

Secretary of the Committee on Economic, Social and Cultural Rights,  
UNOG-OHCHR  
1211 Geneva  
Switzerland  
Via e-mail: [cescr@ohchr.org](mailto:cescr@ohchr.org)

Re: Russian Federation – 62nd session of the Committee (18 September– 06 October 2017)

23 August 2017

Distinguished Committee members:

We respectfully submit this letter in advance of the Committee on Economic, Social and Cultural Rights (the “Committee’s”) discussion of the Russian Federation (or “Russia”) and its *Sixth Periodic Report of States Parties Due in 2016* (the “2016 report” or “sixth periodic report”) at the Committee’s 62nd session from 18 September – 06 October 2017. Equality Now is an international human rights organization with ECOSOC status working to protect and promote the rights of women and girls worldwide since 1992, including through our membership network comprised of individuals and organizations in over 190 countries.

This letter focuses on the continued violations of women’s rights in the Russian Federation, in violation of Articles 2 (non-discrimination), 3 (equal rights between men and women), 6 (right to work), 10 (protection of the family and children) and 12 (enjoyment of the highest attainable standard of physical and mental health) of the International Covenant on Economic, Social and Cultural Rights (“ICESCR” or “the Covenant”). In particular, we wish to underscore the Russian Federation’s urgent need to review and amend those laws, policies and practices that: pose barriers to the prevention of domestic violence, rape and sexual assault and the provision of justice to victims of such violence; bar women from participation in certain areas of the labor market on the basis of their sex; and restrict the work of non-governmental organizations.

### *Domestic Violence*

Equality Now shares the Committee’s concern regarding the prevalence of domestic violence in the Russian Federation.<sup>1</sup> In 2008, the government reported that each year approximately 14 thousand women die at the hands of their husbands or other relatives (more recent data is unavailable).<sup>2</sup> Despite the pervasiveness of the problem, the government has taken steps that make it

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<sup>1</sup> See Committee on Economic, Social and Cultural Rights, *Consideration of reports submitted by States parties under articles 16 and 17 of the Covenant: Russia*, 1 June 2011, E/C.12/RUS/CO/5 (hereinafter “Concluding Observations 2011”), at No. 22.

<sup>2</sup> See ANNA National Centre for the Prevention of Violence, *Violence Against Women in the Russian Federation: Alternative Report to the United Nations Committee on the Elimination of Discrimination Against Women (CEDAW)* (2010), p.6, available at [http://www2.ohchr.org/english/bodies/cedaw/docs/ngos/ANNANCPV\\_RussianFederation46.pdf](http://www2.ohchr.org/english/bodies/cedaw/docs/ngos/ANNANCPV_RussianFederation46.pdf).

harder, rather than easier, to prevent and punish incidents of domestic violence: on February 7, 2017 a law came into force in Russia that exempted certain physical assaults on family members (including spouses) from criminal prosecution, rendering these offenses “administrative”;<sup>3</sup> additionally, a multitude of domestic violence offenses remain classified under the law as suitable for only private prosecution (subject to very narrowly interpreted exceptions), requiring victims to investigate and prosecute offenses themselves.<sup>4</sup>

In addition to breaching Russia’s obligations under Article 10 of the Covenant (protection of the family), these provisions run counter to the Committee’s most recent recommendations to the State party. Voicing its concern regarding the “continued prevalence of domestic violence” in the country, this Committee recommended that the government “*strengthen* measures to combat domestic violence and its effects” by “adopting a specific legislative act *criminalizing* domestic violence” (emphasis added).<sup>5</sup>

The impact of the amendments to laws on domestic violence has already proven devastating. While in its List of Issues in response to the government’s sixth periodic report, E/C.12/RUS/Q/6, the Committee requested that Russia provide “detailed information” on “the impact of the measures adopted” by the government to address domestic violence and on “remedies provided to victims”, the government did not provide such information in its Reply.<sup>6</sup> However, evidence shared

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It is important to note that the government has failed to report more recent data on the prevalence of domestic violence, despite this Committee’s repeated urging to do so. *See* Concluding Observations 2011, E/C.12/RUS/CO/5, at No. 22 (urging the Russian Federation to provide in its subsequent country report “statistics and disaggregated data on trends in the prevalence of various forms of domestic violence”, a request with which Russia did not comply); Committee on Economic, Social and Cultural Rights, *List of issues in relation to the sixth periodic report of the Russian Federation*, 9 March 2017, E/C.12/RUS/Q/6 (hereinafter “List of Issues”), at No. 24 (again requesting this data, which was not provided by Russia in its corresponding Reply). This lack of statistical data has also been noted, and rectification requested, by the Committee on the Elimination of Discrimination Against Women (CEDAW). *See* Committee on the Elimination of Discrimination against Women, *Concluding observations on the eighth periodic report of the Russian Federation*, 20 November 2015, CEDAW/C/RUS/CO/8 (hereinafter “CEDAW Concluding Observations 2015”), at No. 22(d).

<sup>3</sup> Under Bill No. 26265-7, “On amending Article 116 of the Criminal Code of the Russian Federation”, beatings of a spouse or child resulting in bruising or bleeding but not broken bones are punishable by a fine or 15 days in prison if they do not occur more than once a year. *See also* *List of issues in relation to the sixth periodic report of the Russian Federation, Addendum: Replies of the Russian Federation to the list of issues*, 5 July 2017, E/C.12/RUS/Q/6/Add.1 (hereinafter “Reply to List of Issues”), at No. 24.

<sup>4</sup> *See* Art. 20 of the Code of Criminal Procedure of the Russian Federation. For further information, see ANNA National Centre for the Prevention of Violence, *Violence Against Women in the Russian Federation: Alternative Report to the United Nations Committee on the Elimination of Discrimination Against Women (CEDAW)* (2015), p.5.

<sup>5</sup> 2011 Concluding Observations, E/C.12/RUS/CO/5, at No. 22. These amendments are also contrary to Russia’s obligations under the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). *See* Committee on the Elimination of Discrimination against Women, *General Recommendation No. 28 on the Core Obligations of States Parties under Article 2 of the Convention on the Elimination of All Forms of Discrimination against Women General Recommendation No. 28*, 19 October 2010, CEDAW/C/2010/47/GC.2, at No. 19 (State parties have “a due diligence obligation to prevent, investigate, prosecute and punish ... acts of gender-based violence”). *See also* CEDAW Concluding Observations 2015, CEDAW/C/RUS/CO/8, at No. 22(a) (recommending that Russia “adopt comprehensive legislation to prevent and address...domestic violence, introduce ex officio prosecution...and ensure that women and girls who are victims of violence have access to immediate means of redress and protection and that perpetrators are prosecuted and adequately punished”). The Committee Against Torture has also recommended that Russia strengthen its domestic violence legislation. *See* Committee Against Torture, *Concluding observations on the fifth periodic report of the Russian Federation*, 11 December 2012, CAT/C/RUS/CO/5, No. 14 (2012) (urging Russia to ensure effective investigation and prosecution of domestic violence).

<sup>6</sup> *See* List of Issues, E/C.12/RUS/Q/6, and Reply to List of Issues, E/C.12/RUS/Q/6/Add.1.

by our partners in Russia make clear that these amendments have made it even more difficult for victims of domestic violence to pursue and achieve justice and protection from further victimization, ultimately creating a culture of impunity for perpetrators. Very often, when incidents of domestic violence are filed with the courts through the administrative procedure, the courts simply return the filings to the police on procedural grounds without holding a trial. Even if the court does adjudicate the case, a very low penalty is commonly imposed in the form of a fine.

### *Rape and Sexual Assault*

The Russian Federation must ensure that its laws on rape and sexual assault work to prevent future violence and provide justice to survivors by properly deterring and appropriately punishing the commission of crimes. This effort must include, but is not limited to, reviewing and where necessary reforming laws on rape and sexual assault to ensure that they do not promote violence or revictimize survivors.<sup>7</sup> Equality Now is greatly concerned by provisions in the Russian Criminal Code that appear to allow perpetrators of rape or sexual assault to escape punishment upon marriage to or settlement with their victim. For example, Article 76 of the Criminal Code appears to allow perpetrators of sexual assault to escape punishment upon settlement with their victims if their crime is one of first offense and is classified under the Code as one of little or average gravity. This includes the offenses of “sexual coercion”, “sexual intercourse and other actions of a sexual character with a person who has not reached the age of sixteen years” and “depraved actions”. Equality Now is particularly concerned by Article 134 of the Criminal Code, which provides that a perpetrator over the age of 18 who has sexual intercourse with a child between fourteen and sixteen years of age can escape punishment under the law by marriage to the victim if the court deems that the perpetrator ceases to be “socially dangerous” as a consequence of such marriage.<sup>8</sup> The Russian Family Code permits the adoption of regional laws allowing marriage under the age of 16. Most regions have set the age of marriage at 14.

By failing to adequately prevent and punish sexual assault, the Russian Federation is falling short of its obligations under Article 12 of the ICESCR (right of everyone to the enjoyment of the

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<sup>7</sup> Human rights bodies have repeatedly expressed their concern regarding laws that allow perpetrators of rape to unfairly escape punishment or that deny justice to and/or revictimize survivors. For example, the Committee on the Rights of the Child’s recent joint recommendation with CEDAW on harmful practices recognizes that legal provisions that enable “a perpetrator of rape and/or other sexual crimes to avoid sanctions by marrying to the victim”, are “contrary to [State parties’] obligations of the States parties under both conventions”. Committee on the Elimination of Discrimination against Women and Committee on the Rights of the Child, *Joint general recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/general comment No. 18 of the Committee on the Rights of the Child on harmful practices*, 14 November 2014, CEDAW/C/GC/31- CRC/C/GC/18, at No. 42. See also the widespread condemnation of a similar provision in Lebanon’s penal code (Article 522): Committee Against Torture, *Concluding observations on the initial report of Lebanon*, 30 May 2017, CAT/C/LBN/CO/1, at No. 59 (stating that Lebanon “should fully repeal article 522 of the Criminal Code, ensure that perpetrators of rape do not escape punishment by marrying their victims and guarantee that all cases of violence against women are thoroughly investigated, that the perpetrators are prosecuted and that the victims obtain redress, including fair and adequate compensation.”); Committee on the Rights of the Child, *Concluding observations on the combined fourth and fifth periodic report of Lebanon*, 22 June 2017, CRC/C/LBN/CO/4-5, at No. 22 (urging Lebanon to “revoke expeditiously article 522 of the Penal Code and all legal provisions that exempt rapists from prosecution upon marriage to the victim to help end the revictimization of girl victims of rape who may be pressured into marrying the perpetrator”).

<sup>8</sup> Equality Now highlighted this finding in our recent report on rape laws around the globe entitled *The World's Shame - The Global Rape Epidemic - How Laws Around the World are Failing to Protect Women and Girls* (2017), available at <https://www.equalitynow.org/campaigns/rape-laws-report>.

highest attainable standard of physical and mental health), among others.<sup>9</sup>As this Committee made clear in its 2016 General Comment No.22 (on the right to sexual and reproductive health), Article 12 of the Covenant requires States to undertake measures to prevent sexual violence and to put into place laws and policies that protect individuals’ rights to “autonomous decision-making on matters regarding their sexual and reproductive health, free from violence, coercion and discrimination”.<sup>10</sup>

Finally, we note that the government of Russia did not discuss the issue of rape or sexual assault in its sixth period report. We hope the Committee will bring the government’s attention to this critical issue both in general and with regard to the government’s commitments under Article 12 and others of the ICESCR, but also specifically with regard to the above-outlined provisions of the Criminal Code.

### *Discriminatory Labor Laws*

Equality Now shares the Committee’s repeated concern that the list of as many as 456 occupations and 36 branches of labor from which women are barred under Article 253 of Russia’s Labor Code and Government Regulation No. 162 restricts women’s equal rights to work.<sup>11</sup> Laws that discriminate on the basis of sex demonstrate the clear disrespect of a government for the fundamental right of women and girls to equality and signify an official endorsement of women and girls as people of lesser worth.

We note with appreciation the Committee’s 2011 request that the Russian Federation review and amend the aforementioned list.<sup>12</sup> Equality Now also notes with appreciation the Committee’s continued attention to this issue: in response to the government’s failure to detail its plans to revise the list in its sixth periodic report, the Committee, in its List of Issues, requested that the government provide information regarding “how, in the course of revising the list, the State party intends to take into account the Committee’s previous recommendation”,<sup>13</sup> which had recommended review oriented towards “eliminat[ing] discrimination against women” and “ensur[ing] the equal enjoyment by women of their right to work”.<sup>14</sup>

Russia’s Reply to the List of Issues, however, does not sufficiently detail when its review of discriminatory labor laws will take place or how the review will be conducted with the ultimate goal of eliminating discrimination against women. The need to conduct the review through this prism is critical – these laws are rooted in, affirm and perpetuate gender inequality. Indeed, the CEDAW Committee recently held that the list “contradicts the State party’s obligations under the [CEDAW Convention] because it treats men and women differently, it in no way promotes the employment of women and it is based on discriminatory stereotypes”.<sup>15</sup>

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<sup>9</sup> For example, sexual violence and its impact on the lives of women and girls affect their ability to realize their rights under Article 2, 3 and 10 of the Covenant.

<sup>10</sup> Committee on Economic, Social and Cultural Rights, *General Comment No. 22 (2016) on the right to sexual and reproductive health*, 2 May 2016, E/C.12/GC/22, at Nos. 25-29, 49.

<sup>11</sup> See 2011 Concluding Observations, E/C.12/RUS/CO/5, at No. 16. For a discussion of these laws, see Russia’s Reply to the List of Issues, E/C.12/RUS/Q/6/Add.1, at No. 24.

<sup>12</sup> See 2011 Concluding Observations, E/C.12/RUS/CO/5, at No. 16.

<sup>13</sup> List of Issues, E/C.12/RUS/Q/6, at No. 15.

<sup>14</sup> 2011 Concluding Observations, E/C.12/RUS/CO/5, at No.16.

<sup>15</sup> *Medvedeva v. Russia*, Communication No. 60/2013, 5 May 2013, CEDAW/C/63/D/60/2013, at No. 11.7. In *Medvedeva*, the CEDAW Committee found in favor of a woman who argued that her rights were denied under the CEDAW

Only following a complete revocation of labor laws that discriminate against women on the basis of sex, while simultaneously ensuring that pregnant women and breastfeeding mothers are afforded the latitude to work safely and comfortably at their reasonable request without penalty or hindering their “access...to employment and their remuneration on the basis of gender stereotypes”, can the Russian government fulfill its obligations to eliminate discrimination against women.<sup>16</sup> To the extent that the State wishes to provide benefits and protections to pregnant women and new mothers, these benefits and protections should be electable at the mother’s discretion and developed within a context where employers simultaneously facilitate women’s maximum entry and participation in the labor force by adopting non-restrictive, evidence-based measures to protect both men’s and women’s health.

Equality Now is also concerned by those labor laws that restrict the employability of pregnant women and women with children under the age of three years old, and those restrictions on women’s working hours in rural areas, as detailed in paragraphs 26 to 28 of the government’s sixth periodic report. Conducting a review and necessary repeal of all labor laws that discriminate against women would also be in line with the 2030 Agenda for Sustainable Development (Agenda 2030) adopted in September 2015 by the UN General Assembly. This includes, *inter alia*, under Goal 5 to “[e]liminate all forms of violence against all women and girls in the public and private spheres” (Target 5.2), “[e]nsure women’s full and effective participation and equal opportunities for leadership in all levels of decision making in political, economic and public life” (Target 5.5), “[u]ndertake reforms to give women equal rights to economic resources” (Target 5.a) and “[a]dopt and strengthen sound policies and enforceable legislation for the promotion of gender equality and the empowerment of all women and girls at all levels” (Target 5.c), as well as Targets 8.8 and 10.3, which call on States to “[p]rotect labor rights and promote safe and secure working environments for all workers” and “[e]nsure equal opportunity and reduce inequalities of outcome, including by eliminating discriminatory laws....”, respectively.

#### *NGO Law*

Equality Now also wishes to bring the Committee’s attention to Federal Law No. 121-FZ on Non-Commercial Organizations, which requires non-profit organizations receiving foreign funding and engaging in “political activities” to register as “foreign agents”, and the more recent Federal Law of 23 May 2015 No. 129-FZ “On amendments of some legislative acts of the Russian Federation”, which allows prosecutors to extrajudicially shut down NGOs found to be “undesirable”. Both of these laws have been criticized by the Human Rights Committee, who in 2015 recommended that the Russian Federation repeal, or at least significantly revise, such legislation.<sup>17</sup>

Civil society plays an important role in the promotion and protection of all human rights and fundamental freedoms. It follows that restricting this role jeopardizes human rights and fundamental freedoms. With respect to women’s rights organizations, such restrictions create an environment of

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Convention as a result of being denied employment in one of the listed professions on the basis of her sex. The CEDAW Committee has previously and repeatedly expressed its concern regarding what it has described as an “overprotective list”. See CEDAW Concluding Observations 2015, CEDAW/C/RUS/CO/8, at No. 33.

<sup>16</sup> See *Medvedeva*, No. 60/2013, at No. 13(b)(i).

<sup>17</sup> See Human Rights Committee, *Concluding observations on the seventh periodic report of the Russian Federation*, 28 April 2015, CCPR/C/RUS/CO/7, at No. 22.

disrespect for women and their rights in which violence and discrimination is easily perpetrated and effectively condoned by the State. This inculcates a culture of impunity, as the State is not held to account. Such restrictions also remove from women subjected to domestic violence and other gender-based abuses the support they might have received from women's organizations in the absence of any State support (including with regard to prosecuting incidents of domestic violence). Indeed, the CEDAW Committee has noted with concern "the suspension or closure of some such organizations working in the field of women's rights" as a result of these restrictions.<sup>18</sup>

By both perpetuating a culture of disregard for women's rights and hindering the work of women's rights organizations, these laws thwart Russia's ability to fulfill Articles 3 (equal rights of men and women) and 10 (protection of the family and children) of the Covenant, among others, and render more difficult the Russian Federation's ability to follow the Committee's recommendations. For example, the Committee has previously recommended that Russia strengthen "public-awareness campaigns against domestic violence" and "support for victims of domestic violence in order to ensure their access to adequate services for recovery, counseling, and other forms of rehabilitation" and provide police officer training; the Committee has also called for the provision of services to victims of human trafficking, street children, the internally displaced and other vulnerable groups.<sup>19</sup> By restricting the work of women's rights organizations and turning what they do into a threat rather than a valued partnership in collaboration with which the State could more successfully achieve better status for and protection of women, the Russian Federation is failing in its obligations under the Covenant and generally towards its women.

#### *Suggested Questions for the State Party's Session*

Equality Now would therefore respectfully ask the Committee to raise with the Russian Federation during its review session the following questions with regard to the violations of the Covenant addressed in this letter:

- What are the Russian Federation's plans to review and amend those laws that allow perpetrators of rape and/or sexual assault to escape punishment upon marriage to or settlement with their victims?
- What are the Russian Federation's plans to amend those provisions of the Labor Code that bar women from certain occupations, restrict the employability of pregnant women and women with children under the age of three years old, and restrict women's working hours in rural areas, with the ultimate aim of eliminating discrimination against women and ensuring women's equal enjoyment of the right to work?
- When does the Russian Federation plan to collect statistics related to the prevalence of domestic violence and to compile information regarding the impact of the measures adopted by the government to combat domestic violence and the remedies provided victims of domestic violence?
- What actions does the Russian Federation plan to take to ensure that the 2012 Federal Law No. 121-FZ on Non-Commercial Organizations and Federal Law of 23 May 2015

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<sup>18</sup> CEDAW Concluding Observations 2015, CEDAW/C/RUS/CO/8, at No. 15. The CEDAW Committee has called upon Russia to "review the legislation requiring non-commercial organizations that receive foreign funding to register as 'foreign agents' and to ensure an environment in which women's associations and non-governmental organizations working on gender equality and women's empowerment may freely operate and raise funds". *Id.* at No. 16.

<sup>19</sup> See 2011 Concluding Observations, E/C.12/RUS/CO/5, at Nos. 22, 23, 24 and 27.

No. 129-FZ do not unduly restrict the activities of civil society, including women's rights organizations?

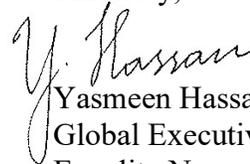
*Proposed Recommendations*

Equality Now would also respectfully ask the Committee to recommend to the government of the Russian Federation to:

- Revoke those amendments to the Criminal Code that allow for some acts of domestic violence to fall under the category of administrative offenses, amend those provisions in the Code of Criminal Procedure that require victims of domestic violence to pursue private prosecution and ultimately put in place and effectively implement comprehensive legislation criminalizing domestic violence and providing *ex officio* prosecution for all forms of domestic violence.
- Fully revoke Article 134, and review and amend as necessary Article 76 of the Criminal Code, as well as any other provision that allows exemption from punishment for perpetrators of rape and sexual assault upon any sort settlement with the victim, in addition to comprehensively reviewing and amending as necessary all other laws, policies and procedures relating to rape and sexual assault as needed to better prevent sexual assault, provide access to justice for victims and effectively punish sexual violence crimes.
- Fully revoke all labor laws and any others that discriminate on the basis of sex or maternity and ensure that pregnant women and breastfeeding mothers are afforded the right to work safely and comfortably at their reasonable request without penalty or hindering their access to employment and remuneration on the basis of gender stereotypes.
- Repeal the 2012 Amendments to Federal Law No. 121-FZ on Non-Commercial Organizations and Federal Law of 23.05.2015 N 129-FZ and remove any other restrictions that unjustly constrain the activities of civil society.

Thank you very much for your kind attention, and please do not hesitate to contact us if we can provide further information.

Sincerely,



Yasmeen Hassan  
Global Executive Director  
Equality Now