

## Nataliya Tchermalykh

**Lisa McIntosh Sundstrom, Valerie Sperling, and Melike Sayoglu. *Courting Gender Justice: Russia, Turkey, and the European Court of Human Rights*. New York: Oxford University Press, 2019. 296 pp. ISBN 978-0-19-093283-1.**

*Nataliya Tchermalykh, Centre for Children's Rights Studies, University of Geneva. Address for correspondence: Université de Genève, Valais Campus, PO Box 4176, CH 1950 Sion 4, Switzerland. nataliya.tchermalykh@graduateinstitute.ch.*

*Courting Gender Justice: Russia, Turkey, and the European Court of Human Rights* by Lisa McIntosh Sundstrom, Valerie Sperling, and Melike Sayoglu, which came out in 2019 from Oxford University Press, contributes fruitfully to a still-undertheorized area of study—one that critically examines the consequences of the so-called Strasbourg effect (decisions delivered by the European Court of Human Rights [ECHR], located in Strasbourg) for different European legal traditions.

The authors' focus is remarkably interesting, as they compare two states known to oppose the Western legalist paradigm. Both of these states—Russia and Turkey—are often defined as “illiberal democracies” with clear authoritarian tendencies,<sup>1</sup> experiencing a conservative religious backlash. Nonetheless, they are still bound by the international treaties, providing their citizens with the right to use international legal instruments against their states. Such a capacity to “upscale” a conflict creates a productive tension in the local dynamics of citizen-versus-state confrontations, galvanizing networks of activists and legal professionals. In other words, in both countries Strasbourg decisions *matter*—of course legally, but also socially and politically.

Quite unsurprisingly, since the 2000s Russian and Turkish nationals have filed the largest number of applications to the ECHR, alongside Ukrainians, Romanians, and Hungarians. However, only a small fraction of these claims (and an even smaller number of decisions) concerned gender-related discrimination and violence (Art. 14 of the European Convention of Human Rights). The seemingly naive initial question—why so few?—is what drives this extensive research, conducted by Sundstrom, Sperling, and Sayoglu between 2013 and 2015 in Saint Petersburg, Moscow, Ankara, and Istanbul.

While mapping out the dense activist and legal networks related to the feminist agenda in both countries, the authors reveal a thought-provoking puzzle that can be summarized as follows: whereas the two states face similar social and political challenges, Russian feminists seem to go to Strasbourg much more rarely than their Turk-

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<sup>1</sup> In the Russian context, this research appears to be particularly relevant in light of the very recent presidential initiative presented to the Federal Assembly on January 15, 2020. It consists of a range of constitutional amendments that aim to reshape the existent model of Russian governance and, perhaps more importantly, crystallize the Russian isolationist tendency, as regards the primacy of the international law over the Russian Constitution.

ish counterparts (despite an extensive use of international litigation by the human rights defenders in Russia). Moreover, unlike Russia, Turkey scores the highest rate of decisions related to gender-based discrimination; two of them—*Opuz v. Turkey* (2009) and *Emel Boyraz v. Turkey* (2014) concerning, respectively, domestic violence and workplace discrimination—have become paradigmatic. How could one explain such a discrepancy?

In order to give a nuanced answer to this question, the authors chose a bottom-up approach, closely following the trajectory of a case from the very first contact with legal professionals to the final positive decision issued by Strasbourg. Such a trajectory may take years, and sometimes even decades, due to a large number of obstacles preventing the successful litigation of such cases. Predictably, those barriers are quite similar in both countries—and worldwide. They include the sexist biases of law enforcement culture, the high emotional and financial costs of complaining for victims, as well as the lack of trained legal professionals in the field. Some of them are intrinsic to the functioning of the ECHR: for example, the opacity of the grounds for the rejection of cases, the infamously long time the court takes to rule on cases, as well as the unwillingness of the national authorities to enforce international rulings.

While determining the structural factors that differentiate Russian and Turkish societies and cause the lack of feminist strategic litigation from the Russian side, the authors document an intriguing phenomenon that is specific to Russia: a purported deep antagonism between the Russian human rights and feminist movements. More precisely, in Russia, as opposed to Turkey, the human rights organizations seem to have an exclusive “monopoly” on training professional lawyers for evidence-gathering techniques, essential to the access to the European Court of Human Rights. These organizations, apparently, act as “gatekeepers” and simply do not let the feminists in, arguing that women’s rights are “different” and, in their vision, not necessarily part of the fundamental human rights paradigm. By contrast, in Turkey the process of transforming locally trained legal professionals into international human rights lawyers mastering the tools of international litigation is much more accessible to feminist activists.

This is a new observation in post-Soviet gender studies and opens a stimulating direction for future research, as the authors remain elusive about the actual reasons for such an antagonism. One could hypothesize that these reasons are not only contextual but also historical, related to the hierarchy of values within the Soviet dissident movement, the movement that was largely female driven, but not necessarily represented as such by its historians and “moral successors”—the *pravozashchitniki* (the generic term for human rights activists and defenders in Russia). Here, a question may be raised about the choice of the methodological lens in the Russian segment of the study, which is based exclusively on interviews conducted with field experts, NGO workers, and legal professionals. Should one treat as reliable data the statements of human rights experts, statements that reveal precisely the antagonistic dynamics acknowledged above?

This deficiency is particularly tangible in the framing that the authors seem to adapt from the experts’ opinions. The latter tend to psychologize the reasons for the silence of the victims, blaming Russian women for their “lack of gender conscious-

ness” that the authors seem too often to take at face value (one chapter of the book is titled accordingly: “What Gender Discrimination? Psychological and Socio-Cultural Barriers”). In this chapter one can find a long excerpt from an interview with the lawyer Mark Feigin,<sup>2</sup> in which he casually compares Russian and Scandinavian mindsets: “people’s psychology here is different—it precludes any awareness of the need to protect your gender rights directly” (p. 34). Later in the interview, he muses that the feminist movement in Russia is “in only an ‘embryonic’ stage of development” and of “superficial variety” (pp. 34, 42). It is ironic to hear such characterization from Pussy Riot’s defender: it is, perhaps, Feigin’s gender sensitivity that has to be doubted. In my opinion, it could have been illuminating to inform the readers about the reasons of his withdrawal from the Pussy Riot defense team, and the fact that the *Alekhina and Others v. Russia* (2018) case was subsequently brought to the ECHR—and won—by a prominent female lawyer Irina Khrunova (AGORA association) deserves at least a footnote.

Overall, the book’s analytical approach to the subject would have benefited if it was complemented by the top-down perspective, chosen by Marie-Bénédicte Dembour (2015) in her seminal *When Humans Become Migrants* (her work is cited only once in the book). Dembour’s research points out the dysfunctions of the ECHR regarding the equal treatment of the rights of migrants. She locates the main source of this dysfunction in the ideological biases of the European Human Rights Convention, which was drafted in colonial times—and dismisses, *mutatis mutandis*, the “lack of human rights consciousness” in migrants as a factor of the judicial mistreatment of their cases. This systemic problem of unequal access to justice is still observable in the procedures and decisions of the European Human Rights Court, which is supposed to provide the “golden standard” of the human rights law in Europe.

Whereas the authors, very much to their benefit, introduce the socio-professional category of a trained “feminist lawyer” as a key factor for a successful outcome of a gender-related case both domestically and internationally, they do not go as far as to conceptualize the obstacles that lawyers and their clients face as effects of one structural problem that is traceable in every legal culture (including the one that we call “international law”) and transcends the domestic-versus-international divide. In other words, the policeman in the Ankara suburbs and the high-ranking judge in Strasbourg, both dismissing a rape case as “inadmissible” are thus embodying the same hegemonic logic of law—that is, that the law, despite recent positive developments in some respects, is still universally patriarchal.

## REFERENCES

Dembour, Marie-Bénédicte. 2015. *When Humans Become Migrants: Study of the European Court of Human Rights with an Inter-American Counterpoint*. Oxford: Oxford University Press.

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<sup>2</sup> Mark Feigin is a scandalously famous Russian liberal lawyer, who defended Pussy Riot in the early stages of their trial but was dismissed by his clients for financial manipulations. In 2018 the Moscow Bar Association revoked Feigin’s license due to his social media activity, which was considered unethical.