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Alternative report

NGO 'Etibor' (Dignity)
SWAN Foundation for the Human Rights of Sex Workers

The Republic of Tajikistan
2013

Etibor (Dignity) NGO is an organization based in Tajikistan; established and managed by sex workers. This organization has been monitoring acts of discrimination against women including transgender women who sell sexual services and conducts special research in this area.

SWAN Foundation for the Human Rights of Sex Workers is a regional network consisting of organizations led by sex workers and civil society organizations providing health services to sex workers in Eastern and Central Europe and Central Asia.

Introduction

The report documents human rights violations that women and transgender women sex workers face due to their status as “sex workers” and demonstrates the impact of these on women and transgender women sex workers’ living and working conditions. This report is based on information collected by Etibor (“Dignity”) in the course of daily activities with sex workers and a country-level UN consultation with sex workers devoted to HIV and Sex Work on a regional level (October 3-4, 2012). This report also relies on current research in the fields of HIV and gender and a content analysis of media representations of sex workers in the country.

Submitters of the report emphasize that the report discusses sex work and sex workers based on the following definition: Sex workers include “female, male and transgender adults and young people (18 years of age and above) who receive money or goods in exchange for sexual services, either regularly or occasionally”. It is important to note that sex work is consensual sex between adults, which takes many forms, and varies between and within countries and communities. Sex work may vary in the degree to which it is more or less “formal” or organized¹.

Article 1. Definition of discrimination

Sex workers – women, men, and transgender people – suffer extreme stigmatization and are subjected to systematic and systemic discrimination in the Republic of Tajikistan. Sex workers are frequent targets of violence, and in particular of gender-based violence, by members of law enforcement, clients, and hostile segments of society under the pretext of religious values and the need to punish women who transgress or disobey moral codes of acceptable gendered behaviour².

Recommendation

- To ensure human rights of sex workers in Republic of Tajikistan by CEDAW mechanisms and to recommend to the Government in Concluding Comments to address stigma and discrimination against sex workers.

Article 2. Policy measures to be undertaken to eliminate discrimination

The constitution of the Republic of Tajikistan guarantees equality between men and women by article 17 of the 1994 Constitution. The Republic of Tajikistan adopted two main laws aimed to guarantee gender equality and

¹ Prevention and treatment of HIV and other sexually transmitted infections for sex workers in low- and middle-income countries: recommendations for a public health approach. – WHO. – December 2012. – p.12. Source: http://apps.who.int/iris/bitstream/10665/77745/1/9789241504744_eng.pdf (access on 11 Sept, 2013)

²The description of persecution of sex workers and the stigmas and discrimination they experience were voiced and recorded during a series of consultations in Tajikistan aimed at preparing a Regional Consultation on HIV and Sex Work in 2013. The first stage of the country-wide consultation was conducted in collaboration with the UN and the community of sex workers, including women and transgender persons, on 3-4 October 2012 in Dushanbe, Tajikistan (Reference further: Results of in-country consultations with sex workers, October 2012, Dushanbe, Tajikistan)

to protect women from domestic violence. First one is The Act on State guarantees of equal rights for men and women and equal opportunities in the exercise of such rights, adopted on 1 March 2005. The second one is Law of the Republic of Tajikistan “On the Prevention of Domestic Violence” adopted on 19 March 2013.

Despite the fact that the principle of equality of men and women before the law and courts is guaranteed by the legislation, sex workers are unable to protect themselves using the state mechanisms due to the antagonistic relationship with law enforcement created by the penalization and state repression of sex work.

Sex work in Tajikistan is penalized and is punished according to the Code of Administrative Offences, Article # 130 which stipulates penalties for sex work in the form of fines. In actual practice, this article is used by police as cover to target sex workers with routine extortion under threat of fines, arrest, detention sex workers or to publicize sex worker’s livelihood³.

Law enforcement agencies conduct routine raids to round up sex workers. After being brought to police stations or temporary detention facilities, sex workers are subjected to forced testing for HIV. Often the test results are disclosed in front of other detainees and staff of the police⁴. These practices are counter to the UN Guidelines on HIV/AIDS and Human Rights (UNHRC and UNAIDS 2006). They also further expose sex workers to violence and discrimination.

The penalization of sex work fuels and creates cover for widespread abuse by state-actors against sex workers, the large majority of whom are women. The antagonistic relationship this creates between law enforcement and women and transgender women in sex work, precludes sex workers from having access to police protection in case of violence or other abuse by both state actors and non-state actors, including partners and family members. The penalization of sex work disproportionately harms women and is an obstacle to women’s equality before the law as is discussed at greater length in the last section.

Recommendations

- To decriminalize sex work by excluding the Article #130 from the Code of Administrative Offences of the Republic of Tajikistan in order to remove the basis for extortion and blackmailing as well as other illegal actions.
- To stop police practices of unlawful arrest and detention, extortion, abuse and forced HIV testing on sex workers during police raids.
- To ensure sex workers have equal access to police protection, fair process and justice.

Article 3. Guarantees Basic Human Rights And Fundamental Freedoms On An Equal Basis With Men

Women sex workers in Tajikistan face violations of their political, social and economic rights based on widespread discrimination against them. Here, we examine: discrimination against sex workers with regards to legal documents; discrimination against sex workers’ children and their right to schooling; prejudicial and hateful media representation and lastly, obstacles to redress.

Most sex workers are women who, in order to flee circumstances of poverty or social judgment, migrate to other locations to work. As a result, a significant portion of women in sex work do not have passports or IDs. This deprives them of access to essential social and economic services and the fundamental right to legally be in public space.

The significant portion of sex workers does not have passports or IDs, which deprives them of their basic legal opportunities to realize their rights. Many sex workers living in bigger towns came from remote areas do not have residency permits. The police discriminatorily targets sex workers for extortion and arrest, using their lack of passports and residency permits as a pretext for unlawful and abusive practices. There are many situations when sex workers are not able to obtain the ID or situations when IDs are stolen by clients or confiscated by police as a tool of extortion. Recovering ID requires residence permit or returning to or one’ parents’ home where one might have had a residency permit. However, women are often kicked out from their parental homes after parents or relatives learn about their occupation. There are even cases when women lose their legal residency permit without any notification or request for her consent from officials doing the procedure⁵. Despite the discriminatory obstacles to women in sex work getting essential legal documents and the discriminatory seizing of their documents and targeting them for repression when they lack them, there are no procedures to facilitate sex worker’s getting or retaining their documents or to protect and uphold the political, social and economic rights of which they are deprived without their legal documents. Without proper paperwork of a parent, a child will lack his or her resident permits, birth certificate that is a crucial obstacle to all means of welfare and social support.

³Results of in-country consultations with sex workers, October 2012, Dushanbe, Tajikistan

⁴Ibid

⁵ Case O, documented by Etibor (Dignity) NGO

Children of women sex workers face widespread discrimination and exclusion. If a sex worker and her children live in a small town, children are singled out and harassed with taunts of: “You are the son or daughter of a prostitute”. Due to this, school age children are socially isolated and are usually not accepted in school clubs or hobby centers by their administrators⁶. This discrimination causes both social and psychological harms to women in sex work and their children and further narrows down chances for equal treatment and opportunities for the next generation.

The mass media representations of sex workers fuel discrimination and violence against them by state and non-state actors. Sex workers are generally represented as women who do not care about themselves, their children or their future. Sex workers are portrayed as the acceptable objects of disgust through statements such as: “How is to be under each dirty man?”. Sex workers are portrayed as essentially different from others through lines such as “Maybe your body feels the need to do it [sex work]”⁷. It is considered normal to judge women in sex work in an insulting and humiliating manner. Furthermore, in news coverage of sex work-related issues, women’s basic human right to privacy is violated. As a result, sex workers are often publicly exposed in coverage that is hateful and prejudicial and that risks causing them further harms.

According to the research data, 60 per cent of women sex workers have only primary education or none at all and as a result, many cannot read or write (PSI, 2012)⁸. The state has a responsibility to ensure that poor women are not deprived of education and that sex workers and their children have access to education and literacy services. Furthermore, the state has the responsibility to ensure that sex workers’, despite low levels of formal education, can access redress for violations of their human rights committed by state or non-state actors.

Recommendations

- To ensure women and transgender women sex workers and their children are not discriminatorily targeted for repression based on lack of legal documents, for seizure of their legal documents or for exclusion from receiving legal documents. To ensure that programs are in place to actively reverse this discrimination by assisting sex workers with regards to their obtention of legal documents.
- To ensure women and transgender women sex workers’ children do not face discrimination and exclusion from school or social activity groups, be they governmental or non-governmental.
- To ensure media representation of sex workers does not fuel violence and discrimination against them by portraying sex workers as objects of disgust.
- To ensure poor women and girls have access to education, including education when women and transgender women sex workers are adults.
- To ensure the basic human rights and fundamental freedoms for sex workers and their children based on acts and laws adopted by the Republic of Tajikistan

Article 5: Sex Roles And Stereotyping

The Gender Assessment of HIV program Report says: “Tajikistan is a highly patriarchal society where masculinity ideas are dominating. Resulted from masculinity being dominated in Tajik society, men have more control over resources and bear decision-making power. When it comes to decision making in relationships, men are expected to dominate and women to be passive. Consequently, unequal parties are not in a position to negotiate when they have sex, how often and how they can protect themselves from sexually transmitted infections (STIs) and HIV. Lack of bargaining power in negotiating the conditions of their health and livelihood puts women at risk and prevents them from seeking sexual health advice”⁹.

Due to basic gender inequality female sex workers are subjected to more severe violence. There are known cases when men declaring religious values kidnap sex workers, shave their heads as a sign that the woman is fallen and throw them out to public shaming. Also acts of violence against women sex workers have been shot on video and these clips are distributed via Internet¹⁰.

Women in Tajikistan are considered as decent if they are married. If the woman is divorced or single she is considered as indecent and could be subjected to violence more frequently. According to the nationwide survey done in 2011 only 7.4% of sex workers are married or live in civil partnership, others are single, divorced or

⁶Results of in-country consultations with sex workers, October 2012, Dushanbe, Tajikistan

⁷ Kak my s politsiyey npravov prostitutok lovili // Vecherka. Novaya Gazeta Dushanbe. – 2 November, 2011. Source: <http://vecherka.tj/society/reportazh/kak-my-s-politsiej-npravov-prostitutok-lovili/> (access on 10 Sept, 2013)

⁸ PSI Research & Metrics, “Central Asia Republics (2012): HIV and TB TRaC study understanding risk behaviors associated with HIV transmission and utilization of HIV prevention services among SWs in Almaty (Kazakhstan), Chui Oblast (Kyrgyzstan), and Dushanbe (Tajikistan). Small Scale Midterm Study.” PSI Social Marketing Research Series, (2012). – p. 13. Source: <http://www.dialogueproject.org/download/3.pdf> (access on 8th of September, 2013)

⁹ Lola Yuldasheva. Gender Assessment of HIV Programming in Tajikistan. – Dushanbe, 2011 / UN WOMEN. – pp. 8-9. Source: http://www.untj.org/docs/files/library/Gender_assessment_revised_eng-Engendering%20HIV-AIDS%20response.pdf (access on Sept 6, 2013)

¹⁰Results of in-country consultations with sex workers, October 2012, Dushanbe, Tajikistan

widowed¹¹. Given this fact violence against female sex workers are perceived as a normal action and even good one as a measure to educate women to live in proper way.

Police performing its duties in public places (parks) could stop any couple which is perceived as sex worker and her client and require passports and marriage documents. In the case that the couple does not have these documents, police extort money (regardless of whether this couple is a sex worker and her client or not)¹².

Mass media promotes the idea of punishing and “correcting” sex workers by jailing them “If the girls of easy virtue had served in prison 3-6 months, it will be a good lesson for them. During this time, they can be taught to sew, pastry skills. Coming out of a special prison, they may have a certificate that will help get a job”¹³.

Recommendations

- To ensure that the adopted Act on State guarantees of equal rights for men and women and equal opportunities (2005) is utilized addressing all forms of discriminations towards all women equally and not depending on occupation, including sex work, gender identity, HIV status or any other signs.
- To undertake efforts to resist roots and consequences of patriarchal norms bringing harm to women and girls.

Article 12. Healthcare And Family Planning

Healthcare services are available for sex workers to a limited extent. According to the national rules of healthcare provision, each citizen has a right to get healthcare services if a person has a passport and permit for residence. As mentioned in the Article #3 above, many sex workers do not have IDs or/and permit for residence. As a result, sex workers face barriers in getting primary and essential healthcare services.

Sex workers are included into National HIV Program for 2010-2015. Sex workers are mainly perceived as a vulnerable group, and HIV should be prevented among them in order to take care of general population. Given this perspective health care providers, including HIV-service NGO put their major emphasis on testing all sex workers for HIV with or without their knowledge. A majority of sex workers do not realize that they have been already tested for HIV, especially if the test result is negative¹⁴. It occurred because the personnel responsible for carrying out HIV tests in state medical facilities do not provide the pretest counseling of standard quality as required in national regulations on HIV testing¹⁵.

As mentioned in the Article # 2, law enforcement agencies conducting routine raids forced sex workers to be tested for HIV. Disclosure of results in front of other detainees and members of the police is a frequent practice¹⁶. In accordance with the Law on HIV and HIV testing procedures such actions are illegal. In particular Art. 14 of the HIV Law guarantees: Prisoners and detainees have the right for free confidential HIV testing and for counseling on the basis of informed consent, as well as on information on health status¹⁷.

Recommendations

- To stop unlawful mandatory HIV testing of sex workers conducted by police
- To stop HIV testing of sex workers conducted by medical facilities without provision of counseling of standard quality and receiving informed consent of sex workers to be tested on HIV
- To ensure the implementation of the Law on HIV which guarantees the confidentiality of HIV testing results

Article 13: Economic And Social Benefits

Sex workers are invisible citizens of the country due to frequent absence of IDs and permits of residence. Given this fact, sex workers face many obstacles to place children to kinder garden or school. According to data obtained in the research in Dushanbe, capital of Tajikistan (2012, PSI) 77.8 per cent of sex workers have

¹¹ Data of national HIV serosurveillance survey 2011. National AIDS Centre

¹² Focus group discussion with sex workers (Dushanbe, summer 2012).

¹³ Prostitutsiya: arestovyyat' ili vospityvat'? // Vecherniy Dushanbe, 30 Aug, 2013. Source: <http://gazeta.tj/vd/7956-prostitutsiya-arestovyyat-ili-vospityvat.html> (access 2 Sept, 2013)

¹⁴ Focus group discussions done by Etibor (Dignity) NGO in June 2013 with sex workers in Dushanbe.

¹⁵ Postanovleniye Pravitel'stva Respubliki Tadjikistan ot 1 aprelya 2008 goda №171 g.Dushanbe. Ob utverzhenii Poryadka meditsinskogo osvidetel'stvovaniya s tsel'yu vyyavleniya zarazheniya virusom immunodefitsita cheloveka, ucheta, meditsinskogo obsledovaniya VICH – infitsirovannykh i profilakticheskogo nablyudeniya za nimi i Spiska lits, podlezhashchikh obyazatel'nomu konfidentsial'nomu meditsinskomu osvidetel'stvovaniyu na VICH - infektsiyu po epidemiologicheskim pokazaniyam. Source: <http://nc-aids.tj/normativno-pravovie-dokumenty/postanovlenie-pravitelstva-rt/18-2011-04-05-10-15-32.html> (access on 10 Sept, 2013)

¹⁶ Results of in-country consultations with sex workers, October 2012, Dushanbe, Tajikistan

¹⁷ The law of the Republic of Tajikistan to counteract the human immunodeficiency virus and acquired immunodeficiency syndrome, source http://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---ilo_aids/documents/legaldocument/wcms_129985.pdf (access on 10 Sept, 2013)

children, the mean number of children per sex worker is 2.11¹⁸. By other words, extrapolating this data on overall estimated population of sex workers over the country which is 10 000-15 000¹⁹ we have found out that 16 000 – 25 000 children have almost no access to pre-schools and to secondary education.

Getting any kind of social support for sex workers in small cities is almost impossible, because women are persecuted as sex workers. Officials have no legal grounds to refuse women who are known as sex worker in a specific locality in provision any social benefits but they are known to require more confirmation papers or longer processing with documentation²⁰. Finally only a few are successful in getting those benefits which are guaranteed by the legislation.

Recommendations

- To ensure applying legislation that guarantees economic and social benefits to all women and children without discrimination on any basis, be that occupation in sex work or gender identity.

Article 15. Equality Before The Law

Sex workers are not equal before the law. In case of illegal actions against sex workers from police, clients or other third parties sex workers have no opportunity to submit a complaint to police and seek legal defense. Main reasons are mistrust to law enforcement bodies'; fear to be publicly identified as sex worker by police and subsequent further shaming among relatives; fear to be object of persecution by the perpetrator or even fear to be object of persecution by police itself. For example, police frequently allow the perpetrator or other third party to submit a complaint against the sex worker who was herself, the victim. Often staff of law enforcement bodies place sex workers at extreme danger by forcing sex workers to serve as informants providing information on wealthy clients for the purposes of police extortion rackets. If sex workers refuse to cooperate, they are subjected to violence or threats that their families will be told about their occupation or sexual identity. If they do agree, sex workers can be targeted by the clients on whom they informed police. High police officials are involved in such actions also²¹.

Etibor (Dignity) NGO doing outreach among sex workers with purpose of HIV prevention frequently hears about police illegal actions. In average 4 out 5 sex workers talk about such cases, but no one agrees to submit complaint even with support of lawyer. One case is processed by Etibor (Dignity) NGO. The case of human rights violations happened on 8th of May 2013 when the policemen arrested outreach worker of Dignity and three sex workers. Policemen spoiled organizational ID of outreach worker, were verbally abusive and beat the women. All four women were stopped in police station within 1 hour without official charges or reasons. Dignity called for a lawyer, it was night time. Lawyer helped with writing of complaint to Prosecutor Office for actions of policemen. Later sex workers refused to sign this complaint as they were afraid of further abuse from police.

Usually police arresting sex workers do not follow the procedure defined by law: the protocols of arresting are not made. Sex workers' rights to due process are not respected and arrest and detention are unlawful. Sex workers are detained for some period of time as a means to pressure them to pay extortion or to force them to have sex in exchange for their release²².

Recommendations

- To stop unlawful actions by the police related to sex workers, including any kind of violence, violation of privacy, pressure to collaborate in favor of personal benefit of police officials
- To ensure mechanisms for sex workers to report violence or discrimination without fear of arrest, persecution or abuse by police or other third parties

¹⁸ PSI Research & Metrics, "Central Asia Republics (2012): HIV and TB TRaC study understanding risk behaviors associated with HIV transmission and utilization of HIV prevention services among SWs in Almaty (Kazakhstan), Chui Oblast (Kyrgyzstan), and Dushanbe (Tajikistan). Small Scale Midterm Study." PSI Social Marketing Research Series, (2012). – p. 13. Source: <http://www.dialogueproject.org/download/3.pdf> (access on 8th of September, 2013)

¹⁹ APMG report on PSE & risk behavior among IDUs & CSW in Tajikistan. – 2009.

²⁰ Case NM, documented by Etibor (Dignity) NGO

²¹ Case IS, documented by Etibor (Dignity) NGO

²² Numerous reports of sex workers contacted by Etibor (Dignity).