

Shadow report to the Third Periodic Report of Kyrgyzstan to the Committee on the Elimination of Discrimination Against Women

NGO 'Tais Plus'

Kyrgyz Republic

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Executive Summary

Discrimination against women who sell sex in the Kyrgyz Republic is expressed through the fact that they do not have the opportunity to realize their fundamental human rights like right to life, physical and moral inviolability; right to freedom of labor, health, sexual and reproductive rights.

Despite the fact that the principle of equality of men and women before the law and courts is included into the National Constitution of the Kyrgyz Republic, the law and other existing measures do not help women who sell sex to realize this principle.

It is recommended to make the situation in Kyrgyz Republic on realizing the rights protected by CEDAW with regards to sex workers a subject of consideration of the Committee on Elimination of all forms of Discrimination Against Women and Concluding Comments of the Committee addressed to the Government of Kyrgyz Republic.

In case of violations of the rights of women who sell sex, they do not receive adequate legal protection provided by law. Lack of protection from the side of the state creates conditions for the exploitation of prostitution of women. Specifically, the existing system of violence for money extortion from women who sell sexual services by the employees of the law enforcement bodies makes them direct exploiters of prostitution. As a woman reports, 'police beat you up, demand money and will detain you until you pay'¹.

The struggle against trafficking is used by police to apologize their raids. In these raids, police catch and detain sex workers themselves, not traffickers. At the same time, in case if sex workers are complain to real cases of traffick, police is not able to provide them needed support.

It is recommended that the State must ensure that institutional violence is eliminated. Justice and redress for crimes against women in sex work, both in Kyrgyz Republic and internationally must be achieved.

Women who sell sexual services are excluded from the process of making decisions which have direct impact on them and their families and children's lives. Women who sell sexual services do not have opportunities for advancing their level of education, which is necessary for improving the quality of their life. Uneducated women do not have an opportunity for learning to write and read.

Sex work, which every year in Kyrgyz Republic becomes the sole source of existence for about 10000 most poor and uneducated women and their children, is not recognized as type of work and is not included in the list of trades. Consequently, this labor is not regulated by the national Labor Code. Thus, women who sell sexual services are deprived of protection in questions of labor, and also in issues of social guarantees – particularly in the cases of retirement, sickness, invalidity, and old age and when they are no longer able to work. Also they are deprived of rights to paid vacation, protection of health and secure labor conditions, including conditions for preserving reproductive functions.

It is recommended to recognize sex work as work, both in Kyrgyz Republic and internationally.

¹ Crago, A. – L. Presentation of research on Sex Workers' Rights Advocacy Network in Central and Eastern Europe and Central Asia. – IAC, Mexico city, July – August 2007

Introduction

During the five years that passed since the submission of the the Government of Kyrgyzstan's second periodic report to the Committee on the Elimination of Discrimination Against Women, systematic acts of a discriminatory nature continue in relation to some groups of women. These actions undermine the belief in basic human rights, dignity and value of the human person and equality between men and women. These actions negatively influence women's families, especially their children. One of the most discriminated groups is women selling sex. Within one year period between 2006 and 2007 about 10000 women have been selling sex in Kyrgyz Republic².

Tais Plus NGO is an organization established and managed by sex workers. This organization has been monitoring acts of discrimination against women who sell sexual services and conducts special research in this area.

Part I

Article 1: Definition of Discrimination

Discrimination against women who sell sex in the Kyrgyz Republic is expressed through the fact that they do not have the opportunity to realize their right to life, physical and moral inviolability; right to freedom of labor, free choice of activity and profession; right to health, sexual and reproductive rights; right to privacy. The men who buy their services and other citizens of the state have access to these rights.

Recommendation 1. *To make the situation in Kyrgyz Republic on realizing the rights protected by CEDAW with regards to sex workers a subject of consideration of the Committee on Elimination of all forms of Discrimination Against Women and Concluding Comments of the Committee addressed to the Government of Kyrgyz Republic.*

Article 2: Policy Measures to be undertaken to Eliminate Discrimination

Despite the fact that the principle of equality of men and women before the law and courts is included into the National Constitution of the Kyrgyz Republic (article 15.3), the law and other existing measures do not help women who sell sex to realize this principle. Despite the fact that formally selling sexual services in Kyrgyz Republic is decriminalized, these women become victims of systematic persecution from the law enforcement bodies based on different 'decisions' and 'orders' issued by the Ministry of Interior (and, thus, this becomes an institutional matter) or without any grounds.

In case of violations of the rights of women who sell sex, they do not receive adequate legal protection provided by law. At the same time the employees of the state law enforcement bodies commit discriminatory acts including acts of psychological and also direct physical and sexual violence against women who sell sex. Thus, 64.3% of women who sell sex in Kyrgyz Republic reported that they have been subject to violent actions from the police³.

Illegal persecutions by law enforcement bodies create fear and mistrust among women who sell sexual services. These conditions also contribute to abuse of the women selling sexual services by the men who buy sexual services.

The Kyrgyz state does not recognize that the problem of systematic discrimination of women who sell sex exists and, consequently, does not take any measures to change or ban the existing decisions, customs or practices which constitute or contribute to discrimination against women. Discrimination against women who sell sex has never been on agenda of the existing Kyrgyz government committee or parliament groups.

Recommendation 2. Immediately stop the institutional violence. Recognize sex work as a sexual right. Guarantee the rights of women in sex work in order to eliminate violence, both in Kyrgyz Republic and internationally.

² Condom using behavior and awareness of sex workers on HIV/AIDS/STI in Bishkek, Kyrgyz Republic. Research report. – Tais Plus / AntiAIDS Association / GFATM. – August 2007.

³ Crago, A. – L. Presentation of research on Sex Workers' Rights Advocacy Network in Central and Eastern Europe and Central Asia. – IAC, Mexico city, July – August 2008

Article 3: Guarantees Basic Human Rights and Fundamental Freedoms on an Equal Basis with Men

The state does not take any measures in political, social, economic and cultural sphere to ensure development of women who sell sexual services in order to guarantee realization and use of their human rights and basic freedoms. Almost 50% of women who sell sexual services in Kyrgyz Republic do not have passports or IDs⁴, which deprives them of their basic legal opportunities to realize their rights. Currently, there is no state program which could provide government documents to these women.

Article 6. Trafficking and Prostitution

Lack of protection from the side of the state creates conditions for the exploitation of prostitution of women. Specifically, the existing system of money extortion from women who sell sexual services by the employees of the law enforcement bodies makes them direct exploiters of prostitution. As a woman reports, 'police beat you up, demand money and will detain you until you pay'⁵. According to assessments women who sell sex on the streets of the capital city of the Kyrgyz Republic can only keep 12% of what they earned. The rest of the income is extorted by the employees of law enforcement agencies and *pimps*⁶.

Another concern is protection of sex workers against trafficking. One of the questions addressed to Kyrgyz Government, is: 'what measures are being taking to ... address the root factors... that encourage trafficking of women and girls for prostitution, with a view to better protect the rights of women and girls and to punish the penethators'⁷? In practice, only one measure is visible for sex workers: the struggle against trafficking is used by police to apologize their raids. In these raids, police catch and detain sex workers themselves, not traffickers. At the same time, in case if sex workers are complain to real cases of traffick, police is not able to provide them needed support.

Part II

Article 7. Political and Public Life

Women who sell sexual services are excluded from the process of making decisions which have direct impact on them and their families and children's lives. In particular, despite the recommendations of the Global Fund Against AIDS, tuberculosis and malaria (GFATM)⁸, people who sell sexual services are not represented in the Country coordination mechanism of GFATM of the Kyrgyz Republic⁹, which is a publicly elected body in charge of managing funds that are directed at reduction of harm from the HIV epidemic.

Recommendation 3. Feature presentations by women in sex work at all international and national forums on related issues. Guarantee the meaningful participation of women in sex work in the development of a response to HIV/AIDS, both on national and international level. Respect CEDAW as an international convention that guarantees, in particular, the participation of women in sex work in decision-making. For example, include sex workers at the Kyrgyz Country Coordination Mechanism of the Global Fund to decide and monitor the destinations of the funding around sex work.

Article 9. Nationality

⁴ Sources of sex workers' legal vulnerability in Bishkek. Research Technical Report. January-March 2004. Tais Plus NGO.

⁵ Crago, A. – L. Presentation of research on Sex Workers' Rights Advocacy Network in Central and Eastern Europe and Central Asia. – IAC, Mexico city, July – August 2007

⁶ Oostvogels R. Assessment of Police Practices and Sex Work in Bishkek. Review of existing interventions and strategies. - December 2005. Prepared for Tais Plus. Supported by IHRD Program.

⁷ CEDAW. List of issues and questions with regard to consideration of periodic report. Kyrgyzstan. 2008. Paragraf 14.

⁸ Guidelines on the Purpose, Structure, Composition and Funding of Country Coordinating Mechanisms and Requirements for Grant Eligibility. – p. 13 (http://www.theglobalfund.org/pdf/5_pp_guidelines_ccm_4_en.pdf)

⁹ List of CCM members, Kyrgyzstan. Update 2008.

Because they do not have identification documents, women who sell sexual services are equated with stateless people. These include women who are by origin from other countries and are, for example, citizens of Russia or Kazakhstan. But neither the Kyrgyz Republic, nor other states are willing to help these women to establish their citizenship so that these women have an opportunity to take advantage of the benefits associated with being a citizen. Thus, the citizenship of the children of women who sell sex in most cases remains undocumented. In the case when a woman finds herself without identification papers and has to undergo Antiretroviral therapy, lack of identification papers and the impossibility of obtaining them may cost her life¹⁰.

Part III

Article 10. Equal Rights in Education

Women who sell sexual services do not have opportunities for advancing their level of education, which is necessary for improving the quality of their life. Uneducated women do not have an opportunity for learning to write and read. If a woman who sells sexual services was forced to leave school early, she would not be able to access programs, which would allow her to finish secondary education outside of school system.

They also do not have an opportunity to provide their children with education. In case it becomes known of the woman's line of work in the school, where the child of the woman selling sexual services studies, the child may be subjected to persecution, including persecution on the part of school administration and teachers, and will be forced to leave school.¹¹

Article 11. Employment

Sex work, which every year in Kyrgyz Republic becomes the sole source of existence for about 10000 most poor and uneducated women and their children, is not recognized as type of work and is not included in the list of trades. Consequently, this labor is not regulated by the national Labor Code. Thus, women who sell sexual services are deprived of protection in questions of labor, and also in issues of social guarantees – particularly in the cases of retirement, sickness, invalidity, and old age and when they are no longer able to work. Also they are deprived of rights to paid vacation, protection of health and secure labor conditions, including conditions for preserving reproductive functions.

The policy of law enforcement organs makes the sale of sexual services dangerous. Police forces women to go into hiding and work in the later hours of the night and in more isolated and thus more dangerous districts, which makes women very vulnerable for violence.¹²

Pregnant women earning for their life, as a rule, are forced to work until the very deliveries, and get back to work several days after. They cannot count on paid vacations or maternity leave with comparable social benefits. Without identification documents they also cannot be registered in domiciliary women's clinics.

Women who sell sexual services in Kyrgyz Republic, as a rule, cannot access child care institutions. In many cases mothers have to take their children with them to their street night work.

Recommendation 4. Recognition of sex work as work, both in Kyrgyz Republic and internationally.

Article 12. Healthcare and Family Planning

Because they do not have medical insurance, women who sell sexual services do not have access to insurance for medicine. Formally, Kyrgyz Government acknowledge that NGOs are operating along with relevant State structures to provide protection, assistance, rehabilitation, and shelter and to enhance knowledge of the law among... commercial sex workers, as well as to prevent HIV/AIDS and conduct training

¹⁰ Assessment of availability, accessibility and acceptability of services on PLHIV treatment, care and support, provided by AIDS-related service organizations in the city of Bishkek, Kyrgyz Republic, based on PLHIV needs. – AntiAIDS Association / International HIV/AIDS Alliance. – August 2007.

¹¹ Case LE. – Bishkek, 2004

¹² Sex business, HIV/AIDS and Human Rights in Central and Eastern Europe and Central Asia. – Harm Reduction Network in Central and Eastern Europe. – Vilnius, 2005. p.47

sessions¹³. Reducing of vulnerability of sex workers is included into the State programme for the prevention of HIV/AIDS/STI¹⁴. In reality, all measures on protection of their health come down to few very limited programs in the sphere of HIV prevention, which are supported by foreign donor organizations on short-term basis. Sex workers are not able to reach crucially needed health services like obstetrics, pediatric services or TB services because they have no medical insurance, no money to pay for them, and because neither State nor international organisations provide these services for free.

Article 13. Economic and Social Benefits

Because they do not have identification documents, women who sell sexual services are deprived of the right to family allowances, and also to procure of grants and loans on mortgage and other forms of financial crediting.

PART IV

Article 15. Equality before the Law

Women who sell sex are not equal with men before the law. In particular, women encounter a multitude of predicaments, for example, in filing complaints for protection of their rights and lawful interests to law enforcement organs. These predicaments may result in threats by men against women and also into persecution, psychological, physical and sexual violence against women who sell sex services.¹⁵ Attempts at appealing against actions of law enforcement officers to, for example, the Office of Public Prosecutor do not yield results. As a rule, in response to her complaint a woman receives, after several months of seeking redress, a formal notification that facts narrated by her could not be confirmed.

Recommendation 5. Justice and redress for crimes against women in sex work, both in Kyrgyz Republic and internationally.

Conclusion

It is necessary to acknowledge that Kyrgyz Republic, which has ratified the Convention on Elimination of All Forms of Discrimination Against Women, has not meet its commitments. Women of Kyrgyz Republic are divided into those that “deserve” and those that “do not deserve” human rights, with women who sell sex services placed in the latter category.

This situation must change. It must become a subject of consideration of the Committee on Elimination of Discrimination Against Women and Concluding Comments of the Committee addressed to the Government of Kyrgyz Republic.

¹³ Third periodic report of the Kyrgyz Republic of the implementation of the Convention on the Elimination of All forms of Discrimination against Women (2006), paragraph 187.

¹⁴ Ibid., paragraph 308. See paragraphs 312, 313 and 318 as well.

¹⁵ Case S. – Bishkek, 2004-2006