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Reasons behind the misuse of privacy in solving the problem of domestic violence: study of the legal framework and established practices in Russia

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Reasons behind the misuse of privacy in solving the problem of domestic violence: study of the legal framework and established practices in Russia

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Abstract:

This paper is devoted to the analysis of issue of privacy and the existing regulations in the criminal code in Russia in solving the domestic violence problem. It is uncontested that family violence is a form of human rights violation and implementation of preventive policy should be under the responsibility of state. At the same time the analysis of data and reports of leading international organizations, focusing on this problem, shows that in practice we observe lack of government intervention into cases of domestic violence and factual deprivation of women right to security of the person and freedom from torture and cruel, inhuman or degrading treatment that is established via shortcomings of the criminal treatment of family abuse. In many cases lack of government interference into family affairs with revealed facts of domestic violence is explained by the domain of the private life – thus privacy is used as an excuse for non-intervention into family relations.

The main argument, developed in this paper, is that wrong treatment of the privacy concept even used in favor of maintenance of human rights and freedoms (i.e. inviolability of family life) can in defiance cause serious systematic violations of human rights. To understand the thin border between inviolability of private life and necessary state intervention in order to prevent violation of human rights I address the theoretical concept of privacy and legal approach of Russia and post-communist countries towards the understanding of privacy. State is responsible for protection of privacy, but its domain should not be taken up to absolute in order to maintain social interest within community or smaller groups. Despite existence of legal procedures against domestic violence in most of the countries, each year from 20 to 50 per cent of women suffer from physical abuse from their partners.

Analyzing factors of domestic violence we find out that misunderstanding of privacy is used as an excuse for non-intervention into family affairs both on legal and political levels – thus the problem is not limited at the level of municipalities who are supposed to be direct actors to prevent family violence on early stages. Governments claim privacy as the fundamental of society and use it as a tool to either promote liberal values, as it happens in USA, Great Britain, Canada or to maintain and preserve traditional social values in patriarchal communities, as show the examples of Russia, Poland, Balkan countries. The

hypothesis is that domain of privacy can aggravate the scope of domestic violence problem within the country by considering family life beyond the responsibility of the government. The research is based on the analysis of the legal framework, articles of the Criminal code dealing with domestic violence of Russia and the post-communist countries.

Keywords: Russia, post-communist countries, domestic violence, legislation, privacy, women rights

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