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Shadow Report
(2010-2014)

Submitted by:

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State under review: the Russian Federation

Introduction

This report documents human rights violations that women sex workers² face due to our status as “sex workers” and demonstrates the impact of these on women sex workers’ living and working conditions. In this report we, community of sex workers, would like to share information, collected by the Silver Rose in the course of daily activities with sex workers. This report also relies on documentation of human rights abuses against sex workers³, and a content analysis of media representations of sex workers in the country.

Women sex workers face multiple forms of discrimination both based on being women, and because of perceptions that they violate generally accepted gender norms.

¹The 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 400 volunteer leaders of sex workers in over 30 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. The 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 lives of sex workers. This organization has been monitoring acts of discrimination against women who sell sexual services and conducts special research in this area.

² According to the definition of the World Health Organization, sex workers includes “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”. Sex work is consensual sex between adults, which takes many forms, and varies between and within countries and communities from “informal” to organized. Please see: “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, 2015)

³Summary case study, Silver Rose, 2013-2015.

Article 1. Definition of discrimination

We, women sex workers, suffer extreme stigmatization and are subjected to systematic and systemic discrimination in the Russian Federation and therefore cannot enjoy our rights as stipulated in the Constitution of the Russian Federation. We, 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 justified by religious values and the need to punish women who disobey moral codes of gendered behavior. We are considered as carriers of disease and criminals, deprived of human rights.

Recommendation

- To address stigma and discrimination against sex workers through anti-discriminatory laws so that all could enjoy rights and be free from any form of discrimination.

Article 2. Policy measures to be undertaken to eliminate discrimination

In the Russian Federation, criminalization in the law and in practice justifies, and, in some cases, authorizes discrimination to combat unwanted behavior by sex workers, depriving us of our rights, including the right to health, freedom from violence, torture and ill-treatment, right to a fair trial, and to regular civil rights.

In Russia, the Article 6.11 of the Administrative Offences Code on prostitution brought three million women out of legal field. Sex work is an offense punishable with a fine of 1500 to 2000 rubles (about US\$50-70).⁴ Organizing and engaging in prostitution-including living on its avails, operating brothels, and pimping – are criminal offences, punishable with up to eight years in prison.⁵ We would like to stress that all anti-prostitution laws and policies that criminalize or otherwise stigmatize sex workers facilitate human rights abuses against sex workers by creating pretexts for agents of the state to control and punish sex workers.

According to the official court statistics in 2014, courts considered 11,338 administrative cases under article 6.11 of the Code of Administrative Offences (prostitution), and 253 administrative cases for living on avails from prostitution (article 6.12 of the Code of Administrative Offences).⁶ There is no available statistics related to the number of criminal cases under articles 240 and 241 of the Criminal Code (engaging others into prostitution; organizing of the prostitution).

Within the Russian legislation, "test purchases" in relation to sex are unacceptable conduct, as they fall, even under the existing law, in the category of offenses rather than crimes. A police raid is a legalized crime against us, sex workers: illegal entry into a dwelling, threats, coercion to testify against ourselves, blackmail disclosure of personal data and disclosure of data, violence, including sexual, theft of personal property and money. And further there follows an unlawful detention (arrest) for a period ranging from

⁴Code of Administrative Offences of the Russian Federation, Federal Law No. 195-FZ (2001), Section 6.11.

⁵Code of Criminal Offences of the Russian Federation, Sections 240-241.

⁶Official statistics available on the website of the Judicial Department of the Supreme Court of the Russian Federation at www.cdep.ru

several hours to several days, accompanied with detention humiliation, torture in police stations, slave labor, denial of counsel, extortion of large amounts of money⁷.

Normally, a magistrate decides of guilt of a woman without her participation in a trial, only based on allegations that police officers put forward in the report. Thus the presumption of innocence, our equal access to protection and a fair trial are violated.

In 2014, the Silver Rose received 128 calls from sex workers for a legal consultation on the Article 6.11; and in 2015 - 290 phone consultations and over 70 consultations via the Internet⁸. When the lawyer of the Silver Rose managed to intervene, the majority of cases ended up with no punishment for the main reason that the lawyer demonstrated judges that there were no legal evidences against sex workers. However when no lawyer was available, judges usually punished sex workers with fines despite the quality of evidences or even when it was obvious that police misused its power.

Recommendations

- To develop a policy that supports the full decriminalization of all aspects of consensual sex work to ensure sex workers enjoy full and equal legal protection from exploitation, trafficking and violence, as adopted by policy of the Amnesty International.⁹
- To decriminalize sex work by removing administrative punishment for sex work (article 6.11 of the Code of Administrative Offences).
- To ensure sex workers have equal access to police protection, fair process and justice.
- To stop police' raids against sex workers, which only increase violence against sex workers.

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

Women sex workers in Russia, face violations of political, social and economic rights based on widespread discrimination against them. Here, we examine discrimination against sex workers' rights of child custody. There are cases when women sex workers lose custody of a child because of our involvement in sex work, brought to court by the Silver Rose, for instance the case of determining the place of residence for the child (2013 - 2014).

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 to an amicable agreement.

⁷Content analysis of media representations of sex workers in Russia, Silver Rose, 2014.

⁸Summary case study, Silver Rose, 2013-2015.

⁹Global movement votes to adopt policy to protect human rights of sex workers, Amnesty International <https://www.amnesty.org/en/latest/news/2015/08/sex-workers-rights-are-human-rights/>, <https://www.amnesty.org/en/latest/news/2015/08/global-movement-votes-to-adopt-policy-to-protect-human-rights-of-sex-workers/> (access on 11 Sept, 2015)

¹⁰Summary case study, Silver Rose, 2013-2015.

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 by the Silver Rose, L. wouldn't be able to claim her parental rights.

Recommendations

- To ensure the basic human rights, specifically parental rights, and fundamental freedoms for sex workers and our children based on acts and laws adopted by the Russian Federation.

Article 5: Sex Roles And Stereotyping

Russia has remained an innately patriarchal society¹¹ and the transition period brought with it the objectification of women. Russia also promoted traditional conservative family values; country's economy rules fundamentally disregarded many of women's aspirations and needs, with the purpose to encourage women to give birth to babies and improve the Russia's low birth rate. An emphasis has been placed on women as holding a duty to the Russian nation as child-bearers. 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 HIV¹². Resulted from recently reinforced dominated masculinity, men have more control over resources and bear decision-making power.

This background reinforces phobia of sex workers, resulting in oppression, violence and discrimination of sex workers and extension derision or disgust towards activities or attire related to sex work. Before various international forum and meetings in Russian cities, the police is "cleansing of prostitutes", which provokes even more cruelty¹³. For example, before a forum in Vladivostok two girls were burned alive for intimidating others, so that no one could work during the forum. The case has not been investigated. In Sochi, all sex workers were registered with the police database in violation of laws, and were forced to leave our places of residence and work. In St. Petersburg, before visits by higher officials, sex workers are detained, taken out few kilometers from the city, stripped and left in the forest or swamp.

Police raids are regularly held against us, and very often-featured on television in the criminal news almost every day, on all television channels across the country in a prejudicial and hateful manner¹⁴. Often the police conduct its raids, together with the media, which then airs materials demonstrating faces of sex and shaming them. This violates the principle of presumption of innocence, because it occurs before the court ruling in force. 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 chronicle¹⁵. The Silver

¹¹ Reviewing the Changing Situation of Women in Russian Society, N-A. Hardwick, 2014 <http://www.e-ir.info/2014/12/20/reviewing-the-changing-situation-of-women-in-russian-society/> (access on 11 Sept, 2015)

¹² Forum of Silver Rose Movement, <http://silver-rose.org>

¹³ Ibid.

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

¹⁵ Ibid.

Rose submitted a number of petitions on such cases to the prosecutor's office and courts, which provide only formal replies with no actions taken¹⁶.

The current practice of stigma and discrimination against us, sex workers, increases various legislative initiatives, such as tougher penalties from an administrative offense in the criminal prosecution, increase in fines, and arrests for few days. 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.

Recommendations

- Promotion of family values should not restrict people in their rights and should not make them outcasts if they do not fall within the patriarchy, which is actively cultivated the authorities and the media. Lopsided promoted patriarchy and family values create a basis for further stigma, discrimination and harassment of sex workers.
- To ensure that media representation of sex workers does not fuel violence and discrimination against them by portraying sex workers as objects of disgust.

Article 12. Healthcare And Family Planning

Worldwide, we, sex workers, are recognized as a group vulnerable to HIV. The existing legal framework in Russia makes sex work and related activities punishable offenses, leaving us stigmatized, vulnerable to violence, and disproportionately affected by HIV and other sexually transmitted infections. While on average only 4.5% of sex workers are living with HIV, prevalence among street sex workers is as high as 50% in some cities, including St. Petersburg.¹⁷

The Ministry of Health has no encodings for HIV-related categories such as sex workers. There is a category called "STI" - code 104. We are against labeling us as "infections", we want to remain humans. And if the group has no name, then HIV prevention efforts among sex workers cannot be under government programs. In addition, we are attributed the threat of dissemination HIV and other socially significant diseases, the Ministry of Health further incited hatred against us, increases violence and supports moralism and gender stereotypes.

All prevention programs, total of five for the whole country, presently are implemented only with support from international funds. And even these programs are not able to meet all the needs of sex workers, and pay due attention to human rights, and this puts organizations, which implement these projects on the verge of recognizing them as "foreign agents" and closing. If sex workers are also migrants, especially from the countries of Central Asia, then they don't have access to healthcare. They are completely denied access to HIV prevention, testing, treatment, care and support.

Recommendations

- To recognize sex workers as key populations, 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 to these services regardless of nationality, registration and gender.

¹⁶Summary case study, Silver Rose, 2013-2015.

¹⁷UNFPA, Office in Russia. Inter-Ministerial Meeting, Moscow, October 30-31, 2012.

- **Article 15. Equality Before The Law**

We, sex workers, are not equal before the law. Sex workers state that overall there is not even the slightest opportunity to seek protection in law enforcement in cases of violence. The antagonistic relationship this creates between law enforcement and 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 criminalization of sex work disproportionately harms women and is an obstacle to women's equality before the law. We would like to describe two cases, which serve as an exception, demonstrating overall approach to widespread practices applied to sex workers.

In July 2012, in St. Petersburg acting police officer brutally beat a sex worker to death, brought back into the woods, threw out of the car and showered with boughs. The criminal was released while the 2,5 year investigation lasted. And in the course of the investigation, his arguments for not being guilty were that she was a sex worker, and had drug addiction, HIV and hepatitis C. The law enforcement investigation lasted for so long because the Silver Rose was able to provide a lawyer to the injured party, recognized as her mother. And in January 2015, there was a court decision: eight years of strict regime for the criminal. And even during the verdict, the former police officer in his defense said that she had an immoral life and was engaged in prostitution. For now, this is almost the only case, when the offender was punished; many go unpunished or released on parole.

In 2011, in Kazan, as documented by the Silver Rose, a client brutally beat and mutilated sex worker, cutting off her nose. For which he received only four years, now released on parole, and it is obvious that his criminal punishment did not fit his crime. The offender was punished only because social workers of an NGO provided psychological and legal support.

The crimes most often committed by the police against sex workers can be classified as (1) Illegal detention (Art. 286 of the Criminal Code); (2) violation of the inviolability of home (Art. 139 of the Criminal Code), which occurs during the test buy when police breaks into an apartment by threatening with weapons, and (3) theft (Art. 158), robbery (art. 161 and 162) committed by police during the raids.

According to the Administrative Code of Russia, the period of administrative detention under Article 6.11, cannot exceed three hours. The police often detain sex workers for at least a day, without filing any documents, so that sex workers under pressure sign a protocol on administrative offense, pleading themselves guilty. These actions are classified according to the Article 286 of the Criminal Code (abuse of office) with a punishment for up to four years of imprisonment. Beatings, torture, threats, unlawful search of the housing should be qualified under this article, too.

Besides, a trial to prosecute prostitution takes place unilaterally; the court does not examine the evidence in the case, introducing a resolution on the basis of a protocol on administrative offense, believing that this document is of paramount importance as evidence. Thus violated the rights of sex workers to a fair trial, adversarial process, judicial protection.

In addition to the above cases, the Silver Rose representative over 70 times in 2015, and 93 times in 2014 traveled to the district police department, to protect women sex

workers against arbitrary action by the police, illegally detaining them for more than three hours. After much debate, the police often released sex workers, but sometimes not, leaving them until the morning.

Since 2011, we, sex workers, and those who support us, are brought together to protect health, dignity and human rights, we are called the Silver Rose. In 2013, the Ministry of Justice, supported by the courts, refused registration and official recognition to the first all-Russia association of sex workers, referring to the fact that sex work is under administrative and criminal punitive bans and therefore the right of association for sex workers is unjustified¹⁸.

The Ministry of Justice (MoJ) in its refusal argues, that sex workers are not in the professions qualifier 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 and much more. Thus, MoJ refers to the reasons that do not operate in a secular state, and in the legal field. We are deprived of opportunities to participate in political and public life, even in matters that directly affect our lives. At this point, we argue that the State's refusal to register Silver Rose amounts to direct and indirect discrimination in the enjoyment of Silver Rose members' freedom of association. We also argue that since this discrimination is directly based on our occupation of sex worker, criminalization of sex work itself is an unjustified discriminatory measure. 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 as its members. Criminalization of sex work, in other words, leads to institutionalized stigmatization.¹⁹

Because sex work is criminalized, it allows various illegal and discriminatory police practices to continue; it fuels and creates cover for widespread abuse against sex workers. These include forcing us, sex workers, to clean police stations, or to provide sexual services to the police in return for having our claims of assault investigated. This leaves us further stigmatized and isolated, and it encourages violence against us. We live a life, which makes our integration into society difficult; this in turn compromises our ability to exercise our civil and human rights, including partaking in social life as a registered organization.

Recommendations

- To ensure mechanisms for sex workers to report violence or discrimination without fear of arrest, persecution or abuse by police or other third parties.
- To start investigations of crimes committed against sex workers by the police and to consider these crimes against sex workers as hate crimes.
- To ensure freedom of association for participation of sex workers in political and social life inclusive of sex workers at every level of legislative and executive level.
- To dissolve the discriminatory decision of Ministry of Justice which did not allow Silver Rose that represents sex workers and allies movement to be registered.

¹⁸ Sex Workers, Unite! (Litigating for Sex Workers' Freedom of Association in Russia), F.S.E. Arps, M. Golichenko, Canadian Legal HIV/AIDS Network, <http://rylkov-fond.org/blog/prava-cheloveka/pravo-na-sudebnuyu-zaschitu/seks-rabotniki/>

¹⁹ 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.