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**Ukrainian Women: Caught Between New Challenges
and Long-Standing Discrimination**

Overview

The situation of women in Ukraine is connected with the overall situation in the country – the significant political changes of recent years, the economic crisis, and aggression from neighboring Russia (manifested in the annexation of Crimea and military actions in Eastern Ukraine) have impacted the quality of life for millions of women. War, poverty, unemployment, and instability have hit women hard and heightened the vulnerability of this group that is already discriminated against.

The situation of vulnerable groups remains complicated, in spite of the steps Ukraine has taken to implement European requirements to improve the norms of anti-discrimination laws and to attain the required human rights standards.

The law “On Principles of Prevention and Combatting Discrimination in Ukraine” (No. 5207-VI of 6 September 2012) contains a ban on discrimination on the basis of gender; however, women’s rights are restricted both in practice and in legal labor norms left over from Soviet times. The Ministry of Health orders “On the Approval of the List of Arduous, Dangerous, and Harmful Occupations Banned for Women” (of 29 December 1993)¹ and “On the Approval of Limits for the Lifting and Moving of Heavy Objects by Women”² (No. 194 of 22 December 1993; this ban on lifting heavy objects may serve as official grounds for denying a woman a position of interest to her; instead of a ban, there should be measures in place to protect women’s health and – if necessary – to warn about health risks).

Ukrainian women are not allowed to work in a number of important areas, like various

¹ <http://zakon2.rada.gov.ua/laws/show/z0051-94>

² <http://zakon4.rada.gov.ua/laws/show/z0194-93>

types of underground work, driving several types of cargo and passenger vehicles, and working in a ship's engine room and a number of construction specializations (for a total of 450 types of activities, including many well-paid and interesting professions attractive to women like train operator, engine mechanic, and driver of long-distance buses). Similar bans still exist in many former Soviet republics (Belarus, Russia, Armenia, Georgia, Central Asian republics). This is the discriminatory heritage of the Soviet past, which prevents millions of women from realizing their professional goals. Unfortunately, there are no legal precedents for appealing this form of discrimination in Ukraine, which nullifies attempts to implement the anti-discrimination law.

Bans on various “types of activities” for women contravene Article 17 of the Law of Ukraine “On Ensuring Equal Rights and Opportunities for Men and Women” (No. 2866-IV of 8 September 2005). The mechanisms for implementing this framework regulation to achieve employment equality between men and women have not been developed, and the contradiction between the new and old legal norms has not been eliminated.

This contradiction became even more apparent after the adoption of the Law of Ukraine “On the Introduction of Amendments to the Code of Labor Laws of Ukraine to Harmonize of Laws to Prevent and Combat Discrimination with European Union Law” (No. 785-VIII of 12 November 2015). Indeed, a ban on employment discrimination on the grounds of gender (Article 2-1 of the CLL)³ and sexual orientation and gender identity was added to the Code of Labor Laws (CLL), which was an important achievement in the process of recognizing LGBTI rights in Ukraine (prior to this, discrimination on the grounds of SOGI were not enshrined in any law – such a ban is also missing from the Law “On Principles of Prevention and Combatting Discrimination in Ukraine”).

The situation is complicated by the fact that women themselves are poorly informed of their labor rights: sociological studies⁴ show that women, and especially women in rural areas, have little knowledge of national and international mechanisms for protection from gender discrimination. Since they are not informed of their rights, women do not even attempt to stand up for them in court. Since the law “On Ensuring Equal Rights and Opportunities for Women and Men” entered into effect, most court cases related to discrimination against women were initiated by state oversight bodies in connection with instances where gender was indicated in advertisements announcing vacancies,⁵ while the victims of gender discrimination themselves rarely file complaints or demands for their rights to be protected.

Almost 60 percent of people registered at employment centers are women. The majority of them agree to low salaries, while men claim the higher paying jobs.⁶

³ Code of Labor Laws of Ukraine - <http://zakon5.rada.gov.ua/laws/show/322-08>.

⁴ These studies were conducted as part of work to prepare the 8th Periodic Report on Ukraine's Implementation of the UN Convention on the Elimination of All Forms of Discrimination Against Women: http://www.unfpa.org.ua/files/articles/4/51/CEDAW_3%20surveys_%20UKR.pdf; State of the Protection of the Rights and Economic Interests of Rural Women (survey conducted by the NGO Union of Rural Women of Ukraine): <http://documentslide.com/documents/-568bf11b1a28ab893391f888.html>; sociological studies ordered by the UNDP to assess social skills, behavior, relations, and beliefs: <http://www.ua.undp.org/content/ukraine/en/home/>

⁵ Uvarova, E. Women's Rights and Gender Equality in Ukraine: <http://helsinki.org.ua/en/women-s-rights-and-gender-equality-in-ukraine/>

⁶ <http://business.vesti-ukr.com/100196-zhenwiny-rukovoditeli-v-ukraine-poluchajut-na-25-menshe-zarplaty>.

The State Employment⁷ Service of Ukraine has noted the negative impact of gender stereotypes in the labor sphere and has made combatting this problem one of its main priorities.

In general, however, plans to improve the situation for members of discriminated and vulnerable groups remain largely unrealized. For example, the Action Plan to Implement a National Human Rights Strategy for the Period up until 2020,⁸ which was approved to implement the norms of the Ukraine-European Union Association Agreement, envisages a number of provisions aimed at expanding norms to fight discrimination, but the provisions envisioned for 2016 were not implemented in time (subparagraph 1, paragraph 105 of the Annex to the List of Grounds for Banning Discrimination on the Basis of SOGI; regulation of a ban on multiple discrimination; subparagraph 7, paragraph 105 of “On the Introduction of Amendments to Ministry of Health Order No. 479 of 20 August 2008 on Removing Discriminatory Bans on the Adoption of Children, Including by HIV-Positive People, Disabled People, and Transgender People”). A draft law legalizing registered civil unions for same-sex and heterosexual couples is due to be prepared in the second quarter of 2017. This law is vital for the protection of LGBTI rights, but there is still no information available about preparations to implement this point of the plan.

Women from especially vulnerable groups are frequently victims of multiple discrimination. Moreover, the situation of female residents in the war-torn region of Eastern Ukraine is complicated by a number of circumstances: they are subjected to peril and hardship at home, they cannot find refuge or a dignified new life in other places, they face prejudice against migrants from Eastern Ukraine, and if they also happen to be members of groups that are traditionally discriminated against (Roma, LGBTI), it is virtually impossible to avoid violation of their rights.

Difficulties of Forcibly Displaced Persons (FDP)

Women who have been forced to migrate due to military actions are in a particularly difficult situation: not only have women from Crimea and Donetsk and Luhansk oblasts placed their lives and health at risk by leaving their homes, close family and friends, and property, they also sometimes face negative attitudes and difficulties integrating when they arrive in a new place.

It has been especially hard for women who left home without men and frequently with children. It is often the case that men, particularly able-bodied men of draft age, are not able to leave the so-called Donetsk People’s Republic and Luhansk People’s Republic due to the risk of interrogation and suspicion upon departure or simply because there is not enough money for the entire family to leave. Women who have tried to take their children to a safe place have sometimes also taken the children of friends and relatives and are left with little means of support

<https://www.facenews.ua/articles/2016/307049/>

⁷ “Professionalism is an assessment of skill, not gender. Overcoming the stereotypical perception of women and men on the basis of the gender principle is one of the most important areas of the Service’s work. Assessing professionalism solely according to knowledge and practical skills will promote the more effective use of the work force and the more productive development of the individual, which means that it will also benefit the employer.”

http://www.dcz.gov.ua/vol/control/uk/publish/article?art_id=101390

⁸ <http://www.kmu.gov.ua/control/uk/cardnpd?docid=248740679>

as they spend their only money on travel and finding a place to live.⁹ Then these women typically have trouble enrolling the children in daycare, making it even harder for them to find work or rent housing than it already was. Despite an official order to give internally displaced children priority at daycare centers, this has not been realized everywhere due to a lack of openings and conditions for this.

Almost all internally displaced women have had problems finding employment and housing, registering as IDPs, and acquiring the proper documents. Many have complained of a negative attitude towards migrants, caused in part by promises of state support for new arrivals, which offend local residents.

Roma women in Eastern Ukraine: Victims of Multiple Discrimination¹⁰

In traditional Roma communities, the responsibility for housekeeping, cooking, and caring for children, of which there are generally many in the family, falls on women and girls of different ages. The war has brought enormous problems of daily life and survival to Roma residents of Eastern Ukraine – there is nowhere for them to live, nothing for them to eat, and nothing for them to burn for heat. But the most terrifying aspects of all are the violence, the anti-Roma pogroms organized by separatists in Slavyansk (April 2014), and the shelling of cities, which has brought death and destruction (Roma settlements were damaged or destroyed in the Budenovsk (Yevdokievka) and Kirov districts of Donetsk and cities in Donetsk and Luhansk oblasts that are part of the territories of the self-declared DNR and LNR, for example Gorlovka, Makeevka, Sverdlovsk (Luhansk Oblast), the villages of Sharapkin, Stakhanov, Lunarchevsky, and others).

Families who abandoned their homes during the war returned to find them unsuitable for living: many had been looted and even destroyed. This is what happened to one female resident of Slavyansk, whose house was seized by pro-Russian militants and came under fire. Now this disabled woman and her elderly mother have been forced to take shelter in a small lobby, which is difficult to heat during cold weather because they do not have money for firewood and most of their property was looted or destroyed.

Women who have been forced to continue living and taking care of daily chores in cities on the front lines have had to find a way to procure food without any money and perform household chores without gas or electricity. Meanwhile the lack of heat has had an effect on children's health. Women frequently complain of not being able to keep the house warm or heat milk for their youngest children.

Roma women are typically unable to obtain IDP status and the assistance due to IDPs. ADC Memorial recorded the story of an elderly Roma woman in the frontline town of Toretsk, who had to host her daughter and three grandchildren from the ruined city of Gorlovka. Neither the daughter nor the three grandchildren were registered in Gorlovka, so they could not obtain

⁹ Field data, ADC Memorial archives.

¹⁰ This part of the report is based on field data in ADC Memorial's archives and two published reports: Roma and War (2015) http://adcmemorial.org/wp-content/uploads/Roma-Refugees-Report_ENGwww.pdf; 'For Today, They Don't Seem to be Shooting...' (2016): http://adcmemorial.org/wp-content/uploads/RomaSolidarity_web.pdf

IDP status, even though the war had forced them to flee their homes and abandon their property. The elderly woman and her other daughters were very ill (tuberculosis, HIV) and were not able to obtain the required amounts of medicine and medical care, and the clinic usually did not have medication. The family had a tough time ensuring the sick people received treatment and care, and all of this fell to the women to handle.

A separate problem is the lack of adequate medical care for pregnant women: Roma women report that sometimes doctors will not see them during their pregnancies or even right before birth, and there have even been occasions when ambulances did not respond to calls. Roma women who lack the necessary documents face particular challenges.

One woman interviewed complained that she did not receive proper assistance for her daughter – a disabled person with a heart defect. They were forced to flee Kramatorsk during the military actions and were able to manage for some time only thanks to help from Roma organizations and activists. The husband did not provide financial assistance to his wife or daughter, and the mother received less aid for the child than she would if she were a single mother. They were forced to live on this aid, since the child's illness prevented the mother from working.

Families with many children (the majority of Roma families) face numerous difficulties. Many children have been forced to interrupt their studies at school because of the war, and only very few have been able to complete the academic year and continue studying. One woman interviewed and her daughter moved three times before the girl completed elementary school. Generally, it is mothers who take pains to ensure that their children can attend school and mothers who receive the benefits for their children. In circumstances when it is impossible to receive funds from the state because of lost or expired documents, it is terribly complicated for women to find money to meet all their children's needs. At the same time, there is virtually no chance of finding a job, which makes it even harder for women to find a means of survival.

Roma who decide to leave their homes do not always find a roof over their heads in a different place – one Roma woman and her three children fled Sloviansk for Kyiv, where they ended up living at the railway station for three months, since she and her children had nowhere else to stay. When she applied for benefits for her children at a temporary assistance office, she was not received because there was “no money.”

Another Roma refugee with three children, who left her home in Luhansk for relatives in Merefá, which is outside of Kharkiv, had trouble receiving social assistance: in Kharkiv, she was denied a boxed meal several times, and when she tried to get milk and items for her children, she was told that nothing was left, even though other people were leaving with items and food products.

Persecution on the basis of SOGI in Eastern Ukraine and the Crimea¹¹

¹¹ This part of the report is based on ADC Memorial's report “Violation of LGBTI Rights in Crimea and Donbass: The Problem of Homophobia in Territories beyond Ukraine's Control” http://adcmemorial.org/wp-content/uploads/lgbtENG_fullwww.pdf; as well as field data from the ADC Memorial archives.

Russia's homophobic laws came into effect in Crimea at the time of its annexation. Somewhat later, and in a much harsher form, similar norms were enshrined in "law" in the self-proclaimed DNR and LNR.

LGBTI people located within the territories of these self-proclaimed republics immediately felt the effects of the conflict in Eastern Ukraine. The so-called DNR and LNR have legislative initiatives stipulating criminal liability for same-sex relationships all the way up to the death penalty. Homophobic propaganda has led to numerous displays of violence against LGBTI people. A transgender woman even witnessed the execution of a gay person. Some members of the LGBTI community were subjected to persecution: according to one witness, wanted posters for FEMEN activist S. Nemchinova were hung up in the so-called DNR. Nemchinova was able to gather her documents and leave the self-proclaimed republic by risking her life as dressing up as an old woman. Women from the LGBTI community have reported that they live in constant fear connected with the homophobic behavior of the people around them.

With the start of the armed conflict and after several armed attacks, NGOs, clubs, and other places where LGBTI people previously met were forced to shut down. The Izolyatsiia space, where exhibitions on the topic of gender and identity had previously been held, became a prison, an arms warehouse, and an execution chamber.

Another hardship LGBTI people now face is the inability to contact one another due to different political views. In the self-proclaimed republics, there is a risk that neighbors, colleagues, and even other LGBTI people (including for their own safety) may hand LGBTI people over to armed militants, who subject them to torture and inhuman treatment leading not just to serious physiological and psychological problems, but also in some cases to death. For example, there have been cases where people captured in Donetsk were forced to dig trenches, including along the front lines of military action, which could result in death. Communication was complicated by the lack of light and telephone connections over the course of several months, which meant that information about torture and inhuman treatment was not publicized. The number of people who disappeared is still unknown.

Homophobic propaganda has also meant that many members of the LGBTI community have no ability to communicate and act openly in society. LGBTI people who have remained in the DNR and the LNR have been forced to enter heterosexual relationships in order to prevent information about their orientation from being made public. Two young women who lived together explained that they were frightened of their neighbors after receiving threats for refusing to enter into heterosexual relationships. Since the time that some local residents were granted unchecked powers and have been armed, these threats have come to represent an incommensurately more serious danger. Transgender women have recounted how they were forced to hide their identity because they feared that their relatives would forcibly place them in a psychiatric facility.

Another problem is that people have been fired from their jobs on the basis of their SOGI. A lesbian working at a government agency received threats from colleagues of physical harm caused by pro-Russian militants. A feeling of constant fear and forced closetedness resulted in stress and suicide attempts. One transgender woman contemplated suicide because she was

tired of the fear, pressure, and absence of opportunities for self-realization. Another transgender woman who stayed in the so-called DNR for an extended period of time fell into depression, felt that she was in constant danger and always alone, and that she had been deprived of the opportunity to work and socialize.

Transgender people have also run up against the inability to continue their sex reassignment therapy. This is due to the lack of the necessary medications and the fear that their sex reassignment might become known to someone. Many transgender people have experienced stress and health problems because of this, especially since many of them were forced to stop the hormone therapy they had been receiving for years.

LGBTI children also experience hardships, left as they are without access to information on their own identity, in a space where speaking about this topic is not only forbidden, but also life-threatening. There was one case where a girl ran away from home because her parents were pressuring her about her orientation, and she was only found with the help of an NGO.

Most members of the LGBTI community hold pro-Ukrainian views that they cannot show openly in the so-called DNR and LNR. LGBTI people leaving the territories of the DNR and LNR are even scared to speak Ukrainian during inspections. Transgender people, whose appearance and documents do not match, are in the most problematic situation. For example, two transgender women took a risk when they decided to cross the line of demarcation after a holiday, when many guards had still not arrived at their checkpoints for work. They could have had trouble crossing in either direction, since their documents might not have been accepted by guards on either side.

LGBTI people who leave DNR and LNR territories have encountered problems renting housing, which is not a simple process for any IDP or for people registered in Donetsk and Luhansk oblasts, especially since few landlords are even prepared to rent to heterosexual people, so it is particularly hard for couples who live together. Some women have complained of homophobia, reporting that they cannot live openly even after leaving a territory where their lives are under constant threat because they fear termination of employment, eviction, or other unpleasant consequences. Lack of support for LGBTI IDPs on the part of the government has only complicated the process of starting life in a new place. It has only been through the assistance of NGOs like Insight that many people who fled the territories of the self-proclaimed republics have been able to survive and avoid returning home under fire.

Transgender people who leave the territories of the so-called republics but are not able to replace their documents because of changes in the procedures for sex reassignment and the work of the Commission on the Issues of Change (Correction) of Gender Identification have also faced troubles: it was remarked that members of this commission have a discriminatory attitude towards transgender people.¹² In late 2016, Order No. 1041 of 5 October 2016 “On Establishing Biomedical and Psychosocial Evidence for Changing (Correcting) Gender Identification and

¹² http://update.com.ua/istorii_tag924/sterilizatsiia-v-obmen-na-pasport-transgender-dokazal-nezakonnost-procedury-v-sude-ukrainy_n2905, <http://nv.ua/publications/v-svoem-ume-no-ne-v-svoem-tele-kak-eto-byt-transgenderom-v-ukraine-163338.html>, ADC Memorial archives.

Approval of a Form for Primary Records and Instructions for its Completion”¹³ entered into force. This order repeals the discriminatory order No. 60 “On Improving the Provision of Medical Care to People Requiring Change (Correction) of Gender Identification.”¹⁴ However, surgery is still required to receive a Medical Certificate on Change (Correction) of Gender Identification.¹⁵

Unfortunately, the level of homophobia in Ukrainian society remains high,¹⁶ and attacks occur on public events (for example, during the 2016 Equality March over 50 aggressive provocateurs were detained and one person was attacked) and individual people, who were tracked by their attackers online and agreed to meet with these people.¹⁷

New Risks and Difficulties for Women Migrants

Labor migration from Ukraine into Russia, Eastern Europe (Poland, the Czech Republic, Hungary), and Western / Southern Europe (mainly Italy, Germany, Spain, Portugal, Greece), as well as the United States and Canada has increased over the past decade due to the economic crisis in Ukraine, which was developing prior to the annexation of Crimea and the military conflict with Russia and has deepened since these events. Millions of people (from two to seven million by various estimates) travel abroad for work. In recent years, experts have noted the feminization of migration flows (according to data from 2008, 32.8 percent of migrant workers are women,¹⁸ with the share of female labor migrants growing; at the same time, more women migrate to Southern European countries than men (in 2002, 65 percent of migrant workers from Ukraine in Spain were female, 75.5 percent in Greece were female, and 90.2 percent in Italy were female).¹⁹ Money transfers from migrant workers to Ukraine exceeds the size of international investments (data for 2015 – over USD five billion versus USD three billion of investments).²⁰

Meanwhile, a significant number of Ukrainians (estimates range from 40 percent²¹ to 80 percent) are undocumented in their countries of employment, which puts them in an extremely vulnerable position. Women working in Europe as nannies, babysitters, maids, and cleaning women, as well as in the high-risk spheres of the hotel and restaurant business, entertainment,

¹³ <http://zakon0.rada.gov.ua/laws/show/z1589-16>

¹⁴ <http://zakon0.rada.gov.ua/laws/show/z0239-11>

¹⁵ <http://insight-ukraine.org/nakaz-moz-60-ostatochno-skasovano/>

¹⁶ <http://genderz.org.ua/chislo-prestupleniy-protiv-lgbt-v-ukraine-vyiroslo-vidvoe/>

¹⁷

https://humanrights.org.ua/en/material/za_ostanni_4_misjaci_2015_roku_v_ukrajini_stalis_34_zlochiviv_na_runti_nenavisti_gejaljans_ukrajina

¹⁸ Malynovska, Olena. “Trudovye migranty iz Ukrainy v stranakh ES i ikh perevody na rodinu v postkrisisnyi period.” [Migrant Workers from Ukraine in EU Countries and their Transfers Home in the Post-Crisis Period]. 2013. http://mirpal.org/files/files/Malynovska%27s_report_rus_final_w%20cover.pdf

¹⁹ Tolstokorova, Alisa. “Geroini nashego vremeni: zhenskaia trudoviia migratsiia iz Ukrainy.” [Heroines of our Time: Female Migrant Workers from Ukraine] (2012).

²⁰ <https://www.novayagazeta.ru/articles/2016/11/16/70552-proletaya-nad-gnezdnom-gorlitsy> with links to the National Bank of Ukraine.

²¹ Data from a 2015 sociological survey published by the International Organization for Migration. <http://www.un.org/russian/news/story.asp?NewsID=24180#.WHzTa31P1MZ>

show business, and the sex industry) are at high risk of becoming the victims of exploitation, human trafficking, slavery, and sexual violence.

Recent migration amnesties in Southern European countries and the cancellation of Schengen visas for Ukrainian citizens in 2017 will undoubtedly ease the situation for migrant workers from Ukraine, but the government must make efforts to protect the rights of Ukrainian citizens abroad, especially women. Additionally, it is necessary to appraise the negative consequences of the mass departure of the working-age population abroad, primarily the migration of women: this includes abandoned and neglected children, who are left home in the care of other relatives, broken families, and, when children accompany a parent into migration, the high likelihood that these families will leave Ukraine for good, resulting in demographic losses for the country with long-ranging consequences.

Conclusions and recommendations

Ukraine's anti-discrimination laws are in need of further development: in order to avoid legal conflicts and the possibility that norms may be interpreted in multiple ways, contradictions in laws must be eliminated. A ban on discrimination on the basis of SOGI must be added to the anti-discrimination law.

In order to protect the labor rights of women, the discriminatory list of professions banned for women must be cancelled. (Ideas about women's reproductive functions are no justification for restrictions on selection of profession or type of activity).

To improve the situation for IDP women, conditions must be created that enable women, including single women and women with young children, to find employment, enroll their children in schools and preschools, and participate in social renting.

Measures aimed at supporting Roma women suffering from the military actions, including those with IDP status, must be taken. Particular attention must be paid to mothers with many children. Female members of Roma communities, namely women and disabled children, must be provided with the medications they need. Medical care must be provided for all Roma women regardless of their status, particularly pregnant women and women with many children.

Special attention must be paid to LGBTI IDPs. Safe conditions and opportunities must be created for LGBTI people to leave the territories of Crimea and Donetsk and Luhansk oblasts. Violations of the rights of LGBTI people living in Crimea and the so-called DNR and LNR must be monitored. Special attention must be devoted to the situation of transgender people. These people must be provided with psychological care and assisted with obtaining identifying documents as quickly as possible.

Discriminatory practices in sex reassignment procedures must be rejected in pursuance of the plan to implement the National Human Rights Strategy.

A draft law to legalize registered civil unions must be adopted on time, with account for the opinions of NGOs protecting LGBTI rights.

The Ukrainian government must take effective measures to protect the rights of migrant workers working outside the country, support families where one or both parents are migrant workers, and reintegrate women who have returned from labor migration: new jobs must be created and business enterprises must be developed throughout the country.