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Shadow Report of Civil Society Organizations on Discrimination and Violence against Women who use Drugs, Women Living with HIV, Sex Workers and women in prison in Kazakhstan.

Kazakhstan, 2018

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1. Executive Summary:

This shadow report describes the situation of women who use drugs, women living with HIV, sex workers, and convicted women in Kazakhstan. The following non-governmental organizations prepared the report: ALE Kazakhstan Union of People Living with HIV, Public Foundation for Women Living with HIV in Kazakhstan, Public Foundation «Answer», Public Association «My Home», Public Association “Amelia” and Public Charitable Foundation “Shapagat”.

The report is based on researches conducted by and cases documented by abovementioned organizations in 2015-2017, and official sources of information. The report includes information about institutionalized discrimination of women who use drugs, women living with HIV, sex workers, and women in prison, such as criminalization of the marginalized groups of women, violence and brutality they face from the state institutions – law enforcement agencies and medical institutions, violation of parental and reproductive rights, status disclosure, and access of women who use drugs to opioid substitution therapy. Thus, this report will examine implementation of concluding observations in regards to the abovementioned groups of women who face multiple forms of discrimination.

We believe that in the fifth periodic report the state does not pay enough attention to the issues mentioned in this report. We call upon the Committee to request the Republic of Kazakhstan to report on the situation concerning of all reasonable steps taken to reduce discrimination and violence vulnerability of women who use drugs, women living with HIV, sex workers, and women in prison. It is for this reason that we appeal to the members of the Committee on the Elimination of All Forms of Discrimination against Women to take due note of the situation with the implementation of the Convention and make appropriate recommendations to the Government of the Republic of Kazakhstan within the Concluding Comments.

2. Abbreviations:

ART - Anti-Retroviral Therapy
OST - Opioid Substitution Therapy
ICPR - International Centre for Prison Studies
RA – Rapid Assessment
RoK- Republic of Kazakhstan

3. Introduction:

As of June 30, 2017, 8,863 women living with HIV were registered in the Republic of Kazakhstan. Women living with HIV in Kazakhstan have access to free abortion, and HIV-positive women of fertile age are entitled to free contraceptives in public health centers¹. However, the rate of abortion among women living with HIV is 9 times higher than the general population and is 32 abortions per 1,000 women².

The total number of women who use drugs and registered with drug rehabilitation or psychiatric institutions is 2,028 in Kazakhstan³. From January 1st, 2016 through June 30th, 2017, 14.2% of all HIV cases reported were among women who use drugs, which indicate a still high risk of infection among this group of women⁴. There is no estimated number of women who use drugs.

According to ICPR, 3,486 women were imprisoned last year in Kazakhstan⁵.

As of January 1, 2016, the estimated number of female sex workers (who provided commercial sex services in the last 12 months) has reached 19,606 in Kazakhstan⁶. According to the RA, 28 cases of HIV infection were identified among 19 606 sex workers. However, epidemiologists note that the actual number of HIV-infected sex workers exceeds 100 people.⁷ Nonetheless, relevant national and local public authorities are not focused on engagement with this group of women and not identified them as a particularly vulnerable group of women in the process of development and implementation of the legislative and regulatory legal acts, social and medical programmes, as well as other guarantees and compensations.

Discrimination against women is inextricably linked to other factors that affect the lives of women. The Committee in its legal practice has repeatedly stressed that the factors affecting the lives of women include HIV infection, deprivation of liberty and involvement in

¹ Order of the Ministry of Health No. 272 dated 27.04.2015 "Prevention of mother-to-child transmission".

² Zhusupov B., *Status of sexual and reproductive health of people living with HIV (analysis of indicators)*. The report was developed on the basis of a sociological survey conducted with the technical support of UNFPA

³ Response to the NGO "My Home" dated by October 23, 2017 provided by the Republican Center for Health Development of the Ministry of Health and Social Development of the Republic of Kazakhstan.

⁴ Formal response to the NGO "My Home" dated by October 27, 2017 provided by the « Republican Center for AIDS Prevention and Control of the Ministry of Health and Social Development of the Republic of Kazakhstan.

⁵ World Female Imprisonment List (4th edition), ICPR, available at:

http://prisonstudies.org/sites/default/files/resources/downloads/world_female_prison_4th_edn_v4_web.pdf

⁶ <http://www.rcaids.kz/files/00003084.pdf>. Publications and reports; Annual report of the Republican Center for AIDS Prevention and Control for 2016.

⁷ *Documentation of Human Rights Violations (HRADP)*, a narrative report developed as a part of research project implemented by the PLHIV community and the Amelia Public Association in the Republic of Kazakhstan under the financial support of SWAN and the Robert Carr Foundation.

sex work⁸. Thus, because women face different and cross-cutting forms of discrimination, where as a result the negative consequences are only exacerbated, the Committee recognizes that gender-based violence can affect women in different ways and to different degrees, which means that the relevant legal and policy measures should cover a wide range of scenarios⁹.

Sex workers, women who use drugs, women living with HIV, and women in prison have been facing severe human rights abuses and multiple forms of discrimination in Kazakhstan. In its concluding observations on the State's periodic report, the Committee expressed concern about the lack of data on women who use drugs out of and in prisons, who are in need of drug dependency treatment and women living with HIV/AIDS. In the fifth periodic report, article 129, paragraph 12, the state provides information on surveys conducted among women, injecting drug users in two oblasts of Kazakhstan (East Kazakhstan and Karaganda regions) on the use of health services among women who use drugs. This information does not provide for an answer on the measures taken after analyzing the results of interviews, and how this affected the improvement of the situation of drug dependent women. The study was not published in official sources¹⁰. However, we consider crucial to address issues of institutionalized discrimination, specifically focusing on burning issues that violate women's rights and hinder access to medical and social services, as well as contribute to social and economic vulnerability. In particular, this report focuses on the issues of criminalization of the marginalized women, violence and brutality of the law enforcement agencies and medical institutions, violation of parental and reproductive rights, forced sterilization, status disclosure, and access of women who use drugs to opioid substitution therapy.

4. Discrimination

Article 2 of CEDAW states that States Parties condemn discrimination against women in all its forms and pursue by all appropriate means a policy of eliminating discrimination against women.

4.1 Women living with HIV:

In Kazakhstan, the existence of a legislation providing for criminalization of HIV transmission¹¹ contributes to a higher risk of HIV infection, violence and gender inequality in family, healthcare facilities, and society. Although this provision is intended to reduce the incidence of HIV infection, in practice it has the inverse effect – it increases the stigmatization of people living with HIV, limits their access to treatment, and reduces the effectiveness of government measures to combat HIV/AIDS.

Women living with HIV have limited access to accommodation services in existing shelters that are designed to help victims of violence. The reasons for limited access to these services include ignorance of the ways of HIV transmission, high level of stigma in the

⁸ General Recommendation No. 33, paragraphs 8 and 9. Other general recommendations relating to cross-cutting forms of discrimination, general recommendation No. 15 (1990)

⁹ General Recommendation No. 28, paragraph 18; and the report on the investigation on Canada (CEDAW / C / OP.8 / CAN / 1), para. 197.

¹⁰ http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/KAZ/CEDAW_C_KAZ_5_7362_R.pdf

¹¹ The Criminal Code of the Republic of Kazakhstan of July 3, 2014 No. 226-V ZRK, Art. 118. " Infection with the human immunodeficiency virus (HIV / AIDS)".

society, and shortage of places in the shelters. At the moment, the Government of Kazakhstan does not implement effective measures to organize and support crisis centers or shelters for women, and its number is extremely limited in Kazakhstan. The existing centers and shelters are overstretched repeatedly and incurred lack of funding¹².

Case No 1, Anastasia, Almaty, 27 years old:

«They asked me to provide them with a statement of good health and confirmation that I was not registered with a psychiatric facility and drug dependence clinic. Fortunately, I was not registered and I agreed, although I must say that I had such problems. However, I informed them about my registration with the AIDS Center and after that they told me they would call back. As a result, I was not admitted to the specialized crisis center and I was sure that my HIV status became the reason for this, because when they called me back, they asked me for a long time about my HIV status, its duration, whether I was taking therapy, side effects, how often I need medicines, etc....».

4.2 Women who use drugs:

Article 2 of CEDAW, in particular parts (d), (e), and (f) are not implemented by Kazakhstan with regard to violence against women who use drugs. According to the available recorded cases collected by the NGO "My Home" in Temirtau, women who use drugs report the prevalence of extreme police brutality. Self-stigma and vulnerability before the law and the law enforcement agencies lead to a constant fear of women for their own safety, fear of harassment and hopelessness. Police actions contradict the right to patient confidentiality¹³.

Case No 2, Julia, 36 years old, Temirtau, March 2017:

«...I stood by the side of the road, when police officers saw my track marks. They took my phone, burned me down and said "a drug addict, prostitute", threatened me with criminal liability, and planned to put me in a preliminary detention cell. I experienced terrible feelings at that moment - shock, fear, humiliation, depression, and I was crushed. Such pressure from the police continued for a long time...».

4.3 Sex workers:

In Kazakhstan, due to their legal status, sex workers are vulnerable to violence, including from the medical personnel, and fairly often their HIV status is disclosed to third parties. Sex workers are forced to hide from timely diagnosis; in the case of a HIV+ status, they do not perform diagnostics for viral load and immune status and, as a result, they experience lack of timely HIV treatment and have poor adherence to ART. Police raids and compulsory HIV testing, provided in conjunction with the AIDS Centers, violate the rights of sex workers to voluntary diagnose HIV infection¹⁴. Approaches used by the police force sex workers into hiding and avoid timely HIV testing and treatment in AIDS Centers. Mandatory medical

¹² <http://eca.unwomen.org/ru/news/stories/2016/10/kazakhstans-nonstate-domestic-violence-crisis-centres-look-for-funding>

¹³ The Code of People's Health and the Health System in the Republic of Kazakhstan of September 18, 2009, No 193-IV, Article 95: Medical confidentiality. Available at:

¹⁴ http://dailynews.kz/society/prostitutok_v_astane_proverjajut_na_vich_i_stavjat_na_uchet
<https://ru.sputniknews.kz/society/20170519/2292863/dvd-sredi-stolichnyh-prostitutok-vich-inficirovannyh-ne-vyavleno.html>
https://tengrinews.kz/kazakhstan_news/prostitutok-astany-proverili-na-vich-318412/

examination can't be justified by any considerations related to public health. Citizens of Kazakhstan and oralmans¹⁵ have the right to a voluntary anonymous and (or) confidential medical examination and counseling on HIV-infection on a free basis in the manner determined by the authorized institution¹⁶.

4.4 Women in prison:

In Kazakhstan, the lack of research and disaggregated data in open sources shows that due attention is not paid to the specific needs of women in prisons. In its concluding observations on the Kazakhstan's fifth periodic report, the Committee expressed concern about the lack of data on women who use drugs out of and in prisons, who are in need of drug dependency treatment and women living with HIV/AIDS¹⁷. In the fifth periodic report, the state cites data on the legislative acts that provide access to medical services for women prisoners. Unfortunately, this does not answer the question of whether this satisfies the needs of women prisoners.

4.5 Key recommendations:

- 1) Revise article 118 " Infection with the human immunodeficiency virus (HIV / AIDS)" of the Criminal Code of Kazakhstan of July 3rd, 2014 No 226-V 3RK in order to reduce the stigma of people living with HIV and improve the effectiveness of their treatment; abolish the norm that establishes criminal liability for posing in risk of contracting HIV.
- 2) Create departments in the crisis centers for work with women who use drugs and HIV-positive women.
- 3) The State Party should mobilize efforts to expand the network of crisis centers/shelters and other emergency services to women experienced domestic violence, and to ensure sufficient public funding for these institutions.
- 4) Systematically educate crisis centers' representatives about the work with and counseling services for women from marginalized groups experienced multiple discrimination.
- 5) Develop and adopt policy of humanization in regards to drug users, laws and practices based on respect for human rights that will ensure protection and exclude any discrimination and violence against women.
- 6) Ensure that law enforcement practices do not hinder HIV-prevention and treatment programs aimed at sex workers, including training on HIV, harm reduction and human rights for law enforcement officers.
- 7) Actively investigate cases of violence and any unlawful actions committed by law enforcement officials against sex workers, women who use drugs and participants of opioid substitution therapy, including cases documented and reported by the community-based organisation representing marginalised women.
- 8) Develop mechanisms of personal safety and privacy guarantees that will allow women to report incidents of violence without fear.

¹⁵ Oralmans - or "returnee", is an official term used by Kazakh authorities to describe ethnic Kazakhs who have immigrated to Kazakhstan since its independence in 1991.

¹⁶ The Health Code of the Republic of Kazakhstan, Chapter 19, Art. 115.

¹⁷ Adopted by the Committee at its fifty-seventh session (10-28 February 2014)

- 9) Conduct beneficiary satisfaction surveys of services related to the preserving sexual and reproductive health of HIV-positive women, as well as to the access to drug dependence treatment in prisons.
- 10) Collect age-disaggregated data on women living with HIV and women who use drugs in prisons, which characterize their access to ART and OST.

5. Health

Article 12 of CEDAW states that State Parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning.

5.1 Women living with HIV:

In Kazakhstan, the rights of women living with HIV are systematically violated in the area of sexual and reproductive health. HIV-status increases the likelihood of discrimination and vulnerability of HIV-positive women in healthcare sector. More towards, the violation of reproductive rights is expressed in forced sterilization without a woman's consent (six times more often than men); and in recommendations not to have children (1.5 times more often than men). 24.2% of women living with HIV experienced forced abortion from medical personnel, and 34% of women living with HIV have never received counseling on reproductive health issues and opportunities¹⁸. Due to a lack of timely and competent advice, many women living with HIV refuse to plan a child, making false conclusions about their inability to protect the child from HIV infection.

5.2 Women who use drugs:

Drug use is widely condemned in Kazakhstan. Often, women who use drugs pass through the multiple forms of discrimination because of their "*inappropriate behavior*". Due to stigmatization, pregnant drug dependent women are reluctant to seek medical help and take necessary medical services, including narcological, antenatal and postnatal care.

Case No 3, Olga, Temirtau:

«A group of health workers were trying to persuade me into getting rid of my baby, despite the fact that I was 5 months along. The reason for persuading me for abortion was my drug use and HIV-status».

The case No3 shows that the patient was not recommended to be referred to the OST program, in spite of the WHO recommendations¹⁹ and treatment guidelines adopted in Kazakhstan, where the most appropriate type of treatment for pregnancy is supportive medical care with opioid agonists and with methadone²⁰. Despite the fact that 13 OST sites

¹⁸ Index of Stigma of People Living with HIV in Kazakhstan - 2015, the analytical report, available at: http://capla.asia/images/Kazakhstan_Stigma_Index_Russian_Final.pdf

¹⁹ Guidelines for the Psychosocially Assisted Pharmacological Treatment of Opioid Dependence, p. 62, available at: http://www.who.int/substance_abuse/publications/opioid_dependence_guidelines.pdf

²⁰ Recommended by the Expert Council of the Republican Center for Health Development of the Ministry of Health and Social Development of the Republic of Kazakhstan dated September 30, 2015, the Record # 10, available at: <https://diseases.medelement.com/disease/психические-и-поведенческие-расстройства->

operate in Kazakhstan today, and 58 women²¹ out of 322 patients take methadone therapy, opioid substitution therapy is not available for women in maternity hospitals.

Case No 5, Irina, 36 years old, Ust-Kamenogorsk, focus-group of 11.11.2017:

"I am a participant in the opioid substitution therapy program. In early 2017, I gave birth to a healthy daughter in the maternity hospital in Ust-Kamenogorsk. The next day I had to leave my baby with bystanders (as according to today's rules, newborns are with their mother after childbirth), and run through the city to take methadone. At the same time, I had a rough time of it with my baby and doctors forbade me to get up."

In June 2017, the Ministry of Internal Affairs called for the immediate cessation of the OST program. As a follow up measure, on September 20, 2017, the Minister of Health issued Order No. 709 "On Some Issues Regarding the Implementation of Supportive Therapy Programs." During the first meeting of the Technical Working Group, it was decided to conduct monitoring visits to four OST sites to assess the effectiveness of the substitution treatment program.

During the work of the Interdepartmental Commission there were registered violations committed by the members of the working group regarding the rights of women and clients of OST.

Members of the commission disregarded the rights of patients to informed consent, the right to confidentiality of medical information and the right to respect for human dignity.

According to the appeals to the NGO ALE Kazakhstan Union of People Living with HIV, women, participants in the substitution therapy program were frightened, they also reported fear of persecution by the police and violations of confidentiality and invasion of privacy²².

On December 20, 2017, the Ministry of Health and Ministry of Interior Affairs of the Republic of Kazakhstan, with the participation of the General Prosecutor's Office and the Ministry of Justice, decided to continue the implementation of substitution therapy without expanding the pilot regions and without including new patients in the program until a final decision is made²³.

5.3 Sex workers:

According to "Ameliya" PA, there are instances of violation of the reproductive rights of sex workers from medical personnel, in particular, humiliation of dignity, causing physical and psychological violence:

Case No6, Polina, 37 years old, Taldykorgan: *"Once I turned to a friendly consulting room for a gynecological exam. Typically, a doctor should select a medical tool of the appropriate*

[вызванные-употреблением-опиоидов-поддерживающая-заместительная-терапия-агонистами-опиатов/14481](#)

²¹ Response to the NGO "My Home" dated by October 23, 2017 provided by the Republican Center for Health Development of the Ministry of Health and Social Development of the Republic of Kazakhstan.

²² <http://harmreductioneurasia.org/ru/kazakhstan-ost-risks/>

²³ This decision was sent for execution to the Republican Scientific and Practical Center for Mental Health and the Health Department of the provinces and of cities of Astana and Almaty.

size, based on the physiological characteristics of women / patients. I told the gynecologist that I'm a sex worker. After that, the doctor's expression changed and it was clear how she hated me. After that, she took a huge gynecological speculum and shoved it into my vagina without any supporting tools. I cried that she hurt me very badly. Instead of anesthetizing the procedure, the doctor called me a "whore" and said: "And it doesn't hurt to share a bed with other guys???" I believe that this is violence. She called me bad names she knew, and hurt me physically. I complained to the hospital administration, and I was told that I did not have to say about my sex work. The doctor was not punished. Next time I will have to hide my work, which leads to the stigma of sex workers and to the next violent actions. Doctors continue to commit violations with impunity"²⁴.

5.4 Key recommendations:

- 1) Provide training for medical staff about the provision of quality services based on WHO recommendations in regards to sexual and reproductive health for HIV-positive women, sex workers, women who use drugs, taking into account age, receiving ART and/or OST.
- 2) Ensure the systematic training of narcologists and psychotherapists, and obstetrician-gynecologists on the issues of pregnant women with opioid dependence.
- 3) Secure the access to OST for pregnant women; make OST available during pregnancy at women's health clinics and maternity hospitals to ensure continuity of drug treatment and postpartum care for women who use drugs, and access to prevention of vertical transmission in those who live with HIV.
- 4) Involve non-governmental organizations in the development and implementation of low threshold programs for sexual and reproductive health for target groups of women.
- 5) Provide funding for contraceptives, training and consulting for women from disadvantaged groups²⁵.
- 6) Ensure free access to condoms and other means of contraception, as well as to information on these opportunities for women from disadvantaged groups.
- 7) Include workshops and other training activities for medical professionals in the HIV and AIDS prevention programs at the local level in AIDS centers and in a general medical network. Training topics include counseling sex workers on sexual and reproductive health, safe contraceptive methods, condom use and safe behavior, HIV-related issues and others health issues.
- 8) Include the substitution therapy program in the national health care system and narcological practice, with further expansion and scaling up nationwide in Kazakhstan.

²⁴ *Documentation of Human Rights Violations (HRADP)*, a narrative report developed as a part of research project implemented by the PLHIV community and the Amelia Public Association in the Republic of Kazakhstan under the financial support of SWAN and the Robert Carr Foundation, <http://swannet.org/ru>

²⁵ *Key groups are women living with HIV, women who use drugs, convicted women.*