

HUMAN RIGHTS WATCH

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December 6, 2019

To: The Chairwoman of the Federation Council of the Russian
Federation,
Matvienko Valentina Ivanovna

Re: Draft Law “On Prevention of Domestic Violence”

Dear Valentina Ivanovna,

I am writing on behalf of Human Rights Watch to ask that the Federation Council modify the draft Law “On Prevention of Family Violence” to bring it in line with the Council of Europe and international standards on combatting domestic violence.

We welcome steps made by the Federation Council to develop the draft legislation and to consult with independent legal experts on the draft law. We appreciate the Federation Council’s efforts to invite feedback and suggestions for amendments from experts and the public. We are pleased to have this opportunity to offer our suggestions.

Human Rights Watch (HRW) is a nonprofit, nongovernmental human rights organization working in over 90 countries around the world. Established in 1978, HRW investigates and reports on human rights violations and abuses, often in partnership with local groups.

We have been monitoring human rights in Russia for over 25 years and have researched and reported on domestic violence and related issues in Russia and in many other countries around the world, including, in recent years, Brazil, the United States, Hungary, Kazakhstan, Turkey, and Canada.

Domestic Violence in Russia

Human Rights Watch fully recognizes the challenges that Russian authorities face in combatting domestic violence. It is a persistent problem in countries and families around the world. While domestic

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violence affects men, women, and children, [women are overwhelmingly the most frequent victims](#) of such abuse. According to a [recent study](#), published by the United Nations Office on Drugs and Crime (UNODC), home is “the most dangerous place for women,” with the majority of female homicide victims worldwide killed by partners or family. Around 87,000 women were killed around the world last year, some 50,000 - or 58 per cent - at the hands of intimate partners or family members. This amounts to some six women killed every hour by people they know. The lack of relevant statistics makes it difficult to assess the scope of domestic violence in Russia, however, several indicators suggest it is pervasive.

In 2018, Human Rights Watch researched and published [an in-depth report](#): “I Could Kill You and No One Would Stop Me,” which highlighted crucial problems in Russia’s legislation as well as law enforcement, judicial and social support systems that prevent the authorities from providing protection and support for victims of domestic violence. Based on interviews with survivors, lawyers, women’s rights advocates, government officials, academics and law enforcement, the report detailed barriers that victims of domestic violence in Russia face in reporting abuse and getting help. They include social stigma, lack of awareness about domestic violence and services for survivors, and lack of trust in police.

The report highlighted the need for effective prevention and criminal justice responses to domestic violence in Russia that promote victim safety while ensuring accountability for abusers. The report separately noted that Russia currently lacks consistent and transparent statistics on domestic violence, which impedes both a full understanding of the scope of the problem and the development of effective strategies to combat and prevent it.

Our research documented how police often treat victims of domestic violence with hostility and prejudice and refuse to register or investigate their complaints, directing them instead into using the process of private prosecution, for which the victim must bear the burden of proof as well as all costs. In the cases we documented, survivors of domestic violence found the process of private prosecution overwhelming and ineffective, and for this reason decided to forego prosecution altogether. Our report also documents how state services do not ensure crucial support for survivors of domestic violence, demanding from them a long list of documentation to obtain emergency shelter, including local registration. As a result, victims must often wait weeks for a decision, and then in some cases are denied access to shelter while facing the ongoing risk of abuse.

Our report illustrated how the 2017 amendments decriminalizing the first offense of domestic battery were a step backward because they ignored fundamental differences

between violence among strangers and domestic violence: that in the latter, perpetrators frequently repeat their offenses, and that victims often live with their abusers and are frequently financially and otherwise dependent on them. Equating violence by these two sets of perpetrators also ignores the psychological, emotional, and verbal abuse and manipulation that typically accompany physical abuse in domestic violence. Lawyers and women's rights groups working on domestic violence noted that perpetrators of domestic violence were frequently not held accountable before the 2017 amendments and downgrading the offense from criminal to administrative liability would likely embolden them to continue patterns of abuse, not encourage them to stop.

We found that while in recent years public perceptions in Russia started to shift from viewing gender-based violence as permissible or “normal” to recognizing it as a prevalent problem, the government still often treats it as a private, “family” matter. This creates barriers for reporting abuse, encourages families to shield abusers, and stigmatizes those who report to the authorities and “publicize” the abuse. Our conclusions were most recently echoed by the United Nations Committee on the Elimination of Discrimination against Women, (CEDAW) which in its [decision in July 2019](#), on the case of two Russian women X and Y, recognized the practice of qualifying domestic violence as a private matter as “harmful and based on stereotypes.”

In the recent European Court of Human Rights [ruling](#) on the case of *Volodina vs. Russia*, delivered in July 2019, the court repeatedly referenced our report and agreed with our findings. The court recognized, among other things, the Russian authorities' overall “reluctance to acknowledge the seriousness and extent of the problem of domestic violence in Russia and its discriminatory effect on women.” In addition to the main judgment, four judges wrote separate opinions. Judge Pinto de Albuquerque, for instance, [urged](#) the court to do more “to eradicate gender inequality and with it, the wholly demeaning occurrence of domestic violence.”

Recommendations

We have made a [number of recommendations](#) to the Russian authorities, including the call for the parliament to adopt a law that treats domestic violence as a standalone criminal offense to be investigated and prosecuted by the state, rather than through the process of private prosecution. We also called for the adoption of legal provisions creating protection orders. We also recommended that Russian authorities intensify efforts to provide access to services for victims of domestic violence and make it obligatory for relevant law enforcement bodies to maintain consistent, comprehensive statistics.

Several aspects of the current version of the draft need to be addressed in order to ensure that the law is effective. We therefore urge you to introduce the following amendments to the draft:

Definition of domestic violence

- [Article 2 of the draft law](#) defines “family household violence” as: “an intentional act, that caused or threatened to cause physical and/or psychological harm and/or property damage and that does not contain attributes of an administrative offense or a crime.” Under current legislation, any physical violence, ranging from battery to causing grave harm to health to murder, by definition contains attributes of an administrative offense or a crime and will therefore not be covered under this law.
- We are aware of many claims state officials have made to ground their objections to making acts of domestic violence a stand-alone offense or an aggravated circumstance. Among these are that a stand-alone offense would duplicate already existing criminal and administrative offenses. However, as noted above, this does not take into account key aspects of domestic violence that aggravate the seriousness of the offense and render it more pernicious than an isolated assault.
- The draft law should provide protection and access to justice for victims of domestic violence every step of the way, from the moment they first seek help from the authorities.
- The draft law should include a complete, comprehensive definition of domestic violence, which may include physical, sexual, economic, and emotional abuse. [Article 3](#) of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, also known as the Istanbul Convention, proposes the following definition for domestic violence: all acts of physical, sexual, psychological or economic violence that occur within the family or domestic unit or between former or current spouses or partners, whether or not the perpetrator shares or has shared the same residence with the victim. We would urge you to adopt this definition.

Scope of the draft law

- Article 2 of the draft law lists persons who may be affected by domestic violence: spouses, former spouses, people who have a child (children) together, close relatives and extended family (relatives by marriage), who have a joint household.

Yet the relationships of dependency that form the context of domestic violence also pertain to partners who are not officially married, as well as former partners who no longer reside together or run a joint household. In many cases that we documented, women were subjected to serious violence by their partners or former partners, which the police did not take seriously because of the nature of the relationship between the abuser and the victim. The draft law should therefore also apply to former spouses and partners, regardless of whether they live together and share a household (see reference to Article 3 of the Istanbul Convention above).

Protection Orders

- We welcome the fact that the draft law recognizes victims' need for legal, medical, social, psychological and other assistance and individual remedies, including registering cases of violence and obtaining protection orders. We welcome the introduction of police-issued protection orders and court-mandated protection orders in [Articles 24 and 25](#) of the draft law. Under Article 24, police can issue a protection order to prevent the perpetrator from 1) continuing abuse 2) contacting or communicating with the victim of abuse, including via phone, or internet 3) attempting to find out the whereabouts of the person subject to abuse. The draft does not clarify what sanctions apply when the perpetrator violates the protection order.
- [UN guidance](#) recommends that in order to provide effective immediate protection for the presumed victim of domestic violence, protection orders should also prohibit the perpetrator from being within a certain distance of the victim. It also recommends that the draft law introduces clear criminal sanctions for violation and repeated violation of protection orders. We believe the recommendations should be applied in the draft law.

Additionally, we recommend that the draft law:

- Reinstate criminal liability for first offense of battery within the family and transfer all domestic violence offenses to the sphere of private-public or public prosecution. As noted above, the procedure for private prosecution, used in cases of battery and causing light harm to health, is ineffective and unfair as it shifts the burden of proof and cost entirely onto victims, who must act as counsel for the prosecution during criminal proceedings. As noted below, this is also the view of a key UN treaty body and the European Court of Human Rights.

- Introduce a streamlined process of compiling statistics on domestic violence, disaggregated by age, region, type of violence, and relationship between the victim and the perpetrator; provide that all gathered data is transparent and publicly available; make the gathering of such data compulsory for relevant law enforcement agencies such as the Ministry of Interior, the prosecutor general's office and the investigative committee;
- Introduce mandatory, specialized, and continuing education and training on domestic violence prevention and response for social workers, health workers, psychologists, lawyers and other relevant professions, in line with international standards for such training;
- Introduce sanctions for negligence by law enforcement officials responding to domestic violence complaints if such negligence leads to minor, moderate, or severe harm to health or to someone's death;
- Introduce measures to improve and foster coordination among relevant government agencies, to ensure a streamlined approach to addressing/tackling domestic violence;

Whether through this legislation or other measures it is also crucial for the government to ensure that survivors of domestic violence, including in rural areas, have access to adequate services and support, including shelter, health, psychosocial, and legal services, through:

- Ensuring that at minimum 14,400 spaces in specialized shelters are available for victims of domestic violence in accordance with CoE standards, which recommend a minimum of one shelter space per 10,000 people where shelters are the predominant or only form of service provision;
- Ensuring that specialized shelters for survivors of domestic violence are located within reasonable distance and accessible to survivors of domestic violence in both urban and rural areas;
- Lowering thresholds for acceptance and referral to services in order to ensure that services, including shelters, are immediately accessible to all those experiencing domestic violence, irrespective of their age, place of

- residence, disability, or migration/residency status, including survivors with or without dependent children;
- Eliminating the requirement for a local residency registration to access shelters.

Russia's International Legal Obligations Regarding Domestic Violence

The Russian government's international obligations to prevent domestic violence as well as protect, support, and ensure access to justice for victims of domestic violence are stipulated in several international treaties to which Russia is a party.

[The Convention on the Elimination of All Forms of Discrimination against Women \(CEDAW\)](#), calls on states to actively prevent and ban discrimination against women both in public and private spheres. Russia is also party to the [Convention on the Rights of the Child \(CRC\)](#) and the [Convention on the Rights of Persons with Disabilities \(CRPD\)](#), both of which contain provisions against domestic violence, as well as the [International Covenant on Civil and Political Rights \(ICCPR\)](#) and the [International Covenant on Economic, Social and Cultural Rights \(ICESCR\)](#), which contain provisions on the rights to life, health, physical integrity, and adequate standard of living, and prohibit discrimination and cruel, inhuman or degrading treatment or punishment.

The CEDAW Committee, the UN expert body that monitors compliance with CEDAW, has emphasized in its [General Recommendations](#) No. 19 and No. 28 that gender-based violence, in public or in private, is a form of discrimination and may be considered a violation of the convention. In its recommendations, the committee has specifically called on states to establish comprehensive legal frameworks, train state officials in their implementation, and establish or financially support services for victims. The committee also encourages “the compilation of statistics and research on the extent, causes and effects of violence, and on the effectiveness of measures to prevent and deal with violence.”

The [UN committee responsible for monitoring implementation of the ICESCR](#) has similarly stated that the convention's provision on gender equality “requires States parties...to provide victims of domestic violence, who are primarily female, with access to safe housing, remedies and redress for physical, mental and emotional damage.”

Russia has also ratified the Optional Protocol to CEDAW, which allows the CEDAW Committee, the relevant UN expert body, to investigate “grave or systematic violations” of

the convention. In 2015, two Russian women X. and Y., submitted a joint complaint to the CEDAW Committee after the police repeatedly refused to intervene when their husbands subjected them to systematic physical and psychological abuse. [In July 2019 the committee found](#) that Russia failed to assure their protection against repeated acts of domestic violence. The committee also stated that Russia cannot fulfill its obligations under the convention to prevent and punish acts of violence by “adjudicating acts of domestic violence through a system of private prosecution and recognized “the fact that a victim of domestic violence must resort to private prosecution, where the burden of proof is placed entirely on the victim, denies the victim access to justice”. Lastly, in its review of the case the committee recalled its concluding observations on Russia’s eighth periodic report, in which it recommended that the State party should urgently adopt comprehensive legislation to prevent and address violence against women.

The Convention on the Rights of the Child specifically prohibits violence against children, including in the family. In a 2014 review of Russia, the UN Committee on the Rights of the Child [urged Russia to prioritize](#) the elimination of all forms of violence against children, noting concern that “corporal punishment remains lawful in the home and in alternative care settings,” and criticizing the lack of a nationwide coordinating framework to address all forms of violence against children.

Following the 2004 visit to Russia of the UN special rapporteur for violence against women, the rapporteur in a final report [called for the adoption of specific legislation on domestic violence](#) providing protection and access to services for survivors and accountability for perpetrators, amendment of housing legislation to help victims escape their abusers, establishment and support of shelters and crisis centers, and gender-sensitivity training for public officials.

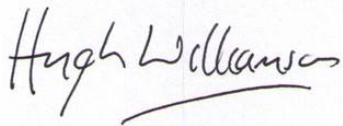
Russia remains only one of only two of the 47 Council of Europe member states, the other being Azerbaijan, that has neither signed nor ratified [the Convention on Preventing and Combating Violence against Women and Domestic Violence](#), known as the Istanbul Convention. The Istanbul Convention defines, prohibits, and criminalizes a broad spectrum of violence against women, including by family members or partners, prioritizes prosecution of perpetrators, and requires state parties to work to change domestic attitudes and practices. Although Russia has not ratified the treaty it was in the negotiations preceding the convention from 2008 to 2010, also then expressing reservations about multiple aspects of the proposed legislation, including gender-based asylum claims. In December 2017, High Commissioner for Human Rights in the Russian Federation Tatiana Moskalkova spoke in favor of Russia ratifying the Istanbul Convention,

stating that she saw “no dangers or obstacles to our joining the Council of Europe’s voice on this issue.”

Russia is party to the [European Convention for the Protection of Human Rights and Fundamental Freedoms](#), which requires states to provide protection against inhuman treatment, violations against personal integrity and the family, access to effective remedies for violations, and includes other provisions relevant to domestic violence (e.g. “peaceful enjoyment of property,” “liberty of movement and freedom to choose one’s residence,” “equality of rights and responsibilities as between spouses” in Protocols Nos. 1, 4, and 7.

We thank you for your attention.

Sincerely,

A handwritten signature in black ink that reads "Hugh Williamson". The signature is written in a cursive style with a long horizontal flourish at the bottom.

Hugh Williamson