



**Russian Federation's Compliance with Convention on the Elimination of All Forms of Discrimination against Women**

**Suggested List of Issues Relating to Discrimination Based on Sexual orientation, Gender Identity, and Gender Expression**

**Submitted by The Advocates for Human Rights**

a non-governmental organization in special consultative status with ECOSOC since 1996  
and

**Moscow Community Center for LGBT+ Initiatives**

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**The Advocates for Human Rights** (The Advocates) is a volunteer-based non-governmental organization committed to the impartial promotion and protection of international human rights standards and the rule of law. Established in 1983, The Advocates conducts a range of programs to promote human rights in the United States and around the world, including monitoring and fact finding, direct legal representation, education and training, and publications.

**Moscow Community Center for LGBT+ Initiatives** (MCC) was established in 2015 as a resource for LGBT+ initiatives in the greater Moscow region of the Russian Federation. It is a volunteer-based organization where community members can experience an atmosphere of friendship, support, and acceptance. MCC initiates and implements unique projects serving LGBT individuals, including legal services and psychosocial care. Through education and outreach, the Center is committed to bringing together the region's activists to build an LGBTQI movement in Moscow and across Russia and to fight anti-gay discrimination.

## EXECUTIVE SUMMARY

1. Russian authorities continue to engage in and create a climate of impunity for widespread violence, discrimination, harassment, and murders of lesbian, bisexual, and transgender women.
2. The COVID-19 pandemic has placed lesbian, bisexual, and transgender women at heightened risk, particularly as they are confined to the family home—an environment where many LBT women do not feel safe. In the North Caucasus, LBT women report that law enforcement actively facilitate domestic violence by returning victims to their abusive families. Victims of domestic violence in the region are unable to obtain health care for their injuries.
3. Even before the COVID-19 pandemic, the situation in Chechnya was particularly dangerous for LBT women. Women have faced detention and torture for their sexual orientation, gender identity, or gender expression. LBT women are controlled entirely by their male family members, and therefore are unable to leave the family home or the region without their authorization. Family members subject LBT women to threats, violence, and even so-called honor killings. This violence occurs with impunity, and often even with the assistance of law enforcement.
4. Discrimination, harassment, and threats against LBT women have increased, coinciding with the government’s rhetoric that LGBT relationships are a threat to traditional families. In response to a 2020 survey of LGBT persons in Russia, 27% of trans women and 8.2% of cis-gender LB women reported experiencing physical violence during the previous year, while 80.2% of trans women and 51% of cis women reported experiencing “mental” violence. Trans women are the group reported to be most vulnerable to violence. These women also report experiencing high levels of discrimination at work and school, and they also report unlawful detention, barriers to accessing healthcare, discrimination in housing, and unauthorized access to personal information.
5. LBT women do not trust the police or courts to address discrimination and violence based on sexual orientation, gender identity, or gender expression. Many said that when they did make reports, authorities did not act on them.
6. The 2013 law banning “the promotion of non-traditional sexual relations to minors” continues to perpetuate discrimination against LBT women. Russian authorities are using this law and the country’s anti-pornography law to dig up information on social media networks to target vocal LBT women. Yulia Tsvetkova, an activist for LGBT rights, has been targeted for violating the propaganda law based on images of women’s bodies she posted on a social media platform in relation to a statement about traditional perceptions of female bodies. The administrative proceedings against Tsvetkova were neither fair nor impartial. Tsvetkova has also been targeted for violating the anti-pornography laws based on alleged body-positive posts on social media. She was held under house arrest for 14 days after being charged. A transgender woman named Michelle was arrested and imprisoned for posts of anime drawings that she had made on a social media site more than seven years prior to her arrest.

### COVID-19

7. Restrictions on movement and confinement to the family home pose particular dangers to lesbian, bisexual, and transgender women. As noted below, most LBT women report not being

open to family members about their sexual orientation, gender identity, or gender expression. As a result, the family is one of the most insecure environments for LBT women.

8. Moscow Community Center for LGBT+ Initiatives has received information from the “Assistance Group for Queer Women of the North Caucasus” about the effects of the COVID-19 pandemic on lesbian and bisexual women and transgender persons in the North Caucasus region of the Russian Federation.
9. The situation in the North Caucasus region is alarming. Since March 2020, there has been a significant increase in cases of violence against women in the region, especially in Ingushetia, Dagestan, and Chechnya. Since March, the Assistance Group has noted an increase in requests for assistance from lesbian and bisexual women from the region. These women continue to be exposed to continuing violence.
10. In May 2020, the Assistance Group conducted a survey of lesbian and bisexual women and transgender persons on access to legal protection and medical care in cases of gender-based violence. 23% of respondents reported that domestic conflicts have increased during the pandemic.
11. One woman in the Chechen republic who requested help from the Assistance Group has been confined to her family home and subject to physical and sexual violence because of her sexual orientation. One of her relatives subjects her to blackmail and threats of “corrective rape.” She is unable to obtain assistance from police or medical providers and she cannot leave her home or the Chechen Republic due to death threats and quarantine measures in the region.
12. Moreover, law enforcement agencies actively facilitate and perpetuate domestic violence. The survey revealed that law enforcement agencies in the North Caucasus region provide comprehensive support to family members who commit domestic violence. If a woman decides to flee the violence, law enforcement agencies capture her and hand her over to her relatives, even though they are aware of the risk of so-called honor killings. According to one respondent, “God forbid we make a police complaint against a relative now, it’s not just that the police won’t accept it, it’s that conditions will become even worse for her, so that she would never again dare to say another word. There is neither law nor order in these regions.” Another respondent commented, “There is no help or support. They return girls to their families with the certainty that they will be killed and buried. And they are killed and buried.” Another respondent added, “Law enforcement agencies themselves bring girls back to their relatives multiple times, and I am speaking from personal experience. They are the last people we could have relied on in this situation.” Another woman noted that the danger extends beyond the region: “If they put out an international warrant for you, then you’re screwed unless you have people to help you.”
13. The role of law enforcement in facilitating and perpetuating domestic violence is particularly important under COVID-19, when the powers of police officers have increased significantly.
14. Women in the North Caucasus region are also experiencing barriers to obtaining health care during the COVID-19 pandemic, particularly to treat injuries resulting from domestic violence. Throughout Russia, there have been restrictions in access to medical facilities, but only in the North Caucasus do those restrictions apply to victims of violence. Of survey respondents, only 50% reported that they could seek medical assistance without the consent of older family members. 17% of respondents said they could seek medical assistance in all cases except

beatings or other domestic violence. One respondent reported that she had been subjected to domestic violence and could not seek medical assistance without the consent of older relatives. She remains at home, using home remedies, and does not have access to medical care for her injuries.

## **Russia fails to uphold its obligations under the Convention on the Elimination of All Forms of Discrimination against Women**

### **I. Russia has failed to take measures to reduce violence and discrimination on the basis of sexual orientation and gender identity and expression. (Concluding Observations Paragraph 42 (b)-(c))**

15. In its 2015 Concluding Observations, the Committee expressed concern over reports of discrimination, harassment, and hate speech directed at LBT women, including from the police.<sup>1</sup> The Committee expressed further concern of the “unjustified dismissals of teachers belonging to the” LBT community.<sup>2</sup>
16. The Committee recommended that the Russian Federation train law enforcement officers, conduct “aware-raising campaigns aimed at the general public,” and ensure the protection of LBT women from discrimination in their professional life.<sup>3</sup>
17. In its Ninth Periodic Report, the Government of the Russian Federation asserts that discrimination based on sexual orientation or gender identity is prohibited.<sup>4</sup> The report further notes that Article 3 of the Labour law prohibits discrimination against individuals on any grounds except for the individuals’ professional competencies and emphasizes that although the list of protections under that law does not explicitly list sexual orientation, the list is non-exhaustive and implies that all other grounds—including sexual orientation—are captured by the law.<sup>5</sup>
18. In a quest to eradicate Chechen separatist groups and gain control over the region, the Russian Government encouraged Chechen authorities to prosecute and torture people alleged to have incited separatist notion. Chechen authorities used this discretion to eliminate dissent, defined broadly, including by targeting people on the basis of sexual orientation or gender identity. As a result, hundreds of LGBTI individuals have been imprisoned for their sexual orientation, gender identity, or gender expression.<sup>6</sup> Lesbian and bisexual women have faced detention and torture.<sup>7</sup> As of 17 January 2019, Chechen authorities continue to carry out “large-scale arrests of individuals believed to be gay or lesbian, imprisoning and torturing them.”<sup>8</sup> According to

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<sup>1</sup> Committee on the Elimination of Discrimination against Women, *Concluding Observations on the Eighth Periodic Report of the Russian Federation*, (Nov. 20, 2015), U.N. Doc. CEDAW/C/RUS/CO/8, ¶ 41.

<sup>2</sup> *Id.*

<sup>3</sup> *Id.* ¶ 42(b)-(c).

<sup>4</sup> Committee on the Elimination of Discrimination against Women, *Ninth Report Submitted by the Russian Federation under Article 18 of the Covenant, due in 2019*, (Jan. 8, 2020), U.N. Doc. CEDAW/C/RUS/9, ¶ 179.

<sup>5</sup> *Id.*

<sup>6</sup> Russian LGBT Network, *They Said that I’m not a Human, that I am Nothing, that I Should Rather be a Terrorist, than a Faggot’ LGBT Persecution in the North Caucasus: a Report*, by Russian LGBT Network in cooperation with Elena Milashina (Saint Petersburg: 2018), [https://lgbt.net.org/sites/default/files/doklad\\_web.pdf](https://lgbt.net.org/sites/default/files/doklad_web.pdf).

<sup>7</sup> *Id.* at 38.

<sup>8</sup> Natalia Prilutskaya, *Putin has Given Chechnya Free Rein to Persecute LGBTI People*, *The Moscow Times*, Jan. 17, 2019, <https://www.themoscowtimes.com/2019/01/17/putin-has-given-chechnya-free-rein-to-persecute-lgbt-people-a64172>.

Amnesty International, between December 2018 and January 2019, Chechen authorities arrested 40 LGBTI individuals and at least two individuals died during that period as a result of torture in Chechnya<sup>9</sup>

19. Accounts of LGBTI individuals in the Chechen region being picked up by the police and interrogated about their sexual orientation, and then tortured through water torture, electrocution, starvation, and armed beatings continue. Mass detentions and raids by Chechen authorities of individuals suspected of homosexuality appear to have begun in Chechnya in early 2017. Despite these accounts, Chechen authorities deny all wrong-doing and in an alarming manner insist that gay individuals do not exist in Chechnya.<sup>10</sup> Russian authorities generally disregard these abuses.<sup>11</sup> Victims have been excluded from avenues of obtaining justice through the Russian legal system. There are widespread reports of LGBTI individuals being killed by family members in Chechnya, often with the encouragement of law enforcement officials.<sup>12</sup> Entrapment and torture of LGBTI individuals by vigilante groups has also been reported in Russia.<sup>13</sup>
20. There are few personal accounts of LBT women in Chechnya because they face more violence than gay and bisexual men.<sup>14</sup> Unlike gay and bisexual men, who are free to leave their region, LBT women are controlled entirely by their fathers, brothers, and husbands.<sup>15</sup> In some cases, the family member is recruited as a security agent, allowing authorities to easily monitor outed lesbians, “and if their ruthless relatives want to kill them, they could have the means and sources to determine their location and attempt a reprisal.”<sup>16</sup> Instead of going to prison, LBT women typically experience violence at the hands of their brothers, male relatives, or friends.<sup>17</sup>
21. For example, one woman’s brother beat her, and her sister threatened to kill her after someone took screenshots of her correspondence with a girlfriend and forwarded them to her uncle.<sup>18</sup> Though the woman managed to escape her family multiple times, her relatives ultimately tracked her down.<sup>19</sup> On one occasion, a relative tracked her down and signed her into a psychiatric facility for three months.<sup>20</sup> Her brother confronted her with a pistol and asked her

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<sup>9</sup> Ibid.

<sup>10</sup> Masha Gessen, “The Gay Men Who Fled Chechnya’s Purge,” *The New Yorker*, Jun. 26, 2017, <https://www.newyorker.com/magazine/2017/07/03/the-gay-men-who-fled-chechnyas-purge>.

<sup>11</sup> Masha Gessen, “A Damning New Report on L.G.B.T. Persecution in Chechnya,” *The New Yorker*, Dec. 21, 2018, <https://www.newyorker.com/news/our-columnists/a-damning-new-report-on-lgbt-persecution-in-chechnya>.

<sup>12</sup> Masha Gessen, “The Year Russian L.G.B.T. Persecution Defied Belief,” *The New Yorker*, Dec. 29, 2017, <https://www.newyorker.com/culture/2017-in-review/the-year-russian-lgbt-persecution-defied-belief>.

<sup>13</sup> Ibid.

<sup>14</sup> Masha Gessen, “The Year Russian L.G.B.T. Persecution Defied Belief,” *The New Yorker*, Dec. 29, 2017, <https://www.newyorker.com/culture/2017-in-review/the-year-russian-lgbt-persecution-defied-belief>.

<sup>15</sup> Ibid.

<sup>16</sup> Russian LGBT Network, *‘They Said that I’m not a Human, that I am Nothing, that I Should Rather be a Terrorist, than a Faggot’ LGBT Persecution in the North Caucasus: a Report*, by Russian LGBT Network in cooperation with Elena Milashina (Saint Petersburg: 2018), [https://lgbtnet.org/sites/default/files/doklad\\_web.pdf](https://lgbtnet.org/sites/default/files/doklad_web.pdf) at 38.

<sup>17</sup> Russian LGBT Network, *‘They Said that I’m not a Human, that I am Nothing, that I Should Rather be a Terrorist, than a Faggot’ LGBT Persecution in the North Caucasus: a Report*, by Russian LGBT Network in cooperation with Elena Milashina (Saint Petersburg: 2018), [https://lgbtnet.org/sites/default/files/doklad\\_web.pdf](https://lgbtnet.org/sites/default/files/doklad_web.pdf).

<sup>18</sup> Russian LGBT Network, *‘They Said that I’m not a Human, that I am Nothing, that I Should Rather be a Terrorist, than a Faggot’ LGBT Persecution in the North Caucasus: a Report*, by Russian LGBT Network in cooperation with Elena Milashina (Saint Petersburg: 2018), [https://lgbtnet.org/sites/default/files/doklad\\_web.pdf](https://lgbtnet.org/sites/default/files/doklad_web.pdf).

<sup>19</sup> Ibid.

<sup>20</sup> *Id.* at 39.

to kill herself, explaining that “it would be easier to explain to others that it was an accident if I shot myself.”<sup>21</sup> A week after they caught her again trying to flee Chechnya, she died from suspected poisoning, even though the death certificate says she died from “organ rejection, in consequence of complications after having the flu.”<sup>22</sup> Her girlfriend was also caught and the girlfriend’s brother subjected her to torture in the form of electric shocks.<sup>23</sup>

22. Another woman reported that she married a man in order to hide the fact that she was a lesbian, “so as not to ruin the reputation of my family.” After she left the region, her family became aware that the marriage was a sham, and since that time she has been “attacked with threats from my male relatives, who are seeking to punish me for the lie and my lifestyle.”<sup>24</sup>
23. Another lesbian woman reported receiving threats from unknown persons who “promised to find us and kill us, or to inform our parents about our sexual orientation to let them execute us.” She noted that if a lesbian woman’s “opponents” were to find out about her sexual orientation, “they would beat me and rape me, film it, and then share it with others, or simply kill me.”<sup>25</sup> She observed that “honor killings” of females in Chechnya never result in punishment, either “by public opinion [ ]or from the legal point of view.”<sup>26</sup> Chechen women can face extrajudicial executions simply for living alone in a city outside Chechnya.<sup>27</sup>
24. Discrimination, harassment, and threats of violence against LBT people have increased in recent years, coinciding with the government’s rhetoric that LGBT relationships are a threat to traditional families. A survey conducted in 2017 of more than 1600 people found that 81% of respondents disapprove of same-sex relationships. The same survey found that in the last 20 years such disapproval rose by 23%.<sup>28</sup> Although in 2008 the proportion of respondents disapproving of same-sex relationships was statistically lower for people between the ages of 18 and 31, such disapproval increased among younger respondents in the 2017 survey.<sup>29</sup>
25. The Russian LGBT Network conducted a survey in 2020 among 6,598 people primarily identifying as LGBTI and living in Russia, 62.9% of whom were Cis-gender or transgender women. 10.6% of transgender women and 11.3% of cisgender women reported being closed or closeted about their sexual orientation and gender identity—even among friends.<sup>30</sup> Most women reported being open to friends but not to family members, demonstrating that “the family continues to be one of the most insecure environments” for LBT women.<sup>31</sup>

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<sup>21</sup> *Id.* at 39.

<sup>22</sup> *Ibid.*

<sup>23</sup> *Ibid.*

<sup>24</sup> *Id.* at 38.

<sup>25</sup> *Id.* at 37.

<sup>26</sup> *Id.* at 38.

<sup>27</sup> *Ibid.*

<sup>28</sup> Levada Center, *Taboo in the Field of Sex and Reproduction*, Nov. 1, 2018, <https://www.levada.ru/2018/01/11/17389/?fromtg=1>.

<sup>29</sup> *Ibid.*

<sup>30</sup> Russian LGBT Network, *Monitoring Discrimination Against LGBTQ+ People in Russia. Quantitative Data (2020)*, by Kseniia Kamarina, Daniil Zhaivoronok (2020), (96.8% of those surveyed identified as LGBTI). [https://lgbtnet.org/sites/default/files/monitoring\\_data\\_report\\_2019.pdf](https://lgbtnet.org/sites/default/files/monitoring_data_report_2019.pdf) at 1, 6.

<sup>31</sup> *Id.* at 7.

26. The survey found that 11.6% of the respondents have experienced physical violence at least once and 56.2% experienced mental violence, in connection with their sexual orientation.<sup>32</sup> 8.2% of Cis-women reported experiencing physical violence and 3.6% reported experiencing sexual violence. 27% of trans women reported experiencing physical violence and 9% reported experiencing sexual violence. 51% of Cis-women and 80.2% of trans women reported experiencing “mental” violence. Transgender women are the group reported to be most vulnerable to violence.<sup>33</sup>
27. Further, such LGBTI individuals feel the highest levels of discrimination at their places of employment.<sup>34</sup> Respondents reported discrimination and injustice due to their sexual orientation in all other aspects of their lives, including unlawful detention, inability to access healthcare, inability to access products, services and parental rights, discrimination in housing, property damage, and unauthorized access to their information.<sup>35</sup> 22% of transgender women and 19.3% of cisgender women reported being open about their sexual orientation or gender identity at work or school.<sup>36</sup> Approximately 1.69% of trans women and .12% of cis-gender women reported being dismissed from their jobs due to their gender identity or sexual orientation.<sup>37</sup>
28. LBT women reported experiencing discrimination in many other spheres of life. For example, 3% of transgender women and 1.7% of cis-gender women reported being illegally arrested one or more times. 24% of transgender women and 2.9% of cis-gender women reported experiencing discrimination related to access to medicine. 29% of transgender women and 5.8% of cis-gender women reported experiencing discrimination related to illegal access to their personal data.<sup>38</sup> 4% of transgender women and .84% of cis-gender women reported experiencing violation of their parental rights. 19% of transgender women and 3.5% of cisgender women reported experiencing denial of access to goods and services on account of their sexual orientation or gender identity. 12% of transgender women and 4.7% of cis-gender women reported experiencing difficulties in finding housing or deprivation of housing on account of their sexual orientation or gender identity. 16% of transgender women and 4.7% of cis-gender women reported experiencing damage to property, theft, or embezzlement of property on account of their sexual orientation or gender identity.<sup>39</sup>
29. The survey also disaggregated data based on age, revealing patterns of discrimination targeting LBT girls. Transgender girls were most likely to report damage, theft, or embezzlement of property on account of their gender identity, with 29.4% of trans girls reporting this form of

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<sup>32</sup> Russian LGBT Network, *Monitoring Discrimination Against LGBTQ+ People in Russia. Quantitative Data (2020)*, by Kseniia Kamarina, Daniil Zhaivoronok (2020), (96.8% of those surveyed identified as LGBTI). [https://lgbtnet.org/sites/default/files/monitoring\\_data\\_report\\_2019.pdf](https://lgbtnet.org/sites/default/files/monitoring_data_report_2019.pdf).

<sup>33</sup> *Id.* at 9.

<sup>34</sup> *Id.* at 10 (13.4% of those surveyed reported experiencing discriminations at their place of employment, 10.5% had to mask personal information in the employment process to be hired).

<sup>35</sup> *Id.* at 11 (of those surveyed 152 faced unlawful detention, 294 faced inability to access health care services, 440 experienced rights violations and inability to access parental rights, 316 face housing discrimination, 738 experienced damage to property and 1,113 faced unauthorized access to their information).

<sup>36</sup> Russian LGBT Network, *Monitoring Discrimination Against LGBTQ+ People in Russia. Quantitative Data (2020)*, by Kseniia Kamarina, Daniil Zhaivoronok (2020), (96.8% of those surveyed identified as LGBTI). [https://lgbtnet.org/sites/default/files/monitoring\\_data\\_report\\_2019.pdf](https://lgbtnet.org/sites/default/files/monitoring_data_report_2019.pdf) at 7.

<sup>37</sup> *Id.* at 10.

<sup>38</sup> *Ibid.*

<sup>39</sup> *Id.* at 11.

discrimination. 13% of cis-gender girls reported property damage on account of their sexual orientation. LBT girls also reported relatively high rates of illegal use of their personal data: 16.5% of LB girls and 22.6% of transgender girls reported such discrimination.<sup>40</sup>

30. Respondents reported having little faith in institutions to address these forms of discrimination and violence. 73.3% of survey respondents said they did not fully or partially trust the police, and 65.2% said they do not trust the courts.<sup>41</sup> This lack of confidence appears to be well founded. More than half of respondents who said they had reported violence and discrimination based on sexual orientation or gender identity to law enforcement said they experienced difficulties with the process. 47% said that their reports were either not accepted or not reviewed or investigated.<sup>42</sup>

## **II. Russia has upheld laws that promote discrimination based on sexual orientation and gender identity. (Concluding Observations Paragraph 42(a))**

31. In its 2015 Concluding Observations, the Committee expressed concern that the Constitutional Court may have reinforced homophobia by upholding laws that ban “the promotion of non-traditional sexual relations to minors.”<sup>43</sup>The Committee recommended that the Russian Federation adopt anti-discrimination legislation and revise current discriminatory legislation to ensure the protection of the LGBTI community from discrimination and violence.<sup>44</sup>In June 2013, Russian President Vladimir Putin signed into federal law the law “aimed at protecting children from information promoting the denial of traditional family values” which deems it unlawful to promote “nontraditional sexual relations to minors,” including the provision of information over media channels and the internet.
32. Russia has not taken steps to amend or address the negative impact of the nontraditional family values act, but rather has increased arrests and proposed new laws that have a detrimental impact on LBT individuals in Russia. Among other constitutional amendments proposed by the president of Russia, Vladimir Putin, one aims to revise the constitution to explicitly define marriage as a union between a man and a woman and in effect ban same-sex marriage.<sup>45</sup>
33. Despite Russia’s Labour law, the law prohibiting promotion of non-traditional sexual relations to minors has been used as a vehicle to prosecute and silence LBTI individuals due to their perceived threats to the traditional family.<sup>46</sup> In June 2017, the European Court of Human Rights (ECHR) declared the law discriminatory.<sup>47</sup>

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<sup>40</sup> *Id.* at 12.

<sup>41</sup> *Id.* at 13.

<sup>42</sup> *Id.* at 14.

<sup>43</sup> Committee on the Elimination of Discrimination against Women, *Concluding Observations on the Eighth Periodic Report of the Russian Federation*, (Nov. 20, 2015), U.N. Doc. CEDAW/C/RUS/CO/8, ¶ 41(a).

<sup>44</sup> *Id.* ¶ 42(a).

<sup>45</sup> *Russia’s Putin Wants Traditional Marriage and God in Constitution*, BBC, Mar. 3, 2020, <https://www.bbc.com/news/world-europe-51719764>; and Andrew Kramer, *Putin Proposes Constitutional Ban on Gay Marriage*, *The New York Times*, 3 March 2020, <https://www.nytimes.com/2020/03/03/world/europe/putin-proposes-constitutional-ban-on-gay-marriage.html> (the vote on the constitutional amendments proposed by Vladimir Putin was scheduled for April 22, 2020; however, it has been postponed indefinitely due to the effects of COVID-19).

<sup>46</sup> Russia, Federal Law, No. 135-FZ, “On Amendments to Article 5 of the Federal Law on Protecting Children from Information Harmful to their Health and Development”, Jun. 29, 2013, Art. 6.21.

<sup>47</sup> *Bayev and Others v. Russia*, application nos. 67667/09, 44092/12 and 56717/12 (Jun. 20, 2017).



34. A Russian activist for LGBTI rights, Yulia Tsvetkova was arrested and later found to have committed an administrative offense of violating the law “aimed at protecting children from information promoting the denial of traditional family values” as a result of posting imagery of women’s bodies in relation to a statement about traditional perception of female bodies, on the Russian social network platform, “VKontakte.” Such posts were ruled to be “propaganda of non-traditional sexual relations.” It was further ruled that no direct evidence of children under 18 years old having access to such posted information is necessary given that there is a mere possibility of access due to the public nature of the account and thousands of children between ages 16 and 18 using the social platform.<sup>48</sup> The law was also used to prosecute Tsvetkova despite there being no evidence of whether she herself posted the information or owned the account, portraying the unfair and discriminatory nature of the proceedings in connection with the law.
35. Moreover, the administrative proceedings against Tsvetkova were neither fair nor impartial. There was no prosecuting party, a violation of Tsvetkova’s right to a fair and public hearing by a competent, independent, and impartial tribunal, and her right to be presumed innocent until proved guilty according to law.<sup>49</sup> Russian courts have a general practice of not requiring a prosecuting party in adjudication of alleged administrative offenses, a practice which compels the judge to perform the role of prosecutor, thereby undermining the impartiality of the court.<sup>50</sup> As the European Court of Human Rights found, “the lack of a prosecuting party [can have] an effect on the operation of the presumption of innocence during the trial and, by implication, on the question of the trial court’s impartiality and vice versa.”<sup>51</sup> Moreover, in such circumstances “the burden of proof is shifted from the prosecution to the defence.”<sup>52</sup>
36. Russia continues to limit the ability of members of the LGBT community to exercise their rights to freedom of expression and assembly. Russia continues to use various laws, including the non-traditional family law as well as Russia’s anti-pornography laws to stifle freedom of expression of LGBTI individuals. In addition to the violation of the anti-traditional family law, Yulia Tsvetkova was charged for a violation of Russia’s anti-pornography laws based on uncollaborated information about her body-positive posts on the social platform “VKontakte,” and when a judge was unable to hear the matter same day, held under house arrest for 14 days.<sup>53</sup>
37. Suppression of freedom of expression online by Russian authorities is also evident in regard to transgender individuals. Michelle (whose real name is being withheld for privacy), a transgender woman, was arrested and sentenced to three years in a prison for men, under the anti-child pornography laws in connection with several anime drawings that Michelle posted to an inactive “VKontakte” account more than seven years ago that each garnered between five and ten likes and did not draw any public attention at the time of posting. Prior to arrest, police hired a specialist that determined that age of the characters in the drawings is less than 14 years old. Despite discovering the images, police waited six months to arrest Michelle while

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<sup>48</sup> Tsvetkova v. Russia, case no. 12-38/2020 (Jan. 22, 2002).

<sup>49</sup> Karelin v. Russian, Application No. 926/08, European Court of Human Rights (20 Sept. 2016), available at <http://hudoc.echr.coe.int/eng-press?i=003-5491526-6896983>.

<sup>50</sup> Ibid.

<sup>51</sup> Id. ¶ 72.

<sup>52</sup> Ibid.

<sup>53</sup> Суд в Комсомольске-на-Амуре оштрафовал ЛГБТ-активистку из-за публикаций во «VKontakte», Ovdinfo, Nov. 12, 2019, <https://ovdinfo.org/express-news/2019/12/11/sud-v-komsomolske-na-amure-oshtrafoval-lgbt-aktivistku-iz-za-publikacij-vo>.

gathering more evidence against her, and upon arrest confiscated Michelle's phone and laptop.<sup>54</sup> Michelle has since been released from prison.

38. The highly publicized cases of Tsvetkova and Michelle portray that Russian authorities are going out of their way to dig up information that may subject LBT individuals to charges under the traditional family values law or pornography laws. Despite minimal evidence in both cases, the individuals were silenced and held captive, as a result of expressing their thoughts and identities through the VKontakte social media website.

**39. Suggested questions:**

- What measures are in place to monitor the frequency of domestic violence in the North Caucasus region and to ensure that victims of domestic violence who seek police protection are not returned to the custody of their abusers, particularly during the COVID-19 pandemic?
- What measures is the State Party taking to ensure that victims of domestic violence in the North Caucasus region are able to obtain appropriate medical care, particularly during the COVID-19 pandemic?
- Please provide data about all cases in which Article 3 of the Labour Law has been invoked to respond to discrimination against women or girls based on sexual orientation, gender identity, or gender expression in the reporting period, including whether a complainant raised such a claim, whether the court allowed the claim to proceed, and whether the court found a violation of the Labour Law on that basis. Has any court declined to apply Article 3 to a case alleging discrimination based on sexual orientation, gender identity, or gender expression?
- Please provide data about all criminal cases in the reporting period in which a female victim alleged being targeted based on the victim's sexual orientation, gender identity, or gender expression. For each case, identify the whether a complaint was made, whether authorities undertook an investigation, whether a person was charged, the charging offense(s), the outcome of the case, any sentence or fine imposed, whether the penalty was suspended or deferred, and the reason for suspension or deferral.
- Please provide data disaggregated by jurisdiction, sex, age, race, and ethnicity for all cases in which individuals and other entities have been charged with violation of the law prohibiting propaganda promoting non-traditional sexual relations to minors. For each case, indicate the charged offense, the facts establishing a nexus between the alleged conduct and minors, the status of the proceeding, the outcome of the proceeding, and any penalties assessed.
- What remedies are available for women and girls who allege that they have been unlawfully detained based on their sexual orientation, gender identity, or gender expression? How many such complaints have been lodged and what has been the outcome of each complaint?

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<sup>54</sup> Sergei Hazov-Kassia, *Нетрадиционное бельё. Трансгендерная женщина в мужском СИЗО*, Svoboda, Feb. 3, 2020, <https://www.svoboda.org/a/30412966.html>.

- What measures has the State Party taken to ensure that women and girls are not denied access to healthcare or housing based on their sexual orientation, gender identity, or gender expression?
- What safeguards are in place to ensure that a woman's parental rights are not curtailed or restricted based on their sexual orientation, gender identity, or gender expression?
- What measures have Russian authorities taken to ensure a full and independent investigation of all allegations of unlawful detention, torture, and other ill-treatment of LBT individuals in the Republic of Chechnya? Please describe all measures taken to hold individuals accountable for such conduct and to offer remedies to victims.
- What measures has the State Party adopted to protect women and girls from discrimination and violence based on sexual orientation, gender identity, or gender expression?
- Has the State Party clearly and officially stated that it does not tolerate any form of social stigmatization, hate speech, discrimination or violence against women and girls based on their sexual orientation or gender identity? What steps is the government of Russia taking to raise awareness in order to mitigate social prejudices, stigmatization, harassment, discrimination, and violence against LBT individuals?
- What steps has the State Party undertaken to ensure that a prosecuting authority participates in any oral hearing in administrative offence cases examined by courts of general jurisdiction so as to ensure the impartiality of the courts, so as to implement the decision of the European Court of Human Rights in *Karelin v. Russia*?
- Please comment on the status of the cases against Yulia Tsvetkova and please respond to the allegations that these prosecutions are based on thin evidence and are being used to restrict freedom of expression.
- What safeguards exist to ensure that officials are not invoking anti-pornography laws to target women based on their sexual orientation, gender identity, or gender expression for information they share on social media platforms?
- What training, if any, has been given to law enforcement to mitigate corruption, violence, and/or discrimination against LBT individuals?
- Have any members of law enforcement been prosecuted or otherwise held accountable for corruption, violence, and/or discrimination against LBT individuals? Please list all applicable cases. What measures, formal or informal, are in place to prevent and/or document these abuses by law enforcement? What measures are in place to hold law enforcement officers accountable for these abuses?
- What measures have been taken to protect LBT individuals from "honor killings" in Chechnya? Have any members of law enforcement been held accountable for encouraging these extrajudicial killings, or individuals prosecuted for committing them? Please list all applicable cases, and the outcome of each case.
- What measures have been taken to collect data on extrajudicial killings of LBT individuals? Please list all criminal cases, investigations, or reports involving the murder/killing of a woman or girl due to that individual's perceived sexual orientation or gender identity.

- Has the State Party clearly and officially condemned extrajudicial killings, by stating that they will not be tolerated, and/or are illegal and will be punished according to the law?
- What steps has the State Party taken to identify, amend, repeal, or prevent the adoption of laws that are discriminatory toward LBT individuals?
- What steps has the State Party taken, if any, toward amending restrictions on driving to prevent discrimination against LBT individuals? Has the State Party taken any steps to remove or consider removing “transgender identity, bi-gender identity, asexuality and cross-dressing” from the list of contraindications to driving?
- What measures have been taken to prevent the law prohibiting promotion of non-traditional sexual relations to minors from being used to target LBT individuals?
- Has article 63, paragraph 1(e) of the Criminal Code been applied in any case involving violence against an LBT individual?