



TAJKISTAN

**The Second Shadow Report
on the Realization of the Convention on the Elimination of All
Forms of Discrimination against Women
By Public Organizations of Tajikistan
(*BRIEF REVIEW*)**

**DUSHANBE
January 2013**

INTRODUCTION

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

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

In 2008 – 2011, for collecting materials and compiling the second alternative report Coalition had held public monitoring and evaluation of the progress in implementation of State Program "The Main Directions of State Policy to Ensure Equal Rights and Equal Opportunities for Men and Women in the Republic of Tajikistan for 2001-2010", Law "On State Guarantees of Gender Equality and Equal Opportunities for their Realization", other adopted strategic documents and statutes in the area of promoting gender equality and a campaign for lobbying ratification of Optional Protocol to Convention on the Elimination of All Forms of Discrimination against Women, etc.

Over the past years, the State has taken a number of positive measures to promote gender equality through the adoption of the laws of the Republic of Tajikistan "On State Guarantees of Equal Rights and Opportunities for Men and Women" (2005), National Strategy for activization of the role of women in the Republic of Tajikistan for 2011-2020 (2010) and the approved Presidential Grants for Women Entrepreneurs (2008-2011), etc. However, there are no effective enforcement mechanisms with note dweak monitoring and evaluation of the progress toward their implementation and a significant number of planned activities that are not performed. Also, such a mechanism as "temporary ad-hoc measures" is used very seldom. The Government of Tajikistan does not fund the implementation of the National strategy on sensitization of the role of women in the Republic of Tajikistan for 2011-2020 and has no communication strategy to overcome gender stereotypes and promote gender equality either.

ARTICLE 1. DISCRIMINATION AGAINST WOMEN

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

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

The Constitution of the Republic of Tajikistan (RT) establishes the principle of priority of international treaties over domestic legislation. However, in practice, the tajik courts had no examples of decision-making when the norms of the Conventions were directly applied.

ARTICLE 2. OBLIGATIONS ON ELIMINATION OF DISCRIMINATION

In May 28, 2010 the Government approved the National Strategy on Enhancement Women's Role in the Republic of Tajikistan for 2011-2020. Therefore, the likelihood of achieving its goals and targets primarily depends on what mechanisms will be applied for gender policy realization in Tajikistan and

to what extent the held actions and events will account interests of ordinary men and women of our country and, in particular, needs of rural population.

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

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

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

Psychological abuse prevails in types of violence against woman, followed by economic violence, physical violence and sexual violence. At that, almost each fourth women had underwent multiplied forms of violence.

Unfortunately, women, experienced domestic violence, have limited access to justice. The main factors preventing women's access to justice are the following ones:

- ✓ Inadequate legislation and lack of special law for prevention and protection from domestic violence. Current Tajik legislation, including the Criminal Code and Code of Criminal Procedure, has clear contradictions preventing protection of victim's rights.
- ✓ Existing stereotypes of traditional mentality on the women's secondary role in family and society.
- ✓ Low level of legal literacy and financial dependence of women.
- ✓ Low awareness of key law enforcement agencies on legislation and regulatory framework in the context of domestic violence-related problems.
- ✓ A limited number of crisis centers and shelters for victims of domestic violence.
- ✓ Lack of government communication strategies and poor coverage of problems associated with display of domestic violence in media (print and video).

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

Discrimination against people living with HIV / AIDS and people living with HIV / AIDS is another challenge, requiring taking concrete measures and steps to overcome it. Current law can not yet provide the effective protection of people living with HIV/AIDS from discrimination and stigmatization.

On view of more than 90% of PLWHA they face various forms of discrimination, first of all in communication (90%), employment (67%), seeking medical care (67%), applying to law enforcement

agencies (34%) and in family (39%). Meanwhile, women feel discrimination more, compared with men.¹

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

ARTICLE 3. DEVELOPMENT AND ADVANCEMENT OF WOMEN

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

One of the obstacles on the way to fulfillment of Tajikistan's commitments is the lack of continuous monitoring and a clear-cut system of indicators on gender policy realization and women's advancement.

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

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

RECOMMENDATIONS TO ARTICLES 1-3

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

1. Upgrading of gender policy legal framework through:
 - Making amendments to the Law of RT "On State Guarantees of Gender Equality and Equal Opportunities for their Realization", other laws and statutes in terms of mechanisms of state guarantees of providing for access to economic resources of society, including movable and immovable property, water, land, financial assets, loans, as well as ensuring participation of women in decision-making processes, etc.
 - Introduction of mechanisms for gender expertise of laws and essential government and departmental programs before their submission for approval by the Government and Parliament.
2. Adoption of the National Action Plan for the gender policy realization in the RT for the years of 2012 -2015, including measures to fulfill the recommendations of the UN

¹<http://www.humanrts.tj/ru/index/index/pageId/176/>

Committee on Convention on the Elimination of All Forms of Discrimination against Women.

3. For expanding women's rights protection mechanisms ratify the Optional Protocol to Convention on the Elimination of All Forms of Discrimination against Women and force the adoption of the Law "On Protection from Domestic Violence".
4. Construction of the model and conduction of the ongoing monitoring and evaluation of implementation of adopted gender policies and programs. In accordance with the Law on state guarantees, annually development and publication of analytical reports on monitoring and evaluation results in mass media.
5. Strengthening the activity on gender awareness among state servants of various levels using and the system of advanced training of civil servants and courses of branch ministries and agencies, conduction of trainings and seminars in partnership with the public organizations; extension of the ministerial gender groups' activity on informational and training sessions among employees.

ARTICLE 4. ACCELERATION OF EQUALITY FOR MEN AND WOMEN

Temporary special measures are not applicable in such areas as civil service and legislature. Activities and priorities of the Civil Service Office under the President of RT were almost not intersected with the goals and actions outlined by the State program "The Main Directions of State Policy to Ensure Equal Rights and Opportunities for Men and Women in the Republic of Tajikistan for 2001-2010" to advance women in government bodies. So far the provision of the State program on applying the principle of "soft quota" in filling positions through competitive selection remained not executed. This principle stipulates that a mandatory condition of the held competition is participation of men and women.

Missing definition of the term itself "temporary special measures" and mechanisms for their realization in national legislation do not encourage applying temporary ad-hoc measures to advance women.

RECOMMENDATIONS:

1. Make additions and changes to the Law of RT "On state guarantees of gender equality and equal opportunities for their realization" for inclusion of the terminology "temporary ad-hoc measures" and mechanisms of their realization.
2. Purposely for creation and ensuring equal opportunities for involvement of women in decision-making process at the legislature level, use temporary special measures - quotas, and amendments on election legislature.
3. For providing state guarantees of equal opportunities for men and women in civil service, apply a principle of soft quota for announcement of vacancies (a prerequisite of the held announcement of vacancies is participation of candidates of both sexes, male and female).

ARTICLE 5. GENDER ROLES AND STEREOTYPES

Mass media can play its particular role in overcoming gender stereotypes and promoting gender equality. However, the planned in State strategies and programs measures to publicly discuss in government media new roles of men and women in society and family are implemented partially and state-owned periodicals, national and local television and radio have no relevant designed communication strategy on public discussion of gender inequality, including elimination of stereotypes.

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

RECOMMENDATIONS:

1. Development and implementation by Committee on Television and Radio in close partnership with independent media, Committee on Women and Family Affairs, and public organizations of communications strategy to promote gender equality.
2. Strengthening the role of civil society and media in implementation of gender policies and raising awareness and legal culture of women and men by means of analytical programs and articles, through coverage of current changes in gender roles, enhancing women's roles and more widely reporting in media about women's contribution at societal and family level.
3. In order to overcome reproduction of patriarchal gender stereotypes in textbooks, include a gender-based component in the list of criteria for examination of textbooks.

ARTICLE 6. EXPLOITATION OF WOMEN

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

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

The government of Tajikistan has made some efforts to combat trafficking for sexual exploitation. However, no comprehensive measures are formulated to protect migrant workers, especially women, from labor exploitation and slavery in the Russian Federation and other countries. Such cases are prevalent when the labor migrants from Tajikistan get into slavery and labor exploitation in employment caused by the recruiters, private or public employment agencies. Once getting in the labor exploitation in Russia, migrant workers from Tajikistan - women and men - rarely receive adequate support from the consular authorities in view of their lack in Russia and the absence of mechanisms to address promptly the migrants' complaints and to render assistance to them.

RECOMMENDATIONS

1. Intensify collaborative activities of government agencies and community organizations to conduct outreach to the public on the problems of traffic of people and accountability measures for in-body trafficking.
2. Pursuant to "Optional Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children" organize trainings of law enforcement officers, investigative and judicial bodies on the specificity of investigation of such cases and provision of rehabilitation assistance to victims.
3. Promote the opening of new crisis centers, shelters to assist victims of trafficking with the provision of medical, psychological, social and legal assistance.
4. Develop mechanisms and programs on women labor migrants' protection from labor exploitation and slavery. Conduct informational campaigns on raising women labor migrants' awareness on private and public employer agencies' activity on employment abroad, legislature of accepting countries, etc.

ARTICLE 7. POLITICAL AND PUBLIC LIFE

Despite the Law of the RT "On State Guarantees of Gender Equality and Equal Opportunities for their Realization", in the Article 5 notes that "The state guarantees equal representation of men and women at legislative, executive and court branches of state power via juridical, organizational and other mechanisms" women still constitute less than 30% among civic servants. It's special for senior

positions. There is only one woman in the Government of the RT, no any woman at the post of Minister. The Government of the RT weakly uses the mechanism of "temporary special measures". Law "On Civic Service", Act on competitive selection for vacancies to administrative state service do not consider the principle of quota.

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

There is no complete database on reserve of personnel - women professionals.

RECOMMENDATIONS

1. Office of Public Service under the President of RT shall provide for a reserve of personnel with equal representation of men and women. Regularly analyze the composition of public service staff, identify the causes of gender imbalance, monitor and evaluate the appointment of women on the reserve list.
2. Committee on Women and Family Affairs, in partnership with public organizations shall create a full database on pool of female cadres in the light of regional representation and ethnic minorities' representatives.
3. Public organizations shall lobby amending electoral legislation with regard to abolition of election deposit for women-self nominated candidates or decrease in the amount of the election deposit.

ARTICLE 8. INTERNATIONAL REPRESENTATION AND PARTICIPATION

For the first time in the history of independent Tajikistan, a woman was appointed as Deputy Minister of Foreign Affairs of the Republic of Tajikistan. However, there are no women ambassadors. Women are very rarely included in the government delegations.

RECOMMENDATIONS

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

ARTICLE 9. CITIZENSHIP

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

RECOMMENDATIONS

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

ARTICLE 10. EDUCATION

Unequal access of women and men to education is one of the major obstacles to gender equality in society. The higher is the level of education, the lower is the representation of girls in enrollment; a significant decrease in the number of girls in upper grades of secondary schools, especially in rural areas and higher education establishments.

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

In recent years, a sharp rise of gender inequality in access to primary vocational education (PVE) has been observed. The share of girls among the students of PVE institutions during the last 7 years decreased almost twice.²

There is an acute problem of access to education for women with disabilities. For example, according to the results of the study "Situation of Women with Disabilities in the Republic of Tajikistan", conducted in 2007, over 64% of women with disabilities have no education. Only 19.1% of all respondents have secondary education, 5.6% and 5.9% have secondary vocational education and vocational technical training, respectively. The number of those who have higher or incomplete higher education is 5.0%³.

RECOMMENDATIONS

1. Revitalization of local hukumats, educational bodies and public associations to conduct outreach to parents and local communities on the need for girls to get general and vocational education.
2. In accordance with the concept of Education for All, formulated at the World Forum in Dakar in 2002 an inclusive approach requires its development and implementation that emphasizes the need to reach groups who may not have access to education and training in connection with a disability.
3. Design and implement mechanisms for gender analysis of textbooks for schools and universities on the basis of gender mainstreaming in the system of criteria for evaluating textbooks. Integrate a gender component in the criteria for the examination of textbooks.
4. Strengthening the role of media in information campaigns through the establishment of permanent broadcasts on television and radio and in print headings on overcoming gender stereotypes in education.

ARTICLE 11. EMPLOYMENT

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

Employment rates are higher for men than women, and according to Labour Force Survey (LFS) - 2009 was 45.0% for men aged 15-75 years vs. 33.9% for women. The rate of male employment is by 32% higher than the rate of female employment.

² See.: Vazorati Maorifi Jumkhurii Tojikiston. Dushanbe, 2010, p. 77., Agency for Statistics under the President of RT. Education in the RT in 2010. Dushanbe, 2010, p. 30.

³ See: Research report "Situation of Women with Disabilities in the Republic of Tajikistan". Dushanbe, 2007. Section "Education". A total of 572 people polled.

According to the legislation of the RT, wage differentiation based on sex is prohibited. However, due to the current occupational segregation, women's wages are lower than men's in all sectors. In 2011 woman's wage constituted 49,1% from the man ones⁴.

Experts note the significant role of informal employment in the life of Tajik women. Participation of women in the informal sector leads to significant negative consequences, including:

- lack of job security and inadequate social protection;
- prevalence of severe forms of labor;
- low wages;
- non-participation in the pension system, because the period of employment in informal sector is not taken into account when calculating seniority that determines the amount of pension;
- lack of opportunities for development and investment in human capital.⁵

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

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

According to expert estimates, more than one million citizens of Tajikistan are constantly in labor migration and labor migration of women enrolls 15% of the total number of people traveling outside the country to work. Despite the growing number of traveling women - migrant workers, the government has not taken adequate measures to support them. The results of gender analysis of the National External Labor Migration Strategy of Tajikistan for the period of 2011 - 2015 years have shown that gender mainstreaming is missing in this paper. It either does not include specific measures to address the concerns of women-labor migrants. In addition, women - migrant workers from Tajikistan face stigmatization (women traveling alone to work, without a husband are more often exposed to being stigmatized) as in society there is a deeply rooted stereotype that migration is not a woman but a man's business⁶.

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

According to the survey conducted in 2007, beyond 81.7% of women with disabilities were unemployed (only 572 women were interviewed).⁷

RECOMMENDATIONS

1. Develop by the state a set of documents providing for measures to stimulate the transition of women from the informal economy into the formal economy (through tax breaks in the first three years of operation, the system of access to credit and microcredit facilities, the provision

⁴ See.: Agency for Statistics under the President of RT. Women and Men in the RT. 2012, p. 116.

⁵ See: Overview of gender issues in Tajikistan. The World Bank, Social Development Division, Europe and Central Asia - Washington, D. Colombia, March 2005 - pp. 34-35; Gender Mainstreaming in Poverty Reduction Strategy. Tajikistan: Country Gender Assessment. - The Asian Development Bank, May, 2006 - pp. 46-48.

⁶ Interview of gender expert T. Bozrikova: <http://www.migrant.ru/news.php?id=404>

⁷ See the results of the study "Situation of Women with Disabilities in the Republic of Tajikistan". Dushanbe, 2007, p. 24

- of consulting and information support, training new skills in women and refresher training and other measures, etc.).
2. Develop and adopt of State programs to support women entrepreneurs. Implement a package of measures aimed at promoting women's entrepreneurship – setting up extension service system, including specific information campaigns to support entrepreneurship, consulting assistance, support the development of a network of business schools and business incubators, etc.
 3. Scale up vocational training for women on occupations demanded in the labor market. Expanding the list of specialties offered at the training centers for adults under the Ministry of Labour and Social Protection.
 4. In order to overcome the impact of occupational gender-based segregation in allocating and increasing the Presidential quotas for girls for such specialties as law, economics and finance, management and others.
 5. Increase the effectiveness of microcredit programs for women by strengthening their targeting, transparency, expanding enrollment of poor women by micro-credit programs (especially in rural areas).
 6. Fostering an environment for the employment of women with low competitiveness (disabled people, large families, the heads of single parent families, female labor migrants and others). Develop a system of incentives encouraging employers to use labor and recruit vulnerable populations.
 7. Legislatively develop and adopt new criteria for ranking disability in accordance with international standards and eliminate the working capacity criteria in the definition of disability.
 8. In order to raise awareness and legal literacy of women - migrant workers:
 - ✓ Expand network and programs on creation of information - resource centers using varied forms of activities: dissemination of information materials, holding workshops and training sessions, showing theatrical performances, printing of posters and putting billboards, etc.
 - ✓ Promote the development of a national gender sensitive system of prior-to-departure training and orientation for migrant workers. Expand creation of training centers, ad-hoc courses for potential migrants with separation of women's groups on demanded professions in host countries.

ARTICLE 12. EQUAL ACCESS TO HEALTH CARE

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

Maternal mortality rates keep staying high in Tajikistan. According to the survey of infant, child and maternal mortality conducted in 2010, ratio of maternal mortality was 86⁸.

The growth of malignant diseases is a particular concern. The rate of new reported breast cancer and cervical cancer cases increased from 6.6 in 2005 to 9.8 in 2010 and from 6.3 in 2005 to 9.7 in 2010, respectively.⁹

Tajikistan launched the National Programme for prevention, diagnostics and treatment of malignant neoplasms for 2010-2015, but proper monitoring of progress in implementation of this program is not conducted and as a result the planned interventions are not timely fulfilled.

⁸ Agency for Statistics under the President of the RT. Health Care in the RT. 2011, p. 7

⁹ See: Agency for Statistics under the President of the RT. Health Care in the RT. 2011, p. 31

In recent years there is a significant increase in the number of HIV-infected women. If in 2005, 16 new HIV cases in women were registered that accounted for 9.2% of all reported HIV cases in Tajikistan, then in 2010 already 206 HIV cases (or 20.5%). Of particular concern is a six fold growth of reported HIV cases in pregnant women: 11 cases in 2007 vs. 63 cases in 2010.¹⁰

Non-governmental organizations working with PLWHA fix the problem of PLWHA's access to free medical care.

RECOMMENDATIONS

1. Extend the program of state guarantees to the entire country providing the population with primary health care services with allocation of adequate funding from the state budget and extra budgetary sources.
2. Regularly monitor and evaluate implementation of the National Cancer Control Program and create a Breast Cancer Prevention Center
3. Clear-cut mechanisms for execution of Law "On the Human Immunodeficiency Virus", in particular, article 12, to provide access and guarantee the provision of high quality and free medical service to PLWHA and their children¹¹.
4. Develop a package of measures to increase knowledge, improve attitude of health workers to PLHIV, overcome stigma and discrimination through scaling up training programs in universities and colleges and Post-graduate Medical Institute for health workers.

ARTICLE 14. RURAL WOMEN

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

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

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

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

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

RECOMMENDATIONS

1. In the main areas of gender mainstreaming in agricultural development and expansion of rural women's access to land the need is to focus on:

¹⁰ See: Agency for Statistics under the President of RT. Health Care in the RT. 2011, p. 27

¹¹ Paragraphs Inad 2 are provided by NGOs "Center for Mental Health and HIV / AIDS", "Tajikistan's Network of Women Living with HIV" and "Guli Surkh."

- ✓ Improving land legislation and enforce land laws and agriculture reform through gender mainstreaming.
- ✓ Building up capacity and raising gender awareness of relevant agencies and, above all, local hukumats, land committees and others.
- ✓ Raising awareness and legal culture of women and men in land use and cotton-growing development.
- ✓ A gender-sensitive monitoring and evaluation model for the agricultural through the development and use of quantitative and qualitative indicators.
- ✓ Bringing women in decision-making on the basis of gender balance compliance and mandatory inclusion of women in the regional commissions on farm restructuring and land distribution, the working groups on programming, including regional strategies and action plans, etc.
- ✓ Increasing the competitiveness of women using varied forms of training in agriculture, including at expense the presidential quotas in the agrarian university, system of continuing education and professional development in new financing, agriculture, etc.

ARTICLE 15. EQUAL RIGHTS

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

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

1. Low legal literacy of women and due to this inability to represent and defend their interests in court.
2. Poverty of a significant part of the population, especially women, does not allow accessing to qualified attorneys.
3. Fear and distrust to trial court, quality of administrating justice, lawfulness of the court awards, etc.
4. Imperfection of the existing procedural laws on levying judicial costs for lawyers participating in the trial.

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

RECOMMENDATIONS

1. Develop and adopt, taking into account the interests of women and children, the law "On Free Legal Aid".
2. Reform institute of advocacy in the RT. Revise the Law on "Advocacy." The Act shall be assigned constitutional status. Provide provision allowing lawyers be mandatory involved upon assignment in both criminal and civil cases (not just in cases of child support/alimony and reinstating in former job). The criterion for rendering free legal aid should be property and social position of those who need help rather than a category of cases.
3. Free legal assistance as expense line should be built in Law "On State Budget for respective year".

ARTICLE 16. MARRIGE AND FAMILY RELATIONS

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

From 2011 the marriage age is raised from 17 to 18. Meanwhile in practice early marriages are spread (less than 18). At that it's the practice of either poor and uneducated strata's or not poor ones.

In recent years bigamy tends to gaining. Under the Family Code in Tajikistan only a marriage registered in government registry office shall be recognized. The marriage made in a religious ceremony has no legal force. However, the legal reception rooms of human rights organizations are visited by a large number of women, who are informally married through "nikoh", being the second wives and having children born in these relationships. As the registration of the marriage based on a religious ceremony "nikoh" has no legal force and the mechanism of the right protection and support of the second wives is absent, it is hard to defend the rights of women and children's rights related to economic security, housing, etc.

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

- women whose husbands, having left in labor migration do not transfer money and support their families;
- divorced women, who are not able to receive alimony since location of their husbands is unknown;
- women who bound marital union only through a religious rite with no marriage record in the registry office and registration of children born in such unions;
- women living with her husband in dwelling, registered as property of one of his parents, as in such cases, either she or her children have little or no property rights as relatives of the third line;
- more limited rights of children born in de facto matrimonial unions vs. children born in registered marriages;
- rural women, who in divorce are not able to realize their right to land use because of very complex procedures¹².

RECOMMENDATIONS

1. Revise conceptual approaches to the concept "family" and fix it legislatively. The principles of family life, as prescribed by the practice of the UN Committee on Human Rights and European Court of Human Rights can be enshrined in the FC of the RT. Apart from this approach, the family concept should be also integrated in different laws of the RT and anchored for the specific regulating area.
2. Make changes and additions to the Law of the RT on Organs of Civil Registry Office in part of marriage registration to assign them the obligation on making future spouses to be aware of their rights and responsibilities, including parents' responsibilities, at the time of applying for marriage registration.

¹² Review of the Legislation Regulating Family Relations in Tajikistan: Analysis and Recommendations. NGO "Center for Human Rights", Dushanbe-2010