

HUMAN RIGHTS AND MODERNITY

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Women in the Domain of Law in Russia: Emancipation and Counter-Emancipation

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Abstract: The emancipation of women in Russia, while it began quite fruitfully, during some periods of the development of the Russian (Soviet) society and Russian (Soviet) statehood had obvious failures that eventually reversed it resulting in counter-emancipation. To this day, these phenomena remain in an unfriendly interaction. This is most clearly demonstrated in political and social activities, labor (restrictions on the right of access to a profession; harassment), criminal policy (gender differentiation in the penal system, inefficiency in counteracting domestic violence), legal regulation of family relations (no legal recognition of *de facto* marriage; *de facto* polygamy; surrogate motherhood; property insecurity). The draft law on guarantees of equal opportunities for men and women and their implementation has been given a “red light”. The sociocultural context of the relations under consideration is heavily burdened by a patriarchal parlance. The authors suggest that despite the obvious fact that public opinion and legislative decisions are not generally oriented towards maintaining discrimination and/or counter-emancipation, we have yet to see a clear and efficient breakthrough that would equalize the legal and actual statuses of men and women in the Russian legal system and in Russian society as a whole.

Keywords: women; gender; Russian Law; emancipation; discrimination; social practice; judicial practice

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I. Introduction

The emancipation of women in Russia began in the 1860s and accelerated sharply in 1917–1918 (Pushkareva and Pushkareva, 2021, p. 21). It partially retreated from its achievements in the 1930s–1950s and then rejected the stated retreat by the end of the 20th century (Tarusina, 2015, p. 98; Khasbulatova, 2018, pp. 51–52). Currently it is still characterized by “gender games” (mainly in the form of “swings”) in the political, social and legal domains (Tarusina and Isaeva, 2016, p. 77; Isaeva, Tarusina, and Sokolov, 2015, p. 453). Since the authors identify themselves as representatives of jurisprudence, an emphasis on the legal aspect of the vision of the problem is preferable. The clearest example of the contradictory nature of women’s emancipation can be found in the seven spheres of Russian legislation such as constitutional, labor, social security, criminal, penitentiary, medical and family legislation. Having “tested the waters” in the aforementioned seven areas of Russian legislation, women generally demonstrate a hardened nature, though not without the challenges of preserving and implementing it.

The provision in Part 3 Art. 19 of the Constitution of the Russian Federation continues the tradition of the earlier constitutions and proclaims the principle of equality of men and women/ In the provision in Part 1 Art. 38 we find the idea of complete protection of motherhood (just to note, the objective of protecting paternity was formulated only in 2020, in an amendment to the Constitution (Part 1 “zh” Art. 72)). The legal fate prescribed for the aforementioned postulates a range of would-be “adventures.” So, even from the point of view of terminology, patrimonial preferences are clearly obvious — both essentially and even alphabetically. The most striking example of the former is the following: the consent of a man and a woman is required to conclude a marriage (Art. 12 of the Family Code of the Russian Federation; further RF FC), while in Russian the word *woman* (“женщина”), beginning with the letter “ж”, should naturally stand alphabetically before the word *man* (“мужчина”), as “ж” precedes “м”; in the constitutional amendment above, the alphabetical sequence is similar.¹ To continue this topic further, we should note that when the rights to communicate with children are listed (Art. 67 of the RF FC), terminologically *grandfathers* (“дедушка,” beginning with the letter “д”) precede *grandmothers* (“бабушка,” beginning with “б”) — although, it is actually the other way round — as known, “б” has always preceded “д” as it is grandmothers who usually take care of their grandchildren in real life), and the same thing applies to *stepsons* and *stepdaughters* (Art. 97 of the RF FC). Chapter 19 of the RF FC has the title “Adoption of a son (adoption of a daughter)” though in this chapter only the word “*usynovleniye*” — meaning exclusively the adoption of boys — is used as a universal term, apparently by design (the above “alphabetic” discrimination is considered based on the Russian language).

Sad examples of the second type include the following: while labor legislation uses the concept of a “*single mother*” (Art. 261 of the Labor Code of the Russian Federation), “*single fathers*” are not even referred

¹ It is worth noting that in the Art. 35 of the USSR Constitution of 1977, the formulation of the provision on gender equality began with an appeal to a woman. It can be assumed that in this period the problem of “equalizing” the status of a woman with a man seemed to be very relevant to the legislator. The modern legislator, apparently, considered the problem settled and somewhat “relaxed”...

to;² the law in Art. 55 of the Federal Law “On the Basics of Protecting the Health of Citizens in the Russian Federation,” when listing the subjects of rights for participation in the surrogate motherhood program, uses the egregiously unacceptable term a “single woman”, naturally without any mention of a “single man” (it seems that regardless of the marital status, the men by default cannot be considered “single”) (Tarusina, 2022a, p. 74). Nor do the Russian legislators consider the negative philological context of the concept of a “surrogate mother” from the point of view of the Russian language usage. The tradition of naming professions and positions according to the male terminological type also goes unquestioned and there are no plans to review this position. Let us consider, however, the ontological aspects of the legal status of the Russian woman and its implementation.

II. Women in Politics and Civil Society

In pursuance of the idea of creating the prerequisites for significant female representation in public agencies and administration, back in 2003, the draft Law “On the State Guarantees of Equal Rights and Freedoms of Men and Women and Equal Opportunities for Their Implementation” was introduced by the State Duma of the Russian Federation: among other things, it envisages priority for the gender group with less than 50 % representation in civil service jobs. This text, during rare periods of political excitement with regard to gender issues, was freed out from under the “fabric” of the relevant committees, only to be sent there again. At the same time, representatives of women’s public organizations were unsuccessful when they appealed to political parties to include at least 30 % women on their ballots. While the authors’ attitude to the idea of representative quotas is ambiguous, we still note that at a certain stage of counteracting the patriarchal context of parliamentarism — and public administration in general — it is useful, albeit not in a normative sense but as a social appeal. Its invocative nature, however, unfortunately fails to yield the commensurate result. Thus, the gender composition of the State Duma

² However, even now it is possible to see the desire of the legislator to use a gender-neutral construction: persons with family responsibilities (for example, in Art. 259, 261 of the Labor Code of the Russian Federation).

of the Russian Federation (2021 convocation) includes: 450 deputies, of which 74 are women (16.4 %); among 9 Deputy Chairpersons we find only 2 women; only 4 of the 32 Duma committees are led by “representatives of the fair half of humanity”. In terms of party lists we see the following picture: the “New People” Party — 20 % (3 people); “United Russia” — 18.5 % (60 people); Communist Party — 12.1 % (7 people); “Fair Russia — Patriots for Truth” — 10.7 % (3 people); and 0 % for the Liberal Democratic Party. Only in 8 of Russia’s 85 regions we can find women heading legislative bodies. Among the mayors of 20 cities with population of 500 thousand to 1 million, we find 4 women. For cities of more than 1 million (15 cities) we find 3 women. Among these 7 women, 6 have high management ratings, and 1 a low rating. It is obvious that these numbers are a “silent scream”. At a meeting of the organizing committee of the Eurasian Women’s Forum in October 2021, Chairwoman of the Federation Council Valentina Matvienko announced plans to increase the representation of women in the Federation Council to 40 % in 3 years. She said, *“I think eventually we will achieve a situation in which each region in the Federation Council represented by a man and a woman (the upper chamber has two representatives from each constituent entity of the Russian Federation — one from the executive and one from the legislative authorities.”*³ Statistics on women’s representation in other countries, after the adoption of the Beijing Declaration and Platforms for Action (1995), which calls on governments of all countries to eliminate any obstacles to the participation of women in every sphere of public and private life, testifies that as of 2019, the number of women in parliaments has doubled to 23.4 %, over the previous figure of 11.3 %; the number of “male-only” parliaments has also decreased.⁴

³ The number of women in the Russian Parliament is planned to reach up to 40 per cent. *Parlamentskaya gazeta* [Parliamentary Newspaper], 27 October 2021. Available at: <https://www.pnp.ru/politics/predstavitelstvo-zhenshin-v-ros-siyskom-parlamente-planiruyut-dovesti-do-40-procentov.html> (In Russ.) [Accessed 10.01.2022].

⁴ Women in Parliament: will gender quotes affect gender equality in politics? Indicator, 29 March 2019. Available at: <https://indicator.ru/humanitarian-science/zhenshiny-v-parlamente.htm> (In Russ.) [Accessed 10.01.2022].

In connection with this, doctrine and mass communications demonstrate the “masculinity of the Russian political territory”: first, the transition of women from a subordinate position to a position of equality “originally assumed obligatory mimicry: it is not enough to simply “defeat” men — this needs to be done on their “territory”, impregnated with “a spirit of machismo”, recognizing their methods as exclusively correct” (Golod, 2008, p. 41); second, “...popular and ever-miserable variations on the subject of “women and politics are incompatible” is also notable. Would you like to lay asphalt? Welcome! Surf space? You are welcome. Sniper, tamer, war reporter? No problems there. But “sorry — no politics”. Why? Because politics is power” (Khakamada, 2006, p. 173).

At the same time, according to UN materials and some other sources, it follows that a socially significant figure in order to begin solving the issue within the ranks of political power is at least 20 % representation by women, the optimal figure being 40–50 %, as observed in Scandinavian countries (Tarusina and Isaeva, 2016, pp. 78–79). This, however, is not an axiom, but rather a highly probable assumption, since it is not always confirmed in practice: some examples of female leadership are far from being socially oriented, and there are also real examples of increased social welfare-oriented context of legislation even under male leadership! Moreover, the doctrine stated long ago that female dominance is not clearly accounted for in cases where “soft law” decisions are made, for instance on protection of low-income citizens, the interests of women and/or children, etc. (Bryson, 2011), “mobilizing women as women” (Ajvazova, 2018, p. 46).

The socio-political activity of Russian women can be manifested in various forms, including via civil society institutions. Thus, women fruitfully participate in the work of various public chambers. The Civic Chamber of the Russian Federation includes 62 women (36.9 %). 29 of the 85 regional chambers are headed by women (34.1 %, with none in the minority national republics). Among other things, this indirectly indicates a greater willingness of men to give up leadership roles to women in cases where work is carried out primarily on a gratuitous basis and does not involve authoritative powers.

Women are also active in the electoral process: both as voters and candidates for elected positions, and in other roles essential to the electoral process. At first glance, the statement that the Russian electoral system has a “female face” (as often emphasized in the speeches of Ella Pamfilova, currently Chair of the Central Election Commission of Russia) looks rather convincing, and is confirmed by statistics. As of 2021, women head 85 % of precinct election commissions in Russia. At the same time, an interesting detail should be noted: if we look at election commissions of higher significance (regional rather than precinct), the proportion of women’s representation decreases significantly: with 40 % of women in the former and 65 % in the latter. The current Central Election Committee of Russia boasts fewer than 30 % women — only 4 of 15 members are representatives of the “fairer sex.”

The above statistics are aptly illustrated by Ella Pamfilova’s statement on the evolution of “the face of Russia’s election system” over the past 5 years: “Over this period, our system has become even more feminine, which does not mean weak. Rather, we speak of a soft power that enables to withstand any hardship that may challenge commission members during the course of election campaigns... we speak of a woman of character, and repeated occasions have convinced of precisely this.”⁵ Obviously, the work in local election commissions is more intense and less well-paid, which in itself may provide an explanation for why men are not interested in competing with women for this work, which clearly does not provide the glory of a “place in the sun”. Here we must also make allowances for one more “trick”: the active recruitment of women into the work of the electoral system, including in management positions such as in the case of the chairperson of the Central Election Commission, in one way or another may promote people’s trust in the electoral process, so sadly denigrated over the past decades.

Women also actively manifest themselves as voters: numerous statistical studies analysing both traditional and e-voting contexts

⁵ Pamfilova: The face of the election campaign has become more feminine. *Rossiyskaya gazeta* (Russian Newspaper), 24 March 2021. Available at: <https://rg.ru/2021/03/24/pamfilova-lico-izbiratelnoj-sistemy-stalo-bolee-zhenskim.html> (In Russ.) [Accessed 10.01.2022].

demonstrate that the “portrait of a typical voter” also has a female face: this is confirmed by both VCIOM (Russian Public Opinion Research Center) data and information published by public agencies.⁶ Furthermore, women also support the “party of power” more actively than men. Some politicians, however, unfortunately dare to use statements disparaging women in this regard: thus, Andrey Parfyonov has explained women’s motivation for voting for “United Russia” by the fact the “the growing popularity of the party among women is facilitated by the fact that... Vladimir Putin enjoys the sympathy of the fairer half. Stop any woman on the street and ask her if she likes Putin, and she’ll answer “yes!”, because for any woman, Putin represents “man as he *should* be.”⁷

It is possible that these gender prejudices, which hint at the frivolity of women and their inability to make unemotional political decisions, explain with precision the reason why most Russian citizens would not favor a woman for any serious political post. According to VCIOM, the majority of respondents cannot imagine a woman as President or Prime Minister of Russia. This position, moreover, is not limited to men, but also shared by women themselves. Experts predict that Russia cannot realistically expect a “woman as the head of state” until at least 2048.⁸ Overall, women are less active as candidates during elections, and the statistics here show little tendency for change: for example, 21 % of candidates in the 2021 State Duma elections were female, a figure absolutely identical to the same statistic in 2016 (the feminist ideas are supported by 33 % of women and 30 % of men).⁹

⁶ VCIOM found out the average age of most voters in the elections. RIA Novosti, 18 March 2018. Available at: <https://life.ru/p/1098940> (In Russ.) [Accessed 10.01.2022]; Sostavlen obshchij portret izbiratelya (The general portrait of voter a has been compiled). Rambler, 19 March 2019. Available at: <https://news.rambler.ru/sociology/42855256-sostavlen-obshchiy-portret-izbiratelya/> (In Russ.) [Accessed 10.01.2022].

⁷ “Because Putin enjoys the sympathy of women”. How parties see their voter and what is he like in actual fact. Lenta.ru, 16 August 2016. Available at: <https://lenta.ru/articles/2016/08/16/ladieslikes/> (In Russ.) [Accessed 10.01.2022].

⁸ VCIOM: citizens of Russia do not favor a woman as President or Prime Minister. Kommersant, 6 March 2020. Available at: <https://www.kommersant.ru/doc/4277541> (In Russ.) [Accessed 10.01.2022].

⁹ Candidates for deputy in the mirror of statistics: the billionaires and the paupers. DW.com, 14 August 2021. Available at: <https://www.dw.com/ru/kandidaty-v-deputaty-gosdumy-v-zerkale-statistiki-milliardery-i-nishhie/a-58831533> (In Russ.) [Accessed 10.01.2022].

III. The Work Environment: Professional Restrictions, Harassment, etc.

In the realm of work and social security, despite legislators' inclination towards gender neutralization using the framework of "persons with family responsibilities", differentiation in the legal status of women and men still remains in some areas. This is partly due to objective reasons, including: pregnancy, women's postpartum physical condition, the need to care for babies, which requires attention in the form of protective provisions for dedicated leave, as well as conditions for the performance of labor functions during particular periods (such as if woman re-starts work ahead of the required start date) and the insurance of targeted social payments. On the whole, Russian legislators are quite successful in this respect. We find, however, that the area of concern comes with the question of parental leave for the care of children up to the age of three. Here the gender-neutral approach is already revealed as lacking. Thus, the leave is not granted to male military personnel — an appeal to redress this lack of parity was addressed by the Constitutional Court of the Russian Federation back in 2009. The Court failed to recognize the ban as unconstitutional, referring to the provisions of Art. 55 of the Constitution of the Russian Federation on the admission of restrictions on the rights of citizens in the interests of ensuring state security (Decision No. 187-0-0 dated 15 January 2009). The European Court of Human Rights disagreed with the legal position of the Constitutional Court, stating: "In view of the foregoing, the Court considers that the exclusion of servicemen from the entitlement to parental leave, while servicewomen are entitled to such leave, cannot be said to be reasonably or objectively justified. The Court concludes that this difference in treatment, of which the applicant was a victim, amounted to discrimination on grounds of sex."¹⁰ This, by the way, evoked a broad legal (and political) discussion on the ontology and limits of sovereignty of the Russian legal system (Tarusina and Isaeva, 2016,

¹⁰ European Court of Human Rights, Grand Chamber, *Konstantin Markin v. Russia*, Application No. 30078/06, Judgment of 22 March 2012. Available at: [https://hudoc.echr.coe.int/eng#{%22itemid%22:\[%22001-109868%22\]}](https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-109868%22]}) [Accessed 10.01.2022].

p. 88) and eventually led to the adoption of a constitutional amendment clarifying the right of the Court to decide in favor of non-action vis-à-vis the decisions of international courts, if these, in the Court's opinion, contradict the constitutional foundations of Russian statehood. Our task here is not to analyze legislation and judicial acts that infringe men's rights. The situation, however, can also be considered from the perspective of women issues, due to the fact that legal discrimination against one of the "persons with family responsibilities" (in our case, the father of a child), clearly means that this respective burden is placed upon another "person with family responsibilities" (the child's mother).

The most striking example of explicit labor discrimination is the laws directly restricting a woman's right of access to specific professions. As of 2000, for instance, the ban on women's labor extended to a total of 456 professions. For this reason, Anna Klevets was denied admission to a training course for "assistant electric train drivers" for the St. Petersburg Underground. She appealed against this refusal in court, went through all the courts of appeal and filed a complaint with the Constitutional Court of the Russian Federation that found no grounds upon which to accept her case for consideration (Decision No. 617-O-O dated 22 March 2012). Among other things, the Court indicated that first, principles of equality should be implemented taking into account a woman's social role in procreation and proper care for her reproductive health; second, by the meaning of Art. 253 of the Labor Code of the Russian Federation, the contested list is not considered as an absolute as the restriction can be overcome by improving specific labor conditions; third, the verification of the list's validity is outside the competence of the Court and must be carried out by courts of general jurisdiction. Indeed, in any particular case, such a restriction is associated more with an assessment of the intellectual capabilities and psychological characteristics of a woman (a factor indicative of discrimination), rather than with the supposed challenging and dangerous labor conditions that the legislator uses as grounds for banning the access to the aforementioned list of professions. In addition, "forced happiness", achieved by subordinating real personal happiness to social considerations, is in opposition to the idea of a woman's right to reproductive choice. Though we are not advocates of

the childfree womanhood club, the aforementioned woman's freedom is quite obvious, including the fact and term of motherhood. Since 2019, the list has been reduced to 100 professions (by order of the Ministry of Labor of Russia No. 512n dated 8 July 2019). The updated list, however, also includes dubious restrictions, such as an aircraft mechanic (technician) for airframes and engines, an excavator driver, and work related to the care of certain types of animals. Nevertheless, we may conclude that the profession-related restrictions in effect are undoubtedly closer to provisions for differentiation than to out-and-out discrimination. Women's activity, coupled with particular rationality amongst managers, has yielded significant income for the "treasury" of labor emancipation, bringing the Russian environment closer to the global average for gender balance in this sphere, and relative harmony of the gender equality concepts and social responsibility of the state with regard to the care for women's health (Sillaste, 2020, p. 49). As already noted, however, we have not "fully plowed the field of professional gender parity" yet.

Questions of women's employment still remain urgent. Even under standard (non-emergency, non-pandemic) living conditions, the temporary self-exclusion of a woman from social labor during pregnancy and childcare or a career break create difficulties for her further labor rehabilitation. These circumstances in a woman's "typical life" are supplemented with quite traditional employment-related challenges: as a rule, employers often *de facto* search for ways to give priority to the hiring of men, whose prospective reproductive (and, in general, family) function is not so clearly expressed as in the case of women. Recent pandemic circumstances somewhat shifted the focus: on the one hand, it would seem that the massive transfer of workers to remote locations facilitates the ability to combine both social and domestic work. But on the other hand, it brought children, husbands and relatives back into the realm of "a full day with the family", increasing the required amount of domestic care — and at home a woman in Russia is still considered as a "working unit", while men are "honorary members of the club"; furthermore, remote work blurs working hours, and also often involves additional types of labor. For instance, pedagogy encountered a new

mandate for the mastery of modern distance learning technologies and the development of a very diverse digital educational product; information and progress monitoring communication with students began to be exercised far beyond the standard work schedule; etc. Pandemic lockdowns have also affected women's employment prospects. It should be noted, however, that women have simultaneously benefitted from additional opportunities, including new forms of employment exclusively for women, new methods of searching for vacancies and acceptable forms of remote work, allowing them to independently restore the space in which they can experience professional self-realization. (Tihanyi et al., 2020, p. 93).

Among issues relevant for today, a special place belongs to the phenomenon of harassment, understood both in a narrow sense (as sexual harassment) and more broadly (obscene sentences, insulting remarks, psychological persecution, etc.). Harassment is, *de facto*, widespread, but it is also outside the "developed legal field": currently, every Russian woman usually has to "survive on her own". Most still have to either endure harassment, quit their jobs, or resort to modern technical methods of correcting illegal actions and insist upon legal consequences, this latter being extremely rare. This having been said, neither society, nor employers or employees (as part of it) are generally ready to actively support women in their stance against the abovementioned forms of violence (according to the media, 16 % of single or multiple-instance harassments are reflected in the statistics;¹¹ about a third of employers respond to such actions).¹² We believe that the statistics here are unlikely to correspond to reality, since unacceptable behavior against working women is, as a rule, shrouded under a cloak of silence. This suspicion is also confirmed by our practice. The necessary ideas have yet to be introduced at a systemic level, and have not made their way into classical education, public communications or the thought realm of non-profit social organizations yet. Furthermore, Russia ratified the European Social Charter in 2009 but excluded from its

¹¹ 6 % of harassment is recorded — against men, that is, almost 3 times less.

¹² Sexual harassment at work: Russian specifics. Vedomosti, 23 January 2020. Available at: <https://www.vedomosti.ru/career/articles/2020/01/22/821257-rabotodateli-pomogayut> (In Russ.) [Accessed 10.01.2022].

international obligations Art. 26 that calls on states to protect workers from sexual harassment and other unacceptable behavior. Currently, protection against them is hypothetically possible, under Art. 2 and 3 of the Labor Code of the Russian Federation, which in an excessively general form provides for the prohibition against discrimination, the principle of respect for the dignity of an employee and judicial support in cases of violation of regulatory requirements. Labor law doctrine states that since harassment is not considered as a form of discrimination or dangerous psychosocial risk (Chirico et al., 2019, p. 2470), and the rules of proof in civil proceedings (each party is obliged to prove its claims and objections) do not ensure effective protection to the offended party, it is an unbearable burden for a female employee plaintiff to prove her position, and the prospect of winning legal confrontation with her employer is more ephemeral than actually possible. At the same time, researchers have not identified examples of court decisions that would be based on facts of sexual harassment (Golovina, Sychenko, and Voitkovska, 2021, pp. 636–640). It is obvious in the extreme that Russian legislation and law enforcement should explicitly and, at least to some extent, effectively amend its outlook with regard to this matter.

At the very start of our reflections on the problematic nature of legal terminology in the gender context we spotted the presence of the concept of a “single mother” in jurisprudence, while the concept of a “single father” remains absent. It goes without saying, however, that this information is not limited to philological protest. We are talking about women who deal with their parental, economic and other issues independently. In a narrow sense, this female group includes unmarried women who have a child (children) out of wedlock. These criteria are the specific prerequisite for the receipt of official status and appropriate special social support. In a broader sense, the group is extended to include divorced mothers and widows raising a child (children) without the father. The state, however, supports their lives according to the general rules for labor and social legislation, i.e., on the same terms as for families with children. Nevertheless, from a sociological perspective, both subgroups have similar problems in exercising their rights to employment, and individual choice (considered as a value,

Klammer, 2018, pp. 50–52) in their case is significantly hampered by family circumstances: often, they have to be content with low income jobs (if they have stable work), a minimum of leisure time and/or the resources for it, and the *de facto* lack of access to social and/or vertical mobility channels (Lytkina and Yarosnenko, 2021, pp. 65–66). By all means, exceptions do exist — these, however, as it is well-known, only confirm the sad rule already specified. This social niche, therefore, also requires legislators to have a broader and more profound outlook on the problem, not limiting their capabilities exclusively to social benefits and labor guarantees.

IV. Violence and Criminal Prosecution

The criminal and penal enforcement branches of law also develop constitutional principles by enshrining citizen's equality, including matters of gender equality (Art. 4 of the Criminal Code of the Russian Federation (further the Criminal Code); Art. 8 of the Penal Enforcement Code of the Russian Federation (further the Penal Enforcement Code)). Nevertheless, we cannot testify to any consistent implementation of these specific statutes of criminal and penal enforcement. Thus, it is common knowledge that the degree of legal restriction experienced by the sentenced to deprivation of liberty is much dependent upon the type of detention institution in which they are being held. Currently in Russia there are 465,896 people held in correctional institutions and pre-trial detention centers, of which 38,579 are women. This figure generally corresponds to average statistics of 10–20 % for developed countries (Tihanyi et al., 2020, p. 93). 13 orphanages housing 335 children under the age of 3 are in operation at women's "prison colonies".¹³ Fewer women are expected to reside in penal institutions, which is explained by their lower degree of criminal activity (meaning that women are more law-abiding): during three quarters of 2021, for

¹³ A brief description of the penitentiary system in the Russian Federation as of 1 January 2022. Available at: <https://fsin.gov.ru/structure/inspector/iao/statistika/Kratkaya%20har-ka%20UIS/> (In Russ.) [Accessed 10.01.2022].

example, 652,592 persons were identified as having committed crimes, while 106,751 of these were women (16.4 %).¹⁴

According to Art. 74 of the Penal Enforcement Code, detention centers include correctional “prison colonies”, juvenile detention centers, general prisons and medical correctional institutions. The category of correctional “prison colony” can be further broken down into penal colony settlements and correctional prison colonies with general, strict or special regimes. Thus, there are seven different types of correctional institutions in Russia, in addition to pre-trial detention centers, which house detainees who perform diverse community service works (Art. 77 of the Penal Enforcement Code). But by virtue of Art. 58 of the Criminal Code and Art. 74 of the Penal Enforcement Code, women can be kept only in only four of the seven specified types of institutions: penal colony settlements, general regime prison colonies, juvenile detention centers and medical correctional institutions. For reasons of humanity, they cannot be sent to any of the penal institutions where conditions are most severe: these include prison colonies with strict or special regimes, and general prisons. At the same time, women have a number of privileges over men in terms of sentencing. In Russia, the life sentencing of women is prohibited (Art. 57 of the Criminal Code), as is the death penalty (Art. 59 of the Criminal Code). On the one hand, a more merciful attitude towards the “weaker sex” is quite noble and justified. The criminal legal status of men and women cannot be one of absolute parity, given women’s abovementioned objective particularities, i.e., taking into account the importance of women with regard to reproductive objectives, etc. There are real reasons why the Supreme Court of the Russian Federation, in its special review on the application of international law, called upon lower courts to refrain from imposing punishment in the form of imprisonment upon pregnant women and mothers — especially those mothers with underage children — insofar as it is possible. On the other hand, such serious preferences based upon gender are disharmonious with the principle of equality, as well as with other fundamental principles of the criminal legal branches. Among

¹⁴ A brief description of the status of crime in the Russian Federation in January-September 2021. Available at: <https://xn--b1aew.xn--p1ai/reports/item/26421097/> (In Russ.) [Accessed 10.01.2022].

other things, gender asymmetry contradicts the principle of justice itself (Art. 5 of the Criminal Code). The key criterion for a measure of punishment is the gravity of an offense (Art. 60 of the Criminal Code). Sadly, there are many historical examples of cruel crimes committed not only by men, but also by women. It is sufficient to recall the terrorist attacks committed by female suicide bombers wearing bomber belts at the Lubyanka and Park Kultury stations of the Moscow underground, which claimed dozens of human lives. It seems that “flirting” with the female sex in such cases, by way of exception, is inappropriate both from the standpoint of a legal principle and from the standpoint of the protection of rights and interests of crime victims, their relatives and friends. We are therefore inclined to regard the above differentiations in the legal status between men and women as clear discrimination that requires elimination.

In the meantime, it should be noted that the specified benefits enjoyed by women also have other “toxic” consequences. At present, those women who have committed especially grave crimes or who have repeatedly committed grave and especially grave crimes are kept in general regime prison colonies, while men with a similar “solid” track record are held in strict and special regime prison colonies and general prisons. Needless to say, the placement of women of radically different danger levels in one and the same penitentiary institutions does not fit well with the corrective objective of the penal system and directly contradicts the principle that differentiation and individualization should be reflected by the measure of punishment (Art. 8 of the Penal Enforcement Code).

These examples do not exhaust all the gender distortions present in today’s Russian Criminal Code and the Penal Enforcement Code. We might also mention that many legal preferences are granted to women with children under the age of three: certain types of punishment are prohibited (Art. 49, 50 of the Criminal Code, etc.), and the unjustified refusal to hire them or the unjustified dismissal from employment entail criminal liability under Art. 145 of the Criminal Code. Indeed, it is hard to explain, in light of this, why fathers with children under three are being “forgotten”. An equally tangible differentiation between the statuses of

men and women can be identified in the penal legislation. For example, according to Point 93 of the Internal Regulations of Correctional Institutions, approved by the Order of the Ministry of Justice of Russia No. 295 dated 16 December 2016 (amended: 22 September 2021), the maximum number of packages, parcels and book posts allotted to men serving sentence is limited quite strictly and dependent upon type of correctional institution, while convicted women are allowed to receive an unlimited number (!).

From here, things just go from bad to worse. Under Art. 99 of the Penal Enforcement Code, in correctional prison colonies, the living space allotted to a man cannot be less than two square meters, while for women the same figure is three meters. Confinement conditions for men vs. women are also indicative of the distortion; this includes established norms for food and material support. Thus, according to the Russian Governmental Decree No. 205 dated 11 April 2005 (amended: 24 August 2020) “On the minimum norms for nutrition and material support of those sentenced to deprivation of liberty...”, men and women, respectively, receive (in grams per day): bread — 300 and 200, salt — 20 and 15, potatoes — 550 and 500. Here it seems the men win out. True, the same decree stipulates those ladies get more cow milk in the pre-trial detention centers (200 ml, whereas men only get 100 ml).

It seems that certain differences in the conditions for detention, as well as in the general legal status of men and women who have broken the law, are attempts to objectively reflect the physical differences between the sexes. At the same time, some existing differences clearly seem archaic, or even ridiculous — for example, the difference in daily allowances for bread and milk. We are convinced that deviations from the gender equality principle in law must be justifiable, without turning supposition into discrimination against one sex or the other. To round off the anti-criminal chapter of our story, we note that the Special Part of the Criminal Code of the Russian Federation also offers fertile ground for gender differentiation analysis. The prohibitions described there are intended, among other things, to act as a tool for the prevention of domestic violence, where women are victims in most cases. The need to improve the efficient prevention of domestic violence is highlighted

in the State Family Policy Concept for the Russian Federation through 2025 and in the National Action Strategy for the Interests of Women for 2017–2022, which have been approved by the Government of the Russian Federation. Unfortunately, in this regard, Russian criminal law is far from ideal.

Just to illustrate, we shall describe the metamorphoses of the legal norm for addressing beatings, which are the most common form of family violence against women (men are also sometimes beaten, but this is the exception, rather than the rule). In the original edition of the Criminal Code, beatings were subject to criminal liability under Art. 116, without any additional conditions (regardless of motives, etc.). In 2016, in accordance with the latest wave of humanization and liberalization, ordinary beatings were decriminalized and transferred to the category of administrative offense (with Art. 6.1.1 “Beatings” were introduced into the Code of Administrative Offenses of the Russian Federation by virtue of the Federal Law No. 326-FZ dated 3 July 2016). Criminal liability under Art. 116 of the Criminal Code was retained for those beatings resulting from base motives (defined as hooliganism and/or extremism), as well as for beatings inflicted upon “persons of close relation,” which by all means includes spouses. At the same time, the Criminal Code was supplemented by Art. 116.1, which provides for a punishment under the Criminal Code for beatings committed by a person previously found guilty of a similar act resulting in administrative liability only.

It would seem that such a model of criminal legal protection against family beatings (primarily of women, under statistical reality) would well serve to prevent domestic violence, given that one of the ways beatings become eligible for incurring criminal liability is by being inflicted upon “persons of close relation.” However, in line with the general course towards humanization, legislators then excluded from Art. 116 of the Criminal Code any mention of “persons of close relation,” when they issued the Federal Law No. 8-FZ dated 7 February 2017. Since then, beatings have incurred criminal liability only if they are motivated by hooliganism or extremism (Art. 116 of the Criminal Code) or if they are repeated offenses (Art. 116.1 of the Criminal Code). Clearly, in domestic violence situations, motives of hooliganism or extremism are *a priori*

absent; and Art. 116.1 of the Criminal Code acts only as weak help for victims, given that it requires they must first go through the process of bringing tyrants to administrative responsibility.

As a result, a rather curious situation has developed, and it amounts to a tragedy for the victims of domestic violence. Despite the fact that the right to personal immunity is proclaimed by the Constitution (Art. 22), despite all the slogans about the need to “strengthen and deepen” the protection of victims of domestic violence, it has already been five years (!) since the Criminal Code of the Russian Federation suddenly found itself lacking any efficient mechanism for holding those who inflict beatings on the family to serious accountability. Moreover, beatings — even when repeated or perpetrated for the abovementioned motives — are punishable by a maximum of only two years of imprisonment, while cruelty to animals resulting in their mutilation (Art. 245 of the Criminal Code) is punishable by three years of imprisonment. Certainly, it is tempting to exclaim “*o tempora, o mores!*” in such a situation.

In view of the above, the draft law submitted to the State Duma by the Plenum of the Supreme Court of the Russian Federation, which envisages the transfer of repeated beatings (Art. 116.1 of the Criminal Code) from the private to the private-public realm of prosecution, as understood under the Code of Criminal Procedure of the Russian Federation, is only a half-measure,¹⁵ which essentially fails to resolve the problem. We do not share any of the general enthusiasm with regard to this bill, as the fundamental basis for the protection of victims of domestic violence is criminal law. For this reason, the law must first be reverted to its original version within the Criminal Code, after which an adequate punishment for the crime of beating should be established. And the punishment, we think, should not be less severe than that earned by those who enjoy inflicting cruelty upon animals.

¹⁵ The Supreme Court proposed to protect victims of domestic violence by canceling private charges in the courts. 6 April 2021. Available at: https://www.vsrfr.ru/press_center/mass_media/29837/ (In Russ.) [Accessed 17.01/2022]. The draft law is available at: <https://www.zakonrf.info/postanovlenie-plenum-verkhovnogo-sudarf-3-06042021/> (In Russ.) [Accessed 10.01.2022].

V. Relations with a Family Element

The issues caused by a woman's right to terminate her pregnancy — as a component of her fundamental right to take charge of her own life — are at the very intersection of medical and family law. This right is not connected to any man's position (including that of the woman's husband), although present doctrine does include some speculative reflection about the possibility of introducing the framework for the man's consent to abortion — emphasizing various Eastern examples. Furthermore, this freedom is opposed by religious ideas and practices that consider abortion to be sinful. In some countries — for example, Poland — there are severe restrictions in respect of abortion. Russian medical legislation, meanwhile, fails to consider abortion an absolute freedom: a pregnancy of up to 12 weeks may be terminated at a woman's discretion, from 12 to 22 weeks a woman may choose to abort her pregnancy for social reasons, the list of which is continuously being amended so as to become shorter. Abortion for medical reasons, at any term of pregnancy, is possible with the decision of a council of doctors. At the same time, over the period between 1992 and 2019, Russia saw an eight-fold reduction in the number of abortions (Sakevich, Denisov, and Nikitina, 2021, p. 46). It is well-known that the most common motivations for abortion are economic and, more recently, socio-psychological, in the form of a woman's unwillingness to interrupt the career growth and/or exclude herself from her typical social milieu/experience due to the challenges of motherhood. In such cases, tools such as the issuance of a maternity capital, the granting of tax and mortgage benefits, etc., are hardly ever effective. The same can be said of ideological campaigns for the promotion of motherhood as a social value. Cases in which it is necessary to make a decision on whether to continue pregnancy when the health prognosis for the unborn child is unfavorable are especially difficult. Moreover, in recent years a new issue has surfaced, involving the problem of a possible future conflict between parental choice (primarily maternal choice) and the "potential autonomy of the child", the right to disagree with it — such as in cases where assisted reproduction technologies are used (Davis, 2009, p. 32). Russian law still leaves such questions outside its scope of action, being

content with a simple prohibition against choosing the sex of an unborn child (Bogdanova, 2021, p. 49). In the near future, lawmakers must face the task of revising the list of socially justifiable reasons for abortion in order to adequately respond to new challenges in the planning and preservation of pregnancy introduced by modern genetics.

Family law itself is one of the leaders in terms of gender problematics. Since the topic of our study is woman as a subject of the law, here we will put aside aspects of legal regulation, as well as administrative and judicial practice, which result in discrimination against men in terms of a family and legal status. These include restrictions on participating in the surrogacy program, restrictions on the right to a divorce either during a wife's pregnancy or within a year after a child's birth, a clear gender imbalance during the court resolution of disputes with regard to a child's place of residence when the marriage is dissolved or in the case of parenthood out of wedlock, and the father's exclusion from the list of persons entitled to alimony, even in a case when the child under three stays with the father. We would refer anyone interested in these issues to the excellent studies on this topic published by Zykov in 2020 (Zykov, 2020, pp. 48–58). Beyond the scope of our study there remain aspects of legal gender differentiation based on the gender-neutral ontology, though they are extremely relevant and debatable from the standpoint of Russian legislation and in part, from the standpoint of general legal doctrine, too. These include such issues as the constitutional amendment defining marriage as a union between a man and a woman, the lack of legal framework for addressing the question of same-sex marriage, the legal consequences of a sex change during a marriage, the prohibition of adoption by citizens of states with a different understanding of the essence of the marriage union, etc. These topics are excluded from the scope of our analysis that has a narrower focus, which concentrates primarily on the legal status of women (an overview of the Russian legal backdrop for these questions can be found in Lushnikov, Lushnikova, and Tarusina, 2015, pp. 117–165).

In terms of fair and reasonable provisions establishing rights and interests of women inside the institution of marriage, two vectors bear analysis. First of all, despite an unambiguous declaration of the secular nature of marriage, upon the basis of which polygamy is

prohibited by law, prevailing political and legal concepts may also incorporate opinions in defense of polygamy, while social practice in some southern territories actually demonstrates clear-cut cases. Liberal Democratic Party leader Vladimir Zhirinovskiy firmly supported polygamy, explaining his standpoint by the following considerations: 1) a disproportionate number of women, as compared to men, creates a situation in which not all women who wish to marry and have a family with children are able to do so; 2) polygamy more successfully leads men towards responsible behavior.¹⁶ The idea of polygamy is also supported by some Muslim clergy. Voices in favor of polygamy can also be found within concepts of family law. It is sometimes argued that the legalization of polygamy would protect the interests of women in *de facto* polygamous unions, and would expand the spectrum of choice with regard to possible forms of marriage in territories where polygamy is not part of the national cultural tradition (Tarusina, 2022b, pp. 135–136). Leaders of the women's movement, such as Maria Arbatova, qualifies such statements as kitsch, personal PR, not based on science and suggests, by the way — while we are at it — why not sink to the level of our opponents and introduce polyandry as well in the true spirit of being completely gender neutral...¹⁷ In response to the complaints of one apologist of polygamy, who claimed that his constitutional rights were being violated, the Constitutional Court of the Russian Federation responded by confirming the secular basis of marriage and reiterating that no more than two people can participate in a given marriage (Decision No. 851-0-0 dated 18 December 2007).

Our second vector for reflection focuses on the problem of *de facto* marriage. It is well-known that until 1944 Soviet law had recognized the legal significance of *de facto* marriage, and discussions of the corresponding stipulation within the draft of the Code of Laws on Marriage, Family and Guardianship adopted in 1926 show that

¹⁶ Zhirinovskiy urged to allow polygamy in Russia. *Izvestiya*, 21 October 2019. Available at: <https://iz.ru/934612/2019-10-21/zhirinovskii-prizval-razreshit-mnogozhenstvo-v-Rossii> (In Russ.) [Accessed 10.01.2022].

¹⁷ Maria Arbatova: I am against polygamy without polyandry. *Liveinternet*, 7 August 2009. Available at: <https://www.liveinternet.ru/users/2471598/post107944225/> (In Russ.) [Accessed 10.01.2022].

prevailing political and legal views played with the idea that *de facto* marriage — free from state intervention of any sort — might be the one true form for the “marriage of the future” (Tarusina and Isaeva, 2017, pp. 79–80). This did not happen (predictably); in fact, prevailing attitudes towards unregistered unions reversed entirely. Meanwhile, social practice demonstrates the continuous presence of *de facto* marriage in Russian society, and legal practice demonstrates the obvious defenselessness — especially with regard to property issues — of women in such relationships in most cases. If an unregistered family union is terminated or the *de facto* spouse dies — and women usually live longer than men — she is unable to claim her fair share of acquired property or to inherit. The only basis for protecting her interests in the latter case is for a court to recognize her status as a dependent of the *de facto* spouse (unfit for employment), which allows her to inherit. At the same time, the patriarchal nature of a relationship is retained in many families, meaning the woman is primarily engaged in domestic tasks: she takes care of any common children and relatives, often devoting all or a significant portion of her time and energy to these tasks. It is common, therefore, that she either has no employment or only partial employment outside the household. It is precisely these circumstances which from time to time motivate various Russian politicians to raise the issue of reinstating legal protections for the interests of spouses (women) in a *de facto* marriage. The most recent draft bill addressing this question (2019) suggested extension of both the rules for spousal joint property and for alimony obligations to *de facto* marriage relationships, providing that the family union has lasted at least five years for couples without children, or at least two years for couples with a common child or children. Many legislators, however, were still opposed to the recognition of *de facto* marriage. Their arguments were varied, and ranged from the fear that a “legitimate marriage” would become less relevant to concerns about state statistics on family relations and the challenges of providing social support for families, to arguments that *de facto* marriage is “fornication” and constitutes a sinful union. Taking into account the views of the new Head and Deputy Head of the Russian State Duma Committee for Family, Motherhood

and Childhood Protection, there is no hope for progress on the issue under discussion.

Formally speaking, the institutions of parenthood and other childcare are, on the whole, gender neutral. Only a small number of issues directly affecting women's interests are being discussed. First, the universal character of the presumption of paternity within marriage does not always serve the interests of the mother: former legislation gave her the right to declare a man other than her husband as the child's father when registering the birth, providing she had his consent. The doctrine suggests reinstating this rule; after all, challenging the presumption in evident cases does not make sense for various reasons, not the least of which is court costs.

Second, the discussion continues on the rights of women who have given birth out of wedlock in cases where no father has been officially established to register their children with a "matronymic" (based on the mother's first name) rather than the patronymic, which would be assigned according to the usual Russian naming standard. For reasons based upon tradition, this is expressly forbidden by current legislation. In practice, however, the ban can be bypassed: under Art. 51 Part 3 of the Family Code of the Russian Federation, the mother may enter any name and patronymic in the "father" field of the birth registration, therefore she may enter a made up first name, based upon her own (e.g., Olga > Olgiv). In this way, she can effectively assign the child with a matronymic (e.g., Olgiv > Olgievich / Anna > Anniy > Annievich).

Third, a rather difficult discussion is underway relating to a surrogate mother's preferential right to the child she gave birth to. At present, the child's genetic parents — the surrogate program clients — can only be registered as the mother and father of the child with the surrogate mother's consent; this imperative is laid out under Art. 51 Part 4 of the Family Code of the Russian Federation. Despite the obvious nature of a surrogate mother's preferential right, judicial practice concerning its sustainability remains contradictory. In 2012, for instance, the Constitutional Court of the Russian Federation heard an appeal in which it upheld the constitutional nature of the norm, and ruled in favor of the surrogate mother's preference against that

of the genetic parents (Ruling No. 880-0 dated 15 May 2012). The members of the Court published two particular opinions with regard to this decision. Significant arguments in favor of considering the merit of the issue raised by the appeal included the fact that the imperative in Art. 51 Part 4 acts against the achievement of the surrogate program's goal, which is to overcome clients' infertility issues. Moving forward, in 2017 the Supreme Court of the Russian Federation took a legal position that was far from clear (Para. 31 of Resolution No. 16 dated 16 May 2017) indicating a possibility that the case could be resolved in favor of the genetic parents and also mentioning the interests of the child. Afterwards, although in 2018 the Constitutional Court of the Russian Federation rejected the applicants' complaint, it also indicated that they might rely on the legal position of the Supreme Court of the Russian Federation (Decision No. 2318-0 dated 27 October 2018), which was even accompanied by a dissenting opinion of one of the judges, expressing clear doubts with regard to the correctness of the Court's legal position and stating that illegal judicial practice should not be encouraged and that doubts about the fairness of law need rather be redressed by changing the law. Through all this, grounds for the ultimate reorientation of judicial practice, which is contrary to the imperative set out by family law, have been established in an instance where higher courts might rather implement their right to take a legal initiative. Meanwhile, the context of debate on surrogate motherhood is much wider. The essence of this phenomenon is being called into question, in the sense that sometimes it is being qualified as exploitation of women and trafficking of children — an opinion which is, to a certain extent, shared (legally) by a significant number of countries (Bakaev et al., 2021, pp. 77–82). It is unlikely that there will be a ban on the surrogacy program in Russia, since “Pandora's box” is already open. We can, however, fully anticipate that certain restrictions may be introduced, such as a ban on the participation of foreign citizens, changes in the content of surrogate contracts, and clarification of preferential rights.

It is interesting how Art. 49 of the Family Code of the Russian Federation is worded; in that it instructs courts to be guided by reliable evidence when resolving a paternity dispute in the case of a child born out of wedlock. The nuance here is that civil procedural law universally

exhorts judges to establish actual circumstance based on true facts; so why in this particular case do we see an additional declaration reiterating specifically for this particular type of case (and not any other)? There is a historical, legal and social explanation. Previously, Russian family law on cases involving the paternity of illegitimate children was not only contradictory, but also cruel: in 1944, so as to solve the demographic problem created by terrible human loss during the war, legislators deliberately released men from any responsibility for the life of their illegitimate children by simply placing a dash in the “father” field on birth certificates, thereby assigning all responsibility to the woman. It was then that the concept of a “single mother” appeared. Later, during discussions on whether to revoke this “draconian” decision, deputies, as well as some representatives of legal science, insisted on maintaining various restrictions so as not to “indulge women’s frivolity”. As a result, courts first got a rule that limited the possibility to satisfy suits under certain circumstances (1969) and later, when this restriction was removed, they discovered a vestige of the previous approach in the form of an oddly exclusive call to rely on credible evidence specifically in cases of extramarital paternity (Tarusina, 2022b, p. 139). A round of applause for the deputies!

Fourth, one should focus on family property relations. Current legislation is not very generous in terms of formulating the grounds for alimony obligations between spouses/former spouses, which are limited to facts regarding work incapacity (e.g., disability, achievement of retirement age), the wife’s/ex-wife’s pregnancy, and the need to care for a child who is disabled or under three years old. Other difficult life situations also do occur, however, for instance, a situation when a woman did not previously work (housework does not count as work in Russia). She may have previously managed a household, taken care of children, may not have completed her education upon marriage, may not have acquired a profession, may have been ill for a long period of time but was not officially recognized as disabled, etc. All this should also make her eligible for the possibility of assistance in the form of alimony, even if only temporarily. We believe that a positive legislative response would be appropriate here.

The framework of the marriage contract should also be subjected to some socialization: when first introduced into Russian law — only in 1994 — it was but experimental and not fully adapted to Russian realities. Even then, however, it was clear that the parallel, sovereign coexistence of two opposing means for the legal regulation of spousal property relations was not in line with the established tradition and, most importantly, fails to protect a woman's interests in cases where the marriage is terminated. In fact, she is the one whose interests are infringed by the assumption of a share-based system, or especially a separate-property based system, in the vast majority of instances. Roughly speaking, this happens in the same situations discussed above in cases involving the legal recognition of *de facto* marriage. Therefore, we believe that the freedom of a marriage contract should be limited by established minimum protection for the socially weak party, specifying fair conditions and grounds for material support if the union is dissolved and guaranteeing allocation of a share to the property which would ensure basic significant living requirements. Unfortunately, an obvious passion for the commercial context of life still fails to provide Russian legislators with the attention necessary to solve this problem.

VI. On Sociocultural Stereotypes in Russian Society

Legislative collisions, one way or another based on gender inequality, have a pronounced psychological background. Genetically determined and scientifically proven differences in mentality between the sexes are very few. If they do affect a woman's ability to perform, for example, professional functions, the range of restrictions is also very small (we are not making reference here to activities that require significant physical strength). Sexism (discrimination based upon sex) is not something grounded in the naturally occurring specifics of the female body or mentality. The perception of women as individuals with qualitatively different opportunities compared to men is explained by traditional social stereotypes which are still extremely prevalent in Russian society (Kamneva, 2015, pp. 370–374).

The female stereotype is based on the idea of a woman as dependent upon a stereotypically dominant man, giving her a secondary position

in terms of decision-making with regard to various issues in life. This is most pronounced with regard to employment (Bobbitt-Zeher, 2011, pp. 765–784) and, as noted above, directly reflected in legislation. In some other spheres, the same tendency is implicit though the effects are seen primarily on the level of vocabulary (“single mother”, “adoption of a son / adoption of a daughter”).

Among other things, the stability of gender stereotypes is due to the highly positive role they — like other sociocultural stereotypes — play in interpersonal interaction. When contacts are short-term and people have little detailed information as to their partner’s identity, typical patterns come in helpful when developing tactics for interaction. These, in turn, transfer on to the subsequent period of communication. Furthermore, it is highly likely that one person’s behavior towards another based on a gender stereotype provokes behavioral responses from the latter that reinforce existing stereotypes. As a result, the very behavior that launches a “vicious circle” of mutual stereotyping is reinforced.

Another component of the feminine stereotype is the idea that parenthood and childrearing are a woman’s function, whereas a man is assigned the functions of creation, creativity and accomplishment outside the home. One reflection of this concept is the abovementioned clear tendency that in the case of divorce, a child’s place of residency is determined to be with the mother. In addition, a negative attitude towards childless women has become entrenched within society — especially towards those women who support a “childfree” ideology. In the public mind, these women are associated with egoism and irresponsibility, even though the results of one test questionnaire demonstrate that the level of social responsibility of subjects who deliberately reject motherhood is higher than that of those women in the group who have children (Perova and Kara, 2020, p. 84).

Masculine stereotypes and corresponding behavioral prescriptions are more rigid than those relating to women, who may go relatively unpunished by society for allowing some deviation from their societally assigned roles. Women also demonstrate greater gender flexibility when faced with changing socio-economic conditions (Gustafsson Sendén et al., 2019). But at the same time, there are more legal restrictions upon women than upon men.

It should be noted that currently, favorable psychological prerequisites are emerging for the legislatively enshrined empowerment of women as subjects of law, since the development of social relations, technical and cultural progress have brought to life a tendency towards the convergence of stereotypical ideas about “male” and “female” psychological traits (Bosak et al., 2018, p. 120), and women become more gender-flexible in changing socioeconomic conditions (Gustafsson Sendén et al., 2019). At the same time, research data on the sustainability of gender stereotypes, focusing on a period of several decades in the late 20th and early 21st centuries, are now available (Haines, Deaux, and Lofaro, 2016, pp. 353–363). Insofar as gender stereotypes give rise to their corresponding attitudes and behavior, they ultimately reduce the adaptative potential of their carriers. High adaptive potential is supported by androgynous, and not polar mental structures (Stepanova, 2009, pp. 67–71). Increased gender equality on the level of legislation and the increased flexibility of gender stereotypes and attitudes are interpenetrating processes that reflect the need for societal development.

VII. Conclusion

Russian society and its legal system in the current state are characterized by conflicting approaches to understanding the role of women in society, as well as her social and legal statuses. On the one hand, on constitutional level and among the general principles of Russian law the principle of equality for men and women is proclaimed. On the other hand, due to the objective, natural differences between the sexes, law sometimes reflects a certain differentiation between their statuses that often turns into discrimination. For several years now, the draft law “On State Guarantees of Equal Rights and Freedoms for Men and Women and Equal Opportunities for Their Implementation” has been among the projects under scrutiny by the relevant committee of the State Duma of the Russian Federation. They return to it only rarely and with an *ad hoc* approach.

The political and societal activity of Russian women coexists in an environment which is also highly tempered by masculine and

feminine stereotypes. There are too few women, percentage wise, participating in the activities of state structures: current figures are simply unsatisfactory. As a rule, at this point percentage increases are being caused by lower rates of compensation for work or when work is carried out entirely free of charge.

Recent years have seen a push for gender neutralization in the labor sector, due to the introduction of the concept of “persons with family responsibilities” into law and law enforcement practices; nevertheless, discrimination is far from eliminated. This is most clearly manifest in restrictions on the right to a profession which have been retained; the list of professions and jobs from which women are banned is still impressively long and far from universally justifiable. Legislators’ focus on a woman’s reproductive function as a basis for differentiating her status is clearly out of date, especially in the context of her freedom to reproductive choice. Neither has the issue of women’s protection from harassment been resolved on the level of law and law enforcement.

The field of criminal policy is also characterized by legal norms focused on differences between the sexes — both in terms of formulating the body of offenses and in the system of punishments. To a large extent, this differentiated approach provides for the objective needs of a woman, though in some respects discrimination can be seen. For several years, lawmakers and members of the public have been actively discussing measures to ensure the protection of women against domestic violence. A preoccupation with the debate, however, obviously delays prospects of finding a solution to the problem.

In addition, legal regulation of relationships with a family element is primarily focused on working toward gender neutralization. It finds itself under attack, however, both with regards to the status of women and men (a mother’s priority in disputes over the child’s place of residence; the restricted right of men to divorce during a wife’s pregnancy or within a year of the child’s birth, etc.). A patriarchal bent within the public consciousness is determinate in discussions regarding the potential permissibility of polygamy, the special role of women within family, and the denial of legal recognition of *de facto* marriage, in which, as a rule, it is the woman’s interests that are unprotected if a relationship is dissolved. The institutions of the marriage contract,

alimony obligations and surrogate motherhood are characterized by an excessively commercial approach.

Though it is obvious that public opinion and legislative decisions are not generally oriented towards maintaining discrimination and/or counter-emancipation, we have yet to see a clear and efficient breakthrough that would equalize the legal and actual statuses of men and women in Russian society.

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