



Submission for the Committee on Economic, Social and Cultural Rights on the implementation of the International Covenant on Economic, Social and Cultural Rights in the Russian Federation with regards to sex worker population

Alternative Report
The Russian Federation
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Submitted by:

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The Silver Rose Movement is an all-Russian movement of activists and advocates for sex workers' rights. Its mission is contributing into policies towards sex workers based on humanity, tolerance, promoting health, and protection of human rights and dignity. Set up in 2006, today the movement brings together leaders of sex workers from over 450 volunteer leaders of sex workers in over 35 regions of the Russian Federation. The movement has access to closed groups of women involved in organized sex work through its volunteers and community leaders. Silver Rose promotes trainings and self-help group activities with the focus on building leadership, psychological and legal assistance, scaling up access to medical services and legal remedies. The movement works with the public opinion and decision-makers on all levels on issues related to the lives of sex workers. This organization has been monitoring acts of discrimination and human rights violations against women who sell sexual services and conducts thorough research in this area.

In 2013 Russian authorities twice refused official registration to first sex All-Russia Sex Workers' Association Silver Rose. The trial court and the court of appeal upheld the authorities' position. As a justification for the refusal the authorities referred to laws, which prohibit prostitution in Russia.¹

Report Focus

This report documents economic, social, and cultural rights violations that sex workers face due to our status as "sex workers" and demonstrates the negative impact of prosecution under Administrative Code Article 6.11, and the impact of police raids against sex workers on sex workers' living and working conditions, as well as their vulnerability to violence and to HIV and other sexually transmitted infections. In this report we, the community of sex workers, would like to share information collected by Silver Rose in the course of its daily activities implemented with and for sex workers. As evidence for this report, we use the documented violations against sex workers, cases of prosecution under Article 6.11. of the Code of Administrative Offences, and did a content analysis of media representations of sex workers in Russia in 2014-2016.

Key Recommendations to the Government

- To decriminalize sex work by removing administrative punishment for sex work or the consensual exchange of sexual services between adults for remuneration (Article 6.11 of the Code of Administrative Offences of the Russian Federation).
- To stop police raids against sex workers, which only increase violence against sex workers.

¹ F. S. E. Arps and M. Golichenko. Sex Workers, Unite! Litigating for Sex Workers' Freedom of Association in Russia. Health and Human Rights International Journal, December 2014.

- To ensure sex workers have equal access to police protection, fair process and justice. Currently, Article 6.11 forces sex workers to operate covertly in ways that compromise their safety, prohibits actions that sex workers take to maximize their safety, and serves to deny sex workers support or protection from government officials.

- To remove all records for administrative offense under the Article 6.11. from the database of the Ministry of Interior Affairs to prevent future discrimination in the workplace of those sex workers who wish to stop selling sex.

- To officially recognize sex workers as key population affected by HIV/AIDS, develop and implement human rights and evidence-based HIV and STI prevention programs for sex workers, funded by the federal, regional and municipal budgets, and to ensure equal access of sex workers to these services regardless of nationality, registration and gender.

General Observations — Sex work and related problems in Russia

This report defines the term ‘sex work’ to mean the exchange of sexual services (involving sexual acts) between consenting adults for some form of remuneration, with the terms agreed between the seller and the buyer. Sex work takes different 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 organized². This report in no way covers the issues of sexual exploitation, trafficking in persons and the production of sexually explicit material.

Russia has an estimated three million of sex workers.³ Russian⁴ and international researchers note with concern that the ban on “prostitution” in the Russian Federation leads to a *de facto* ban for women who choose sex work to exercise their economic, and social rights⁵ and to enjoy sexual and reproductive rights.

i) In 2014, the recession of Russia’s economy was evident. With its GDP contracting by 3.7 per cent and the value of the ruble fell by 127 per cent in 2015, Russia was in the midst of a severe economic decline. This has increased poverty and inequality in the country, and correspondingly the negative impact on vulnerable populations, including sex workers, increased. The socio-economic situation of women, who comprise over 70 percent⁶ of all country’s poor people, worsened.⁷ In his recent comments on January 17, 2017, the President of the Russian Federation claimed that “prostitution” is a serious, ugly, social phenomenon, and that young women do it because they cannot survive any other way, a fact, which is guilt of the state and the society⁸.

ii) The social and economic rights are established by the Constitution of the Russian Federation. Article 37 covers labour rights, Article 40 guarantees the right to housing, Article 41 covers the right to health protection and medical assistance. All these rights are established for everyone, including citizens of Russia, foreign citizens, and stateless persons, as distinguished from political rights, which are accorded only to citizens.

iii) Sex workers are specifically vulnerable to violence, HIV/AIDS and to discrimination in Russia. Based on our documentation, media monitoring and other reliable sources, we would like to outline these key issues below to help describe the situation of sex workers in Russia.

² Explanatory note on Amnesty International’s policy on state obligations to respect, protect and fulfil the human rights of sex workers, 26 May 2016.

³ Press-conference of the Silver Rose movement on December 17, 2013, International Day to End Violence Against Sex workers <http://www.gazeta.ru/social/2013/12/17/5807973.shtml>

⁴ Ladnaya N., Tumanova M., Women involved into provision of sexual services and HIV in Russia, Analytical Review. Moscow, 2011

⁵ F. S. E. Arps and M. Golichenko, Sex Workers, Unite! Litigating for Sex Workers’ Freedom of Association in Russia. Health and Human Rights International Journal, December 2014. R

⁶ Poverty in Russia, Accessed on December 26, 2016, <http://www.uadream.com/tourism/europe/Russia/element.php?ID=94213>

⁷ Russian Statistics: Report "Social and economic situation in Russia", January – May 2016

⁸ Vladimir Putin dismisses Donald Trump dossier claims as 'rubbish', CNN, Accessed on January 17, 2017, <http://edition.cnn.com/2017/01/17/politics/russia-us-putin-trump/>

- **Violence against women.** 14,000⁹ murdered by husbands and partners every year, and 40% of survivors never turn to police¹⁰. That would amount to up to a fourth of all murders and violent crimes in Russia. When Reuters news agency tried to confirm this data the Russian police or federal statistics office did not respond after repeated requests. Many cases are dismissed by the police as a family matter or referred to civil courts. Sex workers are survivors of violence at home and on the streets.

In its Concluding observations in 2011¹¹, the Committee called upon the State party to intensify its efforts to combat domestic violence by enacting specific legislation criminalizing domestic violence, strengthening public-awareness campaigns against domestic violence; and strengthening support for victims of domestic violence and to ensure mandatory training for the police to sensitize them with regard to all forms of domestic violence. The Committee urged the State party to provide, in its next periodic report, statistics and disaggregated data on trends in the prevalence of various forms of domestic violence.

It is extremely alarming that in January 2017 a bill to decriminalise some forms of domestic violence has passed¹² in Russia's Duma. The legislation would define first assaults, which cause less serious injuries as administrative - rather than criminal – offence. Silver Rose documented cases when sex workers were abused and raped at home, thrown through the windows and otherwise tortured on grounds of hatred against sex workers or racial hatred, and killings of sex workers.

Since our occupation is legally prohibited, sex workers suffer from violence at the hands of law enforcement agents.¹³ Arbitrary detentions and acts of violence to extort bribes, to blackmail, abuse, torture, and humiliate sex workers out of bias against sex workers are widespread. Along with that, regular police raids are recorded on video and broadcast on television, revealing identities of sex workers.¹⁴ The legal uncertainty surrounding sex work and the illegal status of sex workers creates major legal barriers to seeking protection and justice in law enforcement agencies.¹⁵

- **HIV/AIDS.** The number of people living with HIV in Russia exceeded one million people¹⁶ at the end of January 2016. While sex workers remain among populations most affected by HIV, the National HIV Strategy aims to strengthen the traditional family and moral values. Government officials declare evidence-based HIV prevention efforts as those destroying traditional values and introducing risky behaviours instead of preventing them; a number of HIV prevention NGOs are recognized as 'foreign agents' because of international funding for their human rights and HIV prevention work, putting them at risk of closing. Government doesn't allocate funding for HIV prevention among sex workers. We raise concerns to do with moralizing of religious leaders and its influence on reproductive health. For example, in January 2017, the Orthodox Church together with local healthcare officials announced 'a day without abortion' in Yaroslavl region, when abortion was banned for all for the period of one day¹⁷. Current situation with HIV/AIDS and reproductive health gives much concern with regards to sex workers and their vulnerabilities.

- **Discrimination of sex workers.** In 2013, the first All-Russian Sex Workers' Association was refused the official registration by the authorities in Saint Petersburg. The trial court and the court of appeal upheld the authorities' position. In reality, this denial impedes sex workers' freedom of association and specifically, the ability to organize and advocate for our rights as one of the grounds for registration denial was that sex work is an unlawful activity. In 2014-2016, Silver Rose provided 2,304 legal consultations about detentions and convictions under the Article 6.11. When the lawyer intervened, cases ended up with no punishment

⁹ Victims of domestic violence face uphill battle for protection in Russia. Reuters, Accessed on December 26, 2016, <http://www.reuters.com/article/us-russia-women-violence-idUSBRE97J0CX20130820>

¹⁰ Report of the 'Law Initiative' on violence against women in Russian Federation, May 2016, Accessed on December 26, 2016, http://www.srji.org/resources/search/otchet-pravovoy-initsiativy-po-teme-nasilie-v-otnoshenii-zhenshchin-v-rossiyskoy-federatsii/?sphrase_id=335554

¹¹ Concluding observations for the Russian Federation in 2003, the Committee on Economic, Social and Cultural Rights, http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2f1%2fAdd.94&Lang=en

¹² Russia: anger to move to soften domestic violence law, Accessed on January 12, 2017 <http://www.bbc.com/news/world-europe-38595993>

¹³ Tania, covered with darkness, the story of a sex worker killed by a police officer, Accessed on December 26, 2016 <http://www.mk.ru/social/article/2013/09/17/916743-tanya-pokryitaya-mrakom.html>

¹⁴ Content analysis of media representations of sex workers in Russia, Silver Rose, 2014-2016.

¹⁵ Improving Counter-epidemic Measures Among Women with High Risk Behavior, Including Sex Workers and Injecting Drug Users", Report from the Inter-ministerial Meeting, UNFPA, Office in Russia. October 30-31, Moscow.

¹⁶ The number of people living with HIV exceeded one million , Accessed on December 26, 2016

<http://www.rbc.ru/society/20/01/2016/569fa9849a794768bb441afa>

¹⁷ In Yaroslavl region, a day without abortion was announced, Accessed on January 11, 2017 <http://www.bbc.com/russian/news-38585845>

for the main reason that the lawyer was able to demonstrate to the judges that there was no legal evidence against sex workers. However, when no lawyer was there, judges usually punished sex workers with fines despite the quality of evidence or even when it was obvious that police misused its power

iv) There is a discriminatory domestic legislation that prevents sex workers from fully enjoying their economic, social and cultural rights. We would like to stress that Article 6.11 of the Administrative Offences Code on prostitution and related policies that criminalize and stigmatize sex workers facilitate human rights abuses against sex workers by creating pretexts for agents of the state to control and punish sex workers.

Sex work (“prostitution” in government-endorsed regulations) in Russia is considered an administrative offense,¹⁸ while everything in connection with “prostitution” (i.e. organization of “prostitution”) is treated as a criminal offense with a penalty of up to 8 years in prison.¹⁹ Article 6.11 of the Administrative Offences Code on “prostitution” brought sex workers out of legal field. Sex work is punishable with a fine of 1500 to 2000 rubles (21-28 euro). In 2015, sex workers paid 17,555 million rubles as fines (250,785 euro). In some regions of Russia, sex workers pay higher fines, up to 7000 rubles (up to 100 euro) with no legal grounds for this. The fine itself means that a sex worker needs to pay it now, and with no other professional occupation, in reality, it puts sex workers back to the streets and into brothels. Not limited to sex workers only, in Belgorod, we documented an unlawful regulation criminalizing and imposing a fine on clients, which was later cancelled by the local Prosecutor’s Office. According to the Supreme Court, in 2015, magistrates considered 12,269 administrative cases under Article 6.11 and convicted 10 536 persons²⁰ vs total of 60 persons convicted under criminal article 240 (engaging others into “prostitution”) and 123 persons under Article 241 (organizing of the “prostitution”) of the Criminal Code. This clearly demonstrates that police disproportionately target sex workers rather than third parties involved in organizing sex work. Thus, a criminal status that is placed on sex workers through punitive laws and policy means that they are severely disadvantaged in seeking justice and redress for violent crimes against them, offering attackers impunity and leaving sex workers at risk of further violence and abuse²¹.

The current practice of stigma and discrimination against sex workers enables and increases various legislative initiatives. Locally and nationally deputies propose the new laws on sex work, offering criminal liability for sex work, immediate deportation of migrants involved in sex work, increased fines, correctional labour for one year, imprisonment from 8 to 15 years, prohibiting advertising of sex work²², and absurd suggestions to criminalize clients, who can avoid liability by marrying a sex worker²³. These initiatives are quite violently discussed in the media and on television. Prominent public figures and religious leaders speak out in support of these initiatives, and incite hatred and animosity towards us, sex workers.

Today’s Realities of the implementation of the International Covenant on Economic, Social and Cultural Rights in the Russian Federation in relation to sex workers

Here we would like to provide more information on the legal situation of sex workers, including discriminatory legislation, legislation on domestic violence and legislation affecting their rights to own property. It will also include information on sex workers' economic and social status, their opportunity to find employment and access healthcare services, and the violence they experience in the public and private spheres.

Sex work is probably linked, albeit inadvertently, to the macro-economic policies of governments which have a tendency to spawn rapid urbanisation at the expense of rural development, to promote cheap labour for industrialization.²⁴ Active enforcement of these legal provisions forces us, sex workers, to work in dangerous conditions, exposes us to violence (often at the hands of law enforcement agents), and deprives us of adequate legal remedies to adjudicate of social, economic and cultural rights due to unwillingness on the part of police and judges to address related claims.

¹⁸ Section 6.11 of the Russian Federation Code of Administrative Offences

¹⁹ Section 240 and 241 of the Russian Federation Criminal Code

²⁰ Supreme Court Statistics, Accessed on December 26, 2016 <http://www.supcourt.ru/second.php>

²¹ C.M. Lowndes, et al., Injection drug use, commercial sex work, and the HIV/STI epidemic in the Russian Federation

²² Content analysis of media representations of sex workers in Russia, Silver Rose, 2014-2016. <http://izvestia.ru/news/588635#ixzz4WFQyV9Uk>

²³ Law initiatives around activities of easy virtue, Accessed on December 26, 2016 <https://www.zaks.ru/new/archive/view/132082>

²⁴ Explanatory note on Amnesty International’s policy on state obligations to respect, protect and fulfil the human rights of sex workers, 26 May 2016.

The main rhetoric in Russian courts under Article 6.11 is quite standard and focuses on attempts to define the term 'prostitution'. Indeed, there is no unified position on judicial definition of term 'prostitution' as Article 6.11 does not give a definition of 'prostitution'. Meanwhile, under Article 6.11 of the Administrative Code, the courts of the 1st and 2nd jurisdiction focus on analysing the combination of the elements of an offense; the courts directly refer comments by Deputy Chairman of the Supreme Court, that is not legal, as an explanation of these terms is belongs solely to a legislative power. The above mentioned legal uncertainty in reality means, that a magistrate can find a woman guilty under article 6.11 without her participation in a trial, only based on allegations that police officers put forward in the report.

Case Example:

When M. turned to a lawyer, a magistrate has issued a decision ruling she is guilty of an administrative offense under Article 6.11 of the Administrative Code. Evidence in the report was a police officer's report. After reviewing the case files, the lawyer discovered on incriminating evidence, which did not refer to M. Since the arrest and during her 16-hour detention at the police station, she did not plead guilty. Despite that fact, that police officers had prepared a typed memo with explanations to her admission of guilt, M. with handwriting referred to the article 51 of the Constitution of the Russian Federation (privilege against self incrimination) and disagreed with incriminating Article 6.11. The court concluded that there was a lack of evidence with no conviction, and stopped proceedings.

Thus the presumption of innocence, our equal access to protection and a fair trial are violated. In 2015, the Russian magistrates stopped proceedings under 91 cases under article 6.11²⁵, mostly because absence of the event of the crime: there was no systematic involvement to sex work or/and there was no actual sexual contact or simply no body of evidence.

Case Example:

V. turned to the Silver Rose in October 2016 as she was detained in the brothel and brought to the police department. Under pressure by the police officers and a night spent in the department (by law detention time under administrative provisions should not exceed three hours)²⁶, V. signed the testimonies against herself under Article 6.11, and later was found guilty. The lawyer helped V. to file a complaint to question the ruling of a magistrate, the proceedings were stopped as the evidence was lacking that V. provided sexual services and thus did not commit the offence.

E. called to Silver Rose in August 2016 to tell her story. In April this year, the police and the journalists under the guise of customers entered the brothel, where she was. Women were filmed on camera without consent, 12 of them were detained at the police station for six hours, and under pressure were forced to write confessions against themselves. E. was searching help on the forums for sex workers, where she could find contacts of the Silver Rose lawyer, who was defending her in court. The case of E. was then closed for lack of corpus delicti.

In all regulations, there is no requirement of prosecution of sex workers themselves, meaning a complete absence of such grounds in the legislation ending with everyday arbitrariness against sex worker. If performed by MIA, 'test purchase' implies a check up to prevent or identify an administrative crime in the field of commerce; or is often used to provoke crimes stipulated in the country's Criminal Code, for instance, purchase of drugs or sex. Overall, law enforcement often uses 'test purchase' or to provoke crimes, and for instance, with regards to drug trafficking; the European Court of Human Rights ruled that 'test purchase' or police incitement by undercover policemen, who had acted without judicial supervision violates the right for fair trial²⁷

'Test purchase' as a police incitement to provoke crimes under Article 6.11. or a form of entrapment has become an everyday routine during police raids against sex workers. There are no legal grounds as sex work is neither commerce nor a crime, but an administrative offence, as classified by the law. Within the Russian legislation, "test purchases" in relation to sex are unlawful conduct, as sex work falls, even under the existing law, in the category of offenses rather than crimes. 'Test purchase' of sexual services is not

²⁵ Supreme Court Statistics, Accessed on December 26, 2016 <http://www.supcourt.ru/second.php>

²⁶ Article 27.5 of the Administrative Offences Code

²⁷ Press release ECHR 331 (2013) 12.11.2013, European Court of Human Rights, Judgments concerning Bulgaria, Lithuania, Spain, and Turkey Sepil v. Turkey (no. 17711/07) Accessed on December 26, 2016

enforced by Russian legislation due to lack of a laws on the regulation of “prostitution” and/or on combating “prostitution”, and therefore the test purchases in form of raids have no legal grounds for practicing both under the Articles 240 and 241 of the Criminal Code. And further there follows an unlawful detention (arrest) for a period ranging from several hours to several days, accompanied with detention humiliation, torture in police stations, slave labour, denial of counsel, extortion of large amounts of money.

Case examples:

L. in September 2016 was detained in the police department with charges under Article 6.11 for 46 hours 10 minutes. The Prosecutor’s Office acknowledged the violation of L. rights by the police officers.

M. In October 2016 spend 16 hours in the police department on charges under Article 6.11. The protocol for the administrative detention was not filed by police officers, and the Prosecutor’s Office refused to react and punish the officers. The court ruled that the proceedings for the case of M. was stopped.

After being humiliated during the police raids, many sex workers sign statements of self-incrimination by threats of violence, extortion of large amounts of money or threats to disclose sex workers’ identity to the family or children. In some cases, that can lead to depriving of a custody of a child.

Case examples:

In spring 2016, after a brothel raid in St Petersburg, O. witnessed how one of women detained together with her on charges related to Article 6.11 was threatened that police will tell about her occupation to her 8-year old daughter if she would not sign a protocol and plead guilty.

L. engaged in sex work after a divorce with her husband to support her child. Her ex- husband appealed to the court on this basis, and took away the child to reside with him. L. appealed to the court to return the child to her as a mother. However, after five months of litigation, the court rejected this¹⁰. Later; L. with support from the Silver Rose went to court with a claim on definition of the procedure for exercising parental rights (communication with the child). The father filed a counterclaim to restrict parental rights of L. After seven months of litigation, the parties came come to an amicable agreement. Father refused the claim on the limitation of parental rights, and the parties agreed on a schedule according to which L. can communicate with her child. Without legal assistance, L. wouldn’t able to claim her parental rights.

Once signing a statement that leads to self-incrimination, sex workers face criminal records and then out lives are compromised moving forward to the detriment of the exercise of our economic, social and cultural rights.

Article 2. The rights to non-discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

The criminalization of sex work violates our right to non-discrimination. In 2013, the first All-Russian Sex Workers’ Association was refused the official registration by the authorities in Saint Petersburg. The trial court and the court of appeal upheld the authorities’ position. As a justification for the refusal the authorities referred to laws, which prohibit “prostitution”.²⁸ The Ministry of Justice (MoJ) in its refusal argues, that sex workers are not in the professions qualifier, the country's definition of legal professions, as of 1994, and that the creation of the organization will lead to incitement of ethnic hatred; that sex workers are asocial elements that would violate orthodox values, concluding that the government can control the private lives of citizens. We argue that since this discrimination is directly based on our occupation of sex workers, criminalization of sex work itself is an unjustified discriminatory measure. Additionally, the stigma and discrimination directly result from the criminalization of sex work – by state and non-state actors. The Government forced Silver Rose to remain an unregistered association - limiting its ability to act as a group in civil and political life - and, we argue, this discriminatory decision further stigmatized us. Because of the Ministry's of Justice refusal to allow the Association to register, no one who engages in sex work can freely

²⁸ F. S. E. Arps and M. Golichenko, Sex Workers, Unite! Litigating for Sex Workers’ Freedom of Association in Russia), Health and Human Rights International Journal, December 2014.

associate as an organisation, or pursue their aims of protecting and affirming human rights, because of their occupation.²⁹ Criminalization of sex work, in other words, leads to institutionalized stigmatization and discrimination.³⁰

In its Concluding observations in 2003, the Committee on Economic, Social and Cultural Rights encourages³¹ the Russian Federation to consider ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. The criminalization of sex work also worsens the position and discriminates against migrants and refugees, as engaging in this type of work might make them more visible and liable to being targeted by state authorities. Many of them have an expired visas, residence permission or no residence registration, and police can file a migration-related case with sanctions up to deportation.

The migrants can be detained for 48 hours if compared to 3 hours for administrative offences. Thus, they are absolutely dependent on the police officers, with regard to their social, economic and cultural rights. This means that the existing laws allow state authorities to treat migrants and refugees even worse than sex workers from Russia. Another threat for them is the traditional religious community, mostly muslim, the diaspora of their countrymen in Russia as a country of destination. Silver Rose documented them perpetrating 'correctional' violence based on 'immoral' behavior and informing sex worker family back home.

The Silver Rose documented at least 8 cases when sex workers of African origin were subjected to brutal forms of violence, including killings by throwing them from the windows of apartment houses to remove evidence of violence and killings.

Case Example:

On May 12, 2016, in the evening, there was a knock on the door, I opened, and the gang of some people flew in, it all happened very quickly. Very frightened, I ran into the kitchen, closed the iron door, screaming to girls to get out through the window. We were on the second floor, so we got down with one girl. S. For three minutes was in the window, she did not understand why we run, she does not understand Russian well. I shouted to her that it were bandits, not the police, then she got out, but her shoe was stuck between the wall and the gas pipe outside, when suddenly in the window appeared the gang leader, he shouted something and tore her hands from the window, suddenly she flew down. She was lying on the ground almost naked, I called an ambulance, screaming. I took a towel and covered her. Then the ambulance arrived, she was diagnosed with a fracture of the pelvis.

Since it's committed repeatedly against the group of women of African origin, we witness an implication of racial hatred based on the nazi ideology, e.g. treating sex workers from African countries with special cruelty, and on impunity as the police does not investigate these crimes. Often, the victims themselves don't turn to police as they might have problems with migration documents. Thus, S. migrant status negatively impacted her experience of seeking justice and accessing legal remedies, and lead to discrimination and violence.

Article 3. The equal right of men and women to the enjoyment of all economic, social and cultural rights

Economic and political changes in the past two years in Russia have left many Russian women staggering under the burdens of rising unemployment and high rates of inflation. In Russia, the average monthly wage of women is only 63% of men's wages³². Although the Russian Constitution and the Labour Code outline equal opportunities for men and women, employers often refuse to recruit women for fear of having to finance generous maternity benefits, and some openly flout anti-discrimination legislation by advertising for men. The unemployment rate among young people is as high as 22%, further increasing vulnerabilities of

²⁹ Ibid

³⁰ UN General Assembly, Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Anand Grover, UN Doc. No. A/HRC/14/20 (2010), p. 4.

³¹ Concluding observations for the Russian Federation in 2003, the Committee on Economic, Social and Cultural Rights, http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2fRUS%2fCO%2f5&Lang=en

³² Russia by Numbers: 2011, Short Statistical Book, Rosstat, Moscow, 2011, Accessed on December 26, 2016 <http://www.gks.ru/wps/wcm/connect/rosstat/rosstatsite/main/population/education/>

young women³³. Women face widespread employment discrimination that is practiced, condoned and tolerated by the wide range of employers, they tend work in low-skilled and precarious positions³⁴.

The Ministry of Internal Affairs (MIA) introduced a database with all criminal and administrative data since 1995, where data are stored for an unlimited term or for 80 years according to other sources. Although this information is compulsory for employment in the government and related services, financial institutions and higher management positions, it is widely used by all kinds of employers, banks and security service at enterprises. The questions on criminal and administrative records are included during the employment interviews, however never used as an official reason for rejection to the candidates as they can then sue the decision in court. This directly impacts sex workers, impeding those willing to quit from leaving sex work and leading some of them to continue selling sex. Another negative impact is that the same record impedes them from receiving mortgages or loans to buy property and pay education fees.

Case Examples:

T., aged 34, from Ekaterinburg, left sex work and tried to get in employment with a construction company according to her qualification as an accountant. She passed all the interviews and tests, brought all requested medical records, and were denied in employment by an official reason that she lacks experience. Unofficially she was told that she had records under the article 6.11 in the MIA database. She officially applied for removal of her expired records from the database, and was refused. The case continues, as her son is going to enter the police academy after graduation, and it is expected that he can be denied justified by the same MIA record of his mother.

In 2008, A., a young woman from Saint Petersburg, had an offence under article 6.11 and paid a fine. Not doing sex work for four years, together with her fiancé, recently she turned to the bank for a mortgage, and the application was rejected. Informally, they were told that she had a record under article 6.11 in the MIA database. Her fiancé broke up with her, and she made a decision to turn back to sex work.

Thus, records under Article 6.11 serve as a thinly veiled reason for labour discrimination and discrimination in finance solutions, often orally communicated in unofficial conversations. Records under Article 6.11 – being a past, expired administrative, not a criminal offence - make us less employable, and further lower our employment and property ownership prospects once we choose to quit sex work. That tracks of administrative records of engagement in sex work are reasons for losing jobs and often being downgraded to unqualified jobs in the labour market.

Sex worker's economic rights are further undermined by the fines imposed by the administrative code, forcing them back to the streets and into brothels to earn and pay the fine.

There are some other effects of the police raids, which have a devastating impact on our right to fair trial. Frequently, police conduct its raids, together with the media, which then airs materials demonstrating faces of sex workers and shaming them. In these broadcasts, we, sex workers are depicted as criminals; television crews immediately bring in this verdict. "The police conducted a raid and arrested prostitutes" is the most common phrase in the criminal chronicle³⁵. Featuring sex workers on television in the criminal news in a prejudicial and hateful manner at times happens with the use of the police videos, which cannot be demonstrated to the public because of the benefit of the doubt, and as soon as the image of the person is an integral part of the privacy. This forms a public opinion and an environment, where the detainment of sex workers seems 'lawful' in public consciousness based on high frequency of TV such broadcasts, imposing an desinformation and opinion to public that sex workers should be treated as criminals and those deprived basic human rights. This accusing and humiliating tone further increases self-stigma of sex workers preventing them from claiming their rights. The Silver Rose submitted a number of petitions against

³³ Ibid

³⁴ Women in labor markets: measuring progress and identifying challenges, ILO, 2010, Accessed on December 26, 2016 http://www.ilo.org/wcmsp5/groups/public/---ed_emp/---emp_elm/---trends/documents/publication/wcms_123835.pdf

³⁵ Content analysis of media representations of sex workers in Russia, Silver Rose, 2014-2016.

journalists and media on such cases to the prosecutor's office and courts, which provide only formal replies with no actions taken³⁶.

Article 11. The right to an adequate standard of living

During the police raids for 'test-purchase', we, sex workers, are most vulnerable to violations of our right to housing, right to security of the person, and to privacy. There are reports of ill-treatment and excessive use of force by law enforcement officials vis-à-vis us; we have information about harassment of sex workers that have made these claims. Certain violations of these rights can be characterized as cruel, inhumane and degrading treatment, or in some cases a denial of the right to housing.

Adequate housing implies the possibility of having appropriate shelter and protection from violent or unlawful evictions, which is non-existent for us, sex workers, during the police raids. The right to protection from arbitrary interference with one's home is guaranteed by the Constitution of the Russian Federation. Silver Rose documented attacks in brothels, when gangs, having inherited the style of police raid, practice armed assault and robbery. After that, the gangs often call the police in order to cover up the tracks of their crimes, and wait for the police to arrive. Usually, none from abusers gets arrested, but sex workers. As the doors of the premises are left ruined, it is not safe to return, thus sex workers get evicted from their homes, any many of them are forced to immediately change the place where they live and work.

Case Example:

In spring 2016, K. saw how the leader of a gang after a robbery of a brothel in the Leningrad region, beating and humiliation of sex workers, including labeling them for the spread of HIV, took a selfie together with a police officer, who arrived after his call. It was obvious that they knew each other.

The gangs break the doors and furniture, rob and beat sex workers, film them and take photos, publish them on the internet and social networks after, extort money, mobile phones, tablets and computers in exchange to a promise not to share the video and the information with their parents and children, post these videos in social networks and otherwise disclose identities of sex workers, all with impunity. The gangs often hand sex workers to the police, and police treats sex workers as criminals rejecting them to file claims of violence and robbery.

Case Example:

In St. Petersburg on the night of May 18, 2016, a gang of nationalists drove out into the street employees and customers of the brothel, located on the 11th Line of Vasilyevsky Island, and forced them to walk naked without clothes in the street to go to the nearest police department. The police observed naked people marching, but didn't employ any actions. The nationalists were armed with a crowbar and shouted threats. Publications in the media and social networks were accompanied by photos and videos³⁷. The gang handed the sex workers and their clients to the police officers; they were detained for over 16 hours.

Because sex work is criminalized, the gangs inherited the style of police raids for their attacks, and often present themselves as policemen. Violation of the right to protection from arbitrary interference with one's home during the raids fuels and creates a cover for widespread abuse against us, sex workers, repeatedly.

Article 12. The right to the highest attainable standard of health

The links between poverty, ill-health and violence make access to health services crucial to our enjoyment of our economic, social and cultural rights. We are always at risk of violence and abuse, which increases our vulnerability to HIV and other sexually transmitted infections. we require. The existing legal framework in Russia makes sex work and related activities punishable offenses, leaving us stigmatized. Our criminalized status and stigma we face dissuade us, sex workers, from seeking out healthcare services when we need them, causing late presentation with AIDS and severe consequence for health. Sex workers face discrimination when accessing healthcare services, which serves as a further impediment to accessing

³⁶ Ibid

³⁷ Content analysis of media representations of sex workers in Russia, Silver Rose, 2016

services. Indeed, there are more issues, related to health, beyond HIV, but in this report we would like to stress the vulnerability to HIV.

In its Concluding observations in 2003, the Committee on Economic, Social and Cultural Rights called³⁸, in line with its general comment No. 14 (2000) on the right to the highest attainable standard of health, calls the State party to take urgent measures to stop the spread of HIV/AIDS. In 2001, the Committee also encouraged³⁹ the State party to include in the school curricula sex education among the adolescents, to prevent early pregnancy and the control of sexually transmitted infections, including HIV/AIDS, and reproductive and sexual healthcare education.

Criminalization of sex work has specifically been shown to directly undermine global HIV prevention efforts.⁴⁰ Evidence indicates that criminalization interferes with and undermines sex workers' right to health services and information, in particular the prevention, testing and treatment of sexually transmitted infections (STIs) and HIV. Because of criminalization, sex workers are considered as criminals either directly or as enforced, and are not recognized as a key population in HIV response, causing the absence of funding to prevent HIV in this specific population.

Worldwide, we, sex workers, are recognized as a group vulnerable to HIV. While on average 4.5% of sex workers are living with HIV, prevalence among street sex workers is as high as 50% in some cities.⁴¹ The Ministry of Health has no encodings for HIV-related categories such as sex workers. And since our group has no name in our country's HIV prevention programming, the government-funded programs cannot cover HIV prevention efforts among sex workers. There is a category called 'Sexually transmitted infections, STI' encoded as 104, meaning people with HIV and an STI fall to this category. We are against labeling us as 'infections'.

Although the Sixth Periodic Report of the Russian Federation⁴² mentions some measures to prevent HIV, none of them are targeting key affected populations, defined by UNAIDS as those most likely to be exposed to HIV or to transmit HIV, and therefore are key to the epidemic and the response. Key affected populations as people involved in "prostitution", men who have sex with men (MSM), and injecting drug users are mentioned as vulnerable groups in the preamble of the New National Strategy on HIV prevention in Russia till 2020⁴³, but the strategy itself is a set of general statements with no specification of what exactly will be done targeting us, sex workers.

Officials are going to combat HIV with so called conservative methods based on propaganda of responsible behaviour, moral and spiritual values, and healthy lifestyles, instead targeting populations with higher prevalence of HIV⁴⁴. This runs counter to human rights norms and standards around the right to health in the context of HIV and to evidence-based recommendations by health and human rights experts and bodies.

Further, in Russia, HIV prevention programs are considered as those destroying local traditional values and imposing new harmful behavioral norms⁴⁵. In addition, we are attributed the threat of dissemination HIV and other socially significant diseases, while a number of deputies of the Russian State Duma incite hatred against us⁴⁶, supporting moralism and gender stereotypes. For example, Deputy Milonov who is a member of Russian State Duma said in 2016: 'It is necessary to burn [prostitution] with a hot iron. The best [solution]

³⁸ Concluding observations for the Russian Federation in 2003, the Committee on Economic, Social and Cultural Rights, http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2fRUS%2fCO%2f5&Lang=en

³⁹ Ibid

⁴⁰ See generally Global Commission on HIV and the Law, Risks, Rights and Health, 2012; UNAIDS Guidance Note on HIV and Sex Work, Annex 3; UNAIDS, UNFPA, UNDP, Sex Work and the Law in Asia and the Pacific, 2012; UNDP, UNFPA, APNSW, SANGRAM, The Right(s) Evidence: Sex, Violence and HIV in Asia – A Multi-country Qualitative Study, 2015.

⁴¹ UNFPA, Office in Russia. Inter-Ministerial Meeting, Moscow, October 30-31, 2012.

⁴² Рассмотрение докладов, представляемых государствами-участниками в соответствии со статьями 16 и 17 Международного пакта об экономических, социальных и культурных правах. Шестые периодические доклады государств-участников, подлежащие представлению в 2016 году Российская Федерация, page 37, September 2016.

⁴³ National Strategy on counteraction to dissemination of HIV infection in the Russian Federation for the period till 2020 and for further prospective, Accessed on January 10, 2017 <http://rusaids.net/wp-content/uploads/2016/10/Стратегия-ВИЧ-РФ1.pdf>

⁴⁴ Accessed on January 10, 2017 <http://www.kommersant.ru/doc/3170121>

⁴⁵ Moscow helathcare provides treatments to all HIV patients, October 2016, Accessed on December 26, 2016, <http://www.tvc.ru/news/show/id/78151>

⁴⁶ Interviews and quotes by the Russian officials, <https://www.youtube.com/watch?v=ezSJicXvZOE&feature=youtu.be>

against prostitution and for its organization is to deny Russian citizenship and expel them from the country, tear the passport at the border, let those who are willing to pick them up... Kick them out as garbage!⁴⁷.

Human rights bodies and UN Agencies such as UNAIDS and WHO recognize that criminalization of sex, stigma and discrimination and violence impede HIV treatment and prevention. Notably, research published in 2014 in the scientific medical journal *The Lancet* confirmed that of all potential interventions identified, “decriminalization of sex work would have the greatest effect on the course of HIV epidemics across all settings, averting 33–46% of HIV infections in the next decade⁴⁸. In Russia, all HIV prevention programs for sex workers, total of six for the whole country, presently are implemented only with support from international funds. These programs are not able to meet all the needs of sex workers, mostly to do with accessing condoms, reproductive health services, legal remedies and protection from violence in order to prevent HIV.

The United Nations Joint Programme on AIDS (UNAIDS) defines condom use is one of the most important components of an integrated and sustainable approach to HIV prevention.⁴⁹ As a consequence of criminalization of sex work, police confiscate and cite the use of condoms as evidence of sex work offences, creating a disincentive to their use and further jeopardizing the right to the highest attainable standard of health.⁵⁰ Using condoms as evidence is disincentivizing sex workers carrying and using condoms for fear of criminalization. Condoms are used as evidence of sex work and are confiscated from sex workers, and consequently police cites condom possession as justification to detain and arrest people on charges related to sex work.⁵¹ However, we documented that Russian police has intimidated sex workers to the point where they voluntarily hand over their condoms when police appear on the scene.

Case Example:

In 2016, E. turned to the Silver Rose after traffic police stopped the car, where she was with another woman. Things were searched, and a number of condoms were found. Based of this, the two young women were taken to the police station on charges of “prostitution”. They were abused and threatened that police will contact their relatives in social networks. The women continued to deny their guilt; friend of E. was fined for being in the city without residence registration, and then released. E. wanted to get official apologies, and an admonition to the officers. Accompanied by the Silver Rose's lawyer, she filed an official complaint and received an oral apology at the police department; however, the police said they could not file an admonition for its employees, as they found no evidence of their illegal actions. E. asked for a written refusal, and hopes to receive it in the upcoming months.

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⁴⁷ Deputy Milonov on the march of naked prostitutes in St.Petersburg, Accessed on December 26, 2016 <http://ren.tv/novosti/2016-05-18/milonov-o-marshe-golyh-prostitutok-pod-rukovodstvom-dacika-nado-bylo-snimat>

⁴⁸ K. Shannon, et al., ‘Global epidemiology of HIV among female sex workers: Influence of structural determinants’, *The Lancet*, 2014, p. 10, available at: [dx.doi.org/10.1016/S0140-6736\(14\)60931-4](https://doi.org/10.1016/S0140-6736(14)60931-4).

⁴⁹ ЮНФПА, ВОЗ, ЮНЭЙДС: Заявление о позиции по вопросу презервативов, профилактики ВИЧ, других ИППП и предотвращения нежелательной беременности, 2015 http://www.unaids.org/ru/resources/presscentre/featurestories/2015/july/20150702_condoms_prevention

⁵⁰ See Amnesty International reports, *The human cost of ‘crushing’ the market: Criminalization of sex work in Norway* (EUR/36/4034/2016); *Harmfully Isolated: Criminalizing sex work in Hong Kong* (ASA 17/4032/2016); *Outlawed and abused: Criminalizing sex work in Papua New Guinea* (ASA 34/4030/2016). See also Open Society Foundations, *Criminalizing Condoms, How policing practices put sex workers and HIV services at risk in Kenya, Namibia, Russia, South Africa, the United States and Zimbabwe*, 2012; Human Rights Watch, *Sex Workers at Risk: Condoms as Evidence of Prostitution in Four U.S. Cities*, 2012; M.H. Wurth et al., ‘Condoms as Evidence of Prostitution in the United States and the Criminalization of Sex Work’, *Journal of the International AIDS Society*, 2013.

⁵¹ See report ‘Criminalizing condoms: How policing practices put sex worker services at risk in Kenya, Namibia, Russia, South Africa, the United States, and Zimbabwe, 2012’, Accessed on December, 26, 2016 <https://www.opensocietyfoundations.org/sites/default/files/criminalizing-condoms-20120717.pdf>

Along with that, accessing HIV prevention, reproductive and sexual health services are even harder for migrants: they are not covered by the health insurance available for Russian citizens. Sex workers, particularly migrant sex workers who may often be in “irregular status”, may fear being arrested, detained and deported if they seek health care, including sexual and reproductive health services⁵². Presently, there are no government funded health programmes for migrants in Russia. The use of raid policing practices such as raids are used as a means to put pressure on sex workers as including the targeted enforcement of sex work, public nuisance, and/or deport of immigrants, which makes impossible for migrants accessing HIV treatment and can endanger their health and event life.

Case Example:

In 2016, a male sex worker, aged 26, was arrested in Moscow under the administrative article 6.11 ‘engagement in prostitution’. He was not taken on the register at the Moscow AIDS Centre, even though he was HIV-positive. By the ruling of court, he was deported to his country of origin, Uzbekistan, as a migrant with HIV, where he was placed by his relatives to a psychiatric hospital as a shame of the family, gay man and HIV positive person after a domestic cruel assault by his own brother.

Similarly, in 2016, a woman migrant in Irkutsk, aged 32., detained under article 6.11 was searched at the police department. She had with herself a medical paper saying she was HIV-positive and her anti-retroviral therapy for HIV in pills. She was deported to her country of origin based on this evidence after a 4-months detention. Her therapy was interrupted since the day of arrest, which potentially lead to very severe health consequences⁵³. There is no track of what has happened to her after the deportation.

Human rights norms and standards related to the right to health and the human rights principle of participation require that violence against sex workers is deemed a risk factor for HIV and must be prevented and addressed in partnership with sex workers and sex worker led organizations.

Conclusion

The human rights abuses/violations by the legal and policy framework and state practice in Russia that Siver Rose sees as a result from criminalization of sex work in Russia and existing stigma and discrimination against sex workers are:

Article 2. The rights to non-discrimination as because of the criminalization of sex work, the sex workers’ association was refused the official registration based on laws, which prohibit “prostitution”; and the criminalization of sex work also worsens the position and discriminates against migrants and refugees, and women of color.

Article 3. The equal right of men and women to the enjoyment of all economic, social and cultural rights as sex worker’s economic rights are further undermined by the fines and tracks of administrative records of engagement in sex work and featuring sex workers on television as criminals.

Article 11. The right to an adequate standard of living as during the police raids for ‘test-purchase’, we, sex workers, are most vulnerable to violations of our right to housing, right to security of the person, and to privacy. As the doors of the premises are left ruined, sex workers get evicted from their homes.

Article 12. The right to the highest attainable standard of health as the criminalization of sex work and the police raids undermine HIV prevention efforts, causing that sex workers are not recognized as a key population in the national HIV response, causing the absence of funding to prevent HIV in this specific population, including migrants, and as a consequence of criminalization of sex work, police confiscate and cite the use of condoms as evidence of sex work.

⁵² Explanatory note on Amnesty International’s policy on state obligations to respect, protect and fulfil the human rights of sex workers, 26 May 2016.

⁵³ Moscow helathcare provides treatments to all HIV patients, October 2016, Accessed on December 26, 2016, <http://www.tvc.ru/news/show/id/78151>

It's notable that in the recent Concluding observations by the CEDAW Committee to the Russian Federation addressing violence, the Committee mentioned that: 'The Committee has also called on the Russian Federation to repeal a provision of its Administrative Code, which penalizes prostitution, and to establish an oversight mechanism to monitor violence against women involved in prostitution, including by the police.'⁵⁴

The government of the Russian Federation should repeal the Article making sex work an administrative offence, establish laws to protect against discrimination and violence, and other violations of rights faced by sex workers in order to realize their human rights and reduce their vulnerability to HIV and the impact of AIDS⁵⁵. Antidiscrimination laws and regulations should guarantee sex workers' right to social, health and financial services.

Policies which aim to support and improve the situation of marginalized and disadvantaged groups must focus on empowering these individuals and directly addressing structural disadvantages such as poverty and discrimination, as opposed to devaluing their decisions and choices or criminalizing the contexts in which they live their lives.⁵⁶ Policy-makers, parliamentarians, religious leaders should work together with civil society and sex workers' organizations to confront stigma, discrimination and violence against sex workers, and transform punitive legal and social norms and practices that stigmatize and marginalize sex workers towards ones that protect the rights of sex workers.⁵⁷

Further, health services should be made available, accessible and acceptable to sex workers based on the principles of avoidance of stigma, non-discrimination and the right to health. Law enforcement of officials, and health and social care providers need to be trained to recognize and uphold the human rights of sex workers, and held accountable if they violate the rights of sex workers, including the perpetration of violence.⁵⁸

⁵⁴ CEDAW, Concluding Observations: Russian Federation, UN Doc. CEDAW/C/RUS/CO/8, 2015, paras. 25- 26

⁵⁵ 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, December 2012 Accessed on December 26, 2016 http://apps.who.int/iris/bitstream/10665/77745/1/9789241504744_eng.pdf?ua=1

⁵⁶ Explanatory note on Amnesty International's policy on state obligations to respect, protect and fulfil the human rights of sex workers, 26 May 2016.

⁵⁷ 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, December 2012 Accessed on December 26, 2016 http://apps.who.int/iris/bitstream/10665/77745/1/9789241504744_eng.pdf?ua=1

⁵⁸ Ibid