By decriminalising domestic violence Russia takes a step backwards

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Last month Russia moved to decriminalise domestic violence. Jessica Gavron discusses the impact of this shift in Russia's criminal code and explains why domestic violence should be treated differently from stranger violence.

At a time when the World Health Organization describes violence against women as "*a global health problem of epidemic proportions*", and it is recognised to be a major cause of death and disability of women aged between 16-44 years, Russia has taken a deliberate step backwards in the protection of women.

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Previously domestic violence had been an offence under Article 116 of the Criminal Code: battery committed with an aggravating motive. The exhaustive list of aggravating motives, from which family violence has now been removed, still includes *hooliganism, political, ideological, racial, ethnic or religious hatred or enmity or hatred or hostility toward a particular social group*. Punishment for this offence includes compulsory labour or imprisonment for up to two years.

The rationale given by MP Yelena Mizulina, who chairs a committee on family and women's affairs and proposed the changes, is that a man should not receive a harsher penalty for the violence he metes out on his family than would a stranger.

There are good reasons why domestic violence should be treated differently from stranger violence. A number of distinguishing and aggravating features exacerbate the vulnerability of a victim of domestic violence: the perpetrator usually has unrestricted access to the victim in her home; the relationship usually entails a power imbalance or dependency (often economic), generally reinforced by cultural or societal attitudes; the violence is usually repetitive, as part of a pattern of abuse that often escalates and can be fatal; and there is often community acquiescence in the abuse.

The consequences of decriminalising domestic violence are not just practical – that an administrative offence does not go on a criminal record, that the requirements to investigate are limited – the signal it sends is clear: domestic violence is a minor infraction that does not carry the stigma of criminality. Bear in mind that this is in a country in which up to

> *40% of serious violent crime is committed within the family; two thirds of homicides are attributable to domestic motives, and 14,000 women die at the hands of their partner or other relatives each year.*

The European Human Rights Advocacy Centre is litigating a number of femicide cases from the former Soviet Union before the UN committee that monitors the Convention on the Elimination of All Forms of Discrimination Against Women and the European Court of Human Rights, in collaboration with regional partners. These cases all tell a similar story: the victims had experienced years of abuse before making a complaint to the police; the police protocols recording the complaints downgraded the seriousness of the incidents; and the complaints were not

investigated, as they revealed ‘no signs of a crime’. In all the cases, the response of the police, if not indifference, was to collude with the perpetrator (*What did you expect when you got married?*) or to remove the violence from the criminal legal sphere, with its numerous protective requirements, and place it back into the private sphere of the family (*Why don’t you tell your brothers to beat him up, then he’ll stop*). In these cases, the failure of the authorities to respond to these women’s complaints with due diligence or at all, resulted in their murder. Clearly, these authorities do not need any additional encouragement to downplay the seriousness of domestic violence.

Domestic violence is deeply rooted in the gender inequality that pervades most societies, and even more so in patriarchal ones. Entrenched traditional values and cultural practices that discriminate against women are not tolerated by the Convention on the Elimination of All Forms of Discrimination Against Women (Article 5). The decriminalisation of domestic violence flies in the face of this, and will do nothing to counter prevailing attitudes exemplified in the Russian proverb ‘*If he beats you it means he loves you*’.

About the author

Jessica Gavron is Legal Director of the European Human Rights Advocacy Centre at Middlesex University. EHRAC is an independent apolitical organisation working to support civil society organisations by bringing strategic cases before the European Court of Human Rights, awareness raising of violations and means of redress for victims, as well as building capacity of individuals and organisations through mentoring, training and advocacy.