

# **The Impact of International Legal Initiatives on Solving the Problem of Child Abuse in Russia: Boundaries of Private Interests and Limits of Acceptable State Intervention**

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## **ABSTRACT**

The article analyzes the problem of child abuse and violence against minors, which is widespread throughout the world, including the Russian Federation, and requiring the application of comprehensive response measures at the international legal and national level. Risk factors determining the magnitude of this problem are considered. Features of the Russian law enforcement and judicial practice in cases of the prevention of domestic and domestic violence and other forms of child abuse, as well as the restriction and deprivation of parental rights are disclosed. The work also systematically presents the results of supranational and international studies, which contain conclusions on the extent of acceptable state interference in family affairs, taking into account the need to maintain a balance of private and public interests. The final part explores 7 strategies for the elimination of violence against minors (“INSPIRE”), developed by WHO.

**Keywords:** *abuse, family, children, minors, parents, parental rights, domestic violence*

## **1. INTRODUCTION**

In Russia, the rights of children are enshrined in the Constitution, the law on basic guarantees of the rights of the child, the law on education, the Family Code, and for extreme cases of violation of such rights – the Administrative and Criminal Codes. Our country has ratified the UN Convention on the Rights of the Child, applies the Universal Declaration of Human Rights, the Declaration of the Rights of the Child, the Universal Declaration on the Survival, Protection and Development of Children.

Many of these norms are powerless against social attitudes that justify violence against children by both elders and peers. When analyzing why this happens, it is important to understand that the pattern of violence against children goes far beyond the boundaries of the family, although the attitude of parents and relatives plays a large role in this.

## **2. RESEARCH METHODOLOGY**

The World Health Organization (WHO) pays the most attention to child abuse issues. It defines violence as “the intentional threatened or actual use of physical force or power directed against yourself, another person, or a group of people, or a community that entails or is likely to result in bodily harm, death, psychological trauma, developmental disabilities or deprivation”. In turn, “child abuse is the abuse of children under the age of 18 years

and the lack of care for them. It covers all types of physical and (or) emotional abuse, sexual abuse, neglect, inattention and exploitation for commercial or other purposes, which leads to causing real or potential harm to the health, vitality, development or dignity of the child in the context of relationships caused by responsibility, trust or power”.

In 2017, WHO analyzed the incidence of violence against children based on 96 national studies: in 1 year, about 1 billion minors worldwide had exposed emotional, physical, or sexual abuse — it is more than half of all children. The number of cases of physical violence reported by the children themselves is 75 times more than the numbers given in official reports.

In 2013, WHO have published the European Child Abuse Prevention Report. This document is important in the context of understanding how the situation with violence against children develops in Russia. In it, this problem is analyzed including within the framework of eastern Europe.

Child abuse is often hidden from the protection and guardianship authorities or is just out of their sight. According to WHO, 18 million children under the age of 18 suffer from sexual violence; from the physical- 44 million, and from the emotional- 55 million. The number of murders of minors in eastern Europe is almost 2.5 times higher due to economic and social factors.

### 3. RESEARCH RESULTS

The problem of children abuse and adolescents is dangerous with the lasting consequences of such violence. To prevent and reduce violence, the following risk factors must be considered:

- Undeveloped anti-violence legislation. Children abuse is not limited by the family, but often occurs precisely in the “circle of trust”. Nevertheless, in Russia, there is still a struggle to pass a law on the prevention of domestic violence. Child abuse in our country is negatively affected by the decriminalization of beatings, the absence of protective orders for victims of violence and persons at risk of it, and neglect of actual family relationships and unions, including same-sex, lack of qualified articles providing for liability for bullying and harassment. All this not only slows down the work on prevention and prevention of violence but actually brings many forms of abuse of minors into the gray zone.
- Early marriages and random unions. The criterion of immature age is taken into account in conjunction with other characteristics: low educational level and unformed social responsibility of parents due to the specifics of education and low income.

As a response, Russian law provides an extreme measure – deprivation of parental rights. But the practice in such cases is so inconsistent that even in cases where children are removed from their families, almost a quarter of them return back.

The process of proving harm to a child is complex. For example, in the Voronezh region, the father was not deprived of parental rights, who repeatedly used physical violence first to his pregnant wife, and then to the child himself. The violence was associated with the facts of viewing child pornography, outbreaks of aggression, the use of obscene expressions. But since the district police officer was refused to initiate proceedings, the court did not consider these circumstances sufficient to deprive the father of parental rights.

The basis for deprivation of parental rights is often the sentencing of cases of intentional crimes against the life or health of family members. A sign of systematicity is very important in this case. In the Krasnoyarsk Territory, one of the courts considered the beatings insufficient to deprive the mother of her parental rights, despite the court's verdict, which she was found guilty of, for this crime. The court concluded that the single fact of bringing the defendant to criminal liability for the beating of her daughter does not indicate ongoing, systematic unlawful behavior, which became the basis for the refusal to deprive the parental rights.

- A high level of social stratification and economic inequality in society, as a result of which physically more vulnerable people - usually women, children and the elderly - are financially and physically dependent. According to the WHO, every fourth child in the world suffers from physical violence, and every third girl aged

15 to 19 was a victim of emotional, physical and (or) sexual violence committed by her husband or partner.

- Borderline mental conditions, disorders, drug and alcohol addiction. This factor is one of the most serious, but at the same time systemically underestimated in Russia. Russians are still skeptical of psychotherapy, which is one of the key tools in the world for identifying and correcting an early tendency to both violence and victimization behavior. Not only at the domestic, but also at the professional level, postnatal depression or bipolar disorder is often denied, which increases the risk of violence both against oneself and the child. If violence could not be avoided, systemic psycho-psychiatric care is necessary for both the victim and the aggressor. An important step along this path is to provide access to hotline phones for adolescents and adults, as well as to free crisis and rehabilitation centers.

- Low level of enlightenment about violence questions especially among children and adolescents. This factor is inextricably linked to the lack of systematic prevention of violence against children in preschool educational institutions, schools, colleges and universities, as well as to the low level of adult legal literacy. Children suffering from abuse may be afraid of those who hurt them, feel guilty, ashamed, or even consider the forms of violence that they have become accustomed to as normal. The heroes of the documentary film “Leaving Neverland”, accusing Michael Jackson of sexual violence, claimed that the injury he inflicted in his childhood began to appear only in adulthood, and for one of them after the appearance of his own children.

At the same time, it is extremely difficult to ensure the objectivity of statistics on child abuse. According to the Rosstat, in ten regions of the Russian Federation there has not been a single case of child abuse, four of them in the North Caucasus Federal District. It is difficult to say that these data is objective: in many subjects violence against children is not recorded due to the lack of legislative regulation, specific ethical attitudes and social norms.

- Social tolerance for violence as a form of education and communication, as well as gender (sexual) and other inequalities. According to UNICEF, 3 out of 10 adults worldwide believe that physical penalties are necessary for the proper upbringing or education of children. This makes it necessary to conduct special training and professional development programs for employees of structures involved in the fight against child abuse.

In Russia, the perception of violence as a norm is acute. When examining the “Volodina vs Russian Federation” case with the ECHR, experts seriously analyzed the socio-legal significance of the Russian phraseology “beats mean loves”. Volodina’s attempts to hide from a roommate who abused her and her child, as well as to obtain protection from law enforcement agencies, did not lead to results—they did not find the offense in the actions of the rapist. Similarly, indifference to the situation of the Khachaturian sisters was showed by their friends, relatives, representatives of educational organizations and law enforcement agencies, which led to irreversible consequences.

The decision adopted by the Lyubertsy City Court of the Moscow Region in 2018 is also characteristic: the court considered that a man who regularly strangled his spouse and two children at night as a “method of education” deserves not deprivation of parental rights, since this measure is extreme, but a warning about the need to change his attitude to raising children.

WHO analytics have shown that in 24 countries there is a close relationship between legislation norms that restricts corporal penalties, a less approving attitude towards them, and a rarer use of them. Back in 2016, about 50 countries imposed an official ban on all cruel methods of children penalties, and another 52 states committed to introduce it.

#### 4. DISCUSSIONS OF THE RESULTS

In response to the child abuse epidemic, WHO has developed seven strategies to eliminate violence against minors (“INSPIRE”):

1. Adoption and enforcement of regulations. Such acts include laws prohibiting parents, teachers and other educators from using cruel ways of children penalties; criminalizing sexual abuse and sexual exploitation of children; aimed at preventing alcohol abuse; restricting youth’s access to firearms and other weapons.
2. Norms and values. First of all, it is about moving away from discriminatory and harmful gender and social norms; developing a community mobilization program; encouraging witness intervention.
3. Creation of a safe environment. By this is meant a reduction of violence due to focus on high-risk areas; countering the spread of violence and improving the human environment.
4. Parents and carers support. The strategy involves home visits, group and community work, and comprehensive programs.
5. Increased income and improved economic situation. A key measure is the payment of cash benefits, as well as the combination of group savings and loans along with the promotion of gender equality and training.
6. Response measures and support. The strategy focuses on acute social problems that can be addressed through counseling and medical care, including necessary interventions; the implementation of educational programs with juvenile delinquents in the criminal justice system; foster care organizations involving social services.
7. Training and life skills development. The strategy is aimed at enlightenment and includes: increasing the number of children attending preschool, primary and secondary education; creating a safe and supportive school environment; raising children’s knowledge of sexual violence and how to protect against it; social and life skills training; implementing programs for adolescents to prevent violence from a sexual partner.

#### 5. CONCLUSION

By 2030, when the UN aims to end child abuse, exploitation and trafficking, all forms of violence and torture of children, and eliminate all forms of violence against all women and girls in the public and private spheres, including trafficking people, sexual and other forms of exploitation, and significantly reduce the prevalence of all forms of violence, as well as reduce mortality rates from this phenomenon worldwide.

Perhaps by this time, Russia will have adopted a law on domestic violence, introduced protective orders, legally recognized the problem of bullying and virtual harassment, including among teenagers, raised the age of marriage, even in regions where socio-cultural characteristics today make it possible to marry 15-year-old girls, and found simple and inexpensive ways to inform both adults and children about what to do and where to go when faced with violence against themselves or others. Otherwise, we are not waiting for what is frightening from the Russian TV, but the paralysis of the soul from indifference, which A.P. Chekhov wrote about more than a century ago.

#### REFERENCES

- [1] A. P. Chekhov. Complete works and letters in 30 volumes. Compositions. Vol. 8. M., "Nauka" (1986).
- [2] World Declaration on the Survival, Protection and Development of Children. Adopted in New York on September 30, 1990. Russia signed the Declaration on January 31, 1992. *Diplomaticheskij vestnik*. N 6 (1992) 10 - 13.
- [3] Universal Declaration of Human Rights (adopted by the UN General Assembly on December 10, 1948). Russian newspaper, № 67 (1995).
- [4] Declaration of the Rights of the Child. Adopted on November 20, 1959 by Resolution 1386 (XIV) at the 841st plenary meeting of the UN General Assembly. International protection of human rights and freedoms. Collection of documents. M.: Legal literature (1990) 385 – 388
- [5] J. D. Salinger, *The Catcher in the Rye* Meshcheryakov Publishing House (2014).
- [6] European child abuse prevention report URL: [http://www.euro.who.int/\\_\\_data/assets/pdf\\_file/0019/217018/European-Report-on-Preventing-Child-Maltreatment.pdf](http://www.euro.who.int/__data/assets/pdf_file/0019/217018/European-Report-on-Preventing-Child-Maltreatment.pdf).
- [7] Code of the Russian Federation on Administrative Offenses of December 30, 2001, N 195-FZ. "Rossiyskaya Gazeta", N 256, December 31, 2001.

- [8] Convention on the Rights of the Child (approved by the UN General Assembly on November 20, 1989, entered into force for the USSR on September 15, 1990). Collection of international treaties of the USSR, issue XLVI (1993).
- [9] Constitution of the Russian Federation. Adopted by popular vote December 12, 1993 (subject to amendments made by the Laws of the Russian Federation on amendments to the Constitution of the Russian Federation dated December 30, 2008, N 6-FKZ, dated December 30, 2008, N 7-FKZ, dated February 5, 2014, No. 2-FKZ, dated July 21, 2014, N 11-FKZ). Meeting of the legislation of the Russian Federation, August 04, 2014, N 31, Art. 4398.
- [10] The ruling of the European Court of Human Rights in the case of Volodin v. Russia. Strasbourg, July 9, (2019) URL: <http://hudoc.echr.coe.int/eng?i=001-195843>
- [11] Decision No. 2-147/2018 2-147/2018 ~ M-1/2018 M-1/2018 dated February 13, 2018 with regard to case No. 2-147/2018.
- [12] Decision No. 2-342/2017 2-342/2017(2-7987/2016;)-M-6597/2016 2-7987/2016 M-6597/2016 dated January 23, 2017, with regard to case No. 2-342/2017.
- [13] Decision No. 2-4708/2018 2-4708/2018~M-3805/2018 M-3805/2018 dated July 30, 2018, with regard to case No. 2-4708/2018.
- [14] Decree of the Government of the Russian Federation of December 26, 2019. No. 3205-r on approval of the plan of legislative activity of the Government of the Russian Federation for 2020. URL: <http://static.government.ru/media/files/acokCPrAIQ2THkZ3IiuFPUoDdtLWb58h.pdf>
- [15] Rosstat of the Russian Federation: “7.24. The growth rate (decrease) in the number of detected cases of child abuse, per year”: URL: <https://www.gks.ru/storage/mediabank/7-24.xls>
- [16] Family Code of the Russian Federation dated December 29, 1995, N 223-FZ. Russian newspaper, N 17, January 27, 1996.
- [17] The Criminal Code of the Russian Federation dated June 13, 1996, N 63-FZ. Meeting of the legislation of the Russian Federation, June 17, 1996, N 25, Art. 2954.
- [18] Federal Law dated December 29, 2012, N 273-FZ “On Education in the Russian Federation”. Russian Newspaper”, N 303, December 31, 2012.
- [19] Federal Law of July 24, 1998, N 124-FZ “On Basic Guarantees of the Rights of the Child in the Russian Federation”. Russian Newspaper, N 147, August 05, 1998.
- [20] A. Tremblay-Perreault, M. Hébert, Uncovering the Associations between Child Sexual Abuse, Peer Victimization and Behavior Problems Using Child, Parent and Teacher Reports, Journal of School Violence (2019). DOI: 10.1080/15388220.2019.1697276
- [21] V. Berry, K. Wilkinson, N. Farr, et al. Assessing the Feasibility of a Parent Life Coaching Intervention to Support Parents and Children Who Have Experienced Domestic Violence and Abuse. J Fam Viol 34 (2019) 493–506. DOI: <https://doi.org/10.1007/s10896-019-00042-6>
- [22] C. M. Boccio, K. M. Beaver, The Influence of Psychopathic Personality Traits, Low Self-Control, and Nonshared Environmental Factors on Criminal Involvement. Youth Violence and Juvenile Justice, 16(1) (2018) 37–52. DOI: <https://doi.org/10.1177/1541204016684176>
- [23] K. Bussmann, C. Erthal, A. Schroth, Effects of banning corporal punishment in Europe: a five-nation comparison. In: Durrant JE, Smith AB, editors. Global pathways to abolishing physical punishment. New York: Global pathways to abolishing physical punishment. Routledge (2011) 299–322.
- [24] C.T. Davies, This is Abuse? Young Women’s Perspectives of What’s ‘OK’ and ‘Not OK’ in their Intimate Relationships. J Fam Viol 34 (2019) 479–491. DOI: <https://doi.org/10.1007/s10896-019-00038-2>
- [25] T. Glatz, Å. Källström, K. Hellfeldt, et al. Physical Violence in Family Sub-Systems: Links to Peer Victimization and Long-Term Emotional and Behavioral Problems. J Fam Viol 34 (2019) 423–433. DOI: <https://doi.org/10.1007/s10896-018-0029-6>
- [26] INSPIRE: seven strategies to eliminate violence against children [INSPIRE: seven strategies for ending violence against children]. Geneva: World Health Organization; 2017. License: CC BY-NC-SA 3.0 IGO. URL: <http://apps.who.int/iris>, [https://www.unodc.org/documents/justice-and-prison-reform/Child-Victims/Report\\_in\\_Russian.pdf](https://www.unodc.org/documents/justice-and-prison-reform/Child-Victims/Report_in_Russian.pdf).

[27] R. J. Macy, S. L. Martin, Nwabuzor Ogbonnaya, I., & Rizo, C. F. What Do Domestic Violence and Sexual Assault Service Providers Need to Know About Survivors to Deliver Services? *Violence Against Women*, 24(1) (2018) 28–44. DOI: <https://doi.org/10.1177/1077801216671222>

[28] E. C. McCuish, J. Cale, R. R. Corrado. A Prospective Study of Offending Patterns of Youth Homicide Offenders Into Adulthood: An Examination of Offending Trajectories and the Crime Mix Posthomicide. *Youth Violence and Juvenile Justice*, 16(1), (2018) 18–36. DOI: <https://doi.org/10.1177/1541204017697233>

[29] A. Münger, A. Markström, School and Child Protection Services Professionals' Views on the school's Mission and Responsibilities for Children Living with Domestic Violence – Tensions and Gaps. *J Fam Viol* 34, (2019) 385–398. DOI: <https://doi.org/10.1007/s10896-019-00035-5>

[30] K. Osterman, K. Bjorkqvist, K. Wahlbeck, Twenty eight years after the complete ban on physical punishment of children in Finland: trends and psychosocial concomitants. *Aggressive Behavior*. Vol. 9999 (2014) 1–14.

[31] M. Rogers, T. Rumley, G. Lovatt, The Change Up Project: Using Social Norming Theory with Young People to Address Domestic Abuse and Promote Healthy Relationships. *J Fam Viol* 34, (2019) 507–519. DOI: <https://doi.org/10.1007/s10896-018-0026-9>

[32] M.A. Stoltenborgh, M.J. Bakermans-Kranenburg, M.H. van Ijzendoorn, L.R. Alink, Cultural-geographical differences in the occurrence of child physical abuse? A meta-analysis of global prevalence. *International Journal of Psychology*, 48 (2013) 81–94.

[33] M.A. Stoltenborgh, M.H. van Ijzendoorn, E. Euse, M.J. Bakerman-Kranenburg. A global perspective on child sexual abuse: Meta-analysis of prevalence around the world. *Child Maltreatment*, 16 (2011) 79– 101.

[34] UNGA A/Res/70/1 dated September 25, 2015, Transforming our world: 2030 Sustainable Development Agenda: URL: <https://undocs.org/ru/A/RES/70/1>