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An ethnographic study of domestic violence and divorce in Uzbekistan

What is more important, to be free or to be alive?

Kerstin C. N. Martínez

Lund University
Sociology of Law Department

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Supervisor: Rustamjon Urinboyev

Examinator: Reza Banakar

Abstract

The aim of this paper has been to provide a socio-legal analysis of domestic violence and divorce in secular Uzbekistan. The legislation express that men and women are equal to the law, that any kind of discrimination is forbidden and judicial divorce is possible. However, domestic violence is socially accepted through social norms and traditions while to seek divorce is viewed as a shameful act. Hence, a legal culture exists on the side of Uzbek legislation. In an effort to find the reason behind the persistence and continued prevalence of domestic violence two theories have been used, Ehrlich's living law and dominance theory. Ethnographic field research has been conducted in the city of Tashkent as well as in the Ferghana region, both situated in Uzbekistan, between January to April 2017. My results can be summarized in three main points: (a) victims of domestic violence are aware of their legal rights but prefer to follow the established legal culture instead of seeking legal justice, (b) experiences of domestic violence does not lead to divorce application, (c) Islam is used by formal and informal social structures to justify violence against women and shame the same from seeking divorce.

Keywords: divorce, domestic violence, dominance theory, equality, ethnography, gender equality, hybrid society, legal culture, legal feminist theory, living law, mahalla, Uzbekistan, violence against women.

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List of abbreviations

<u>Abbreviation</u>	<u>Stands For</u>
ADB	Asian Development Bank
CEDAW	Convention on the Elimination of all forms of Discrimination Against Women
DV	Domestic Violence
DRL	US Bureau of Democracy, Human Rights and Labor
HRW	Human Rights Watch
RoL	Rule of Law
UBHRRL	Uzbek Bureau for Human Rights and Rule of Law
UN	United Nations
UNDP	United Nations Development Programme
WC	Women's Committee
WHO	World Health Organization

1. Introduction

Every human being is equal before the law and entitled to equal protection without any discrimination, according to Article 7¹ of The Universal Declaration of Human Rights.² In 1979 the UN General Assembly adopted the Convention on the Elimination of All Forms of Discrimination Against Women³ (CEDAW), coming into force in 1981, when it became a human rights treaty. UN Member States were thereafter required to conduct legal obligations so that human rights could be respected, protected and fulfilled. According to CEDAW, equality can be achieved through policies and practices that include all members of society (it should not only be substantive equality), by carefully looking at formulation of laws, as well as at women's actual living conditions. It is through a combination of these three aspects that shows whether equality truly exists in a country (UN 2004, 9).

Global estimates from WHO indicate that 35% of women have experienced physical or sexual violence during their lifetime (2016). Statistics show that less than 40% of women who have experienced domestic violence sought assistance, out of which less than 10% wanted to get help from the police (UN Department of Economic and Social Affairs, 2015). Violence against women, no matter its form, sets roadblocks in achieving the objectives of equality, since it does not only violate and impair the enjoyment of women's human rights and fundamental freedoms, but it can also nullify that experience of violence (Women Watch, 2010).

Forty-five out of 195 countries have not regulated domestic violence in their legislation, and Uzbekistan is one of them (World Atlas, 2017). However, it did ratify CEDAW in 1981, while still being part of the Soviet Union. The post-Soviet Uzbek government made an official commitment during the period of independence to end discrimination against women, something that they have openly pursued by incorporating the CEDAW principle that expresses "equality of

¹ Article 7 has the title *Equality before the law* raises complex and important issues which concern the aspects of equality, fairness and justice.

² The convention was adopted in 1948.

³ CEDAW is one of the most broadly endorsed human rights treaties and has been ratified by about 90% of the UN Member States.

men and women in their legal system, abolish all discriminatory laws and adopt appropriate ones prohibiting discrimination against women; [...] to ensure the effective protection of women against discrimination...” (UN Women, 2009).

The present Uzbek society has and is still being shaped by its history, consisting of a combination of inherited socialist ideologies, the country’s Islamic religious background as well as by legal standards popular in the West. The country does have a legislation that partly follows CEDAW recommendations, namely openly stating that every woman and man is equal according to the law. On the one hand, the state has a legal framework that officially should prevent discrimination of gender to happen. Uzbekistan does not have a specific criminal legislation against domestic violence (OHCHR 2009, 3), however the current legal legislation should theoretically stop violence against women from taking place. At the same time, there is a legal culture⁴ with social and cultural expectations of domestic violence cases to be solved preferably within the family unit, creating an environment with own legal orders. Uzbekistan has through official statements expressed that women are equal to men, but the existing patriarchal society defends a patriarchal structure through its legal system where the very same legislation works against properly addressing concerns of women and gender discrimination. Real equality seems to exist only on paper.

This short background information can hence portray an open indifference to women who face violence in their household, creating a conspiracy of silence. Societal justifications of wife-abuse are made when it is considered to be a family issue rather than a criminal problem that requires intervention. Gender discrimination should not only be addressed through legislation but also where these attitudes of silenced conspiracy are rooted, such as culture, tradition, religion and interpersonal relations.

⁴ Legal culture, consists of values, ideas and attitudes that a society has with respect to its written law, is a concept that I will refer to throughout the rest of this paper.

2. Research problem

The Uzbek government has legal mechanisms that can be improved through Rule of Law (RoL) promotion in an effort to reach legal frameworks compatible with human dignity and fundamental human rights. In 2012, the OSCE organized a training course for Uzbek criminal justice officials so that the responses to domestic violence can become better. Two years later, an international joint RoL project began with the aim of strengthening “public access to and trust in Uzbekistan’s civil court system” (UNDP, 2013).

The Uzbek government is officially working with the implementation of CEDAW recommendations, they have a legislation that expresses equality between men and women, and try to improve their RoL so as to provide “better access to justice, developing the independence of the justice system and pursuing judicial reform” (Rule of Law Platform, 2013). However, a 2015 report written by the Uzbek Bureau for Human Rights and Rule of Law show that victims are impeded from getting justice because of reluctant law enforcement to accept complaints of domestic violence (FIDH, 2015).

The lack of definition for domestic violence in the Uzbek legislation could be considered to be one reason why this problem is not properly addressed. At the same time, abusers can be legally condemned if the Uzbek Criminal Code would be applied to this type of cases. Women would not only have to report the acts of violence to law enforcement officers, stand by their word and not withdraw it from the various legal instances, but also break out from the conspiracy of silence and eventual non-legal community sanctions.

According to the Asian Development Bank (ADB), if RoL is to be implemented properly then good governance, accountability and transparency are needed. ADB recommends proper application of laws and rules, something that requires not only the government to make sure they are followed but also the involvement of citizens participating in the governance process.

The legal culture in Uzbekistan affects the attitudes of its citizens on reporting domestic violence, in particular since this is considered to be a situation

to be handled within the family, without the intrusion of legal officials or institutions. This shows that women are restricted by society and recommended not to proceed with reporting domestic violence. How do women solve this problem if they refrain from reporting this? Do they proceed to divorce (something that they are legally entitled to) or do they refrain from that too?

2.1 Aim

Sociology of law is described as a multidisciplinary research orientation, situated on the border between legal science and social science, that looks into the relation between legal doctrines, legal practices and their social context in institutions and society (Cotterrell 1994, xi-xiii; Ervasti 2012). The conflict between legal culture and legal frameworks, make the topic of this study Uzbek women's perception on domestic violence and divorce interesting and relevant from a sociology of law perspective.

My aim with this paper is to provide a socio-legal analysis of domestic violence and divorce in Uzbekistan so as to understand:

1. Uzbek women's familiarity with law in relation to violence against women,
2. whether domestic violence influences women to seek divorce,
3. how society views violence against women and divorce.

The Uzbek government is officially promoting women's empowerment by implementing bottom-up government through neighborhood committees and female leadership through Women's Committees. However, the will to preserve culture through norms, traditions and values, does affect women's lives in particular if they are victims of domestic violence since they may feel restrained to stay within the abusive family unit instead of seeking justice and freedom.

The main contribution that this study will lead to is exposing a bottom-up approach of how Uzbek society through its legal pluralism affects women with domestic violence experience and their thoughts on divorce. Hence, the purpose of this thesis research is to examine, in the perspective of sociology of law, how

Uzbek women's legal perception is in relation to their experience of domestic violence and divorce.

2.2 Research Question

As mentioned previously, domestic violence is not specified or properly elaborated in Uzbek law. However, there are legislative codes which can be used to address cases of violence against women so that abusers are punished for their acts, specially since the law states that any abuse that cause injury should be punished. For justice to take place, reports of abuse have to be made. However, society believes that problems that take place within the family unit should stay and be solved there.

My main research question is:

Why does domestic violence persist and continue being prevalent in Uzbekistan?

In an effort to offer a deeper sociology of law analysis of the socio-cultural legal situation in Uzbekistan, I will also answer the following sub-questions:

- *What significance does law have for women in times of family conflicts?*
- *What is the overall acknowledgement of domestic violence victims and divorcees in Uzbekistan?*
- *How deeply embedded in society is the Muslim background of Uzbekistan in the secular country of today?*

2.3 Conceptualization

With the goal of conducting a transparent research, I want to clarify the concepts that will be used in this study, so that the readers can understand what I refer to when using specific concepts and wordings.

- *Domestic Violence* is an abusive act that can take place towards people no matter gender, social status or age. Occurs in an effort to show power over

another individual by leaning on threatening behaviours to intimidate, either physically or psychologically (The Advocates for Human Rights 2013; National Coalition Against Domestic Violence 2016).

- *Violence against Women* is a concept that refers to abusive acts directed towards women, becoming a gender based act done by men against women. This is one of the most systematic human rights violations that takes place all over the world (UN General Assembly 1993; WHO 2017).
- *Gender-based violence* is a concept that refers to violence that can be directed towards either men or women, and is therefore not based on one particular gender. Can take place all over society, both at home and outside of it, and is usually conducted due to expectations of the person's role in a society or culture depending on the gender.

The pure action of expressing power over another person through physical or psychological abuse is a human rights violation recognized under international law (Stop Violence Against Women, 2003). This act is rooted in social structures and can happen to individuals no matter age, educational level, geography or socioeconomic boundaries. Even though the three concepts mentioned above have similarities, gender-based violence is a terminology that I will not use, even though it also can take place. Since my group of interest is Uzbek women's experience, I have decided to use the terms domestic violence and violence against women interchangeably throughout this paper when referring to violence.

3. Background

3.1 History

The Republic of Uzbekistan is a country with a rich history that goes back to the beginning of the ancient Great Silk Road. It is a relatively new country that has old traditions and a legal background with influences from Islamic law (Shari'a), footprints from the Russian empire and Soviet era (Stalbovskaya, 2005), as well as modern attempts of reaching international legal standards.

During the 19th century there were three political entities (Bukhara, Kokand and Khorezm) covering an area that roughly corresponds to modern Uzbekistan. They were ruled by their own Khans before being conquered by Imperial Russia. These three Khanates had been ruled through two legal forms; one being Shari'a which is a legislation based on the Quran, the second being Adat, a type of customary law based on Shari'a. Later on came the Russian empire who conquered this area, the Russians tried to implement aspects of the European legal system into the colonized area's legislation, this in an effort to promote a uniform type of legislation throughout Imperial Russia.

Around a century later, the Soviet Union (USSR) established the Uzbek SSR through the Bolshevik government. The USSR used law to introduce and implement government policies throughout the society in a totalitarian manner, which led to policies being implemented all over the union no matter possible differences between the different SSR states; one of these social policies was the creation of a social welfare system (Kamp 2004; Urinboyev 2016).

3.2 Independence

Uzbekistan became independent from the Soviet Union in August 31, 1991. The government decided to focus on nation-building, something that had not been possible previously because of the country's colonized background. Statements were made where the totalitarian forms of Soviet governance were to belong to the past, something that fitted well with the neo-liberal global mindset and discourse of the 1990s. However, to go over to a complete different governance

system was not an option since that would have brought political instability, rapid policy changes were therefore put on hold. Uzbekistan's strategy for governance was to introduce gradual reforms (such as power decentralization) that would work well with Western neo-liberal discourse while also taking into consideration the economic situation, history, societal mentality and administrative traditions of the independent state (Urinboyev and Svensson 2013a, Urinboyev 2014, Urinboyev 2016). In December 1992 the Soviet constitution from 1977 was replaced with a new one (Stalbovskaya, 2017) and to this date work is being updated in an effort to transition to modern international, westernized, legal standards.

During the transition from the Soviet Union to a free and sovereign Uzbekistan, emphasis was put on traditional and patriarchal values. Uzbek authorities kept the maternalist Soviet legacy on the side of the muslim religious discourses on motherhood. There was also an increased number of governmental referrals to Islam and family unity, as well as introduction of governmental decrees, policies and regulations with the aim of saving families. These are some of the reasons that have sustained Uzbek customs and traditions (Kamp 2004; Peshkova 2014; Saktanber and Ösatas-Baykal 2000).

Before USSR, Uzbek cultural values were defined through religion. Pre-independence, religion was not allowed to be practiced openly, but many values managed to coexist with the Soviet legacy. Once the Soviet Union dissolved, the interest in learning and practicing Islam grew mainly due to its close connection with traditions and cultural values. Between 88-93% of the entire Uzbek population⁵ practice Islam, 99% of them Muslims are Sunnite of the Hanafi school (Brill Olcott and Ziyaeva 2008; Gaziev 2000; Global Security 2013; Index Mundi 2016). Followers of Hanafi school think that wholehearted belief in Allah and in the prophet Muhammad is the most important aspect, to neglect religious duties is accepted. Hanafi jurists view divorce as the end of a marital relationship by consent; men need to state that he divorces his wife by expressing "Talaq" and staying away from sexual intercourse with his wife for a

⁵ According to the latest census made in the beginning of 2016, the population consists of 31,575,300 people (Committee on Statistics, 2017).

period of 3 months. Women can also seek divorce even though their rights are limited to the following; if there is a contract where *Talaq* or *Talaq Tafwid* is stated, or if she returns part or all of her dowry⁶ to her husband. A third option, is that divorce can take place through judicial authority, however according to the Hanafi school this should only take place if the husband has not been able to have sexual intercourse with the wife or if he is missing (Mashhour 2005, 575).

Male dominance exists in post-communist societies and is expressed in contexts of politics, economics and culture. The issue of violence is directly connected with the issue of power, where patriarchal power structures normalize and legitimate male violence towards women by embedding it in cultural power structures (Aronson Fontes and McCloskey 2011; Fábíán 2010). Meanwhile, the state has emphasized women's importance within family life, something that has been further promoted through neighborhood committees known as mahallas (Freedom House, 2015). A woman is considered to be good if she forgives her husband's infidelity and does not proceed with divorce applications, since it is better for the family. Besides, in Uzbekistan marriage is considered to be about companionship and not about equality (Peshkova 2014, 112-127).

Government policies have been implemented with the aim to Save the Families, thereby fostering a societal importance to keep the families together at all costs. Married couples wanting to get a divorce need to go through a reconciliation process of 6 months directed by the Women's Committee (WC) leader from their mahalla, before they can get a certificate that efforts have been made to get back together and that there is no other solution than to divorce. The certificate has to be written by the WC leader, and is an important document to present when proceeding with the divorce application with a paid fee before appearing in court for when the actual judicial process starts, and hopefully be granted divorce. This background information shows that the decentralization process through legislation changes has not come that much closer to the western perspectives of women empowerment, instead it has perpetuated the dependance of women on both men and state.

⁶ Dowry can be an amount of money, property or symbolic gift which was given to the bride by the husband when they got married.

The distribution of welfare programs is another remnant from the Soviet era, and one mean through which neighborhood communities nowadays have strengthened power because of government decentralization. Non-legal sanctions, such as openly condemning those who decide to use legal means when there is a dispute, or not offering economic aid to divorcees are ways that mahallas use to make community members reevaluate their plans (Kamp 2004; Urinboyev 2011). Increased social restraints could lead to a divorced woman being shunned in the society and receiving little, if any, welfare support when needed.

3.3 Mahalla (neighborhood community)

Mahallas are particular types of institutions that exist in Uzbekistan, as well as in southern Kyrgyzstan where ethnic Uzbeks reside (REF/RL, 2012). They can be described in several ways; either as local or neighborhood communities, as state administrative units (Mickelwright and Marnie 2005, 431) or by their official name “Organs of self-administration of citizens”⁷ (Coudouel, Marnie and Micklewright, 1998). The size of mahallas cover a wide range starting from 120 individuals up to 1 500 households (Mickelwright and Marnie 2005, 431).

The exact year when this type of association was founded cannot be specified, nonetheless history tells about its existence as far back as the medieval times (Sievers 2002, pg.104-111). Mahallas are entities that have been described as “one of only a few effective traditional structures that can unite representatives of various ethnic and religious groups through the creation of a common identity based on shared residence” (Dadabaev, 2013). Mahallas have continuously been seen as a stable division in Uzbek society, for this reason political authorities have through history used them to introduce and implement their own policies. This took place during the Soviet period (by making the mahallas propagate Marxist-Leninist ideology), and is up until present times still happening although now portrayed in a manner of local self-governance (Kamp 2004; Coudouel, Marnie and Micklewright 1998). In fact, mahallas nowadays are seen as institutions that have both formal and informal structures; the formal is led by a

⁷ If you want to see how Mahallas are organized and structured, see Appendix 1.

state-salaried chairman who does not live in the neighborhood but cooperates with informal mahallas which are founded on traditional and moral ideas of solidarity and social restraints and led by older men (Sievers 2002, Urinboyev 2017).

Mahallas are patriarchal institutions, where the informal chairs are unpaid, respected residents of the neighborhood whose responsibility is solving conflicts and social problems within their communities. Studies have shown that mahallas promote traditional Islamic ideas that affects how community members behave and what gender roles should prevail. This is not something that is openly urged by the Uzbek government, but is a remnant from the medieval times when Islamic rituals and traditions were upheld by mahalla leaders, whom acted as religious advisors and administrators of the communities (Human Rights Watch 2003; Dadabaev 2013).

These neighborhood communities have a social responsibility, where they make sure that their members are cared for or receive help when needed, e.g. during weddings, housing constructions, charity contributions, funerals, and on behalf of the State while administering and distributing aid. The mahallas promote social control and urge the community to be loyal and keep a united front (Coudouel, Marnie and Micklewright 1998; HRW 2003; Kamp 2004). In return, mahalla members obtain access to collective identity, norms, public goods and social protection without having to interfere with the state. (Urinboyev 2011, 2017).

The Law on Institutions of Self-Government of Citizens (hereafter referred to as Mahalla Law) passed in April 1999, expresses that mahallas have a constitutional right to govern themselves through assemblies of citizens. They hold general meetings at least four times a year, and the board meet monthly. Mahalla Law state that the mahallas are to make sure that the interests of women are protected, strengthening women's role in society while making sure that morality and spirituality are perpetuated in the families. Short after the law about self-governed institution passed, the Posbon Law was approved too. This created a new position where a mahalla guardian, a so-called *posbon*, paid by the state to prevent crime, maintain public order and strengthen the societal environment as

stated by the government, basically be an intermediary between the mahallas and the police (HRW 2003, 7).

According to the Mahalla Law, the deputy chair of each mahalla has to be a woman who can act as a religious and moral advisor. Her main responsibility is to lead the Women's Committee and mediate when needed between women and their families (HRW 2003; Saktanber and Ösatas-Baykal 2000). The WC exists in all the regional administrations and consists of 8-10 members (Saktanber and Ösatas-Baykal 2000, 234; ADB 2014).

4. Literature Review

In an effort to scientifically investigate gender issues with focus on domestic violence and divorce, I have decided to divide the literature review into three parts, where I first look at previous academic work done relevant to my research topic, second at Uzbek legislation and third at policy reports from international organizations and NGOs. This will offer a view of the general development within this particular topic, but will also identify in what way my thesis can contribute to fill the gaps of knowledge.

4.1 Previous Research

A desire to preserve cultural autonomy is also used as an excuse for not eliminating harmful practices that inflict on women's rights (Saktanber and Ösatas-Baykal 2000; Fabian 2010, 1). The sociocultural context in predominantly arab and muslim countries is patriarchal, something that creates rules and systems of behavior meaning that it advocates male dominance and subordination of women (Douki et. al. 2003; Levitt and Ware 2006). Research indicates that in Arab culture, family members are expected to give up on their individual needs and well-being for the benefit and welfare of the family unit, even when family violence is persistent (Douki et. al., 2003). An open indifference towards DV exist since it is perceived as a private matter, and in an effort to preserve family honor a conspiracy of silence is justified instead of connecting it with social and criminal problems (ibid, 166). DV is not seen as a major concern in Arab and muslim countries⁸ since there is a perception that it only affects a small percentage of women. Independent surveys show that the affected percentage of DV is high, around 33,3% (ibid) which is a number that correlates well with data from WHO and the UN.

According to Levinson, DV depends on four sociocultural factors; sexual economic inequality, violence as a means of conflict resolution, male authority and decision-making in the home, and divorce restrictions for women (1989).

⁸ The specific countries included in the study are Egypt, Israel, Palestine and Tunisia. In these countries independent surveys were conducted on the perception of DV by the population.

Hajjar on the other hand states that DV in Muslim societies rely on four factors; Shari'a, intrafamily violence, struggles of women's rights, but most importantly on state power (2004, 5). The latter is considered to have the biggest impact on women since it does not only mediate gender relations through legislation but also because it can shape society.

In the Quran, in Sura 4:34 it is specified that a man has to go through several steps of anger management and conflict resolution before using violence in the form of symbolically hitting her with a handkerchief or with a small collection of flowered-plants. Any harm caused to the wife from this action justifies divorce (al-Hibri 2004; al-Hibri 1997). For this reason, violence against women cannot be traced to the holy script because as it turns out this type of acts are responsibilities of individual offenders and are not directly supported by the religion. Nonetheless, religion can be misinterpreted to fit individual's personal views in order to subjugate women as well as to empower the perpetrator offering him a Godly permission to do harm to others (Hajjar 2004, 4; Levitt and Ware 2006, 1177). There are Muslims who openly state that women have a "global responsibility to put aside her own needs" (Levitt and Ware 2006, 1183) when asked to do so by their husbands, but this would, according to al-Hibri, mean that women are willing participants in their own oppression, creating a sado-masochist situation that does not provide a positive family environment (2004, 196).

4.2 Uzbek legislation

Uzbek law hierarchy starts with the constitution, followed by constitutional laws, codes, ordinary laws, Presidential decrees, Cabinet of Ministers decrees, and finally normative legal acts (Stalbovskaya, 2017). The country's constitution explicitly elaborates in Article 46 that "women and men shall have equal rights", while before in Article 18 stating that women and men have equal rights and freedoms and that they are to be equal before the law without discrimination of any sort.

The legal system of Uzbekistan is constructed according to the civil law structure, where the legal codes elaborate how to proceed in different stances and what punishments should be given to offenders. In article 141 of the Criminal

Code (2012) it is written that “violation of equality”, including discrimination due to sex is forbidden and punishable by either fine, correctional labor or arrest and consecutive imprisonment; the latter sentences being caused by the degree of use of violence (Advocates for Human Rights, 2014).

Uzbek law does technically provide for equality between men and women, nevertheless women still face discrimination in the way that their roles are very limited in Uzbek society. A draft of law on the Prevention of Violence in the family has been formulated and amendments to specific articles in the administrative and criminal codes have been submitted but the law has yet not been adopted (ADB, 2014). Hence, Uzbekistan does not have an official law in regards to domestic violence against women. When injuries have been inflicted, cases of domestic violence can be prosecuted by applying articles from the Criminal Code.

Under the Criminal Code chapter 2 “Crimes Against Health”, to put a person’s life at risk while causing “intentional infliction of serious bodily injury”, severely injuring and affecting the victim’s capacity is criminalized (Article 104) and can give between 3-5 years in prison, a sentence that could be increased up to 10 years due to aggravating factors. Article 105 criminalizes “intentional infliction of medium bodily injury” making the action punishable through prison sentence or correctional labor of up to three years. Article 109 punishes intentional trivial injury with either a fine, correctional labor or arrest. Article 110 criminalizes systematic battery and tormenting, and is according to the law to be punished with correctional labor of up to 2-3 years, arrest up to 6 months or imprisonment between 3-5 years (Supreme Council, 2002).

The Family Code (1998) does protect women's equal access to equality within marriage, as well as the right to try to dissolve marriage on an equal basis. Divorce is to be carried out in a judicial procedure (Article 38), where the court will consider the case and has the right to postpone the proceedings of the case up to six months so that the spouses can reconcile instead of divorcing each other (Article 40).

4.3 Policy reports

Several reports have been published on the topic of Uzbek women and domestic violence, however they have been based on either interviews with people in the judiciary system and leaders of mahallas (Cooper, et.al. 2000; HRW 2011) or on other reports and legal documentation (ADB 2014; UBHRRL 2015; DRL 2015).

Legal, economic and social structures put obstacles for women to report domestic violence, in particular when the legal system encourages family reconciliation. When victims head to the Mahallas to get help, the leaders more often convince them to reconcile with their husbands instead of offering them protections and therefore abusers of domestic violence rarely face criminal convictions (UBHRRL 2009; 2015).

The few times domestic violence is reported to police forces is due to extreme abuse (Cooper, et.al., 2000). Law enforcement officials have little or no skills dealing with issues of domestic violence, sometimes discouraging the victims from reporting further since it is socially not accepted to handle this cases with legal interference. If the process continues, case investigations of DV tend to be prolonged and yield few results. If the case reaches the judicial system, the law is applied inconsistently since the law does not specifically prohibit DV, other articles in the Criminal Code have to be used by the court. Possible sentences on this crime result in either fines, corrective work or imprisonment (HRW 2011; UBHRRL 2009; UBHRRL 2015; DRL 2015). These types of criminal penalties could hurt the family economy since the abuser is usually the breadwinner.

The gender dimension of human development is progressing rather slowly in Uzbekistan, and then mostly when it comes to the development of national policy documents so as to implement CEDAW recommendations (ADB, 2014). Reports have shown that there is increased willingness in the society, in particular amongst the police force in Djizzakh and Ferghana, to handle cases of DV (ADB 2014; DRL 2015). However, these types of cases are for the most part still handled within the local communities through a warmly recommended mediation and reconciliation process, which means that victims and abusers seldom approach police force or pay a visit to the judicial courts since

The overall conclusion from these reports is that the lack of definition of DV in Uzbek legislation, and the social pressure exerted by the Women's Committees in the Mahallas on not talking about this matter openly limit the opportunities to reach equality between the genders despite plans and policies being implemented by the government. Since the mechanism that can monitor and evaluate the progress toward actual gender equality is non-existent, violence against women is considered to not be properly addressed in Uzbekistan (ADB 2014; Cooper et.al. 2000; HRW 2011).

4.4 Identifying the gap

The academic studies referred to above portray a combination of bottom-up approaches for data collection, where statistics have been collected in few other Muslim countries as well as through hermeneutics. They offer a picture of how violence and divorce is perceived according to Islam, which is important to have knowledge about specially when dealing with a secular country such as Uzbekistan, that nevertheless has Islamic influences. The policy reports are based on UN recommendations, legal documentations and collected data through top-down approaches.

In general, the review summarized above has made referrals to arab-muslim family units influenced by patriarchal dominance and expectations of women being subordinate, where loyalty to the family is considered to be highly important. Since Uzbekistan is a Muslim society, the same could be valid when it comes to individuals' and in particular women putting aside their own interests for the preservation of a united family; but research has not been done from this perspective previously.

Even though there have been recommendations made by the UN to put DV on the Uzbek legislative agenda, this has not happened yet. There is no statistics on how many women endure this type of violence in Uzbekistan, hence speculations can be made that DV is considered to affect very few individuals, hence expressing a shared opinion with many other muslim countries. The Uzbek government repeatedly states that the country is secular, nevertheless there has been an interest in preserving and promoting Uzbek culture and values, and since

these are deeply intertwined with the perception of religion it is not surprising that strings of Islam are incorporated in the current legislation.

The sociocultural factors mentioned by Hajjar are aspects that are fitting in this context, something that also has been explored by various researchers but not conjoined in one single paper. I am aware that norms and values (with vague links to religion) influence in Uzbekistan's way of handling domestic violence and divorce, but in what way is this experienced by the Uzbek society and in particular by women?

There are some obstacles when collecting information on the topics of violence against women and divorce. One of them is that to acquire that information you need to create an environment of trust and sometimes not even that could be enough, since family conflicts are generally not to be discussed with individuals outside the family unit or outside the Women's Committee. Another obstacle is to get a research permit in Uzbekistan to conduct a study on this particular theme.

For me it is important to understand the lives of Uzbek women to make a deep analysis on the interaction between law and society. My thesis aims to make the following two contributions: a) Collect personal experiences, thoughts of women and social interplay of those directly involved in cases of domestic violence and divorce, since this is something that is currently absent. b) collect male opinions about women's rights (within the family and society), abusive relationships and the perspective on approaching law enforcement bodies when crimes occur.

5. Theoretical Framework

As previously mentioned, Rule of Law promotions exist in Uzbekistan with the purpose of improving the current legislature. However, if expectations in societal change is to happen it has to be instrumentalized, and influenced by the social environment. Important to mention is also that if RoL promotion in Uzbekistan is to be a successful, then it is very relevant to look at the legal culture and at the jurisprudential reception amongst the population.

In Uzbekistan, as in many other countries around the world there is a legal culture that affects the perception of laws. My aim being the relationship between legal culture and legal frameworks, this leads me to focus on the practices around rules and norms amongst women in Uzbekistan, mainly because “[l]egal regulations do not legitimize themselves, nor by themselves, not even by the legal act which creates them, but by the fact that they are generally obeyed” (Fonseca 2015, 239).

Since the aim of this paper is to provide a socio-legal analysis of domestic violence and divorce in a society that officially has laws of equality between genders, opposes discrimination and accepts legal divorces, the very same society also has social norms and traditions that socially accepts DV and shames divorce, consecutively affecting decisions and everyday life. The theories I have decided to use, living law and dominant (legal feminist) theory, reinforce each other while analyzing the existing legal culture in Uzbekistan. Franz and Keebet von Benda-Beckmann explicitly mention that living law by itself cannot attain gender equality, however if a “more conceptual sophistication and theoretical analysis” is conducted, then predictions of appropriate means to reach desired social change can be made (2014, 87). Even though my intention is simply to provide a socio-legal analysis of the situation, I nevertheless believe that since this paper wants to expose the perspective of gender equality, a feminist theory can help to identify conditions from yet another angle.

5.1 Living law

The daily lives of people relied on cultural and legal codes, parts that could not be regulated entirely through the existing legal system in the Austro-Hungarian Empire (Deflem 2008, 90). The “cultural diversity and political instability” (ibid, 91) that was vivid back when Eugen Ehrlich lived, did affect and influence him in the development of living law theory. He had an interest in understanding how an ordered economic and social life could coexist next to legislation that was irrelevant in many domains (Benda-Beckmann 2014, 72). Ehrlich was interested in studying “the reality of law, more specifically a sociology of law that focuses on the social reality of law” (Deflem, 90).

His theory shows how Ehrlich viewed legal sociology, namely as one based on social associations defined by the understanding and knowledge that people have on what is considered to be proper conduct according to certain binding rules even though they are non-legal (ibid, 90, Machura 2014, 43). Hence, social life was not only guided by legal norms and statutes, but also by societal norms where the latter can easily be taken for granted further developing its own laws, and as expressed by Machura and Litvinova, this creates a legal culture with provision of legal norms (Machura 2014, 44; Litvinova and Machura 2014, 158). This sociological approach to law exposes an existing legal pluralist perspective. According to Ehrlich, the state was not the source of order of law in society but instead in how society organised the legal order through social networks (Banakar and Travers 2013, 43), law of society referred to as living law.

Ehrlich’s living law can be portrayed and expressed in a number of everyday actions, these being recognized as legal or not. Deflem elaborated this by stating that societal and cultural factors can affect how juristic law is developed, however living law cannot be affected in the same way by juristic law (2008, 91). After all, there is an amount of relations which take place within the parameters of society that are handled outside the scope of juristic law and legal propositions with the goal to acquire peace and cooperation. Thus, Ehrlich had the view that law would best be studied by reading legal documents, conducting daily observation of interactions and through systematic interviews (Machura 2014, 44).

Ehrlich (2002, 502) has stressed that it is very important to take into consideration local contexts as well as moral aspects when looking at how state law works within society. He has separated state-created law from non-state societal norms produced through association, since the latter is living law. Official legislation, statutes and regulations do not dominate everyday life, instead living law is the dominating factor since associations create norms, and in turn norms construct the standards and expectations of society. Living law can take place in several occasions because of the legal order of human society, which includes varying rules, moral standards, religious beliefs, ethics, etc.

Individuals's behavior follow rules of conduct which affect everyday life of groups, institutions and associations in society. This means that the legal culture decides and assigns each person a position and a function in society, which at times may go well together with the legislation, however in other instances it creates a pluralist perspective (Ehrlich 1922; 2002). Domestic violence and divorce can be part of a legal pluralist perspective; therefore, the use of living law as a theory can make it possible to identify specific normative rules, principles and decisions that have emerged and are followed in society; hence living law will facilitate to conduct a descriptive and analytical study of this specific theme.

5.2 Dominance Theory

Feminist jurisprudence believes that traditional jurisprudence is biased in favor of the male culture that dominates society, therefore equality has been interpreted to affirm men's cultural values as ordinary (MacKinnon 1987, 63). Patriarchy is described as "a social organization where men rule over women" (Napikoski, 2016) and simulate a system of "neutral legal principles and concepts" (Smith 1993, 290) that creates cultural norms which influence everything in and around society to reflect the male picture of reality and moreover the subordination and exploitation of women (Smith 1993, 294; Levit & Verchick 2006, 23).

If the true interests of a society are to have equal rights, then it is necessary to incorporate feminist goals into the legislation so the government can enforce equality effectively. For this to happen, cultural diversity and social change should be accommodated and adapted to (Smith 1993, 296), instead of making efforts to

preserve traditional norms, structures and values. As it currently is, the concept of “equal rights” is seen as a philosophical one rather than as a fact by the Dominance Theory.

This theory looks at the power relations between the genders, and states that female experiences of inequality are results from the patterns of male domination due to male societal privileges, expressed through social institutions to a system cultural beliefs. When it comes to domestic violence, this theory has the standpoint that it takes place because of “complex patterns of force, social pressures, and traditions...” (Levit & Verchick 2006, 23) where the rational men have to control emotional women, something that is supported by major societal institutions, enforced through individual relationships. Ideas that support families’ unity over opposing battering, even though they may be formulated in a gender-neutral way, are ignoring victim’s perspective of violence, thereby exposing this to women as something they have to live with (MacKinnon 1987, 92; Levit & Verchick 2006, 191).

6. Research Design

To investigate the previously mentioned research problem, I have used qualitative techniques while conducting an ethnographic field study between January 15, 2017 - April 30, 2017. With no previous connection to Uzbekistan, I have been able to observe Uzbek society with fresh eyes, learn and understand the rules, routines, and cultural meanings. Because it is difficult to acquire a research permit in Uzbekistan, I was enrolled in a university in Tashkent where I studied courses in criminal law, criminal procedure, Muslim law and Uzbek language.

Besides being active in university life, I tried to join as many social events as possible so as to get acquainted with Uzbeks. Because of this, I have been able to observe situations that happen on everyday basis, but also discuss on a friendlier level topics about relationships, crimes, approaching law enforcement officers, domestic violence and divorce, by applying a problem-oriented perspective instead of trying to relate to technical legal aspects.

My bi-focus has been on collecting data undercover during fieldwork in Uzbekistan by using qualitative methodologies such as participant observation, conversational informal interviews and in-depth semi-structured interviews. My language skills in Russian and Uzbek have been very basic, therefore I have employed research assistants fluent in English who have assisted me during fieldwork in the cities of Ferghana and Tashkent. When possible, data has also been collected in English and German, languages that I am fluent in.

6.1 Methodology

The aim with the following methods, was to obtain data that would generate an understanding of the legal culture through Ehrlich's living law in combination with dominant feminist legal theory. These two theories will support each other to portray Uzbek women's point of view when it comes to reporting DV to law enforcement officials and/or seeking divorce.

Ehrlich's general approach was to study law within the social context in which it was situated by observing daily activities, interviewing and analysing

legal documents (Benda-Beckmann 2014, 72). Typical methodologies used within feminist jurisprudence include *Unmasking Patriarchy* by analyzing the legislation, conducting *Contextual Reasoning* by paying attention to personal and social stories, and lastly through *Consciousness-Raising* where women share experiences to see that their experiences are not isolated events but rather the opposite (Levit & Verchick 2006, 45-50).

I have in chapter 2 (Literature Review) portrayed the current legislation, and I will not be analyzing any legal documents in this paper. However, since my goal is to find the dominant opinions and habits of primarily women, I have decided to use the three following methodologies to acquire results; participant observation, informal interviews and accumulation of personal life stories to reveal gender assumptions through Contextual Reasoning.

Method 1: *Participant observation*

Scientists have confirmed participatory observation as the best way to learn, in detail, about complex social phenomena by moving into the community of interest for an extended period and drawing on several discrete methods of formal and informal data collection (Hammersley and Atkinson 2007, 3). Participatory observation involves the researcher participating, overtly or covertly, in people's daily lives for a time period, observing, listening, and/or asking questions through informal and formal interviews, and collecting field notes - in fact, gathering whatever data are available to shed light on the emerging focus of inquiry.

The goals with this particular type of technique is to 1) understand the situation that women in Uzbekistan go through when it comes to domestic violence by observing the form of informal chats and conversations that arose on the spur of the moment, 2) understand how and why women act in a specific legal cultural aspect even though there is a juristic law that specifies the rights women have in the society.

This methodology will be carried out in social settings, like university and cafeterias. It is important that the observer does not lead or influence the questions and information given during the interview. By conducting this method, I try to get information from one respondent group, to reinforce my second methodology

as well as get an understanding of the actual reasoning behind the existing legal culture in Uzbekistan.

Method 2: *Informal interviews*

When conducting natural conversations with a participant, various topics can take place with free-flowing questions where the issue of interest by me is conducted with interchangeable roles of listener and speaker. The conversation may start with no conscious structure but will soon develop into a directed path because of the research paradigm. This methodology can be continued in the same conversational manner at a later stage when appropriate, because of this I can add more structure around the topic in future conversations.

Through this methodology, I can obtain data corresponding to the respondent's own experience and knowledge. Because of this, it is important that I do not influence by asking leading questions.

Method 3: *Semi-structured interviews*

Daily lives of people matter, and so do their personal life stories. In an effort to acquire personal life stories, semi-structured interviews were conducted with participants. This methodology is mostly used within the field of anthropology to provide qualitative research. In an effort to create a better context of social life and events, this method will be able to portray sensitive female experiences, such as incidents of domestic violence and circumstances around applications for divorce.

By using this method, the idea is to be able to acquire historical knowledge about a few individuals so as to be able to put their experiences into a bigger context connecting it with the bigger picture of history in society.

6.1.1 Research ethics

It has been up to me as a researcher to be responsible by being beneficent, to be sensitive to cultural differences, to avoid doing harm to the participants, and “protecting the autonomy, wellbeing, safety and dignity of all research participants.” (Iphofen 2015, 11). The three methods used to acquire data raise

ethical issues were supported by a number of principles of research ethics as developed by Lund Research Ltd/Laerd and Iphofen. Neither me, as a researcher, nor the participants, were put at danger nor will be because of the following developed ethical aspects.

I conducted *undercover research* in the sense that I was not open with my research goal with every single person that I met, since it was not feasible to let everyone know what I was doing. At first, I conducted participant covert observation in an effort to get to know who could be possible participants in my research. This in itself can be viewed as a form of deceptive practice, especially since participants in this particular method were not asked to give me informed consent. However, once I got acquainted with them and received their contact details I avoided conducting practices that could be perceived as deceptive while proceeding with the other methods. The justification to why I used the method of observation as a first step, is that I did not have a network that I could lean on at first and had to get to know people in public settings.

Once we had shared contact information with each other and met a second time on our own, I made sure to minimise risk of harm and discomfort, for myself and for participants, and maximising benefit by elaborating my ultimate goal of collecting data as part of my research. I made sure to let them know that I would like them to partake in my research and explaining that I would primarily want to conduct informal interviews and get to know them, secondly more in-depth interviews that turned out to personal life stories.

A cornerstone in this process has been to protect anonymity and confidentiality; which I proceeded with by agreeing with the participants to present their gender, age, academic/professional background, marital status. The name of villages in Ferghana province have been altered to made-up names to protect confidentiality. My respondents' names have been coded and anonymised so as to not expose their true identities. Since three of the informal interviews developed into in-depth interviews, I then addressed that not only would I make sure to make conduct an even stricter participant observation, but I also was transparent with my interpretation of their stories, and got permission to quote them if I would decide to use it in my thesis paper. Information was also given

that they could at any time let me know whether they did not want me to use the collected data.

6.2 Data collection

Empirical material in the form of primary data has been collected during fieldwork in the cities of Tashkent and Ferghana. My data collection strategies have been to conduct participant observation, informal interviews and in-depth interviews as follow-up to informal interviews.

6.2.1 Participant observation

Participant observation required of me as a researcher to participate in daily activities of those being observed, whom were selected through a combination of two sampling techniques, namely selective and convenience. The reason to why these two techniques were used was in an effort to be flexible and have the opportunity to interact in a number of socio-cultural contexts that have meanings for the participants.

While participating in university courses, I was approached by students who wanted to get acquainted with me. When they talked with each other most of the discussions were about university life, but I continued joining them to see whether they did start talking about issues of violence against women and divorce. Outside of university, I attended social events e.g. quiz nights and other social gatherings, and got in that way acquainted with probable participants where I observed the ongoing discussions. My observations were written down as observer notes every evening, so as to help me know who I could approach in the next step of my data collection methodology.

6.2.2 Informal interviews

When I conducted informal interviews to obtain primary data, I used purposive sampling when choosing my participants. Through this sampling technique, it is important to rely on my selective choice of participants.

After two separate lectures in university, one being in Uzbek criminal code and the other in Islamic law, it was easier to follow the discussions among my

classmates and see who touched the topics of interest for my study. This led me to approaching probable participants individually, and at neutral places (cafeterias, restaurants, walks in the park) I laid out my intentions. A total of 13 participants decided to join in my study and in the informal interviews conducted only in neutral spots. I met with them individually between 2 to 7 times.

Outside of university life, I decided to approach people who had briefly talked about marriage, hardships in relationships during social events where I had participated. After having exchanged our contact details, I suggested to meet on neutral spaces with each possible participant. At our first individual meeting, I explained my purpose and ended up with 13 candidates willing to participate and meet. One time I conducted an informal group interview, since the participants were friends and open to have this done in this way. The meetings with the respondents varied between 2 to 5 times.

I also got in touch with two Mahallas through acquaintances, where I explicitly asked to meet the female leaders of the Women's Committees so as to conduct interviews about the situations of women in their villages. I conducted two interviews with each leader during a period of 1,5 months; first interview was conducted in the end of February and the second in mid April.

Before the interviews started I asked the participants to fill in an Interview Consent Form, which can be found in Appendix 2. During the interviews, I recapitulated what had been said so that my perception of the meaning would be correct. The collected information was transcribed into notes after each interview. The notes are to be analyzed through the lens of context-social structure, where analysis will be made on the social structure expressed in conversational interactions (Schiffrin, et al. 2003, 354).

6.2.3 In-depth structured interviews

Personal life stories were collected after having acquainted individuals who were open with their experiences, as a continuation of the previous informal interviews. This method did challenge me as a researcher on understanding the historical

background and context of why individuals have particular behaviors, why and what have influenced them to make different choices in life.

After I had conducted the informal interviews, I kept in touch with three women who had been relatively open with their experiences and suggested to meet for lunch and/or dinner at a place of their chose to continue with the interview on a deeper level. Once I met with each of them individually, we did not at once dive into the topic of interest but talked about random situations that had been going in our lives, about differences between our societies and soon thereafter we came into the actual in-depth interviews. I had prepared predetermined questions which would help me conduct the interviews in a semi-structured way, something that you can find in Appendix 3. With the three female participants, I carried a total of 5 meetings and I had the same approach here as with the more superficial informal interviews, namely that while the interview was ongoing, I made sure to recapitulate what had been told to me in an effort to have the correct version of their story. Short after the meetings, I wrote down the information by transcribing our meetings into notes.

6.3 Data analysis

The empirical data of this study consists of a combination of observer notes and diaries, where I elaborated on the events, observations and statements done. They have later been transcribed so that individuals and names of villages have received code words. The informants were codified by receiving letters from the English alphabet,⁹ the two villages received fictional names and the female leaders of the villages have been referred to as leaders of each WC. The age range of the participants has been between 19 to 60 years old.

When I was done with data collection, I divided that the data into five categories; *to be free or to be alive?*, *Marriage*, *Domestic Violence*, *Divorce*, *Personal life stories*. These categories helped me outline the empirical data in a structural order for the actual analysis.

⁹ I interviewed a total of 26 people (except the two leaders of 2 Women's Committees), and the English alphabet consisting of 26 letters applied well to this type of coding.

Previous research that has been presented above, is to be further developed and situated with my accumulated data. It is important to keep Uzbek history, culture and legal background in mind to better understand the relation between legislation, legal culture and the personal perceptions and experiences of domestic violence report and divorce.

6.4 Limitation

There are limitations due to the use of ethnographic research, since it cannot be replicated nor reproduced. Because of the natural setting, the level of reliability is low. Another issue that arises is that I should try to remain objective to facts and information, while not putting a judgment on the data collected. A third limitation is that I do not speak fluent Uzbek nor Russian which could affect the overall study. Yet another limitation is that my research assistants were male, making it difficult for women to openly express themselves and their experiences because of this.

My main goal with the overall research is to have a flexible ontology, epistemology and methodology so that I can understand individual's experiences with as much validity as is possible. In order to address the limitation of validity and reliability, triangulation can be used by using a third data source or another data collection method (Nurani 2008, 445) such as official statistics. This means that the results of my field research can show both real findings on the situation for women and support my analysis with a different collection method conducted by an independent party.

7. Ethnographic data and analysis

My focus when conducting fieldwork in Uzbekistan was to collect ethnographic living law data through participant observation, informal interviews and semi-structured interviews so as to understand women's opinions in regards to domestic violence and divorce, and to see how interweaved varying aspects of social culture are in relation to reporting crimes to law enforcement bodies. In order to reach my aim of providing a socio-legal analysis of violence against women and divorce in Uzbekistan, it has been essential for me to understand the formal and informal structures of everyday life. In conversations with female interview subjects, I had possibility to understand the level of familiarity they have with Uzbek legislation, how they view battering and violence, and whether experience of violence lead to divorce applications.

During my stay in Tashkent, I had to get accustomed to a new reality, a reality where the police because of security reasons had to go through my bags if I wanted to enter the subway, use the pedestrian tunnel to go to the other side of the street, enter the central train station or simply buy tickets. In the beginning of February there were two bomb-threats in Sweden¹⁰ something that I mentioned to a classmate. His immediate response was that if we would raise our security controls in public areas so that it would affect every individual (no matter looks or background), in the same way that is done in Uzbekistan, then the problem of terrorism would be solved. My response was that I personally cannot imagine Swedish people accepting that opinion since it goes against the principle of freedom. In response to my comment, he then asked me a rhetorical question: "*What is more important, to be free or to be alive?*" Even though this anecdote that I brought up is not related with the topic of this paper, the question he asked me has been persistent throughout my entire field study.

¹⁰ The bomb threats were directed at two regional trains. The Swedish police force acted by making the national rail company shut down all traffic from and to the cities of Stockholm and Gothenburg during a couple of hours. The threats turned out to be false alarms. (The Local SE, 2017)

In the city of Ferghana¹¹ I got the opportunity to meet female colleagues of a newly acquainted German friend who works there as a language Lecturer. She introduced me to a group of 5 women, their age ranging from 32 to 60 years old, and they all have between 2 to 6 children each. In a typical “let’s get to know each other”-manner we started talking openly about ourselves and our families. They mentioned that life has been good to them since they have been able to study and now are working at university while being happily married, with all the responsibilities that entails. The duties they have at home consist of waking up early in the morning to do *Supurgi* (clean the porch and street outside of the house where they live), prepare breakfast, wake up the children and the husband and take the children to school before going to work. When the working day is over, they usually need to pick up the kids and head home to make dinner ready in time for when the husband will be back. Thereafter, it’s time to sit with the kids to help them out with homework and do chores. The husbands, being the head of the household, have to rest at home and the children are not to make too much noise. From time to time, when their husbands want some space they head to meet their male friends at *Choyxona*¹² where they enjoy themselves with food, tea and vodka. Looking at this situation through the lens of dominant theory, it is possible to focus on the power between the genders and see the subordination of women in society.

These women expressed their awareness of oppression when they told me that they are aware that they have more duties at home than their husbands, but at the same time they mentioned that they have the freedom to choose what to do in their lives. However, there are limitations within the concept of freedom or as they put it “what is considered to be freedom within Uzbek culture.” According to the interview subjects, women have the same rights and possibilities as men, something that according to them is proved by them having been able to live abroad. The female respondents expressed an internalized belief of freedom for women being different than male freedom, something that exposes that “equal and

¹¹ Ferghana is situated in the Ferghana valley, east of Uzbekistan. It takes approximately 5,5 hours to get there from Tashkent by regional train.

¹² The meaning of Choyxona is literally teahouses that act as restaurants.

fair gender relations” (Levit & Verchick 2006, 11) is not fully existent more than on paper in Uzbekistan.

Some of the women expressed gratitude towards their mother-in-laws, for allowing them to make trips abroad even though it was within their job description. After all, freedom as a married woman depends on the freedom granted primarily by the mother-in-law. If the latter would say that the woman has to stay at home then that would be the final word, and it does not matter what a grown-up woman wants to do herself out of her own will. They made it obvious for each other and me, that there are micro-inequities in their lives which is caused by the male privilege in Uzbek society. The sociocultural expectations typical for arab countries (as mentioned by Douki, et. al. 2003), where family members are expected to give up on their individual well-being and needs for the benefit of family interests, if that is what is expected or demanded by them, is something that is recurrent in Uzbekistan as well.

I got to observe this limited, by the mother-in-law, freedom when I was invited over to a dinner in the suburbs of Ferghana city. We were done with dinner at 7.15 p.m., when one of the women’s (hereafter referred to as W) phone started ringing but she did not manage to answer before the ringing stopped. She looked at her phone, expressed that it was her mother-in-law while blushing. W explained that if it would have been her husband, she would not mind that she had a missed call but a woman always has to answer when mother-in-law calls. Shortly thereafter her phone started ringing again and she answered while she kept staring at everybody who were sitting in silence, so as not to put W in a bad position, while she talked on the phone. She smiled, responded to the questions asked on the other side of the line with short answers while she grinned. Even though my Uzbek was at beginner’s level, I understood that she was lying to her mother-in-law. When the conversation ended, W explained that she had to leave immediately since she had lied to her mother-in-law that she was already on her way home. As a woman from the West, I was surprised that a 31 year old woman could not decide on her own how long to stay out with friends and that it was in basically, in their view, shameful not to be home that late in the evening. Freedom within the context of being an Uzbek woman appeared to be limited indeed. This

is one of the informal rules and practices that exists for women and that basically dominates their everyday life, living law in the sense that they have timeframes to follow and are not to stay out too late in the evenings. Social life has developed its own laws (Machura 2014, 44).

Married life in Uzbekistan

There was a Poetry Slam competition with participants from all over the Uzbekistan held at the Goethe Institute situated in Tashkent¹³. The winner wrote a poem about the female circle of life, which starts with a 23 years old woman who is about to finish her academic studies. She is constantly told that it is about time for her to get married. The young woman starts wondering how she will get hold of a man, perhaps cosmetics or fashionable clothes would get some the attention from men? She ends up realizing that what would make her the most desired bride-to-be is to perform *Supurgi* every day at 6 in the morning, that way she will show that she is good wife material. The circle continues with her getting married and moving in with her husband and his parents as is expected, followed by a time of discussions and fights where she is the family member with the lowest rank. She becomes a respected family member when she gets her first child, however she does not get to choose the name of her daughter (the mother-in-law does it instead) and she still has to perform all of her household duties. The poetry ends with the bride's 7 years old daughter who gets the duty of sweeping the street, and starts learning one female chore that has to be done that also will show what kind of wife she could become.

There are several interesting aspects that the poem mentioned. There are societal expectations that women should get married, have a submissive behavior and know about their (learned) helplessness throughout life. Another interesting aspect took place during the presentation of the poem. The audience, mostly consisting of young Uzbek men, were all laughing in the beginning of the slam and the more the participant proceeded with her poem, the jolly atmosphere changed gradually and at the end the only thing that could be heard was the poet. I

¹³ Goethe Institut Usbekistan, *Radmila Rasuleva - Gewinnerin Des Poetry-slams* (2017). Available at <https://www.goethe.de/ins/uz/de/kul/sup/kum.html>

had many questions by that time; were the Uzbek participants disappointed with the poetry slam and its message? Did the silence appear because they could recognize themselves in the situation that was being described? Were they thinking about how the differences between women's and men's life circles? How could a male life circle be portrayed?

When it comes to the male perspective, a classmate (codename Z) told me that his mother and paternal grandmother are very keen on him getting married as soon as possible even though he is only 23 years old and would not have the possibility to support himself, much less another person. He plans to marry at the age of 25 to somebody that his parents will choose for him, mainly to please them. He has never once considered if he even wants to get married, to him it is obvious since that is the social expectation that exists. You are supposed to get married and have many children, or as he put it "as many as God would give you". He hopes that his future wife will be able to carry their first child within the first year of marriage, as Uzbek culture expects. This is one method that strengthens traditional patriarchal structure, where it is important for heterosexual couples to have children soon after marriage. Z continues with saying that he would without a doubt consider getting a divorce if no children arrive within the specified timeframe of 1 year, because he would not want to hear gossip from the neighborhood. What others think of him is very important. The thoughts that Z has shows that everybody, no matter the gender, is a victim of patriarchal culture since it affects people's ideas, attitudes and social behavior. It is considered to be more important to have proper social-attributes and fit well with the roles defined by society.

"Matrimony is holy"

Z states that he plans to continue living his life in the same way that he does now when he is single. This means that he will continue meeting his male friends once a week and go to Choyxona. He pointed out that it is very important for men to create this male fellowship since it is in men's nature to get away from the family, after all men are the ones who work and traditionally support the family. And

besides, women don't have the same need to meet with friends, they are nurturing and can be with family the whole time, "to be a caretaker of children and home is not really a tough job" according to him. This statement shows how patriarchy reinforces a system of beliefs of how people are to behave according to specific gender roles, men with their masculine attributes and women with their feminine ones.

The visits to the Choyxonas seem to be popular in Ferghana too. When I was visiting Ferghana, I went to one that had mainly male clients. The only women who were present were three foreigners, including myself. I started talking with a 21 years old Uzbek male university student (hereafter referred as G) who mentioned that marriage is a holy act to be respected. He started talking about the weekly plov¹⁴ meetups, upon which I asked what topics are popular during these meetings. G answered quite openly that the main talks are about sex. Once the guys get married they do not talk about their married, sex life, nonetheless the topic is still on the table and it includes sex that the friends have outside of marriage with other women. According to this informant, the wives usually know little about these extra-marital relationships, but even if it would be out in the open not much would happen. Women would continue living with their husbands. I was perplexed by this and asked how come? G's answer was that society shames divorced women and therefore they prefer to stay in bad relationships.

The expectation of women remaining in marriage even though they are being disrespected. There are different expectations and solutions depending on gender, which features that society has been shaped by and for men primarily, a group that therefore has "larger shares of power and privilege" (Levit & Verchick 2006, 15). Men, considered to be the heads of the household, are to be tolerated and accepted, hence any violence against women is to be tolerated too (ibid, 23). Living law is here expressed in the way that society does not publicly condemn this type of behavior.

¹⁴ Plov is a typical Uzbek dish.

During my field research, I got the opportunity to talk with two leaders of the Women's Committee in the villages named Mirzo and Ulugbek.¹⁵ Both of the female leaders explained that their responsibility was to take care of family conflicts and to make sure that people stay married, since marriage is something that is holy according to Shari'a and their culture. Marriage has to be preserved at all costs. When I asked the leader of Mirzo what she does when it comes to her knowledge that domestic violence takes place in her mahalla, she joked it off while saying that such events happen very rarely and that they are so few that they are not even worth mentioning.

This shows that domestic violence first of all does not have to be only physical and done by somebody in an intimate relation. Violence against women can also be performed by society, where the latter can be involved in abuse from a psychological perspective especially when solutions to problems such as DV are not offered. Thus, conspiracy of silence is promoted making any experience of violence to be nullified and not worthy of discussion. This automatically leads to decreasing the openness to measure recurrent violence against women, and if problems are not mentioned and discussed they do not have to be considered either.

The leader of Ulugbek's Women's committee was more open to tell me about her experiences. She explained that mostly women come to her when they have a conflict in the family, men can do this too but usually happens only in emergencies and to a lesser extent. If individuals would want to get divorced, a mediation process has to be started. It is a necessity for couples to go through this process before moving on to the legal application of divorce through a court. If she would let people get divorced whenever they asked for it, the number on divorced would be visible in statistics and since the regional offices encourage the mahallas to keep the numbers down, increased divorces in her mahalla would be very bad since it would imply that she is a bad WC leader.

She continued by explaining that her initial goal when mediating during the period of six months, was to find the source of the conflict first and who is

¹⁵ The villages are situated in the greater area of Ferghana. The names are fictional.

responsible for inciting the problems. If the woman is responsible for them, perhaps because she provokes her husband and makes him angry then she has to change and know better than to irritate him. When domestic violence takes place within the family, it usually stays there. However, the leader emphasizes that it would never take place without warnings. The wife is to be told to stop her behavior or to act in a proper way twice, before any eventual hitting takes place. If she would complain, and it would come out that she was correctly given a heads-up before the abuse started then it is her fault and she should have known better than to annoy her husband. If this is to be analysed through dominant theory, these opinions uncovers the societal structures where men are valued women (Levit & Verchick 2006, 24).

Traditional views promoted as Islamic ideas creates a sociocultural factor where intrafamily violence is accepted at the same time as women's rights are disrespected. A man can hit his wife causing her harm. The legal culture considers that it is within his rights as the leader of the household to behave in this way. This portrays the Uzbek living law perspective and its relation with the actual legislation, where the act itself should be condemned but the man should also be prosecuted. According to Islam, this should be a valid excuse for the woman divorcing her husband, specially if harm has been caused.

My analysis leads me to look close at the connection with the Muslim Sunni school that is prevalent in Uzbekistan. The Hanafi school being the dominant one in Uzbekistan affects the turnout of this type of cases; men do have more rights to seek divorce by simply renouncing their marriage but if women want to seek legal divorce and not only religious she should do it only in cases where matrimony has not been completed. The reason why I mention this, is because the Hanafi school narrows down the options for women to have equal rights when seeking divorce, but also the patriarchal structure normalizes and even legitimizes male violence (Levit & Verchick 2006, 25). The two of them together oppress women by making it socially acceptable to face domestic violence and still remain in marriage because that is what is expected from society. At the same time, this is everyday living law for women and men, since this is defined by the "circles to which people belong" (Machuar 2014, 44).

If the mahalla leaders would hear that violence is taking place in the community, they would head over to the family to try stop the battering and give out warnings. However, according to the Uzbek community legal culture, you are not to involve outsiders to your own problems and issues, violent acts would not be reported to the police since that is considered to be a very shameful act. It happens that women, instead of reporting to the law enforcement instances, move back to their parents to get away from their abusive husbands and are welcomed with open arms.¹⁶ However 2-3 weeks after their open welcoming the parents would urge their daughter to return to her husband because that is her correct place to be, next to him. Public condemning of the act of violence directed to women seems to be non-existent, and instead to be socially accepted in society. There are no expectations on men knowing how to conduct themselves according to the laws, once again proof of the societal structure run by and for men (Levit & Verchick 2006, 24). Instead, what is established and maintained is the overall male control over women where the latter are to follow societal norms and gender norms to a greater extent than men and proceed on living with their learned helplessness.

The WC leader of Ulugbek explained that if the man is responsible for the problems in the family, he is to apologize for his behavior and the woman is supposed to forgive him. If the wife refuses to accept his apology, then she gets a time of two years to reconsider, which basically means that she is not allowed to get the needed documentation¹⁷ from the mahalla to apply for divorce. After the prolonged waiting period, if the woman still wants to get a divorce, then the leader will agree to it. When that mahalla certificate is presented, the divorce applicants can submit their official application of divorce to the court, and pay the divorce fee. Hearings will take place where husband and wife meet in court and elaborate on the case, but they can also be postponed if the attorney and/or judges

¹⁶ A quote that is often told is *Mening Kichick qornimga siqqan, keng hovlimga sig'maysanmi?* which means "If I had a place in my little tummy, how can I deny you a place in my big house?"

¹⁷ The mahalla has to write a letter where they specify that they have tried to mediate and how it has worked out, as well as providing a recommendation on how the court should proceed.

feel that documents are missing or if they consider that the reasons behind the divorce application are not valid enough.

Personal life story #1

T, a 32 years old part-time master student, part-time university teacher, from Fergana, was paired up with her husband through her mother. The couple met twice during one month before it was time for the wedding. Since he was not the youngest son, they got to live on their own when their married life started. They had no issues at the beginning, but when he started making a career and earning high salary, the problems followed too. He went to prostitutes, which was something that T was unaware of until his colleagues and some of their neighbors informed her about it. She confronted her husband but he said that he was working until late, came with other excuses and denied his extra-marital relations completely. She tried to get support from her parents, but they said that his behavior is common because that's what men do and that she has to forgive him. "Marriage is something holy, and his behaviour is something that you will have to live with." I asked T whether he had asked for forgiveness at any point, she responded that he never did so but she knew that she had to be the bigger one between the two of them so she apologized him nevertheless.

When her second son was 8 months old, T's husband disappeared and returned home when the child was 4 years old. Not long after his return, things of value started disappearing from their home. She decided to remain in marriage since that was what she signed up for and they also had two children. He had started drinking, and even borrowing money from others, to entertain himself.

T recalls that she once had to take their eldest son to the hospital and her husband refused to pay the bills because she "should have taken the kid to a cheaper place" so she had to borrow money. She realized by this time that their relationship would not improve, however she had decided to stay with him nevertheless as was expected of her as a married

woman. She told her husband that she could accept and tolerate that he did not care about her or their children, that he rarely brought home money to the family, but if they would continue to be married he had to stop drinking. He didn't, instead the discussions escalated, and several times he made physical threats to hit her and their children. He did not bother about her request, came home when it fitted him and used their common bed as a toilet when drunk. The last time he was unfit in 2014, T decided to call his parents so that they would see their son's behavior with their own eyes. He even tried to hit her and their boys in front of his parents, the latter were very ashamed by his behaviour but nothing more happened. Not even his parents could control him, so she decided to move to her parents.

T turned to her mahalla to get support and help in the divorce process with the proper documentation, but they denied it to her saying that her husband was a great guy, that she was wrong and that she should move back with him since matrimony is holy. During the time of separation, T's husband kept calling her telling her to get back to him without apologizing once for his behaviors. Two years passed, a time that made the mahalla leaders realize that their perception about her husband was wrong. The leaders' found out that he had lost his job, borrowed money from basically the entire neighborhood to drink and visit prostitutes, and he also sold his and T's house without the necessary approval from the mahalla. T admits that it was not odd that the mahalla did not believe her at first when she looked for support from them, because she had never involved the WC in their problems and they all had the positive picture of him when they moved to the neighborhood as recently married.

In January 2017, she finally submitted her divorce application with the necessary certificate from the mahalla. It took more than two years to get the recommendation letter from the mahalla, but even if she would have received the document early on, she would not have been able to pay the fee of three million Sums.¹⁸

¹⁸ 3,000,000 Sums was in January-April 2017 equivalent to approximately US\$ 860.

A woman is considered to be a good one if she overlooks her husband being disrespecting his wife and at times even being infidelity; information that has explicitly been told by participants G and T but also mentioned in previous research (Peshkova 2014, 112-127). The open discouragement of divorce made when stating that it is a shameful act, exposes how the patriarchal society normalizes this situation by putting women in a position where she has to look over her own needs and welfare for the preservation of family unity.

Some women stay in DV relations because they are isolated and have no job skills, no shelters, no knowledge of their options, and no place to go (Levit & Verchick 2006, 190). T had all of that, yet she decided to stay because of guilt, because of societal pressure and family expectations of her being a proper mother and a good woman. She basically stayed to avoid shame and the fear she had was rational.

In a westernized opinion, marriage is not only about company or about children, it revolves also around individual satisfaction and happiness on the side of possible interest of parenting children. Personal liberty is considered to be essential for many couples in the West. However, it is important to take into consideration that this has been made possible because there has been a movement that has created policy and legal changes, where society had to go through a process where the opinion of divorces went from being non-existent to being considered to be socially acceptable.

In the West, independence and liberty is highly valued, partly because there have been policy changes where it has been important to not be dependent on anybody. The contrary takes place in Uzbekistan, where it is expected of you (in particular if you are a woman) to put your own needs on the side for the well-being of the group. This type of subordination is enforced through social pressures, traditions, customs and complex patterns of force (Levit & Verchick 2006, 23) The religious and historical background has influenced individuals to value family unit and be loyal to the legal culture of their mahalla.

Society in Uzbekistan does not expect married couples to discuss the terms of a future relationship, because this has already been framed and established by

societal values and norms (living law) and as a matter of fact, it has also been framed by the Uzbek government with their policies of keeping families united at all costs. Besides, the idea that opposing battering is about saving the family is formulated in a gender-neutral way, as if all aspects have been taken into consideration. However, these policies have not conducted a proper analysis of the situation, instead it seems like they have avoided to get the point of view of those affected by violence.

The female WC leader of Ulugbek tells that there have been events of domestic violence on the street, available for the entire community to see. However, this is nothing that the police have been called to solve. I ask if this is because people are not aware of their rights, to which the leader responds that people are fully aware of their rights, however it is considered to be utterly shameful to approach law enforcement officers, since it would not only bring shame to the family but also to the mahalla.

This is something that a 20 years old university student, E, also expressed although in different words. She lives in an apartment building in Tashkent where her closest neighbors consist of a mother-in-law, the husband, the bride and three small children. During the days, there are fights between the mother-in-law and the bride, and the yelling continue during the evenings mostly coming from the husband's vocabulary is filled with derogatory words and name-calling. E knows that the women endures domestic violence since the bruises are visible, although she tries to cover them up. Once, E tried to phone the police. She as an outsider could not take it anymore and she could not even imagine what the bride was going through, but E's mother stopped her by taking the phone away while explaining that this is not their business and they are not to get involved in other people's problems.

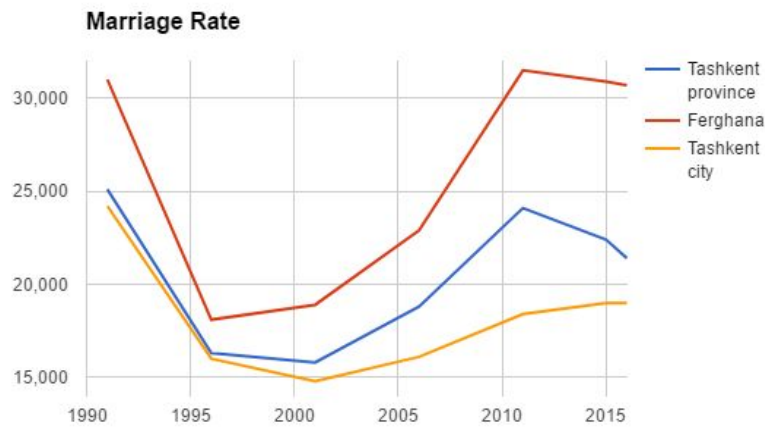
The entire society has internalized the beliefs of the dominant group (Levit & Verchick, 2006). Women feel that they are within their rights to choose to enjoy living in submissive positions. After all, this is what is expected of them. Men, being considered to be the heads of Uzbek family households, are expected to be

breadwinners and to do as they want, while women are to accept and maintain this patriarchal structure. Living law can hence be seen through they created legal structure and social atmosphere where violence is not only tolerated but also normalized. After all, the criminal justice system that should punish violent behavior by using the existing Criminal Code is not applied accordingly to the constitution. Men being prosecuted because of committed violence against women are few, mostly because this type of problems barely set foot outside of the inner circle of mahallas.

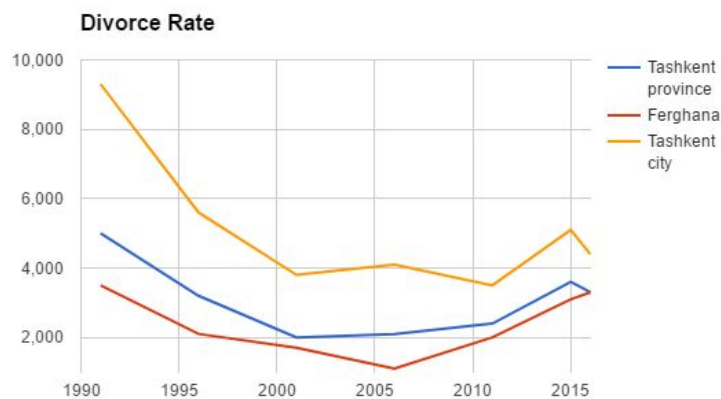
Dominance theory demonstrates that norms, regulations and laws, most of which have been drafted by men, assist in reinforcing male domination. The societal legal culture where excerpts of Shari'a are combined with an acceptance for intrafamily violence, where equal rights between the gender are not a given option and where the state supports unity of families at all costs creates a parallel legislation, although in an unwritten form. Dominance theory exposes that the laws and policies written in a patriarchal context perpetrate domestic violence. Patriarchy is strongly reinforced by a system of beliefs where men are superior in education, employment, politics, and religion, while women are viewed as second-class citizens.

The Uzbek State Committee of Statistics¹⁹ has collected and presented official data on the number of marriages and divorces in Uzbekistan since 1991. I have decided to only present data of every fifth year and only of the provinces in which my fieldwork has been conducted, in an effort to offer a picture of this major events in life in the geographical areas where this ethnographic study has been conducted.

¹⁹ A table with data over marriage rate and divorce rate from 1991 to 2016 can be found in Appendix 4.



As can be seen in the Marriage Rate graph, there was a dip in the number of marriages after independence, but the numbers started turning up in Ferghana province, in Tashkent province and in the capital during the mid-1990s. Around the year 2011, a peak was reached, where conservative Ferghana had an annual rate above 30 000 weddings.



When it comes to the divorce rate, the graph shows that divorces have been decreasing in general, but the most in Ferghana province. I can only speculate that this has to do with the efforts performed by the government through the various policies of Saving the Family but also because of the work done by the mahallas and their Women's Committees.

According to Ulugbek's WC leader's own perception, three out of ten divorces are because of violence against women, but the victims prefer to apply for divorce without making any report to law enforcement officials because that would be seen as shameful once again. The graph of divorce rate show that the most divorces have continuously taken place in the capital, however the rate of divorces have decreased in the three areas. The fact that there is no statistics on domestic violence does not facilitate to get a factual picture of the situation and find whether there is a correlation between domestic violence and divorce. In this spirit, I would like to continue to a second life story that was told to me that could show why there are this few divorces, beside the fact that it costs a big amount of money and takes time and strength to collect the proper documentation to hand in to the court.

Personal life story #2

Q, nowadays a 40 year old woman, fell in love with her husband 19 years ago and was totally sure that they were destined to be together. Her parents and siblings were against them getting married since first of all they came from different backgrounds, where she had an academic background while he was a handyman with no education and a family background with divorced parents and psychological issues. Q was stubborn and managed to convince her parents to let her get married to him. Within the first year of marriage, they got their first child, a son, and four years later they got a daughter. The beating had started early on into their marriage, but this was something she had kept quiet about for many years, since she thought that she would not get support from her family who had from the beginning opposed to this relationship even existing.

When the abuse escalated and she got too afraid for her own and their kids well-being, she finally sought refuge at her parents' place. Q's brothers thought that this was outrageous and wanted to head to the mahalla and further on to the police to report this, but Q was against it since it would be very shameful for her husband and their children. For

that reason, the brothers decided to have a talk with him so that he would calm down, but he started beating and throwing stones at them while screaming that they should stay out of his and Q's issues. It did not take long before Q decided to move back to her husband, since that is the only proper place to as a married wife, next to him. Time passed, she continued being abused physically and mentally, but she accepted to live with it. Married life means being open to having intercourse, something that led to the couple having a third child who is now 3 years old.

She had always helped her older kids out with their education, and it sparked an interest in the now 18 year old son who wants to become a lawyer. He has been since he was 15 years old been aware that if he wants to pursue his dream he needs to study a lot, but his father could come up to him from nowhere and yell at him questioning whether the son is a man or just a nerdy girl. The oldest child has symptoms of PTSD²⁰ because of psychological abuse.

Q did realize that her parents and siblings care for her even though she made a bad decision when she was young. One of the last wills of her parents was that her siblings needed to buy a house for her and her children so that they would be able to escape Q's husband. She is still sure that they once upon a time were in love, and that the Uzbek mentality of married couples having to be with each other no matter what, did affect her to not want to proceed with anything that could cause permanent separation. Nowadays, Q and her children live hidden away from her husband, in an area that only her siblings know of. Q's husband is continuously calls her and demands that they move back with him and that she is destroying the family.

She has never once reported to the police anything that she has been through, because it's shameful. The reason why she hasn't applied for divorce (even though there is a lot of proof of his bad behaviour that can be supported by her family members, and even the mahalla knows about the situation since they had to stop some of the fights), is because of her

²⁰ PTSD is an abbreviation for Posttraumatic Stress Disorder.

children's future. If Q would proceed to get a divorce, it would affect their possibilities to get married but also to make career. She says that her children will be affected negatively when applying for jobs since information from mahallas are required, and in that documentation, it would be written that the children's parents are divorced leading to other people getting the job instead of her children.

Law is a concept supposed to mean justice, rights and obligations should according to international law include all individuals in a society on the basis of equality and as a non-discriminatory act. In Uzbek reality, the legal culture that dominates everyday life, help individuals get things done within socially accepted ways. To approach the police or law enforcement instances in cases of domestic violence are openly criticized. The possibility to seek divorce is a legal option too, but sayings (such as *matrimony is holy*) perpetuates a social stigma around being divorced.

Q had a safety net that could help her, but she is so indoctrinated with the social expectations considered of a proper woman, that she prefers to live under incredible restraints so that it will not affect her children or her husband. She puts herself on the line, as is expected of her. The Muslim perspective of prioritizing other family members before oneself can be seen here.

According to me, Q prefers to live by the Uzbek proverb "*Oz tiling oz dushmaning*" which in English means *Your tongue is your enemy*. If you have family issues (either physical or psychological abuse), it is better to not tell anybody about this because otherwise the worst thing that could ever happen would take place, namely bring shame to the family members as well as to the entire mahalla community. It is shameful to have problems, but even more shameful to expose them. Therefore, in Uzbek legal pluralist culture it appears to be better to first think about possible consequences, instead of reporting it to the legal instances. In the West, to report to the police acts of violence is socially considered to be the right thing, however in Uzbekistan reporting women's experiences of domestic violence to law enforcement officers so as to get justice

for years of both psychological and physical abuse is seen as utterly shameful because these matters should not be exposed in broad daylight.

I did formulate three sub-questions earlier, which were to help me through my research offer a better picture of the socio-cultural legal situation in Uzbekistan in relation to domestic violence and divorce. The first sub-question was formulated as follows: *What significance does law have for women in times of family conflicts?* What I have found is that women and men are aware of the overall legislation. However, because of the legal culture were you as a member of a mahalla should preferably not approach anybody outside of family to discuss family issues, such as violence, none of the women I interviewed and had longer conversations with ever referred to approaching law enforcement officers. Society has in a way closed that legal option by defining it as a shameful act. Mahalla leaders know about the legislation, and even though they have the government supporting their work, the leaders prefer to follow the existing legal culture not only because it is socially accepted but also because that is what is encouraged and promoted by the very same mahalla leaders. This shows how this particular type of legal culture constitute the order of Uzbek human society through living law (Benda-Beckmann 2014, 72).

The two other sub-questions asked in the beginning of the paper were *What is the overall acknowledgement of domestic violence victims and divorces in Uzbekistan?* and *How deeply embedded in society is the Muslim background of Uzbekistan in the secular country of today?* When I formulated the questions, my idea was to answer to them separately but the most proper way to share further analysis is by answering them in the same section, after all they are slightly intertwined. The short answer to the question of DV and divorce acknowledgement is that both are shameful acts. The longer answer is that the pluralistic legal background that Uzbekistan has lived under, still affects present life. Islam is used by the government officials in a clever way, since they know that the religion is held dearly by a majority of the population. Shari'a is interpreted in a way that supports a patriarchal structure, where the Hanafi school

also has left footprints in the sense that women have limited options to divorce. I want to emphasize here that no referrals to Hanafi school were made during my fieldwork, however I strongly believe that the way that divorce is portrayed as shameful comes from the limited options for women to seek divorce as expressed by Hanafi jurisprudence. Welfare distribution, a remnant from the Soviet era, is used as a non-legal sanction where people of scarce economy can get minimal help if they do not follow the legal norms and cultural regulations (Benda-Beckmann 2014, 72). Westernized processes have been implemented, although they are moving in a slow pace. The combination of Soviet era remnants and western ideals should be more visible in Uzbek society from the point of view that there have been efforts made to make society adapt to new legal standards through various policies. All of this aspects have created a hybrid society, with mixtures of different extremes.

The neighborhood communities have a strong place in Uzbek society, it is through the mahallas that many religions and values were preserved in times of colonization for example. It is also the mahallas who promote and make referrals to Shari'a and Islam when trying to justify their living law and legal culture. The short answer to the third sub-question is therefore that even though Uzbekistan is an, by the Uzbek government officials, outspoken secular country, it nonetheless carries many traditions and values portrayed as muslim behaviors or as if they would be supported by the holy script. Hence it is a hybrid society that mixes on the one hand traditions and modern aspects, and on the other secular and religious aspects. It is hard to give a more straightforward answer in regards to how correct is to state that there muslimhood is embedded in society, because that would require another study where the Hanafi school is studied in more detail.

Based on my informal interviews, active participant observation, personal life stories and my theoretical framework, the answer to my main research question *Why does domestic violence persist and continue being prevalent in Uzbekistan?* is that it has mainly to do with the strong living law structure of Uzbekistan. Women are silenced to protest against violence because of fear to be portrayed as “bad women” and besides, it is socially accepted that women who are exposed to

domestic violence are so because they deserve it. The patriarchal structure where men are seen as head of the family and women are to know their submissive position strengthens the perspective that women's experiences are not as valuable as men's, nullifying the experiences they have. The government has received recommendations from CEDAW and international reports have expressed the importance of defining domestic violence in the legislation, something that currently does not exist. What on the other hand does exist is the statement that men and women are equal and that discrimination is not allowed, however this study has shown that they the reality is different.

Uzbekistan's legal system has influences from soviet, muslim and western perspectives. These coexist with people's values, ideas, attitudes and social behaviour, creating a particular legal culture. This exposes the way living law form a functional and accepted social legal structure that is effective to oppress situations that fall out of what is considered to be ordinary and positive for the overall society (Lindbekk 2014, 183).

8. Discussion and concluding remarks

Readers may have wanted to get a closer analysis to how law addresses gender discrimination or to get suggestions on what changes should be made to promote gender equality, but because of time restraints and a plan to primarily find the voices of women and share their experiences, I did not look at it. The aim of this study was to provide a socio-legal analysis of domestic violence and divorce in Uzbekistan. I wanted to understand whether women knew in what way legislation could protect them from domestic violence. I also wanted to know whether there was a relation between acts of DV and divorce applications. A third aim was to understand how Uzbek society views violence against women and divorce.

I did find several social norms that women are exposed to on everyday basis. One of these norms is the knowledge amongst women to face their reality (learned helplessness) by accepting that they cannot change their situation without opposing the legal culture in their societies. Women are indoctrinated in the Uzbek way of thinking in relation to what has been decided by the dominant group in society, men. Women have internalized the beliefs of the patriarchal structure, where they simply accept their submissive roles.

Being a woman in secular Uzbekistan, is not that different from being a woman in an outspoken muslim country in the sense that family unit is an institution to be protected at all costs. References to Shari'a are continuously made in the mahallas as well as by the government officials, where family unity and loyalty is encouraged. This shows how stable traditional patriarchy is in Uzbek society, where men are seen as more superior than women even though the constitution states that equality between men and women exist. When society justifies violence to and abuse of women, this further promotes patriarchal injustice since the experiences of women are not seen as relevant or even necessary.

By combining living law and dominance theory, it has been possible to see how formal patriarchy (through government and regional offices) and informal societal patriarchy (in the form of mahallas and families) strengthen a legal culture based on values and norms instead of on constitutional legislation. My results can be summarized in the following points; women are aware of their legal rights but instead of seeking legal justice for cases of abuse they prefer to follow the legal culture. To have experienced domestic violence does not automatically lead to divorce applications, since once again the living law has a stronghold on society and if you would to break these values, non-legal sanctions could be applied and affect you more on your everyday life. Referrals to Shari'a are made by formal and informal structures in Uzbekistan in an effort to justify the different justify violence against women when done by the leader of the household and to shame women from seeking divorce. The current legislation has the possibility to punish abusers of domestic violence by using articles from the Criminal Code and the Family code, however society and the legal culture ha precedence over the legislative forces in Uzbekistan.

The use of religious justifications with references to Shari'a and the expressed importance of preserving family honour, facilitate for all individuals involved in domestic violence (abusers, victims, law enforcement officers) and/or divorce to continue contributing to the fortifying the conspiracy of silence rather than disclosing these offences. The ethnographic data acquired through informal interviews, in-depth semi-structured interviews, in combination with statistics of marriages and divorces helped me come to the conclusion that women who endure domestic violence find other solutions instead of divorcing, something that restricts their freedom.

Besides, when you are repeatedly told that marriage is a holy engagement (religious reference), it becomes very hard to break that bond even though you are being harmed specially when you thinking of your own well-being is seen as a shameful act because you would prioritize yourself over the family unit. For this reason, uzbek women with history of domestic abuse have not had much choice more than to follow the social expectations of them, in order to not be completely

excluded from society. This lets tradition intervene in the legal sphere, leading to a legal culture with alternative forms of legal orders.

CEDAW elaborated that equality is fully achieved when there is substantive equality and when women's actual living conditions prove to be equal. Uzbek women are restricted in society because of the dominant sphere of power expressed and proposed by men. Compared to Western preferences for personal liberty in marriages, Uzbek women would rather choose to be alive in the submissive environment that they know, than to be free and exposed to a new legal structure that they are unfamiliar with.

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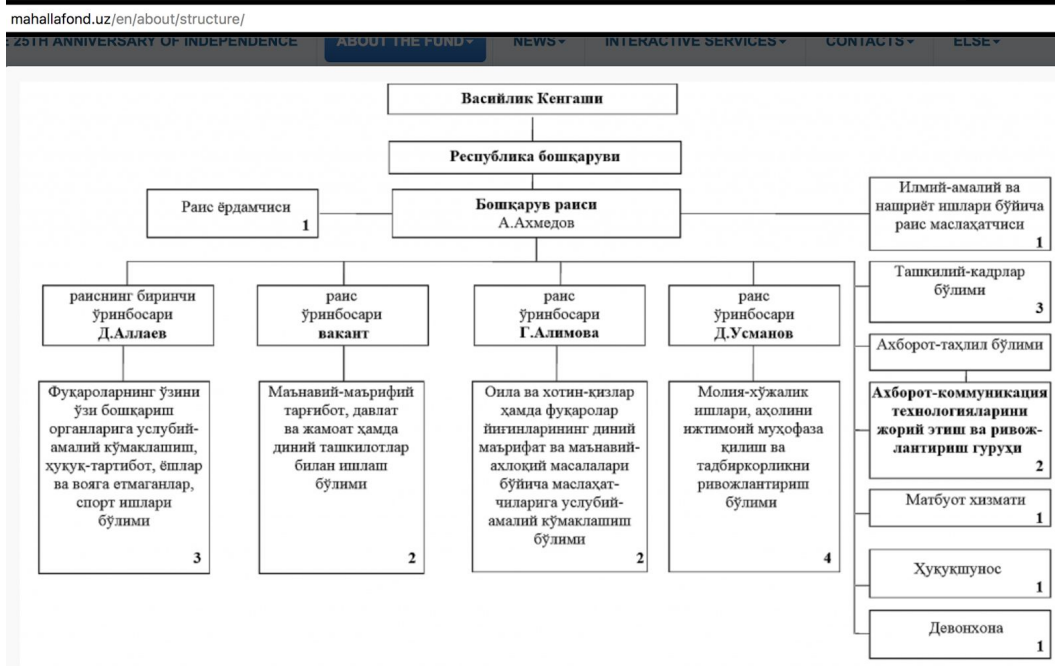
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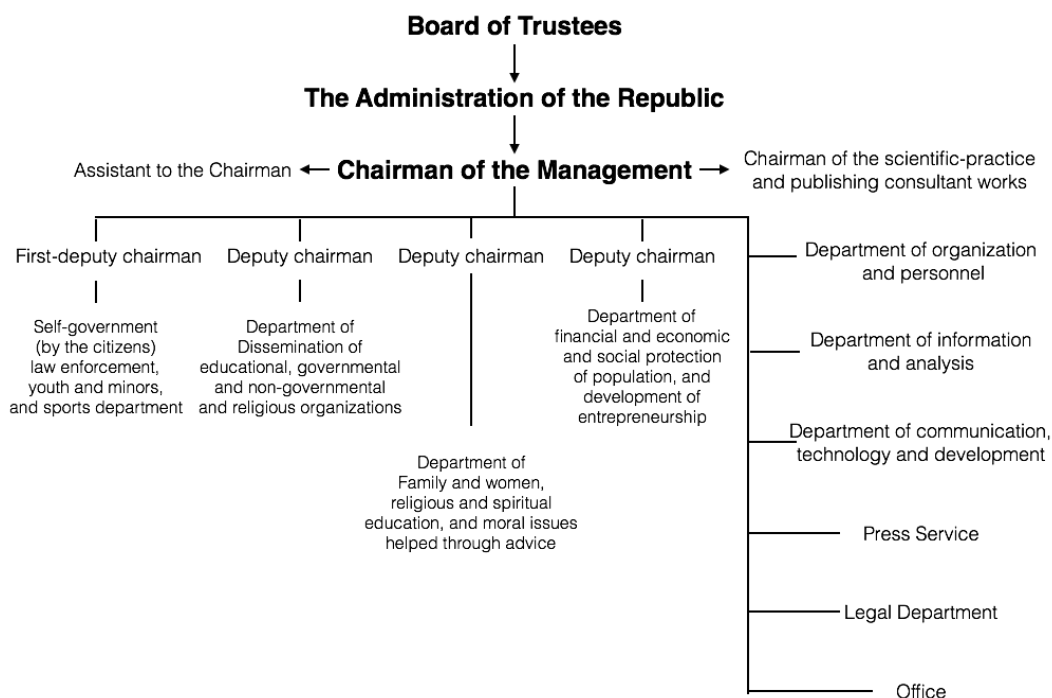
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Appendix 1



Source: mahallafond.uz/en/about/structure

Original language: Uzbek²¹



²¹ The translation has been made by the author of this thesis.

Appendix 2

Interview Consent Form

Researcher: Kerstin Martínez, Sociology of Law student at Lund University, Sweden.

Research Project: Domestic violence and divorce in Uzbekistan

Purpose of the Research: To examine in particular Uzbek women's legal perception in relation to possible experiences of domestic violence and divorce. The interest lies in understanding socio-cultural expectations on relationships, and how these affect approaches taken post-domestic violence. The research also wants to figure out whether there is a connection of domestic violence and divorce applications.

Expectations of participants: If you decide to participate, you will be asked to participate in interviews. Questions will be asked in relation with the main topics of the research (domestic violence and divorce) and about experiences that you could have had. The interview will be written down in notes while it is ongoing.

Time required: The interview will take between 30-60 minutes. If there is a need to have a follow-up interview you will be asked to meet at a time of your convenience.

Confidentiality: Your identity, names and other personal information will be kept strictly confidential during and after the interview. You will be assigned a random alphabetical letter that will anonymise your identity. Your experiences, thoughts and responses to interview topics will be kept confidential. The information you give will be used for academic purposes, namely for the writing of the researcher's master thesis.

Benefits: You will have the opportunity to share your experiences concerning domestic violence and divorce. Your answer will contribute to better understanding the socio-legal aspects that are taken into consideration in Uzbekistan.

Risks: The researcher does not anticipate that there are any risks associated with your participation. You have the right to stop the interview or withdraw from the research at any time.

Withdrawal: If you feel uncomfortable in any way during or after the interview sessions, you have the right to withdraw your participation from the research study. It is up to you to choose which questions you want to respond.

Contact information: There are a number of ways in which you can get in touch with the researcher.

- Call/text to +998 97 13 155 86
- Send message on Telegram (app) to +46 70 440 72 76
- Send mail to kerstin.martinez@gmail.com

Agreement:

By signing this *Interview Consent Form* I agree that:

1. I have received information about the purpose of this research project.
2. The purpose of my participation as a respondent has been explained to me and is clear.
3. I am voluntarily taking part in this research project and I can stop the interview at any time.
4. I have been given guarantees that the researcher will keep my identity confidential.
5. My answers will be summarized for me during the interview session.
6. I have been given a copy of this consent form co-signed by the researcher.

City and date: _____

Participant's Signature

Researcher's Signature

Appendix 3

Semi-Structured Interview Questions

1. Could you describe when and how did you meet your husband?
2. How was the relationship at the beginning?
3. Did you have any problems in your relationship?
4. If any, did you
 - a. try to get in touch with law enforcement officers?
 - i. If yes/no, how did you proceed and why?
 - b. get in touch with the leader of your Mahalla?
 - i. If yes/no, how did you proceed and why?
5. How did you solve the problems and/or disputes?
6. What are your thoughts on divorce and divorce application?
7. In your opinion or from your experience, what do you think of domestic violence?
8. Is there something else, which you would like to tell me about domestic violence against women and divorce in Uzbekistan?

Appendix 4

Marriage rate		1991	1996	2001	2006	2011	2015	2016
Republic of Uzbekistan		270,300	171,700	170,100	208,500	287,800	287,600	275,000
<i>including</i>								
Tashkent province		25,100	16,300	15,800	18,800	24,100	22,400	21,400
Ferghana		31,000	18,100	18,900	22,900	31,500	30,900	30,700
Tashkent city		24,200	16,000	14,800	16,100	18,400	19,000	19,000
Birth rate								
Republic of Uzbekistan		723,420	634,842	512,950	555,946	622,835	734,141	N/A
<i>including</i>								
Tashkent province		64,597	54,434	43,171	48,294	53,545	58,692	N/A
Ferghana		77,889	69,245	51,207	59,264	67,746	79,241	N/A
Tashkent city		42,503	36,307	30,232	36,310	37,889	42,802	N/A
Divorce rate								
Republic of Uzbekistan		33,300	20,200	15,700	16,100	18,600	29,600	29,300
<i>including</i>								
Tashkent province		5,000	3,200	2,000	2,100	2,400	3,600	3,300
Ferghana		3,500	2,100	1,700	1,100	2,000	3,100	3,300
Tashkent city		9,300	5,600	3,800	4,100	3,500	5,100	4,400

Source: The State Committee of The Republic of Uzbekistan on Statistics, 2017.