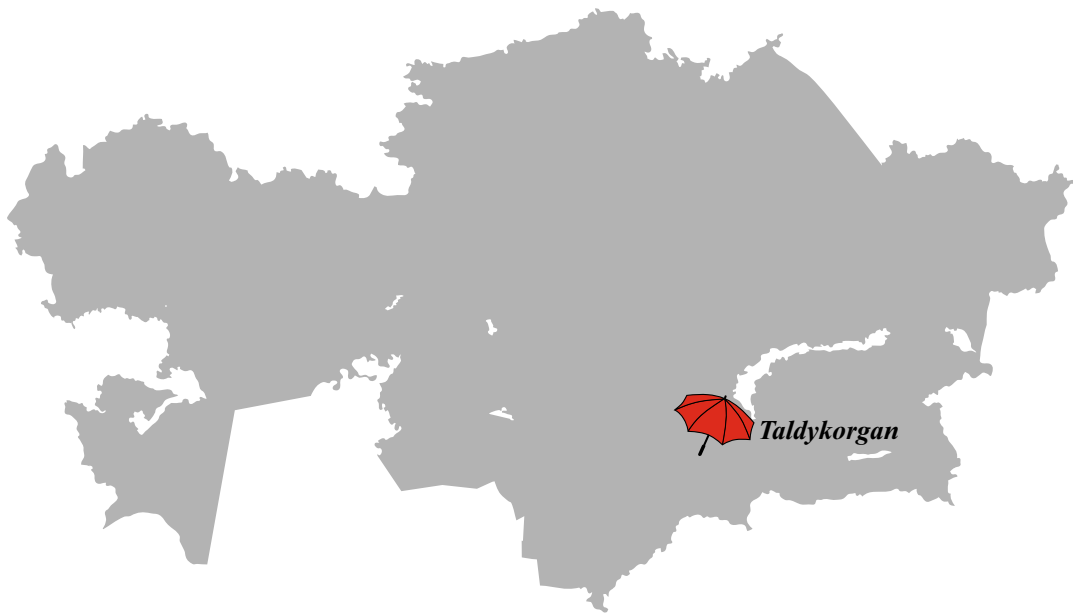




REPORT
***“Documenting Human
Rights Abuse”***
(HRADP)

*research project by community and Public Association
“Amelia” in the Republic of Kazakhstan
with the financial support of
SWAN and the Robert Carr Foundation*



November 2015

Public Association “Amelia”



It is a non-governmental organization founded on October 10, 2012 in Taldykorgan, Kazakhstan.

This organization was created by people from vulnerable groups of population (people using drugs, sex workers, former convicts and people living with HIV) brought together through their work as social workers and peer consultants, and who decided to join their efforts to fight social discrimination against vulnerable groups and to ensure their right to vote on important issues.

The Public Association focuses on:

- meeting the needs of population in information and services around public health, family planning, prevention of sexually transmitted infections, including HIV and AIDS, tuberculosis, socially significant diseases, sexual education of adolescents and youth, safe maternity, breastfeeding, methods of urgent contraception;
- provision of psychological, pedagogical and social assistance to people in crisis situation, subjected to psycho-physical or sexual violence (victims of violence, children staying in restricted or other specialized institutions, youth in prisons), users of psychoactive substances;
- improvement of access to prevention programs for youth from vulnerable groups through the provision of psychological, social, medical and rehabilitation help.

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Acknowledgments:

Public Association 'Ameliya' is deeply grateful to its international partners, namely SWAN Foundation, NSWP, Robert Carr Foundation, for providing a valuable financial assistance for researching violations and drafting the report We would also like to acknowledge the cooperation and assistance in finding a solution ot the problem created by the human rights violations of the following bodies: Regional Department of Health, Department of Interior, Regional center for HIV prevention and control, Regional Department of Domestic Policy in Almaty region. This research was made possible due to cooperation of sex workers who participated in the research.

We would like to thank you for your courage and openness. Your voices help society to make the life better, more secure, more dignified and free from fear and violence.

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Introductory word

Introductory word

“I was deceived, beaten up, raped and almost killed. Think of it! Could you do the same to your mother? When you look at me, you don't know me. You see what you want to see. You were exposed to those quick judgements and stereotypes about me. I am a woman! I am a daughter of my parents! I am a mother of two children! I am a sex worker!

When you make a decision on how to treat me, remember your own mother... For sure you won't wish anything bad for her.

You don't have to like me, but remember! I have equal rights to respect, health, education and quality life. I have the right to be happy, proud, to give birth to children, to choose work, to access medical and social services and to be free from violence.

Remember! We all are human beings, citizens of our country! Remember! We are equal!”

Margarita, 32, Kazakhstan





Summary

This report talks about sex work, violence and HIV infection in the Republic of Kazakhstan. It presents the results of a research completed by the community of Taldykorgan city and Almaty regions. This report describes daily violence inflicted on sex workers by their clients or the police. It provides evidence of the connection between violence and limited opportunities to protect oneself from HIV.

The results of the research demonstrate how critical it is that this issue be covered on a large scale, especially among decision makers in legislation. The collected data points to the facts of violence that sex workers face in Kazakhstan, to the cases of illegal HIV testing, arrests, blackmail, coercion to sexual intercourse without consent, extortion of money and infliction of physical and psychological damage to health.

This report also contains information on continuous police raids, even though sex work is decriminalized in this country, hence the accompanying documents are falsified since sex workers are required to pay fines for the crimes that do not exist.

It also talks about sex workers' fear to be identified by police or child custody and guardianship authorities as doing sex work or using drugs, which prevents them from using services, testing for HIV and using public health care system.

Kazakhstan is a country where HIV infection is kept at a concentrated stage, where HIV is mainly transmitted sexually (62% according epidemiological data on HIV and AIDS, National Center for Prevention and Control of AIDS, January 1, 2015).

In all regions of the country, sex workers, people injecting drugs and people living with HIV are either outside the law or subjects to discrimination through laws and politics. There is a high level of stigma and discrimination noticed in the region, as well as limited access to prevention and care services, accompanied by vulnerable groups' understandable mistrust for state system.

In the Republic of Kazakhstan, "Amelia" is the only organization that provides services for sex workers, which makes it difficult for the NGO to work in all regions of the country. Moreover, there is no financial support from international donors for sex work related programs and only a small part if it is covered by the state.

In 2012, the Global Fund to Fight AIDS, Tuberculosis and Malaria stopped financing harm reduction programs for sex workers, which resulted in the increase of STI and HIV cases in this group. It is connected to the fact that the state was able to cover only some part of financing, which is not enough to provide sex workers with medical and social services and access to prevention





programs.

The state covers procurement of syringes, condoms and lubricants which are distributed to sex workers through trust points. But the quality and quantity of these hand out materials does not meet the needs of the community.

Since sex workers' community is not represented in any of the working groups, committees and CCM (Country Coordinating Mechanism) there are very limited opportunities for the community to voice their concerns to decision makers.

Sex workers cannot talk openly about their problems due to fear of being charged with administrative or criminal offense. Sex workers do not turn to law enforcement bodies when their rights are violated, because they are afraid that they will face even grater violence and persecution. Legal nihilism (skepticism about justice) keeps sex workers undefended in the face of violence and without any protection or support.

It is necessary to change the discriminating laws, norms and policies, including those that allow perpetrators believe that their acts of violence against sex workers will remain unpunished. Instead, there should be created a friendly and stigma-free environment where sex workers would be able to receive vital medical services, including those of sexual and reproductive health, HIV prevention, treatment, care and support. In other words, it is important to ensure that human rights take central place in everything we do.



General information on HIV and available services



According to the HIV epidemiological overview and the results of epidemiological surveillance in the Republic of Kazakhstan, the estimated number of SW (those who provided sex services within last 12 months) for the year of 1.01.2015 in Kazakhstan comprises 19 600 people.¹²

Main documents that require that sex workers undergo HIV testing are:

- * Order of the Minister of Health of the Republic of Kazakhstan N 575 of June 11, 2002, “On approval of Rules on medical examination to detect human immunodeficiency virus”;
- * Order of the Minister of Health N 552 of July 28, 2010, “On approval of Rules on medical examination to detect HIV”;
- * Government resolution N 1280 of November 3, 2011, “On approval of Rules on medical HIV examination of people with clinical and epidemiological indications”.

According to the data collected by the method of rapid situational assessment 28 of 19 606 sex workers tested HIV positive. In reality, in epidemiologists' opinion, the number of HIV infected SW exceeds 100.

HIV positive sex workers receive services on equal grounds with other HIV infected citizens of the republic, e.g ARV therapy. It is important to note that any person, with the exception of migrants, with HIV positive diagnosis has equal access to ARV therapy no matter what vulnerable group he/ she belongs to. ARV therapy treatment is performed at the expense of the state budget.

In Kazakhstan, sex work is decriminalized. Sex workers do not make decisions and do not take part in discussions together with state officials on the issues around sex work. The level of stigma and discrimination is very high because it is a religious and Muslim state.

Practicing sex work is not forbidden in Kazakhstan. There is no law on persecuting sex workers' clients either. However, the Criminal Code ensures punishment for the following actions: coercion to prostitution, coercion of minors to prostitution, organizing or running a brothel, human trafficking.

Every citizen of Kazakhstan can use a number of free medical services. Specific psychosocial, medical and social services for sex workers in the field are provided only by NGOs and local and regional AIDS centers.

From 2012, nobody has provided harm reduction services, since the

¹ www.rsaid.kz Publications, Reports, Research. Overview of the epidemiological situation with respect to HIV and results of the sentinel surveillance in the Republic of Kazakhstan in 2010-2011;

² www.kmpakaz.org, Report card: HIV prevention among sex workers, May 2014;





only donor for this program used to be the Global Fund. In the end of 2013, the Global Fund finished its work in Kazakhstan and remained active only in the form of a pilot program on opioid substitution therapy in some of the regions of the country.

Nevertheless, the Public Association “Amelia” aims at making sex workers' voices heard. We hold actions, meetings, round tables with law enforcement representatives, with the Ministries of Internal Affairs and Ministry of Health. At this point, medical services are accessible for sex workers. They include HIV testing, pre- and post- testing counseling, psychosocial counseling, STI related examinations and gynecologic screening. Syringes, condoms and lubricants are available.

Our organization is the only organization in Kazakhstan which founded a help group for sex workers where we provide psychological support, share advocacy and right defense experience, learn about legislation and discuss gender issues related to violence.

In Taldykorgan, all services available for sex workers are provided by the local AIDS Center (testing and treatment of HIV, distribution of information/ condoms/ lubricants, needle exchange and outreach work, gynecological service) and by NGO “Amelia” (outreach work, peer work, help groups, psychological and legal counseling, trainings and seminars). There is no substitution therapy for drug using sex workers. There are no special services for MSM or LGBT who do sex work; there is no access to these communities. Outreach work among sex workers is mostly done in saunas.

The documentation project made it possible to collect necessary information about rights abuse that sex workers face in Almaty region, to write recommendations and present them to decision makers.

NGO “Amelia” was able to find new allies/ supporters such as a legal consultant, human rights defender, the head of the Department of Health, deputy of the head in the Department of Internal Affairs and Department of Internal Policy. We presented them the recommendations on cooperation with NGO, on effective implementation of sex work related projects, reduction of discrimination and increasing legal literacy among sex workers, police and medical staff.

An important stage was the documentation of sex workers' rights in medical institutions and police environment.

Another crucial stage was the training of sex workers on human rights, legislation, ways of behaving during police arrests, laws around HIV testing and confidentiality. The organization got new volunteers from sex workers' community ready to take part in advocacy and rights defense on national level.

As a result of this project, we now have a data base of rights abuse, a research describing such abuse that can be used for further fundraising and implementation of new projects.





Legal frameworks

Overview of legislation around sex work in the Republic of Kazakhstan

In the Kazakh Soviet Socialist Republic (KSSR), prostitution was punishable since July 13, 1987. The violation committed for the first time was punished with a fine of 100 rubles, the reoccurring violation within same year was punished with the fine of 200 rubles.

On January 30, 2001 Kazakhstan became an abolitionist country and the penalty for prostitution was lifted.

On July 4, 2013, Kazakhstan adopted a law on fighting human trafficking which, in turn, made the providing of venue for prostitution or pimping a subject for a fine.

In January 1, 2015, Kazakhstan adopted Article 449 of Administrative Code for “soliciting in public places” which also applies to prostitutes approaching potential clients.

In 01.01.2014, the estimated number of SW (those who provided commercial sex services in the duration of past 12 months) in the Republic of Kazakhstan constitutes 19 606 people.³

The Criminal Code ensures punishment for the following crimes:

- engagement in prostitution: fine in the amount of three thousand of local monthly calculation index (MCI) or correctional work equaling to the same amount, or restraint of liberty for the duration of three years, or imprisonment for the same duration with confiscation of property (Art.308 CC RK);

- engagement of minors in prostitution: imprisonment for three to five years with confiscation of property (Art. 134 CC RK);

- organization or running of brothels for prostitution and pimping: imprisonment up to five years with confiscation of property (Art.309 CC RK). This category includes rented apartments, hotel rooms, human trafficking (Art. 128 CC RK).

There is a law on fighting human trafficking, dated 2013, which in particular forbids provision of premises knowingly for the purpose of prostitution or pimping to be charged with a fine.

³www.rsaid.kz– Publications, Reports, Research. Overview of the epidemiological situation with respect to HIV and results of the sentinel surveillance in the Republic of Kazakhstan in 2010-2011;





International Law

We based this report on international principles, using them and believing that any act connected to child prostitution, use of minors for any type of sexual needs, acts of sexual nature connected to violence (threat of thereof) are unacceptable under any circumstances.


This material is focused on and intended for adults who provide sexual services to adults personally and with free will, who do not exploit or coerce others for these purposes.

The Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (approved by the UN General Assembly in its resolution 317 (IV) of 2 December 1949) obliges the Parties to the present Convention «to punish any person who, to gratify the passions of another: procures, entices or leads away, for purposes of prostitution, another person, even with the consent of that person; exploits the prostitution of another person, even with the consent of that person; keeps or manages, or knowingly finances or takes part in the financing of a brothel; knowingly lets or rents a building or other place or any part thereof for the purpose of the prostitution of others».

A number of international norms and Kazakhstan legislation fully prohibit child prostitution, any acts of sexual nature performed under threat of violence or under violence, trafficking in persons with the purpose of providing sexual services.

Many cases of physical, sexual and psychological violence described in this report may be viewed as forms of cruel, inhuman or humiliating treatment or punishment. Such acts are forbidden by the international legislation, including the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture) and article 7 of ICCPR.⁴

⁴ Article 7 ICCPR: «No one must be subjected to torture or cruel, inhuman or Degrading treatment or punishment».



Legislation and national policies addressing engaging and/or organizing prostitution



Taking into consideration the aforementioned, let's study the issues concerning terminology, types of liability, proving and issues of personal safety of sex workers during arrest exactly in this order of progress. In order to understand how to defend oneself from ungrounded charges and why one should follow the provided recommendations, it is necessary to understand what is provisioned by the legislation and how this legislation is interpreted by the enforcement and judicial authorities.

Terminology. Definitions. Types of Liability.

Starting from the Preamble, we look at relationship which represent a situation (1) when one person provides sexual services to another for a concrete payment; (2) other type of relationship between people who provide various assistance to this voluntary activity: organization, security and leasing premises.

In Kazakhstan organizing sexual services and engaging people in prostitution are illegal activities and are punishable by the law. Kazakhstan legislation uses the following terminology when describing such cases: “prostitution”, “engaging in prostitution”, “organization of prostitution”.

Attention should be drawn to the fact that “prostitution” is not a crime. At the same time there is no law that clearly defines the term “prostitution”. When looking at court practices, the statements of Administrative courts published in open sources do not explain the features of this activity and only in the final result part of the document do they provide definitions of organizing brothels for prostitution purposes and of engaging in prostitution.

Nevertheless, in dictionaries and commentaries to legislative acts “prostitution” is defined as “systematic (more than two times) participation of a male or a female in sexual intercourse with clients in exchange for payment”. In other words, in order to prove that prostitution has taken place, there need to be the following obligatory attributes:

- * the fact of sexual intercourse;
- * quantitative attribute – two or more times;
- * the fact of receiving payment for sexual intercourse.

It should be stressed once again that these attributes should take place all at the same time. The lack of at least one of these features shows that there is no corpus delicti [the fact of a crime having been actually committed].

In addition, when speaking about offenses, it should be pointed out that the Code of Administrative Offense of the Republic of Kazakhstan (CAO RK) – unlike the Criminal Code of the RK – does not cover the issue of preparation for





or attempt to commit the offense. Here is a number of widespread cases as an example.

E.g. publishing announcement about sexual services cannot be an independent and adequate reason to be charged with administrative offense based on Article 450 of CAO RK on knowingly providing venue for prostitution or pimping. Another example, if a sex worker was arrested at the moment of receiving payment from a client before the actual sexual service had happened. This case also does not qualify as a reason for administrative punishment. Another widespread situation when only the fact of sexual service in exchange for payment was proved – it cannot be considered as act of prostitution and be treated as a reason to charge neither for engaging a person in prostitution nor for running a brothel. In the latter case there is a lack of evidence that the service was performed systematically.

When studying the latter example, one could rise a question of what is understood by “systematic sexual acts”. How much time should pass between the first and the second intercourse? Would it be systematic if sexual service to one and the same client were “extended” for “one more hour”? There is no direct answer in legislation, neither is there in court decisions on concrete cases. In principle, it is difficult to derive consistency based on the law and every case should be treated individually. Systematic activity means constant and regular. In my opinion, single cases with long periods in between cannot be treated as systematic.

So, based on the positions of experts of sociology, sexology and rights, it is possible to draw the following conclusion: a person can be charged with administrative offense for running a brothel if it is found and proven that individuals in the venue have provided sexual services to another person two or more times in exchange for payment.

It should be stressed again that practicing “prostitution” is not illegal. Other individuals can be charged with graver offenses which we will highlight below.

There we will talk about “engaging in prostitution”, “organizing and running of brothels for the purpose of prostitution and pimping”.

Criminal Code of the Republic of Kazakhstan (CC RK) Article 308.
Engaging in prostitution:

1. Engagement in prostitution through the use of violence or the threat of it, one's dependent position, blackmail, destruction or damage of property, or deception is punishable with a fine in the amount of three thousand of local monthly calculation index (MCI) or correctional work equaling to the same amount, or restraint of liberty for the duration of three years, or imprisonment for





the same duration with confiscation of property.

2. Same act performed by a group of individuals upon preliminary planning or which was performed repeatedly shall be punished through imprisonment for the duration of three to six years with confiscation of property.

3. Acts described in part one and two of this Article and performed by a criminal group shall be punished through imprisonment for the duration of five to seven years with confiscation of property.

Article 309. Organizing or running brothels for purpose of prostitution and pimping:

1. Organizing and running brothels for the purpose of prostitution, as well as pimping for profit shall be punished through imprisonment for the duration up to five years with confiscation of property.

2. Same acts performed by:

- 1) a group of individuals upon a preliminary planning;
- 2) repeatedly;
- 3) connected to engagement of minors in prostitution

shall be punished through imprisonment for the duration of three to seven years with confiscation of property.

3. Acts described in part one and two of this Article and performed by a criminal group shall be punished through imprisonment for the duration of five to ten years with confiscation of property.

Methods of engaging in prostitution can range from nonviolent, e.g persuasion in earning good money, etc.

Organization of prostitution is an activity with management functions, such as distributing the roles, planning, holding events, search for premises, as well as casting of sex workers, security guards and clients.

Individuals who do not run a brothel, but tend to its needs by performing such functions as keeping a record and distributing prostitutes, providing technical and logistical support to their work, and performing other activities necessary for brothel's functioning can be charged for complicity according to Article 309 of CC RK.

Running a brothel is understood as activities after the brothel had been set up (brothel maintenance activities).

Systematic provision of venue for prostitution purposes is understood as providing premises two or more times by the owner or the renter of the venue.

IMPORTANT!!! According to articles 308 and 309 of the CC RK, punishment is applicable to those individuals who have committed the aforementioned acts. Sex workers (if they have not performed those functions) do





not qualify for such criminal charges. In criminal cases, depending on situation, they might run as witnesses or victims. At the same time, if a sex worker has performed the above mentioned acts, he/she will bear criminal charges for those activities.

For instance, one sex worker officially rented a venue in order to provide sexual services. Next, she allowed another sex worker to use it to provide sexual services. In this situation the first sex worker can be charged with violation of Article 309 CC RK as an individual who systematically provides premises for prostitution.

IMPORTANT!!! In case of criminal charges, it does not matter whether or not sexual services were consensual. For example, all sex workers work voluntarily under the management of a third person. The organizer in this case will face criminal charges. Facts of violence, threat, deception or their absence will only influence the type and degree of criminal offense.

The studies of court practices in this category show that nowadays most of criminal cases are open and make it to the court only if there are proven facts of coercion to sex services via deception, threat, violence and engaging minors as sex workers.

Nevertheless, once again I bring to your attention that even voluntary cases fall under Articles 308 and 309 of CC RK. Investigative and court practices may any moment change and turn to harsher measures.

A more challenging issue is to differentiate two activities: “knowingly providing premises for prostitution and pimping” in Article 450 of CAO RK and “organizing and running a brothel for the purpose of prostitution and pimping” in Article 309 of CC RK.

The description of offense in Article 450 CAO RK states that the subject of the offense must be an individual who, for example, provides the premises or attracts clients. In practice, these same activities can be considered a crime covered in Article 309 of CC RK. It is important to know that none of open sources contains court decisions in regards to Article 450 CAO RK.

Nevertheless, through study of court practices in connection to Article 309 CC RK, we can conclude that this administrative offense is differentiated from a crime through the lack of the systematic nature of services. For instance, profiting from repeated security or transportation services may be interpreted as a crime. Providing these services on one-time basis and profiting from them must qualify as an administrative offense.

One last important point in connection to Article 450 CAO RK and Articles 308 and 309 CC RK is the necessity to prove the intent. Individuals organizing paid sexual services, fulfilling functions of safeguards and logistics,





may be charged only if proven that they have performed these acts knowingly, realizing the true purpose and meaning of their actions. For instance, it is not possible to consider a taxi driver, who took a sex worker to her client, being guilty. It may be possible that the driver might have suspected who and where he was taking, but he did not know for sure since nobody had informed him about it. At the same time, a sauna administrator, who upon the client's request, invited a sex worker and ensured a room for the client, may be charged with law violation.

We can draw the following conclusion:

- * systematic provision of sexual services by an adult is not considered an offense according to legislation in Kazakhstan;

- * organizing and systematic provision of other services aimed at supporting the provision of sexual services may be interpreted as a crime.





Documenting Human Rights Abuses

Data collection methodology


For the purpose of documenting, three people were selected from sex workers' community. At the moment they are employed by the NGO "Amelia". The documentators' sex work experience varies from 5 to 20 years. Their work experience in the NGO varies from 1 to 7 years. They have research skills, handling database and analyzing data. They are also experienced in documenting cases of sex workers' rights violations, are good at establishing connection with the community, doing paperwork, are computer literate and have been present in court as witnesses and defenders of sex workers. The documentators are well motivated to collect rights abuse cases because they themselves have many times faced violence, extortion, beating, trafficking, refusal of medical services, police raids. They possess leadership potential to defend sex workers' rights on national and international levels.

Before the documentation and sex workers' survey started, a mapping of "spots" that would be involved in the survey took place. Thereby, the "field visits" were distributed in such a way as to keep clients/beneficiaries from overlapping. It was decided to have 60 respondents from 5 districts of Almaty region. Every documentator was responsible for 20 sex workers to get to fill in the questionnaire. It was also discussed what kind of sex workers would the documentators approach. These would be sex workers in saunas, hotels and apartments and those who work on call (via telephone). Some of them worked for a manager/pimp, while others worked independently, for themselves.

The team studied issue of safety of documentators themselves in cases their documentation process falls on the time of a police raid and how to behave in such a situation. In order to provide some protection, the documentators got outreach worker certificates that showed their position, NGO and what program their sauna or hotel visits were connected to.

Other issues on the table were on the manner the survey would go: should sex workers fill in the questionnaire themselves or should all the notes be taken by the documentator? It was agreed that the documentator would ask the questions, write down the notes and ask clarifying questions to get more details on the violation. They also talked about confidentiality for sex workers. It was crucial to ensure the safety of the sex worker and of her answers to the questionnaire. Hence, it was decided that every documentator would be responsible for the collection of data, for anonymity and that all the filled in questionnaires would be kept in a safe and strictly away from the eyes of third parties. They also talked of the ways to make positive contact with sex workers so that the acquired information would be full and reliable; what places should be chosen to ensure safety and comfort of sex workers. In the duration of the documentation process there were three such meetings held.

The working meetings were attended by the project coordinator and the





three documentators. The meeting was presided by the project coordinator, but the votes and opinions of every documentator were valued equally.

The territorial mapping of places to be approached for documenting purposes allowed to clearly identify saunas, hotels and apartments for the survey. Each documentator was in charge of 20 sex workers to be surveyed.

Daily, for 2 months, the documentators led negotiations with those sex workers ready to take part in documenting rights abuse. Besides the 60 surveyed sex workers, 8 refused to participate after having seen the questionnaire, because they didn't believe that the questions and data in the questionnaire were confidential, so feared for their safety. We told them that all the data was confidential and that the third parties would not get hold of it and that the information would be stored in a safe. Nevertheless, mostly migrants refused to participate in the survey because they feared they would be persecuted by the police and deported back to their home country.

All the data collected from processing interview questionnaires is stored in a safe place and we have taken appropriate measures to ensure the security and anonymity of data.

During the documentation process we faced the challenge of sex workers not believing in justice and not wishing to write complaints to court either to prove their innocence or to defend their rights.

It is connected to the fact that police officers apply severe pressure on them. If a police officer is reported on, this officer would start threatening the sex worker that his/her case would not win anyway, moreover, the officer would go an extra mile to ensure that the sex worker would be charged with some offense or would be found possessing drugs. Furthermore, we have neither audio nor video evidence and this complicates the position of a sex worker in relation to the enforcement system.





Collected Survey Data Analysis

The research and documentation process involved only female sex workers (60 respondents). All sex workers who answered the questionnaire work in saunas, apartments, hotels or on call (via telephone). There is no street sex work in Almaty region.

Here is some information about the types of violation revealed by the project and our conclusions.

Out of 60 participating sex workers, all 60 admitted facing right violations by medical staff and the police.

Documented violations by the police:

№	Type of violation	Number of reports
1.	Money extortion	54
2.	Beating, torture	47
3.	Threats, blackmailing	54
4.	Robbery (valuables being confiscated)	8
5.	Verbal abuse, coercion	55
6.	Illegal detention	54
7.	Confiscation of passport	12
8.	Refusal to call relatives and inform them of detention	55
9.	Conditions in detention	55
10.	Refusal of legal assistance at detention	55
11.	Rights not explained at detention	54
12.	Refusal to provide medical assistance in detention	12
13.	Planting of drugs	7
14.	Rape or other sexual abuse	4
15.	Gang rape	4
16.	Illegal fine or false charges	47
17.	Forced HIV testing	31





The research data demonstrates that sex workers are not aware that systemic violence, abuse, blackmailing, money extortion and beatings are criminal offences and that they feel that it is not possible for sex workers to submit a complaint. Even if a sex worker were to go to the Attorney General and to insist on prosecuting the perpetrator the charges would never be brought to public attention and the case would be closed under different pretexes with substantial pressure being put on sex worker herself.

	Question	Yes	No
1	Do you know where you should go in case your rights are violated?	27	33
2	Have you ever submitted a complaint to police or to the office of the Attorney General to protect your right?	8	52
3	Was your complaint accepted?	2	6
4	Was the police perpetrator prosecuted in any way?	0	8

Most of the respondents admitted that they did not know where to report in case of violation of their rights by the police. If there were ones who knew the place to go to, they did not do it because they did not believe in court justice.

«I never turned to court because I am sure that they will not help. They will laugh at me. How can a prostitute be raped? Moreover, they will charge me for administrative offense and make me pay a fine for “disorderly behavior”, - Lajla, 40 (name changed).

Police raids happen on regular basis. Sex workers are arrested and taken to the precinct for identification, residence paper, past convictions and citizenship check up. Even though HIV testing is voluntary and confidential, sex workers are asked to show the results of their HIV screening.

Illegal detention of sex workers by the police is dangerous because according to testimonies - police officers rape sex workers while in the precinct, take them to “work” or “subbotnik”, where they are forced to provide sex services for free. Very often, they take away their money and valuables.

“A policeman stole a new mobile phone from me in the course of a raid. I went to police and complained. They accepted it, but after a while I started receiving threats; they were threatening me with imprisonment for a criminal offence, they were threatening to kill me or do something else that will make me recall my complaint. And that actually did happen. In a week they planted drugs on me (two boxes of marijuana). They detained me and made me recall my complaint. They said that in case I didn't do it, they would have imprisoned me for 9 years. I had to recall my complaint. They have not given me my phone back. And I am still paying a fine for storing marijuana, so that they would not imprison me. So now I have a record of misdemeanor. I don't believe it is possible to prosecute a policeman. Everything is





bought u!”- Irina, 38.

This police behavior demonstrates that they are regularly falsifying documents and detention reports when they detain sex workers. Since sex work is decriminalized and there is not a single article in the Criminal or Administrative Code that would allow punishing someone for sex work, sex workers are not being prosecuted for this activity. This is the reason for falsified charges under other provisions of the Administrative Code of the Republic of Kazakhstan.

In order to protect oneself from abuse and violations sex workers sometime prefer to work in saunas that are owned by police (who protect them from other police) or managers/pimps since the latter offer some form of protection and would like their business to be profitable. This is especially true in case of migrants who are even more vulnerable to all manner of violations.

Very frequently, the fact that police is indifferent, threaten sex workers or resorts to violence in retaliation makes it very difficult for sex workers to complain to authorities about cases of rape or attempted rape, beatings and other sexual abuse.

The majority of sex workers follow their own rules and procedures to prevent violence, for example, try to go for clients with visible signs of drug or alcohol dependency, psychic disorders, ask for money before providing services and pass it to the hotel administrator, never go to see a client in his apartment alone, etc.

Extortion of money, verbal abuse, sexual exploitation, including rape, and repeated attacks are well-spread among policemen. Thus four out of sixty sex worker respondents pointed out that they were gang raped by police.

Police sometimes use sex worker services in the frameworks of “subbotnik”, which is a notion referring to a free labour of a community. In reality, this system is used to force sex workers to provide free service to police and thus prevent prosecution or avoid detention.

"Once a month the police take me and force me to free sex. If I refuse, they beat me severely, and/or they plant drugs on me, rape me, write a fine, put in the receiver - allocator or if I am migrant, they deported me to my country. Police believe that if I am a "prostitute", I must have sex with everyone. That I do not have the right to choose a client and must agree with all of his desires. We have to endure this humiliation only in order to continue to earn a living and stay alive "- Larisa, 31 years old.

According to the international human rights organizations Human Rights Watch,⁵ police frequently detains sex workers not because they have committed any

⁵ Fanning the Flames, Human Rights Watch, June 2003, Vol.15, No 4.





serious crime, but mostly due to their status as sex workers.

The vulnerability of sex workers to violence is chiefly caused by police repressions of women who are illegal migrants or have no address registration; by widespread discrimination; lack of organizations that would be able to defend sex workers rights; exploitation at the work place and lack of labour protection.


Sex workers also suffer from client's violence. Lack of personal safety and security is perceived by sex workers as one of the major problems. Violence comes in many forms: verbal abuse from clients and family members, attempted rape, rape and homicide, or forcing to consumption of alcohol and drugs.

Very frequently policemen and police departments that are in charge of accepting complaints about violence and rape from women are inefficient. Frequently, police would distort information and start blaming the victim, instead of blaming the perpetrator. Repressive environment and regular police raids prevent conducting detailed research of violence faced by sex workers in Kazakhstan.

“I never thought that being forced by client to have sex without a condom is violence. Or sometimes they would pay you for one type of services and then will force you to do something else instead. I thought, that since I am a sex worker, I am supposed to meet his desires” – Aigerim, 26.

This type of behavior on the part of the police forces sex workers into hiding and dissuades them from receiving HIV testing. This is due to the fact that disclosure of the HIV status prompts prosecution of sex worker both by police and medical staff. AIDS-center staff threatens with allegations of willful dissemination of HIV-infection and works with police to search for sex workers. This way the confidentiality of one's personal data and HIV status is being violated. Administrators and other sex workers. Medical staff was not punished for this violation in any way.






Documented violations by medical staff:

№	Violation	No
1.	Extortion of money	15
2.	Beatings, torture	4
3.	Threats and blackmailing (applying pressure)	23
4.	Verbal abuse, forcing to do derogatory acts	24
5.	Forced HIV testing	28
6.	Refusal to provide medical services because of one's status as sex worker	23
7.	Rights to receive guaranteed amount of free medical services were not explained	24
8.	Disclosure of one's HIV status	3

One of the goals that are pursued in the framework of the current national health care program “Salamatty Kazakhstan 2010-2015” is to conserve the HIV prevalence among adult population (aged 15-49) at 0,2-0,6%. This program devotes special attention to sex business, which is seen as one of the ways of HIV sexual transmission. The Code “On Public Health and Healthcare System” as well as National Healthcare program have measures to improve access to HIV/STIs prevention, treatment and care among key populations, including sex workers.

We had a separate question in our questionnaire regarding refusal of services due to one's status as sex worker. 23 sex workers has pointed out that medical staff frequently declines them services if it becomes known that they are sex workers.

Even though there are all the necessary legal provisions regarding health care, those are not being duly implemented by the health care system and the service provided do not conform to the accepted standards of quality.





	Question	Yes	No
1	Do you know where you should go in case your right were violated?	47	13
2	Have you ever turned to police or Attorney General office to protect your rights?	6	54
3	Was your complaint accepted?	0	54
4	Was the medical worker responsible for violation prosecuted in any way?	0	54

Based on the results we can conclude that legal nihilism is present and that sex workers do not trust judicial system. Even those who know, where they should go, do not do it.

“Once I came to a friendly medical service for gynaecological screening. As a rule the doctor supposed to select instruments of appropriate size based on peculiarities of the patient's physic. I told the gynecologist that I am a sex worker. Her facial expression changed and I could see that she really hated me. She took a huge mirror and inserted it into my vagina without any lubrication. I screamed from pain. Instead of taking measure to reduce pain, the doctor called me a slut and asked if it hurt to sleep with men. I think this is violence. She verbally abused me and hurt me. I complained to the hospital administration, and they responded that I should not have told that I was a sex worker. So they did not punish the doctor and next time I will have to keep it secret how I earn my livelihood. This leads to stigma and further violence against sex workers. They can go with impunity” – Marina, 37.

The laws that protect all citizens from stigma and discrimination, such as the Code of the Republic of Kazakhstan, from September 18, 2009. 193-IV «On Public Health and Healthcare System” and the Constitution of the Kazakh Republic, state that nobody should be stigmatized and discriminated against irrespective of one's race, believe and faith, social status, profession and ethnicity.

Nevertheless medical staff is not being punished for humiliating sex workers and causing physical and moral pain.

There are 33 friendly centers (clinics and rooms) in operation in the country and 22 AIDS-centers which offer HIV/STIs prevention services to such vulnerable populations as sex workers (SW), injecting drug users (IDU) and men having sex with men (MSM). However those friendly services are rarely located next to places where sex workers work, and one has to have an ID to receive services there, which excludes unregistered migrants and internal migrants without address registration.

Friendly clinics and confidential HIV testing services conduct trainings and provide information about HIV, safe sex behavior, STIs and harm reduction. They also distribute male condoms and lubricants. Friendly clinics and state medical institution provide free set of reproductive and sexual health services and free HIV/STI





prevention services which include voluntary HIV testing, ART, counselling, abortion services, pre- and post-abortion counselling. Other types of reproductive and sexual health services are provided by state hospitals and venerological centers, where sex workers have to pay to receive them. Abortion and STIs treatment are not free either, and many sex workers are not able to afford STIs drugs.

Some sex workers shared with our documenters that sometimes AIDS-center staff passes HIV testing results to outreach workers, who afterwards bring it to sex workers. This leads to disclosure of results to third parties and breach of confidentiality of results. According the protocol only medical staff, and not the outreach workers should have access to testing results and providing result and post testing counseling.

Even though it is prohibited by law, 23 interviewed sex workers pointed out that they were forced to go through HIV testing by police, which in and of itself goes against the fact that HIV testing should be anonymous, confidential and voluntary.

Such police behavior forces sex workers to hide and avoid HIV testing. In this situation, if it becomes known that a sex worker has a positive HIV status, the police and medical staff start harassing this sex worker. The employees of AIDS Center threaten to report to court on intentional HIV infecting and involve police to search for the HIV infected sex workers. Hence the confidentiality of HIV status is not respected. Administrators of saunas and hotels fire sex workers from their work venues.

Migrant and sex workers living/working/coming from rural areas without proper IDs (address registration, ID card) do not have access to state sponsored medical services and do not receive social benefits, and are thus forced to pay for expensive private services.





Findings and conclusions

Kazakhstan legislation presupposes favorable conditions to ensure gender equality and creating effective HIV prevention. Previous efforts have allowed to stop HIV infection at the concentrated stage in the country, reduce the number of HIV cases among people using drugs and sex workers, significantly reduce the frequency of mother-to-child HIV transmission cases, provide antiretroviral therapy to people living with HIV, increase population coverage with counseling and testing. The government ratified all main international human rights documents. Keeping in mind all the achievements of Kazakhstan in fighting HIV and AIDS and implementation of social projects for vulnerable groups, mostly among sex workers, there are still issues that remain unsolved.

There is insufficient coordination and lack of communication strategy on integrating HIV/AIDS related issues, mechanisms of collection and analysis of strategic information to shape social policy in the context of inter-sectoral issues, including gender equality, public health care and human rights defense.

The lack of specialized programs makes it difficult to implement AIDS prevention program in the Republic of Kazakhstan. The national program on health care development “Salamatty Kazakhstan” for 2011-2015 includes one direct target indicator on HIV/AIDS (keeping HIV infections in 15-49 age group within 0,2-0,6%), which does not allow to identify how many HIV positive sex workers are being treated.

Not enough attention is paid to issues of defending girls and women living with HIV, female drug users, sex workers and women in prisons. There is no public awareness about these issues. Many women suffer from lack of recognition of sex work as work, especially those with HIV positive status. Frequent violence by police, pimps, third parties and inside medical institutions lead to violation of confidentiality of HIV status, reluctance to undergo examinations, refusal to visit medical or social institutions, inaccessibility of timely treatment of STIs, violations of property related and other types of rights, loss of family and housing.

Through legislation, the state guarantees accessibility and quality of medical examination, observation, provision of psychosocial, legal and medical consultations, medical help and provision of medication within the guaranteed limits of free medical assistance, social and legal defense and prevention of any form of discrimination associated with the nature of illness, race and gender and choice of profession, e.g. sex work. In practice, the models of social and legal help do not take into account gender norms, stigmatization by society and service providers, especially in rural areas.

The main reason why sex workers' (human) rights violations and gender aspects of HIV/AIDS are not well reflected in the national program on public health development and other related policies and strategies is the lack of clear and strong arguments and evidence base to be used by lawyers, sex workers' rights defenders, NGOs working in HIV/AIDS sphere and international organizations in their dialogues with decision makers.

Sex workers' potential is not used sufficiently when it comes to processes of





preparation, approval and monitoring of policies and strategies on HIV/AIDS, gender and violence, when drafting national reports on implementation of Declaration on Commitment on HIV and AIDS, national and shadow reports to the Committee on the Elimination of All Forms of Violence against Women.

The lack of legislative ban on discrimination based on sexual orientation in various categories of law (first of all in criminal and labor laws) creates environment for rights violations and cases of discrimination against LGBT and sex workers in various spheres of life. Court cases on discrimination based on “sexual orientation” are not known. Most of LGBT and sex workers conceal their sexual orientation or gender identity from doctors and other medical staff to avoid discrimination.

There is no information about the level of HIV/AIDS among transgender people. The form for collecting data for reporting about the progress on global response to AIDS for 2014 does not include statistical data about transgender people covered by HIV prevention programs.

Female sex workers and people injecting drugs who use prevention services, report low quality of services as well as cases of stigma and discrimination by service providers. HIV prevention in couples is an important approach that can play a key role in reducing the risk of HIV transmission from male IDU to their sexual partners – females who use or don't use drugs.

There are legal barriers (Code of National Health and Public Health System) that do not allow migrants to test for HIV anonymously and voluntarily, that reject migrants with HIV minimal package of medical help, including ART, TB and STI treatment.

The documenting project uncovered the following issues that need to be addressed among sex workers:

- Low level of legal literacy of sex workers.

- Lack of knowledge on how to behave during police arrests.

- What to do if sex worker is deprived of parents rights.

- Where to turn in case of rights violation by police or medical staff.

- Lack of motivation for the community to mobilize due to lack of information about sex workers' movement in other countries.

- Legal nihilism.

- Disclosure of HIV status and breach of confidentiality by medical staff.

- Lack of save space (drop-in center for temporary stay and complex services).

Nowadays, a woman with HIV, a sex workers or a drug user in Kazakhstan is more vulnerable to stigma and discrimination in our society. The reason is a subordinate position of women in political, social, economic and sexual spheres, which is reinforced in laws and deeply rooted in culture and practice. Discrimination, stigma and violence constitute daily conditions for many female sex workers living with HIV, which makes her position in society even more vulnerable.

Violence against women in itself is a global epidemic and it provides ground for spread of HIV among women. Being forced to sexual intercourse, a woman's risk of being infected with HIV increases in comparison to consensual sex. Because of





violence or fear of thereof, women do not dare to be screened for HIV, demand condom use or open her HIV status to her sexual partners. For many women living with HIV and vulnerable to illnesses, health care system remains where they more often face prejudices and discrimination than treatment and help. Full-fledged sexual reproductive health services – that are supposed to be the base of HIV prevention for women and girls – are still not enough and the access to them is limited by laws and practices in all regions of the world. Women are ostracized and abused when it becomes known that they live with HIV. That is why they prefer not to test for HIV and not to get treatment. A pregnant HIV positive women often faces judgments and accusations by medical staff instead of treatment and effective prevention of virus transmission to child. In all regions of Kazakhstan, there is lack in support centers for women from vulnerable groups of population, in particular for sex workers. An HIV positive woman faces a number of difficulties, having found out about her status she doesn't know who to turn to for help, since AIDS Center's services are only of medical nature.

One of the recommendations from women was to create a unique model of a crisis center where a woman can receive a complex of medical, social, psychological and legal services.

The project made it possible to keep contact with sex workers and mobilize some of the activists from the community. We trained good peer consultants on documenting, taught sex workers about legal aspects, collected information on violations, which will be used in future as evidence base for advocacy purposes, lobbying of sex workers' interests and their rights defense.

During their outreach trips to collect data/ document rights violations, the documentators met with several active sex workers ready to stand for the rights of the community. Some of them have higher education, speak foreign languages, have experience of sex work abroad and are willing to share their knowledge and experience with other participants.

Building sex workers' leadership capacity gives an opportunity to strengthen community voice and will allow to activate the community for advocacy with government institutions and international organizations.





Recommendations

The process of documenting revealed violations of sex workers' rights by the police and medical staff. Based on the collected data, the legal consultant together with all participants/sex workers prepared recommendations (advocacy messages) for a number of authorities:

- Regional Health Department;
- Department for Internal Affairs;
- Regional Center for the Prevention and Control of AIDS;
- Department of Internal Policies of Almaty Region.

· The following are recommendations for the Regional Health Department:

On local level, to include trainings and other learning events for employees of medical institutions in general health care network and women's clinics into the complex of HIV and AIDS prevention programs among sex workers;

On local level, to include trainings and other learning events for police officers of Almaty region (Department on Drug trafficking, Police Department, Department of Internal Affairs, Prosecutor's office) into the complex of HIV and AIDS prevention programs among sex workers;

To sign a joint work plan between NGO "Amelia" and Almaty regional center for the prevention and control of AIDS with the aim of organizing and delivering joint trainings and other educational events.

· The following are recommendations for the Department for Internal Affairs:

In order to develop partnership and cooperation with NGO, to hold trainings and prevention events with law enforcement employees on the following issues:

- violation of rights of key population groups, including sex workers' rights, by the police;

- HIV/AIDS prevention, data confidentiality and anonymity of patients registered with HIV positive status at the AIDS Center;

- rights violations related to disclosure of sex worker's personal data, including his/her diagnosis and illness.

To sign a Memorandum of Cooperation and Partnership.

Create an annual workplan that would include joint activities for dates significant in the spheres of human rights and health care.

· The following are recommendations for the Regional Center for the Prevention and Control of AIDS:

To organize trainings for medical staff on the issue of ensuring confidentiality of HIV related diagnosis (to ensure that medical staff does not disclose HIV status and share the test results with third parties like outreach workers and close people).

To organize trainings for outreach workers jointly with NGO "Amelia" on psychosocial counseling before and after HIV testing, confidentiality of diagnosis and non-disclosure of HIV status to third parties.

To hold joint training events between NGO Amelija, AIDS Center and law





enforcement institutions and medical staff of general health care network. To organize joint “field trips” between NGO Amalia and ADIS Center for voluntary testing and counselling of sex workers in Almaty region. To inform and explain to sex workers the importance of individual/self receiving the results of their HIV tests.

To write a joint letter to the Department of Health about the joint actions and coordination of health programs and reducing the spread of HIV infection among key populations.

·The following are recommendations for the Department of Internal Policies of Almaty Region:

To include into the budget of local state social order the topic of “Increasing legal literacy for key groups of population”.

To include into the budget of local state social order the topic of “Building capacity of key groups of population to ensure the provision of human rights defense and safety and right to confidentiality”.

·In addition, a number of recommendations were provided for national policy on HIV and AIDS in Kazakhstan.

Participation of civil society, women's organizations and representatives of key groups of population (sex workers and drug users) in preparation of Complex plan on strengthening the response to HIV/AIDS and increasing awareness of population on issues of HIV/AIDS prevention in 2016-2020.

The leader of the working group on the preparation of the Complex Plan should ensure that representatives of civil society, PLHIV and groups of higher risk, including sex workers, are invited into the group.

The leader of the working group on the preparation of the Complex Plan should ensure that representatives of governmental and non-governmental sectors who are dealing with gender equality, fight violence, rights defense of sex workers and LGBT issues, are included into the group.

Authorized representatives of civil society should hold wide consultations with communities who they represent in main events of the Complex Plan and to provide recommendations in written form upon agreed deadline.





ANEX - Questionnaire

Questionnaire

Registration form of alleged client's rights violations by police of medical staff.

Date: dd/mm/year

Interview name and family name _____

Client's consent:

- | | | | |
|--|-----|----|----|
| 1.Data may be used towards generating statistics | Yes | No | __ |
| 2.Data can be used without disclosure of name | Yes | No | __ |
| 3.Name and family name can be publicly disclosed | Yes | No | __ |
| 4.Compliant can be submitted to law enforcement | Yes | No | __ |

Client's signature _____





Client's personal data

1.	Code	?
2.	Gender*	
3.	Age*	
4.	Ethnicity*	
5.	Citizenship*	
6.	Do you have an ID	Yes <input type="checkbox"/> No <input type="checkbox"/>
	If no, why:	
7.	Marital status	Married Single Divorced Widowed
8.	Education	Primary Incomplete secondary education (9 years of school) Secondary (11years of school) Vocational training University degree
9.	Status	IUD Substitution therapy client (metadon) PLHIV Sex worker <ul style="list-style-type: none"> • Street <input type="checkbox"/> • Call-girl <input type="checkbox"/> • Sauna <input type="checkbox"/> • Hotel <input type="checkbox"/> • Appartment <input type="checkbox"/>
10.	Criminal record	Yes <input type="checkbox"/> No <input type="checkbox"/>
11.	Time in sex work:	Less than 6 months <input type="checkbox"/> 1 year <input type="checkbox"/> More than 1 year <input type="checkbox"/> More than 3 years <input type="checkbox"/>
12.	Place of residence	
	City/village	
	Region	





General information about a violation

13	Is sex work criminalized in your country? If yes, what can one face	Yes ___ No ___ I don't know ___
14	Were you rights violated in the past 6 months Types of rights violations: *	Yes ___ No ___ If yes, which ones of them <input type="checkbox"/> Extortion of money <input type="checkbox"/> Beating, torture <input type="checkbox"/> Threats, blackmailing (applying pressure) <input type="checkbox"/> Robbery (valuables taken away) <input type="checkbox"/> Verbal abuse, forcing to do derogatory acts <input type="checkbox"/> Illegal detention <input type="checkbox"/> Passport confiscated <input type="checkbox"/> Refusal to call relatives and inform them about detention <input type="checkbox"/> Conditions in detention <input type="checkbox"/> Refusal of legal assistance at detention <input type="checkbox"/> Rights not explained at detention <input type="checkbox"/> Refusal to provide medical assistance in detention <input type="checkbox"/> Planting of drugs <input type="checkbox"/> Rape or other sexual abuse <input type="checkbox"/> Gang rape <input type="checkbox"/> Illegal fine or false charges <input type="checkbox"/> Forced HIV testing <input type="checkbox"/> Refusal to provide medical services because of sex worker status Other _____
15	Do you know where you should go in case your rights are violated? If yes, explain where	Yes <input type="checkbox"/> No <input type="checkbox"/>
16	Have you ever turned to police or Attorney General office to protect your rights?	Yes <input type="checkbox"/> No <input type="checkbox"/>
17	If yes, explain where If no, why	
18	If yes, was your complaint accepted?	Yes <input type="checkbox"/> No <input type="checkbox"/>
19	If not, why?	





Police detention:

20	How many times were you detained in the last months?	Once More than 3 times More than 5 times
21	Has the policeman shown his badge at detention?	Yes <input type="checkbox"/> No <input type="checkbox"/>





Where were you held after detention (before court hearings): - temporary detention room - police station cell - temporary detention facility - other _____	
Were there court hearings? : Yes ___ No ___ - inhours	
Did you have to pay a fine?: If yes, how big _____, officially Yes ___ No ___ Directly to policeman Yes ___ No ___	
Violations by medical staff	
Which violations have you faced in the last 6 months:	<input type="checkbox"/> Money extortion <input type="checkbox"/> Threats, blackmailing (pressure) <input type="checkbox"/> Verbal abuse, derogatory treatment <input type="checkbox"/> Refusal to provide services because of sex work <input type="checkbox"/> My rights to receive guaranteed amount of free medical care were not explained <input type="checkbox"/> Forced HIV testing <input type="checkbox"/> Disclosure of HIV status Other _____
Do you know where you should go in case your rights are violated?	Yes <input type="checkbox"/> No <input type="checkbox"/>
If yes, explain where exactly	
Have you ever turned to police or Attorney General office to protect your rights?	Yes <input type="checkbox"/> No <input type="checkbox"/>
If yes, explain where exactly	
If no, why	
If yes, was your complaint accepted?	Yes <input type="checkbox"/> No <input type="checkbox"/>
If no, why?	
Was the medical worker prosecuted?	Yes <input type="checkbox"/> No <input type="checkbox"/>

