



Committee on the Rights of the Child Secretariat
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Submitted through [Child Rights Connect](#)

Information on Russia for Consideration by the Committee on the Rights of the Child at its 94th Pre-Sessional Working Group (6 - 10 February 2023)

31 October 2022

Introduction:

1. We respectfully submit this report to supplement Russia's sixth and seventh periodic State Party review by the Committee on the Rights of the Child ('the Committee') during its 94th Pre-Sessional Working Group. In our submission, Equality Now, the Consortium of Women's Non-Governmental Associations ('the Consortium'), the Stichting Justice Initiative Project ('SJI') and the regional non-governmental non-profit organization "Independent Charity Center for Survivors of Sexual Violence "Sisters" ('The Sisters Center') detail concerns with regard to laws related to sexual violence and procedures and practices which effectively deny access to justice for girls survivors of sexual violence. Specifically, Russia's legal and criminal justice system provides a number of opportunities for perpetrators to escape criminal liability or punishment, namely through the way sexual violence crimes are defined and through the way sexual violence crimes are investigated and prosecuted. This submission covers issues particularly relevant to Article 19 (protection from all forms of violence and sexual abuse); Article 24 (right to health and protection from harmful practices); and Article 34 (protection from sexual exploitation and sexual abuse) of the Convention on the Rights of the Child and the Committee's General Comments No. 13 (2011) 'The right of the child to freedom from

all forms of violence’; and 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 (2019) on harmful practices.

Information about the authors of the submission

2. **Equality Now** is an international human rights organisation with ECOSOC status working to protect and promote the rights of women and girls worldwide since 1992, including through our network of individuals and organisations in every region. Ending sexual violence, ending sexual exploitation, 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.
3. **The Consortium of Women's Non-Governmental Associations** (‘The Consortium’) provides legal support for victims of domestic violence throughout Russia. The Consortium fights domestic and sexual violence, engages in gender education and advocates for the rights and interests of women. In 2017, the Consortium launched the project called “The Center for Assistance to Victims of Domestic Violence”. Every year, 1,000 women contact the Center for help, and attorneys take 120 cases across the country. The attorneys the Consortium works with specialize in domestic and sexual violence cases and have many years of experience and successful cases behind them. In particular, some appeals concern sexual violence against minors, sexual violence in relationships, sexual violence against women who are sexually exploited, and sexual harassment. The Consortium helps women from different regions of Russia receive free legal assistance and, if necessary, find an attorney for them at their place of residence.
4. **Stichting Justice Initiative Project** (‘SJI’) has been providing legal assistance to victims of human rights violations in the countries of the former Soviet Union since 2001. SJI has a particular focus on advocacy for the rights of survivors of gender-based violence in Russia. The organisation seeks to ensure that victims have guaranteed access to effective remedies at national and international levels, publishes research on women's and children's rights in Russia and carries out awareness-raising activities related to the prevention of gender-based and domestic violence. From 2019, SJI won the first cases before the European Court of Human Rights on behalf of victims of domestic violence, including a case concerning stalking in Russia. SJI also secured the first decision by the Committee on the Elimination of Discrimination against Women (CEDAW Committee) in relation to a victim of domestic violence in the North Caucasus.

¹ Available at: https://www.equalitynow.org/resource/roadblocks_to_justice/

5. **The regional non-governmental non-profit organization “Independent Charity Center for Survivors of Sexual Violence "Sisters" (“The Sisters Center”)** was established in 1994. It was one of the first crisis centres in the countries of the former Soviet Union. Currently, the Sisters Center's activities are focused on the following areas:
 1. Crisis counseling, information and support to survivors of sexual violence and their family members via hotline or crisis mail;
 2. Face-to-face counselling by psychologists;
 3. Victim support groups;
 4. Outreach activities, lectures, trainings and workshops.

Overview

6. In its Concluding observations on the combined fourth and fifth periodic reports of the Russian Federation (2014), the Committee expressed its concerns about a large number of cases of sexual exploitation and abuse of children in Russia and harmful practices in the North Caucasus and, therefore, *inter alia* recommended Russia to develop a comprehensive national strategy to prevent and address all forms of violence against children; adopt a national coordinating framework to address all forms of violence against children; pay particular attention to and address the gender dimension of violence; take urgent measures to investigate all information relating to the sexual abuse of children. However, the situation in Russia largely remains the same.
7. The Main Information and Analytical Centre of the Russian Ministry of Internal Affairs collects official statistics, including on crimes against sexual inviolability (Chapter 18 of the Criminal Code). Official statistics of the Russian Ministry of Internal Affairs include only those cases in which criminal proceedings for violence have been initiated. These statistics do not include cases where a report of sexual violence was not accepted or where a criminal case was refused. According to the official data, 13,500 to 14,200 people are victims of sexual violence each year in Russia.² Women and girls of all ages account for up to 90% of victims, with minors accounting for 75% to 90% of victims each year. Girls constitute the main victims in these categories of cases (between 70% and 75% of the total number of victims and between 80% and 83% of the total number of females).³
8. In the first 6 months of 2022, 273 individuals were convicted under Article 131 of the Criminal Code of Russia for aggravated rape and 822 individuals were convicted under

² Based on the statistics from the Main Information and Analytical Centre of the Russian Ministry of Internal Affairs on crimes against sexual inviolability (Chapter 18 of the Criminal Code) and the number of victims of these crimes, disaggregated by sex, age and relationship between the victim and the accused, for the period from 2014 to 2020, available at: <https://bochkova.academy/wp-content/uploads/2022/06/Полное-исследование-1.pdf>

³ *ibid*

Article 132 for aggravated violent actions of a sexual character. However, the data is not disaggregated by age of the victim to be able to separate how many girls were affected. For the same period of time, 15 individuals were convicted under Article 133 ('Compulsion to Perform Sexual Actions in respect of an underage boy (or girl)'); 1265 individuals were convicted under Article 134 ('Sexual Intercourse and Other Actions of Sexual Character with a Person Who Has Not Reached the Age of Sixteen Years'); 363 individuals were convicted under Article 135 ('Depraved Actions').⁴

9. The official statistics on violence against children, particularly on sexual violence against girls, is only the tip of the iceberg. According to the survey results,⁵ only 3% of all victims of sexual violence or threats of sexual violence reported to law enforcement agencies. As a result, only 1% of the perpetrators reported by female respondents in the survey have been criminally prosecuted.⁶
10. In Russia, much of the violence perpetrated against children (including girls) goes unchallenged because of inadequate laws, the lack of child-friendly reporting mechanisms and certain forms of abusive behaviour are understood by children as accepted practices.

Definitions of sexual violence crimes enabling impunity for perpetrators

11. There are three main types of crimes of sexual violence in the Criminal Code of Russia: rape (Article 131); violent actions of a sexual nature (Article 132); and compulsion into sexual intercourse/actions (Article 133) and these fall short of regional and international human rights standards in a number of ways.
12. When it comes to girls and adolescent girls, the Criminal Code of Russia differentiates between sexual intercourse with a minor under 16 years (statutory rape) and rape of/ assault of a sexual nature against a minor (committed by violence, the threat of violence or abusing the victim's helplessness) and compulsion of a minor into sexual intercourse/actions.
13. Article 134 of the Criminal Code criminalises sexual intercourse of an adult with someone under 16. Under Article 134(1), the crime of sexual intercourse with a minor is defined as the sexual intercourse of an adult with someone aged 14-16. Even though the word

⁴ Available at: <http://www.cdep.ru/index.php?id=79&item=7069> (Form No. 10-a "Report on the number of persons convicted for all offences under the Criminal Code of the Russian Federation")

⁵ "Sexualised Child Abuse": A Study by the Olga Bochkova Academy for Security and the Women's NGO Consortium, supported by "You Will Be Believed", available at: <https://bochkova.academy/wp-content/uploads/2022/06/Полное-исследование-1.pdf>

⁶ *ibid*

“consent” is not mentioned in the article, it is presumed that the minor perceives the act as consensual, but the act still constitutes a crime since the consent of a minor is legally invalid. According to Article 134(2), same-sex “consensual” sex between an adult and someone aged 14-16 is perceived as a more dangerous crime.⁷ “Consensual” sexual intercourse of an adult with someone who is between the age of 12 and under 14 is a crime under Article 134(3) and is a more severe crime than the act committed against someone who has reached the age of 14. All these crimes can only be committed by an individual who is 18 years of age or above and who knew or suspected that the victim was under 16.⁸ Under the article, there is a very problematic assumption that the minor consented (even though she was legally incapable of consent), wanted or even initiated sexual intercourse, which can put the blame on the minor instead of the perpetrator and affect the way the perpetrator might be treated by the criminal justice system.

14. The Criminal Code provides that a minor under 12 years old is in a helpless state due to his or her age, i.e. unable to understand the nature and meaning of the acts perpetrated against him or her, and, because of these reasons, sexual acts committed against her or him are either rape or violent action of a sexual nature. If the child is over 12 but under 16, sexual intercourse with the child (not involving violence or threats) is still a criminal offence, but there is no longer a presumption of helplessness to classify it as either rape or violent action of a sexual nature, which results in lesser sentences for the perpetrator. However, a child between 12 and 15 years (but who has not reached 16), could also be considered helpless if the helpless state is established through a psychological and psychiatric assessment. In exceptional cases, a helpless state can also be considered when the accused took advantage of the victim’s particular gullibility or vulnerability.
15. The commission of indecent assault⁹ without the use of violence by a person who has attained the age of eighteen against a person under the age of sixteen is a crime under Article 135 of the Criminal Code. According to the Supreme Court, “acts in which there was no direct physical contact with the victim's body can also be considered as indecent assault, including those committed using the Internet or other information and telecommunication networks”.¹⁰ The commission of indecent assault against children aged between 16 and 18, however, is not criminalised and does not constitute an offence.

⁷ A crime under Article 134(1) is punishable up to 4 years of imprisonment. A crime under Article 134(2) is punishable up to 6 years of imprisonment.

⁸ Ruling No. 16 of the Plenum of the Supreme Court of Russia from 4 December 2014 (para. 22).

⁹ According to Ruling No. 16 of the Plenum of the Supreme Court of Russia from 4 December 2014, indecent acts in Article 135 of the Criminal Code include any acts, other than sexual intercourse, sodomy and lesbianism, committed against persons who have reached the age of twelve but have not reached the age of sixteen, which were aimed at satisfying the sexual desire of the guilty party, or at causing sexual arousal in the victim, or at arousing interest in sexual relations in the victim (para 17).

¹⁰ *ibid*

16. Rape of a minor (as opposed to statutory rape, which is the crime where a 13-15 year old victim's consent is presumed but the consent is legally invalid) is committed if the perpetrator used violence, threat of violence or abused the helpless state of the victim. The crime defined as rape carries more severe punishments than so called consensual sexual acts with a child under 16 committed by an adult, as the act of rape is understood to be committed against the minor's will, using illegal methods. The younger the minor, the more severe penalties apply. As examined above, the presumption that a minor under 16 is capable of consenting to sex with an adult, even though such consent is legally invalid, is problematic and damaging for the minor.
17. The Criminal Code of Russia distinguishes between rape and violent actions of a sexual nature, and coercion/compulsion into acts of a sexual nature. Under Article 133(1), the crime of coercion/compulsion into acts of a sexual nature involves any of the types of behaviour criminalised by the offences of rape and violent action of a sexual nature, but that have been committed using either blackmail, threats of destruction, damage or seizure of property or taking advantage of the material or other dependence of the victim(s). Under Article 133(2), this crime against a minor is punishable up to 5 years of imprisonment. Coercion/compulsion is classified a less serious crime than rape or violent actions of sexual nature. The problematic assumption behind these definitions is a myth that rape and violent action of a sexual nature must involve physical force. This presumption ignores other means which perpetrators use to overcome the resistance of the victim.

Legal provisions allowing impunity for perpetrators of sexual violence

18. Russian criminal law provisions enable adult perpetrators to enjoy impunity for 'consensual' intercourse with a minor under the age of 16, which, under international human rights standards, should constitute rape since minors cannot consent, but the legislation of Russia does not define it as such. As provided by the Model Rape Law Report of the Special Rapporteur on violence against women, its causes and consequences (Art. 3) a person is considered incapable of giving genuine consent when they are a person below the age of 16.¹¹
19. Firstly, Article 134 of the Criminal Code still expressly provides that if an adult (over the age of 18) marries a girl aged between 14 and 16 with whom he has had sexual relations with her supposed "consent," he will not be punished by the court as he is no longer considered to be socially dangerous. Not only does this exemption exonerate the

¹¹ A framework for legislation on rape (Model Rape Law) : report of the Special Rapporteur on Violence against Women, Its Causes and Consequences, 15 June 2021, A/HRC/47/26/Add.1.

perpetrator from punishment if he does register the marriage, it also fails to protect the girl as a victim of sexual violence.

20. Secondly, according to Article 75(1) of the Criminal Code, a person who has committed a crime of light¹² or of medium gravity¹³ for the first time may be released from criminal liability if, after the perpetration of the offence, he has given himself up, assisted in the exposure and investigation of this crime, compensated for the damage, or in any other way effected restitution for the damage caused as a result of this crime, and has ceased to be socially dangerous as a result of active repentance.
21. Thirdly, according to Article 76 of the Criminal Code, a person who has committed a crime of light or medium gravity for the first time may be released from criminal liability if he has reconciled with the victim and restituted any damage inflicted on the victim.
22. Also, statute of limitation provisions do not take into account the fact that child victims of sexual abuse may report the abuse after a long period of time. The reasons include fear of the perpetrator, threats made by the perpetrator or “child sexual abuse accommodation syndrome” - the child being forced to keep sexual abuse a secret, which initially makes the child trapped and helpless.¹⁴ The applicable standard is set out in the Lanzarote Convention, which provides that “the statute of limitation for initiating proceedings... shall continue for a period of time sufficient to allow the efficient starting of proceedings after the victim has reached the age of majority and which is commensurate with the gravity of the crime in question” (Art. 33).

Burdensome evidential requirements in sexual violence cases against girls

23. Although Russia does not collect disaggregated data on sexual violence offences, it appears that only an extremely small proportion of reported sexual violence cases committed without the use of additional actual physical force reach the prosecution stage. According to local experts, all forms of sexual violence committed using threats of violence or other forms of coercion that do not involve physical force are largely ignored by law enforcement in practice. When such evidence cannot be secured, or when sexual violence was committed without using additional physical force, there is very little chance that other evidence will be sought and the perpetrator will be brought to justice.

¹² Applies to Compulsion to Perform Sexual Actions, Depraved Actions

¹³ Applies to Compulsion to Perform Sexual Actions committed in respect of a minor boy (minor girl), Sexual Intercourse and Other Actions of Sexual Character with a Person Who Has Not Reached the Age of Sixteen Years

¹⁴ WHO, ‘Guidelines for medico-legal care for victims of sexual violence’, section 7, pp. 76-77, available at: <https://apps.who.int/iris/bitstream/handle/10665/42788/924154628X.pdf?sequence=1&isAllowed=y>

24. There are cases when authorities refuse to prosecute if there was no forceful resistance by the victim. In one of the SJI's cases, a girl was raped several times by her new acquaintance. However, despite direct and immediate evidence from witnesses, the case was dropped. The investigator ignored the evidence of physical abuse (photographs of bruises and smears on the inside of the thighs) and dismissed the case, inter alia, on the grounds that "the 'top and side' position in which the sexual contact with the minor took place indicated that she could have refused intimacy".
25. Also, even when there is proof of physical injuries resulting from rape, investigators often require proof of biological evidence confirming sexual intercourse, and/or injuries specifically in the genital areas.
26. Disbelief in victims' testimonies or statements throughout the criminal justice process is reported by local organisations. Often the disbelief is the result of stereotypical and discriminatory attitudes towards girls (stereotypes about "ideal victims") and the myth that children are prone to lying and fantasising.
27. When an investigation of rape is opened, it is often discontinued for reasons unknown to the victim or the victim's representatives, or the investigation remains open for years but is neglected until the statute of limitations expires for prosecution, especially if the victim is unable for whatever reason to pro-actively support prosecution. This is particularly difficult when the victim is a girl, since minors many times depend on their parents or legal representatives throughout the proceedings.
28. When an adolescent girl is raped (and even where the perpetrator has no intention to "create a family"), the investigation is almost always initiated under an act of "consensual" sexual intercourse with a minor, rather than rape, because the prosecutors find it easier to prove as otherwise they would have to collect evidence to show additional violence or some form of coercion. This is damaging to the victims, since, in addition to the more lenient sanctions that the perpetrators might receive, the victim might be perceived as someone who consented, initiated or even provoked the sexual behaviour, resulting in sympathy being shown to the perpetrator by the criminal justice system, thereby further stigmatising the victim.

Secondary victimisation of girl survivors of sexual violence during criminal proceedings and lack of child-sensitive justice

29. According to the Committee's General Comment No. 13 (para 51), the investigation of instances of violence must be undertaken by qualified professionals who have received role-specific and comprehensive training, and require a child rights-based and

child-sensitive approach. Extreme care must be taken to avoid subjecting the child to further harm through the process of the investigation. However, Russia lacks any gender and child-sensitive methodology to investigate sexual violence crimes which means girls are being re-victimised in the process. As a result, necessary and relevant evidence for filing charges may not be collected.

30. Throughout the country, there is a lack of female police officers and investigators. Rape investigations are in many cases conducted by men, which further traumatises girls and creates a barrier for reporting. The sexual history of the victim, as well as her relationship status with the perpetrator, often come into consideration, even when the victim is a minor.
31. The secondary victimisation of girl survivors of sexual violence during criminal proceedings is attributed to the following factors, including as below:
 - a. Investigators have no special training and modern protocols and guidelines on how to investigate sexual violence crimes against children and often perpetuate myths and lack of awareness regarding child victims of sexual violence. The language they use is often not understandable to a child. For example, in one of the Consortium's cases, the investigator began his interrogation of victim A., 5 years old, who was sexually abused by a teacher by saying, "What can you say on the merits of this criminal case?".
 - b. During the investigation, children are often interviewed multiple times and are made to repeat the same traumatic facts and events. There is no legal right to be interviewed by a person of the same sex as that of the victim. In 2021, the European Court of Human Rights communicated an emblematic case against Russia - *B v. Russia*,¹⁵ which showed that in total, in the course of the investigation and trial proceedings the girl had to retell the circumstances of her sexual abuse at least 23 times; the identification of suspects was organised so that she had to see them in person; she had to participate in lengthy (2 hours and 20 minutes, and 55 minutes with a ten-minute break) confrontations with the alleged perpetrators, despite the experts' opinion that her meetings with them should be excluded. During the confrontations she had to answer questions by the accused, their male lawyers and an investigator.
 - c. Girls are often questioned multiple times by different officials, who often use sexist and humiliating language. In particular, authorities may imply that a minor girl "consented" or "proactively asked" for sexual intercourse. In the case of adolescents, the investigation often goes beyond the circumstances to collect a lot of irrelevant to the case but intrusive information about the victim's private life, her experience of intimate relationships, etc.

¹⁵ ECtHR, *B v. Russia*, App. No. 36328/20, communicated on 18 February 2021.

- d. There are appalling examples provided by the Sisters Center of when a girl, who was interviewed several times, was accused of being not credible for using ‘well-learned phrases’ or when a girl has to sign a protocol even though she did not know how to read.
32. According to Article 191(5) of the Code of Criminal Procedure, the use of video recording or filming shall be compulsory during investigative actions under this chapter involving a victim who is a minor, unless the minor victim or his or her legal representative objects. However, it has been reported that some investigators discourage legal representatives from doing so.
33. According to Article 191(1) of the Code of Criminal Procedure, if a victim or witness under the age of 16 or older suffers from a mental disorder (framed using derogatory terminology as “mental retardation”) and is being questioned, participates in confrontation,¹⁶ takes part in an identification parade and verification of evidence at the place of the offence, then it is mandatory that a teacher or psychologist is present. However, there is an acute shortage of trained psychologists, especially in the rural and remote regions. In fact, psychologists invited to participate in such investigations often lack the sufficient knowledge and skills to help the child and the investigation.
34. In sexual violence cases against children, a psychological and psychiatric evaluation of the victim is always conducted. The purpose of such examinations is not only to determine whether the child has a medical condition and is able to testify, but also to assess the child's capacity to resist. The child's capacity to resist is often used as "proof" that sexual abuse has not taken place. Often a child will be subjected to a number of psychological tests during the investigation as a substitute for providing evidence relating to the circumstances of the case. The investigation often tries to "establish the falsity" of the child's testimony through circumstantial psychological evidence.
35. In sexual violence cases against girls, a forensic medical examination involving a gynaecologist is always carried out, even when the circumstances of the case themselves indicate that such an examination is not necessary. Checking the condition of the hymen (“virginity checks”) are always carried out during the examination.

¹⁶ According to Article 192 of the Code of Criminal Procedure, if there are significant contradictions in the testimony of previously interrogated persons, the investigator shall be entitled to confront them. The investigator shall find out from the persons to be confronted whether they know each other and what relations they have with each other. The interrogated persons shall be asked to testify in turn about the circumstances for the clarification of which the confrontation is being held. After the testimony, the investigator may ask questions of each person being questioned. The persons being confronted may, with the investigator's permission, ask questions of one another.

36. Even though sexual violence offences are mostly heard during closed court sessions, violations of confidentiality (including during questioning in the course of the investigation) of all parties - the victim, perpetrator and any witnesses - are widespread during the investigation stage, particularly in a village or small town.

Lack of protection measures for victims of sexual violence

37. While there are several measures under Russian legislation which are aimed to protect a victim throughout the criminal proceedings,¹⁷ they all have proved to be ineffective when it comes to protection of girls victims of sexual violence. The Federal Law “On State Protection,” which aims to protect victims, witnesses and other participants of criminal proceedings, is rarely applied in practice in relation to sexual violence. This is because authorities do not fully appreciate the gravity of sexual violence, its impact on victims and its systemic nature as a human rights violation. Also, the law involves highly disruptive and heavy handed measures for a victim and does not target an aggressor.¹⁸

38. Recently, in 2018, the Criminal Procedure Code introduced certain restrictions for the suspect or the accused (Article 105.1 § 6), including communicating with certain persons or sending and receiving postal and telegraphic communications. Given the nature of the prohibitions in Article 105.1, this measure has a strong potential to protect victims of sexual violence. However, there are a number of practical limitations. Firstly, the restrictions are imposed on suspects or accused persons but they are not available at the pre-investigation stage where the safety and integrity of the victim are particularly endangered. Moreover, sexual violence cases are often not initiated at all - and restrictive measures have no application in such cases. Secondly, these restrictive measures do not provide that the perpetrators must not approach their victims. Thirdly, such measures cannot be imposed on the perpetrator’s friends and/or family members, or on the victim’s family members.

Lack of services for survivors of sexual violence

39. Survivors of sexual violence crimes often have no access to free legal assistance and services to support them through the criminal proceedings, including the provision of psychological and social assistance and safe housing. These factors, together with lengthy and stigmatising criminal proceedings, many times contribute to a survivor’s reluctance in seeking justice for sexual violence crimes.

¹⁷ Federal Law on State Protection of Victims, Witnesses and Other Participants of Criminal Proceedings (FZ-119 of 20 August 2004, with amendments); prohibition of certain actions (article 105.1 of the Code of Criminal Procedure)

¹⁸ ECtHR, *Volodina v. Russia*, App. No. 41261/17, para. 89

40. According to Article 45(2.1) of the Criminal Procedure Code, “at the request of the legal representative of a minor victim under the age of sixteen in respect of whom an offence against the sexual inviolability has been committed, the participation of an advocate as a representative of such victim shall be ensured by the person conducting the initial inquiry or investigation or by the court. In such cases, the lawyer's fees shall be reimbursed from the federal budget”. This provision establishes the right of victims to receive legal assistance from a state-appointed lawyer. However, such lawyers do not often have the requisite or specific expertise and victims aged 16-18 are not provided with free legal support.

Harmful practices against girls in the North Caucasus region

41. In 2016 and 2018, the SJI issued two reports on the practice of female genital mutilation (FGM) in some areas of Dagestan¹⁹ and in the North Caucasus region of the Russian Federation.²⁰ The SJI estimates that at least 1,240 girls undergo FGM each year in Dagestan and in some districts this practice is carried out on between 30% to 100% of underage girls. FGM is predominantly performed on girls in early childhood, up to the age of three.²¹ In mountainous, remote villages and settlements, the procedure is mostly performed by non-medical professionals at home, which often carries serious health complications for girls. However, in the context of large cities, cases have been documented and reported where such services are provided in commercial medical clinics, indicating a harmful trend of ‘medicalisation’.

42. In 2021, the CEDAW Committee in its Concluding observations on the ninth periodic report of the Russian Federation expressed deep concern about the prevalence of harmful practices against women and girls in the North Caucasus region, including femicide, killings in the name of so-called honour,²² child marriage, forced marriage, abduction of women and girls for forced marriage and FGM. The Committee recommended the

¹⁹ SJI, ‘Female Genital Mutilation of Girls in Dagestan. Report based on the results of a qualitative study’ (2016), available at:

<https://web.archive.org/web/20220125081219/https://www.srji.org/about/annual/proizvodstvo-kalechashchikh-operatsiy-na-polovykh-organakh-u-devochek-1-otchet/>

²⁰ SJI, ‘Mutilation Practices in the North Caucasus Republics: Strategies for Coping’ (2018), available at:

<https://web.archive.org/web/20220124092434/https://www.srji.org/about/annual/strategii-protivodeystviya-FGM-pr-oizvodstvo-kalechashchikh-operatsiy-sji/>

²¹ SJI, ‘Female Genital Mutilation of Girls in Dagestan. Report based on the results of a qualitative study’, section 2.4.2

²² According to the SJI Report ‘Killed by gossip: “Honor killings” of women in the North Caucasus’ (2020), in most cases, the victim was an adult female - 38, eight minor girls, two minor boys and two adult males, available at:

https://web.archive.org/web/20220201095958/https://www.srji.org/upload/iblock/8ee/Pravovaya_initsiativa_Otchet_UBITYE_SPLETNYAMI_2020.pdf

adoption of legislation explicitly criminalising FGM and ensuring the effective investigation, prosecution and punishment of perpetrators of harmful practices. However, the authorities' response to FGM and other harmful practices remains inadequate.

43. The Criminal Code of Russia does not explicitly criminalise FGM. However, the Criminal Code defines three types of deliberate harm to health: very grave, grave and of light gravity. With respect to FGM, following the Medical Criteria for Determining the Degree of Damage to Health,²³ ('Medical Criteria'), FGM could and should be qualified as causing grave damage to health (Article 111 of the Criminal Code – entailing up to 10 years of imprisonment) in certain cases.²⁴ However, the loss of an organ's functions (the sexual function in this case) without loss of productive capability is not grounds in itself for qualifying the harm caused as serious. In cases where FGM does not cause such consequences to a woman's health, it could potentially be qualified only under Article 115 of the Criminal Code — deliberate infliction of non-serious damage to health – and a fine of up to 40 000 roubles. Given that the harms of FGM go beyond those that can be calculable only as damage to physical health, including severe impacts on the sexual and mental health of women and girls, and given the gendered discrimination underlying the practice (which aims to control female sexuality), it is imperative that a specific prohibition on FGM is passed which is not based solely on ability to prove damage to health.
44. Due to the lack of an explicit criminalisation of FGM, it is difficult to apply existing provisions in the Criminal Code even for cases that reach the court. On 28 January 2022, in Russia's first trial in connection with FGM performed on a child that took place in the Republic of Ingushetia in 2019, a magistrate found the doctor who performed “ritual circumcision” for 2,000 rubles (32 USD) guilty of intentionally causing minor damage to health. The doctor was sentenced to a fine of 30,000 roubles and was released from punishment due to the expiry of the statute of limitations (therefore, the doctor did not pay the fine).²⁵

²³ Medical Criteria for Determining the Degree of Damage to Health, approved by the Russian Ministry for Healthcare and Social Development on April 24, 2008, No 149N

²⁴ If it involves “damage (disintegration, tearing, rupture) of the pelvic organs; open and (or) closed injury to the bladder, the membranous part of the urinary tract, the ovaries, the fallopian tubes, the uterus, or other pelvic organs (the prostate gland, testicles, or sperm ducts)” (para 6.1.21 of Medical Criteria), “injury to the vaginal wall or the large intestine or injury to the surrounding space, penetrating the pelvic cavity and (or) cellular tissue” (para 6.1.22 Medical Criteria), or “blunt injury to the reflexogenic zones: the throat area, the area around the carotid sinuses, the diaphragm, and the area around the external genital organs if clinical and morphological data is present” (para 6.1.27 Medical Criteria).

²⁵ Information about the case is available at: <https://www.bbc.com/russian/news-60179906>

45. The circumstances in which parents and relatives of girls in the North Caucasus region agree to early marriages often result from bride kidnapping and violence against girls. Girls who report to family members that they have been raped are often subjected to murder threats by their own relatives, usually their father. According to Article 134 of the Criminal Code, if an adult marries a girl under the age of 16²⁶ with whom he has sexual relations, such a person may be exempted from punishment for rape of a minor.
46. The SJI had a case in which a girl was raped when she was 11 years old. The mother concealed this information because she was afraid of the relatives of the girl's father and her ex-husband. When the crime was reported, the father's relatives blamed the mother and threatened to kill her and the girl. Both were subsequently granted state protection. The psychologist claimed that the reported rape was not the only one, but if the father's relatives found out about the other episodes, the mother and the girl would certainly be killed. The rapist was sentenced to 3.5 years in prison. However, there is an agreement between the parents that the rapist will marry the girl after he is released.

Child and forced marriage and bride kidnappings

47. Despite the lack of official statistics, child and forced marriages and bride kidnappings are still not uncommon in the North Caucasus part of Russia. However, these acts are not specifically criminalised. Bride kidnappings are investigated/prosecuted under the general crime of abduction (Article 126 of the Criminal Code), which leads to no criminal liability if the victim is released, unless there are indications of another crime having been committed by the perpetrator.
48. Bride kidnapping is frequently followed by rape which is used as a tool to force the victim into marriage and prevent her from leaving. Bride kidnapping usually ends with the woman or girl marrying the man because of pressure from the family and society that her chances of marrying again will significantly reduce if she is held overnight at the perpetrator's house. In such situations the "family" is then considered to have been formed, so rape is not investigated. This means that forced marriage, in addition to being ignored, has effectively exonerated the rape.
49. Article 13 of the Family Code provides that the age of marriage is 18. Marriage at 16 may be allowed due to 'justifiable reasons' (e.g., pregnancy, childbirth, immediate threat to life of one of the partners). Federal Law provides for a possibility for republic level

²⁶ See paragraph 50 below for regional exemptions to the age of marriage.

authorities to allow a lower marriage age. In at least 12 regions, marriage is allowed at 14, while in four other regions it is allowed at 15 due to “justifiable reasons”.²⁷

Recommendations for Russia

50. Legislative measures:

- Ratify and implement the Council of Europe’s Convention on Preventing and Combating violence against women and domestic violence (Istanbul Convention);
 - Ensure that harmful practices, such as child marriage, bride kidnapping, FGM, as well as condoning, concealment and complicity in the preparation and performance of such acts are explicitly criminalised in the Criminal Code;
 - Amend the criminal code to ensure that provisions such as “reconciliation” or “loss of socially dangerous nature based on change of circumstances” are not applied, either on a formal or informal basis for escaping responsibility for sexual violence crimes at any stage of the proceedings;
 - Ensure that the issue of “consent” of a minor under 16 is immaterial and not examined in practice and that sexual acts committed by adults against minors are treated as rape and entail sentences commensurate to the gravity of the crime;
 - Ensure that existing legislation is consistent and comprehensive and provides detailed guidance on prevention, protection, support and follow-up services and assistance for victims, including towards their physical and psychological recovery and social reintegration;
 - Fix the age of marriage as 18 in all territories of Russia, without any exceptions.
- Increasing access to justice and support services:
 - Abolish burdensome evidence requirements to prove sexual violence and investigative practices that contribute to secondary victimisation of girls;
 - Ensure that child survivors of sexual violence are sufficiently supported throughout the legal proceedings, including through the provision of free legal aid, psychological and social assistance and safe housing;
 - Ensure that independent, safe, effective, accessible and child-sensitive complaint and reporting mechanisms are available to girls. Ensure that child victims of

²⁷ Equality Now, ‘Roadblocks to Justice: How the Law is Failing Survivors of Sexual Violence in Eurasia’ (2019), p. 81, available at: https://d3n8a8pro7vhmx.cloudfront.net/equalitynow/pages/1581/attachments/original/1547485403/EN-Eurasia_Rpt_ENG_-_Web.pdf?1547485403

violence are treated in a child-friendly and sensitive manner throughout the justice process, taking into account their personal situation, needs, age, sex, gender, disability, their evolving capacities and fully respecting their physical, mental and moral integrity.

- Avoid secondary victimisation of girls throughout criminal proceedings, including by reducing the number of interviews, moving away from intrusive expert examinations (including banning irrelevant examining of the hymen), applying victim protection measures throughout the proceedings and preserving confidentiality of victims.

- Education and training:
 - Ensure that investigators, prosecutors, judges, lawyers and psychologists are trained based on a gender-sensitive and child-sensitive methodology for investigating and prosecuting sexual violence, including against girls;
 - Ensure awareness raising campaigns, including among law-enforcement, about the criminal nature of all forms of sexual violence and that violence is not justified in any circumstances;

- Awareness-raising:
 - Disseminate multi-format materials to inform girls about their human rights and the availability of mechanisms for access to justice for sexual violence and harmful practices.
 - Integrate educational programmes on women's rights and sex and gender equality, including legal literacy programmes, into curricula at all levels of education which emphasise the crucial role of children's, including girls', access to justice.