



**The Second Shadow Report
on the Realization of the Convention on the Elimination
of All Forms of Discrimination against Women
by Public Organizations of Tajikistan**

**DUSHANBE
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LIST OF ABBREVIATIONS

APT	Agrarian Party of Tajikistan
STDs	Sexually Transmitted Diseases
WB	World Bank
HIV	Human Immunodeficiency Virus
SC	Supreme Court of the Republic of Tajikistan
State Program	State program " Main directions of State Policy on Guarantees of Equality between Men and Women in the Republic of Tajikistan for 2001-2010"
DPT	Democratic Party of Tajikistan
DF	Dehkan Farm
WLWHA	Women living with HIV/AIDS
LAW	Law of the RT "On State Guarantees of Equality between Men and Women and Equal Opportunities for Their Realization"
EOP of RT	Executive Office of the President of the Republic of Tajikistan
CEDAW	Convention "On the Elimination of All Forms of Discrimination against Women"
CCs	Crisis Centers
CPT	Communist Party of Tajikistan
PLWHA	People living with HIV / AIDS
PwD	People with Disabilities
MoI	Ministry of Internal Affairs of RT
IOM	International Organization for Migration
ILO	International Labour Organization
PDPT	People's Democratic Party of Tajikistan
NDS	National Development Strategy of the Republic of Tajikistan for 2006-2015
OSCE	Organization for Security and Cooperation in Europe
PA	Public Association
LFS	Labour Force Survey
PF	Public Foundation
ПГГ	State Guarantees Program of Програма государственных гарантий
IRP	Islamic Revival Party of Tajikistan
PHC	Primary health care
UNDP	United Nations Development Programme
PERT	Party of Economic Reform of Tajikistan
ПОИЦ	National Cancer Research Center
RRS	Districts of Republican Subordination
RT	The Republic of Tajikistan
RF	The Russian Federation
RC	Resource Centers
FC	Family Code of RT
Media	Mass communication media
PRS	Poverty Reduction Strategy of the Republic of Tajikistan for 2007-2009, 2010-2012
AIDS	Acquired Immune Deficiency Syndrome
LC	Labor Code of RT
DIA	Department of Internal Affairs
CC	Criminal Code of RT

CCP	Code of Criminal Procedure
MDGs	Millennium Development Goals
UNICEF	United Nations Children's Fund
UNIFEM	United Nations Development Fund for Women

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INTRODUCTION

The second alternative report on progress of the Republic of Tajikistan in implementation of Convention on the Elimination of All Forms of Discrimination against Women, ratified by Parliament in 1993, is produced by Coalition of PAs "From de-jure Equality Towards de-facto Equality".

Coalition of NGOs "From de-jure Equality Towards de-facto Equality" was created in May 22, 2008. Coalition is acting based on Partnership Agreement without juridical status and composes of 98 public organizations from Dushanbe and different regions of the country.

The Coalition's mission is to strengthen contribution and influence of NGOs on implementation of the recommendations of the UN Committee on Convention on the Elimination of All Forms of Discrimination against women and promoting gender equality in Tajikistan through process of their consolidation.

The structure of Coalition is consisting of the regional councils in GBAO, Sogd oblast, Kurgan-tube and Kulob regions of Khatlon oblast, RRS and Dushanbe. The working groups are formatted in accordance with recommendations of UN CEDAW's Committee:

1. Working Group on monitoring and evaluation, and improvement of the legislation.
2. Working Group on temporary ad-hoc measures to advance women
3. Working Group on overcoming gender stereotypes
4. Working Group on equal access to education
5. Working Group on equitable access to land
6. Working Group on prevention of violence against women
7. Working Group on advancement of woman entrepreneurship and enhancing women's economic activity
8. Working Group on equal access to health services
9. Working Group on work with elderly people.
10. Working Group on work with people with disabilities.

In 2008 – 2011, for collecting materials and compiling the second alternative report Coalition held public monitoring and evaluation of the progress in implementation of State Program "The main directions of state policy to ensure equal rights and equal opportunities for men and women in the Republic of Tajikistan for 2001-2010", Law "On State guarantees of gender equality and equal opportunities for their realization", other adopted strategic documents and statutes in the area of promoting gender equality and a campaign for lobbying ratification of Optional Protocol to Convention on the Elimination of All Forms of Discrimination against Women.

An expert group was established to summarize the gathered data provided by members of the coalition and prepare a consolidated report. The group was consisted of Tatiana Bozrikova (a team leader, chair of the coalition, Chairwomen Public Foundation "Panorama"), Larissa Alexandrova (NGO "Center for Human Rights") and Alla Kuvatova (a gender expert).

The main purpose of the alternative report is to complement the Government Report with new materials on promotion of gender equality in Tajikistan, problems of compliance of factual equality between men and women, strengthening the capacity of public organizations and dialogue with the Government and making suggestions and recommendations on development and implementation of state gender policy mechanisms, and specific effecting measures to overcome the barriers deterring promotion of women's interests and protection of their rights in Tajikistan.

Process of producing an alternative report was also used for strengthening the capacity of PAs, rallying the women's movement, further evolution of a dialogue with the Government and empowerment of non-governmental organizations to participate in Government decision making process.

The drafted alternative report was discussed at five regional roundtables attended by over 100 NGOs, 30 government agencies, media, international and religious organizations with the financial assistance of the Office of international organization Open Society Institute - Assistance Foundation.

The Alternative Report was produced based on the findings of public monitoring and evaluation conducted by coalition of NGOs to see the progress in implementation of CEDAW's Committee recommendations.

Problem analysis and NGO's recommendations on the problem of violence against women rely on statistics of a single database on citizens' resorts to the Crisis and Resource Centers of Coalition of NGOs "From de-jure Equality Towards de-facto Equality" operationalized since 2008.

In writing an alternative report the authors used research and monitoring and evaluation results in various spheres of social life of the coalition's members, as well as other public associations, including "Center for Human Rights", "Bureau on Human Rights and Rule of Law", National Business Women's Association Tajikistan, "Center for Mental Health and HIV/AIDS", "Tajikistan's Network of Women Living with HIV", NGO Guli Surkh, Legal Aid Centers under the Project "Access to Justice and Judicial Reform - Phase V" in 2010, and others.

Unlike the Fourth and Fifth National Consolidated Periodic Reports on implementation by Tajikistan of Convention on the Elimination of All Forms of Discrimination against Women, this alternative report mainly focuses on realization of the adopted laws and policies of the Republic of Tajikistan for gauging women's interests, on challenges and barriers slowing down this process. In recent years the state has taken a number of positive measures and concrete steps to improve women's status in society, Tajikistan acceded to many international conventions and adopted a large number of laws, state programs and other government acts for promotion of gender equality. However, by virtue of insufficient effective mechanisms of their realization, weak monitoring and evaluation of progress in implementation, a significant number of planned measures don't come true. The alternative report presents the NGOs' recommendations for improving gender policy, achieving actual equality between women and men and CEDAW realization.

The public associations of the Republic of Tajikistan, having outlined their vision of resolution of the problem on achieving de facto equality between men and women in the country, are interested in further cooperation with Government of the Republic of Tajikistan to overcome gender inequality.

ARTICLE 1. DISCRIMINATION AGAINST WOMEN

The Constitution of the Republic of Tajikistan underpinned the equality of men and women and enshrined the principle of equality to the law regardless nationality, gender, race, language, religion, political opinion, social or property status. This principle finds its reflection in many statutes of RT, such as Civil Code, Labor Code, Housing Code, Criminal Code, Family Code, Code of Criminal Procedure, Law "On civil service" and others. But in fairness it should be noted that the Constitution, and followed by other codes and laws have no concept "discrimination" or unveil it.

As noted in the first alternative report, definition of discrimination at legislative level is given only in the Law of RT "On state guarantees of gender equality and equal opportunities for their realization" (the Act). The law defines discrimination as "any distinction, exclusion or restriction by sex attribute, directed on weakening or nullifying recognition of equality between men and women in political, economic, social, cultural or any "other field". The Act prohibits discrimination of men and women. Violation of the principle underlying gender equality (pursuing public policy or performance of other actions that put men and women at a disadvantage on the grounds of sex) is considered discrimination and should be excluded.

While at legislative level women's rights are not infringed, and it can not be obviously manifested, but hidden aspects of discrimination in society still occur. Therefore, with the view of more effective protection of women's rights the law should specify what forms of gender discrimination exist and unveil them.

Discrimination is usually divided into "direct", "indirect", "denial of individual rights" and "indication or call to discrimination". Also, if we talk about discrimination by sex attribute, we need to take into account current realities and up-to-date level of medicine. Discrimination by sex also includes discrimination in connection with change of sex and discrimination based on pregnancy. Prohibition of gender discrimination extends to all areas of public law, and such areas as:

- ✓ employment (including selection criteria for recruitment and hiring, career promotion, working conditions, wages, termination of employment);
- ✓ carrying out research activity;
- ✓ education;
- ✓ vocational training (including refresher training);
- ✓ protection of the rights of the child;
- ✓ social security;
- ✓ rendering legal assistance;
- ✓ protection of rights and legitimate interests;
- ✓ advertising.

Prohibition of discrimination in Article 7 of the Labour Code of RT sounds a bit ambiguous. Originally, this article established the principle of equal rights in labor relations. This must mean that this principle embraces the whole labor process at a moment of job recruitment, during employment and at dismissal. But then, when it says about a ban on discrimination on various grounds, then initial process of labor relations, i.e. employment, is solely indicated. Therefore, for purposes of elimination of inconsistency/difference in enforcement of this principle in practice it is recommended to change this standard of the LC.

The law of RT entails criminal liability for direct or indirect violation or restriction of rights and freedoms of man and citizen according to sex, race, nationality, language, social background, personal, financial or employment status, residence, attitude to religion, convictions, membership of political parties, public associations that caused harm to the rights and lawful interests of citizen.

However, criminal responsibility of the individual for committing the above offenses can only arise if injury or damage occurred, otherwise the individual can not be held criminally responsible. In addition, the criminal case can be only initiated if the investigating authorities and prosecutor's office will trace the individual's actions as formal elements of a crime. Enumerating in the article the grounds of discrimination, at the same time there is no word "discrimination".

The Constitution of RT establishes the principle of priority for provisions of international treaties over national legislation. However, judicial practice has no examples when the Convention's standards would be directly applied in decision making.

ARTICLE 2. OBLIGATIONS ON ELIMINATION OF DISCRIMINATION

The UN Committee's recommendations: paragraphs 11-16, 21.22, 42

A positive change in the institutions protecting the rights of women and men in the country was the establishment of Ombudsman institute.

In accordance with Article 11 of the Law of the Republic of Tajikistan "On the Commissioner for Human Rights in the Republic of Tajikistan", the Ombudsman's main functions are to promote:

- a) rights and freedoms of man and citizen;
- б) restoration of violated rights and freedoms of man and citizen;
- b) improvement of legislation of RT on the rights and freedoms of man and citizen;
- r) legal education of citizens in the field of human rights and freedoms of man and citizen, forms and methods of their protection;
- д) interaction of state bodies of RT for protection of the rights and freedoms of man and citizen;
- e) development and coordination of international cooperation in the field of human rights and freedoms of man and citizen.

The published Ombudsman's Report for 2009-2010, Section 3 "State of observance of human rights and freedoms in RT" singles out section 3.10.1 "The rights of women". But unfortunately, this report lacks all-round analysis of the situation with ensuring of women's rights in Tajikistan. The report focuses only on the issue of violence against women.

According to the published report, within the four months of 2009 and 2010, Ombudsman Institute registered 1543 resorts of citizens, including 444 written and 1099 verbal ones. Unfortunately, the statistics on resorts is not gender disaggregated.

In accordance with classification, written resorts relate to the following rights and freedoms of man and citizen:

Individual human rights and fundamental freedoms:

- ✓ right to life, right to liberty and personal immunity - 4 resorts;
- ✓ right to privacy and family life (security of residence and correspondence) - 9 resorts;
- ✓ right to impartial and fair trial - 89 resorts;
- ✓ freedom of conscience and religion - 6 resorts;
- ✓ right to social security and social insurance - 18 resorts;
- ✓ right to decent standards of living (the right to food, clothing and shelter) - 77 resorts;
- ✓ right to work and career choices, the right to fair and decent working conditions - 22 resorts;
- ✓ right to property and free economic activity - 49 resorts;
- ✓ right to education, participation in cultural and scientific life and art - 8 resorts.

Most resorts to Ombudsman are about judicial acts. Of the 444 received resorts 222 applications pertain to disagreement with the court sentences and decisions, and red tape in proceedings.¹

With the view of strengthening and improvement of judicial power in Tajikistan, a judicial reform program was approved in 2007, according to which phased judicial transformation is performed. In 2009, President Emomali Rahmon made his annual address where he noted the importance of continuing legal and judicial reform and design and launching a new sectoral program, which one component should be formation of family and administrative courts. In accordance with these instructions, in January 7, 2010 Majlissi milli of Majlissi Oli of the Republic of Tajikistan (Tajikistan's upper house of parliament) amended the Law of RT "On courts of the Republic of Tajikistan", endorsed by President of RT in January 12, 2010. Heart of the matter was that the Supreme Court (SC) had two additionally established judicial boards for family and administrative matters and to date it composes of five judicial boards instead of the three previously existing ones.

Powers of Judicial Board for Family Matters include consideration of the marital matter as a cassation court and trial court within its authority established by law, consideration in the exercise of supervisory powers of protests of the Supreme Court Chair of RT, Attorney General of RT, and statements of participated in the case individuals on revision of decisions made by the first instance based on newly revealed facts. The Board also summarizes judicial practice and analyzes judicial statistics. Appropriate changes were made in the Civil Procedure Code of RT².

With the support of OSCE, in the structure of the Ministry of Internal Affairs of RT five pilot sites are established and by the Minister's order posts of inspectors to combat domestic violence are inducted.

In May 28, 2010 the Government approved the National Strategy on Enhancement Women's Role in the Republic of Tajikistan for 2011-2020. Therefore, the likelihood of achieving its goals and targets primarily depends on what mechanisms will be applied for gender policy realization in Tajikistan and to what extent the held actions and events will account interests of ordinary men and women of our country and, in particular, needs of rural population.

PROBLEMS

Findings of public monitoring, conducted by Coalition of NGOs "From de-jure Equality Towards de-facto Equality" in 2008-2011 fixed a number of challenges and obstacles on the way to execution of adopted laws and strategies in the field of gender equality promotion:

1. Low effectiveness of applied legal, institutional, organizational and financial mechanisms of gender policy realization.
2. Gender insensitivity of civil servants working in various fields.
3. Manifestation of violence against women.
4. Limited women's access to justice.
5. Effect of stable gender stereotypes about distribution of roles of men and women.

Low understanding of civil servants of importance of gender issues and gender sensitivity is noted. The UN Committee's recommendations (item 16) on raising awareness and building on capacity on gender issues of government officials are still poorly fulfilled. The Institute of Civil Servants delivers special courses on gender issues, but they are not integrated in compulsory refresher training program. In addition, a limited number of civil servants are enrolled in trainings of this Institute. As a rule, they are those who are not decision makers in their departments. The first persons of ministries are not attendees of these special courses, even though they are assigned responsibility of policy making and realization in the respective areas of the State activity.

¹ Ombudsman Report in the Republic of Tajikistan for 2009-2010 /www.ombudsman.tj/ru/

² www.humanrts.tj/ru/index/index/pageId/91/

As a result, overwhelming majority of civil servants are men (and they constitute most of civil servants) with perception of gender as a misplaced item, especially when it comes to matters of economic development, public administration reform and others.

In contrast to well-established format of CEDAW cooperation and partnership development with public organizations, there is no systematic interaction of ministries and departments with NGO sector to address gender issues. Previously envisaged by the State Program activity of coordination councils on gender education, employment and social protection, reproductive health, prevention of violence against women is almost not performed.

As the results of studies show and Crisis and Resource Centers report, domestic violence is a widespread phenomenon in Tajikistan. Victims are exposed to various forms of violence - physical, sexual, economic and psychological. In this case most often there is a mix of different types of violence.

According to operationalized in 2008 data base on resorts to the Crisis and Resource Centers of Coalition of NGOs "From de-jure Equality Towards de-facto Equality" only within the period of 2010-2011, 9,870 people applied to 12 CCs: 8908 women and 962 men. In the structure of reasons to seek help in CCs, acts of violence are predominant (56.6% in 2010 vs. 47.7% in 2011), followed by need to consult (35.4% and 47, 7% in 2010 and 2011, respectively).

Psychological abuse prevails in types of violence suffered by woman, followed by economic violence, physical violence and sexual violence. Moreover, almost one in four women underwent multiplied forms of violence.

Table 1. Types and frequency of violence against women, who resorted to the Crisis and Resource Centers in RT (according to a single database of coalition of NGOs)

№	FORM OF VIOLENCE	2010		2011	
		quantity	%	quantity	%
1	physical	260	10,4	275	10,6
2	psychological	1244	49,7	1227	47,3
3	economic	289	11,5	398	15,3
4	sexual	134	5,4	72	2,8
5	multiply forms of violence	576	23,0	623	24,0
	Total in Tajikistan:	2503	100	2595	100
	Frequency of violence:				
1	once	492	19,7	470	18,1
2	many times	2011	80,3	2125	81,9
	Total in Tajikistan:	2503	100,0	2595	100

Analysis of a single database of CCs shows that women from different social groups with education and having no education, housewives and those working in various sectors of the economy, married and unmarried, young and old can be exposed to violence. Impunity for a committed act of violence contributes to the fact that violence against women occurs more than once.

The list of problems that turned women to CCs and RCs is quite long. Among the problems the highest proportion goes to such violent actions as threats, insults, personal mild and moderate injuries, beating and others and such matters as alimony and housing

Attention is drawn to highly prevalent domestic violence. Violence against women in family tends to be committed by husband, his relatives - mother in law, brothers, sisters and others. And these cases

are not snap but systemic in nature. Over 80% of those applied to CCs and RCs were abused repeatedly. Beatings, torture, trauma, stress, restrictions to work and study, material dependence – all these are the most common forms of domestic violence. Concealment of domestic violence facts does lead to more serious consequences.

Throughout 2006-2011 the victims of violence in Tajikistan found support at 18 Crisis and Resource Centers and their three branches. Except for the Crisis Center "Bovary", which operates under the Committee on Women and Family Affairs under the Government of RT, and the Centre for Women's Self-knowledge at hukumat of Dushanbe city, the remaining CCs are operational based on NGOs. Only during 2010-2011, the staff of 12 CCs and RCs provided 16,790 services. Among them: one in four women applied for informational consultations, one in three women sought psychological counseling, more than 23% of CC and RC's clients were assisted by lawyers and 10% of women received health care.

Unfortunately, women, who experienced domestic violence, have limited access to justice. As before, the victims of domestic violence have problems with obtaining legal support and protection in law enforcement authorities and courts. Victims of domestic violence seek help mainly in crisis centers, community-based organizations and local authorities. When women contact the police and judiciary they often encounter outright indifference and condemnation both of law enforcement officers, neighbors, relatives and acquaintances.

The main factors preventing women's access to justice are:

- ✓ Inadequate legislation and lack of special law for prevention and protection from domestic violence. Current Tajik legislation, including the Criminal Code and Code of Criminal Procedure, has clear contradictions preventing protection of victim's rights.
- ✓ Existing stereotypes of traditional mentality about the secondary role of women in family and society.
- ✓ Low level of legal literacy and financial dependence of women.
- ✓ Lack of coordinated and purposeful activity of state bodies, NGOs and other civil society organizations to influence public opinion in respect of domestic violent action manifest.
- ✓ Low awareness of key law enforcement agencies on legislation and regulatory framework in the context of domestic violence-related problems.
- ✓ Immaturity of systemic dialogue of public associations and law enforcement authorities.
- ✓ A limited number of crisis centers and shelters for victims of domestic violence.
- ✓ Deficit of awareness and information materials on women's rights produced in an understandable language easier for perception of common women.
- ✓ Lack of government communication strategies and poor coverage of problems associated with display of domestic violence in media (print and video).

Another group of factors is associated with low potential of women themselves to defend their rights due to low legal literacy and women's well-established patterns of behavior in exposure to violence.

So, in period of 2010-2011, a network of human rights organizations (Human Rights Center, Office of Human Rights and Rule of Law, PA "Madadgor" and NGO "INIS") under the Project "Access to Justice and Judicial Reform" found the high incidence of domestic violence in the family. Another important aspect is the fact that women as a rule first turn on such issues as alimony, invasion or eviction, and other family and housing problems. But later women's stories tell that they are exposed to domestic violence, and sometimes they do it unknowingly.

Under Working group on "Access of victims to justice" created for more in-depth study of this problem, questionnaire poll of both victims and law enforcement officials and the general public on domestic violence problem in Tajikistan was conducted. Of 172 interviewed law enforcement officers

(investigators, prosecutors, judges and police officers) 131 said that domestic violence is a real problem in today's society of Tajikistan.

According to the study's respondents, the first contact person, who can come to help in situation of domestic violence, is district inspectors (99 people gave such a reply), then prosecutors and court.

The majority of surveyed law enforcement officers believe that society in general and public authorities, in particular, are biased towards women experienced violence in family.

Analyzing criminal law and criminal procedural law, at first glance, it seems that there are infringements of women's rights in their protection from domestic violence. The Criminal Code and Code of Criminal Procedure provide for the principle of equality to law and courts (Article 5 of CC and Article 16 of CPC, respectively). However, in practice, women go for months at district police offices, investigators, judges, keep trying to defend their rights. In regard to redressing harm it usually does not get it.

The problem is that a legally defined crime, on which the facts of domestic violence are incriminated to (Articles 112 - 116 of the CC of RT), are matters of private prosecution. And this means that woman herself must gather evidence, pass a medical examination, and appeal directly to the court, not the police. Clearly, without the assistance of a lawyer she can not do it. Services of a counsel for common women, being usually economically dependent on her husband and his family, are often not affordable. Free legal assistance in this category of cases to victims is not provided for by law (free legal aid will be described in more detail in section Problems to Art. 15 of CEDAW).

Art. 117 provides for systematicness, which is extremely difficult to prove in family matters. Moreover, it does not involve the isolation of the aggressor from the victim (in not serious crimes not entailing deprivation of liberty). Most of our women from legal standpoint are illiterate and poor and in this connection they just are not able to cope with such situation. Not incidentally most of interviewed victims of domestic violence appeal nowhere.³

It is critical to adopt Law "On protection from domestic violence" taking into consideration that passing a law would not completely solve the problem of overcoming violence against women since along with securing women's protection from violence people's mind should be influenced on that is the most difficult one.

Discrimination against people living with HIV / AIDS and people living with HIV / AIDS is another challenge, requiring taking concrete measures and steps to overcome it. Applicable law may not yet provide for effective protection of people living with HIV/AIDS from discrimination and stigmatization. However, HIV / AIDS problem can not be one-sided and considered only as medical problem or policy task. Measures on HIV / AIDS epidemic counteraction are primarily associated with overcoming social and cultural obstacles, and, above all, stigma and discrimination against HIV positive.

Although Tajikistan is currently at an early stage of the HIV/AIDS epidemic, there are real risk factors threatening wider spread of HIV infection. One of such factors is prevalent gender inequality, variedly displayed both in family and in society as a whole.

The factors that increase women's vulnerability to HIV infection include both factors of biological nature and social rules not allowing women to access trustworthy and complete information on safe sex practices and contraception and/or limit their ability to secure implementation of relevant behavioral strategies. Women's vulnerability is also exacerbated by their limited access to economic opportunities and restricted autonomy.

³ The information is provided by NGO "Center for Human Rights"

Moreover, in most CIS countries, including Tajikistan, belief that HIV can infect only people with immoral practices (drug users, sex workers and homosexuals) is widespread. The consequence of this view is prevalent discrimination and stigma against PLWHA (people living with HIV/AIDS) manifested both in employment, education and health, community and family. Stigma and discrimination adversely affects women.

For example, the national study for identifying forms of stigma and discrimination against people living with HIV, conducted by Center for Strategic Studies under the President of RT in 2007, allowed capture of main directions and forms of stigma and discrimination against PLWHA.

According to the study, more than 90% of PLWHA face various forms of discrimination in society, above all in communication (90%), employment (67%), seeking medical care (67%), applying to law enforcement agencies (34%) and in family (39%). Meanwhile, women feel discrimination more, compared with men.⁴

One of the consequences of stigmatization is non-disclosure of HIV-positive status, mainly, because of fear of worsening relations with family and community members (55.8% of interviewed women had disclosed their status).

Very often, PLWHA face discrimination in health care setting. Analysis of answers of HIV-positive respondents shows that in seeking care at health facilities, they face varied forms of stigma and discrimination and not always can receive the required care. According to them (71.4% of PLWHA surveyed), the main reason for denied care is fear of medical workers of potential risk of getting infected, though they know the routes of HIV transmission and how to be protected.

At the same time 14.7% of women noted that they faced discrimination in employment, partly due to the fact that employment may require HIV testing. In such cases, reluctance to publicize their HIV status does not allow PLWHA getting a job. The law specifies a list of professions and positions where HIV testing is mandatory. At employment in other professions requirement of mandatory HIV testing is violation of human rights. All this is another evidence of low legal knowledge of the majority of PLWHA.

Discrimination in access to education and problems encountered by PLWHA during the study after status disclosure were noted by 7.8% of female respondents. 6.1% of PLWHA surveyed have religious problems.

In general, the study results suggest that prevalence of stigma and discrimination against PLWHA is extremely high: 86% of PLWHA said that they experienced various forms of discrimination⁵.

A package of measures to improve women's access to justice and prevent and protect them from domestic violence needs to be adopted, including measures to prevent stigma and discrimination against PLWHA, sexual minorities and other vulnerable groups.

⁴<http://www.humanrts.tj/ru/index/index/pageId/176/>

⁵ See: Gender analysis of policies for the prevention of HIV/AIDS in Tajikistan, UNIFEM, UNAIDS, 2010

ARTICLE 3. DEVELOPMENT AND ADVANCEMENT F WOMEN

The UN Committee's recommendations: paragraphs 11-12, 14 - 15

Continuation of the Tajik Government's line on gender policy development was integration in 2007 of individual section "Gender Equality" in the National Development Strategy of RT for 2015 and Poverty Reduction Strategy of RT for 2007-2009 and 2010-2012. It was the first time when gender policy issues became the component parts of national medium and long-term socio-economic development strategies. Also in December 31, 2008, Law "On State Social Order" was adopted whereas one of the areas of execution of government order was "work with women, strengthening families and facilitation of addressing demographic and gender policy challenges, protection of mother and child".

In recent years, for execution of paragraphs Recommendations 14 and 15 of the UN CEDAW's Committee the Government of RT took structural and financial measures to strengthen the capacity of the Committee on Women and Family Affairs under the Government of RT.

On purpose of expansion of institutional mechanisms and their strengthening for promotion of gender equality at sector level, the Committee on Women and Family Affairs with the support of UNIFEM has created a gender network for gender mainstreaming in tajik ministries and departments' activities. At the first stage this gender network merged ministries and departments responsible for facilitation of land reform.

In April - May 2008 a tripartite agreement was signed by the Committee on Women and Family Affairs under the Government of RT, Ministry of Agriculture, Ministry of Land Reclamation and Water Management, the State Committee of Statistics, Agency for Land Management, Geodesy and Cartography, Agroinvestbank, the National Farmer Association of RT, the Institute for Advanced Training of Civil Servants and the Regional UNIFEM office. Later on, in November 2008, Coalition of PAs "From de-jure Equality Towards de-facto Equality" acceded to the Agreement. Ministries and agencies, signatories, undertook to create gender groups, imposed upon the duty of facilitation of gender mainstreaming in department's policies and operations.⁶

The Statistics Agency under the President of RT (formerly the State Statistics Committee of RT) has accomplished considerable work on development of gender statistics and incorporation of gender indicators in statistical reporting forms.

Currently, the share of gender indicators in government and departmental statistical reporting forms is 39.7%.

Gender indicators (in total 102) are developed for monitoring and evaluation of progress in meeting the Millennium Development Goals (MDGs) and implementation of PRSP and NDS and collected from various sources (state and departmental statistical reports and survey reports).

Since 2007, the Agency for Statistics under the President of RT annually publishes a statistical book "Gender indicators of industrial activity in dekhan (individual) farms" presenting dekhan farm's performance indicators in gender perspective.

Between 2007 and 2010 several collections "Men and Women of the Republic of Tajikistan" were published, reflecting the gender situation in various social spheres and outcomes of fulfilled Tajikistan's international commitments on gender equality in accordance with Convention on the

⁶See: Assessment of the State program "The main directions of state policy to ensure equal rights and opportunities for men and women in the Republic of Tajikistan for 2001-2010." as a result of public monitoring. Coalition of PAs " From de-jure Equality Towards de-facto Equality ", Dushanbe, 2009, p. 9

Elimination of All Forms of Discrimination against Women, Beijing Platform for Action and Millennium Development Goals (MDGs).

In July, 2009, the State Committee of Statistics of RT with the support of the European Commission, the United Nations, World Bank and UNIFEM organized national seminar on "Enhancing the role of gender statistics and gender-based measurement of violence".

PROBLEMS

Among the obstacles to the fulfillment of obligations to ensure the full development and advancement should be the following:

1. Imperfect legal framework for promotion of gender equality and weak gender mainstreaming in sectoral legislation.
2. Weak implementation of gender mainstreaming in key economic government policies.
3. Limitations and weakness of institutional gender policy mechanisms.
4. Lack of continuous monitoring and clear-cut indicator system on advancement of women and change of gender relations.
5. Given the shortage of material and human resources, poor use of the principle of priority in the planned targets and implemented activities.

Despite the fact that the UN Committee drew attention to the declarative nature of Law on State Guarantees and recommended amendments to the Act in order to create effective mechanisms to protect women from acts of discrimination (paragraphs 11 and 12), Coalition of NGOs in partnership with UNIFEM following public hearings developed and submitted specific suggestions for changes and amendments to the law to Parliament, the Government of RT, ministries and departments, unfortunately, for the reporting period the Law on State Guarantees was made no additions and changes. The mechanisms to implement the Law of RT "On state guarantees of gender equality and equal opportunities for their realization" are not executed and adopted other laws and regulations are not brought into compliance with the law. Gender expertise of the newly adopted laws is not carried out.

Due to the fact that gender is poorly reflected in sectoral sections of the NDS and PRS, ministries and departments do not perceive much seriously the problems of gender inequality and pay little attention at their resolution. Almost all ministries and agencies only support in words the line of the Government and President of RT on advancement of women and ensuring equal rights for men and women. However, the unanimous support of gender equality is not evinced in concrete actions and measures directed on restoring gender equity, in particular, when it comes to redistribution of powers of men and women both in public sphere and in family.

With regard to the UN Committee's recommendation on the need to strengthen coordination of ministries at national level (paragraph 15), when the Committee on Women and Family Affairs should play a coordinating role, this function even if stipulated in the agreement signed by a number of ministries and the Committee on Women and Family Affairs, in practice is still underperformed. The Committee on Women and Family Affairs under the Government of RT is primarily engaged in gender policy realization, and gender mainstreaming is poorly integrated in the ministerial and departmental functions.

As members of the ministerial gender groups perform their duties on a voluntary basis as an additional burden to their main functions, the recently established gender groups still focuses on raising awareness of employees of these ministries through information sessions and distribution of informational materials on advancement of women and achievement of de-facto gender equality. Gender groups are virtually not involved in sectoral programming and gender expertise of new adopted strategies and action plans.

It is not enough to declare a policy of ensuring equal rights and equal opportunities as a part of public policies; it must be organically embedded in the targets and priority actions within the government social-economic development strategies and national sector development programs. Inclusion of the separate section "Gender Equality" in the NDS and PRS structure failed to secure pro-active involvement of relevant ministries in addressing gender inequality in their respective industries.

Particularly there are a lot of challenges on the way to resolution of gender problems, bearing a cross-sector and inter-agency nature, primarily, due to the lack of effective coordination mechanisms of interaction and not sustained functionality of the interagency coordinating councils that began working actively at an early stage with the financial support of international organizations and gradually scaled down its activities at a later stage when funding from international organizations ended: as an example, the activities of the Coordinating Councils on land reform, violence prevention, the Commission for regulation of migration processes and others.

One of the obstacles on the way to fulfillment of Tajikistan's commitments is the lack of continuous monitoring and a clear-cut system of indicators on gender policy realization and advancement of women. The Commission on monitoring and evaluation of the Program was double-created under a currently supervising deputy prime minister. However, the Commission is not functional with any operationalized monitoring system based on quantitative and qualitative indicators of implementation of the adopted strategies and advancement of women. Thus, reports on the results of monitoring and evaluation of implementation of the Law and State program are not published, as stipulated by the Law of RT "On state guarantees of gender equality and equal opportunities for their realization".

The results of public monitoring of the implementation of the CEDAW Committee recommendations showed that out of its 29 recommendations to Tajikistan following hearing of the first National Report only one (1) was fulfilled in full, 14 recommendations were partially implemented and another 14 recommendations were not met. In our opinion, this is largely a consequence of failure of the Government to adopt an Action Plan for implementation of the recommendations of CEDAW's Committee with specific actions and responsible implementation agencies.

The current lack of a National Action Plan to facilitate the gender policy realization is also one of the obstacles to promote gender equality, including fulfillment of the recommendations of CEDAW's Committee.

RECOMMENDATIONS TO ARTICLES 1-3

Among the priority activities to meet the obligations on secure of all-round development and advancement of women, improvement of institutional mechanisms of gender equality, the following measures shall be provided for:

1. Upgrading a gender policy implementation legal framework through:
 - Making amendments to the Law of RT "On state guarantees of gender equality and equal opportunities for their realization", and other laws and statutes in terms of mechanisms of state guarantees of providing for access to economic resources of society, including movable and immovable property, water, land, financial assets, loans, as well as ensuring participation of women in decision-making processes, etc.
 - Harmonization of the Law of RT "On state guarantees of gender equality and equal opportunities for their realization" with other legislative and normative-legal acts, and if necessary develop and adopt new ones. Need to make changes and additions in order to fulfill the state guarantees of equal opportunities for women and men:

✓ Law "On elections of Majlisi Oli of RT" and "On elections of President of the Republic of Tajikistan"

- ✓ Civil and Family Codes of RT
 - ✓ Land Code of the RT
 - ✓ Labor Code of RT
 - ✓ Law of RT "On civil service"
 - ✓ Law of RT "On normative legal acts"
 - ✓ Law of RT "On Employment Promotion"
 - ✓ Law of RT "On Trade Unions, Their Rights and Guarantees of Their Activities"
 - ✓ Code of Administrative Offences of RT
 - ✓ Criminal Code of RT
 - ✓ Code of Criminal Procedure of RT
 - ✓ Statute of the Committee on Women and Family Affairs under the Government of RT
 - ✓ Statute of filling civil administrative service vacancies through competitive selection.
- Induction of mechanisms for gender analysis of laws and essential government and departmental programs before their submission for approval by the Government and Parliament. Create under the Parliament or the National Center for Law of an Advisory Board with representatives of public associations, whose main function would be to conduct gender analysis of the submitted for perusal laws and regulations prior to their transfer to the Parliament
2. Adopt the National Action Plan for the gender policy realization in RT for the years of 2012 -2015, including measures to fulfill the recommendations of the UN Committee on Convention on the Elimination of All Forms of Discrimination against Women.
 3. For expanding women's rights protection mechanisms ratify the Optional Protocol to Convention on the Elimination of All Forms of Discrimination against Women and adoption of the Law "On protection from domestic violence".
 4. Construct a model and conduct ongoing monitoring and evaluation of implementation of adopted gender policies and programs. In order to avoid duplication need to create a single, standing commission under the Government to monitor and evaluate the gender policy implementation on the whole, including the implementation of the Law "On state guarantees of gender equality and equal opportunities for their realization", the PRS, the National Strategy for Activization of Women's Role in RT for 2011 - 2020 and other various state programs.

In accordance with the Law on state guarantees, annually produce and publish in press analytical reports on monitoring and evaluation results.
 5. Introduce gender budgeting in the Medium-term Public Expenditure Program and annual state budget of RT.
 6. Pay particular attention to the problem of managerial personnel, building up human resource capacity for gender policy making and implementation in public authorities. Develop the Presidential program "Management Staff Training", based on the principle of equal representation of men and women.
 7. With the purposes of realization of gender policy at sectoral and local levels, activate a gender network with the Committee on Women and Family Affairs under the Government of RT to facilitate land reform and creation at other ministries and departments of the units responsible for gender issues with clearly-cut terms of reference. Induce in practice of ministries and departments' activities in programming and adoption of key sectoral programs and normative-legal acts the mandatory coordination with the gender group.
 8. On purpose of assistance and help to Ombudsman development of the Institute of Public Ombudsmen and public reception rooms at public organizations to protect the rights of women.

9. Revitalize activities for raising gender awareness of government officials at all levels through a system of training and refresher courses for civil servants of all ministries and departments, conduct workshops and seminars in partnership with public organizations, ministerial gender groups for holding information and training sessions for their staff.
10. Mandatory integration in the training programs of the Institute of Advanced Training of Civil Servants of special courses to build up the potential of the first persons of the state structures at various levels, including gender education topics.
11. Strengthen a role of civil society and media in implementation of gender policies and raising awareness and legal culture of women and men by means of analytical programs and articles, through coverage of changes in gender roles at the present stage, enhancing women's roles, more widely report in media women's contribution both at societal and family level.
12. Use more intensively such forms of feedback between government and civil society, as public hearings and regular meetings with the public and voluntary associations, answering the asked questions by representatives of government agencies in live radio and television, etc..

ARTICLE 4. ACCELERATION OF EQUALITY FOR MEN AND WOMEN

The UN Committee's recommendations: paragraphs 17-18, 43

During the period from 2007 to 2011 the Government of RT continued its practice of using temporary ad-hoc measures in education - Presidential quota for girls in remote rural areas. In 1997 – 2010 under the President's quota 10,230 students, including 7501 girls and 2739 boys, were admitted to higher educational institutions.⁷

But amid the good practices to facilitate by the Government the acquisition of higher education by girls, there is an increasing concern about the girls' return to their districts, from which under the quota the girls were sent to university and their further employment in their specialty. It is required to carry out a wide explanatory work among the girls and their parents before entering university and during the study.

In addition to these measures during the reporting period a new special measure was introduced. It is the allocation of presidential grants to NGOs and business women to support women's entrepreneurship. These grants aimed at improving the competitiveness of women entrepreneurs, enhancing their professional skills and training. During the period 2006-2009 women entrepreneurs and non-governmental organizations were able to create permanent jobs for 2,082 women and 540 women were provided with a temporary job.

However, temporary special measures are not applicable in such areas as civil service and legislature. Activities and priorities of the Civil Service Office under the President of RT were almost not intersected with the goals and actions outlined by the State program "The main directions of state policy to ensure equal rights and opportunities for men and women in the Republic of Tajikistan for 2001-2010" to advance women in government bodies. So far the provision of the State program on applying the principle of "soft quota" in filling positions through competitive selection remained not executed. This principle stipulates that a mandatory condition of the held competition is participation of men and women.

⁷ Ministry of Education of the Republic of Tajikistan. National report on education development of the Republic of Tajikistan. Dushanbe. 2011, p.111.

Missing definition of the term itself “temporary special measures” and mechanisms for their realization in national legislation do not encourage applying temporary ad-hoc measures to advance women. There is no political will on the part of government officials, political parties and media in respect of integration in the legislation and electoral practice of such temporary special measures as quota: when at the first phase ensure that representation of the same sex should not exceed 60%.

RECOMMENDATIONS:

1. Make additions and changes to the Law of RT "On state guarantees of gender equality and equal opportunities for their realization" for inclusion of the terminology "temporary ad-hoc measures" and mechanisms of their realization.
2. In order to ensure equal representation of men and women in election campaigns amend the constitutional laws "On elections of Majlisi Oli of the Republic of Tajikistan" and “On election of the President of the Republic of Tajikistan”. Add in Art. 11 of the Law "On elections to the Majlisi Oli of the Republic of Tajikistan" and Article 17 of the Law "On elections of President of the Republic of Tajikistan" a part to read: "To ensure equal representation of men and women in the electoral commissions”.
3. Purposely for creation and ensuring equal opportunities for involvement of women in decision-making process at the legislature level, use temporary special measures - quotas, providing for representation of the same sex candidates not exceeding 60%. Amend the Law of RT "On elections to the Majlisi Oli of the Republic of Tajikistan." Add a part to Article 30 of the Law of RT "On elections to the Majlisi Oli of the Republic of Tajikistan" that should be read as follows: "A procedure for nomination of candidates on party electoral lists - representation of individuals of the same sex can not exceed 60% of the total list of candidates, including the five top candidates”.
4. For providing for state guarantees of equal opportunities for men and women in civil service, apply a principle of soft quota for announcement of vacancies (a prerequisite of the held announcement of vacancies is participation of candidates of both sexes, male and female). Amend and supplement the Statute of filling vacancies of civil administrative service through competitive selection in the following wording:

"For ensuring state guarantees for equal access of men and women to filling vacancies of civil service through competitive selection use the principle of soft quota. Consider as a prerequisite of the held announcement participation of both sexes, men and women”.

“With an equal position of female and male candidates for the announced public office priority is given at the least presented side". Add concept "soft quota system" to Article 1 of the Law "On civil service" and the Law "On state guarantees of gender equality and equal opportunities for their realization".

ARTICLE 5. GENDER ROLES AND STEREOTYPES

The UN Committee’s recommendations: paragraphs 19-20

Following the presentation to the UN Committee of the First National Report on progress in implementation of CEDAW, some positive steps were taken to involve media in coverage of women's issues and raising awareness of citizens on the government gender policy, on substantive equality between women and men, and other aspects of gender equality. In 2006, the Government of RT started publishing monthly magazine "Bonuvoni Tojikiston" of a total circulation of 6000 copies. In Tajikistan before 2011 three "women's" magazine were published of a total circulation of 11,000 copies, including "Firouz" (3000 copies) and "Ravzana ba chahon" (2000 copies, *to date, it has not been published*).

Voluntary associations with the support of international organizations have established press clubs for journalists that are currently the platform for discussion of gender equality agenda, including the obstacles on the way to achieving de facto equality. For example, within several years NGO "Gender and Development" boosted the press clubs in cities Dushanbe, Kurgan-Tube, Kulyab, Khorog and Khujand, which helped to increase the gender potential of journalists and number of articles in national and local newspapers, TV and radio broadcasting spots.

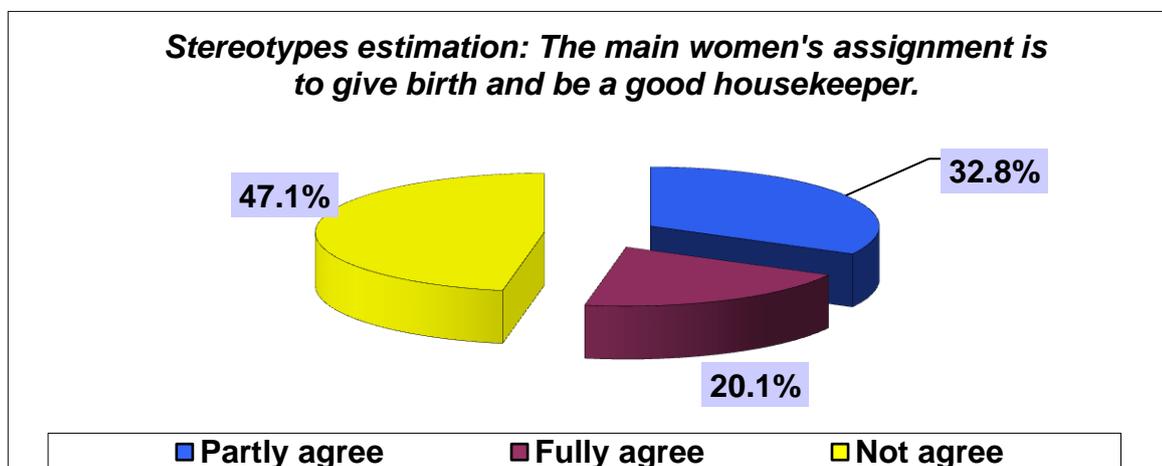
On purpose for increase gender potential and gender sensitivity of future journalists the courses on gender topics were inducted in a number of universities in Tajikistan. For example, the Faculty of Philology of the RTSU reads:

- 2 special courses "Gender and Literature", 16 hours of elective classes (end-of-term/final test) for students-philologists, and "Gender Dimension of Media", a special course at the option of 56 hours (the exam) – 3rd year International Journalism (contractual group).
- "Gender Dimension of Media" - special optional course of 24 hours (credit) – 4th year of study (electronic media specialization (budget group).
- interdisciplinary subject "Humanities and Media", whereas 6 hours is given to human perception from gender standpoint.

Faculty of Oriental Studies of TSNU reads a course "Gender in Tajikistan literature" (32 hours) and Faculty of Journalism delivers a course "Gender and journalism". Manual "Gender va journalistika" (Dastur talimi) by Jovid Mukim was published in Dushanbe in 2006. In 2007, at the Faculty of Journalism of TSNU a Gender Research Laboratory supported by Soros Foundation held a conference "Barobarhukukii genderi mushkilot va dastovard" and published a collection of articles "Barobarhukukii genderi".

However, the results of various studies show that society and local communities are not yet prepared to the change of social and cultural patterns of conduct of men and women, as well as strengthening women's roles. Female society is faced several challenges: conflict of roles, performed in public and private life, mass consciousness, deformed to patriarchy, sexism and others. In minds of a large segment of the population an ideal model of men and women's relationship is the traditional model, precluding inclusion of women in public and political processes. Financial dependence on husband, limitations of women's activism outside the family is a "natural" condition of social relations of men and women.

For example, a survey of households conducted by Coalition of NGOs "From de-jure Equality Towards de-facto Equality" fixed a number of sustained gender stereotypes. Despite modified gender roles in family, society, much of the people believe that women's mission is to give birth to children and be a good housewife (see chart).⁸



⁸ The study was conducted in 2009 with the support from OSI-New York. A total of 1500 households were surveyed.

Media can play its particular role in overcoming gender stereotypes and promoting gender equality. However, the planned in State policies and programs measures to publicly discuss in government media new roles of men and women in society and family are implemented partially and state-owned periodicals, national and local television and radio have no relevant designed communication strategy on public discussion of gender inequality, including elimination of stereotypes. An occasional transmission or article can not effectively influence on and result in behavioral change of men and women, overcome negative attitude and prejudices and raise awareness of women and men in the field of human rights.

Conducted content analysis of media suggests passivity of both public and independent press organs. The television often focuses attention not on the gender aspects but on the role of women only as mothers. In the media there is no demonstration of a positive image of women - a policy leader, an active participant in the economic transformation of society.

We have to admit that most often editorial staff place analytical articles on gender issues in the newspapers on a commercial basis, with the support of international organizations. Therefore, as a rule, journalists can cover the actual problems of the subject, basically, only during the existence of the grant.

Integration into curricula of future journalists of gender-specialized courses is primarily based on the initiative of individual enthusiasts-lecturers and is not systemic. The Ministry of Education and universities do not pay enough attention at the introduction of a gender perspective in training of journalists.

The potential of education system to affect public opinion and overcome gender stereotypes, including gender mainstreaming in school textbooks, is still utilized very little.

The results of gender audit of manuals, with the support of UNICEF, and public examination of language and natural science & mathematics textbooks, conducted by Public Foundation "Panorama", with the financial assistance of Soros Foundation-Tajikistan and the World Bank, showed that the textbooks reproduce traditional gender stereotypes, which can be characterized by sexism against women and girls. Alongside with the feminized pedagogy, the marked trends complicate the process of socialization, both of boys and girls.

All 19 textbooks undergone public examination need to be updated given a gender approach in terms of materials used in the texts and illustrations.

RECOMMENDATIONS:

1. Development and implementation by Committee on Television and Radio in close partnership with independent media, Committee on Women and Family Affairs, and public organizations of communications strategy to promote gender equality.
2. Strengthening the role of civil society and media in implementation of gender policies and raising awareness and legal culture of women and men by means of analytical programs and articles, through coverage of current changes in gender roles, enhancing women's roles and more widely reporting in media about women's contribution at societal and family level.
3. In order to overcome reproduction of patriarchal gender stereotypes in textbooks, include a gender-based component in the list of criteria for examination of textbooks.
4. Draw attention of textbook writers at keeping gender balance in the texts and illustrations books, that is, use the principle of equal representation of images of boys and girls, men and women. In describing roles of man and women take into account changes in actual distribution of gender roles in contemporary Tajik society, try to get away from stereotypes.

5. For voluntary organizations in partnership with universities expand the practice of press clubs and skill building schools for building up capacity and mastering the skills of journalists to cover gender issues.

ARTICLE 6. EXPLOITATION OF WOMEN

The UN Committee's recommendations: paragraphs 23-24

In order to implement the adopted legislation and for coordination of the Government's actions in Tajikistan the Interagency Commission on Combating Trafficking in Human Being was established (2005), composed of representatives of ministries and departments. Memorandum on Cooperation to fight against trafficking in persons was signed by the Government of RT and IOM Country Office in Tajikistan (February 28, 2006) and the Comprehensive Program on Combating Trafficking in Human Being in the Republic of Tajikistan for 2006-2010 was approved (May 6, 2006).

The Criminal Law of RT provides for criminal penalties for such acts as forced removal of human organs or tissues for transplantation (Art.122), recruitment for exploitation (Art. 132), unlawful restriction of movement, free choice of residence, exit from the republic and return of the citizen (Art. 149), trafficking in minors (Art.167), hostage taking (Article 181); mercenary (Art.401). Article 130 (1) was supplemented that established criminal liability for trafficking in persons.

The changes have enhanced the work of law enforcement and judicial authorities to combat the traffic of people.⁹ First of all, all the facts of the disappearance of people started to be carefully studied with more rigid control over the issuance of visas, passage of citizens through the customs and cross-border areas, as well as exit of various tourist groups and charter flights. Study of cases and facts of departure and removal of girls abroad has been the subject of publicity and coverage in the media.

In 2005-2006, investigators of the Office of Investigation of Criminal Cases of Special Importance of the General Prosecutor of RT investigated over 10 cases related to trafficking, involvement in prostitution and pimping. The government reported, at least, three cases referred to prosecutors in 2009, compared with 23 cases in 2008. Courts passed three sentences for trafficking in 2009, compared to 17 convictions in 2008. The Government reported that in 2009 three persons were sentenced to punishment of imprisonment for a term of 5-10 years for crimes related to trafficking in people.¹⁰

Resolution of the Government of RT (as of October 1, 2007, № 504) approved the Model Regulations on the Centers for support and assistance to victims of trafficking, and such centers have been established in Dushanbe and Khujand.

Criminal Code of RT provides penalties for engaging in prostitution (Article 238) and for the organization or running brothels for prostitution, pandering and pimping (Article 239 of the Administrative Code of RT for prostitution provides for administrative responsibility (Article 130)

⁹ 200 judges have been trained at the Training Centre for Judges at the Council of Justice of RT on a specially designed module on combating trafficking and exploitation of people.

¹⁰ Analysis of Tajikistan's implementation of the Final Recommendations of the UN Committee on Human Rights, made following consideration of National Report of RT on the Implementation of International Covenant on Civil and Political Rights, submitted in 2005, Dushanbe, 2011- pp. 60-61

PROBLEMS

Tajikistan is a country of origin and transit for trafficked women and girls. Export of women and girls for sexual exploitation in such countries as the United Arab Emirates, Kazakhstan, Russia, Thailand, Turkey, India, Israel, Malaysia, South Korea, Afghanistan continues .

Due to lack of money cases of sales by poor families their adult daughters, aged 18-20 years has increased, with cash prizes from U.S. \$ 2,000 to 3,000 from wealthy individuals and foreigners residing in the territory of the country through various channels.

According to the journalist Tilava Rasulzadeh, price of a 16-24-year-old virgin from Tajikistan is 2000 US dollars. Trafficking in girls and young women from Tajikistan for commercial sexual exploitation is an organized criminal profitable business, - the Tajik expert Akobir Saidov says. It is an organized criminal group that operates smoothly on well thought-out scheme and they have ties at all state institutions - said the expert.

Meanwhile, the UN Office on Drugs and Criminality says that Tajikistan does not comply with standards to combat trafficking in human beings and there is no progress in prosecution and conviction of government officials involved in this business.

In 2011, in Dushanbe X.X., a 17-year-old resident of the capital, was abducted. According to investigators, the executor of the crime is X.X., a native and resident of the district Istaravshan, Sughd. The police claim that he was driving the car in which the attackers took away a young girl in an unknown direction. In connection with an event, the police took under strong control the border-cross points with neighboring Afghanistan. According to law enforcement officers, the girl was abducted in order to further ferry her to Afghanistan in exchange for drugs. The investigator of the case said that the cost of "live goods" in Afghanistan ranges from 2 to 7 kg of heroin for every girl. It should be noted that this case of girl kidnapping is the 13th in account in Tajikistan¹¹.

In early 2011, according to official figures, at the metropolitan police department more than 2,000 prostitutes were registered, but the real figures are much higher. People working "by vocation" among prostitutes is few, most of them became a streetwalker having lost other opportunities to earn money¹².

The problem of child prostitution and trafficking is particularly acute in Tajikistan. According to head of the Interior Ministry's press center of RT Mahmadullo Asadulloev for 2010 employees of the Ministry filed 10 criminal cases of prostitution, of which 8 cases refer to child prostitution¹³.

RECOMMENDATIONS

1. Intensify collaborative activities of government agencies and community organizations to conduct outreach to the public on the problems of traffic of people and accountability measures for in-body trafficking.

¹¹ M. Zhuravlev: In Tajikistan, the girls are exchanged for drugs 12:05 12.11.2011 <http://www.centrasia.ru/news>

¹² Saymurod Baratov Prostitution in Dushanbe is experiencing its peak <http://www.paruskg.info/2011/07/07/46521>

¹³ Jana Yakubova. Child prostitution: the problem is very acute. 31/01/2011 16:19.//<http://news.tj/ru/news/detskaya-prostitutsiya-problema-stoit-ochen-ostro>,

2. Conclude bilateral and multilateral agreements with neighboring (transit) countries and states, basically, destinations of the traffic, on the concerted joint measures to combat trafficking in persons, including extradition of victims and perpetrators of such crimes.
3. Pursuant to "Optional Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children" organize trainings of law enforcement officers, investigative and judicial bodies on the specificity of investigation of such cases and provision of rehabilitation assistance to victims.
4. Promote the opening of new crisis centers, shelters to assist victims of trafficking with the provision of medical, psychological, social and legal assistance.
5. Strengthen the control of the spread in the media in the Republic of Tajikistan of advertising aimed at engaging potential victims in trafficking, sexual services under the guise of legitimate activity.

ARTICLE 7. POLITICAL AND PUBLIC LIFE

The UN Committee's recommendations: paragraphs 17, 18, 25, 26

The National Strategy for activation of women in the Republic of Tajikistan for 2011-2020 was approved by Decision of the Government of RT as of 29 May, 2010.

Conduct of the election campaign in 2010 for elections to the Majlisi Namoyandagon and local assemblies of People's Deputies had their own characteristics to enhance the attention of state authorities and parties to the participation of women in elections. The impact of public policy priorities to advance gender equality in political parties should not be underrated. "The pressure from above" can encourage political parties to pay greater attention to women as party members, leaders and candidates for elective office.

For example, the NDPT city conference in Dushanbe, Tajikistan, among other matters raised the question of solving the problem of gender equality and increase in representation of women in urban and regional majlis up to 30% or more in election. At the NDPT's initiative six representatives of women's organizations, non-party members, but actively engaged in addressing women's issues in various sectors of society - legal, educational, medical and others, were nominated as candidates for deputies of local (city and district) assemblies in the city of Dushanbe.

The inter-party platform comprising eight registered political parties in Tajikistan is established as a means of struggle for gender equality in politics. The platform might be a mechanism allowing women, members of political parties, to exert pressure on their parties, so that the latter would start working on gender issues, as well as providing support to women, members of political parties running for elected office.¹⁴

PROBLEMS

Despite the efforts of the Government and NGOs to promote women to positions of leadership and the state guarantees enshrined in the law on state guarantees, the decision-making sphere is dominated by men. Representation of women in senior positions in government agencies is still low. Women - civil servants are concentrated mainly at lower and middle management levels.

¹⁴ See the press release published on the website of the OSCE Office in Tajikistan, "In the politics of Tajikistan should be more women, according to the Seminar of the OSCE in Warsaw", May 20, 2011: <http://www.osce.org/tajikistan/77965>

Table 2. Men and women in bodies of state authority of RT in 2010 (%)

	Men	Women
Majlisi Milli (upper house of Parliament)	85,3	14,7
Majlisi Namoyandagon (lower house of parliament)	81,0	19,0
Heads of public authorities	95,0	5,0
First deputies	97,2	2,8
Deputies	64,4	35,6
Heads of structural units (departments, divisions, units, services)	65,8	34,2
Oblast governors	10,0	-
First deputies	100	-
Deputies	90,9	9,1
Governors of cities and districts	94,4	5,6
First vice	97,2	2,8
Deputiesзаместители	63,9	36,1
Heads of structural units of administrations of territories	65,8	34,2
Jamoat Chairs	79,5	20,5
Jamoat Vice-Chairmen	59,8	40,2

Despite the government guarantees enshrined in Law of RT "On state guarantees of gender equality and equal opportunities for their realization", women have unequal access to making decision at all levels; their background and skills are not in demand at the managerial level. There are no institutional and other legal mechanisms for realization of the Act. Standards of the Act are not implemented in the legislation on public service.

Dominance of men in all levels of government does not help reducing the hidden discrimination against women in the nomination of candidates for senior positions and conducting competitions for positions of civil service. Additionally, as a rule, in the post structure of public authorities, women can play only a role of deputy, but not the head.

Despite international commitments to the implementation of Convention on the Elimination of All Forms of Discrimination against Women, such a mechanism as temporary ad-hoc measures to promote women are not used.

The adopted state program to train women - leaders has no clear and comprehensive plan of actions to prepare and promote women to leadership positions. The appointment of women from the list of staff reserve is not monitored and tracked.

There is no complete database on reserve of personnel - women professionals. Cases of women appointed to positions that do not have appropriate professional education and practical experience in this field. All this leads not only to the fact that after a short time she is released from the office, but also to the fact that it undermines the authority of women-leaders.

Analysis of state policy within the gender equality programs revealed that, despite some improvement in indicators, gender disparity is still quite evident. There are a number of disincentives to promote gender equality, and hence the sustainable development of the country in general.

Another important factor is the impact of traditional and cultural stereotypes, rooted in society and having a negative impact on opportunities to promote gender mainstreaming.

Self-discrimination of women tends to grow. According to the survey conducted by NGO "Jahon" under the project "Pathway of woman-leader to woman-deputy" with the support of the European Commission, the main reasons for low political participation of women noted by 35% of respondents are the persistent "double standards" in societal attitude to woman: at level of legislation and realities of social practice. 30% of respondents draw attention on the time pressure for women to practice social and political affairs. A quarter of respondents noted the presence in society of patriarchal stereotypes of gender roles that are common not only in media, but among parliamentarians and government officials. Unwillingness of parties to advance women into power is pointed out by 10% of interviewed women.

Among the obstacles on pathway of women to politicians, respondents named "mentality of people" (42%), "uncertainty about victory" (34%), lack of finance (22%) and imperfect legislation (2%). Family barriers (reluctance of family members) reduce confidence in victory of almost 30% of respondents¹⁵.

There is very little coverage and discussion in media of changing roles of men and women in society and family with no positive image of the woman leader, politician or party activist.

Women in Tajikistan are not so much involved in process of making important policy decisions at political party level. Table 3 demonstrates the extremely low level of women's representation in governing bodies of the party executives. Consequently, women are not able influence on making substantial policy decisions.

Table 3. Number of women in the governing bodies of political parties of Tajikistan¹⁶

Name of governing body of the party	Quantitative composition, persons	
	total	including women
Presidium of the Central Executive Committee of the NDPT	10	0
Presidium of the Central Committee of the CPT	12	2/16,7%
Political Council of the IRPT	11	0
Bureau of DPT	10	1/10%
Political Council of SDPT	14	2/14,3%
Central Executive Committee of SPT		
Bureau of ERPT	8	0
Bureau of APT	7	0

According to the data of central party organs, the number of women as party members is as follows:

- ✓ IRP – 48%,
- ✓ DPT, DPT, CDPT – 40 %,
- ✓ NDPT – 37%,
- ✓ CPT, CPT, SPT – over 30 %,
- ✓ In APT and ERPT the number of men is much prevalent among party members.

According to the study conducted by Coalition of PAs "From de-jure Equality Towards de-facto Equality", in parliamentary elections in 2010 "there was increase in number of women from 34 to 37 among the total number of registered parliamentary candidates on party lists and single-mandate

¹⁵ Women's Leadership in Tajikistan. The results of the study. NGO "Jahon", 2007. It polled 100 women leaders of the republic

¹⁶ See Report of NGO "Gender and Development". Gender and the political parties. , 2009. With the support of the European Commission.

constituencies, compared with the elections in 2005. Of them 15 and 22 candidates were nominated on party lists and single-seat electoral districts, respectively.

Table 4. Representation of women among the registered candidates in Majlissi namoyandagon of Majlisi Oli (2010)

All political parties	Total number of candidates	Percentage of female candidates	Including: total number candidates		Incl. women	
			On party lists	Single-seat electoral districts	On party lists	Single-seat electoral districts
NDPT	72	13 – 18,1%	22	50	6	7
IRPT	39	7 - 17,9%	20	19	4	3
The Communist Party of Tajikistan	19	2 – 10,5%	9	10	1	1
Agrarian Party of Tajikistan	12	1 – 8,3%	6	6	1	-
EDPT	14	2 – 14,3%	4	10	-	2
Socialist Party of Tajikistan	3	1 – 33,3%	3	-	1	-
SDPT	9	2 - 22,2%	7	2	2	-
Democratic Party of Tajikistan	3	-	2	1	-	-
Nomination of oneself	77	9 – 11,7%	-	77	-	9
	248	37- 14,9%	73	175	15 – 20,5%	22 - 12,6%

Published data record that many more women were nominated by the People's Democratic Party (13 people). The Islamic Revival Party of Tajikistan put forward seven women, two women were from the Communist Party of Tajikistan and Party of Economic Reform in Tajikistan and Social Democratic Party of Tajikistan, and one woman was nominated by the Socialist Party and Agrarian Party, each. The Democratic Party of Tajikistan did not put forward any woman-candidate. Through self nomination nine women were registered as candidates, one from the People's Democratic Party and one from the Agrarian Party of Tajikistan.

Of the 63 elected candidates 13 were women (20.6%): seven from single-seat constituencies and six on party lists. All selected women are from NDPT.

The analyzed data show correlation\relationship of the number of women nominated for election by political parties and inner processes of nomination and selection of candidates. The provisions of paragraph 113 of the Guiding Principles on the Law of Political Parties in 2010, developed by the Venice Commission and OSCE/ODIHR, emphasize the importance of nomination of candidates and selection of procedures for nomination of women candidates and pay attention to the fact that:

Recognizing the fact that in selection of candidates and determining their place in electoral lists closed communities and networking of recognized politicians often play a major role, clear and transparent criteria for selection of candidates are in need, so that the members, recently joined the party (including women and minorities) can be admitted to the party posts, at which level the processes of preparing and making decisions take place. It is also recommended to ensure a balanced representation of men and women in the Party organs being in charge of personnel policy and nomination of candidates for election¹⁷.

¹⁷ Article 113 of the Guiding Principle regulating the activities of political parties: "Selection of party cadres and candidates for elections", p. 52

In order true equality be a reality for women, one of the main strategic goals should be achievement of women's participation in governance equally with men. Exclusion of women from process of policy and decision making deprives them of opportunities to be advanced and defend their interests in areas of development, where men dominate.

According to assessment of progress in implementing the Concluding observations of the UN Committee on Elimination of Discrimination against Women in Tajikistan from 2007 to 2010, conducted by PF "Panorama" under a joint project with Coalition "Karat" (Poland), recommendations 17, 18, 25 are not fulfilled yet, recommendation 26 is partially implemented in terms of greater control over the family vote.

RECOMMENDATIONS

1. Office of Public Service under the President of RT shall provide for a reserve of personnel with equal representation of men and women. Regularly analyze the composition of public service staff, identify the causes of gender imbalance, monitor and evaluate the appointment of women on the reserve list.
2. Committee on Women and Family Affairs, in partnership with NGOs shall create a full database on pool of female cadres in the light of regional representation and ethnic minorities' representatives.
3. In order to promote women and ensure implementation of State Program "Education, recruitment and placement of managerial personnel of PT from among capable women and girls for 2007-2016", the Committee on Women and Family Affairs, in partnership with the Office of Civil Service under the President of RT, Coalition of NGOs shall develop a national action plan for implementation of the State Program for 2010-2012. Identify specific goals, activities, outputs and expected results for this period. Based on quantitative and qualitative indicators monitor implementation of the Action Plan.
4. NGOs shall lobby amending electoral legislation with regard to abolition of election deposit for women-self nominated candidates or decrease in the amount of the election deposit.
5. Encourage political parties to fix in the party statutes the principle of equality of opportunity between men and women. One of the priorities of political parties should be the establishment of clear and transparent procedures for the nomination and selection of candidates both for the admission of women into the party and their nomination as candidates of the party in elections at various levels. Strengthening intra-party democracy can contribute to women's political participation as members of the party, leaders and candidates for public office.
6. Political parties in partnership with public organizations shall draw attention to design of initiatives aimed at building up capacity and raising awareness of women, including financial support for women's groups and development of women's experience in the politics sphere (in order to determine the line/direction of party platforms, as well as strengthening the position of women candidates during election campaigns).
7. Committee on Women and Family Affairs, in partnership with other government organizations, NGOs and political parties shall hold public hearings on the topic "The role of political parties in promoting women in public office".

ARTICLE 8. INTERNATIONAL REPRESENTATION AND PARTICIPATION

For the first time in the history of independent Tajikistan, a woman was appointed as Deputy Minister of Foreign Affairs of the Republic of Tajikistan. However, as noted in the national report on the implementation by Tajikistan of the CEDAW Convention, women represent only 17.5% of employees

of the Ministry of Foreign Affairs of the Republic of Tajikistan. There are no women ambassadors. Women are very rarely included in the government delegations.

Among the main obstacles to women's advancement in the field of diplomatic work is the influence of gender stereotypes, the low representation of women in the Foreign Relations specialties.

Recommendations

1. Expansion of trainings of women cadres at the Department of "International Relations" in tajik universities, as well as in MGIMO and the Diplomatic Academy, using the presidential quotas.
2. In order to prepare the diplomatic staff from among women use the principle of assignment of quotas for women coming into the Diplomatic Academies.

ARTICLE 9. CITIZENSHIP

1. States Parties shall grant women equal with men rights to acquire, change or retain their nationality. They shall ensure in particular that neither marriage to an alien nor change of nationality by the husband during marriage shall automatically change the nationality of the wife, render her stateless or force her to accept the nationality of her husband.

2. States Parties shall grant women equal with men rights with respect to the nationality of their children.

Citizenship issues in Tajikistan are settled by the Constitutional Law "On Citizenship". The law does not make sex differences in matters of nationality.

Questions of citizenship and marriage are regulated by Article 8 of the Act. Marriage and divorce of a citizen of the Republic of Tajikistan with a person not belonging to the citizenship of the Republic of Tajikistan does not entail a change in citizenship. Change of nationality of one spouse does not entail a change of nationality of the other spouse.

Divorce does not entail a change of nationality of those, who were born in this marriage, or adopted children. Also, the law encourages the acquisition of citizenship of the Republic of Tajikistan by stateless persons.

But there is some conflict between the standards of the Law "On Citizenship" and the Family Code of RT. Thus, Article 23 of the Law "On Citizenship" states that the circumstances facilitating the reception of citizenship of the Republic of Tajikistan that is giving the right to reduction up to the removal of the requirements of Part 2 of this Article are as follows: ...

- b) Adoption of a child, citizen of the Republic of Tajikistan.

And according to Article 127 of the FC of RT adopters may be adult citizens of the Republic of Tajikistan. That is a significant obstacle to the adoption of a child, who has the citizenship of the Republic of Tajikistan, by a foreign citizen, and in this connection the rule of Article 23 of the Law "On Citizenship" is not implemented in practice. Although the Law "On Citizenship" has a constitutional status and according to hierarchy it has a greater legal force, courts do not allow foreign citizens to adopt a child with a Tajik citizenship. In law practice courts primarily in the consideration of this category of cases apply only FC rules and no other rules, including international ones. This restrictive standard in the FC was introduced in 2006 with a view to the safety of children from traffic or other more selfish purposes of adopters.

But on the other side in this matter there is a "downside". There were the facts of appeals to legal reception rooms, when a child was left without parents, and all his close relatives (uncles, aunts), were citizens of the Russian Federation and by virtue of Art. 127 of the FC they could not adopt their own nephew, although according to the FC of RT the adoption is a priority form of placement of children without parents.

Another case where a woman is currently married to a British citizen, she herself is a citizen of the Republic of Tajikistan and has a son from her first marriage. Her husband in the first marriage, a citizen of the Republic of Tajikistan, died. The actual husband wanted to adopt a stepchild, i.e. her son. However, in practice it was very difficult to realize it because of legal obstacles. As a result, the woman was forced to abandon the procedure of settling the issue in the judicial system of RT, motivating by the fact that she would have neither time nor health.

In recent years, tajik NGOs fix the problem of lack of passports for a considerable number of women - foreign women married to citizens of the Republic of Tajikistan, with children from the joint marriage and living in the country for a long time. Such cases have been registered in Sughd in a number of areas: Kanibadam, Isfara, Ganchi and other districts. As a result, lack of these women's passports of another country and the inability to obtain a passport in Tajikistan due to lack of citizenship of the Republic of Tajikistan limits their access to various types of social protection and creates a host of other problems.

RECOMMENDATIONS

1. Revise Article. 127 of the Family Code of RT in the interests of child and bring into line with the Constitutional Law "On Citizenship".
2. Committee on Women and Family Affairs under the Government in conjunction with community associations and local authorities in identifying cases of statelessness of women married to citizens of Tajikistan and being long-term residents in RT and willing to obtain citizenship of the Republic of Tajikistan shall assist in preparing all necessary documents for citizenship.

ARTICLE 10. EDUCATION

The UN Committee's recommendations 14.17, 19, 27, 28, 30

Education is one of the main core components in assessing the human development index, poverty, access to social benefits, as well as in assessing the gender dimensions. In the early years of transition of Tajikistan, indicators of gender disparities in education fell abruptly, requiring close attention and specific actions by the state. A subsequent series of measures taken by the Government to enhance the role and status of women had some positive effects and, in particular, on changes in the educational field, but there is still a gender disparity at all levels of education. During the period of implementation of the state program "The main directions of state policy to ensure equal rights and equal opportunities for men and women in the Republic of Tajikistan for 2001-2010", conducted outreach to engage the girls in the study improved, information campaigns were carried out to build positive public opinion about the need to improve educational and professional level of women.

The recommendation of the CEDAW Committee to Tajikistan on the need to increase the marriage age from 17 to 18 years, according to the country's international obligations under the Convention on the Rights of the Child was fulfilled.

Temporary ad-hoc measures to attract young women to higher education - quotas for girls, are

systematically realized. A positive step of the Government in addressing the problems of girls, graduates of boarding schools, was opening a dormitory in autumn 2006 and joint with NGOs programs for their further vocational training and social rehabilitation.

Ministry of Education of RT, together with UNICEF conducted a pilot gender analysis of 92 textbooks, which makes it possible to develop and implement mechanisms for systematic gender analysis of textbooks for schools and universities at level of the Ministry of Education of RT¹⁸.

Gender Pedagogy Center was opened under the Academy of Education of RT, whose mission is to assist in promoting gender equality at all levels of education, starting from preschool institutions, with the possibility of academic analysis, understanding and the formation of the basic concepts and approaches of gender theory, and their adaptation to the national historical and cultural context.

At large over the period of 2002-2009, general education enrollment ratios at all levels (primary, incomplete secondary and secondary) both for boys and girls went up. Primary education enrollment ratios (grades 1-9) for girls and boys increased in 2008/2009 academic year compared with 2002/2003 school year by 4.9 and 2.6 percentage points and accounted for 95.2% and 101.0%, respectively. In 2008 secondary education enrollment ratios (grades 10-11) for girls and boys were 48.1% and 60.2%, respectively.

PROBLEMS

Unequal access of women and men to education is one of the major obstacles to gender equality in society. Gender dimensions show that only legislatively proclaimed equality of men and women in education is insufficient and equality of opportunities also serves as an integral component of resolution of gender-based education challenges.

Such negative trends as unequal access of boys and girls to different levels of education continue to dominate; the higher the level of education, the lower the representation of girls in enrollment; a significant decrease in the number of girls in upper grades of secondary schools, especially in rural areas and higher education establishments.

According to official statistics, if among students in grades 1-4 girls make up 48.1%, in grades 5-9 - 47.2%, and in grades 10-11 - 42.3%. Moreover, the representation of girls in grades 10-11 in a number of regions and districts is even below mean value.

Table 5. Number of students in grades 10-11 in the 2009-2010 academic year, by sex¹⁹

№	Region	Total number of students	Including girls	Share of girls (%)
1	GBAO	7119	3487	49,0
2	Dushanbe	16995	5948	35,0
3	RRP	32449	10682	32,9
4	Sughd	55145	26367	47,8
5	Khatlon	72271	31382	43,4
	In total	183979	77866	42,3

Attention is drawn to the fact that among urban students in grades 10-11 overall, compared to rural students, the proportion of girls is smaller (39.8% of urban school girls vs. 43.4% of their rural peers). In the capital of Tajikistan this enrollment rate for girls is even lower.²⁰

¹⁸ Gender Audit of Education in the Republic of Tajikistan. The Ministry of Education of RT and UNICEF, 2008

¹⁹ See: Vazorati maorifi Jumhuri Tojikiston. Machm'yi Omori soxai maorifi Jumhuri Tojikiston. Dushanbe, 2010, p. 77.

²⁰ Ibid, p.84.

Worrisome situation with school enrollment of girls studying in grades 10-11 is observed in such rural areas as Nurobadsky district (18.4%), Gornaya Matcha district (20.2%), Vahdat district (23%), Rudaki district (27, 9%), Matcha (28.5%) and Tavildara districts.

In recent years, a sharp rise of gender inequality in access to primary vocational education (PVE) has been observed. In the period from 2005 to 2009, the share of girls among the students of PVE institutions fell from 28.1% to 15.4%. In this period in the regions of RT the rates of vocational education enrollment of girls declined even more (in Khatlon region from 23.6% to 11.6%, in Sughd from 38.2% to 18.1%, in GBAO from 53.4% to 24.3% and in RRP from 17.6% to 11%).²¹

Unequal opportunities persist in women's access to secondary and tertiary education, compared with men, resulting in reduction of educational potential of women and preventing their further social development. In the 2009-2010 academic years, the proportion of girls in the total number of students was 29%.²²

The number of girls, school dropped outs, is growing and not only for economic reasons, but including as a result of early marriage. Unequal access to education for girls and boys in secondary school is the prerequisites of unequal access of girls to vocational education/training.

The results of studies in RT and analysis of school drop-out in the light of gender identified significant effect of gender stereotypes on the parents' attitude to education for girls and boys. For example, according to one survey, if among the causes of absenteeism of school boys such a reason as "he has enough education, which he has already received" was quoted by 10% of households, then for girls the percent of so responded households was beyond 44%.

Rural households in this aspect are more susceptible to gender stereotypes than urban ones: roughly 23% of the urban households named such a reason for school non-attendance of girls as "she has enough education, she has already received" vs. 54% of rural households that is about more than two times higher.²³

Equal access to education involves the removal of barriers that exclude for a number of social groups of women the opportunities that other groups have. These populations, above all, are girls and women, and children with special needs and requirements, people living in rural and remote areas, children of ethnic and nationality minorities and children not enrolled by school.

Disciplines on social relations of men and women, as stipulated by a strategic objective of the State program, are slowly introduced into the curricula of tajik universities and colleges: of the 35 universities only six integrated gender issues in the curriculum.

Despite the fact that the introduction of gender courses in educational institutions is officially enshrined in the State program "The main directions of state policy to ensure equal rights and equal opportunities for men and women in the Republic of Tajikistan", it usually happens at the initiative of individual teachers. In general we can say that, despite some efforts made, there is no systematic approach for the integration of gender mainstreaming in the educational process with some opposition to the implementation of gender education programs that can be explained either by lack of understanding or unwillingness on the part of certain forces in the university administrations.

²¹ See: Agency for Statistics under the President of RT. Education in the Republic of Tajikistan in 2010. Dushanbe, 2010, p. 30.

²² Ibid, p.49.

²³ See: Public Foundation "Panorama". Research report "Households in Tajikistan in the aftermath of the global financial - economic crisis". Dushanbe, 2010, p.60. In total 1500 households were interviewed in all regions of the country.

A functional illiteracy is growing, especially among women. Very few programs are being implemented to improve the educational level of women, in particular, no programs targeting girls and women, school dropped outs. NGOs are partly engaged in this type of activity but can not balance the required needs.

There is a concern about the neglect of gender issues in the education system at the level of goals and objectives of *the State Education Development Programme of the Republic of Tajikistan for 2010 - 2015*, approved by the Government of RT in April 29, 2009.²⁴ The endorsed program does set no goals to overcome gender inequality but even has no mention of the unequal access of boys and girls, young men and women to education. We hope that the final draft of the National Education Strategy in the Republic of Tajikistan for 2012 - 2020 years, which are currently forwarded for approval to the ministries and departments, keep all included gender approaches and aspects.

Control and prosecutor's oversight of the compliance with Law of RT "On Education" are inadequate. Supervision is not continued and often at the campaign level. If in 2005 there were 91 crimes of obstruction of receiving compulsory basic education, in 2008 only 25 cases were registered. In practice, the number of cases of obstruction of getting compulsory education by girls does not to be reduced.

There is an acute problem of access to education for women with disabilities. For example, according to the results of the study "Situation of women with disabilities in the Republic of Tajikistan", conducted in 2007, over 64% of women with disabilities have no education. Only 19.1% of all respondents have secondary education, 5.6% and 5.9% have secondary vocational education and vocational technical training, respectively. The number of those who have higher or incomplete higher education is 5.0%²⁵.

Unfortunately, the specific issues of education for children with disabilities are not fully reflected in national legislation and poorly accounted for in practice. Thus, there are two concepts: "*inclusive education*" and "*special education*". The legislation of RT in the field of education guarantees in accordance with international standards inclusive education for children with disabilities, allowing a child with a disability to attend pre-school institutions and schools of general type, where special enabling conditions must be created for these children. But despite that, so far Tajikistan applies the concept of "special education" when children with disabilities are educated and trained in a special institution²⁶.

According to the UN report "Achieving the Millennium Development Goals in Tajikistan" the country is unlikely to eliminate gender disparity in primary and secondary levels of education by 2015, as gender equality is not achieved at any level of education.

RECOMMENDATIONS

1. Audit of all adopted public policies and programs in education and bringing them into line with the actual situation and needs of the development of economy and society, including an analysis of the presidential program of quotas for girls above 15 years (1997-2012) and making recommendations for further improving the access of girls, especially rural, to all forms of general and vocational education.
2. Revitalization of local hukumats, educational bodies and public associations to conduct outreach to parents and local communities on the need for girls to get general and vocational education.

²⁴ State Program for Development of Education of the Republic of Tajikistan for 2010-2015

²⁵ See: Research report "Situation of women with disabilities in the Republic of Tajikistan". Dushanbe, 2007. Section "Education". A total of 572 people polled.

²⁶ See: NGO "Bureau on Human Rights and Rule of Law". Report on results of monitoring, "Respect for the rights of people with disabilities in Sughd", Khujand, 2011, p. 20.

3. Regular joint research conducted by education authorities and public associations on the issue of attendance of students in classes and clarification of the reasons for their non-attendance.
4. In accordance with the concept of Education for All, formulated at the World Forum in Dakar in 2002 an inclusive approach requires its development and implementation that emphasizes the need to reach groups who may not have access to education and training in connection with a disability.
5. Design and implement mechanisms for gender analysis of textbooks for schools and universities on the basis of gender mainstreaming in the system of criteria for evaluating textbooks. Integrate a gender component in the criteria for the examination of textbooks.
6. Strengthening a component for overcoming gender stereotypes on the roles of men and women in society, in public policy through introduced various forms of gender-based education at all levels of education for youth and adults.
7. Strengthening the role of media in information campaigns through the establishment of permanent broadcasts on television and radio and in print headings on overcoming gender stereotypes in education.
8. Improving the institutional mechanisms of social partnership between government and NGOs, between the structures of formal and informal education, including through the resumption of operation of the Coordinating Council of Gender Problems in Education at the Ministry of Education.

ARTICLE 11 EMPLOYMENT

The UN Committee's recommendations 29, 30

PROBLEMS

Issues of employment, in particular, women's part, continue to be one of the most acute and complex in Tajikistan. On the one hand the country has no sufficient financial resources to create decent jobs and on the other hand there is a surplus of labor force.

High fertility rates have an impact not only on the rate of growth of labor resources and their age structure, but also on the levels of economic activity and employment, especially, of women.

Employment rates are higher for men than women, and according to LFS-2009 was 45.0% for men aged 15-75 years vs. 33.9% for women. The rate of male employment is by 32% higher than the rate of female employment. Lower employment rates for women are associated with high fertility - a large number of children in the family often restrict employment opportunities for women-mothers. Women in such families do not work or are employed in jobs requiring no qualifications. Employment differentials of men and women are particularly noticeable by age group.

LFS-2009 revealed gender differentials of the employed population by personnel categories, which are mainly determined by the gender-based sector/industry segregation. The number of men-managers at all levels is almost 4-fold more than women-managers. Men - professionals of high qualification occupy such positions 1.5 times oftener than women and mostly men constitute skilled workers in industry (their number in this sector is 6.7 times higher). Women predominate in mid-level qualifications and there their share is by 10.2% higher compared to men. Most of them are the employees doing paper work (25.8%).²⁷

Legislation in the field of entrepreneurship does contain neither any specific provisions on gender equality nor discriminatory norms in respect of individuals of the same sex either. In practice, women constitute a minority of entrepreneurs, indicating if no actual discrimination but the rooted perception of woman as the paid labor force, incapable of self-management of business and real indifference of society and government structures to challenges of women's entrepreneurship.

That is why it is no accident the total number of individual entrepreneurs registered in the period from 01.07.2009 to 01.05.2011 at the tax authorities (after the introduction of the "Single Window" principle) of 121,254 people, out of which only 17, 863 or 14.7 % are women entrepreneurs.²⁸

Clearly, special measures should be adopted to create equal opportunities for men and women, and this should be reflected in policies for entrepreneurial activity development in general. Unfortunately, in making the policy of socio-economic level gender mainstreaming is most often ignored. For example, the Concept of Entrepreneurship in the Republic of Tajikistan until 2015, approved by the Government of RT (December 3, 2004 № 469) or the Program "Improving the business environment - 200 days of reform" endorsed in July 2, 2009 are written in gender-neutral tone and absolutely does not reflect and are not intended to support women - entrepreneurs, including training of women entrepreneurs, as well as programs aimed at improving education of women. From this we can assume that until 2015 women are left out from public interest for the entrepreneurship development.

If the Government is interested in advancing women entrepreneurship, at stage of making policies and programming they need to take into account these issued and include the provisions on training

²⁷ Agency for Statistics under the President of RT. "The situation on the labor market in the Republic of Tajikistan" as a result of the Labor Force Survey in June-July 2009. Dushanbe, 2010, p. 94

²⁸ The data of the Tax Committee under the Government of the Republic of Tajikistan

and support of women entrepreneurs, particularly in form of information and technology supply, and delivery of special training programs.

According to the legislation of RT, wage differentiation based on sex is prohibited. However, due to the current occupational segregation, women's wages are lower than men's in all sectors (except forestry). At the end of 2007, women's wages were 131.07 TJS compared to 231.36 TJS of men's pay and made up 56.7% of men's wages.

Compared with 2001, the ratio of the average nominal wage of women to men's wages increased slightly from 52.5% to 56.7%. However, for a variety of industries, this indicator went down considerably: in health, physical education and welfare by 21.6%, in information and computing services by 18.3%, in the communications industry by 14.2%; in agriculture, employing most women this ratio remains approximately at the same level (see Table 10).

In spite of some work carried out by ministries and agencies, a full-fledged system of professional development and retraining has not yet been created. Formation of the labor market depends not only on demand, supply and quantity of labor, but also on "quality" of employees. With the restructuring of the economy, modernization, introduction of new information technologies, etc. it is very important for the employee to be able to upgrade their skills or be retrained to acquire new knowledge and skills. In addition to training through educational institutions (secondary vocational, higher, vocational technical) enterprises and institutions should regularly and routinely carry out advanced training and retraining of workers. This is especially important for women because they are at a sufficiently long period of maternity leave and child care. However, because of not understanding the significance of the problem and lack of financial resources the offered forms of training and number of seats are limited.

Economic and social crisis and high unemployment rate among men, contributing to decline in living standards of people in Tajikistan, stimulated female labor activity. Labor activity gives rise to social mobility of women population that leads to alteration of traditional division of labor and growth of women's economic activity, particularly in informal labor market²⁹.

To find job is the hardest thing for those having no specialty, specialized secondary or higher education. For women, these problems have been exacerbated by worries about family and children care, which complicates selection of good work. Women are forced to engage in any work, just to feed their families.

The growth of women's participation in the informal sector is due to many factors: the low level of income in households, unemployment of men, lower levels of education of women themselves, highly competitive labor market; lost of a bread-winner during the Civil War or as a result of male migration to work in other countries and others

Adequately assess the extent of participation of women in *the informal sector* is difficult, as well as the scale of the sector as a whole. According to LFS-2009 mainly informal employment is widespread in trade (95.3% of the total employed in this activity), construction (91.2%), hotels and restaurants (81.0%), transport (70.8%) and non-governmental organizations (69.1%). 68.1% of young people aged 15-29 years are employed informally. Informal employment of men is higher and amounts to 60.4%. Informal employment of women is 37.4%.

A group of women entrepreneurs, trading on the open market in Tajikistan, requires attention from government bodies and public associations. According to statistics, only in Sughd more than 80

²⁹ According to the survey, "Strategies for survival of families in Tajikistan" (ILO, CARE, 2003), the majority of respondents live mainly at the expense of the informal economy, which includes an additional (informal) work, work on the plot, the work of migrant workers (mostly illegal), micro-credits of international organizations

markets operate with 14,975 entrepreneurs, including 12,475 women, who account for 83.3% of individuals working in the markets. For many of them trade on the open market is the only way to support themselves through gainful employment.

Ability to trade in small volumes mitigates the problem of employment and for many women makes it possible to survive. Trade from the counter, with a tray or on the ground and on street has become a common economic behavioral model for many thousands of Tajik women, who have lost work and income security. For the bulk of them it is not a voluntary choice, but the result of coercive environment. Basically it is vulnerable populations without sufficient capital and any administrative resource to have other forms of business and permanent trade or production.

Trading in the open markets - it is quite hard work, in incredibly difficult conditions. Women are not immune either from cold and heat, or from arbitrariness of the market owners and inspection bodies, susceptible to disease, violence and threats, their social protection is inadequate. On average, women, who trade on the market, have a working day that lasts 10- 12 hours, seven days a week, and almost constant fear for the loss of spot in the market or confiscation of goods. The main problems of micro entrepreneurs include: inaccessibility of trading places, high rent fees, extortion, and lack of potable water, poor lighting, poor sanitary conditions and many other things.

Many men have abandoned the sphere of trade in the markets because of declining revenues and preferred labor migration, and their places were occupied by women. The profitability of trading on the open market has fallen significantly. In recent years, consumers are more likely to buy food and goods in the stores, organized retail trade, than in the bazaars and markets. Price advantages in open markets are reduced with the growth and development of the major suppliers of goods and trade in the form of stationary stores. Today, according to statistics, women constitute over 75% of workers at the open markets of Tajikistan.

A particularly vulnerable group of unprotected women-micro entrepreneurs in the market is spotted. These are women selling vegetables, herbs, milk, eggs, bread, and essential commodities. Many of them are not registered as individual entrepreneurs because of the high cost of patent, irregularity and seasonality of the business. In many ways, they sell output surplus at the household level. Often this category of women does not have a permanent point of sale, has been operating in places not intended for trading - it's along the road, on sidewalks, in the aisles. They also stressed the problem of complete vulnerability to abuse by the market administration and police in sweeping from the street vendors. Women complained that mopping up proceeds in rough manner – overturning the goods and women have huge losses from the damage to goods, hear the threats and experience abuse.

The identified problems concern the working conditions of women-entrepreneurs, the problems of sanitary-hygienic norms, lack of drinking water, personal safety and security of goods in the six markets studied.³⁰

Experts note the significant role of informal employment in the life of Tajik women. This activity includes work associated with the provision of food, as well as small business and wage labor in the formally non-registered enterprises. Participation of women in the informal sector leads to significant negative consequences, including:

- lack of job security and inadequate social protection;
- prevalence of severe forms of labor;
- low wages;
- non-participation in the pension system, because the period of employment in informal sector is not taken into account when calculating seniority that determines the amount of pension;
- lack of opportunities for development and investment in human capital.³¹

³⁰ See: Report of the National Association of Business Women of Tajikistan on the results of the study "Secure labor markets and cross-border trade for women in Tajikistan." Dushanbe, 2011

However, a number of planned in the state programs actions contributing to solving the problems of gender inequality in the economy remained unfulfilled. In particular, virtually nothing has been done towards the promotion of non-working women in the performance of home-based work for the production of national goods, consumer goods, and so on. In districts, reception and sales centers for women's produce were not organized. So far legal regulation of home work has not been developed.

The Committee on Women and Family Affairs under the Government of RT received many complaints about the selection process and the distribution of presidential grants. There is a lack of transparency and openness, the results of the selection are not made public, the activities of entrepreneurs on the impact of grant implementation are not monitored.

Problems of women's employment and women entrepreneurship development in no small part relate to non-competitiveness of women. One of the major factors that reduce the potential of women in the labor market is a lower level of education.

According to LFS-2009, the proportion of women with vocational education is more than two times lower as compared to men (see Table 6). However, the educational level of women significantly affects their economic activity and advancing in employment.

Table 6. Level of education of economically active population aged 15 -75 years, according to LFS - 2009 (in %)³²

Level of education	Total	Urban	Rural	Men	Women
Total	100,0	100,0	100,0	100,0	100,0
Higher	14,4	18,7	8,5	29,6	9,0
Incomplete higher	0,9	1,1	0,6	1,8	0,5
Secondary vocational	6,2	5,7	6,9	8,8	5,3
Initial vocational	8,0	12,8	1,5	8,0	7,9
Have vocational education	29,5	38,3	17,5	48,2	22,7
Secondary (complete)	52,7	47,9	59,0	42,5	56,2
Basic general	14,4	11,5	18,2	7,1	16,9
Primary	2,8	1,8	4,2	1,7	3,2
Do not have primary education	0,7	0,4	1,1	0,5	0,8

The scope of external labor migration is growing; according to official sources, the number of labor migrants in 2004 was estimated at level of 400 - 420 000 people vs. about one million people in 2009.³³

In recent years, in Tajikistan not only the growth of female labor migration, but also the aggravation of gender related issues in external labor migration. The growth of female labor migration was contributed by: significant deterioration in financial position of households, exit of a large number of men to work, termination of contacts and relationships with families by their husbands and the establishment of second families in Russia, etc.

Absence of the established accounting system of migrant workers and representative sample studies makes it difficult to adequately estimate the scope of female labor migration. According to the

³¹ See: Overview of gender issues in Tajikistan. The World Bank, Social Development Division, Europe and Central Asia - Washington, D. Colombia, March 2005 - pp. 34-35; Gender mainstreaming in poverty reduction strategy. Tajikistan: Country Gender Assessment. - The Asian Development Bank, May, 2006 - pp. 46-48.

³² See: The situation in the labor market in the Republic of Tajikistan. As a result of Labour Force Survey, June-July 2009, p.114

³³ See: International Conference. Problems of Labor Migration: Realities, Trends and Forecasts, Dushanbe, 2004, p.16; See Digest Press. Number 5 (736), January 29, 2009, p.8

migration card-based account in 2008, among those who left on their own seeking jobs outside the country, women made up 12.6%. Given these figures and expert opinion, as well as the results of numerous studies, including household surveys of the district migration services, it can be assumed that in 2008 the share of female labor migrants from Tajikistan is not higher than 15%-20%. A regional variable acts as differentiating factor for the scope of female migration.

According to a study conducted by Public Foundation "Panorama", more than half of women surveyed - migrants went to work repeatedly. Despite the fact that some women began to travel regularly for work in 1993, the peak of female migratory activity can be seen after 2005 and accounts for the period of 2005-2008 years.³⁴

The major concerns of women-migrant workers should be as follows:

- unpreparedness of women-migrant workers to move away for work;
- lack of social and legal protection due to the prevalence of illegal employment, including lack of labor contracts, health insurance (insurance policies) resulting in numerous violations of rights and freedoms;
- low level of professional qualification;
- low awareness and legal literacy;
- lack of a range of skills and professional background to get adapted to new environment of stay, including lack of or poor spoken skills of languages of host countries;
- problems of children staying with parents-migrants in the host country or left at home.

The survey results show that a wage of migrant women is at the average lower compared to members of the family: women got US\$573.7 dollars per month while men – US\$755.7. The range of migrant women's pay varied significantly from \$231.9 to \$1083 per month on average for 10% of the lowest and highest paid workers, respectively.

Despite the difficult working conditions living outside the country and the global economic downturn, the women's migration plans keep focusing on the continuation of labor migration. Only 14.6% of women no longer want to go to work, while 13% have not yet decided on the plans.

The survey revealed a wide range of needs and requirements of migrant women, which are almost identical to the overall needs of migrant workers and related to legal and professional training before departure, for employment in the host country, access to different types of social assistance, protection of their rights, money transfers and others. But there are specific needs of migrant women particularly connected with their children, health, and the need for outreach local communities to overcome their stigmatization.

Employment remains one of the most pressing issues for people with disabilities (PwD). The tajik legislation does not prohibit employment of PwD from any three groups of disability but in reality only PwD of the 3rd group of disability can find job and be employed in contrast with those from groups of disability 2 and 1. The latter can not be registered as the unemployed because their disability certificates say "incapacitated". Therefore, people with disabilities of Groups 1 and 2 have to be content themselves only with pension. This situation prevails despite the fact that the Tajik legislation allows labor of disabled people of all three disability groups.

Studies in the country in recent years suggest that a very unfavorable employment situation is developing for disabled women, and the existing societal environment can not give them appropriate opportunities. In the Soviet era a number of large and small specialized enterprises for the disabled

³⁴ Here and below we used the results of research conducted by PF "Panorama" on the order of UNIFEM Rights of women migrant workers: assessment of the situation in the CIS countries. Report on Tajikistan. Dushanbe, 2009

operated, but to date they are not functional. So year after year, the number of unemployed women with disabilities is growing.³⁵

According to the survey conducted in 2007, beyond 81.7% of women with disabilities were unemployed (only 572 women were interviewed).³⁶

As a result of monitoring conducted in 2010 by NGO "Bureau for Human Rights" in partnership with the League of Women with Disabilities, of the 164 disabled respondents only 60 are working (38 and 22 women and men, respectively). Women work mainly seamstresses (5) and in the retail trade (12) mainly selling plastic bags, flat bread, newspapers and other something similar. The majority of respondents found their work themselves or through relatives and friends. Some of the respondents found jobs through public organizations of disabled persons. Only three PwD were assisted in finding employment by the state employment service (Isfara).

104 PwD of the total number of respondents are jobless. The main quoted reasons are the state of health, then lack of working experience (almost women) and non-satisfaction with wage. For 38% of not working PwD a matter of employment is extremely relevant, and they are in search of work, another 15% are retired but need additional income, and 35% do not need a job.³⁷

The system of job quotas for PwD was not realized in practice. Persons with disabilities are still considered undesirable workers and the burden on employers. Virtually the Employment, Social Protection and Migration Agency grant no assistance to PwD in their employment. According to the poll of employed PwD, many of them found a job on their own or through friends, relatives and NGOs of disabled persons. Since many PwD do not have relevant education and skills, even after getting a job, they receive a small salary, and many of them work on the "unpopular" works - newspaper carriers, vendors of packages and other small goods in local bazaars and etc.

Almost half PwD (45%) believe that the system of job quotas may solve the problem of employment of people with disabilities while 24% of them consider the quota system a mere formality, though the views of the women interviewed about the system of job quotas for PwD were equally divided: one half with a positive view and the other half not sharing this optimism³⁸.

RECOMMENDATIONS

1. Develop by the state a set of documents providing for measures to stimulate the transition of women from the informal economy into the formal economy (through tax breaks in the first three years of operation, the system of access to credit and microcredit facilities, the provision of consulting and information support, training new skills in women and refresher training and other measures).
2. Develop and adopt of State programs to support women entrepreneurs. Implement a package of measures aimed at promoting women's entrepreneurship – setting up extension service system, including specific information campaigns to support entrepreneurship, consulting assistance, support the development of a network of business schools and business incubators, etc.
3. For attracting women in individual entrepreneurship expand the list of activities subject to taking out a patent for an individual class of business.

³⁵ See the results of the study "Situation of women with disabilities in the Republic of Tajikistan". Dushanbe, 2007
NGO "Bureau on Human Rights and Rule of Law". Report on results of monitoring, "Respect for the rights of people with disabilities in Sughd", Khujand, 2011. Study and Report has been prepared with the financial support from UN-Women

³⁶ See the results of the study "Situation of women with disabilities in the Republic of Tajikistan". Dushanbe, 2007, p. 24

³⁷ NGO "Bureau on Human Rights and Rule of Law". Report on results of monitoring, "Respect for the rights of persons with disabilities in Sughd." Khujand, 2011, p.54

³⁸ Ibid

4. Scale up vocational training for women on occupations demanded in the labor market. Expanding the list of specialties offered at the training centers for adults under the Ministry of Labour and Social Protection.
5. For improving the competitiveness of women entrepreneurs pay particular attention to creation of new business schools, centers for development and support of small and medium-sized businesses, modular training centers for women in occupations in high demand in the labor market, increasing access to information (marketing) and modern technologies, etc.
6. In order to overcome the impact of occupational gender-based segregation in allocating and increasing the Presidential quotas for girls for such specialties as law, economics and finance, management and others.
7. Increase the effectiveness of microcredit programs for women by strengthening their targeting, transparency, expanding enrollment of poor women by micro-credit programs (especially in rural areas).
8. In order to protect the interests of women entrepreneurs who trade in open markets and carry out cross-border trade:
 - ✓ For tax authorities make the differentiation in determining rates of payment for a patent taking into account the irregularity and seasonality of business. Establish a single day (currently one month) as a settlement period of payment for a patent).
 - ✓ Develop the "Uniform rules and order of movement of individuals, goods and vehicles intended for trading at cross-border trade points/settlements".
 - ✓ Update State Standards and Rules governing the standards of workplace arrangements (outlets), and sanitary standards and register in compliance with the relevant laws and regulations of RT. Many established standards do not meet the conditions and requirements of market economy, do not have the registration of the Ministry of Justice of RT and are not included in the Unified Roster/Register of regulatory legal acts of RT³⁹.
9. Fostering an environment for the employment of women with low competitiveness (disabled people, large families, the heads of single parent families, female labor migrants and others). Develop a system of incentives encouraging employers to use labor and recruit vulnerable populations.
10. In the development of guidelines and actions of government programs and policies on labor migration apply gender approaches that take into account not only the different impact of labor migration on women and men, but the different needs of men and women.
11. In the framework of measures to address gender issues of labor migration provide a comprehensive approach and use three types of strategies: information, learning strategies and a strategy of alternatives to informal networks and intermediaries. Focus efforts on reducing risk factors and strengthening protective factors of women - migrant workers in order to increase the effectiveness of the various institutions working with prospective migrant workers.
12. In order to raise awareness and legal literacy of women - migrant workers:
 - ✓ Expand network and programs on creation of information - resource centers using varied forms of activities: dissemination of information materials, holding workshops and training sessions, showing theatrical performances, printing of posters and putting billboards.
 - ✓ Scale up the programs on individual work with women utilizing the capacity of informal community leaders, women-migrant workers, and peer-to-peer training of trainers among women in the communities.
 - ✓ Promote the development of a national gender sensitive system of prior-to-departure training and orientation for migrant workers. Expand creation of training centers, ad-

³⁹ The proposals of the National Association of Business Women of Tajikistan.

hoc courses for potential migrants with separation of women's groups on demanded professions in host countries.

For improving access to employment⁴⁰:

13. Legislatively develop and adopt new criteria for ranking disability in accordance with international standards and eliminate the working capacity criteria in the definition of disability.
14. Develop a program on employment of PwD in RT.
15. Amend the tajik tax laws and "Rules of the issuance of a patent and certificate of registration as a private entrepreneur to individuals engaged in individual entrepreneurial activities without forming a legal entity" with the aim of introducing preferential taxation of PwD - individual entrepreneurs; need to introduce incentives for PwD for taking out a patent and license for business activities.

ARTICLE 12. EQUAL ACCESS TO HEALTH CARE

The UN Committee's recommendation 31, 32

In 2007 - 2011 the Government of Tajikistan continued reform of the health care system and adopted a number of strategic and program documents, including the National Health Strategy of the Republic of Tajikistan for the period of 2010-2020 (August 2010), National Program for prevention, diagnostics and treatment of malignant neoplasms in RT for 2010-2015 (October 2009) and others.

The adopted documents draw attention to the problems of gender inequality in access to health services. Thus, the National Health Strategy of the Republic of Tajikistan for the period of 2010-2020 notes that "Gender standards and values affect actual women's access to health services and information, which in turn has explicit impact on reproductive, maternal and child health. These prevalent standards also in some sense eliminate men from access to health services and reinforce unhealthy lifestyles. The health sector must be responsive to gender issues and more actively discuss the inequalities in society".

In 2008 and 2010 Decisions of the Government of RT approved the State Guarantees Program for 2008-2009 and 2010-2011 to ensure delivery of primary health care services in the pilot districts of Tajikistan.

The State Guarantees Program defines the types, scope and conditions of provision of primary health care services at public health facilities in cities Sarband, Nurek and Tursunzade and districts Dangara, Spitamen, Rasht, Shahrinav, Varzob free of charge and on the co-payment scheme (participation of the public) in accordance with the allocated financing for health care to the districts for 2010-2011 from the state budget, as well as available donor resources for implementation of relevant programs in the field of public health.

This program defines a contingent of the population and patients, as a privileged category entitled to free health care as provided by this Program. The program stipulates the provision of emergency medical care on a free of charge basis, including supply of drugs, for all categories of the population in

⁴⁰ From the report on monitoring results of NGO "Bureau on Human Rights and Rule of Law". "Respect for the rights of persons with disabilities in Sughd." Khujand, 2011

conditions that threaten the life of a citizen, or his/her surrounding persons, caused by sudden illness, accidents, injuries and poisoning, complications of pregnancy and childbirth⁴¹.

PROBLEMS

However, the program of state guarantees (PGG) for public health care is only implemented in 10 pilot districts. But health care facilities even in these districts have a considerable number of problems that limit people's access to health services. Along with the official co-payments from patients, informal payments still stay; often patients have to buy themselves a number of drugs. The expectations of medical personnel in a significant increase in salaries with the introduction of PHG are not met.

Access to health care for the general population remains an urgent issue because of lack of funds. Due to the fact that informal payments are more and more introduced and spread along with self-financing schemes and expanding the presence of the private sector, the population turned to become not protected from the effects of poverty on their health.

Not accidental that official statistics report decline in uptake.

The results of the studies show that many households lacking funds do not seek medical care and have to resort to self-treatment. Among those who said that they needed medical care but did seek for it, 58.1% of household members engaged in self-treatment using traditional and nontraditional methods of treatment. According to the household survey, in 2010 about 28% of households had to borrow money for the purchase of medicines and treatment of their household members and compared to 2009 the proportion of such households increased by 1.8 times.

In this case, 5.1% of households noted deteriorating financial situation of their households, compared with 2009, due to expenses incurred in relation to the treatment of family members.⁴²

Medical services having become largely paid for are not affordable to the poor, which entails the changed morbidity structure. Of particular concern is the growth of "social disadvantage" diseases, such as tuberculosis. According to official figures, tuberculosis incidence rate was 78.5 per 100,000 population and compared with 2001 that rate had risen by almost half. In 2010, the mortality rate from tuberculosis was 8.7 per 100,000⁴³.

Despite the decline in the proportion of not attended home births from 23% in 2005 to 12.3% in 2010, in some areas of Tajikistan prevalence of unattended home birth rates are still very high (for example, in Khovaling district it is 69.8%, in Tavildara district - 65.3%, Jirgital - 62.7%, Rasht - 65.2%, Gornaya Matcha - 60.9%)⁴⁴.

Maternal mortality rates keep staying high in Tajikistan. According to the survey of infant, child and maternal mortality conducted in 2010, ratio of maternal mortality was 86⁴⁵.

Due to the fact that the National report details the Government's policy for reducing infant and maternal mortality, in the alternative report, we will not dwell on these areas.

⁴¹ See: Decision of the Government of RT "On approval of the Program of state guarantees on provision to population of primary health - care for the pilot districts of Tajikistan for 2010-2011", dated as February 12, 2010, № 52.

⁴² See: Public Foundation "Panorama": Research report "Households in Tajikistan in the aftermath of the global financial - economic crisis (based on Phase 2 of the study)", Dushanbe, 2010. A total of 1500 households were surveyed in all regions of the country.

⁴³ Agency for Statistics under the President of RT. Health care in RT. 2011, p. 9

⁴⁴ Center for Health Statistics and Information. Public health and health care in the RT .2010, p. 293.

⁴⁵ Agency for Statistics under the President of RT. Health care in RT. 2011, p. 7

The problem of growth of malignant tumors is getting more actualized. One of the major causes of death in the country is malignant tumors. Mortality from cancer goes the second after mortality from cardiovascular diseases. In 2010, the proportion of deaths from circulatory diseases and malignant neoplasms was 48.3% and about 8%, respectively. In 2000, the mortality rate from malignant neoplasms was 30.9 vs. 33 per 100,000 in 2010⁴⁶.

The growth of malignant diseases among women is a particular concern. In 2005 the number of female patients with the first time diagnosed cancer was 29.7 per 100,000 compared to 40.7 per 100,000 in 2010. In men, these figures were 26.5 and 32.6, respectively. According to official statistics, in 2010, malignant neoplasm was registered in 132.4 and 86.4 women and men per 100,000, respectively.⁴⁷

As official health statistics report, in 2010 in the structure of oncology pathologies the first positions were occupied by cancer of the cervix, stomach cancer and breast cancer: cervical cancer (7.2 per 100,000), stomach cancer (5.4 per 100,000) and breast cancer (4.7 per 100 000).⁴⁸

The rate of new reported breast cancer and cervical cancer cases increased from 6.6 in 2005 to 9.8 in 2010 and from 6.3 in 2005 to 9.7 in 2010, respectively.⁴⁹

Tajikistan launched the National Programme for prevention, diagnostics and treatment of malignant neoplasms for 2010-2015, but proper monitoring of progress in implementation of this program is not conducted and as a result the planned interventions are not timely fulfilled. As example, Target 2 of the adopted program "Improving quality and access to health services for early cancer detection at level of primary health care and hospital sector through wide enrollment of the population in preventive examinations, development and implementation of evidence-based medicine screening programs" is not achieved as a series of measures was scheduled but not carried out. These measures include:

- ✓ Develop treatment protocols for priority malignant neoplasms by 2010;
- ✓ By 2011 develop regulating documents for systematic screening of priority malignant neoplasms (cancer of breast, stomach, cervix, skin, lungs, hematopoietic and lymphoid systems) with the definition of age groups and the frequency of examination, and material support;
- ✓ By 2012 open in the National Cancer Research Center a palliative care department;
- ✓ By 2012 in two pilot areas implement a system of systematic screening for priority malignant neoplasms.
- ✓ Hold refresher courses for over 70 percent of PHC professionals on diagnostics of malignant tumors by 2011.

According to researches, the progressively growing number of advanced breast cancer cases contributes to the increase in women's mortality rates from this disease. Over 75% of patients already come to oncology clinics with III-IV stages of disease when a cure is difficult. Breast cancer is ranked first in female mortality from malignant neoplasms.⁵⁰

The main causes for neglect of breast cancer in Tajikistan are:

- Low diagnostics capacity and the deficiency of modern equipment for the early diagnosis of breast cancer.
- Low level of knowledge in the field of oncology and reduced oncology alertness of primary health care workers. Ignorance of the proper technique of breast examination.

⁴⁶ See: Agency for Statistics under the President of RT. Health care in the RT. 2011, pp. 13-14

⁴⁷ See: Agency for Statistics under the President of RT. Health care in the RT. 2011, p. 21

⁴⁸ Center for Health Statistics and Information. Public health and health care in RT .2010, pp. 344-345

⁴⁹ See: Agency for Statistics under the President of RT. Health care in the RT. 2011, p. 31

⁵⁰ The materials are presented on the results of the study of NGO "Lutfi " and PF "Panorama". Mirzoyeva S., Bozrikova T. Women's health and prevention of breast cancer. Dushanbe. 2001. Mirzoyeva, S., Bozrikova T., Bazidova Z. Palliative care in Tajikistan. A report on the survey results. 2006

- Lack of preventive examination and screening for breast cancer detection.
- Low awareness of women population about this disease. Ignorance of women about breast self-examination technique.
- Low living standards and reduced access to health care. Due to high cost of treatment a significant portion of women do not seek counseling and medical care.

In recent years there is a significant increase in the number of HIV-infected women. If in 2005, 16 new HIV cases in women were registered that accounted for 9.2% of all reported HIV cases in Tajikistan, then in 2010 already 206 HIV cases (or 20.5%). Of particular concern is a six fold growth of reported HIV cases in pregnant women: 11 cases in 2007 vs. 63 cases in 2010.⁵¹

Non-governmental organizations working with PLWHA fix the problem of PLWHA's access to free medical care. Although Article 12 of the Law "On Combating Human Immunodeficiency Virus and Acquired Immunodeficiency Syndrome" regulates free admission to all types of qualified and specialist-based medical care, and provision of medicines, in practice, this article of the law has no mechanism ensuring implementation of these provisions, and PLWHA, in particular, WLWHA are disadvantaged having no access to free medical care. None of the hospitals in the country, besides AIDS centers and a specialist unit for PLWHA in City Infection Hospital does provide free medical care to this category of patients.

Results of interviews showed that seeking care in health facilities is a painful topic for WLWHA as attitude of the relevant medical staff to them is commonly quite discriminatory. Here there two torques. 70% of respondents poignantly noted that medical secrecy is elementary not observed, and disclosure of HIV status without their permission escalates their vulnerability and self-stigmatization of these women. Particularly, this phenomenon is very common in rural areas, where the case becomes known because of compact living of the rural population.

Then, fear of failure to obtain any medical services puts a dilemma to women living with HIV whether disclose their status or not. This happens due to primarily misunderstanding, rude attitude, endless referrals, disgust or fear of medical personnel to contact the patient, lack of relevant knowledge and low awareness and fear of potential risk of getting infected. Based on observations of women, most of them faced with a situation where medical staff incorrectly classified the disease, for example, not distinguishing HIV from AIDS.

Article 12 of the Act governs the protection against discrimination, including access to treatment. However, in the survey conducted among 80 WLWHA, replying the question "In what settings are you experiencing to a greater extent behavioral (verbal and nonverbal) discrimination?" 84% of respondents, PLWHA, said that they experienced discrimination in health care settings and in the social institutions (22, 5%). Also responding the question "What do you think, where it would be required to disclose your status?", only 7.5% of WLWHA answered that they would have to disclose it in health facilities, again witnessing their low trust to medical personnel. Responding the question "Where do you disclose your status?" women quoted NGOs (90%) and HIV-service health care settings (62.5%) primarily due to more tolerant attitude and non-discriminatory approach of the staff of these organizations to women living with HIV.

It is worth noting that in 2008, in Tajikistan the NGO "Center for Mental Health and HIV/AIDS" opened a Medical Center, which annually provides free medical services to 360 PLWHA, including over 200 women and children. This is the only medical center, operational under the NGO and implementing Article 12 of the Law "On Combating HIV" through its own funding.⁵²

⁵¹ See: Agency for Statistics under the President of RT. Health care in RT. 2011, p. 27

⁵² This material is provided by NGOs "Center for Mental Health and HIV / AIDS", "Tajikistan's Network of Women Living with HIV" and "Guli Surkh".

RECOMMENDATIONS

1. Extend the program of state guarantees to the entire country providing the population with primary health care services with allocation of adequate funding from the state budget and extra budgetary sources.
2. Regularly monitor and evaluate implementation of the national cancer control program and create a Breast Cancer Prevention Center.
3. Work out a model for the integration of HIV voluntary counseling and testing in reproductive health services for improving the effectiveness of interventions to raise awareness and changing behavior of target groups.
4. Activate the various forms of social partnership between all relevant actors - government, nongovernmental and international organizations in joint projects to increase women's access to health services, to conduct researches in the field of health care.
5. Clear-cut mechanisms for execution of Law "On the Human Immunodeficiency Virus", in particular, article 12, to provide access and guarantee the provision of high quality and free medical service to WLWHA and their children⁵³.
6. Develop a package of measures to increase knowledge, improve attitude of health workers to PLHIV, overcome stigma and discrimination through scaling up training programs in universities and colleges and Post-graduate Medical Institute for health workers.
7. Need to develop a system of service uptake by different age groups of girls and women to prevent HIV, maternal and child mortality through the centers of healthy lifestyles and reproductive health centers.
8. Establish control over home nursing of infants born to WLWHA by government agencies, involving country NGOs.
9. Actively involve in the implemented programs religious leaders and other opinion leaders in rural areas for prevention of HIV, maternal and infant mortality and contraceptive use.
10. Establish a system of compulsory medical check-ups for girls and women in different periods of life to prevent and early detect social diseases and to provide timely care and support.
11. Intensify efforts for early detection of HIV through the VCT before marriage with the informative consent of the HIV status of each spouse.
12. Conduct mandatory screening of WLWHA in different lifespan periods to prevent breast cancer and cervical cancer as one of the most common cancer diseases among WLWHA, leading to high mortality.
13. Enhance the involvement of the media to promote healthy lifestyles, in prevention of sexually transmitted infections, cancer and HIV / AIDS, as well as reducing stigma and discrimination against WLWHA through amending the Law "On Advertising" and the development of public advertising in the country.

ARTICLE 13.SOCIAL AND ECONOMIC BENEFITS

According to Article 35 of the Constitution of the Republic of Tajikistan, every citizen shall be guaranteed the right to employment and social protection. In the framework of the national social protection system, the following areas of welfare social security and social protection are practiced:

- ✓ old-age pensions, invalidity pensions, benefits in connection with the loss of a breadwinner or survivor benefits and seniority pensions,
- ✓ social pensions;
- ✓ temporary disability benefits, maternity benefits, unemployment benefits and others;
- ✓ child, the elderly and disabled support and service in the residential institutions;
- ✓ social care at home;

⁵³ Paragraphs 1 and 2 are provided by NGOs "Center for Mental Health and HIV / AIDS", "Tajikistan's Network of Women Living with HIV" and "Guli Surkh."

- ✓ medical-social examination/assessment: rehabilitation of disabled people, prosthetic-orthopedic and health-social care;
- ✓ fringe benefits to certain categories of individuals for labor, service consumption and others.

The main types of social benefits in Tajikistan:

- ✓ temporary disability benefits;
- ✓ benefits to citizens with children;
- ✓ unemployment relief;
- ✓ social funeral allowance;
- ✓ payments to various categories of citizens, for example, victims of natural disasters from poor families;
- ✓ low-income families.

Approach to unemployment benefit entitlement is revised. Now individuals shall be eligible to this benefit if he/she made contributions to the Social Welfare Fund of RT. Previously, under the Law "On Employment" (1991) the unemployed, with no work experience and seeking job for the first time, and the unemployed having a long employment break (more than one year) can receive doles equal to the minimum wage (60 TJS in 2008). That is, the principle designed-in in the Law "On State Social Insurance" is realized. It means that funds of a system of state social insurance may be used only by those who made contributions to the Social Welfare Fund within the period prior to job loss.

PROBLEMS

Tajikistan adopted about two dozen laws that meet international legal standards and regulate social development of the State⁵⁴. Decrees of the President of RT have repeatedly raised the minimum wage and increased pensions. The Poverty Reduction Strategy was developed and approved.

However, legislative and regulatory framework in this area still needs improving. It should be taken into consideration that the capacity of financing the social sphere from the state budget is quite limited.

Tajikistan is a poor country and social assistance plays an important role in the social protection system. In 2009, the budget for social aid totaled 10 million U.S. dollars and made up 0.2% of GDP of Tajikistan. Public spending on the main social assistance programs accounted for:

- U.S. \$ 4.87 million for compensation for the electricity and gas and accounted for 0.10% of GDP of Tajikistan and U.S. \$ 2.86 million or 0.06% of GDP in Tajikistan as compensation to families in need. The Government also built into the budget 900 thousand U.S. dollars to assist those returning to the place of permanent residence.

According to the World Bank, social assistance accounted for less than 3 percent of per capita monthly consumption of 20% of low-income population, which is the lowest in the countries - members of the World Bank's ECA region.

Article 12 of the Law of RT "On state pensions and insurance", which came into force in January 01, 2011 says that the basic pension is set annually by the President of the Republic of Tajikistan in accordance with the indicators, stipulated by the Law of RT "On State Budget of the Republic of Tajikistan". Presidential Decree (№ 894, as of 22 June, 2010) since July 01, 2010 established the minimum wage and minimum pension of 80 TJS per month.

Article 6 of the Act outlines the pension system, which consists of: insurance pension provision and state pension provision. The individuals, who are insured in the state pension insurance system, are entitled to pension insurance provision. As a rule, they are those who made mandatory payments from

⁵⁴ Law of RT "On Employment", "On social protection in the Republic of Tajikistan", "On social partnership, agreements and collective contracts", "On pension provision of citizens of the Republic of Tajikistan", "On indexation of income with the increase in prices for consumer goods and services", " On State Social Insurance ", etc.

their income to the Social Protection Fund. A state pension is a monthly long-term payment, appointed as the main source of livelihood for categories of individuals established by the Law "On Insurance and state pensions". For the individuals, who have not received the entitlement to insurance pension in accordance with this Act, the State guarantees public pension provision in the manner prescribed by this Law (Article 21).

It should be noted that Article 7 of the Act states that the basic pension (minimum) is established and is determined proportionally to the cost of living of pensioners. How to calculate living-wage is set by the special Law of RT "On Living Wage". A living wage is the cost of basket of goods and the amount of mandatory payments. Consumer basket consists of: a set of food; set of non-food products; range of services.

Also, this law establishes that approaching of the minimum social and labor guarantees of the Republic of Tajikistan to the minimum subsistence level is achieved in stages, taking into account the economic situation of the Republic of Tajikistan.

Therefore, at present, the minimum pension and minimum wage is far from the real state of affairs. Although the legislator wisely provided that compliance of a living wage and minimum social and labor warranties is a gradual process and can be solved by taking into account the economic situation in the country. But, unfortunately, it does not help those citizens who are living below the poverty line, and they do not rely on anyone other but the State. But the wording of legal technique by no means does remove the responsibility of the state for its citizens, which it has undertaken, both in accordance with the National Constitution and international legal instruments, to ensure a decent life.

There are other inconsistencies and violations in the law on social security. So, after Tajikistan established such a value as rate for calculations and in accordance with this rate some changes were made in many laws, economic and social rights of citizens in the field of social security were infringed. If previously such social benefits as family benefits, funeral allowance were established on the basis of multiplicity to a minimum wage, then since 2008 the amount of such benefits depends on a rate for calculations. And here the violation consists of the following: the minimum wage is 80 TJS in accordance with Presidential Decree (№ 894 as of 01.07.2010), and the size of calculation rate/parameter, according to Art. 31 of the Law "On State Budget for 2011" (01.01.2011), is 40 TJS to estimate the social benefits, it follows that the payments guaranteed by State decreased by half and citizens are as twice as less socially supported⁵⁵.

Often, the Centers for Human Rights are applied by women, who are pregnant or recently gave birth and have children under the age of eighteen months. As a rule, these women are housewives and the unemployed. Earning of the spouse, the child's father, is insufficient or it is missing at all. In this case, the Law "On State Social Insurance" provides for the payment of family benefits for women. It is also guaranteed by Article 34 of the Constitution of the Republic of Tajikistan: "Mother and child are entitled to special care and protection of the state". But in this case one can find out wordings or statements that can be perceived ambiguously or lead to violation of the rights of women and their children.

Logical construction of Article 14 of the Law "On State Social Insurance" misrepresents and leads to misinterpretation of the rule. As Article 14 of the Act originally states that at birth of a child the following family benefits shall be appointed and paid: a lump sum allowance in connection with the birth of a child and a monthly allowance for child care. Further, this article discloses, in what amount a lump sum allowance shall be paid. And then it follows that "the allowance is paid at place of employment (study) of one of the parents and if parents do not work or study the allowance shall be paid at the Department of Social Welfare domiciliary. Lump sum allowance at birth of a child is

⁵⁵ Materials are provided by the Centre for Human Rights

granted and paid from the date of child birth, if application for its payment was presented within 6 months from the date of birth of a child".

And it is not clear that the legislator in the wording expresses only the order of receipt of only a lump-sum allowance or family benefits in general (both lump-sum and monthly child care allowances), because after this the legislator goes to the allowance for child care as a separate benefit not interconnected with a lump-sum allowance. And the wording reads: "In case of providing the woman a leave to care for a child under the age of eighteen months she is paid a monthly child care allowance within this period at place of employment from the social insurance funds in the amount of rate for calculations".

This formulation can be explained as follows: woman, who worked before childbirth, may receive a monthly allowance for child care, and the one who sat at home, cannot do it. However, most women in Tajikistan are housewives, and it turns out that they forfeit such an important state support⁵⁶.

With regard to women's rights to bank loans, mortgages and other forms of financial credit, the Act (Article 12) stipulates a requirement on equal access of men and women to economic resources and is a positive attempt to comply with the aforementioned obligation under the Convention. However, equal access does not always lead to equal results. Not discriminating criteria for the provision of loans may have discriminatory impact on women in divorce, actual relationship or after a divorce. For example, if a property that was acquired during the marriage is traditionally registered on the name of the husband and the bank will provide loans only to those who have real property as collateral, the woman will not be able to get a loan if the land is not in her possession, even though that, theoretically, the land may be owned by her.

Realization of the planned activities by the state gender policy has not changed, and ever could make different the situation with unequal access of women and men to resources and control over these resources (property, land, etc.). With no property and initial capital, for women it is almost unfeasible to start a business, take a loan and etc.

It is challenging to find official statistics on the distribution of property to men and women. But as practice and the study results show, women own a small share of the property. Thus, according to a survey conducted by the coalition in summer of 2009 with the support of OSI - New York, nation-wide the proportion of women-owners of houses is 15.6%, owners of privatized apartments is 21.3% and owners of cars is 2.4% and owners of tractors and trucks is 2.3%.

RECOMMENDATIONS

1. In order to avoid violations of rights of non-working women and their children to receive a monthly allowance for child care in accordance with Art. 34 of the Constitution of RT need making changes in Art. 14 of the Law "On State Social Insurance" in part of payment of family allowances.

ARTICLE 14. RURAL WOMEN

The UN Committee's recommendations: paragraphs 33, 34

Despite the measures taken by the Government of RT to address the challenges faced by rural women (the introduced Presidential quotas for admission of girls from rural areas in the country's higher education institutions without entrance examinations, the adoption of a supplement to the State Program "Access of rural women to land," gender mainstreaming in land reform monitoring and establishment

⁵⁶ Ibid

of the State Committee for Land Management and Geodesy for monitoring the implementation of State program (supported by UNIFEM and others), their situation remains difficult.

The main factors that affect ensuring rural women's rights are:

1. Underdevelopment of infrastructure in rural areas
2. The domination of patriarchal attitudes and the informative and information pressure of gender stereotypes
3. Low levels of education
4. Unawareness and knowledge deficit about their rights, land reform, on the procedures to create DFs and others.

Access to land is a key factor in ensuring de facto equality between men and women in rural areas. After making changes to the state program and inserting an extended partition "Providing rural women's access to land" the Tajik government has to pay more attention to the problem of equal access for men and women to resources.

The Statistics Agency under the President of RT, since 2007 has been publishing an annual statistical publication "Gender indicators of industrial activity of dekhkan (individual) farms", which allows realistically assessing the performance of dekhkan (individual) farms in the gender dimension.

State Committee for Land Management and Geodesy uses gender indicators for monitoring and evaluation process of land reform.

PROBLEMS

Legislation of Tajikistan does not restrict access of rural women to land use and their right to property use. However, women are more likely than men to have difficulties in accessing land or credit facility. Women are generally poorly informed of their economic rights, especially the right to land use. They have limited access to economic and legal information as they lack proper education and a broad network of Legal Information Centers in rural area.

Lack at a legislative level of effective mechanisms to ensure women's rights to land use in practice leads to discrimination against women.

Traditional and religious factors have a strong impact on gender relations in rural areas in terms of exercising by women of control over the distribution of land, its use, the distribution of income from sales of agricultural production and so on. Most of all certificates are issued on the name of her husband, brother, or if women are widowed, on the name of adult son.

From 2004 to 2010 the number of DFs headed by women increased from 2695 to 5450 units. However, attention is drawn to the fact that the proportion of women-led DFs over the same years decreased from 13.9% to 10.6%.

Total growth rates of dekhkan farms outpace the growth of those headed by women. The fall in the number of DFs run by women is primarily caused by the fact that those who constitute a significant number of shareholders withdrawn from collective DFs and create individual and family DFs are predominantly men. In society, there are persistent stereotypes about the roles of men and women, and one of them is that only men can be a good manager. Even when women want to walkout with their land shares and create their DFs, they are intimidated: you can not cope with; you do not have enough strength or knowledge, etc.

It is not just easy to assess trend by loans allocated to women and men for the development of DFs, and agricultural enterprises. First, in the available official statistics the allocated loans are not

disaggregated by type of borrower. Second, farmers receive loans not only and not as much through commercial banks as microfinance organizations. According to the National Bank of RT, in 2008 women made up 32.4% of borrowers of all types of micro-credits.

According to data of the Association of Microfinance Organization of Tajikistan, from its inception (2004) to September 31, 2009, its (AMFOT) members issued loans totaling \$ 442.8 million. As of the end of September, 2009, number of active AMFOT clients in Tajikistan was 145,926 people.

In the third quarter of 2009, AMFOT members granted 16,292 loans. The amount of loans disbursed to women reached 73.2 million TJS, which accounts for 17.9% of the total amount of disbursed loans.

According to balance of the work, in 2009 micro deposit organization "Bovariva Hamkori" issued loans to seven tajik MFI for a total of \$ 703,500. The ultimate loan beneficiaries/recipients were more than 9,000 entrepreneurs. Of these, 80% of loans are placed in rural areas; over 40% of loans in agriculture with 47% of borrowers-women.⁵⁷

At public hearings held jointly by Coalition of NGOs "From de-jure Equality Towards de-facto Equality" supported by OSI International Programme, UNIFEM and the Committee on Women and Family Affairs in June-July 2009 in Dushanbe, Kulyab, Kurgan-Tube and Khujand, were presented and discussed proposals on mechanisms for execution of Law "On state guarantees of gender equality and equal opportunities for their realization", including the amendments and additions to the land law.

Significant for assessing the level of gender equality in the economic sphere is the development of the institution of joint ownership and use of joint property by spouses. With respect to both movable and immovable property (to which until recently land plots related) in the legislation of Tajikistan since the Soviet era regime of joint ownership of spouses entrenched, complying with a worldwide approach to this issue. According to Article 304 of the Civil Code, property acquired by spouses during marriage is their joint property, unless the law or the contract between them establishes other regime of this property.

However, in respect of land relations any liaison of the land use right and marriage is missing. Male spouse (female spouse) of a formal landholder with land entitlement received during marriage has no right to a land parcel despite the contributions she\he makes in its improving. At the disposal of land-use right, in particular mortgage, male spouse (female spouse) has no influence on these actions, and at death of a spouse her\his actual rights are denied.

Given the specificity of land relations in Tajikistan, namely the absence of land private ownership, the approach to address the issues of disposal of the right to land use and division of property upon dissolution of marriage or without it should be also specific to a certain extent. In solving land use disputes, the interests of female spouse/male spouse, who is not a formal landholder, must be considered.

In making policy or any decision on land use one must take into account differentials of men and women, specific characteristics and needs of farms run by women as the consequences of the made decisions might have different impact on farms managed by women or men. For example, the decision of district Hukumat not to allocate a land area of less than 10 ha to a cotton-growing farm looks at first glance like gender-neutral but it primarily affects the rights of women. Why? Because gender analysis of land distribution practice show the significant differences between DFs led by men and women.

Women-led farms

- have less number of land shareholders;

⁵⁷ See www.amfot.tj. Section on Association. A comparative analysis

- compose more women than men.
- on average have less land

The dehqan farms headed by women, compared with those run by men, operate just as well and often better. Official statistics show higher yields of raw cotton, potatoes, grapes and others in women-led farms. However, DFs, managed by women, compared with men-headed DFs, experience more difficulties and problems related to access to credit facilities, outfitting with farm and other machinery, its repair, availability of specialists and etc.

Women, managers of DFs, compared with men are much less likely to use the commercial bank services. Many of the farms are trying to survive without loans, because on the way accessing credit facilities they can meet a number of obstacles. According to women, in order to take out a loan from the bank they must submit a package of documents, but most importantly is a pledge for a loan that is the most challenging as no loan is issued without collateral. Real estate and jewelry can serve as assets for pledge. But in practice, woman has nothing to pledge, as often the owner of real estate including the house where she lives with her children, is her father-in-law, husband or eldest son. Jewelry, if even is, can not act as collateral as the amount of bail is much higher.

However, access to credit facilities is an important condition for the DF development. The results of studies on the effects of loans show that accessible microfinance services increase income of agricultural enterprises and rural businesses and promote expansion of employment opportunities for the population.

Improving women's access to land, raising status of women-managers of farms, and their contribution to resolution of vital family problems have definite influence on alteration of women's position in stratification system of households and communities. But these changes are not yet sustained and strongly manifested. In the decision making hierarchy at household and community level a woman's voice still sounds not aloud.

The main barriers to equal access of women and men to land are the effects of persistent gender stereotypes in society, poor gender mainstreaming in agriculture reform policies, gender insensitivity of officials from the key land reform structures.

RECOMMENDATIONS

1. Gender mainstreaming is regarded critical in designing programs and projects in the field of land reform that includes evaluation process of any planned action in terms of its impact on women and men and common conceptualization of implementation, monitoring and evaluation of the proposed interventions.
2. Gender analysis identifies the need for raising awareness on land rights, on continued land reform of rural women, in general, and women-managers of dehqan farms, in particular, the need for standing programs and trainings aimed at increasing their capacity. It should be borne in mind that women - heads of DFs are heterogeneous in their mass, and the organization of such trainings should be constructed on differentiated approaches, taking into account work experience, education and etc. Training of farm accountants is equally important.
3. In the main areas of gender mainstreaming in agricultural development and expansion of rural women's access to land need to focus on:
 - ✓ Improving land legislation and enforce land laws and agriculture reform through gender mainstreaming.
 - ✓ Building up capacity and raising gender awareness of relevant agencies and, above all, local hukumats, land committees and others.
 - ✓ Raising awareness and legal culture of women and men in land use and cotton-growing development.

- ✓ A gender-sensitive monitoring and evaluation model for the cotton sector through the development and use of quantitative and qualitative indicators.
 - ✓ Bringing women in decision-making on the basis of gender balance compliance and mandatory inclusion of women in the regional commissions on farm restructuring and land distribution, the working groups on programming, including regional strategies and action plans, etc.
 - ✓ Increasing the competitiveness of women using varied forms of training in agriculture, including at expense the presidential quotas in the agrarian university, system of continuing education and professional development in new financing, agriculture.
4. Coalition of NGOs in cooperation with the Committee on Women and Family Affairs, and other interested parties need to continue lobbying for proposals on the basis of public consultations on improvement of legislation on land use in order to ensure women's equal access to land.
5. In order to improve land legislation:
- Need to extend the rules of common property regime of spouses to the right of land use. In particular, a precept of the possibility of disposal of land use right by formal landholder at consent of female spouse (male spouse) should be established and include the right to land use in the range of objects liable to division at divorce in Civil Code and Family Code of RT.
 - Add Article 18¹ to the Land Code of RT that should be read as follows: "The right of land use received or acquired by land user during marriage, shall be subject to the provisions on joint property of spouses established by civil and family law of the Republic of Tajikistan".
 - Since the Land Code (Article 12) defines as a form of land use lifetime inheritable use, while legislation does not establish a mechanism of inheritance of this right, in connection with this, need to:
 - ✓ Integrate rules on inheritance of the right to land use and its features in civil law. This measure will enable heiresses (wives, daughters, and mothers) of the deceased land user receiving either their share of land in their land entitlement, or appropriate compensation.
 - ✓ Initiate an awareness campaign to explain the testamentary rights of land users both among landholders themselves and notaries.

ARTICLE 15. EQUAL RIGHTS

As noted in the first alternative report, in civil and legal issues women have equal rights in terms of legal capacity and carrying out business activity, equal rights to sign contracts and manage businesses enterprises, participation in court proceedings, regardless of whether they are plaintiffs, defendants or witnesses, proxies or representatives of the parties. Testimonial evidence of men and women has equal status.

Women have the right to sign on their own name all kinds of binding legal documents and even those that are related to credit facilities, physical assets and commercial operations.

Women have the same rights as men, to own, use and dispose of property, to inherit and bequeath property, have the right to intellectual property rights for inventions, works of science, to demand compensation for material and moral damages. Traditionally, however, in Tajikistan, the owner of the property is the man. Also, because of the traditional approach to inheritance of property, women often prefer to transfer their share of the property to male relatives.

Men and women are accorded equal rights pertinent to movement, freedom to choose their place of dwelling and place of residence. Meanwhile women, entering into a marriage, by tradition mostly live in the house of husband or the husband's parents' house.

Woman, like man, is guaranteed judicial protection. She may require the case to be examined by a competent and impartial tribunal within the statutory period.

However, despite constitutional guarantees of equality, there are a number of obstacles to women to be fully developed and enjoy the basic freedoms or equal rights.

In particular, women have no equal access to justice for the protection of their violated rights and interests. The reasons for this are the following factors:

1. Low legal literacy of women and due to this inability to represent and defend their interests in court.
2. Poverty of a significant part of the population, especially women, does not allow accessing to qualified attorneys.
3. Fear and distrust to trial court, quality of administering justice, lawfulness of the court awards, etc. Citizens try to skip court, referring to it only when absolutely necessary, if the problem can be solved by any other means. Court statistics say that mostly women turn to the courts with claims for alimony, moving in the apartment or house-building of husband, his parents, division of property.
4. Imperfection of the existing procedural laws on levying judicial costs for lawyers participating in the trial.

Pursuant to resorts of citizens to the legal reception offices for the period 2010-2011, the project "Access to Justice and Judicial Reform - Phase V" recorded most of all the women's resorts. In the period of January, 2010 - February, 2011, Legal Assistance Centers (LAC), provided free legal assistance to 5952 citizens, of whom 4353 and 1599 were women and men, respectively. Half of those who applied (2874) were classified as unemployed, followed by those with low income (1114), pensioners and disabled people (1027). The centers were turned to by almost an equal number of such categories of individuals as mothers (fathers) singles (277), and large families (265). It is also noted low percent of resorts of orphans\minors (32), migrants (66), and other categories of persons (297)⁵⁸.

One of the key factors limiting the access of women and men to justice is underdevelopment of a system of free legal aid.

Results of monitoring of compliance with the right to free legal aid, conducted in 2011 by NGO "Bureau on Human Rights and Rule of Law" within the project "Access to Justice" with the support of Oxfam Novib (Netherlands) show the major reason of the inefficient operation of the system of free legal assistance provided by the state (upon assignment), that is a weak legal framework, the absent regulatory act governing the provision of free legal assistance to the population with no pay procedure and separate budget for lawyers rendering legal assistance⁵⁹.

The study showed that among surveyed lawyers, judges, investigators, there is no common understanding of the order of free legal assistance provision and payment for such assistance, funding

⁵⁸ Details of the annual report on the results of the Legal Aid Centers activities for the Project "Access to Justice and Judicial Reform - Phase V" in 2010

⁵⁹ The material is provided by NGO "Bureau on Human Rights and Rule of Law" within the project "Access to Justice" with the support of Oxfam Novib (Netherlands). Monitoring compliance with the right to free legal aid. Dushanbe, 2011

sources, amounts of fees for the provided free legal aid. Respondents referred to various normative legal instruments/regulations governing the provision of free legal assistance.

The study also captured such problems of provision of free legal assistance to the population as low pay of lawyers, late payment and its complicated procedure, the dependence of lawyers on the investigation organs and trial, lack of clear criteria for identifying low-income individuals, missing clarity of the legal mechanism for obtaining free legal assistance in civil and other types of cases, the lack of a clear public information about the procedure and forms of such assistance delivery.

To date, virtually the only legal act in part regulating the provision of free legal assistance in criminal cases is Resolution of the Cabinet of Ministers of the Republic of Tajikistan (# 206, as of June 4, 1992) "On the order of charging of an expense on the State's account for providing legal aid to citizens".

The analysis revealed that this Resolution lacks a clear mechanism for regulating the provision of free legal assistance and does not provide for other forms of free legal aid, including in other types of cases except criminal ones, in the subjects of such assistance, by other lawyers, from other sources of funding. This document does not provide either the procedure for calculating the amounts paid by the state, and provides a reference to the Guidelines "On provision of legal assistance by lawyers to individuals and legal entities", developed by the National Bar Association and concerted with the Ministry of Finance of the Republic of Tajikistan in September 28, 2007.

During the monitoring virtually all lawyers have indicated that are involved in a criminal case by assignment upon the order of the investigation bodies and trial. Moreover, most of the lawyers noted that the amount of fee for cases upon assignment is determined by the decision of the investigator and/or determination of the court. This situation often forces the lawyers to maneuver around the interests of the client and the desire to maintain good relations with judges and prosecutors.

Investigators and judges have indicated that apply with a written request to lawyer's offices (Boards) to provide the detainee, suspect, accused or defendant with a counsel **upon assignment**.

However, the survey found that the bars have no clear procedure for distribution of cases for the purpose between lawyers. In general, cases are allocated by decision of the head of legal advice offices or in order of priority on the list of attorneys participating in the cases upon assignment.

Monitoring has shown that lawyers-attorney do not practice at all participating in the cases by orders of preliminary investigation and trial. Thus, the judges said that only lawyers of bars are invited in cases upon assignment, attorneys do not participate, although, according to new criminal procedural law of Tajikistan, such cases must engage, apart from bar lawyers, attorneys-lawyers as well.

Over half surveyed lawyers said they had not participated in cases upon assignment and cases arising from the public-law relations (administrative). The civil procedural law does not clearly define when exactly people are entitled to free legal aid, and relates the resolution of this issue primarily at discretion of the judge. Thus, in accordance with Article 52 of the Civil Procedure Code, "The Court shall assign the party to a case a lawyer as its representative in the following cases: there is no representative of the defendant, whose place of residence is unknown, and in other cases provided by law".

The study also found that there is no system of monitoring the execution of certain court determinations and investigator orders about pay of a lawyer.

The judges pointed out that they have no supervision powers and are not obliged to control of the made determinations. Most interviewed investigators either do not track execution of their orders about pay of a lawyer.

In addition, due to the generally low level of legal culture, citizens usually do not know how to find an attorney if necessary. The settlement of free legal aid in law should clearly answer the following questions:

1. Who will provide such assistance: lawyers, lawyers in private practice, lawyers of business organizations, lawyers of civil society organizations?
2. Who will be provided free legal assistance: the poor with an income below a specified level, specific vulnerable groups, and etc.?
3. What is the legal organizational/institutional form of free legal assistance: professional associations of jurists, attorneys\lawyers, or public defender offices?
4. How, from what sources and in what amount will be financed "free" legal aid?
5. How will the independence of these structures in terms of administration and finance be ensured?
6. How will the quality of provided free legal aid be monitored?

RECOMMENDATIONS

1. Develop and adopt, taking into account the interests of women and children, the law "On Free Legal Aid".
2. Reform institute of advocateship/advocacy in RT. Revise the Law on "Advocacy." The Act shall be assigned constitutional status. Provide provision allowing lawyers be mandatory involved upon assignment in both criminal and civil cases (not just in cases of child support/alimony and reinstating in former job). The criterion for rendering free legal aid should be property and social position of those who need help rather than a category of cases.
3. Free legal assistance as expense line should be built in Law "On State Budget for respective year".
4. Maintain statistics on provision of free legal aid, including in the context of how much was provided to women and what types of cases; the Supreme Court (SC) and the Bar must coordinate their actions in this matter. In general, SC must set things going on analysis and statistics of cases in courts of general jurisdiction that has been lost over the years of independence the Republic of Tajikistan.
5. Provide a mechanism for monitoring the execution of orders made by the investigators and the court's determinations about pay of lawyers for their legal aid upon assignment;
6. Continue on permanently basis making women aware of their rights in various spheres of public life, the ways and forms of access to free legal assistance through the media - radio, television, and distribution of pamphlets.

ARTICLE 16. MARRIAGE AND FAMILY RELATIONS

The UN Committee's recommendations: paragraphs 35, 36, 37 and 38

One of the positive facets of the recommendations of the UN CEDAW's Committee is induced changes to the Family Code of RT (January, 2011), pertinent to rise of the marriage age from 17 to 18 years (paragraph 35).

National legislation generally follows the guidelines established by the Convention on Principles/Foundations of Family and Marital Relations. In Article 33 of the Constitution of RT provides that everyone has the right to found a family. Men and women of marriageable age have the right to enter freely into marriage. In marriage and divorce, spouses have equal rights. Polygamy is prohibited.

The FC of RT also recognizes only that marriage, which is registered at the registry office. Marriage of individuals, of whom at least one person already consists in another formally registered matrimony, is not allowed. Section 3 of the FC of RT provides for personal and property rights of spouses wherein is stipulated the right of spouses to choose their occupation, self-fulfillment, place of habitant and place of residence, the right to choose names according to the procedures prescribed in the Law of RT "On state registration of acts of a civil status". Spouses have equal rights in child-rearing practices and educational choices for children.

In property relations the FC of RT provides for a joint regime/mode of property acquired during marriage. Spouses possess, use and dispose property that is jointly owned by their mutual consent. Even if the female spouse does not work but is involved in housekeeping, caring for children and has no own independent income, she is also equally eligible to share property acquired throughout the marriage. FC of RT also provides for concluding the marriage contract by mutual consent of both spouses at the stage of marriage, during marriage and at termination of marriage.

But, despite such positive moments in the legislative arena, the practice is not all sunshine. Political and economic changes in the last twenty years had enormous influence on the transformation of marital relations. Despite the amendments to family law, responding the changing environment, a significant number of women and children were outside a legal framework that can guarantee certain property and inheritance rights.

Mass phenomenon has become the entry into marital relations without civil registration and birth of children in such wedlock that, on the one hand, complicates the State accounting / record of demographic processes in the country, and, on the other hand, increases the risk of getting these women and children in marginalized groups.

Polygamous family relationships have become a social necessity because of emerging imbalances in the ratio of men and women during the civil war of the past decade. These disparities worsened in the current decade due to high levels of unemployment and mass migration of men (from rural to urban, from country to other countries). Thus, many women can exercise their right to a family, motherhood, only by entering into a polygamous family relationship. In 1998 polygamy was prohibited by criminal law. Legislatively the penalty is provided for polygamy, but women's rights in unregistered unions and their children were not specifically mentioned in family law. Law enforcement experience shows that, despite the fact that the establishment of paternity for children in unregistered marriages is not particularly difficult, however, the rights of children born in de facto unions are limited.⁶⁰

In 2011. The Gender Education Center carried out studies in districts of Kulyab and Hissar: "Legal literacy for women and men in the context of family law of RT and Islamic law Sharia" The survey question: "Do you know what rights and responsibilities women have in the family?" remained unanswered by many of the women surveyed. Many of women respondents did not know what to say about their rights and responsibilities in the family. Women knowing their rights often consider their right to "educate children", "respect her husband, parents and 'especially' father-in-law and mother in law". Other women believe that they have no rights, because "I am the daughter-in-law, I have rights to nothing", "I do not have children" or "I have the rights that my husband gave me". Only few women said their right to "job", "free education", "vacation", "retirement/pension", "expression of own view", "taking part in public works" and "right to be respected".⁶¹

As analysis of the resorts of citizens in the Centre for Human Rights in 2010 show, there is an acute legal problem with the order of marriages and divorces, especially in rural areas. Also, there has been a

⁶⁰ Review of the legislation regulating family relations in Tajikistan: analysis and recommendations. NGO "Center for Human Rights", Dushanbe -2010

⁶¹ Research report on materials of the study conducted in districts of Kulyab and Hissar. Legal literacy of women and men in context of the family law of the Republic of Tajikistan and the Islamic law, p. 34

growth in resorts of women over the division of joint property of spouses. Women's problem is that most often their marriage is religious "nikoh" and not official marriage registration in the registry office. During the reporting period, the resorts of citizens with this category of questions were connected with inability of women to get registered at place of dwelling of "her spouse", failure to divide property and establishment of paternity for alimony collection.

During the reporting period, PA "Inis" had an "interesting" case in terms of violations of the rights of pregnant woman.

Case № 1

Mrs. B. is married to Mr. X. and has three minor children in the marriage. Husband filed a lawsuit for divorce. At the trial due to low legal literacy Mrs. B did not inform the court about her pregnancy. Mr. X and his lawyer knew that fact but they didn't mention it during the trial. The court made a decision to dissolve the marriage. PA "Inis" informed Mrs. X about her right, following which the court could not terminate marriage at the request of her husband until the child reached age of 18 months, and advised Mrs. B. to appeal the first instance court decision at higher authorities as cassation court.⁶²

This case study can capture violation of the rights of both woman and her unborn child from the side of the judicial body and unveil a few problems: first, legal illiteracy of woman, and second, irresponsibility of the judiciary. The court would make their own inquiries but that was not done as seen from the case. This fact is very illustrative with regard to indifference and unconcern of some public authority representatives towards women and children and their rights.

Another case, clearly showing a disregard of public servants to the women's problems, occurred in the city of Kurgan-Tube. In 2011, the legal advice office of NGO "Bureau on Human Rights", Kurgan-Tube, was resorted by woman for legal advice and it became clear the following:

Case №2. Marriage of a female client was officially registered in the Registry Office, with a stamp on her birth certificate, not a passport, although at the time of marriage she was an adult. Subsequent life with her husband did not get on, and their marriage was dissolved in the registrar office that was again recorded on her birth certificate. Moreover, in the conversation it became clear that at time of divorce she was the second month of pregnancy. She said that, in spite of pregnancy, the relatives of her husband, threatening her with reprisal, forced her to write a statement to the registry office for divorce.

The presented cases demonstrate the following shortcomings in the practice and law of our legal system:

1. Register Offices and courts do not pay enough attention to the issues of legal clarification of the rights of resorting to them women;
2. Employees of registry offices, often in regions, do not know themselves all the intricacies of the legal system because they have no higher legal education; this requirement for employment of ordinary employees of registry offices is not mandatory;
3. System of registrars lacks internal normative (standard) act they could be guided. Law "On state registration of civil status" fails to reflect in detail the registrar's operations.

⁶² Details of the annual report on the results of the Legal Aid Centers' activities under the Project "Access to Justice and Judicial Reform - Phase V" in 2010

As already noted, more frequent cases when men and women are in unregistered marriage or live in polygamous unions, vulnerability of the women whose husbands are labor migrants, low levels of education, limited professional experience and access to jobs outside the home lead to missing opportunities to have or purchase own property, and women have no right to claim the division of property as the property (a house/premise) usually belongs to the husband's parents or his close relatives or to a cohabitee (in recent years the practice of property registration on the relatives proliferates to be protected against potential "encroachment" of the wife). Property is not subject to division in accordance with the family law provisions and the principles of protection of the property rights.

In recent years, Tajikistan is characterized as a country of origin of migrant workers. According to surveys and official statistics, most of the able-bodied man population of Tajikistan is outside the country or in a state of commuters.⁶³

According to the Migration Service of the Ministry of Internal Affairs (MIA) of RT, to date, about 600,000 citizens of Tajikistan carry out labor activity outside the country. However, the latest figures from the Office of the Federal Migration Service (FMS) of the Russian Federation in Tajikistan say that the number of Tajik labor migrants in the RF is more than 900,000 people. In recent years, labour migration, increase in number of disabled people and other factors have led to abrupt imbalance in the ratio of men and women of childbearing age, which is about 1: 4.5. Automatically the question can be put about realization of the constitutional right of everyone to found a family⁶⁴. Department of Social Welfare, Labour and Migration of the Executive Office of the President of RT, back in 2005, noted that approximately 17,000 single women aged 28-45 years go only to a group of Rasht districts, which is quite untypical for Tajikistan. At the same time, most of these women are housewives⁶⁵. Thus, citizens, in particular, women, despite the legal obstacles, meet their need in own family having to enter in polygamous marital relationship.

Marriage dissolution in Tajikistan tends to increase. According to the Registry Office of the Ministry of Justice of RT, in the first half of 2010 the number of divorces grew by 8% (or by 218 cases more) compared with the same period in 2009, and accounted for 3,189 terminated marriages, including 2,000 couples divorced through the court. The major reasons of divorce are incompatible characters, third party intervention, and drug or alcohol abuse of a spouse. As far as registration of marriages, for 6 months of 2010 they accounted for 40,000 or by 2,000 marriages less compared to the previous year.

Thus, multiple populations can be distinguished that turned out to be outside the "legal field" according to the currently acting legislative framework:

- women whose husbands, having left in labor migration do not transfer money and support their families;
- divorced women, who are not able to receive alimony since location of their husbands is unknown;
- women who bound marital union only through a religious rite with no marriage record in the registry office and registration of children born in such unions;
- women living with her husband in dwelling, registered as property of one of his parents, as in such cases, either she or her children have little or no property rights as relatives of the third line;
- more limited rights of children born in de facto matrimonial unions vs. children born in registered marriages;

⁶³Studies of IOM, UNIFEM, ILO, and ACTED 2003-2010 carried out in Tajikistan

⁶⁴The Constitution of the Republic of Tajikistan, article 33

⁶⁵Report of the Representative of the Labor, Social Protection and Migration Department of the Executive Office of the President of RT in Garm, 2005

- rural women, who in divorce are not able to realize their right to land use because of very complex procedures⁶⁶.

In March of 2011 changes were made to the Family Code, which, in our opinion, indicate a discriminatory nature of legal regime of conditions for marriage and the joint property of spouses, citizens of RT and foreign nationals. Even if the legislator had good intentions to protect our women from the unworthy foreign citizens, in fact, routine shows that our women suffer more from dishonesty of their fellow citizens. And thus these changes in the FC might have no positive effect on tajik women position but rather the opposite - it would be one of the extra barriers for women in Tajikistan to get married. Given the shortage of able-bodied male population (migration) it is a deterring factor.

RECOMMENDATIONS

1. Revise conceptual approaches to the concept "family" and fix it legislatively. The principles of family life, as prescribed by the practice of the UN Committee on Human Rights and European Court of Human Rights can be enshrined in the FC of RT. Apart from this approach, the family concept should be also integrated in different tajik laws and anchored for the specific regulating area. This attaching of the family concept to law, regardless of the applied approach, should move away from the present conservative approach and include different kinds of family: both a matrimonial family and unregistered in the prescribed manner marital relationship of men and women.
2. Make changes and additions to the Law of RT on Organs of Civil Registry Office in part of marriage registration to assign them the obligation on making future spouses to be aware of their rights and responsibilities, including parents' responsibilities, at time of applying for marriage registration.
3. Impose a duty on the registrar bodies to make future spouses be aware about possible conclusion of a marriage contract and be informed about health of each other.
4. Develop and adopt a new more detailed statute of the registrar's activities. Continuously work for professional development of registrar staff.

⁶⁶ Review of the legislation regulating family relations in Tajikistan: analysis and recommendations. NGO "Center for Human Rights", Dushanbe-2010