



«Tajikistan Network of Women Living with HIV»

Alternative Thematic Report on implementation of the Convention on Elimination of all Forms of discrimination against Women on the issues related to women living with HIV from the affected groups (women – former prisoners, women using injected drugs, women sex workers)¹.

The concept of Discrimination against Women does not include women living with HIV and women from affected groups.

Article 165 of the Health Code of the Republic of Tajikistan prohibits discrimination against any person (men and women, boys and girls) on the basis of the presence of human immunodeficiency virus infection. Tajikistan legislation, including the Law of the Republic of Tajikistan "On State Guarantees of Equality for Men and Women and Equal Opportunities for Their Implementation" does not consider the double and even triple discrimination occurring to people like women living with HIV, sex workers, women - former prisoners and women who use injection drugs. There are no effective legal mechanisms determined and put in place for responding to human rights violations concerning women living with HIV, sex workers, women - former prisoners, women who use injection drugs and other most vulnerable categories of women and girls in the country.

Recommendation.

Adopt an anti-discrimination law that takes considers the multiple discrimination of women from vulnerable and marginalized groups. This Law should have the response mechanisms to the

¹ This understanding is based on the review of existing research and political documents that analyze the situation of people living with HIV and affected HIV groups. In addition to the review of the existing sources, such understanding is also based on the findings of the NGO "Tajikistan Network of Women Living with HIV" in Tajikistan obtained through cooperation with the Public Foundation "Your Choice" to study the situation of women living with HIV and women from the affected groups and to ensure their rights protected by the CEDAW, in the country of Tajikistan. In preparation of this report, the qualitative methods of data collection and analysis (13 Focus Group meetings with women living with HIV and other women from affected HIV groups, 10 individual meetings with women living with HIV and other women from affected HIV groups) were used. PO "SPIN", PO "Sudmand", PO "Imron", PO "Imdodi Ghairat" and PF "Your Choice" rendered support in involving PLHIV community in FGDs. The total number of respondents made 150 women from all groups in Dushanbe city, Khatlon and Sughd Provinces as well as districts of republican subordination. Also, expert interviews were conducted with the Directors of the Dushanbe AIDS Centres, the districts of the republican subordination and from Khujand and Kulyab towns.

cases of violation of the rights of the above-mentioned groups as well as should contain the necessary reporting system on implementation and compliance with this Law.

Obligations of the RT to eliminate discrimination do not consider the needs of women living with HIV.

None of the gender programmes and other state social and economic policies existing in Tajikistan² reflect the specific groups of women such as women living with HIV, sex workers, women using injection drugs and women - former prisoners. The government often refers to the fact that the mentioned groups are reflected in the National Programme to Counteract the HIV / AIDS Epidemic in RT for 2017-2020. But this is not enough. This programme focuses mainly on HIV prevention and does not take into account such aspects as employment of these categories of women, education, both general and professional, special secondary (attorney) legal assistance in case of violation of their rights, protection from violence, issues of housing provision and many other issues in everyday lives of this group of people.

In recent years, there has been a tendency towards an increase in the proportion of female population (both adults and children) among all new cases of the human immunodeficiency virus, i.e. an increase from 28.9% in 2011 to 40.2% in 2015 is seen. In the recent years, the sexual and injectable ways of HIV transmission were the main dominant ways of human immunodeficiency virus transmission among the people in Tajikistan, and the latter is associated with the non-medical use of drugs, i.e. through injections. Sexual transmission of HIV accounts for up to half of all HIV cases, and in some regions, it even exceeds 60-70%. According to the data of the epidemiological control among the convicted people (N 800), gathered in Tajikistan in 2013, the prevalence of HIV infection among the respondents was 8,4% (epidemiological surveillance data for 2010 is 9,0%), virus of Hepatitis C -11,0% (epidemiological surveillance data for 2010 - 18,0%), syphilis - 13,1% (epidemiological surveillance data for 2010 - 9,0%)³. The official data does not provide data disaggregated by sex. Among the convicted are women with HIV as well.

Convicted Women living with HIV are prone to stigma and discrimination not only among the staff of the penitentiary system, but also among the female prisoners themselves while they are in detention. Currently, WLWH in closed type institutions are held together, but confidentiality about their status is not preserved. The principle of voluntary testing for HIV is not observed as well as pre- and post- test counseling is not provided to incarcerated women in closed type institutions of the country. Since confidentiality is not maintained, as soon as the cellmates of women learn about their HIV status, these women become subject to stigma, attacks etc. There are also cases when the employees of the penitentiary system blackmail these women about the disclosure of their status to their relatives with the purpose of taking money from them or taking any other advantages from these women. Being fearful for their lives and health and having no trust in the justice system, these women do not appeal against any illegal actions of the penitentiary system employees.⁴ The Criminal Execution Code of the Republic of Tajikistan contradicts the international standards on HIV and human rights.

There is also stigma and discrimination against women who use injection drugs. Getting registered as persons abusing drugs always puts them in a vulnerable position from the law enforcement bodies. Even if the person stops using drugs, he/she is not excluded from this registration system. It was noticed that the registry on people abusing drugs is used by the law

² State Programme on Prevention of Domestic Violence for 2014-2023 as well as Action Plan to implement this Programme; National Strategy on Activization of the Role of Women in the Republic of Tajikistan for 2011-2020; National Development Strategy of the Republic of Tajikistan for the period till 2030; National Health Strategy of the Republic of Tajikistan for the period of 2010-2020; National Strategy of Education Development of the Republic of Tajikistan for the period till 2020; Government Strategy on Labor Market for the period till 2020.

³ National Programme to Counteract the HIV / AIDS Epidemic in RT for 2017-2020, approved by the Presidential Decree of the RT # 89 as of 25.02.2017.

⁴ Interview with women - former prisoners in Dushanbe city, December, 2017r.

enforcement to hang the unsolved crimes to some of these people (like theft, robbery)⁵. In accordance with the criminal legislation of the RT, persons who use injection drugs are subject to compulsory treatment. Women using injection drugs face both physical and psychological violence while they are under the compulsory treatment in the narcological dispensaries. In most cases, people who use drugs, including women, are held criminally responsible in cases where they have acquired a dose without the purpose of selling. This norm is considered criminally punishable. Under the related Article, the courts impose overly increased sentences of imprisonment.

The Law of RT “On Prevention of Domestic violence” does not pursue the goal of fighting against gender-based violence and combating discrimination based on sex. Hence, it can be noted that the Law did not consider the issue of gender-based violence when it was adopted even though the problem of gender-based violence clearly exists in the society⁶. It is important to note that commercial sex workers are subject to different types of discrimination and violations of their rights both by Police and their own clients as well as by their employers in cases when they are employed by them and want to leave that environment at some point. So, during the focus group discussions among the commercial sex workers, many of them who worked as waitresses in the restaurants told that the owners of the places they worked forced them to stay at nights and serve visitors till the mornings, including provision of sex services for free.⁷

Criminalization of HIV and access of WLWH and women from affected HIV groups to justice

The Criminal Code of the Republic of Tajikistan envisages criminal responsibility in the Article 125 *Infecting with the human immunodeficiency virus*. In view of maintaining closed-type statistics by the Ministry of Internal Affairs on the number of cases under the above-mentioned article, it is impossible to estimate how many PLWH have been punished for HIV infection or putting at risk of infection.

The Article 125 envisages punishment not only for intentional transmission of HIV, but also for causing the risk of contracting HIV. Thus, practically any person living with HIV who was involved in any sexual contact can be prosecuted and held criminally responsible. Hence, people living with HIV are denied their right to sexual health, as part of their rights to physical and mental health. Along with that the issue of informed consent of the other partner is not taken into consideration as well. Also, the legislation does not consider the use of condoms as means for safety during sexual contacts, or the undetectable viral load in which HIV is not transmitted according to the latest scientific research, or the possible window gap when the person does not know if he/she is HIV infected or not. The legislation does not define the ways of HIV transmission. There is no Decree of the Plenum of the Supreme Court on such categories of cases that would explain to the courts what is meant by posing danger of HIV infection. The practice of resolving such cases has not been identified.

The criminalization of HIV against women is discriminatory because of the greater vulnerability of women. The issue is that when a woman is diagnosed with HIV, and if her partner or spouse is not infected, she should, first, open her status, and second, offer the use of condoms. As the matter of fact, couples in Tajikistan do not usually use condoms. And basically, the decision to use condoms is taken mainly by men⁸. Another question is how well the woman was consulted by her epidemiologist. If she was not consulted well enough, it is also necessary to consider the fault of the doctor. The analysis of the focus of group discussions demonstrated that consultations are not always conducted in a professional manner, especially those consultations conducted in closed type

⁵ Public Organization «Human Rights Centre». Assessment of the regulatory and legal environment in the field of HIV/AIDS in the Republic of Tajikistan, 2017.

⁶ The results of the FGDs with sex workers and Mass Media articles (<http://www.dialog.tj/news/nakazanie-36-zhenshchin-prostitutok-za-nepodchinenie>).

⁷ Public Organization «Human Rights Centre». Assessment of the regulatory and legal environment in the field of HIV/AIDS in the Republic of Tajikistan, 2017

⁸ The results of focus group discussions with women living with HIV.

institutions. Due to the factors listed by us, punitive measures will not bring any positive result in the fight against infection. From the fear of punishment, PLHIV will only hide their status, they will not undergo voluntary HIV testing, they will go to shade and stop taking ARVT. The consequences will be an increase in infection and death of people.

Special attention should be paid to the issue of access to justice for women and women from affected groups. While their rights are violated, women usually do not go anywhere to ask for protection. In the course of the situation analysis and elaboration on this report, a number of cases was revealed where the rights of WLWH and affected groups were violated. Only a few decided to defend their rights and that is because they were granted an attorney to defend their cases at the expense of the project. The reasons for such behavior by women are different. One of the main reasons is the lack of financial capacity of women to pay for lawyers' services. Secondly, many women living with HIV and women from affected groups have poor legal literacy; they do not have information on whom they can approach on this or that issue. Thirdly, self-stigmatization and fear of the disclosure of their confidential status also hampers the situation of WLWH and women from affected HIV groups making them unable to protect their rights.

During the interview, stories were also told when mothers knowing that their children were infected in public health institutions are not able to prove this and do not receive proper compensations guaranteed by the law for moral and material damages caused to them. The National Programme to Counteract the HIV / AIDS Epidemic in RT for 2017-2020 does not provide statistics on the number of individuals infected in the health system through the wrong medical manipulations. The state does not want to take responsibility for the negligence of the medical workers, calling such a way of HIV transmission an unidentified transmission, (the mother of the human immunodeficiency virus is negative) - registered as an "unknown way of transmission". 371 children were registered as infected through this way of HIV transmission before 2015⁹. This indirectly confirms the guilt of the public health system. Based on Part 3 of the Art. 167 of the country's Health Code persons whose infection with the human immunodeficiency virus occurred as a result of the medical procedures performed in an official manner, are eligible for a state pension and the right to receive housing with no waiting period. In case of absence of the housing availability or in case if necessary, the state is obliged to improve housing conditions of the affected person in accordance with the procedures established by legislation of the Republic of Tajikistan. There is also absence of the mechanism for ensuring the rights of persons who became HIV infected as the result of the medical procedures performed in an official manner. No related procedures have been adopted.

Tajikistan has recently adopted a Concept of Free Legal Aid. People living with HIV as the category of the population having the rights to receive free legal and attorney services are not included in the list of such recipients.

Recommendations.

- All state socio-economic programmes and strategies in Tajikistan, should consider the interests and rights of women living with HIV, female sex workers, women who inject drugs and women - former prisoners.
- Is it necessary to reform the system of criminal and criminal executive legislation of the country with regard to people who use injection drugs, sex workers and convicts in accordance with the recommendations of the UN Global Commission on HIV and Human Rights;
- Delete Article 125 "Infection with HIV" from the Criminal Code of the Republic of Tajikistan, since the prosecution of people for non-disclosure of HIV status and HIV transmission, when there is no

⁹ Table 5 Dynamics of HIV infection cases among children in Tajikistan in 2002-2015 provided in the National Programme to Counteract the HIV / AIDS Epidemic in RT for 2017-2020, approved by the Presidential Decree of the RT # 89 as of 25.02.2017.

evidence of intentional transmission is excessive and leads to inverse results for the overall health system. Intentional HIV infection should be included in the general norms covering the list of actions causing serious harm to one's health;

- On the systematic basis, organize training courses for judges, Police officers, prosecutors and the representatives of the penitentiary system on the rights of PLHIV in the context of international human rights and HIV standards, taking gender aspects of the issues into account.

- Develop a mechanism for implementing and ensuring the rights of people whose HIV infection occurred as a result of the medical procedures.

Violence against women living with HIV and women from affected HIV groups.

The State Programme "On the Prevention of Domestic violence" for the period of 2014-2023 sets prevention of infectious diseases and the promotion of a healthy lifestyle among the population as one of its tasks for implementation. But there are no activities under these tasks, and nothing has been indicated on the actions to address the discrimination against women and girls living with HIV and AIDS¹⁰. Sex workers, women - former prisoners and women abusing drugs are not mentioned in this document at all.

Many WLWH are exposed to various forms of domestic violence.

- Psychological violence in the form of insults, humiliations, child removal, separation of kitchen utensils and others;
- Physical violence in the form of beating and battery;
- Various types of prohibitions on taking ARV therapy, treating tuberculosis, doctor visits, which led to the death of affected women, based on the words of WLWH who knew those individuals;
- Economic violence – women were kicked out of their houses by their husbands' relatives, close relatives of the WLWH themselves did not accept them to live with them in their houses¹¹.

The law does not pay special attention to the groups of individuals who become most vulnerable due to their status. For example, some of them are people with disabilities, people living with HIV, wives of migrant workers and others. It is important that the duties of the employees working in the field of prevention of domestic violence include things like taking into account the health specifics and conditions of such people, knowing the special needs of vulnerable categories of victims of domestic violence along with other specific functions in their respective ToRs.

Recommendations:

- Introduce amendments to the Law of the Republic of Tajikistan "On the Prevention of Domestic violence", with special attention to the need for specialized health services and the provision of free legal assistance to WLWH and other vulnerable groups of women.

- In the State Programme on Prevention of Domestic violence for the period of 2014-2023 include activities aimed at protecting WLWH and women from affected HIV groups from discrimination as well as actively increase public awareness about HIV and ways of HIV transmission;

Rights of WLWH and women from affected HIV groups to education.

¹⁰ Public Organization «Human Rights Centre». Assessment of the regulatory and legal environment in the field of HIV/AIDS in the Republic of Tajikistan, 2017.

¹¹ Conclusions from the results of the focus group discussions with women living with HIV.

Children with HIV and adults living with HIV are excluded from the social policy in the sphere of education, which is in effect in the country till 2020. There is discrimination towards WLWH in the sphere of education in both higher and secondary education institutions. In some cases, enrollment in colleges and higher education institutions requires an HIV test, although legislation does not require it. Part 5 of the Article 16 of the Law of RT «On Education» stipulates that institutions of general education provide daytime, evening, part-time, distant, inclusive, family form and accelerated forms of education that is procedurally determined by the authorized state body in the field of education. The National Education Development Strategy of the Republic of Tajikistan for the period till 2020, for example, does not mention anything on the development and regulation of such forms of education as family and distant education. Inclusive education for children with disabilities is, however, mentioned in the strategy. The legislation on education does not define mechanisms for identifying children who are not covered by the compulsory basic general education¹².

The form of education such as family or distance education that would allow children who cannot attend schools to receive education has not been introduced in practice¹³. This form of education would be helpful for children who are infected with HIV and have an opportunistic disease - tuberculosis. During the conducted interviews, a 9-year-old girl was identified with such disease, who never attended school because of the school director's refusal to accept her.

Recommendations.

- Within the framework of the national educational policies, develop and implement standards for such forms of education as family and distance education for primary and secondary schools that would consider the interests of children, including those with opportunistic diseases.
- Increase the capacity of teachers at all levels of education, starting from pre-school to graduate and postgraduate education on the issues of HIV prevention and non-discrimination behavior and attitude towards PLHIV and KGP (key groups of population).
- Seek for responsibility of the managers of higher and secondary professional educational institutions in cases when they demand HIV test results for the purposes of admission to these educational institutions.

The rights of WLWH and women from affected HIV groups to employment.

The new Labor Code of the Republic of Tajikistan, adopted on 23.07.2016, establishes a prohibition of discrimination in any types of employment relations (Article 7). For the hiring process, a list of documents is established that a person seeking for a job needs to submit to the employer. One of the documents in this list is the document on preliminary medical examination (for persons who are required to undergo such examination in accordance with the Labor Code and other legislation of the Republic of Tajikistan). The employer does not have the right to demand other documents from the applicant, unless otherwise is stipulated by the legislation of the Republic of Tajikistan (Article 26 of the Labor Code of RT).

The employer does not have the right to fire the employee or refuse to hire with the exceptions related to hiring for specialty positions or positions mentioned in the special list of jobs (Article 165 of the Health Code of RT). This list is developed and established by the Procedure for Medical Examination with the purpose of identifying HIV infection, registration, medical examination of

¹² Public Organization «Human Rights Centre». Assessment of the regulatory and legal environment in the field of HIV/AIDS in the Republic of Tajikistan, 2017.

¹³ In 2015 the PF «Your Choice» applied to the Ministry of Education of the RT on the issue of family type education, on the development of the document and practice on this issue, but no response was ever received.

HIV-positive people and preventive monitoring of their health state, which is approved by the Decree of the Government of Tajikistan under #171 as of 01.04.2008. This specific list includes only medical workers but not all of them. Practice shows that women living with HIV cannot find jobs (janitor, cook, including opening a trading spot as an individual entrepreneur) because many employers and local authorities require documents certifying on HIV status of these people while hiring them or while these women attempt to open their own businesses. These actions are not appealed due to the legal illiteracy of women and their fear of disclosure of their status.

In this particular case, the Criminal Code of the Republic of Tajikistan (CC RT) does not envisage any type of responsibility. Responsibility is envisaged for deliberate unlawful firing of a person from his/her job, for failure to comply with the Court decision to reinstate the person to his/her previous job, or any other deliberate major violation of the labor legislation of the Republic of Tajikistan (Article 153 of the Criminal Code of the RT). However, there is no concrete description in the legislation of Tajikistan on what is considered a major deliberate violation of the labor legislation. The Administrative Offenses Code of Tajikistan does not describe the content of an offence, which entails bearing any responsibility for requesting additional documents not listed in the legislation of RT from the applicants in the process of hiring for jobs. No responsibility is envisaged for refusal of employment on discriminatory grounds as well.

The problem of unemployment is acute for the entire population of Tajikistan as a whole, and for WLWH and women from affected groups in particular. Lack of money and income, particularly when WLWH are already at the stage of AIDS, significantly aggravates their situation. The new Labor Code of RT reflects the issues of prohibition of discrimination and the issues of labor protection only in general terms, however, does not provide for specific requirements from the employees while hiring and employment of PLWH.

Recommendations:

- Ensure compliance with the norms and requirements of the labor legislation in hiring and employing PLWH and adopt guidelines for employers considering international standards on the issues of the rights of PLWH to employment and labor protection.
- To adopt tax benefits for employers recruiting women living with HIV.
- In the legislation of the Republic of Tajikistan, include administrative responsibility for employers for refusal to hire employees based on discriminatory reasons and for requesting additional documents not envisaged by the legislation of RT from the applicants during the hiring process. Employers should bear criminal responsibility in cases of repeated violations.

Ending trafficking of women and girls.

The CEDAW recommendation 20 (d)) has not been implemented. Not only the Police discriminate against the rights of the sex workers, but the gynecologists refuse to provide services and prosecutor office bodies deny their right to defend and appeal the illegal actions of the Police officers¹⁴.

There were cases revealed when young girls were sold by their own mothers. These and other categories of young women did not become sex workers voluntarily. The corruption of the law enforcement bodies, the criminal conspiracy of the pimps and the law enforcement agencies, fear and disbelief of this group of women in justice does not allow them to defend and stand for their rights. To deal with this issue in Tajikistan, there is a Law "On Combating Human Trafficking and

¹⁴ Public Organization «Human Rights Centre». Assessment of the regulatory and legal environment in the field of HIV/AIDS in the Republic of Tajikistan, 2017.

Providing Support to Victims of Human Trafficking” that is currently in force. The Criminal Law of the RT envisages punishment under the Article 130¹ “Human Trafficking”, Article 132 “Recruiting people for sexual or other exploitation purposes”.

The Law of RT “On Combating Human Trafficking and Providing Support to Victims of Human Trafficking” foresees preventative and rehabilitation measures. But the issue is that the majority of the human trafficking that the law enforcement agencies deal with are connected with international human trafficking. Within the country itself the issue of human trafficking is not even studied well. The most people who suffer are the virgin girls that are sold by the pimps. This is one of the root causes of prostitution in the country that the government does not pay attention to. It should be noted that the discrimination of sex workers by the law enforcement bodies and overall corruption generates such terrible phenomena as human trafficking, including children as well as hidden facts and their non-identification, continuing violations of victims of human trafficking, including cases within the country itself.

Recommendations:

- Establish a monitoring and oversight mechanism to monitor cases of violence against sex workers committed by Police officers and representatives from other state and non-state structures.
- Develop a strategy to provide support to sex workers to withdraw them from such activity, to ensure protection of the sex workers and adolescent girls from sex trafficking both abroad and within the country and to prevent discrimination against them by the representatives of the state bodies and society as a whole.

The rights of WLWH and affected women from HIV groups to healthcare.

In accordance with Article 163 of the Health Code of RT, people living with HIV have the rights to receive all types of qualified and specialized medical care, including medication free of charge, in all public health organizations and facilities. A survey conducted among WLWH, women who use injection drugs, sex workers and women – former prisoners demonstrated that these norms of the legislation do not work in practice. Only the Antiretroviral Therapy (ARVT) is provided to these people free of charge. Currently, the contraceptives, HIV tests and medications for ARV are purchased through the funding from the Global Fund for HIV, malaria and tuberculosis as well as other donors. Until now, the state has not allocated any funds for these expenses. And this insecurity raises concerns and fear for the future when the donors leave the country. Attachment of PLWH to certain AIDS Centres at their registration area also leads to negative consequences for PLWH in practice.

Another problem with the rights of WLWH to healthcare is that they more often have opportunistic diseases like Hepatitis B and C. In Tajikistan, the Ministry of Health and Social Protection adopted a normative document, which lists all the diseases with free of charge treatment. Hepatitis B and C is not included in this list. The fluorography/X-rays which PLWH should take once in every three months for prevention of tuberculosis, is also a paid service. So, according to the official data of the Republican AIDS Centre for 2017, 77 people died of AIDS, 21 of them are women, that makes 27.3% of the overall people affected. The problem of the deaths of AIDS and the combination of tuberculosis infection in PLHIV is also mentioned in the National Programme for Counteracting the HIV / AIDS Epidemic for the period of 2017-2020. Unfortunately, this statistic does not have disaggregated data on sex, which is a significant drawback to the data collection system.

Even these days, there is discrimination in the field of the women’s rights to healthcare, including reproductive and sexual, against women living with HIV and women from affected HIV

groups. These women continue to face discrimination from the health professionals themselves, both in polyclinics, AIDS centres, maternity homes and gynecological rooms¹⁵.

Not all health professionals respect and follow the confidentiality of information. Respondents reported about health professionals informing the patients on their HIV status by phone, which is not acceptable, and no one is held accountable for doing this. There are various barriers to women's access to reproductive health and HIV prevention services. The most challenging barrier is that the respondents are scarce in money, which makes it hard for them to get paid medical services in the state medical facilities (73%), to pay for the doctor's services (79%), to pay the services of the social workers (59%), to cover transportation costs to/from a clinic (66%) or public organizations (21%), where they could get the necessary services.

The highest need of respondents (74%) was observed to be the need for gynecological services and consultations from GYN doctors (82%). Therefore, it can be concluded that the overwhelming majority of women have some types of chronic inflammatory or pathological problems, which is confirmed by the needs they raised for their genital and urinary system treatment (79%) or uterus diseases (60%) - all these situations are considered as in high risk for HIV infection¹⁶.

In many regions of the country, the functioning AIDS Centres do not have full-time psychologists and lawyers¹⁷. And the need of the WLWH, women using injection drugs, women sex workers and women – former prisoners in these services is significant. There is also a great need for these women to be consulted and treated by neurologists (60%), as their health situation can be considered as an indirect factor of depressions, astheno-neurotic syndrome and neurosis, considering the high levels of stress that falls upon this target group and this is confirmed by the 20% of these people who are in need of mental illness treatment¹⁸. Another problem that was identified during the focus of the group discussions is the unqualified provision of HIV / AIDS counseling by AIDS Centre health workers. Even though the Ministry of Health of Tajikistan has developed a guide on HIV counseling and testing, this issue remains a problem.

The number of children with HIV is unfortunately growing in the Republic of Tajikistan. So, since 2011, there has been an alarming tendency of growing numbers of new HIV cases identified among children aged 0-14. In the last four years (2012-2015) the proportion of children among all newly identified cases fluctuated from 16,2% to 11,4%. As of December 2015, the total number of officially registered HIV infected children younger than 15 years in Tajikistan has made 636 children, or 8,2% of the total registered people living with HIV in the country. 225 children out of the total number have a vertical form of HIV transmission (i.e. from mother to child)¹⁹.

Aiming at prevention of HIV transmission from mother to child, the Article 12 provides for the right of parents or legal guardians to receive breastmilk substitute for children born to HIV infected mothers from the moment of their birth to the time of establishing definitive diagnosis on their HIV status with the purpose of further reducing their risk of getting HIV infection from their mothers. There is no clear mechanism to implement this legislation norm. The mothers who do not have possibilities to buy baby formula for their newborn children, feed them with their breast milk.

¹⁵ Public Organization «Human Rights Centre». Assessment of the regulatory and legal environment in the field of HIV/AIDS in the Republic of Tajikistan, 2017.

¹⁶ On the results of the study on «Identifying the needs of the vulnerable women in Khatlon Province», conducted by AFEW Organization. Tajikistan, 2017.

¹⁷ From the results of the survey of epidemiologists in the regional AIDS centres.

¹⁸ On the results of the study on «Identifying the needs of the vulnerable women in Khatlon Province», conducted by AFEW Organization. Tajikistan, 2017. The total of women surveyed is 200 WLWH and women from affected HIV groups.

¹⁹ p. 24,25 Section 1. of the National Programme to Counteract HIV/AIDS Epidemic in RT for the period of 2017-2020, approved by the Presidential Decree of the RT # 89 as of 25.02.2017

These problems were revealed in each region and area where interviews and discussions were held with this group of women²⁰.

The pregnant women living with HIV are in need of special care and support from the government due to their HIV status. Social policies, including the National Programme to Counteract the HIV / AIDS Epidemic for the period of 2017-2020, do not foresee any social measures to support this group of women.

Recommendations:

- Introduce amendments to the Code of Administrative Offenses of the Republic of Tajikistan to make the medical personnel and civil servants bear administrative responsibility for disclosure of confidentiality about individuals regarding their HIV status and for violating the rules of pre- and post-test counseling;
- Provide AIDS Centres with psychologists and lawyers. Solve the issues of human resources and cover the related financial expenses.
- Undertake capacity building initiatives to build knowledge and capacity of gynecologists and other health professionals in the system of primary health care with regard to non-discrimination of WLWH women from affected HIV groups;
- Include Hepatitis B and C in the list of diseases that are eligible for disability and free of charge treatment. Establish a transparent procedure for the provision of free medical and socio-psychological care for all people living with HIV and in particular the WLWH, women who use injection drugs, women - former prisoners and sex workers;
- Provide economic and geographical access to WLWH and women from affected HIV groups to health services and in particular to the services of a gynecologists, neurologists and psychologists;
- Develop a mechanism that will help to ensure the rights for parents or legal guardians of children born to HIV-infected mothers to receive breastmilk substitutes from the moment of birth until the time of the final HIV status diagnostics;
- Consider the possibility of providing benefits to pregnant women living with HIV so that they are able to purchase essential medicines and improve their nutrition during the course of pregnancy.
- All people living with HIV should be able to take ARVT at any facilities managed by AIDS Centres in the country.
- Men, as well as women, should be equally covered by a reproductive health policy plan in the area of contraception, family planning, observing the rights of partners / spouses.

Marriage and family relationships

Recommendation No. 34 of the CEDAW Committee has not been implemented. Not all, but many women agree to bigamy and put up with being the second wives as they want their economic needs and their children's needs to be covered by their husbands. One of the important problems that these women face with, however, is that both first wives and the

²⁰ Public Organization «Human Rights Centre». Assessment of the regulatory and legal environment in the field of HIV/AIDS in the Republic of Tajikistan, 2017.

second wives remain economically vulnerable; this is especially the case with women living with HIV.

Within the aspects of HIV, polygamy has its own characteristics and negative consequences. Firstly, when HIV is detected in men and women, according to the Government Decree #171 of 2008, the epidemiologist who diagnosed the person with HIV and conducted post-test counseling with the individual should invite this individual and undertake HIV testing for all their intimate partners for epidemiological purposes. For this purposes, doctors ask information from patients on who their intimate partners are and further take their contact information. Majority of WLWH did not hide information about their intimate partners. But when it comes to men, this process gets complicated by the fact that men can have several sexual partners and they do not necessarily disclose information about all of them to their epidemiologist²¹. Considering the scale of infection growing through sexual way of HIV transmission (in rural regions this goes up to 70%²²) it should be noted that polygamy has a negative impact, especially on the development of the HIV epidemic in the country.

Another problem that women raised during the interview was that their husbands do not allow them to go to the hospitals for treatment. These women consider that one of the reasons for this behavior of husbands is their fear of publicity about their wives' diseases and the other reason is the necessity for husbands to make extra expenses for the treatment of their spouses who are under their dependency. The consequence of such behavior in times led to death of women. These stories were told by the women who knew them.

Sexually transmitted HIV prevails in the country and poses a threat to the spread of this infection accordingly. Perhaps, this was the reason why new changes were introduced to the Articles 14 and 15 of the Family Code of RT, which also violate the rights of people living with HIV to voluntary and confidential HIV testing. In the Article 14 of this Code, one of the prerequisites for marriage is the compulsory medical examination of the young couples planning to get married. Without medical examination, the civil registry offices do not have the right to register the marriage.

The introduction of mandatory testing before marriage has a number of negative effects, especially in regard to respect for basic human rights to privacy and the right of freedom to create a family. One of the negative consequences of mandatory medical examination of the newlyweds is the refusal of the couples to register their marriage at all, which adds on to the increasing number of unregistered marriages in the country²³. The statistics of the Ministry of Justice testifies to this fact as well. The tendency of reducing official registration of marriages began even before the introduction of the mandatory medical examination. With the introduction of mandatory testing, the number of unregistered marriages can increase even more. So, in 2015, the number of registered marriages went down by 20% (from 95478 to 77020) compared to 2014. The decline tendency continues, and the data shows that for 9 months of the 2016, compared to the same period of the 2015, the number of registered marriages dropped by 7 percent (from 53005 to 49389)²⁴.

When undertaking mandatory testing before marriage, confidentiality becomes practically impossible as the medical examinations are usually followed by disclosure of the status and requests to see the examination documents. Most often, the mandatory testing does not involve conducting pre- and post-test counseling. In most cases, this information becomes available to a wide range of people, leading to rejection of people and significant psychosocial consequences. The peculiarities of HIV infection do not allow the testing to detect HIV in its initial period, so the testing

²¹The results of the monitoring showed that some husbands of WLWH had second wives who were infected as well by the same men.

²² Para 12 of the National Programme to Counteract HIV/AIDS Epidemic in RT for the period of 2017-2020.

²³ Albikov I. R. The legal aspects of medical examination of individuals getting married //Family and housing law. 2013. № 5. p. 2-4.

²⁴ Thomas Baranovas. Review of legislation, coordination mechanisms and institutional structure of the civil registration system of the Republic of Tajikistan. Dushanbe city, October 2016.

has its limitations. In many cases, getting to know about the negative HIV status of self and the future spouse is not conducive to behavioral change. The mandatory testing will also have a negative impact on HIV prevention programmes. Violation of confidentiality during the mandatory testing will significantly reduce the acceptability of testing for people of the younger generation. Reducing the acceptability of HIV testing among the population will directly affect the spread of this epidemic²⁵.

Within the family relations, some cases of violation of the rights of WLWH to motherhood are revealed. There were cases when children were taken away from their HIV infected. In addition, the list of diseases with which a person cannot adopt a child and/or cannot be a legal guardian was approved by the Decree of the Government of RT as of 1.10.2004 №406. This list includes HIV infection as well, which is discriminatory against the people with HIV. HIV cannot be cured, however does not pose any threat to the health of the children in the environment of joint everyday living.

In most cases, women living with HIV face discrimination in their families. If the husband does not have HIV and his wife has it, the woman is immediately kicked out of the house along with her children. Women are also discriminated after the death of their husbands from AIDS, even when these women were infected by their husbands. In some cases, these women are not accepted by their own families. Women are often left with their children with no support from the state or from their own relatives. The NGOs play an important role in the urban areas helping and supporting many women living with HIV and other women from affected HIV groups²⁶.

The other problem that was told by women who use injection drugs, is that there are cases where the husbands – injection drug abusers hook their wives up on drugs on purpose, so that these women do not disturb them in what they do and were in solidarity with them.

Recommendations:

- Considering the concentrated character of the HIV epidemic in Tajikistan, to replace the mandatory medical examination for HIV for the newly marrying couples with a voluntary and confidential HIV testing with pre- and post- test counseling as recommended by WHO and UNAIDS.
- Develop measures for the social support of women who raise underage children whose husbands have died of AIDS as well as for the single mothers with HIV infection.
- Exclude the disease of HIV infection listed in the Decree of the Government of RT as of 1.10.2004 under the #406 (the list of diseases with which individuals cannot adopt children or become legal guardians).
- To educate the population on the issues of equality between men and women in the family and to stop stigma and discrimination against people living with HIV.

Information about the organization that prepared the Alternative Thematic Report.

The Alternative Thematic Report on the implementation of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) related to women living with HIV and women from affected HIV groups (women – former prisoners, women using injection drugs, women - sex workers) is developed by the Public Organization «Tajikistan Network of Women Living with HIV» with active participation and involvement of the representatives from communities of women living with HIV, women using injection drugs and women – former prisoners.

This Alternative Thematic Report on the implementation of the Convention on the Elimination of All Forms of Discrimination against Women related to women living with HIV and women from

²⁵ UNAIDS analytical paper on the issue of applying the practice of compulsory testing of newlyweds.

²⁶ Conclusions of the monitoring of WLWH and affected women from HIV groups.

affected HIV groups focuses on the situation of women living with HIV / AIDS in the light of the laws and policies adopted to promote and advance the status of women in the country and international commitments the state has undertaken to eradicate all forms of discrimination against women in Tajikistan.

For additional information or clarifications, the members of the CEDAW Committee and all other interested people can contact and request information at the following e-mails: aleksandrovalar@gmail.com (Alexandrova Larisa) и takhmina1986@gmail.com (Tahmina Khaidarova).