C. art. 218 (Ger.); Br-Drs. 390/95 (amending art. 218, par. 1 of the German Penal Code).

558. *Id.* at art. 218a(3).

559. *Id.* at art. 218(1).

560. See Schwangeren- und Familienhilfeänderungsgesetzes ("SFHanG") [Pregnancy & Family Assistance Law], 1995 BGBl 1050 (translated in Nanette Funk, *Abortion Counseling and the 1995 German Abortion Law*, 12 CONN. J. INT'L L. 33, 65 n.79).

561. *Id.* at art. 6.

562. *Id.* at art. 8.

or life of the pregnant woman.⁵⁶³ Under the new law physicians can be fined 10,000 DM for failing to provide mandatory counseling prior to performing abortions, and family members who pressure women to terminate their pregnancy could face up to five years in prison.⁵⁶⁴

The Social Security Code reimburses the cost of legal abortions performed for insured persons in hospitals or other designated institutions. The statutory health insurance schemes also cover the cost of abortion services for low-income women and generally reimburse patients for medical treatment, counseling, examinations, and the provision of medications.⁵⁶⁵ Furthermore, insured persons have the right to state-subsidized birth control and family planning.⁵⁶⁶ The 1990 Unification Agreement between East and West Germany⁵⁶⁷ specifically advocated providing sufficient and equal health care services for all persons residing within Germany.⁵⁶⁸ To this end, the German Social Code extends former West Germany's extensive system of health insurance policies⁵⁶⁹ and medical care to the former East Germany.⁵⁷⁰

The Family Support Act of 1992 recognizes a right to family planning counseling. According to women's rights activists in Germany⁵⁷¹ and international health specialists,⁵⁷² this provision has been read as a mandate for information encouraging women to continue her pregnancy. Sex education is provided in schools, but some activists warn that it is frequently heavily weighed against abortion.

563. INTERNATIONAL PROGRAM, THE CENTER FOR REPRODUCTIVE LAW AND POLICY, WOMEN OF THE WORLD: FORMAL LAWS AND POLICIES AFFECTING THEIR REPRODUCTIVE LIVES 18 (1995) (monograph) [hereinafter WOMEN OF THE WORLD] (citation omitted).

564. PENAL C. art. 218(c) (Ger.).

565. SOCIAL CODE [SOCIAL C.] at art. 24b(1) (Ger.).

566. *Id.* at art. 24a(1).

567. Vertrag zwischen der Bundesrepublik Deutschland und der Deutschen Demokratischen Republik über die Herstellung der Einheit Deutschlands (Einigungsvertrag) [Unification Treaty], Aug. 31, 1990, E. Ger.-W. Ger., art. 31(IV), BGBl II 889 [hereinafter Germany Reunification Treaty]. See also KLAUS STERN & BRUNO SCHMIDT-BLEIBTREU, EINIGUNGSVERTRAG UND WAHLVERTRAG (1990).

568. Germany Reunification Treaty, *supra* note 567, at art. 31(IV).

569. See Karsten Schroeder, *The Statutory Health Insurance Scheme: Fundamentals of the German Health Service*, IN PRESS SOCIAL REPORT, Sept. 1994.

570. *Id.*

571. Survey response of Suzette Schultz, in Berlin, G.D.R. (Aug. 1996) [hereinafter Schultz Survey].

572. See Joachim von Bross, *The 'Yo-Yo' Effect of Public Family Planning Funding in Germany*, 23 PLANNED PARENTHOOD IN EUR. 6 (Mar. 1994); WOMEN OF THE WORLD, *supra* note 563 at 19.

Germany's restrictions on new reproductive technologies are among the strictest in the world.⁵⁷³ Surrogate motherhood arrangements, transferring an embryo from one woman to another, and many methods of artificial insemination are strictly prohibited.⁵⁷⁴ Activists for women's human rights in Germany, and especially West Germany, have identified revision of the laws on reproductive technologies as one of the main issues on their agenda.⁵⁷⁵

Hungary:

The 1973 abortion law in Hungary permitted abortions for any reason, to single and divorced women, widowed women, married women over the age of thirty-five, and women who have undergone two or more births. Other women had to plead their case before a special commission. Minors could obtain an abortion up to the eighteenth week of pregnancy; and in the case of rape or incest, abortions were permitted up to twenty weeks.

The new abortion law, passed by Parliament in 1992, allows for abortions under a set of enumerated medical and social circumstances, including if the woman certifies that she is in crisis.⁵⁷⁶ Although the reasons for having abortion appear to be relatively liberal, the law contains several new, restrictive provisions, one of which requires women to wait at least three days before having the procedure.⁵⁷⁷ In addition, they must undergo counseling that provides information about contraceptives and the risks of abortion.⁵⁷⁸ These provisions are particularly burdensome to rural women who must travel great distances for gynecological health care, and for young and low-income women.⁵⁷⁹ After the law went into effect, the number of abortions declined by twenty-two percent.⁵⁸⁰

Parliament had been forced to create a new abortion law after the Constitutional Court in 1991 struck down the old abortion provisions, which were comprised of administrative regulations, not

573. *Political and Religious Leaders Take Up Debate on In Vitro Fertilization of Older Women*, THE WEEK IN GERMANY, Jan. 21, 1994, at 6.

574. See Embryo Protection Law of Dec. 19, 1990, Bundesgesetzblatt, Pt. I, 19 Dec. 1990, 2746-2748.

575. Schultz Survey, *supra* note 571.

576. Interview with NaNel, in Budapest, Hung. (May 1995) [hereinafter NaNel interview].

577. Schepple, *supra* note 8, at 68.

578. Schepple, *supra* note 8, at 68. According to International Women's Rights Action Watch ("IWRRAW"), "[t]he counseling is designed to prevent future abortions, and to ensure that the woman is not being coerced by someone else into having an abortion." LADIN, *supra* note 223, at 57.

579. NaNel Interview, *supra* note 576.

580. Schepple, *supra* note 8, at 68.

statutes.⁵⁸¹ The Court ruled that the issue of abortion, like other questions implicating fundamental rights, had to be governed by statute not by constitutional interpretation.⁵⁸² The legislature, the Court found, had the discretion to fashion a law by balancing the interests at stake. "The legislature could neither find the fetus a legal person with rights equal to the pregnant woman, nor could they find that the fetus was entitled to no rights whatsoever."⁵⁸³ By including waiting periods and mandatory counseling, Parliament apparently attempted to make this balance.

Unsatisfied with the outcome, a vocal group of anti-abortionists continues to pressure the government to enact a more restrictive law. Some of the anti-abortionists are tied closely with Hungarian nationalists who see returning women to their role as mothers and banning abortion as necessary, to return to "Christian values" and restore the "Hungarian nation".⁵⁸⁴

Sex education is very limited in Hungary.⁵⁸⁵ Since the government has returned control of many schools to the Catholic Church, sex education continues to suffer, for the church has campaigned against it as a "dangerous influence on young minds."⁵⁸⁶ The rate of teenage pregnancy is reportedly high in Hungary.⁵⁸⁷

Kosovo:

The law on abortion in Kosovo is still governed by a law of old Yugoslavia, the 1978 Act on Health Measures for Free Decisions on Child Bearing.⁵⁸⁸

Some human rights activists have long reported that Kosovar Albanian women are encouraged to have abortions, while Serbian

581. See Schepple, *supra* note 8, at 68 (explaining the old abortion provisions which required that a committee determine whether an abortion could take place in all cases, except those where the pregnant woman was over 35 or had more than two children).

582. Schepple, *supra* note 8, at 68.

583. See Schepple, *supra* note 8, at 68 (citation omitted).

584. REPRODUCTIVE RIGHTS IN CEE, *supra* note 130, at 24-25 (commenting that support of Christian values is important to the Hungarian government because it needs the votes of the Christian lobby to remain in power, so it stresses these ideals despite the fact that 70% of the population is in favor of keeping abortion laws as they are or making them more liberal).

585. See REPRODUCTIVE RIGHTS IN CEE, *supra* note 130, at 25 (stating the primary source for sex education is magazines which are often inaccurate, such as an article reporting that a woman with a maximum of three partners in her lifetime will not get AIDS).

586. See *id* (stating the church focuses instead on teaching values stressing fidelity and abstinence as well as mandating religious education).

587. Interviews, in Budapest, Hung. (May 1996).

588. See *supra* notes 521-527, and accompanying text (describing application of Yugoslavian Act to Croatia).

women are encouraged to carry until term.⁵⁸⁹ Serb nationalists wrote at this time that the high Kasovar Albanian birthrate was a "dirty demographic war for an ethnically pure Kosovo."⁵⁹⁰ In 1990, the Serbian legislature attempted to pass a measure that would have penalized women with large families (see section on Serbia, below).⁵⁹¹ Because rural Kosovar Albanian women tend to have larger families than Serbian families, the proposal, which failed to pass, would have had a disproportionately negative impact on Kosovar Albanian women in villages.⁵⁹² However, Kosovar Albanian women living in cities would have been affected by the law in a similar manner as Serbian women living in cities, as the birthrate of these two urban groups is nearly identical.⁵⁹³

The health system has suffered under the current political crisis.⁵⁹⁴ Beginning in 1989, many Albanian health care workers were fired from or resigned from their positions.⁵⁹⁵ To the greatest extent possible, the Albanian population boycotted the Serbian-run hospitals and clinics, turning instead to private, Albanian-run health care.⁵⁹⁶ Still, many Albanians had no choice but to turn to the state hospitals for maternity care.⁵⁹⁷ Due to substandard conditions and inadequate training of physicians in state hospitals, the maternal morbidity and mortality rate in Kosovo hospitals has been among the highest in Europe.⁵⁹⁸ In June 1995, Kosovar women activists opened the first women's and children's health care clinic in Kosovo, the Centre for Protection of Women and Children.⁵⁹⁹

589. Interviews, in Belgrade, Serb. and Priština, Kosovo (1994-1995). For an example of propaganda painting Kosovar Albanian women as indiscriminately fecund and Serbian women as worthy of motherhood, see M. Jankovic, *Dali Drazava zeli decu?* (*Does the State want children?*), BURSA, June 2, 1994 (page references unavailable).

590. MARKO MLADENOVIC, KOSOVO 1389-1989 (Alex Vukadinovic ed., 1989).

591. See Zenski Centar, *Zenski Dokumenti 1970-1983* (*Women's Documents 1990-1993*), in FEMINISTICKE SVESKE [FEMINIST NOTEBOOKS] 1 (1995) (chronology of documents on abortion in Serbia).

592. Mertus, *supra* note 109, at 267.

593. See Srdjan Bogosavljevic, *A Statistical Picture of Serb-Albanian Relations*, 4 REPUBLIKA 19 (Feb. 1994).

594. See generally JULIE MERTUS AND VLATKA MIHELIC, OPEN WOUNDS: HUMAN RIGHTS ABUSES IN KOSOVO 132 (1994).

595. See *id.*

596. See *id.*

597. See *id.*

598. See *id.*

599. Brochures on file with author.

Poland:

On May 28, 1997, the Constitutional Tribunal of Poland struck down the country's liberalized abortion law, which permitted abortions for compelling social and financial reasons until the twelfth week of pregnancy, and in cases of rape, incest, and gross fetal defects.⁶⁰⁰ The court found that the provision permitting abortions for social reasons did not uphold the constitutional guarantees to the right to life and were violative of the country's democratic order. "The first article of our constitution names Poland as a democratic state based on the rule of law," said Tribunal President Andrej Zoll. "The highest value in a democracy is human life, which must be protected from its beginning to the end."⁶⁰¹ The provisions relating to incest, rape, and fetal defects were not affected by the ruling.⁶⁰²

The law that was struck down had taken effect in January 1997. The Sejm, one branch of the bi-cameral Polish Parliament, had voted in favor of the controversial law in October 1996, with a count of 228 to 195 (sixteen abstaining).⁶⁰³ That vote had overturned a Senate veto of the draft law earlier in the month.⁶⁰⁴ A poll conducted by the Public Opinion Research Center at the time of the signing showed that fifty-six percent of respondents supported the amendments to the abortion law while thirty-three percent were against.⁶⁰⁵

Previously, a 1993 law, the Family Planning, Fetus Protection and Conditions of Admissibility of Abortion Act, permitted abortions only if a pregnancy threatened a woman's life or health, resulted from incest or rape, or if a fetus was irreparably damaged.⁶⁰⁶ In practice, the 1993 law prohibited nearly all abortions, with a penalty of two years imprisonment imposed on those caught performing it.⁶⁰⁷ At

600. *Polish Court Rejects Bulk of Abortion Law*, BALT. SUN, May 29, 1997, available in 1997 WL 5513578.

601. Dean F. Murphy, *Polish Court Restricts Abortion Rights Europe: Judges Rule Recent Statute Violates Country's Nacent Democratic Order*, L.A. TIMES, May 29, 1997, available in 1997 WL 2215001.

602. *Id.* Note that within six months of such a constitutional decision, a two-third majority by the Sejm (the lower house of Parliament) could void the decision. In the case of the abortion law, a two-thirds majority would likely be hard to find. See Michel Viatteau, *Referendum Urged for Poland After Abortion Ruled Unconstitutional*, AGENCE FRANCE-PRESSE, May 29, 1997, available in 1997 WL 2123408.

603. *Abortion Law Liberalized in Poland*, OMRI DAILY DIG., Oct. 24, 1996 <[http://search.omri.cz/bin/OMRI.acg:\\$main_search](http://search.omri.cz/bin/OMRI.acg:$main_search)>.

604. See Snitow, *supra* note 110, at 16 (noting that abortions had been legal and widely available in Poland from 1956 until 1993).

605. *Reactions to Abortion Liberalization in Poland*, OMRI DAILY DIG., Nov. 27, 1996 <[http://search.omri.cz/bin/OMRI.acg:\\$main_search](http://search.omri.cz/bin/OMRI.acg:$main_search)>.

606. *Id.*

607. Viatteau, *supra* note 602. See also Snitow, *supra* note 110, at 16 (explaining the 1993

least three women died from illegal abortions while the 1993 law was in effect.⁶⁰⁸

Under the old and new laws, abortions in public hospitals are covered by social insurance, but a great many women do not receive the financial support they are entitled to by law because of a lack of government resources.⁶⁰⁹ Women's groups in Poland, such as the Federation for Women and Family Planning, the Women's Rights Center (Warsaw), and Pro-Femina, have been active forces behind the campaign to make reproductive health care safe and available.

In Poland, the authorities are duty-bound to provide easy access for all citizens to information about reproduction. In reality, however, there is no guarantee of wide availability of contraceptives.⁶¹⁰ Devices on sale in pharmacies are often too expensive for the average citizen, because contraceptives are not eligible for the thirty percent discount, which applies to most medications. Neither knowledge about, nor access to contraceptive devices is sufficient in Poland. Sex education in schools is nonexistent or incomplete, and family planning information does not reach most rural women.⁶¹¹ Nevertheless, the Federation for Family Planning and other local and international health and women's groups have made significant inroads over the past three years in increasing access to contraceptives.⁶¹²

Preventative gynecological care in Poland is the exception, not the rule. Eight thousand women in Poland suffer from breast cancer; half of them die because the diagnosis was made too late.⁶¹³ Environmental problems compound generally poor health conditions. An estimated thirty percent of the Polish population lives in areas of ecological disaster.⁶¹⁴

Education about HIV-AIDS in Poland is minimal. Women and children are increasingly infected. In 1988, the ratio of HIV positive women to HIV positive men was 1:20; in 1994, the ratio was 1:4.⁶¹⁵

abortion law, which states that one who causes the death of a conceived child (someone other than the mother) is subject to two years imprisonment, unless certain circumstances regarding the woman's health exist).

608. See Schepple, *supra* note 8, at 67.

609. See Eleanor A. Zielinska, *Recent Trends in Abortion Legislation in Eastern Europe with Particular Reference to Poland* 4 Crim. L.F. 47, 69 (1993).

610. Nowakowska Survey, *supra* note 397.

611. Nowakowska Survey, *supra* note 397.

612. Nowakowska Survey, *supra* note 397.

613. WOMEN IN POLAND, *supra* note 241, at 35.

614. WOMEN IN POLAND, *supra* note 241, at 35.

615. WOMEN IN POLAND, *supra* note 241, at 37.

Romania:

The abortion restrictions and pro-natalist policies of the Ceausescu regime were among the most severe of the modern world.⁶¹⁶ From 1967 until 1985, only women with four or more children could obtain a legal abortion.⁶¹⁷ In 1985, the law was tightened further to permit abortions only to women with five children under the age of eighteen.⁶¹⁸ A series of additional measures were enacted to prevent abortion and encourage reproduction. Women workers at state enterprises were subject to spot "health" checks at the workplace to ensure that they were not secretly having abortions.⁶¹⁹ Women who bore and reared many children were awarded decorations and minor privileges.⁶²⁰ Contraceptives were unavailable through legal channels. During this time, eighty-six percent of female mortality was connected to illegal abortions.⁶²¹

One of the first acts of the post-Ceausescu government was to liberalize abortion making it legal with no restrictions and widely available for a low price.⁶²² This greatly reduced the female mortality rate, causing a 317% drop in the first three months after legalization.⁶²³ In the first year, over one million women had abortions.⁶²⁴

Although contraceptives are available today in Romania, few people use them because of a lack of accurate information.⁶²⁵ Although the state does not sponsor sex education programs, private NGOs have established family planning clinics. One of the most active, the Society for Sex Education and Contraceptive Services ("SECS") has established family planning clinics in over six locations,

616. See Gail Kligman, *Women and Reproductive Legislation in Romania*, in DILEMMAS OF TRANSITION IN THE SOVIET UNION AND EASTERN EUROPE 145, 152 (George W. Breslauer ed., 1991).

617. REPRODUCTIVE RIGHTS IN CEE, *supra* note 130, at 31 (explaining that contraceptives such as the pill were purchased on the black market).

618. REPRODUCTIVE RIGHTS IN CEE, *supra* note 130, at 31.

619. Gail Kligman, *supra* note 616, at 152.

620. See Gail Kligman, *supra* note 616, at 149 (describing the criteria for each motherhood medal).

621. See REPRODUCTIVE RIGHTS IN CEE, *supra* note 130, at 31 (explaining that contraceptives such as the pill were purchased on the black market)..

622. REPRODUCTIVE RIGHTS IN CEE, *supra* note 130, at 31.

623. REPRODUCTIVE RIGHTS IN CEE, *supra* note 130, at 31.

624. See Nicki Negrau, *Listening to Women's Voices: Living in Post-Communist Romania*, 12 CONN. J. INT'L L. 117, 122 (1996) (reporting abortion was legalized in 1990).

625. See *Strategic Approach to Women in Development in Romania*, Women in Development Newsletter (United Nations Development Program/Women in Development, New York, N.Y.), Aug. 1994 at 3 (attributing the lack of knowledge about contraception to high costs and difficulty in traveling to family planning clinics).

published educational material for wide distribution, developed sex education courses, and undertaken media campaigns to increase public awareness.⁶²⁶

The overall standard of health care in Romania is very low. For example, life expectancy for Romanian women is five years lower than the European average.⁶²⁷ Many women do not have preventative care, such as Pap tests. In Romania very few women ever have Pap tests, which may account for the astounding mortality rate from cervical cancer, which is the highest in Europe (10.68 per 100,000 women versus 3.55 per 100,000 women, the European average).⁶²⁸

Russia:

Russian law provides that each person has the right to the protection of his or her health, and to medical aid. Nonetheless, according to Russian women human rights advocates, "local governments do not prioritize health in their limited budgets and, as a result, women must take care of sick children and ailing parents in the home, without necessary medicines."⁶²⁹

Abortion, however, is legal and widely available. The number of abortions for every 100 births is 217; almost two out of every three pregnancies end in abortion. However, the number of abortions in Russia has been steadily declining, largely because of increased access to contraceptives (although access to contraceptives is far from satisfactory).⁶³⁰ Two-point-nine million abortions were performed in 1993, as compared with 4.4 million in 1988.⁶³¹ An abortion in Russia costs roughly one hundred dollars, more than an entire month wage for many women (and four to five times the monthly wage for some); contraception is also expensive and more difficult to find than abortion services.⁶³²

626. Public Education Material of Society for Sex Education and Contraceptive Services (SECS) (on file with author).

627. *Strategic Approaches to Women in Development in Romania*, WID Newsl. (United Nations Development Program/Women in Development, New York, N.Y.), Aug. 1994, at 3.

628. *Id.*

629. Grogan Survey, *supra* note 250.

630. Tomasevski, *supra* note 157, at 1049 ("In Russia, the 'continued low availability of contraceptives has lead to reliance on abortion as a first . . . resort, method of limiting family size. Abortion rates per 100 births have reversed their steady decline from 253 in 1970 to 170 in 1987, and were exceeding 200 in 1990.'" (citing Monica S. Fong, *The Role of Women in Rebuilding the Russian Economy*, in *THE WORLD BANK: STUDIES OF ECONOMIES IN TRANSITION* (Sept. 1993) 9 (Paper No. 10, Wash., D.C.)).

631. Schepple, *supra* note 8, at 67.

632. Grogan Survey, *supra* note 250.

A revision of the family law, proposed in 1993, would have added that the state recognizes a "child's right to life" and that men and women have "equal rights in deciding all issues of family life, including family planning."⁶³³ Women advocates argued that the proposal could have been used to prohibit abortions. The bill has not been discussed seriously since 1993.

Although the pro-life movement has not made much headway in Russia, it is considered to be connected with the introduction of a new provision of the criminal code prohibiting the "murder of a newly born infant by the mother." Article 107 of the criminal law provides that "murder of the infant at the time or right after birth in a psychologically traumatic situation or in a state of psychic disorder, which does not exclude mental sanity is punishable by imprisonment for up to five years."⁶³⁴ The Moscow Gender Studies Center says that "concerning the fact that there is no rise in statistics for this crime, the appearance of this particular Criminal Code provision is connected with the newly developing "pro-life" movement in Russia."⁶³⁵

Health care has deteriorated in recent years. Consider the following statistics:

- According to the Labour Ministry, the number of Russian women who die during childbirth has risen sharply in the past three years. Since 1992, the childbirth mortality rate has increased from forty-seven to fifty-two per 100,000. This rate is ten times higher than in industrialized European countries.⁶³⁶
- There has been a reduction in the number of hospital beds (medical and obstetrical) for pregnant women and women giving birth. In 1994 the total was 29.1 per 10,000 women aged fifteen to forty-nine, whereas, in 1985, this total was 32.4 per 10,000 women of childbearing age.⁶³⁷
- There are five gynecologists per 10,000 women in the state health care system.
- The breast cancer rate has increased from 27.9 thousand cases (36.4 per 10,000 women) in 1985 to thirty seven thousand cases (47.1 per 10,000 women) in 1994. For cancers of the cervix,

633. Schepple, *supra* note 8, at 67.

634. CRIM. C. art. 106 (1996) (Russ.).

635. See Moscow Gender Studies Report, *supra* note 356.

636. CRIM. C. art 134 (Russ.).

637. *More Women Dying During Childbirth*, OMRI DAILY DIG., June 26, 1995 <[http://search.omri.cz/bin/OMRI.acg:\\$main_search](http://search.omri.cz/bin/OMRI.acg:$main_search)>.

637. This statistic and all of the following statistics included in this section are from the Moscow Gender Studies Report, *supra* note 356.

uterus, and placenta the rate has gone from fifteen thousand cases in 1985 to 24.8 thousand cases in 1994. For sexually transmitted diseases such as syphilis, the rate has gone from 6.7 thousand cases (8.7 per 10,000 women) in 1985 to 62.6 thousand cases (79.6 per 10,000 women) in 1994.

- In 1994 the rate of anemia among pregnant women was more than three times the number in 1985 and the rate of illnesses of the urinary-genital system was twice as high by 1994.
- The number of birth complications has increased by 61.3%. More than fifty percent of the children who are born have health problems.
- The registered level of infant and child deaths and the number of abortions in Russia has reached proportions unprecedented in the second half of the twentieth century. In 1994, infant deaths totaled 18.6 per 1000 births. The number of abortions stands at 83.4 per 1000 women (aged fifteen to forty-nine).

Serbia:

Like Croatia, abortion in Serbia is still governed by a law of old Yugoslavia, the 1978 Act on Measures for Free Decisions Regarding Childbearing (see Croatia, above). According to some advocates for women in Serbia, however, women are in fact required to obtain permission from a special commission for an abortion after the eighth week of pregnancy (although the law specifies ten weeks).⁶³⁸ In addition, in Serbia the commission rarely grants permission to married women with one or fewer children.⁶³⁹

Since 1991, an increasing number of women have died from illegal and unsafe abortions as anti-abortion forces have grown and legal procedures have become harder to obtain, especially for ethnic Serbs.⁶⁴⁰ The most common tactic of anti-abortionists in wartime Serbia is to brand women who forego childbearing and child raising roles as "unpatriotic" and "selfish" to their nation who "needs them."⁶⁴¹ The Serbian Orthodox Church established the tenor for the campaign in March 1994, when Vasilije Kacavenda, one of the highest ranking people in the church, proclaimed that "abortion is the unspeakable slaughter of little Serbs" and that "Serbian people

638. REPRODUCTIVE RIGHTS IN CEE, *supra* note 130, at 33.

639. Mrsevic survey, *supra* note 364.

640. Interview with Autonomous Women's Center, Belgrade, Serb. (May 1995).

641. See Dasa Duhacek, *Women's Time in the Former Yugoslavia*, in GENDER POLITICS AND POST-COMMUNISM: REFLECTIONS FROM EASTERN EUROPE AND THE FORMER SOVIET UNION (Nanette Funk & Magda Mueller, eds. 1993); Zenski Centar, *supra* 590, at 1, 5.

are dying and bleeding at the same time, both on the battle field and on the medical table"⁶⁴²

Belgrade women's groups have noticed that since the war began, the so-called abortion commission has started denying abortion to more Serbian women when the grounds were "social reasons" but has continued to permit abortions for the same reasons for Rom (Gypsy) and Albanian women.⁶⁴³ Nevertheless, most abortions performed in Serbia are on Serbian women during the first twelve weeks of pregnancy when the commission plays no role.⁶⁴⁴ Knowing that selective use of the commission is not enough to limit significantly Serbian women's abortions, the Serbian Parliament passed a restrictive abortion law in May 1994, but President Milosevic refused to sign the measure.⁶⁴⁵

In 1994, a new proposed restrictive abortion law surfaced again in Parliament which is more onerous than the earlier proposal, banning all abortions after ten weeks except for very limited medical reasons (when pregnancy or childbirth endangers the woman's life, or when there is evidence of grave fetal defects).⁶⁴⁶ Various versions of these proposals were contemplated again in 1995 and 1996, but as of this writing none have been adopted. The most recent proposal forbid all procedures after the tenth week of pregnancy, unless the pregnancy is the result of rape or another crime, if the pregnancy is threatening to the woman's life, or if the child would be born with grave defects.⁶⁴⁷

Women in Serbia have long had access to contraceptives. During the war, Serbia faced a shortage of "the pill" because it had been manufactured in the former Yugoslavia or abroad. Today nearly anything can be found in private pharmacies as long as the woman

642. Gordana Radisavljevic, *Neprikosnoveno Pravo (Inviolable Right)*, POLITIKA, Dec. 1994 (page references unavailable). In his 1994 Christmas address to the nation, Patriarch Pavle proclaimed that "not allowing your children to see the bright of the day is a greater sin than murder. I. Kisic and N. Kovacevic, *Zenski gnev i popovska zloba (Women's Rage and the Evils of Priests)*, NASA BORBA, Jan. 16, 1995 (page references unavailable).

643. Interviews with Autonomous Women's Center, SOS Hotline, and Women's Shelter in Belgrade, Serb. (Apr. 1995).

644. Interviews with Drs. Stanislava Otasevic and Vera Litricin, Autonomous Women's Center and SOS for Girls, in Belgrade, Serb. (Apr. 1995).

645. Mertus, *supra* note 109, at 267.

646. Nadezda Cetkovic, *Nedovoljna argumentacija [Insufficient Argumentation]*, POLITIKA, Jan. 13, 1995 (page references unavailable) (reporting that Rajo Sudzum, Assistant Minister of Health of Serbia claims that rape, incest and indirectly reflecting on the health of women are allowed, but the author of the text argues that people who apply a law are not obligated to text not written in law).

647. Mertus, *supra* note 109, at 267.

can afford it.⁶⁴⁸ Still, due to a lack of information and finances, many women do not use contraceptives.⁶⁴⁹ Sex education does not exist in schools.⁶⁵⁰

In 1990, the Serbian Parliament considered a law that was designed to raise the birth rate among Serb women while also indirectly discouraging Albanian women from having children.⁶⁵¹ The proposal would have permitted families with two children to pay less taxes than families with only one child; families with three or more children would have been free from paying taxes regardless of income.⁶⁵² The law would have applied only in regions with a low birth-rate, in other words, it would have applied to areas dominated by ethnic Serbs and not to Kosovo, where the birth rate is high and the population is approximately ninety percent ethnic Albanian. This proposal received great attention in the media, leading to the creation of many new women's groups.⁶⁵³

Although the 1990 proposal was defeated, nationalist political parties continue to discuss the need to raise the Serbian birth rate, and to decrease the non-Serb (Albanian) rate. Periodically, demographers predict that by the end of the next century, Albanians would out-populate Serbs, and physicians would speak on national television about the "time bomb" in the womb of Albanian women.⁶⁵⁴

648. REPRODUCTIVE RIGHTS IN CEE, *supra* note 130, at 33.

649. *See* REPRODUCTIVE RIGHTS IN CEE, *supra* note 130, at 34 (reporting that only 55% of women in Serbia are using contraceptives and 65% of those using contraceptives are using the rhythm method).

650. *See* REPRODUCTIVE RIGHTS IN CEE, *supra* note 130, at 34 (recounting that sex education existed previously before the transition, but it was left up to individual teachers, who often failed to discuss it).

651. *See* Mertus, *supra* note 109, at 266 (describing Serbian fears of being outnumbered by Albanians in Kosovo).

652. REPRODUCTIVE RIGHTS IN CEE, *supra* note 130, at 35.

653. *See* REPRODUCTIVE RIGHTS IN CEE, *supra* note 130, at 35 (describing the actions taken by these newly formed groups to address women's reproductive issues).

654. Authors' observation of Belgrade television newscasts, 1993-1995. For example, in 1994 the daily *Borba* reported:

According to the research of Mrs. Gordana Matkovi from the Economic Institute, in the year 2050 in central Serbia, the number of children will decrease from 67,000 to only 27,000; in Vojvodina, from 20,000 to 9,000, and in Montenegro from 9,600 to 3,600 children. During that time in Kosovo and Metohija, the decrease will be negligible from today's 52,000 - 48,000 children. In other words, in one year there will be more newborn children in Kosovo than in all other areas together."

The article also detailed the results of a survey of four hundred Belgrade women who decided to have an abortion:

Those women accept lack of renewal of the population as a problem demanding attention[. They exhibit the] feeling of the nation being in danger because of the demographic explosion in Kosovo but also they point out the long-term consequences of the present reproductive model such as growing old and high depopulation.

M. Jankovic, *Da li dr'ava 'eli decu?* [Does the state want children?], *BORBA* [BELGRADE DAILY], June

Slovakia:

Although abortion is available freely at the present time,⁶⁵⁵ pressure is growing for restrictions. Anti-abortion forces, often working closely with religious groups and at times with foreign groups, have proposed a nearly absolute ban on abortions. As of this writing, a draft law has yet to materialize.

In 1994, the abortion rate was 61.9 abortions per 100 children born.⁶⁵⁶ After the liberalization of abortion in the mid-1980s,⁶⁵⁷ the abortion rate greatly increased but, beginning in 1988, the abortion rate displayed a downward trend. In over seventy-five of the cases, abortions are performed on married women with one or more children.⁶⁵⁸

Ukraine:

Abortion and contraception are theoretically available to all women.⁶⁵⁹ However, rural women must often travel prohibitively long distances for the procedure, and younger women may not be able to afford the "incidental" costs of the procedure. Although most health services are still covered by social insurance, women must pay from \$15 to \$100 for abortions (from fifteen percent to an entire average monthly salary).⁶⁶⁰ Physicians can prohibit abortions in individual cases even after finding a danger to the women's health.

The main health problems facing women in Ukraine stem from industrial pollution and the continuing effects of the Chernobyl disaster:

According to the Ukrainian Institute of Gynecology and Obstetrics, seventy percent of children are now born with some developmental defect. Of the thirty percent who are born healthy, only twenty percent are still healthy by the time they graduate from school. Forty percent of Ukrainian women are not able to carry out a normal pregnancy, and one out of every six is infertile. The male population, suffering from a near epidemic of heart attacks, strokes

2, 1994.

655. See *supra* notes 536-545, and accompanying text.

656. Butorova, *supra* note 36.

657. See *supra* notes 536-545, and accompanying text.

658. See Butorova, *supra* note 36, at ch. 2.2.

659. See LADIN, *supra* note 223, at 64 (suggesting that the effects of Chernobyl have led to an increase in the rate of embryo defects, therefore allowing for abortions after twelve weeks and even after seven months if the fetus is determined to be malformed).

660. See LADIN, *supra* note 223, at 64 (noting that while abortion is officially free, women are likely to be charged for the use of anesthetics).

and other alcohol or stress related diseases, has been dying steadily younger since the transition began.⁶⁶¹

In their tradition role as caretakers of the family, women bear the greatest burden for the many illnesses related to environmental disasters. The crumbling social service system in Ukraine has "utterly failed"⁶⁶² to meet their needs.

2. *Sexual Harassment*

Albania:

Albania has one of the most explicit laws on sexual harassment in Europe, although the definition of sexual harassment appears to be narrow. The new Labour Code, enacted in August 1995, states:

Protection of the Personality: [in the sense of person-hood, or reputation].

(1) The employer shall respect the personality of the employee and protect it in Labour relations.

(2) He must avoid any position that infringes on the dignity of the employee.

(3) The employer is forbidden to perform any act that constitutes sexual harassment [the word is actually "shqetesim," which means something that is disturbing or uncomfortable] against the employee and shall not permit the performance of such acts by other employees.

By "sexual harassment" is understood as any harassment [shqetesim] that clearly damages the psychological condition of the employee because of sex. [Me shqetesim seksual kuptohet cdo shqetesim qe demton ne menyre te dukshme gjendjen psikologjike te punemarresit per shkak te seksit].⁶⁶³

This clause, developed by the Women's Legal Group, an Albanian NGO, represented a compromise between advocates for women who wanted a broader definition of sexual harassment and legislators who resisted making any changes. Women's groups in Tirana have applauded the new law as a significant advance in a society in which sexual harassment is a taboo subject.⁶⁶⁴

661. LADIN, *supra* note 223, at 59.

662. Suslova Survey, *supra* note 269.

663. LAB. C. art. 32 (Alb.).

664. Zaka & Imholz Survey, *supra* note 369.

Bulgaria

The Penal code of Bulgaria contains a provision on "Crime at the Workplace"⁶⁶⁵ which creates the possibility of prosecuting sexual harassment by supervisors.⁶⁶⁶ Advocates for women in Bulgaria found that "it was impossible for this provision to be enforced in Bulgaria in the absence of a court system that could be used by ordinary citizens and women's groups to interpret it to the public and to assist women who face the problem."⁶⁶⁷ Thus, despite rampant sexual harassment in the workplace, very few cases are ever brought to court.⁶⁶⁸

Croatia:

There is no specific law on sexual harassment. Cases of sexual harassment could be brought only under the general criminal code. Advocates for women's rights in Croatia say that courts are unlikely to apply criminal law to a case of sexual harassment, unless it results in rape or some other kind of physical assault: "Using power in the working place to force women to [perform] sexual acts . . . , acts such as harassment, stalking or sleazy phone-calls are not recognized as sexual crimes."⁶⁶⁹

"Sexual harassment is not recognized as an act that men should not commit," activist Vesna Kesic says, "Sexual harassment is widespread, but considered a 'non-topic', in other words you just shouldn't talk about it."⁶⁷⁰ Refugee women in Croatia are particularly subject to harassment, as they are often hired illegally.

Czech Republic:

The Czech Republic has no laws that specifically address sexual harassment. A woman can potentially file a claim based on violation of personal dignity, or extortion, if an employer fires her for failure to comply. Neither of these options, however, is particularly viable.

Refugee, migrant and Rom women (gypsy) are frequently hired in short-term, unregulated jobs where the potential for exploitation and harassment is extremely high. However, no data exists about sexual harassment among these populations.

665. C. PENAL art. 387(2) (Bulg.).

666. See Emily Stoper & Emilia Ianeva, *Democratization and Women's Employment in Post-Communist Bulgaria*, 12 CONN. J. INT'L L. 9, 25 (1996).

667. *Id.* at 26.

668. *Id.*

669. B.a.B.e. Survey, *supra* note 287.

670. B.a.B.e. Survey, *supra* note 287.

The first, and only, sexual harassment case that appeared in the press to date resulted in the dismissal of the woman who filed a claim of sexual harassment. The case was brought in a small town branch of a prominent Czech Republic bank. An in-house commission investigated the case, and determined that there was insufficient evidence to warrant the dismissal of the woman. A year later, the same man was asked to resign in connection with similar claims.⁶⁷¹

Hungary:

"Sexual harassment is virtually an epidemic."⁶⁷² In 1994, liberal MPs tried to add an amendment concerning sexual harassment to the Labour bill.⁶⁷³ The Labour committee ridiculed the suggestion and failed to report the amendment out of committee.⁶⁷⁴

In fact, the term 'sexual harassment' is a new addition to the lexicon.⁶⁷⁵ Workplace harassment does not appear as a discrete charge under the current penal code, yet it could be judged equivalent to the crime of defamation through aggression.⁶⁷⁶ Alternatively, the perpetrator may be held responsible for duress, restriction of personal freedom, or public acts of indecency.⁶⁷⁷

Kosovo:

The topic of sexual harassment is strictly socially taboo. No study has ever been conducted on sexual harassment in employment in Kosovo.

Poland:

The Polish Penal Code states that anyone who uses his or her superior position to force another person to provide sexual favors may be sentenced to up to five years.⁶⁷⁸ According to advocates for women in Poland, in the few cases in which the provision has been invoked, it has been applied only to the case of rape or attempted

671. Shaw Survey, *supra* note 216.

672. See LADIN, *supra* note 223, at 53.

673. See LADIN, *supra* note 223, at 53.

674. See LADIN, *supra* note 223, at 53. The procedure to vote an amendment out of committee requires only a 1/3 vote in favor. *Id.*

675. Jane Perlez, *European Women Speaking Up, Workers Long Accustomed to Sexual Harassment are Filing Suit*, DALLAS MORNING NEWS, Oct. 4, 1996.

676. CRIMINAL CODE § 179 Defamation (Hung.).

677. See, e.g., *id.* at § 76 (regarding personal freedom).

678. PENAL C. art 170 (Pol.). Under the new penal code scheduled to take effect in January 1997, the article is to be renumbered 203. Nowakowska Interview, *supra* note 339.

rape.⁶⁷⁹ The result has been a general belief that any harassment that does not include rape is permissible.⁶⁸⁰

Romania:

Romanian Labour law does not include sexual harassment. Cases could potentially be brought under the criminal code, but courts are unlikely to apply the criminal code to situations not involving rape or attempted rape.

"There is no awareness about the issue," says Laura Grunberg, of the Society for Feminist Analysis, "Women are exposed to sexual harassment when going to interviews, when being secretaries, as students But the issue has never been studied, and it is considered as an extravagance to speak about it in the context of the other problems of transition."⁶⁸¹

Slovakia:

Slovak Labour law does not specifically define and prohibit sexual harassment;⁶⁸² nonetheless it is quite prevalent in the workplace. In a recent survey of over 1,000 people throughout Slovakia, almost half of the respondents regularly encountered the communication of sexual jokes, stories and innuendoes.⁶⁸³ Women in Slovakia tend to accept hostile work environments as "natural" or inevitable.⁶⁸⁴

Russia:

The definition of sexual harassment in the old Criminal Code prohibited sexual harassment only when it involved sexual intercourse.⁶⁸⁵ Under this law, Clause 118 defined sexual harassment as: "[f]orcing a woman to have intercourse or to satisfy sexual needs in other form by a person, on whom the woman is dependent in material

679. Nowakowska Interview, *supra* note 339.

680. Nowakowska Interview, *supra* note 339.

681. Survey response of Laura Grunberg, ANA, the Society for Feminist Analysis, in Bucharest, Rom. (Aug. 1996) [hereinafter Grunberg Survey].

682. See Butorova, *supra* note 36, at ch. 5.3 ("The unduly intimate or provocative behavior of supervisors or colleagues was encountered by 54% of working women One third of women stated that they had experienced such situation several times. Almost half (47%) of all employees were confronted with uncalled for, intimate or provocative behavior by their supervisor or colleague.").

683. Butorova, *supra* note 36, at ch. 5.2.

684. Butorova, *supra* note 36, at ch. 5.2 (" . . . 73% of respondents . . . declared they are not disturbed by dirty jokes, stories or innuendoes. . . . Therefore we can conclude that the majority of women in Slovakia do not interpret that obscene communication in the workplace as sexual harassment and therefore do not view it as unacceptable, reproachable behavior.")

685. See Alessandra Stanley, *For Russian Women Fending Off the Boss is a Full-time Job*, S.F. CHRON., Apr. 19, 1994, at A9 (noting that the Soviet sexual harassment statute was so rarely enforced that prosecutors in Barnaul and Moscow could not cite to a single precedent).

by professional status.⁶⁸⁶ On June 19, 1995, the Duma voted for a new Criminal Code.⁶⁸⁷ The new Code eliminated the requirement of sexual intercourse, defining sexual harassment instead in Clause 134 as "[t]he forcing of a person to actions of a sexual character," including "forcing a person to commit sexual intercourse, sodomy, lesbianity, or other actions of sexual character by blackmail, threats, destruction, damage or removal of property, or by using dependent position of the victim."⁶⁸⁸ The Labour Code does not mention sexual harassment.

The addition of the clause prohibiting coercion into homosexual relations is particularly curious. "The new law confuses the issue and weakens possibilities for enforcement by law combining sexual harassment with the forcing of men and women to enter into homosexual relationships," Elena Kotchkina, Expert of the Russian State Duma warns, "[a] claim of sexual harassment now also invokes the popular stereotypes regarding homosexuality."⁶⁸⁹ Few women even contemplate bringing a sexual harassment case. "For most women, the fact of having a job is more important than the degradation [they experience from their] employer's indiscretions."⁶⁹⁰

Serbia:

Although Serbia's Labour law does not include sexual harassment, the criminal law prohibits men from using their position to force sexual relations on a woman:⁶⁹¹

(1) Who abuses his position to lead into sexual relationship or unnatural chastity (buggery) a female person who is in a subordinate position or dependence to him, will be punished with a prison term from three months to three years.

(2) Teachers, educators, guardians, curators, foster fathers, or step fathers or any other person who abuses his position and commits a sexual relationship or unnatural chastity (buggery) with a juvenile person older than 14, who was dedicated to the perpetrator for learning, studying, education, care or curing, will be punished by prison term from 6 months to 5 years.

686. CRIM. C. cl. 118 (pre-1996) (Russ.). See Moscow Center Report, *supra* note 356.

687. See Stanley, *supra* note 685, at A9 (discussing the pervasiveness of sexual harassment in Russia despite the existence of sexual harassment laws in 1994).

688. CRIM. C. cl. 134 (Russ.).

689. Grogan Survey, *supra* note 250.

690. Grogan Survey, *supra* note 250.

691. See Report of State Parties, Federal Republic of Yugoslavia (Serbia & Montenegro), Convention on Elimination of Discrimination Against Women, 13th Sess., at 13, U.N. Doc. CEDAW/C/Yug/SP.1 (1994).

(3) If the deed from section (2) of this article was committed against the person who was younger than 14, the perpetrator will be punished with a prison term from one to eight years.⁶⁹²

This provision has rarely been applied. Courts would likely read it to cover only rape, sodomy and other physical sexual acts.

Ukraine:

Ukrainian Labour law does not include sexual harassment, however the general provisions of the Labour law could be read as applicable.⁶⁹³ In 1996, in the western town of Lviv, a woman won a criminal case concerning sexual harassment. Ukrainian activists believe that this is the first successful sexual harassment case in the country.⁶⁹⁴

3. Maternity Leave And Childcare

Albania:

The new Albanian Labor Code permits both men and women to take childcare leave.

Bulgaria:

Mothers receive special protections under the Bulgarian Constitution:

Mothers shall enjoy special protection from the state which shall guarantee them paid leave before and after confinement, free obstetrical care, relaxed conditions of work and other types of social assistance.⁶⁹⁵

According to the Bulgarian Labor Code, either parent may receive maternity leave.⁶⁹⁶ The provisions of the Labor Code offer inducements to women to have mid-sized families (that is, three children). According to the law, women receive 120 days off at full pay for the first child, 150 days for the second, and 180 days for the third; the number of days then decreases to 120 days for any more children.⁶⁹⁷

692. PENAL C. art. 107 (Serb.).

693. See, e.g., Marina Denysenko, *Ukrainians Cannot be Fussy in a Desperate Job Market*, DEUTSCHE PRESSE-AGENTUR, Oct. 16, 1996 (page references unavailable) (discussing the poor job market in Ukraine and the dual problem women face—finding employment and finding an employer who will not sexually harass her).

694. Suslova Survey, *supra* note 269.

695. BULG. CONST. art. 47(2) (reprinted in UNDP *Bulgaria Report*, *supra* note 73, at 2).

696. See UNDP *Bulgaria Report*, *supra* note 73, at 2. See also Stoper & Ianeva, *supra* note 666, at 28 (describing impact of maternity leave policy on mothers, fathers, and grandparents)

697. LABOR C. art 163 (Bulg.).

Practice differs greatly from the written law. According to the Bulgarian office of the United Nations Development Programme ("UNDP"), "[t]hese legal regulations do not reflect the real capability of the state to provide the mentioned advantages and guarantees to women—neither through its resources, nor through the mechanisms of control."⁶⁹⁸

Croatia:

Croatian law contains several provisions designed to encourage women to have children and to "protect" mothers in their reproductive and caretaking roles. The Constitution provides guiding language. "The Republic shall protect maternity, children, and young people and shall create social, cultural, educational, material, and other conditions conducive to the realization of the rights to a decent life."⁶⁹⁹

The Labour Law specifies that when a woman has multiple births, a third child, or any child after the third, she may take full maternity leave up to the time the youngest child turns three.⁷⁰⁰ Fathers only have the right to childcare leave after the child reaches the age of six months.⁷⁰¹

Article 63 of the Labour Law introduces special rights for "Mother educators."⁷⁰² According to special regulations, a mother with four or more children has the right to the status of a Mother Child-Nurturer.⁷⁰³ These regulations provide financial remuneration as well as pensions and health insurance for female parents, but not for male parents.⁷⁰⁴ Women's human rights advocates in Croatia fear "the law only seemingly protects women, but according to cultural practices it will end up pushing women out of the workforce."⁷⁰⁵ Due to the potentially high cost of maternity benefits, employers have become increasingly reluctant to hire women.

698. See UNDP *Bulgaria Report*, *supra* note 73, at 2.

699. CROAT. CONST. art. 62.

700. LABOR LAW art. 63 (Croat.) (on file with the author).

701. *Id.*

702. *Id.*

703. See *Croatian Pro-Lifers*, *supra* note 106.

704. See *Croatian Pro-Lifers*, *supra* note 106.

705. *Croatian Pro-Lifers*, *supra* note 106.

Women's groups consider the National Program for Demographic Development, and new laws which support its policy as purely a political and ideological campaign being exclusively ethnically oriented and fundamentally anti-woman as it announces a policy which will exclude women from labour and the public world and return them into the traditional roles of mothers and spouses in kitchen, family and church.

Czech Republic:

Under current law, married women are granted paid maternity leave of twenty-eight weeks, or thirty-seven weeks if they are single.⁷⁰⁶ A mother may request an additional three years of maternal leave.⁷⁰⁷ Women are guaranteed their previous or an equivalent position when they return to the workplace.⁷⁰⁸

After maternity leave is completed, a parental allowance is granted if a parent (male or female) must stay at home full-time to take care of a child younger than four years old, or younger than seven years if the child suffers from a long-term illness.⁷⁰⁹ "Parent" is understood in this case to be a person who has assumed long-term care of the child.⁷¹⁰ While the more extensive portion of the leave (parental leave) is not gender-specific, young women are reputed to be less reliable employees, as they are more likely than men to take parental leave.⁷¹¹ Thus, the benefits have effectively placed obstacles in the path of young women seeking employment.

Germany:

In general, family policies in Germany offer less benefits than afforded in the former East Germany.⁷¹² Women receive fourteen weeks of paid maternity leave: six weeks before the birth and eight weeks thereafter.⁷¹³ In addition, a parent may take up to thirty-six months of postnatal leave, during which time they receive a small allowance and protection from dismissal from employment.⁷¹⁴ Furthermore, under the German Federal Law on Financial Support for rearing Children, the parent raising the child receives an allowance until the child's second birthday.⁷¹⁵

706. Current law is a slight improvement over the old law. See LAB. C. art. 42 § 157(a) (1970) (Czech Rep.), reprinted in 13 BULL. CZECH. LAW 128-29 (1973) (providing that "a woman shall be entitled to maternity leave for a period of 26 weeks. . .").

707. Shaw Survey, *supra* note 216.

708. Shaw Survey, *supra* note 216.

709. Shaw Survey, *supra* note 216.

710. Shaw Survey, *supra* note 216.

711. See Clare Longrigg, *Euro '96 So the Big Match is Over. Pity the Poor Lads . . . But at Least They Were Playing on a Level Field*, GUARDIAN, July 1, 1996.

712. See Lisa Duggan, *Restacking the Deck: Family Policy and Women's Fall-Back Position in Germany Before and After Unification*, in FEMINIST ECONOMICS 175-94 (1995).

713. Maternity Protection Act, 1979 BGBI I 315; survey response of Suzette Wahren, Berlin, G.D.R. (Aug. 1996) [hereinafter Wahren Survey].

714. Martina I. Kischke & Karsten Schroeder, *Equal Rights—But Also Equal Opportunities? The Situation in the Federal Republic of Germany*, IN PRESS SOCIAL REPORT 6 (Mar. 1990). This was extended from 18 months, prior to January 1, 1993. A. Lindemann, *Germany: Extension of Maternity Leave to 36 Months*, REUTER TEXTLINE, Apr. 7, 1992.

715. Bundeskindergeldgesetz BKGG, 1974 BGBl.I.S. 149.

Although many nurseries and kindergartens are state subsidized, conditions may be substandard.⁷¹⁶ Closure of state enterprise-supported nurseries and kindergartens in the former East Germany have led to a serious shortage in facilities.⁷¹⁷ In 1991, educators and workers in kindergartens went on strike for three weeks to protest the large size of classes and low pay.⁷¹⁸ Higher income parents tend to opt for autonomous, private "kinder-shops."⁷¹⁹

Hungary:

Hungary's benefits for women with small children have long been among the most generous in Europe. Mothers are entitled to twenty-four weeks of maternity leave with full salary.⁷²⁰ Mothers who remain at home after maternity leave has ended can receive a childcare allowance that is adjusted to their prior wage until the child's second birthday.⁷²¹ After the child's second year, women can receive a significantly lower, flat-rate allowance based on the number of children in the family.⁷²² Either parent can draw either type of allowance after the child's first year.⁷²³

In April 1995, the legislature voted to reduce maternity leave to three months; pregnancy and infant benefits were to be cut as well.⁷²⁴ The Constitutional Court struck down the parts of the legislation pertaining to family support programs.⁷²⁵ The Court ruled that the right to social security and family protection are explicit in the Constitution and, thus, the legislature could not terminate all benefits.⁷²⁶ "The Court also ruled that pregnancy and maternity benefits were protected from government cuts, because the

716. See Stephen Kinzer, *A Climate for Demagogues; Unified Germany*, 273 THE ATLANTIC 21 (1994).

717. See David Gow, *Germany: Education System Showing Signs of Fatigue*, REUTER TEXTLINE, July 30, 1991.

718. Wahren Survey, *supra* note 713.

719. Wahren Survey, *supra* note 713.

720. See Koncz, *supra* note 226, at 355.

721. See Koncz, *supra* note 226, at 355 (noting childcare allowance generally is 65% to 75% of the parent's salary).

722. See Koncz, *supra* note 226, at 355.

723. Koncz, *supra* note 226, at 355.

724. See LADIN, *supra* note 223, at 51. See also *Mothers Band Together Against Austerity Plan*, BUDAPEST SUN, Jun. 1, 1995, available in 1995 WL 15205269 (discussing Hungarian mother's decision to form a national association to protest cuts in social benefits).

725. LADIN, *supra* note 223, at 51.

726. LADIN, *supra* note 223, at 51. As an alternative to terminating all social benefits, Hungary's Constitutional Court did allow the Legislature to develop a means test.

Constitution explicitly protects mothers and children."⁷²⁷ To date then, maternity benefits have continued in Hungary.

"More than half of all children below the age of four go to a crèche (nursery) or kindergarten."⁷²⁸ With the onset of privatization, many childcare facilities have closed in recent years or gone out of business.⁷²⁹ Existing facilities are most often overcrowded and understaffed.⁷³⁰ Kindergartens and nurseries are not free of charge anymore, and the amount of the admission depends on whether the organization is state-owned or private.⁷³¹ Recently, mothers have been more likely to leave older children home unattended.⁷³²

The Constitutional Court in Hungary has used the Constitutional provisions mandating equality between men and women to strike down regulations that benefited women and not men.⁷³³ A poor, widowed father had challenged a social security regulation that allowed only women to collect permanent widow's pensions when their spouse died.⁷³⁴ The Court ruled that equality between men and women required men to receive the same benefits from the government as women and, thus, the law was discriminatory.⁷³⁵ Whether this decision will have an impact on other work-related benefits is unclear.

Poland:

Women have the right to paid maternity leave, for the duration of sixteen weeks for the first child; eighteen weeks for each additional birth; and twenty-six weeks in the case of multiple births.⁷³⁶ Childcare leave is now available to both mother and the father on a equal basis,

727. LADIN, *supra* note 223, at 51. The Constitutional Court bolstered its decision to protect pregnancy and maternity benefits by not only relying on the constitution but by relying on the country's abortion laws as well. Hungary's abortion laws require the government to respect women's decision to have children and establishes the right to freedom of choice.

728. See Koncz, *supra* note 226, at 355.

729. See Koncz, *supra* note 226, at 355.

730. *Founding Session of Budapest City Council*, Eastern Europe, Internal Affairs, Hungary EE/6461/B/3 (BBC Summary of World Broadcasts, July 3, 1980); *Budapest's Preparation for New School Year*, Eastern Europe, Internal Affairs, Hungary EE/7099/B/3 (BBC Summary of World Broadcasts, Aug. 9, 1982).

731. *Founding Session of Budapest City Council*, *supra* note 730; *Budapest's Preparation for New School Year*, *supra* note 730.

732. See Koncz, *supra* note 226, at 355. By age fourteen, 27% of schoolchildren are in day-care and 39% are without supervision after school. *Id.*

733. Schepple, *supra* note 8, at 68.

734. Schepple, *supra* note 8, at 68.

735. Schepple, *supra* note 8, at 68 (citing HUNG. CONST. art. 66).

736. LAB. C. art. 183 (Pol.), cited in WOMEN IN POLAND, *supra* note 241, at 8.

as long as the parent has been employed for at least six months.⁷³⁷ "In principle, the duration of such leave is three years — up to the fourth year of a child's life. It is, however, possible to extend it for a further three years in the case of the chronic disease of a child, his or her disability, or mental deficiency."⁷³⁸

Unlike earlier times,⁷³⁹ childcare leave is unpaid.⁷⁴⁰ Women who do not have sufficient means of subsistence can apply for childcare benefits, as a social security benefit.⁷⁴¹ The parent taking childcare leave has the right to come back to the same position at work and his/her contract can be dismissed only if the employer declares bankruptcy.⁷⁴² In practice, employers circumvent this requirement by dismissing women a few days after coming back to work.⁷⁴³

In the last few years, the number of kindergartens and nurseries have diminished and fees have increased.⁷⁴⁴ Many women report a high degree of dissatisfaction with the standard of care; some believe nurseries are harmful to the development of children.⁷⁴⁵

Russia:

During the Soviet times, employees received salaries and social subsidies in exchange for their labor.⁷⁴⁶ These benefits included medical care, clothing, education for children, and inexpensive childcare.⁷⁴⁷ The cost of these social subsidies was borne by the Federal Government, which in turn compensated the spheres of industry and enterprises for providing the services.⁷⁴⁸ Since the

737. WOMEN IN POLAND, *supra* note 241, at 8. The father is entitled to the same benefits only if the entitled mother renounces it and agrees that the father has the right to the childcare leave.

738. WOMEN IN POLAND, *supra* note 241, at 8.

739. See Siemienska *supra* note 248, at 616. In 1981, the government introduced a three year paid maternity leave. The policy prompted women to leave the workforce. Unfortunately, as years progressed and the economy changed the allowances associated with maternity leave diminished. *Id.*

740. WOMEN IN POLAND, *supra* note 241, at 8.

741. WOMEN IN POLAND, *supra* note 241, at 8.

742. LAB. C. art. 177 §§ 1,4. (Pol.) cited in WOMEN IN POLAND, *supra* note 241, at 9.

743. WOMEN IN POLAND, *supra* note 241, at 10.

744. See WOMEN IN POLAND, *supra* note 241, at 33. Fewer than half of Polish children aged three to six attend pre-school. See also Siemienska *supra* note 248, at 616.

745. WOMEN IN POLAND, *supra* note 241, at 33-34.

746. See Olga A. Voronina, *Soviet Women and Politics: On the Brink of Change*, in WOMEN AND POLITICS WORLDWIDE 722, 729 (Barbara J. Nelson & Najma Chowdhury eds. & Anatolii Smirnoff trans., 1994).

747. See *id.*

748. See generally *Russia's Chernomyrdin Pledges Social Benefit Cuts*, DOW JONES INT'L NEWS, Dec. 10, 1996, available in WL, Euronews Library, Dow Jones File. (stating Russia's Prime Minister plans to cut social benefits).

transition began, there has been a four-fold decrease in the portion of the federal budget ascribed to social provisions.⁷⁴⁹ Responsibility for compensating enterprises has been reassigned to local governments.⁷⁵⁰ Given the high bankruptcy rate of state-owned enterprises, and the lack of cash flow to regional governments, very little money is actually now spent on secondary benefits to employees.

As a result, kindergartens have been closed and privatized on a massive scale.⁷⁵¹ Many women cannot afford to work because the cost of childcare has become prohibitive.⁷⁵² The number of children of pre-school age far exceeds the number of places available in community kindergartens.⁷⁵³ In the southern city of Novochebarkassk, for example, there are 240,000 inhabitants.⁷⁵⁴ Over a six-month period in 1993 there were fifty places available for children in the city's two kindergartens.⁷⁵⁵ According to government statistics, the number of kindergarten spaces decreased from 9 to 6 million from 1990 to 1994.⁷⁵⁶ The Moscow Center for Gender Studies believes that this figure far underestimates the extent of the closings.

Although the Constitution⁷⁵⁷ guarantees free preschool education as a right, it is not a priority of the administration and thus it remains severely underfunded.⁷⁵⁸ The Federal Government has operated a poorly funded program entitled "Children of Russia" since 1994.⁷⁵⁹

749. Grogan Survey, *supra* note 250.

750. RusData-RusLegisline, General Principles of Organization of Local Self-Government in the RF. RF Federal Act No. 154-FZ. Adopted by the State Duma on August 12, 1995.

751. See *Push to Run-Down, Soviet Schools Differ*, ORLANDO SENTINEL, Feb. 19, 1996, at A12 (comparing the education available at private kindergartens with public kindergartens and concluding that there is a distinct difference between publicly and privately funded schools.).

752. See *id.* (noting that private kindergartens cost \$3,000-4,000 a year which is two to three times the average Russian income).

753. *Russia's Children: The Situation Remains Bleak*, CURRENT DIGEST OF THE POST-SOVIET PRESS, Dec. 25, 1996, at 8 (stating the number of children receiving preschool education went down from 57.4% in 1994 to 55% in 1995).

754. Grogan Survey, *supra* note 250.

755. Grogan Survey, *supra* note 250.

756. Grogan Survey, *supra* note 250.

757. See RUSS. CONST. art. 43(2), reprinted in CONSTITUTION OF THE RUSS. FED. 28, 29 (Vladimir V. Belyakov & Walter J. Raymond eds., 1994).

758. See *Russia's Children: The Situation Remains Bleak*, *supra* note 753 (stating that: 40.6% of buildings housing preschools require major repairs or replacement; 25% have no running water, sewer systems or central heating; and that there are 5.8% fewer preschools in 1995 than in 1994). See also *Russia: Paid Services Up-Inflation*, REUTER TEXTLINE, Nov. 19, 1993 (stating that the price of preschool was up 63%).

759. See G. Papyrina, *Russia Boosts Spendings on Reproductive Health in Face of Depopulation Signs*, BIZEKON NEWS, May 28, 1997, available in 1997 WL 7802316. (stating that Russian government has increased funding for the Children of Russia program and other similar programs).

At a regional level, women's groups have brought the issue of childcare to the forefront of political debates.⁷⁶⁰ They have actively campaigned against the privatization of kindergartens, and pushed childcare to the top of local budget discussions.⁷⁶¹ Nevertheless, affordable childcare does not exist in Russia.

Ukraine:

Unlike some other CEE countries, the system of maternity and childcare benefits in Ukraine does not encourage women to stay at home and have children because the level of assistance is extremely low.⁷⁶² "Only if the family has appropriate support from some other place," says Olena Suslova, "can couples even think of having children."⁷⁶³

By law pregnant women and new mothers receive paid maternity leave until the child turns three, but this is often used to exclude women from career-track jobs.⁷⁶⁴ Men as well as women can take childcare leave in Ukraine.⁷⁶⁵ However in practice, men invoke the benefit only when the mother has died or become seriously ill.⁷⁶⁶ Parents that take childcare leave are guaranteed their jobs upon their return.⁷⁶⁷ Nevertheless, due to harsh economic circumstances, most parents, take as short a leave from their paid work as possible.⁷⁶⁸

4. Family Law (with particular reference to divorce)

Albania:

The divorce rate in Albania traditionally was extremely low.⁷⁶⁹ After the Albanian Parliament enacted a no-fault divorce law, the rate rose

760. Interview by Tatyana Khudyakova with Alevtina Fedulova, *Our Movement Should Have Been Called 'Women for Russia,'* (printed in CURRENT DIGEST OF THE POST-SOVIET PRESS, Dec. 29, 1993, at 4).

761. *Id.*

762. Suslova Survey, *supra* note 269.

763. Suslova Survey, *supra* note 269.

764. Dep't State Human Rights Country Reports, Ukraine Country Reports on Human Rights Practices, Feb. 1997.

765. Martina Helmerich, *Women are Losers as Ukraine's Economy Feels the Squeeze*, DEUTSCHE PRESS-AGENTUR, July 24, 1997 (page references unavailable).

766. *Id.*

767. *Id.*

768. Kristin von Kreisler, *E. Europe Women Battle for a Better Workplace*, CHRISTIAN SCIENCE MONITOR, Aug. 8, 1997, at 10.

769. See *Albanian Marriages Hit by Social Crisis*, DEUTSCHE PRESSE-AGENTUR, Jun. 21, 1997, (page references unavailable). Before 1990, divorces were almost non-existent in Albania. According to the Albanian National Statistics Institute, there have been 2,500 divorces in the first six months of 1997 compared with 2,331 divorces in the whole of 1995.

significantly as the procedure became easier to obtain.⁷⁷⁰ Some advocates for women's rights in Albania are working further to modernize divorce and child support procedures.⁷⁷¹ Presently, a severe housing shortage presents a significant obstacle to divorce.⁷⁷² According to a recent survey by the Albanian women's group "Reflections", most marriages in the country are still arranged.⁷⁷³ Women report a far greater incidence of violence in these marriages than in "love marriages".⁷⁷⁴ Concurrently, women who are divorced or single also face a significantly greater risk of violence and harassment.⁷⁷⁵

Bulgaria:

The Bulgarian Family Code permits divorce by mutual consent.⁷⁷⁶ When both parties agree to the divorce, the court does not inquire into the reasons for the dissolution. However, if only one party wants the divorce, the court must establish fault.⁷⁷⁷ Poor economic conditions and a shortage of housing often prevent women from seeking divorce.

Croatia:

The process of divorce in Croatia commences with a mandatory visit to a social service center where the couple is counseled to reconcile.⁷⁷⁸ The reconciliation attempt is mandatory in all cases except when the parties do not have minor children and the parties have agreed to a divorce.⁷⁷⁹ If the reconciliation attempt is unsuccessful, the party seeking divorce can bring their action in the Court of First Instance.⁷⁸⁰

The divorce resolves all questions concerning the dissolution of the marriage, including care and upbringing of the children, access to the children and support payments for the spouse.⁷⁸¹ In deciding to initiate a divorce, women have expressed fear that their spouse

770. See MINNESOTA ADVOCATES, ALBANIA REPORT, *supra* note 270, at 19.

771. Zaka & Imhotz Survey, *supra* note 369.

772. See MINNESOTA ADVOCATES, ALBANIA REPORT, *supra* note 270, at 19.

773. See MIRIA *supra* note 273, at 7 (reporting 58.17% of marriages are arranged).

774. See MIRIA *supra* note 273, at 7.

775. See MIRIA *supra* note 273, at 19-20, 25-26.

776. FAMILY CODE art. 100 (Bulg.).

777. *Id.* at art. 99.

778. See *Croatian Pro-Lifers*, *supra* note 106.

779. *Croatian Pro-Lifers*, *supra* note 106.

780. *Croatian Pro-Lifers*, *supra* note 106.

781. *Croatian Pro-Lifers*, *supra* note 106.

may react with violence against them or their children or simply take the children away from them.⁷⁸² A further difficulty lies in the high cost of the process that the woman must pay, with little probability she will ever recover her costs.⁷⁸³ The average divorce process lasts for one to two years.⁷⁸⁴ There is no legal mechanism to grant the woman exclusive possession of the matrimonial home pending the divorce proceedings.⁷⁸⁵ Women often encounter great resistance from their spouse, which may include threats to the children's safety, threats to take the children away from her, and allegations in court that she is an unfit mother.⁷⁸⁶ Women complain that their husbands frequently violate child visiting agreements and that the legal system provides inadequate recourse in these situations.⁷⁸⁷ Women report that even in court custody disputes that they ultimately win, they are reduced to a state of despair, panic and helplessness by the process.⁷⁸⁸

When children are involved, the courts issue a decision on alimony, based on the child's needs and the ability of both parents to offer support.⁷⁸⁹ Other support obligations and additional earning opportunities are also taken into consideration.⁷⁹⁰ The parent who has not been given custody is obligated to pay a fixed percentage of his or her monthly salary as alimony.⁷⁹¹ If the person concerned does not have a fixed monthly income, the alimony is set at a fixed percentage of the minimum wage in the Republic of Croatia.⁷⁹² In cases where a percentage of actual salary is awarded, the parent usually takes a private job and reports lower earnings than actually received, or the parent simply stops working.⁷⁹³

782. *Croatian Pro-Lifers*, *supra* note 106.

783. *Croatian Pro-Lifers*, *supra* note 106.

784. *Croatian Pro-Lifers*, *supra* note 106.

785. *Croatian Pro-Lifers*, *supra* note 106.

786. *Croatian Pro-Lifers*, *supra* note 106.

787. *Croatian Pro-Lifers*, *supra* note 106.

788. *Croatian Pro-Lifers*, *supra* note 106. Divorce proceedings in Croatia favor the husband because he can extend the process indefinitely by simply not appearing for the court proceeding. Generally, in Croatia a divorce cannot be issued without both parties being heard in court. *Id.*

789. *Croatian Pro-Lifers*, *supra* note 106.

790. *Croatian Pro-Lifers*, *supra* note 106.

791. *Croatian Pro-Lifers*, *supra* note 106.

792. *Croatian Pro-Lifers*, *supra* note 106. If the parent has a fixed income, alimony is 20% to 30% of the salary, payable for each child. If the parent does not have a fixed income, the rate is 70% to 100% of the minimum wage in Croatia.

793. *Croatian Pro-Lifers*, *supra* note 106.

The court can also require alimony for the support of one of the marriage partners.⁷⁹⁴ This occurs when the partner seeking such support cannot find employment, is not capable of working and has no income, or has no source of income.⁷⁹⁵

Women have often stayed at home to care for children and the household during the course of the marriage.⁷⁹⁶ When the marriage breaks down these women often find themselves working outside the home for the first time in their life.⁷⁹⁷ The employment that is available to them is usually low paid.⁷⁹⁸ The system does not recognize and compensate women for the work they had performed in the home by raising the children and maintaining the household.⁷⁹⁹

Parallel with divorce, or after it has been finalized, the couple's joint property is divided. In cases where the parties cannot reach a decision, either party may file a claim for dividing the marriage property with the court. Women are often not informed of their rights regarding joint property. Frequently a husband assures a wife that he is sole owner since the property is in his name and he paid for it with his income.⁸⁰⁰ They do not know the law considers all property acquired in marriage to be joint property; women are deemed to have contributed to the joint property of the marriage by caring for children and maintaining the household.⁸⁰¹ A new proposal in the Act on Marriage and Family relations envisions that the joint property of married couples shall be divided equally.⁸⁰² Enforcement of court decrees related to the dissolution of marriage requires an expensive and time-consuming process.

Czech Republic:

Courts have great discretion to determine custody of children under the law of the Czech republic, as the Family Code States:

- (1) If the parents of a dependent child decide to revoke their marriage, a court will administer their rights and obligations to the child for the period following the divorce, and will determine, in

794. *Croatian Pro-Lifers*, *supra* note 106.

795. *Croatian Pro-Lifers*, *supra* note 106.

796. *Croatian Pro-Lifers*, *supra* note 106.

797. *Croatian Pro-Lifers*, *supra* note 106.

798. *Croatian Pro-Lifers*, *supra* note 106.

799. *Croatian Pro-Lifers*, *supra* note 106.

800. Shaw Survey, *supra* note 216.

801. Shaw Survey, *supra* note 216.

802. Shaw Survey, *supra* note 216.

particular, to whom the child will be entrusted, and how each of the parents will contribute to his sustenance.

(2) This decision regarding the administration of rights and obligations of the parents to the child may be substituted by their agreement, which requires approval of a court to be considered valid.⁸⁰³

In practice, most children, especially young children, are given to their mother's custody.⁸⁰⁴

In the case of divorce a spouse is entitled to alimony if she or he is unable to support herself or himself.⁸⁰⁵ If the parties cannot reach an agreement on alimony, a court of law will decide.

The law contemplates only a very limited amount of child support, to be given to the mother only. The Family Code is clear in stating, "The father of a child whose mother is not married is obligated to provide the mother with a contribution to pay for sustenance for the period of one year, as well as for costs related to pregnancy and childbirth."⁸⁰⁶

Both spouses have an equal right to all property acquired during the duration of the marriage, with the exception of things received through inheritance and gift-giving, or which are considered vital to the spouse's occupation.⁸⁰⁷ According to advocates for women's rights in the Czech Republic, despite these regulations, women are very negatively affected by divorce.⁸⁰⁸

Hungary:

One in every third marriage in Hungary ends in divorce.⁸⁰⁹ In line with other European laws, Hungarian family legislation provides an opportunity to dissolve a marriage if it has finally and irreversibly broken down. Such dissolution is not associated in the legislation with any specific list of conditions and neither is it conditioned upon either party's culpability. The parties may seek dissolution jointly as well as separately. Family related legislation requires a mandatory

803. FAMILY CODE [FAM. C.] art. 26 (Czech Rep.).

804. Shaw Survey, *supra* note 216.

805. FAM. C. art. 92 (Czech Rep.).

806. *Id.* at art. 95.

807. The former Czechoslovakia had also similarly subscribed to the law of community property. See CIVIL CODE arts. 143-151, Act No. 40 of February 26, 1964, Collection of Laws (Czech Rep.). See generally, G.E. Glos, *The Law of Marital Property in Czechoslovakia and the Soviet Union* 24-33 (1981).

808. Shaw Survey, *supra* note 216.

809. LADIN, *supra* note 223, at 51-52.

reconciliation procedure, without which the diverse process may not begin.⁸¹⁰

In the case of divorce, either the mother or the father may obtain custody of the child. The divorced wife does not receive alimony, unless the parties mutually agree to an arrangement. The division of property depends upon whether the couple has a marriage contract; where no contract exists joint property will be divided according to the spouse's contribution. The present judicial system has no effective mechanisms to enforce an ex-husband's financial obligations following a divorce.⁸¹¹

Poland:

The law on divorce in Poland is like no other in CEE. Spouses cannot obtain a divorce by mutual consent in Poland. Rather, they must obtain a court determination there has been a "complete and irretrievable disintegration of matrimonial life (physical, spiritual and economic)."⁸¹² The court procedure, usually undertaken at great financial and emotional expense, may last for several years. Despite the consent of the parties, the court may not grant a divorce if it determines that the dissolution is in conflict with the interests of juvenile children, with the principle of community life, or if the divorce is sought by a spouse who is exclusively guilty of the breakdown of the marriage.⁸¹³

The court may grant custody to one or both parents, but in practice the mother most often retains custody and the father is granted visitation rights. Parents are rarely deprived of their parental rights; even in the case of family violence, the court may grant custody to both parents.⁸¹⁴ Child support depends on the needs of the child and the potential of the parent to provide support. Theoretically, a spouse who fails to pay support may be imprisoned. The principle of the "best interests of the child" is supposed to guide judges in family matters, but in abduction cases the court often gives custody to the parent whom abducted the child. In these cases, the judicial process is so slow that, by the time a solution has been reached, the child has lost contact with the other parent, and "in the

810. See Hungarian Rules of Law in Force, v. II, issue 1-2, Jan. 15, 1991, Act III of 1952 on the Code of Civil Procedure, ch. XV, ¶ 280(4) (providing a hearing before a divorce suit).

811. LADIN, *supra* note 223, at 57.

812. FAMILY CODE [FAM. C.] art. 56 (Pol.).

813. Przemyslaw Falczyński & Kaja Lecka, WARSAW VOICE, Nov. 6, 1994 (page references unavailable). If a wife does not do all the domestic chores and provide 'emotional services,' she is guilty of the breakdown of the marriage. *Id.*

814. Nowakowska Survey, *supra* note 397.

child's best interest," custody is given to the parent with whom the child is most familiar.⁸¹⁵

In Poland, division of property upon dissolution of a marriage is governed either by a premarital contract or, in absence of such an agreement, through a default option.⁸¹⁶ Under this latter course, only property acquired during the term of marriage will be divided. Each party will receive exactly half of the joint property, unless one party contributed significantly more to the existence of the joint property (a proviso that is rarely invoked).⁸¹⁷

Alimony may be granted under limited circumstances. If the divorce is on any grounds other than fault, and one of the parties does not have means to support him- or herself, the other party is bound to provide alimony for a maximum of 5 years after divorce. If the judge finds that one party is at fault for the dissolution in marriage, that party cannot claim alimony at all, but the "innocent" party can demand alimony for an unlimited time.⁸¹⁸ In practice, in Poland it is the woman who most often seeks divorce; she rarely receives alimony.⁸¹⁹

The most common reason for women seeking a divorce is domestic violence. Instead of providing relief, the cumbersome divorce procedure often exacerbates and prolongs domestic violence.⁸²⁰ In 1990, divorce cases were transferred from Family Court to Provincial Courts, courts of general jurisdiction with no prior history of involvement with divorce. This move made divorce less available, increased the cost of the divorce, and protracted the proceedings. As a consequence, "unhappy couples in situations where violence has occurred may have to stay together, and their misery may be compounded by economic conditions, dire necessity and the unavailability of other housing."⁸²¹

Beyond the protracted divorce provisions, the Family Code in Poland overtly discriminates with respect to the age of marriage and the use of surnames. The age of marriage for men is set at twenty-one and women at eighteen.⁸²² In addition, a woman, while

815. Nowakowska Survey, *supra* note 397.

816. Nowakowska Survey, *supra* note 397.

817. Nowakowska Survey, *supra* note 397.

818. Nowakowska Survey, *supra* note 397.

819. Nowakowska Survey, *supra* note 397.

820. Many women attribute ongoing domestic violence in their families to the difficulty in a divorce. See Marcus, *supra* note 322 at 14.

821. Marcus, *supra* note 322 at 14.

822. FAM. C. art. 10(1) (Pol.).

contracting a marriage, should make a declaration if she wishes to keep her surname. If she does not make such a declaration, she automatically assumes her husband's surname.⁸²³ Both of these provisions deny women's competence to make decisions and perpetuate a male model of decision-maker and head of household.

Romania:

Romania has a no-fault divorce law. After enactment of this law, the number of divorces increased significantly.⁸²⁴ Family violence motivates many women to seek divorce. Still, roadblocks to dissolution of marriage remain, such as a shortage in housing that forces couples to continue living together, a lack of information about divorce, and the cost of the procedure.⁸²⁵

Russia:

The Russian Family Code permits termination of marriage "by means of annulment by application of one or both of the spouses, or by the guardian of a spouse who has been found by the court to be incompetent."⁸²⁶

Spouses may establish a Marital Contract prior to marriage, which stipulates control of assets possessed by each before marriage and the status of property accumulated during marriage.⁸²⁷ In the event of disagreement or where the parties have not made a marriage contract, the matter is taken to court. Courts generally divide property acquired during the marriage evenly between the parties. If one of the spouses is deemed to be incompetent, due to alcoholism or because of criminal behavior or family violence, the legal principle of equal sharing of accumulated common property may be abandoned.⁸²⁸ In this case, court is instructed to act in the interests of underage children and of spouses who have been performing unremunerated labor for the household.⁸²⁹ Although the Family Code also provides for alimony⁸³⁰ in the case of dire economic

823. *Id.* at art. 25(1). See WOMEN IN POLAND, *supra* note 241, at 8.

824. *Romanian Consumers Face Tough Times*, MKT. EUR., Nov. 1, 1996 (stating that divorces in Romania are at the highest number in 65 years).

825. Grunberg Survey, *supra* note 681.

826. FAMILY CODE [FAM. C.] art. 16 (Russ.).

827. *Id.* at art. 34(1).

828. *Id.* at art. 21 (The "court may depart from the principle of equality in order to protect the interests of underage children or the reasonable interests of either spouse.").

829. *Id.* at art. 38(3).

830. *Id.* at art. 13.

circumstances, a woman seldom receives alimony, and rarely is the award sufficient or enforceable.

Serbia:

The Serbian law and practice on divorce and other family issues is almost identical to Croatia.⁸³¹ As in Croatia, a couple that has children must first appear at a Center for Social Work to try to solve their problems without divorce. In practice, "that means trying to convince women to continue to suffer violence. . . they will say, 'if anybody will divorce just because of one slap, marriages will disappear . . .'. . . they are not on women's side at all, but [rather] their role is to save marriages under all conditions."⁸³²

Should the attempt at reconciliation not succeed in keeping the couple together, either party may file for divorce. During the extremely protracted divorce process, most women have no choice but to stay living with their husband in the family home. Women's rights advocates in Belgrade report that many cases of severe domestic violence occur after women have already initiated divorce proceedings against their husbands.⁸³³

Under the family code in Serbia, everything gained during marriage should be split evenly between the partners. If a woman was not employed she still may ask for a half of everything because of her unremunerated contribution to the family. Although either parent may obtain custody according to the interests of the child, juvenile children are almost always given to the mother.⁸³⁴

Ukraine:

Either spouse may apply for divorce in Ukraine, however somewhat unique restrictions exist on the husband's ability to seek divorce. The Family Law provides:

The husband does not have the right, without the wife's consent, to bring a suit to terminate the marriage, while the wife is pregnant, or within one year after the birth of a child. The termination of marriage takes place in a legal process, although, if there is mutual agreement by the spouses about terminating the marriage, they can do so at the organs where acts of civil marriage are registered, if they do not have any children who are minors of 16 years.⁸³⁵

831. See *supra* notes 778-802, and accompanying text.

832. Mrsevic Survey, *supra* note 364.

833. Interview with Lepa Mladjenovic, Women's Center, Belgrade, Serb. (Mar. 1996).

834. Mrsevic Survey, *supra* note 364.

835. FAMILY LAW art. 38 (Ukr.).

These provisions purportedly are designed to protect pregnant women, women with young children, and young children in marriage. Martial property is divided evenly according to Ukrainian law: "Spouses have equal rights to property even in the case where one of them was occupied with housework, childcare, and/or for other legitimate reasons did not have an independent source of income."⁸³⁶

Parents have equal rights, and carry equal responsibilities regarding their children, even in cases where the marriage is terminated. However, child support awards are neither adequate nor enforceable.⁸³⁷

5. Lesbians And Single Women⁸³⁸

Albania:

There is no mention of lesbian relationships in the criminal code. The previous criminal code criminalized male homosexual relationships.⁸³⁹ Therefore, at this time, neither male nor female same sex relationships are criminal offenses in Albania.⁸⁴⁰ The issue of lesbianism is taboo in Albania; single women are treated as "abnormal" or "unfortunate."⁸⁴¹

Croatia:

None of the laws mention lesbian relationships. Single women and lesbians are in practice treated as "out groups". The word 'lesbian' is used as a derogatory and insulting word to any woman. Single women, if young, are regarded as "hunting" for a husband. If older, they are being regarded as having "failed" in their life.

836. *Id.* at art. 22.

837. Suslova Survey, *supra* note 269.

838. The category "lesbians and single women" has been used because of the similarities in discriminatory treatment that lesbians and single women face. Many unmarried women in CEE state that they are given the worst jobs, denied apartments and other social benefits, because they are not with men. Whether or not they are lesbians is rarely the motivating factor. Single women, in particular single mothers, have long faced discrimination. See Katarina Tomasevski, *Reproductive Rights, and Reality: How Facts and Law Can Work for Women: European Approaches to Enhancing Reproductive Freedom*, 44 AM. U.L. REV. 1037, 1039-1040 (1995). For an analysis of sexual minorities under international law, see James D. Willets, *Conceptualizing Private Violence Against Sexual Minorities as Gender Violence: An International and Comparative Perspective*, 60 ALB. L. REV. 989, 992-1006 (1997).

839. Zaka & Imholz Survey, *supra* note 369.

840. Zaka & Imholz Survey, *supra* note 369; but see Mitchell Symons, *101 Silly Laws that Put the 'X' into Sex*, THE PEOPLE, Feb. 23, 1997, at 24-26 (stating that homosexuality is banned in Albania).

841. Zaka & Imholz Survey, *supra* note 369.

Czech Republic:

The Czech Republic has no laws that specifically address lesbians. Although a growing lesbian culture exists in major cities, the topic is still mainly taboo.⁸⁴²

Women marry at a very young age in the Czech Republic and never-married single women are a rare but growing population. The number of single mothers has increased dramatically over the past eight years.⁸⁴³ The Czech Labor Code specifically recognizes single mothers, granting them extended leave for pregnancy and childcare. The law further stipulates that a single woman worker who is taking care of a child younger than three years old may not be fired unless the employer organization ceases to exist, is relocated, or is transferred to another ownership.⁸⁴⁴

Germany:

Since 1957, female homosexuality is not a crime. In some of the new federal states in the former German Democratic Republic, such as Brandenburg, the state constitution prohibits discrimination against homosexuals.⁸⁴⁵

Hungary:

Hungarian law does not criminalize homosexuality. Single women are not discriminated against in cities; in urban areas, being single is considered a shame.⁸⁴⁶

Kosovo:

Although the law does not mention lesbians, the medical establishment continues to treat lesbians as sick women and social taboos are quite strong. Some Kosovo Albanian women's groups are beginning to use workshops and publications to change social attitudes toward lesbians.⁸⁴⁷ Although single heterosexual women are in a better position than lesbians, single women face social pressure in Kosovo society as well.

842. Shaw Survey, *supra* note 216.

843. See *Czech Republic's Consumer Lifestyle Continues to Improve*, MKT. EUR., May 1, 1997 (stating the number of children born to single mothers has doubled in the past 20 years).

844. LAB. C. art. 1(a) (Czech Rep.).

845. Schultz Survey, *supra* note 571.

846. Interviews, in Budapest, Hung. (May 1996).

847. Ahmeti Survey, *supra* note 235.

Poland:

Lesbian relationships are not mentioned in the law of Poland. Treatment of lesbians varies greatly from indifference in some large cities to hostility in more rural areas. The Lustration Act—"on the initial conditions to take high positions in the Republic of Poland" provides that candidates for office can be disqualified for moral reasons. According to some interpretations, a questionnaire for candidates should include questions about sexual preference.⁸⁴⁸ This approach, although feared by human rights activists, has not been implemented.

Single women are mentioned in the law of Poland only in the context of single mothers. Single women may be stigmatized as they are deemed "incomplete" women unless they have a husband and children.⁸⁴⁹ The rate of marriages, especially in cities, is decreasing while the number of single mothers is increasing.

Romania:

On September 26, 1996, the Romanian Parliament voted to retain the infamous Article 200 of the Romanian Penal Code. While the newly adopted version of Article 200 no longer criminalizes all homosexual acts, it retains legal penalties for consensual homosexual acts between adult Romanian citizens. The law criminalizes sexual relations between persons of the same sex which take place in public or which cause a "public scandal" with a penalty of one to five years imprisonment.⁸⁵⁰ A 1938 Romanian law defines "public scandal" as "an act which becomes known to more than two persons who disapprove of it."⁸⁵¹ This vague language allows continued persecution, blackmail, and police harassment of gay men and lesbians in Romania.⁸⁵²

The only comparable provision regarding heterosexual acts is Article 321, which punishes "acts, gestures, words, or expressions which offend against good manners or cause public scandal," and

848. WOMEN IN POLAND, *supra* note 241, at 64.

849. Nowakowska Survey, *supra* note 397.

850. See Wilets, *supra* note 838, at 1009 (noting that Romania is one of the few European countries to criminalize homosexual relations; Romanian legislation provides between six months and three years imprisonment for private, consensual homosexual activity). The punishment may be more severe, up to five years, according to Deborah Claymon, *Gays in Romania Still Living in Fear*, S.F. CHRON., July 11, 1994, at A9.

851. Clarice B. Rabinowitz, *Proposals for Progress: Sodomy Laws & the European Convention on Human Rights*, 21 Brooklyn J. Int'l L. 425, 450 n. 132 (1995).

852. *Id.* at 452 n. 148 (discussing Romanian police reports that revealed physical abuse of detainees who were charged with committing unlawful homosexual activities (citation omitted)).

imposes a penalty of three months to two years imprisonment. Paragraph 5 prohibits, with a similar penalty, "propositioning or enticing a person to take part in sexual relations with a person of the same sex, as well as propaganda or association or any other acts of proselytism with the same purpose." This provision could be applied in such a manner that infringes upon fundamental rights to freedom of speech, assembly, and association, and persecutes all Romanian citizens who even present homosexuality in a positive light.

The number of single women in Romania is rising, although early marriage tends to be the norm. While single women are usually accepted in cities, in rural areas never-married single women are treated as abnormal.

Russia:

Russian criminal law no longer penalizes homosexual relationships. However, the Penal Code penalizes coercion to enter into a homosexual relationship.⁸⁵³

Popular perceptions about homosexuality are "overwhelmingly negative."⁸⁵⁴ Lesbians have reasons to fear for their professional and physical security. For women living in communal flats,⁸⁵⁵ for example, it is impossible to justify the long-term presence of a friend by explaining that this woman is a same-sex partner. Russia has a long history of institutionalizing and forcibly "treating" lesbians as mentally ill.⁸⁵⁶ Although this practice has abated somewhat, some Russian lesbians still report being forced to undergo "medical treatment" and family violence designed to "cure them."⁸⁵⁷ Under such circumstances, many lesbians marry in order to protect their economic, physical and social wellbeing.

Serbia:

Unlike in Russia and Romania, Serbian law never explicitly prohibited lesbian relationships or specified forced institutionalization of lesbians. Until July 1994, male homosexuality was banned by the Serbian Criminal Law⁸⁵⁸ but it did not affect the position of lesbians before the law and in the society. The general

853. See Sexual Harassment, *supra* notes 583-588, and accompanying text.

854. Grogan Survey, *supra* note 250.

855. Communal flats, apartments shared by many families, were a common arrangement in the Soviet Union, and they remain common in post-Soviet Russia.

856. MASHA GESSEN, THE RIGHTS OF LESBIANS AND GAY MEN IN THE RUSSIAN FEDERATION (1994).

857. Interviews with "L" and "M," Moscow, Russ., Feb. 1995.

858. CRIM. C. art. 101 (Russ.) (Indecent Acts Against Nature).

attitude towards lesbians in Serbia is negative and other members of the community do not take the relationship between two women seriously. The role of the woman is strictly determined by the tradition and there is a little tolerance and understanding for those who do not fit the preconceived image of a "decent woman".

Slovakia:

There are no legal prohibitions against lesbians, but social taboos are strong. The number of single mothers is rising, as are the number of single women generally.⁸⁵⁹ A recent survey found that eighty percent of women and seventy-two percent of men support the statement: "If a woman wants to have a child and bring it up without a man, it is her undeniable right."⁸⁶⁰

Ukraine:

The law does not mention lesbian relationships and there are no provisions pertaining to single women. In practice, lesbians are invisible in the life of society. However, international congresses of gays and lesbians have twice been held in Kiev. Single women are becoming more and more common in Ukraine and, according to women's rights activist Olena Suslova, they face no discrimination.⁸⁶¹

859. Suslova Survey, *supra* note 269.

860. Butorova, *supra* note 36.

861. Suslova Survey, *supra* note 269.