



Committee against Torture
Human Rights Treaties Division (HRTD)
Office of the United Nations High Commissioner for Human Rights (OHCHR)
Palais Wilson - 52, rue des Pâquis
CH-1201 Geneva (Switzerland)
Switzerland
By E-mail: cat@ohchr.org

25 January 2021

Information on List of Issues for the Russian Federation for Consideration by the Committee against Torture at its 70th Session (provisionally 26 Apr – 21 May 2021)

Introduction:

1. Equality Now, the Consortium of women's non-governmental organisations and Centre "Sisters" respectfully submit this letter in advance to the Committee against Torture (CAT) for consideration of the List of Issues prior to reporting (LOIPR) in relation to the Russian Federation's 7th periodic review. Our joint submission details our concerns with regard to laws related to rape and other forms of sexual violence and procedures and practices which effectively deny access to justice for survivors of sexual violence. Russia's legal system continues to provide a number of opportunities for perpetrators to escape criminal liability or punishment, namely through the way sexual violence crimes are defined; allowing for the direct release of a perpetrator from liability or punishment in certain circumstances; and through the way sexual violence crimes are investigated and prosecuted, including with respect to adolescent girls.

Information about the authors of the submission

2. **Equality Now** is an international human rights NGO with the mission to achieve legal and systemic change that addresses violence and discrimination against women and girls around the world. Founded in 1992, Equality Now has offices in London, New York, Nairobi and Beirut, as well as consultants based in various parts of the world. Ending sexual violence, ending sex trafficking, ending harmful practices and achieving legal equality are the main areas of Equality Now's work. This submission is in reference to Equality Now's 2019 report, "Roadblocks to Justice: How the Law is Failing Survivors of Sexual Violence in Eurasia"¹ which identified gaps in the law, thereby allowing for actual and potential impunity for perpetrators of sexual violence crimes. This report also relies on the Third Party Intervention to the European Court of Human Rights, in the case of T.V. v. Russia, submitted by the European Human Rights Advocacy Centre, Equal Rights Trust and Equality Now on 29 January 2020, outlining the issues raised in the present submission,² as well the submission to CAT in 2018³ and to CCPR⁴ and CEDAW⁵ in 2020.
3. **Centre "Sisters"** (full name Independent Charity Centre for Assistance to Sexual Violence survivors "Sisters") is a Russian regional organisation established in Moscow in 1994 with the goal of providing support and assistance to survivors of sexual violence, especially women and children. The goals of the organisation's activities include providing direct assistance to survivors of sexual violence (the "Sisters" Centre has a helpline and crisis email, provides individual psychological counseling), assisting survivors of sexual violence in receiving any other assistance they need, and promoting the establishment of favourable legal, psychological and social conditions for the rehabilitation of survivors of sexual violence. "Sisters" Centre works directly with the negative consequences of violence, and monitors how inadequate legislation and the insufficiency of measures taken by the state affect the psychological and physical condition of survivors of sexual violence and their well-being, who find it difficult to obtain the necessary help and rehabilitation. The Centre provides assistance to people from all over Russia.

¹

https://www.equalitynow.org/roadblocks_to_justice

²

https://d3n8a8pro7vhm.cloudfront.net/equalitynow/pages/2219/attachments/original/1580340080/202901T.V_Intervention_submission_%281%29.pdf?1580340080

³ https://www.equalitynow.org/russia_cat_submission_2018

⁴

https://d3n8a8pro7vhm.cloudfront.net/equalitynow/pages/3380/attachments/original/1591024178/Russian_Federation_CCPR_submission_by_Equality_Now__the_Consortium_of_women's_NGOs_and_Centre_Sisters_.pdf?1591024178

⁵

https://d3n8a8pro7vhm.cloudfront.net/equalitynow/pages/3390/attachments/original/1592839401/Russian_Federation_CEDAW_Submission_by_Equality_Now__the_Consortium_of_women's_non-governmental_organisations_and_Centre_Sisters.pdf?1592839401

Recommendations of the Committee to the Russian Federation in the Concluding Observations on the Sixth Periodic Report of the Russian Federation (28 August 2018)

4. We reiterate the Concluding Observations of the Committee against Torture of 28 August **on the sixth periodic report of the Russian Federation** in particular, the Committee's concern that *the conviction rate in rape cases is very low and that articles 75 and 76 of the Criminal Code may allow first-time perpetrators of rape or sexual assault to escape liability upon marriage or settlement with victims*. We draw your attention to the recommendation of the Committee to the Russian Federation to ensure that *all allegations of violence against women, committed through acts or omissions by State agents and others who engage the State's responsibility under the Convention, are registered by police and promptly, impartially and effectively investigated and that perpetrators are prosecuted and, if found responsible, punished*. (para. 31).
5. With this submission, we urge the Committee to reiterate the Russian Federation's obligations under CAT, in particular with respect to ensuring access to justice for survivors of sexual violence and bringing perpetrators to justice. Specifically, CAT requires Russia to prevent acts of torture (Article 2) and cruel and inhuman treatment (Article 16); conduct prompt and effective investigation (Article 12); ensure the right to a remedy (Article 13) and redress (Article 14).

Definitions of sexual violence crimes enabling impunity for perpetrators

6. The requirement to introduce a consent-based definition of rape and other forms of sexual violence which ensures that all coerced and non-consensual acts of a sexual character are criminalised is a well-established principle under international human rights
7. We submit that Articles 131, 132 and 133 of the Criminal Code of Russia need to be amended to ensure that the definitions of rape and other sexual violence crimes are in compliance with standards developed by international law and cover all forms of sexual violence acts committed without the victim's voluntary, genuine and willing **consent**. We also submit that sanctions for the above crimes should correspond to the gravity of the crimes.

We respectfully ask the Committee to request further information from the Russian Federation on the following issues:

- **What measures has the Russian Federation undertaken/is the Russian Federation planning to undertake to amend its criminal law provisions and introduce a consent-based definition of rape and other forms of sexual violence?**
- **What measures has the Russian Federation undertaken/is the Russian Federation planning to undertake to introduce sanctions based on the gravity of the crime?**

Impunity for statutory rape of adolescent girls

8. Article 134 of the Criminal Code of Russia expressly provides that if an adult person (over the age of 18) marries a girl below 16 with whom he has had sexual relations with her supposed consent, he will not be punished for the statutory rape.
9. The Government of Russia should abolish the provision in Article 134 of the Criminal Code which expressly provides that if an adult person (over the age of 18) marries a girl below 16 with whom he has had sexual relations with her supposed consent, he will not be punished for the statutory rape.

We respectfully ask the Committee to request further information from the Russian Federation on the following issues:

- **What measures has the Russian Federation taken to ensure that marriage is no exception for punishing statutory rape against adolescent girls?**
- **What measures has the Russian Federation taken to make sure that the age of marriage is fixed as 18 without exceptions?**

Ensuring perpetrators of sexual violence are brought to justice

10. International human rights standards require Russia to respond seriously to all cases of gender-based violence, including through prosecution led by the State, to ensure access to justice. Russia fails to ensure ex officio/public prosecution for sexual violence crimes, classifying these crimes as the ones prosecuted under private-public prosecution procedures. Article 20.3 of the Criminal Procedure Code of Russia, which is applicable to rape and violent actions of a sexual character, provides that “criminal cases of private-public prosecution are initiated only upon application from the victim, or from their legal representative, but are not subject to termination due to the victim’s reconciliation with the accused.”
11. While reporting sexual violence victims face many obstacles, including the reluctance of law enforcement to register their allegations, verify their testimony and initiate criminal proceedings. Moreover, “reconciliation” is often used and abused with the result that perpetrators of sexual violence escape any form of criminal punishment or repercussions for their criminal behaviour, including avoiding a criminal record.
12. The authors of this submission would like to specifically draw the Committee’s attention to the amendments to the Criminal Code of Russia (Article 128.1 part 5 - "Libel combined with the accusation of a person of committing a crime against sexual integrity and sexual freedom of the individual) put in place **in December 2020, toughening the sanction for libel in relation to sexual violence crimes**. This regulation, not only interferes with the right to freedom of expression, but also discourages victims of sexual violence to come forward and report the abuses because of fear of criminal prosecution and tough sentences. This also violates the right to be protected from inhuman treatment.

13. The Government of Russia should ensure that the Criminal Procedure Code of Russia provides that **all sexual violence crimes are investigated/prosecuted ex officio** by the State and that the investigation/prosecution does not depend on the complaint of the victim or their legal representative and that reconciliation procedures are not applied. Moreover, investigators, prosecutors and judges should be appropriately trained in order to apply a specific, gender-sensitive methodology for investigating sexual violence crimes.
14. The Government of Russia should ensure that the laws do not criminalise victims of sexual violence who seek justice, and that any provisions that hinder them from reporting sexual abuse through fear of prosecution, are abolished.

We respectfully ask the Committee to request further information from the Russian Federation on the following issues:

- **What steps is the government undertaking to ensure that all sexual violence crimes are investigated and prosecuted ex officio (public prosecution)?**
- **What measures has the government taken to ensure that sexual violence is in practice punished based on its gravity and that victims are provided with effective remedies?**
- **What steps is the government undertaking to ensure that sexual violence investigations and prosecutions are not discontinued as a result of reconciliations?**
- **What steps is the government undertaking to ensure that defamation laws do not criminalise victims of sexual violence who seek justice, and that the provisions that hinder the victims from reporting sexual abuse because of fear of prosecution, are abolished?**