



SUBMISSION FROM RUSSIAN JUSTICE INITIATIVE (RJI) AND CHECHNYA ADVOCACY NETWORK CONCERNING THE RUSSIAN FEDERATION'S COMPLIANCE WITH THE CEDAW CONVENTION IN THE NORTH CAUCASUS REGION

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The present report was prepared by the Russian Justice Initiative (RJI), a strategic litigation organization focused on the North Caucasus, and the Chechnya Advocacy Network (CAN), which is focused on the development of civil society in the North Caucasus, particularly on issues affecting women.

In 2013 RJI submitted the first individual communication to the CEDAW Committee from Russia on behalf of Shema Timagova, concerning domestic violence in Chechnya. The petition was communicated to the Government in January 2014. Currently RJI supports a local litigation project in Chechnya for women seeking to protect their rights in local courts, as well as before international bodies such as CEDAW and the European Court of Human Rights.

CAN has conducted research on all aspects of women's human rights in the North Caucasus and has provided logistical, and organizational support to some 15 local women's NGOs and individual women's rights activists in Chechnya, Dagestan, Ingushetia, and Kabardino-Balkaria for over ten years. In 2011-2012, CAN staff served as co-editors of a series on women in the North Caucasus, *Stories You Were Not Meant to Hear*, on the UK-based Internet media platform Open Democracy.¹

The following information draws on observations, documentation by human rights organizations, and specific legal cases concerning women's issues in the North Caucasus pending before international bodies.

1. Introduction

At present, the Russian Federation is responsible for violations of women's and children's rights on a massive scale in the North Caucasus (NC), particularly in the area of marriage and family life (**Articles 1, 5 and 16 of CEDAW**). The forceful separation of mothers from their children upon divorce is such a common occurrence in the North Caucasus that the majority of families in regions such as Chechnya, Ingushetia and Dagestan are affected by it. The psychological burden on women and children is enormous. It is the conclusion of the authors of this report that for

¹ See *Stories you weren't meant to hear: women, tradition and power in Russia's North Caucasus*, available at: <https://www.opendemocracy.net/od-russia/editors-of-opendemocracy-russia/stories-you-weren%E2%80%99t-meant-to-hear-women-tradition-and-powe>

practical purposes, the majority of women in the North Caucasus do not benefit from the protections of formal, secular Russian law in the sphere of family life, even when they seek to do so. The Russian authorities therefore are complicit in denying women their human right to family life, and to ensuring equal rights in marriage and divorce.

Violence against women in the North Caucasus, while certainly not a problem limited to this particular region, is exacerbated by the general climate of lawlessness, impunity and corruption prevalent in this region. In addition to domestic violence, women in the NC are victims of honor killings, bride kidnapping, forced marriage, child marriage and other harmful traditional practices that have become resurgent in the region over the past 20 years, and which are most readily observed—and openly promoted—in Chechnya under the regime of Ramzan Kadyrov, who has publicly stated that sharia law is more important than Russian law.² In general, customary and religious law in Chechnya has not only pushed secular law to the margins but local authorities in fact spend budgetary funds to support institutions such as the Chechen muftiyat (Islamic high council), which is empowered to decide family matters, including those related to domestic violence and custody over children, purposely and systematically keeping such matters out of the secular courts. The lack of will by the federal authorities to counteract these policies has led to the entrenchment of discriminatory practices against women in the region (**Articles 1 and 5 of CEDAW**).

2. Enforced Islamic Dress Code in Chechnya (Articles 1 and 5 of CEDAW)

In its 2010 briefing to the CEDAW Committee concerning the Russian Federation, Amnesty International reported on, among others, the requirement that women wear headscarves in public in Chechnya.³ In 2011, Human Rights Watch published a report, *You Dress According to Their Rules: Enforcement of an Islamic Dress Code for Women in Chechnya*, which documents threats and violence perpetrated against women to force them to adhere to the Islamic dress code, including paint-ball attacks carried out in the center of Grozny by law-enforcement and security officials.⁴ The report states:

“In a televised interview in July 2010, Kadyrov expressed unambiguous approval of the paintball attacks by professing his readiness to ‘give an award to’ the men engaged in these activities and arguing that the targeted women deserved this treatment. Then, at the start of the Ramadan holiday in mid-August 2010, groups of men in traditional Islamic dress claiming to represent the republic's Islamic High Council (muftiat) started approaching women in the center of Grozny, publicly shaming them for violating Islamic modesty laws and handing out brochures with detailed descriptions of appropriate Islamic dress for females. They instructed women to wear headscarves and to have their skirts well below the knees and sleeves well below the elbow. The purported envoys from the Islamic High Council were soon joined by aggressive young men who pulled on the women's sleeves, skirts, and hair; touched the bare skin on their arms; accused them of being dressed like harlots; and made other humiliating remarks and gestures...dozens of victims and

² See International Crisis Group, *Chechnya : The Inner Abroad*, June 2015, page 21, available at : <http://www.crisisgroup.org/~media/Files/europe/caucasus/236-chechnya-the-inner-abroad>

³ See Amnesty International, Briefing to the Commission on the Elimination of Discrimination Against Women, 46th session, June 2010, page 10, available at : http://www2.ohchr.org/english/bodies/cedaw/docs/ngos/AI_RussianFederation46.pdf

⁴ See Human Rights Watch, *You Dress According to Their Rules*, March 2011, page 4, available at : <https://www.hrw.org/sites/default/files/reports/chechnya0311webwcover.pdf>

witnesses described a pattern of harassment that continued throughout Ramadan, and that in some cases involved law enforcement authorities as enforcers of the women's dress code.”⁵

Since the publication of this report, Chechnya's “virtue campaign,” including the enforcement of an Islamic dress code for women in Chechnya, has continued unabated, with the tacit approval of the federal authorities, which have done nothing to counteract it, despite it being contrary to Russian law. Currently, girls are required to wear headscarves in school in Chechnya from the first grade.⁶ According to a number of university instructors and students interviewed by one of the authors of this report on this matter since 2010, female students and university instructors have to comply with stringent and constantly changing dress codes, including long sleeves, full head coverings and floor-length skirts.

3. Discrimination Against Women in marriage and family life in the North Caucasus (Article 16 of CEDAW)

It is generally recognized that Russian family law is favorable to women's positions in divorce and custody, and civil procedures in most of Russia are relatively accessible. In the North Caucasus, however, the ethnic and religious minority communities that make up most of the population of the republics of Ingushetia, Chechnya and Dagestan increasingly live by unofficial customary law—known as “adat”—or by Sharia law. These bodies of norms are extremely patriarchal and deny women and girls full legal personhood for their entire lives, deprive them of property and inheritance rights, enshrine men's control over women's lives and bodies and treat many forms of violence against women as permissible and justified “punishment.” They also follow an exclusive form of patrilineality, in which only the paternal side of the family has any claim to children.

Despite being a conservative region that prizes “family values,” divorce rates in the North Caucasus are relatively high, especially among younger couples. However, many new marriages are of an informal nature only, celebrated by religious ceremonies but not included in the state marriage registry. This exacerbates the often-disastrous consequences of divorce for women and children in the North Caucasus, where “divorce” for many women often means simply being thrown out of the marital home and sent back to their birth families. With no court procedure required to divorce, there is thus no automatic custody ruling either. According to the rules of “adat,” children “belong” exclusively to the father's side of the family—including the father's relatives, if the father himself is absent or deceased—and their mother has no right to custody or even to spend time with her children.

In this situation, a woman usually finds herself without even the support of her birth family. Under the strict patriarchal norms of the region, women at all stages of their lives can only ever live “honorably” by living in the home of their male relatives – their husband, father, brother or son. While the latter are obliged to take a woman back in to their home following her divorce, they are not obliged to accept her children, and this is often articulated quite clearly. After all, according to adat and deeply ingrained local beliefs, a woman's children do not belong to her, but to their father's family. Many men also do not support their sisters' or daughters' wish to seek custody of their children, since they fear this might subvert a system in which they themselves benefit from absolute control over their own children. As a result, a woman seeking custody of her children will

⁵ Ibid.

⁶ See International Crisis Group, *supra* n. 2. Page 21.

likely also face threats and pressure from her own male relatives, on whom she depends for housing and other material support and the preservation of her good standing in the community.

In the experience of the authors of this report, when women apply to court for custody or even just visitation rights, the children's father and his family have reacted with seemingly excessive rage and a range of threats and "countermeasures," which due to official inaction, corruption in the court system and law enforcement structures, often lead women to either abandon their claims, or result in her claim being unsuccessful, even in cases when objective circumstances indicate that the children are better off with their mother. Examples of such threats and countermeasures often include one or more of the following:

- Formally accusing the mother of criminal conduct, which would make her ineligible for custody. This is easily done in the North Caucasus region, where police and courts are highly corrupt. Either through personal/kinship networks or via bribes, it is fairly easy to fabricate criminal charges.
- Blackmailing the mother by threatening to launch criminal cases against male members of her birth family, to whom she owes absolute allegiance and whose security and well-being must be her prime concern. This is most easily done in situations where male relatives have ties to the security structures, but even when they do not, this is also easily done because of the high level of police corruption and institutional predisposition towards fabricated criminal cases in order to fulfill prosecution "quotas."
- Blackmailing the mother by threatening other violent and illegal retribution against her and against her relatives.
- Spreading rumors and making allegations about the unfitness of the mother, for example alleging she engages in extramarital relations or drug use. These rumors, even when completely baseless, spread easily in the community and are generally believed. Such accusations not only lead to a woman losing her custody case in court—or to losing her parental rights altogether—but in a region where honor killings take place, may well constitute a dangerous threat to her life.
- Exploiting the father's family's ties to security structures (where these exist) which usually takes the form of pressuring the courts not to satisfy the mother's complaint, or threatening the woman's lawyer so that she will refuse to provide representation. Or, if a woman has been successful in obtaining a positive custody ruling, these connections are exploited to ensure that the ruling is not implemented by the bailiff's service.
- Exploiting the children's vulnerable psychological state to exert pressure on the mother, to force her to stop challenging the father's de facto custody. For example, children in these situations are often told that their mother is a bad woman, a prostitute, that she does not love them or abandoned them, or that she died. Mothers will abstain from seeking custody if they have reason to believe that their children will suffer for it.

Overall, a woman in this situation – divorced, back under the rule of her birth family, possibly economically vulnerable since she most likely also did not receive her share of the marital property or alimony – is highly likely to suffer various forms of gender-based violence, such as beatings, psychological abuse and humiliation, denial of socio-economic support, being confined to the home and forbidden to move freely around her community. Threats may just as likely come from her ex-husband's side as from that of her own birth family.

In addition to the problem of access to the courts, there exists the related but separate problem of the lack of enforcement of custody decisions, once children have already been separated from their mothers and are living with their father or their father's relatives. In *Khanamirova v Russia*, the European Court of Human Rights found Russia in violation of the right to family life on account of the non-enforcement in Dagestan of a custody decision in favor of a mother over her then five-month old son.⁷ While the Dagestani courts ruled that the mother should have custody over her child, the judgment remained unenforced by the bailiff's service for over 2.5 years.

Case Example (Chechnya)

***Magomadova v Russia*, Appl. No. 58724/14, accorded priority treatment by the European Court of Human Rights on 27 August 2015.**

The applicant in this case, Z., is the widow of a Chechen policeman who died while serving in a counter-terrorist operation. They had 6 children together. After forcing Z. to hand over the state compensation she had received (around USD 50 000) due to her widowhood, Z.'s husband's relatives began a long custody battle when Z.'s youngest child was only three months old. **Thanks to falsified documents, her late husband's relatives succeeded in obtaining formal custody over the children**, which Z. challenged in court. In 2010, the Supreme Court of the Chechen Republic found that the children should live with their mother. However at this time, the children were already in fact living with her late husband's relatives because they had been kidnapped by the latter. **Despite the Court's custody ruling, the judgment was not executed.** The children remained with the husband's relatives and were cut off from all communication with their mother. A year and a half after the custody ruling in favor of Z., the husband's relatives submitted a request to the Court to reexamine the decision awarding Z. custody of her children on the basis of "newly discovered circumstances" – to wit, **that Z. was leading an "amoral" lifestyle because she had entered into a civil marriage with another man.** In the complaint, Z.'s late husband's sister requested that Z. be deprived of her parental rights on the basis that Z. had not materially supported her children and had not communicated with them for over two years. Z. counter-appealed to argue that she had been forced to hand over the compensation she had received after her husband's death and that it was because of the non-execution of the original decision concerning custody that she had not seen her children, and because she was factually prevented from seeing them by her late husband's relatives. She also argued that the original custody decision should not be re-opened on the basis of her "amoral" lifestyle, since aside from the fact that this was factually incorrect, it also was not a relevant circumstance. **Following Z.'s counter-appeal, Z. and her lawyer were subjected to threats by security officials, who were related to her late husband's relatives.**

The request to re-examine the custody decision was upheld eventually by the Supreme Court of Chechnya, **which found that Z. should be deprived of her parental rights and that half of Z.'s monthly salary should be requisitioned in the form of child support.**

At the present time Z. has not seen her children or communicated with them for over five years.

⁷ *Khanamirova v Russia*, Judgment of 14 June 2011. Accessible at: <http://hudoc.echr.coe.int/eng?i=001-105130>.

4. Violence against women in the NC (Article 1 CEDAW)

As stated above, while domestic violence is certainly not a problem unique to the NC, women in the NC face a higher risk of violence in the form of harmful traditional practices, such as honor killings. Reports of honor killings especially in Chechnya and Dagestan occur with periodic frequency,⁸ although without formal means by which to monitor such killings, and without a special legislative framework in place, it is impossible to assess the true scale of the phenomenon. There is also a lack of will among the local population to expose or report honor killings, which makes it very difficult in most cases for the authorities to investigate, and rarer still that “honor-killers” are tried in court, which usually only happens when the perpetrators turn themselves in.⁹ There is also no distinct legal definition of an honor killing, meaning that perpetrators who are charged can get a more lenient sentence, or are more likely to be seen as having been “provoked” into committing the crime.

In two recent exceptional cases, two perpetrators of honor killings were sentenced to seven years for killing their female relatives in Chechnya and Dagestan. In Dagestan, the case went to court due to the extraordinary persistence of the victim’s mother.¹⁰ The Chechen case was marred by reports of victim-blaming, as reported by trial monitors. The facts of the actual murder were ignored, while the defense lawyer focused on the victim’s loose morals and called witnesses who gossiped about the victim’s personal life, her refusal to wear a headscarf, and asked the judge not to consider the killing a crime, but a defense of honor. Neither the judge nor the prosecutor objected to such testimony during the trial.¹¹

In Chechnya and Ingushetia, bride-kidnapping has been made illegal, punishable by a fine of 1 million rubles. In Ingushetia, anecdotal reports suggest that bride-kidnapping continues to occur.¹² In Dagestan, statistics show that 181 women were kidnapped for marriage between 2001 and 2006, and 190 in 2013 alone.¹³ The actual figure is likely to be much higher. While kidnapping for the purposes of marriage does not always occur against the will of the woman, women kidnapped for this purpose are at a much higher risk for sexual assault and for being forced into a marriage so as not to “shame” her family.

⁸ See for example, Amnesty International briefing, *supra* n. 3, page 11.

⁹ See Caucasian Knot, *В Дageстане эксперты заявили о закрытости информации об "убийствах чести,"* 20 November 2014, available at <http://www.kavkaz-uzel.ru/articles/252690/> (in Russian).

¹⁰ See Russian Justice Initiative, “Dagestan district court issues guilty verdict in case of honor killing,” 31 October 2014, available at: <http://www.srji.org/en/news/2014/10/dagestan-district-court-issues-guilty-verdict-in-case-of-honor-killing/>.

¹¹ See Memorial, 28 April 2015, “Чечня: прения и приговор на суде по «убийству чести»,” available at <http://www.memo.ru/d/232430.html> and 2 April 2015, “В Чечне судят отца, убившего дочь за «нарушение традиций»,” available at <http://www.memo.ru/d/229885.html> (in Russian).

¹² Argumenty i Fakty, “По закону гор, или Почему на Кавказе продолжают воровать невест,” 26 August 2014, available at: http://www.aif.ru/society/people/po_zakonu_gor_ili_pochemu_na_kavkaze_prodolzhayut_vorovat_nevest (in Russian).

¹³ Daptar, “Насильно мил будешь?,” 17 February 2014, available at <http://www.daptar.ru/article/64/nasilno-mil-budesh> (in Russian).

Case Example (Chechnya)

***Timagova v Russia*, CEDAW petition 65/2014, Communicated to the Government in January 2014.**

The petitioner, Shema Timagova, was subject to domestic violence for a number of years by her husband. In 2009 her husband beat her with a shovel and she sustained head, elbow and knee injuries. Following a complaint to the police, her husband received a 15 000 ruble (around USD 200) fine for the infliction of minor bodily harm. Following this incident, Shema and her husband divorced. Their property was physically divided and Shema was forced to stay in the same house with her ex-husband and his new wife. Several weeks after the divorce, Shema was attacked by her ex-husband, who took a swing at her head with an axe. Shema sustained severe head injuries. In Court, Shema was found to have “provoked” her husband, which led him to commit the attack in a fit of passion (affect). **He was sentenced to 9 months but was released from the courtroom due to time served in custody. Numerous procedural violations occurred during the trial and all of the motions submitted by Shema’s lawyer were denied.**

Case Example (Ingushetia)

***Bopkhoyeva v Russia*, Appl. No. 25414/14, Communicated by the European Court of Human Rights in January 2014 under Articles 2 (right to life), 3 (inhuman and degrading treatment), 8 (right to family life) and 13 (right to an effective domestic remedy) of the European Convention on Human Rights**

The applicant in this case is a widow and mother of a 19-year old girl who demanded that her daughter be returned home after being **kidnapped for the purposes of marriage**. Following her return home, the applicant’s daughter was again abducted, this time by male relatives on her late father’s side, who took her into the forest and beat her, **demanding that she marry her kidnapper** and threatening to kill her if she did not. After an unofficial religious marriage ceremony, the young woman spent a total of two months in her new husband’s home, where she was psychologically mistreated by her new mother-in-law, who kept her locked in a room by herself and took away her mobile phone. She was also forbidden to have any contact with her mother. After one month the (previously healthy) young woman began to suffer from seemingly epileptic fits. She was taken to the emergency room twice, and once received a diagnosis of poisoning. **The third time she was taken to the emergency room she was unconscious and doctors could not revive her.** They also could not diagnose her, except to say that her brain had been deprived of oxygen for too long. She lapsed into a coma shortly thereafter and was returned to her mother’s house. **She has been in a non-responsive vegetative state for over three years.** Her mother’s attempts to open a criminal case into the cause of her daughter’s illness have been systematically denied.

5. Harmful traditional practices: Polygamy, early marriage and female genital mutilation (Articles 5 and 16 of CEDAW)

Polygamy is generally acknowledged to be fairly common in Dagestan and Chechnya, especially among elites and the upper class. Experts partially attribute the phenomenon in Chechnya to the shortage of young men due to two wars, although Ramzan Kadyrov has openly supported the practice on religious grounds.¹⁴ A recent study published by the Heinrich Boll Foundation found that 16% of female Chechen respondents reported that they were not their husband's only wife.¹⁵

It is not known how widespread the phenomena of forced and early marriage are in the North Caucasus, but a recent high-profile incident speaks volumes of the Russian authorities' attitude towards these issues in the NC. In April 2015, *Novaya Gazeta* newspaper began to publish reports that a 17-year old girl from a Chechen village was being forced into a marriage with the 47-year old Head of the Nozhay-Yurt police station, Nazhud Guchigov, who was reportedly already married.¹⁶ Following intense media attention to the case, the wedding, originally set for 2 May, was postponed. The Russian Human Rights Ombudsman Ella Pamfilova made a public appeal to Ramzan Kadyrov to forbid the marriage.¹⁷ Subsequently, Ramzan Kadyrov became personally involved in ensuring that the marriage would proceed, and the head of the Chechen Parliament Magomed Daudov escorted the young woman to the marriage ceremony, which eventually took place on 16 May 2015. On 14 May, the Russian Children Right's Ombudsman, Pavel Astakhov, made the following statement:

"In the Russian Family Code there is an Article that allows in exceptional circumstances the regional authorities to set the minimum age requirement for marriage...In the Caucasus, sexual maturity is reached at a younger age, let's not be sanctimonious about it. There are places where women are wrinkled at 27, and where by our measures they look to be around 50. And generally the Constitution does not allow to interfere in the private lives of citizens."¹⁸

The reports that Guchigov had threatened the family if they should refuse to give their daughter up for marriage were never investigated.

The well-known Caucasian Knot news portal reported during its coverage of the incident that it had become commonplace in Chechnya for political elites to pressure the families of young women to give their daughters up for marriage, and once "they got tired of them," to send them home.¹⁹

Recently, reports have surfaced concerning the practice of female genital mutilation in Dagestan, which is being promoted in articles published in local religious publications, in which the

¹⁴ See Human Rights Watch, *supra* n. 4, page 9.

¹⁵ See *Life and the Status of Women in the North Caucasus. Report summary on survey by Irina Kosterina*, available at <https://ru.boell.org/en/2015/08/20/life-and-status-women-north-caucasus-report-summary-survey-irina-kosterina>.

¹⁶ See *Novaya Gazeta*, "Глава чеченского РОВД захотел жениться: требуется помощь," 11 April 2015, available at <http://www.novayagazeta.ru/columns/68304.html> (Russian only).

¹⁷ See Radio Svoboda, "Добровольно-принудительный союз," 13 October 2015, available at: <http://www.svoboda.org/content/article/27014186.html> (in Russian).

¹⁸ See Lenta.ru, "Астахов назвал нормой браки с несовершеннолетними," 14 May 2015, available at: <http://lenta.ru/news/2015/05/14/astakhov/> (in Russian).

¹⁹ Caucasian Knot, "Жители Чечни заявили о давлении на семьи девушек при заключении браков," 11 May 2015, available at <http://www.kavkaz-uzel.ru/articles/262088/> (in Russian).

procedure is described as having a beneficial effect on women.²⁰ These publications have a large print circulation and are issued in several local languages.²¹

6. Recommendations to the Russian Government:

1. Promote the observance of secular Russian legal norms in the North Caucasus by publicly condemning the enforcement of an Islamic dress code for women and girls in the Chechen Republic.
2. Ensure that women in the North Caucasus are aware of the legal rights afforded to them under the Russian Constitution and the Family Code by introducing mandatory coverage of these topics in secondary schools across the North Caucasus, and by mandating that women be informed of their rights during religious marriage ceremonies.
3. Ensure that women who wish to fight for custody of their children in the courts are protected from threats and countermeasures.
4. Establish a Commission on Family Affairs in each republic of the North Caucasus based exclusively on secular principles, empowered to handle custody disputes.
5. Ensure the prompt execution of custody rulings by the bailiff service.
6. Introduce federal laws criminalizing domestic violence and honor killing, and collect official and unofficial statistics on honor killings at the regional level. Initiate prosecutions of crimes such as honor killings whenever possible and actively investigate suspected honor killings.

²⁰ See UN Radio, “Почему в Дагестан вернулось «женское обрезание»?,” 26 March 2015, available at: <http://www.unmultimedia.org/radio/russian/archives/188722/#.VhvF1-yqqkp> (in Russian).

²¹ Ibid.