



# **Third Shadow Report of Nongovernmental Organizations of Tajikistan on implementation of the Convention on the Elimination of All Forms of Discrimination against Women**

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**DUSHANBE, 28.09. 2018**

## FOREWORD

Coalition of nongovernmental organizations of Tajikistan “From equality de jure to equality de facto” (hereinafter the Coalition) presents the third Shadow report on implementation of the Convention on Elimination of all Forms of Discrimination against Women by the Republic of Tajikistan.

The coalition was formed on 22 May 2008. It carries out its activities in accordance with the Partnership Agreement, which does not imply organization of a legal entity. The Coalition membership includes 39 nongovernmental organizations based in Dushanbe and other districts of the country as of 1 September 2018 (See Appendix 1).

The key objective of the coalition is to enhance the contribution of the nongovernmental organizations to CEDAW implementation, deploy nationalization process, and implementation and monitoring of gender related Sustainable Development Goals to promote gender equality in Tajikistan.

To draft the third Shadow report, members of the coalition conducted expert assessment of various legal and regulatory documents, plans, and strategies on gender policies with the support of international organizations. The coalition conducted various events to discuss the implementation of the Law of RT “On state guarantees for equality between men and women”, Law “On Prevention of Domestic Violence” and implementation of other strategies and programs on gender equality promotion. Furthermore, it elaborated proposals and recommendations on CEDAW.

The coalition established an expert group to consolidate the information collected from its members for development of the report. The group membership included: Tatiana Bozrikova (Group Leader), Larisa Alexandrova, Guljahon Bobosadykova, and Shahlo Juraeva.

The main objective of this report is to complement the National Report on promotion of gender equality in Tajikistan, identify challenges in ensuring equality for men and women, and outline proposals and recommendations by the nongovernmental organizations (NGOs) related to elaboration and implementation of state gender policy mechanisms, measures to overcome the barriers to promote the interests of women and protect their rights in Tajikistan.

The elaboration of this report was also used as add-on for capacity development of NGOs, enhancement of the dialogue between the NGOs and the Government and expanding opportunities for non-governmental organization to participate in the state decision making processes. If you have any question, please feel free to contact us at: [of\\_panorama@mail.ru](mailto:of_panorama@mail.ru), [bguljahon@mail.ru](mailto:bguljahon@mail.ru), [ngo.jahon@gmail.com](mailto:ngo.jahon@gmail.com), [aleksandrovalar@gmail.com](mailto:aleksandrovalar@gmail.com)

## ARTICLE 1. DISCRIMINATION AGAINST WOMEN

In its concluding observations to consolidated fourth and fifth periodic reports, the UN CEDAW Committee provided 10 recommendations related to introduction of the “indirect discrimination” notion to the legislation of the RT. However, this recommendation is still not implemented. For the time being, there is no definition of direct and indirect discrimination in the legislation of RT.

Albeit, the rights of women are not violated on the legislative level, and there is almost no case of direct gender-based discrimination, the instances of indirect discrimination of women are rather wide spread. This primarily is related to the fact that women do not have equal opportunities to implement their rights in full for various reasons.

Discrimination shall be regarded from dual perspective, both **implied/direct** (as an objective), and **accidental/indirect** (as a consequence). CEDAW is urging its member states to ensure legislative equality of men and women (**de jure**) and in real life (**de facto**).

## RECOMMENDATIONS

Introduce amendments to the national legislation related to the definition of “direct and indirect discrimination”.

## **ARTICLE 2. COMMITMENTS ON ELIMINATING DISCRIMINATION**

### **ACHIEVEMENTS.**

The Government of the Republic of Tajikistan has taken a number of positive measures to promote gender equality and implement recommendations provided to its previous National Report. It particularly adopted the Law on Prevention of Domestic Violence, State Program on Prevention of Domestic Violence in Tajikistan (2014-2023) and its Action Plan, ratified the Optional Protocol to the Convention on Elimination of All Forms of Discrimination against Women, and included amendments to the Land Code of RT aimed at ensuring equal access of women and men to land. Other measures include presidential grants allocated annually to support women entrepreneurs, as well as quotas for girls and boys from rural areas for admission to higher educational institutions, and so on.

In 2014, the Government of Tajikistan adopted the National Action Plan of the Republic of Tajikistan to implement the recommendations of the UN Committee on the Elimination of All Forms of Discrimination against Women along with the National Action Plan of the Republic of Tajikistan on implementation of UN Security Council Resolutions 1325 and 2122, etc.

In 2017, the Government established a governmental working group with a view to improving the national legislation on gender equality.

### **CHALLENGES**

Legislative, institutional and organizational frameworks for promoting actual equality between men and women are set in Tajikistan. However, effective implementation means, differentiated approaches depending on various target groups of women, means to empower women and girls in line with the Global Agenda 2030 and Sustainable Development Goals are poorly introduced.

The following obstacles to implementation of gender policies and overcoming gender inequality are identified:

- ✓ Imperfect legislative base for promotion of gender equality and poor implementation of gender based approaches into the sectorial legislation.
- ✓ Lack of mandatory gender expertise for newly elaborated normative legal acts.
- ✓ Limited and poorly developed institutional mechanism for implementation of gender policies.
- ✓ Lack of continuous monitoring and limited indicators system to track the implementation of the Law on State Equality Guarantees, promoting of women and change in gender behaviors patterns.
- ✓ Poor gender sensitivity among civil servants, working in different spheres. Institute for civil servants provides gender specific training, however these are not included into the retraining curricula for civil servants, limited number of civil servants are undergoing retraining, management of ministries as a rule are not enrolled by these special courses.
- ✓ Limited financial resources to promote gender equality and expand opportunities for women and girls.
- ✓ Poor prioritization to planned goals and implemented activities due to deficit in material and human resources.

The National Ombudsman Office (NOO) plays a specific role in protecting the role of women. In 2014, the Children's Ombudsman Office of the National Ombudsman Office expanded its structure by establishing a department on protection of women's rights. The Strategy of the NOO (2016-2020) identified gender equality as the fourth priority area. Nonetheless, apart from legislative reforms, it does not envisage other activities on gender equality.<sup>1</sup> Assessment of NOO activities, conducted by its Department of State Protection of the Rights of Women and Children in 2015, indicates only a few cases of the usage of data disaggregated by gender and status of applicants while collecting statistics, Presently this department is dissolved.

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<sup>1</sup> <http://ombudsman.tj/rus/wp-content/uploads/2015/12/Strategiya-2016-2020-rus.pdf> (viewed on 10.02.2018r.  
<http://ombudsman.tj/rus/wp-content/uploads/2015/12/Strategiya-2016-2020-rus.pdf>)

## **Key challenges related to implementation of the Law of RT “On Prevention of Domestic Violence”**

The reason behind vulnerability of women to violence and weak performance of activities implemented in this area is the lack of understanding of the scope of this issue by the society. There is a unified assuredness that the issue of violence against women, especially family violence, is exaggerated and, in comparison with other social issues, is not so important.

Non-governmental and state agencies involved in resolving the issues of violence against women have insufficient arguments confirming the scope and state of urgency of this issue, which leads to underestimating the issue of domestic violence. Lack of unified information and statistical database on violence in society and family impedes not only conducting comprehensive gender analysis of this issue, but also collate convincing facts and arguments confirming social significance of the issue.

Available data and indicators are not unified and there are significant discrepancies between official statistics and informal data indicating actual scale of violence against women. Neither the Ministry of Internal Affairs nor other state institutions are involved in systematic collection and processing of statistics related to violence against women.

Statistics on persons who have committed a crime is prevailing. No statistics is published officially outlining the context of victims of crime and violence. To a larger extent, this is due to inadequate forms of statistical reporting. The crime registration templates contain indicators on victim, however the reporting forms do not have these indicators. Therefore, there is no information at all about the links between the victim and the person who committed the crime in the database of the Ministry of Internal Affairs.

There is an issue related to effective mechanisms for the implementation of the Law, therefore it is necessary to develop amendments to the Law itself, and elaborate other legal and regulatory documents. To successfully address this problem, it is necessary to deploy cross-sectoral approach and enhance the activities of the Coordination Council on the Prevention of Domestic Violence, and there are no other effective institutional mechanism for social partnership.

Tajikistan adopted its State Program on Prevention of Domestic Violence in the Republic of Tajikistan (2014-2023). However, the Government did not secure funds for the implementation of this Program. The program is mainly aimed at raising awareness and enhancing the capacity of civil servants. The program sets forth an imperfect list of evaluation indicators.

Victims have limited access to justice. Criminal cases initiated by law enforcement agencies, are those of private prosecution. Victims themselves collect the evidence at their own expense, undergo examination, represent their interests in court. Police is reluctant to accept complains from victims, fail to perform their duties professionally, often limit their activities to educational conversations with perpetrators, and issue domestic violence injunctions few days later, not 24 hours after the violence was committed.

The MoI did not assess the impact of domestic violence injunctions. Throughout the process, victim is economically dependent upon the perpetrator or his family, she is not provided with pro bono legal aid. In most cases, victims are illiterate, they do not have shelter and have not place to live.

Courts do not deal with moral damage compensation, referring to the lack of application for that by victim, whereas the victim is not aware of this possibility since the Criminal Procedure Code provisions do not envisage allocating lawyers paid for by the State.

There are a few state agencies providing support to victims of violence. Existing Crisis and Resource Centers within public organizations dealing with prevention of domestic violence and providing support to victims of violence face an entire set of challenges, including:

- ✓ Lack of permanent and equipped premises, difficulties in concluding lease agreements for a long term period
- ✓ Limited funding (funding from the donor agencies is mainly provided for one year)
- ✓ Poor physical infrastructure (equipment, internet, etc)
- ✓ Lack of professional staff, necessity to build the capacity of psychologists, lawyers, medical staff and other specialists.
- ✓ Limited package of services provided

Committee on Women and Family Affairs under the Government of the Republic of Tajikistan (CWFA) is among the agencies set up to prevent domestic violence and coordinate the implementation of the State Program on Prevention of Domestic Violence (2014-2023). The Committee is called upon providing legal assistance to victims of violence. However, according to the victims of violence, who appealed to the Committee, the main task implemented by the staff of the Committee is reconciliation of the victim with perpetrator to preserve families. This is an important activity. However, neither the Law of the Republic of Tajikistan "On Prevention of Domestic Violence" nor the Committee in its activities clearly indicate on the tasks related to domestic violence prevention and protection of the victims of violence. All this contributes to the ongoing victimization of victims, and often leads to fatal outcomes.<sup>2</sup>

Criminal legislation of the Republic of Tajikistan does not stipulate responsibility for sexual harassment in public places. There is no official statistics on this matter. Recently, the issue of men harassing young girls and women was raised in social networks due to lack of response from law enforcement agencies. Women usually keep silence on harassment in the workplace, especially in the regions, because they think it is embarrassing, and besides, they are sure no one would believe them.

## **RECOMMENDATIONS ON IMPROVING GENDER POLICIES**

1. Speed up the activities of governmental working groups on development of proposals for legislative improvements aimed to promote de facto equality of women and men and review of these considerations in the Government of the Republic of Tajikistan.
2. Carry out gender screening of sectoral legislation and policies (employment, education, public service, etc.) identify effectiveness of available mechanisms for implementation of state guarantees for equal opportunities of women and men and develop specific mechanisms in each sector.
3. Adopt legislative documents on obligatory gender screening of newly adopted legislation and legal and regulatory documents.
4. Develop indicators and carry out continuous monitoring and evaluation for the implementation of adopted gender strategies and programs. As stipulated in the Law on State Guarantees, ensure annual reporting and publication of monitoring and evaluation results in mass media.
5. Allocate resources from the public budget for the implementation of the National Action Plan to the National Strategy on Empowerment of Women in the Republic of Tajikistan (2015-2020), State Program on Prevention of Domestic Violence in the Republic of Tajikistan (2014-2023). Introduce gender budgeting principle for development and implementation of the annual public budget of the Republic of Tajikistan.
6. Create Ombudsman for Women's Rights and Gender Equality.
7. Build the capacity of the NOO staff and other government agencies on the use of gender statistics and gender analysis, gender analysis of legislation on human rights in general and rights of people living with HIV.

## **RECOMMENDATIONS ON PREVENTING VIOLENCE AND SUPPORTING VICTIMS OF VIOLENCE**

### **Improve the legal framework on prevention of domestic and social violence**

Introduce separate article in the Criminal Code of the Republic of Tajikistan, which stipulates criminal liability for domestic violence. In these cases, between the victim and the person who committed the crime there is direct dependent kinship or other personal (marriage) relationship.

Study the problem of gender-based violence in public places and in the workplace. In the Criminal Code liability shall be foreseen for sexual harassment in the workplace and in public places.

Amend Criminal Procedure Code of the RT to protect victims of domestic violence and ensure their access to justice. Domestic violence related cases are to be shifted from private prosecution to public prosecution or private-public prosecution.

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<sup>2</sup> <http://nm.tj/incident/51193-mohira-tak-i-ne-smogla-obnyat-detey-byvshiy-muzh-zhestoko-raspravilsya-nad-ney.html>

Develop and adopt Resolution of the Supreme Court Plenum on cases related to violence against women and children, taking into account existing practice and CEDAW recommendations.

### **Improving institutional mechanisms for the implementation of the Law**

Responsibility for coordinating activities related to implementation of the Law of the Republic of Tajikistan "On Prevention of Domestic Violence " shall be assigned to the Deputy Prime Minister of the Republic of Tajikistan.

To improve institutional mechanisms aimed at strengthening the interaction between various state institutions, as well as social partnership between public associations and state structures. To intensify the activities of the Interagency Council for the Prevention of Violence against Women under the Deputy Prime Minister of the Republic of Tajikistan. To ensure the continuous work of the Council to envisage set up of permanent commissions within the structure of the Council, consisting of Council members and interested non-governmental organizations and experts.

Local government authorities and state institutions shall consider the possibility to provide premises to crisis and resource centers on a long-term for free or preferential basis.

By building on the practices of Dushanbe municipality, the local government authorities shall create centers for prevention of all forms of violence and support to victims of violence to the extent possible.

Include in the state budget of the Republic of Tajikistan expenses related to implementation of the State Program on Prevention of Domestic Violence in the Republic of Tajikistan (2014-2023).

Enhance coordination of activities between state and non-governmental agencies to establish referral mechanisms for the victims of domestic violence and provide necessary response and assistance.

### **Expanding statistic database on violence against women and girls**

To improve the statistical registration and reporting on registered crimes, filed cases and condemned people within the Ministry of Internal Affairs, Supreme Court and Prosecutors' Offices, which shall include the indicators not only on the people who had committed crimes, but also information on the victims of crime and connection between them.

To develop a consolidated database for all types of violence disaggregated by victims of crime and perpetrators using the database of registered crimes with the Information Department of the Ministry of Internal Affairs, cases launched by the General Prosecutor's Office of the Republic of Tajikistan and convicts.

The Coalition of nongovernmental organizations of Tajikistan "From equality de jure to equality de facto" in partnership with international organizations shall continue setting up unified database of applicants to Crisis and Resource Centers.

### **Building capacity of the state and non-governmental agencies staff working in the field of violence prevention and support to victims of violence**

It is necessary to continue the capacity building program for area police officers, psychologists, family doctors, lawyers and other staff working with domestic violence victims. Their capacity needs to be developed on 1) prevention of violence and 2) support to victim of violence for their rehabilitation.

To improve the quality of services and build the capacity of state and non-governmental agencies' staff involved in preventive activities, support to victims of violence and their rehabilitation, it is necessary to develop minimum standards of services provided.

## **ARTICLE 3. DEVELOPMENT AND PROMOTION OF WOMEN**

### **ACHIEVEMENTS**

The social and economic strategies of Tajikistan play crucial role in promoting gender equality and creating conditions necessary to achieve gender objectives formulated by SDGs.

The National Development Strategy of the Republic of Tajikistan to 2030 and Mid-Term Development Strategy (2016-2020), unlike previous long-term and medium-term development strategies, contain

gender equality not just as a separate sub-section, but also define gender objectives and measures on their achievement in section on various sectors, for instance on effective governance, productive employment, improvement of business environment and the investment climate, etc.

Statistics Agency under the Office of the President of the Republic of Tajikistan actively develops gender statistics. In 2013, the Agency adopted its Program for the Development of Gender Statistics in the Republic of Tajikistan (2014-2015). It also introduced a webpage "Gender statistics" in its website, which has sections on legal and regulatory framework, analytical articles on gender issues, and database.

In 2016, it added an additional page "Women Entrepreneurs" in this section, which is regularly updated. The Agency publishes brochures with statistic data, conducts Medical and Demographic Surveys with the support of international organizations, etc. Since 2007, it has been publishing statistical compendium "Gender Indicators in production activities of farming ownerships is published annually. It presents farming ownership development indicators from gender perspective.

## **CHALLENGES**

Over the recent years, most of the planned activities outlined in various gender equality policies and programs have not been implemented, including measures to implement the recommendations of the CEDAW Committee. The only recommendation provided by the Committee which is completely implemented is that in point 8 (c) "Adopt the National Action Plan for implementation of the recommendations provided by the Committee."

The overwhelming majority of CEDAW recommendations were been partially implemented. For example, the Republic of Tajikistan has ratified the Optional Protocol to CEDAW. At the same time, reservation was made with respect to Articles 8 and 9 of the Protocol, and thus Tajikistan did not recognize the competence of CEDAW Committee under the procedure for investigating complaints. Therefore, CEDAW Committee will not being able to investigate the complaint lodged for consideration and provide comments and recommendations to the State party.

Limited access of women, especially those from vulnerable groups, to pro bono legal aid and protection due to the limited capacity of governmental and non-governmental services providing legal assistance is underlined.

Lack of regular monitoring and evaluation within the framework laws and strategies adopted does not allow to track the situation regularly ensuring necessary adjustments when necessary to ensure timely implementation of the gender policies.

In line with the commitments related to Sustainable Development Goals implementation, while formulating and implementing gender policies, it is necessary to take into account the linkages between the three key priorities: 1) ensuring equal access to all types of resources (land, property, finance, education, information, etc ), 2) involving women in decision-making processes at all levels and across all sectors, 3) eliminating violence against women. Unfortunately, many of the programs that are being adopted do not take into account the existing problems in other sectors and, thus, do not use comprehensive measures to eliminate the causes of gender discrimination in these sectors.

For example, overcoming obstacles to ensured gender equality in employment and mobility of women within the labor market depends directly on expanding access of women to education, acquisition of skills and knowledge, developing infrastructure for pre-school education and household services, transport communications and etc.

For the time being limited consideration is taken of limited homogeneousness of gender groups when developing measures to eliminate gender discrimination. There are specific interests of vulnerable groups such as rural women, people with disabilities, HIV-positive, elderly and other groups that are still poorly taken into account. Inequality in the opportunities available to rural women is still acute, due to the persistence of gender stereotypes and restrictions related to employment, and also due to relatively low quality of infrastructure that affects negatively access to resources and opportunities.

## **RECOMMENDATIONS**

1. Carry out regular monitoring of gender-sensitive measures implementation outlined in strategies and state programs, conduct assessment of general achievements and those per sector and region.

2. Ensure access of the population to monitoring and evaluation results. This can be done via websites of ministries and departments, mass media and other sources of information.
3. Expand gender statistics and provide data not only by gender in general, but also broken down by rural and urban men and women, different age groups of men and women, people with disabilities in the reports on the evaluation outcomes.
4. Ensure implementation of the Law "On Prevention of Domestic Violence" by implementing the measures outlined in General Recommendation of the UN Committee on CEDAW No. 19, paragraph 24.

## **ARTICLE 4. SPEEDING UP EQUALITY FOR MEN AND WOMEN**

### **ACHIEVEMENTS**

Tajikistan has gained considerable experience in using temporary special measures: Presidential quotas for higher education institutions, Presidential grants for women entrepreneurs, Presidential scholarships for students of schools, universities and colleges.

The mechanism of Presidential grants was launched in 2006 to support women entrepreneurs, including rural entrepreneurs. It is aimed at increased competitiveness of women entrepreneurs, increase access to financial resources and increase their professionalism and vocational training.

According to the Decree of the Government of the RT, 40 grants were allocated annually in the period 2011-2015. 80 Presidential grants for the total amount of TJS 2 million (\$ 340,000) are annually approved by a decree of the Government of the Republic of Tajikistan for the period 2016-2020: 20 grants in the amount of 40,000 somoni, 20 grants in the amount of 30,000 somoni, 20 grants for the amount of 20 thousand somoni and 20 grants for the amount of 10 thousand somoni.

### **CHALLENGES**

Nonetheless, the mechanism of “temporary special measures” is poorly used among vulnerable groups of population, promoting the women in civil service and involving women in decision making processes.

### **RECOMMENDATIONS**

1. Introduce the concept of “temporary special measure” to the Law of the Republic of Tajikistan “On State Guarantees for Equality and Equal Opportunities to Men and Women”.
2. Ensure implementation of measures aimed at empowering women and ensuring de facto equality of women and men outlined in the Midterm Development Strategy of the Republic of Tajikistan (2016-2020).
3. Develop package of temporary special measures, including those based on "soft quotas" principle, to promote women in public authorities. Special attention should be paid to the use of temporary special measures to expand number of women in local government and self-government bodies

## **ARTICLE 5. GENDER ROLES AND STEREOTYPES**

### **CHALLENGES**

Negative role of gender stereotypes in promoting gender equality is outlined in all national reports on implementation of international obligations and national strategies. However, there are no comprehensive, targeted communication strategies aimed at shaping public opinion. This type of activities is implemented by state and private mass media on a sporadic basis. A number of legislative, social economic and organizational measures are required to resolve this problem.

### **RECOMMENDATIONS**

To enhance the role of state and private mass media in forming public opinion of the issues related to actual gender equality and eliminating gender stereotypes in the society it is necessary:

- ✓ To develop and implement State Communication Strategy on promoting gender equality.
- ✓ To increase the number of educational and awareness raising programs on national and regional TV and Radio channels aimed at promoting gender equality. Conduct regular contests among journalists on best program on eliminating gender stereotypes.

## **ARTICLE 7. POLITICAL AND PUBLIC LIFE**

### **ACHIEVEMENTS**

State programme on education and selection of managerial personnel in the Republic of Tajikistan among talented women and girls for 2017-2022 was adopted in April 2017 (hereinafter State Human Resources Program) along with corresponding Plan of Action. In total 486 000 Tajik Somoni (55,000 U.S. dollars) was allocated for implementation of this Program in 2017-2022.

According to this program, it is planned to increase the share of women among the civil servants by 40% by 2022, and by 30% on managerial positions. Midterm Development Strategy (2016 – 2020) foresees the whole spectrum of activities aimed at expanding participation of women in decision making processes.

### **CHALLENGES**

Despite the efforts of the Government of the Republic of Tajikistan and public associations to promote women to leadership positions and state guarantees outlined in the Law on State Guarantees, men dominate in decision-making structures. Representation of women in leadership positions and in public authorities is still minor. Women-managers are concentrated mainly in the lower and middle levels of the government.

Representation of women in the Parliament is about 19%, there are 22% of women - civil servants. Currently, only one woman holds the post of the Minister in the Ministry of Labor, Migration and Employment of the Republic of Tajikistan.

The situation when men dominate in the government at all levels does not help to reduce latent discrimination against women, specifically when nominating the candidates for managerial positions and participating in the tenders for civil service positions.

The analysis of legislative norms outlining involvement of women in the electoral process indicated lack of integrated and well-defined strategy for the promotion of women to the legislature. For example, from 2005 to 2014 decrease in the proportion of women among members of the Lower Chamber of the Parliament was noted, from 15% in the elections of 2005 to 10.5%, in 2015.

Existing segregation in the specialties that girls acquire in universities is not helpful to ensure increase of women in the government. With respect to specialties demanded in the government, there is an unequivocal prevalence of men. Share of girls involved in pedagogical specialties in higher educational facilities is up to 75.3%, 64.8% - in higher vocational educational facilities. In higher educational facilities within law faculties there are - 19%, share of girls in economic facilities is 28%, there are about 6% of girls in secondary vocational facilities. The lowest percentage of girls is enrolled in agriculture: 3% in secondary vocational schools, and slightly more - 5% in universities.

Comprehensive data base on women professionals is not available. Furthermore, minimum number of professionals within the staff reserve list are appointed to managerial positions. It is not uncommon for women without appropriate vocational education and practical experience in this field to be appointed to managerial positions. This leads to rather short period in the position. Moreover, appointing women without necessary qualification leads to damaged credibility of women managers.

Gender stereotypes play negative role in the promotion of women to managerial positions, it is considered that only men can lead, whereas women shall perform. Measures aimed to trigger public discussions in state media related to the new roles of men and women in society are poorly implemented.

There is no communication strategy with governmental printed media, national and regional television and radio to initiate public discussions related to problems of gender inequality, including overcoming existing stereotypes regarding the role of women in the government. Sporadic TV programs or articles cannot effectively trigger change in public opinion.

## **RECOMMENDATIONS**

1. Ensure regular monitoring and evaluation for the implementation of the action plan to Mid Term Development Strategy of Tajikistan for 2016-2020 as well as state human capacity development program on promoting women to managerial positions. Indicators of outcomes and impact are to be included in the system of indicators in this sphere.
2. Lift all normative barriers for the promotion of women to managerial positions in law enforcement system.
3. Develop comprehensive base of competent women as a civil employees reserve, monitor their appointment to corresponding positions. One of the indicators to the human resources reserve shall be share of appointed candidates to managerial positions out of total number of women in the list.
4. Specific attention shall be paid to the following objective when assessing the implementation of action plan to the Mid Term Development Program of RT for 2016-2020 as well as state human capacity development program:
  - ✓ Elaboration of normative legal and institutional mechanisms for state guarantees on ensured parity representation of men and women in state authority bodies of different levels, including that related to decision making.
  - ✓ Activities to enhance competitiveness of women in the civil service sphere.
  - ✓ Develop partnerships between profile state bodies and civil society on developing the pool of expertise and capacity development of female staff for the civil service
  - ✓ Enhance the role of mass media in overcoming gender stereotypes prone to distribution of roles for men and women in the society and developing positive image of women as managers.
5. Committee on Women and Family Affairs in partnership with public organizations, political parties and local communities shall expand the capacity building activities among women on participation in election to legislative bodies.
6. Agency on Civil Service under the President of RT shall include “Statistics” section on its web page and update data on representing the ratio of men and women among civil servants.

## **ARTICLE 10 EDUCATION**

### **ACHIEVEMENTS**

Overcoming gender inequality in the field of education is in the focus of the activities of the Government of RT. The share of girls among the students of special educational facilities increased from 44.3% in 2000/2001 to 60% in 2015/2016 academic year. Positive trends in expanding access of girls to higher education icon the rise. In 2000/2001, the share of girls in higher education facilities was 24%, in 2015/2016 this indicator had increased to 34%. The country finally reached the level of 1991.<sup>3</sup>

To overcome unequal access of rural girls to higher education, Presidential quotas were deployed in 1997. Quotas are set for school graduates from remote rural areas to different higher education facilities by districts.

Implementation of the UN CEDAW Committee recommendations related to increase of the marriage age from 17 to 18 played an important role in expanding access of girls to education.

Identification of midterm and long-term development priorities along with introduction of inclusive education system in the education system has become an important step made by the Government of RT.

### **CHALLENGES**

Lack of equal opportunities and the problems of equal access of girls and women to all types of education are key factors preventing de facto equality of women and men. On the stage of passing from

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<sup>3</sup> See: Agency on Statistics under the President of RT. Compendium dedicated to 25th Anniversary of Independence, Dushanbe, 2016, p. 51, 55, 57 and 65.

the 9th grade to the next 10th grade at least 9.1% of boys and 15.5% of girls drop out of the further education on the annual basis, including the system of primary vocational education. This leads to further barriers in acquiring fully fledged vocational training and participation in the labor market. At the same time, there is a disparity in access to quality educational services due to various factors: place of residence (city / village), economic situation of the family, health conditions.<sup>4</sup>

Number of girls who dropped out and did not finish school, not only due to economic reasons, but also as a result of early marriage is growing.

Given limited financial capacity of households to provide access to quality education for their children, parents prefer to educate their sons, not daughters. According to official statistics, ratio of girls and boys in the state general educational institutions is 50%, the ratio of girls to boys in private facilities is 33% and 67% respectively (it is considered that private facilities are providing better education).<sup>5</sup>

The results of the population census conducted in 1989, 2000 and 2010 shows that there is a trend to increase the level of education among men, however women, on the contrary, tend to decrease this level, especially within the vocational education system. According to the 2010 population census, there is 2.5 as less women with higher education, twice less women with incomplete higher education, 1.7 times less women with secondary vocational education per each 1000 people in the age group of 15 and above. Nonetheless, the share of women with primary education (80 people) and incomplete secondary education (242 people) increased per 1000 people.<sup>6</sup>

Of particular concern is the decline in the level of vocational education of the younger generation, compared with the older generation. According to the results of 2010 population census, 11.7% of women in the age group of 20-29 years have vocational education (higher, incomplete higher and secondary vocational education), this share in the age group of 55-64 years is 15%.

Over the recent years, significant increase in gender inequality in access to primary vocational education has been observed. The share of girls among in primary vocational education facilities had decreased from 34.4% to 17.6% in the period from 2000 to 2015.<sup>7</sup>

Against positive trends in the sphere of secondary and higher vocational education, gender imbalance in the specialization in these institutions is very significant. Access to education for women with disabilities is still problematic.

## **RECOMMENDATIONS**

Approaches to implementation of state policy in the field of education are to be modernized to promote gender equality in line with SDG. To this end it is necessary to develop a concept on new approaches and mechanisms in the sphere of education aimed at overcoming gender inequality centered around the principle that educated woman is competitive on the labour market, can expand her economic autonomy, participate in social restructuring processes, bring up health children and tackle the whole spectrum of other tasks.

It is important to establish the educational system oriented not only at life long education, but also covering everyone, parity education of boys and girls, adolescence from rural and urban areas, create educational possibilities for people with disabilities, remote villages and poor families etc.

Specific attention shall be paid to access to all types of education to different groups of men and women when conducting monitoring and evaluation of educational strategies implementation. Such groups as urban and rural population, various districts, disability, well off and poor, HIV positive etc. are to be taken into consideration.

To enhance the role of educational system in overcoming gender stereotypes, discriminatory practices and relations between men and women it is necessary to:

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<sup>4</sup> See Mid Term Development Strategy of RT for the period 2016-2020.

<sup>5</sup> See: Agency on Statistics under the President of RT. Compendium dedicated to 25th Anniversary of Independence, Dushanbe, 2016, p.57.

<sup>6</sup> See. Agency on Statistics under the President of RT. Population Census and Fund of RT 2000. Education level of population of RT. Volume IV. Dushanbe. 2012. p.157

<sup>7</sup> See: Agency on Statistics under the President of RT. Education in RT in 2010. Dushanbe, 2010, p. 30; Agency on Statistics under the President of RT. Education in RT in 2017. Dushanbe, 2017, p. 7

- ✓ amend the “Rules and Procedure for publishing textbooks, curricula and teaching Aids” introducing mandatory gender expertise of textbooks for secondary schools, universities and other educational facilities.
- ✓ develop modules and carry out training sessions on compilation of modern textbooks with obligatory gender component.
- ✓ include refresher courses for teachers and managers at all levels of the education system on gender aspects of education.

## ARTICLE 11 EMPLOYMENT

### ACHIEVEMENTS.

Since 2003 the Government of RT adopts programs supporting the employment of the population, for the period of two years. These programs foresee measures to support employment of women, eliminating gender imbalance on the labour market.

Presidential grants extended to women entrepreneurs are also promoting employment among women.

### CHALLENGES

Unemployment problems, including that among women are still acute and challenging in Tajikistan. Most part of the women are engaged in the lowest paid segment: agriculture, education, healthcare etc. Due to existing vocational segregation on the labour market, wages among women are in general much lower than those of men in all the sectors. By end of 2015 wages of women was 61,1% of wages received by men.<sup>8</sup> This is happening in the background of overall aggravation of the situation for women. In 2010 average monthly salary of women in comparison with that of men was 64,6%, in 2015 this proportion was 61,1%. 20% decrease in the ratio of men and women salaries in the real sector was noted.

Availability of vocational education and profile plays prerequisite role in empowerment and competitiveness of women in the labor market. According to the population census, conducted in 2010, the share of women among employed population with vocational education is twice as low as that in comparison with men.<sup>9</sup>

Mid-Term Development Program of Tajikistan for 2016-2020 outlines number of measures to create a system of additional, continuing education. However, gender issues are not taken into account as well as no specific gender sensitive measures are foreseen in the State Program for the Training of Specialists in the field of Higher Vocational Education for 2016-2020, the Program for the Development of Vocational Training for Adults in Tajikistan for 2016-2020.

A rather complex strategic challenge is that related to ensured gender equality in terms of unpaid work carried out by women to take care of a family members and combination of work and family responsibilities.

The situation is further aggravated by underdeveloped infrastructure for preschool institutions. The number of these institutions in 2015 decreased throughout the country to 578 units, compared with 944 institutions in 1991. In rural areas there are only 195 institutions. As a result, the total coverage of children aged 1-6 years by preschool institutions in the country is only 6.9%, in the urban areas - 23.3%, and in rural areas - 1.8%.<sup>10</sup>

The analysis of registered unemployed disaggregated by level of education indicates that unemployment is subject more to that part of the population that does not have a professional education.

<sup>8</sup> See: Agency on Statistics under the President of RT. Compendium dedicated to 25th Anniversary of Independence, Dushanbe, 2016, pp. 137-138.

<sup>9</sup> See: Agency on Statistics under the President of RT. Situation in the labour market of RT, based on labour force survey, June-July 2009, p.114

<sup>10</sup> See: Agency on Statistics under the President of RT. Education in RT in 2010, Dushanbe, 2016. p.18, 25.

Thus, out of the total number of unemployed, at least 77% have no vocational education, of which almost 17% have secondary general education, and 60% have incomplete secondary education.<sup>11</sup>

In the new economic realms, absence of any vocational education or even secondary general education is a significant barrier infringing the expansion of economic opportunities for women.

## **RECOMMENDATIONS**

Analyze the effectiveness of measures implemented within the State Strategy for the Development of the Labor Market of the Republic of Tajikistan to 2020 from the gender perspectives and in terms of overcoming gender disparities in employment and labor, expanding women's economic opportunities. On the basis of the analysis, to develop concrete measures to triggering the change in existing situation.

To enhance the impact of vocational education and establish sustainable interaction between the vocational education system and labor market, it is necessary to implement measures planned within the framework of Mid-Term Development Strategy. It is also required to enrich and diversify the curricula for primary and secondary vocational education, develop mechanisms for the vocational guidance system, develop and monitor targeted programs aimed at setting up employment centers for target groups (women, persons with disabilities, returning migrants) as well as other activities.

To expand employment opportunities for women it is feasible to ensure the following:

- ✓ Develop means to promote family business and enhance the role of women in the set up of a family business.
- ✓ Provide training and retraining to unemployed people as per the specialties demanded on the market, taking into account interests and financial possibilities of women.
- ✓ Promote preferential loans with banks and MFIs for women starting their own business.
- ✓ Develop special programs for training and retraining for women in economic and technical fields.
- ✓ Develop special training and retraining programs for women who want to resume work after a long break, related to child care. Stimulate non-state educational institutions to implement special educational programs for women to catch up with work skills and professional knowledge.
- ✓ Provide quotas ensuring participation of women in active employment policy programs: proportion of participating women should not be less than the share of women among the unemployed people.

## **ARTICLE 12. EQUAL ACCESS TO HEALTHCARE**

### **CHALLENGES**

The analysis of existing current health policy, including National Healthcare Strategy of the Population of the Republic of Tajikistan for 2010-2020 (NHSPRT), Annual Report on the implementation of NHSPRT indicates that the approach based on epidemiological gender based profile is prevailing in setting priorities, targets and identifying the needs of women and men in health services. With regard to women and girls, these needs are mainly associated with obstetric care and treatment of reproductive system.

Nonetheless, reproductive system is not the only difference and specific problem of women in the health system there are other support areas existing. However, other main health problems i are considered gender neutral, institutional and administrative reforms in the health system are poorly linked to the development and deployment of gender equality mechanisms.

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<sup>11</sup> See Mid Term Development Strategy of RT for the period 2016-2020. Section 4.2.

For instance, gender roles and relationships have significant impact on the course and consequences of the HIV/AIDS epidemic. The share of women in the list of people registered with HIV infections in 2015 in Tajikistan increased from 28.5% in 2011 to 40.4%. Number of pregnant women with HIV infection in 2015 reached 89 people, in comparison with 2010 there is an increase by 3.4 times.<sup>12</sup>

However, HIV feminization is not much of a medical problem rather a social one. It is directly related to the status of women in society. There are number of factors that increase vulnerability of women and girls to HIV infection. This includes not only gender stereotypes and social norms that do not allow women to receive necessary knowledge on issues and practices of sexual and reproductive health, but also other gender issues. Vulnerability of women is aggravated by the fact that they have limited access to economic opportunities and limited autonomy, as well as numerous responsibilities they must perform in the household and society. The situation is exacerbated by the low status of women in the family, excluding them from decision-making process in the household, instances of domestic violence.

## **RECOMMENDATIONS.**

Carry out gender analysis on different categories of diseases and access of various groups of men and women to medical services as part of the monitoring and evaluation of the implementation of the NSSPPRT.

To improve effectiveness of public healthcare services, include in the curriculum for medical staff topics related to gender aspects of health, including human rights, impact of gender on the access of men and women to medical services.

Gender perspectives are to be included in the curricula and training programs for students of the medical university and medical colleges to enhance gender sensitivity among future specialists and to take into account gender differences and specific needs of women and men in the field of health.

To improve dissemination of gender sensitive statistics and information in the field of public health. Expand the use of webpages of the Ministry of Health and Social Protection of the Republic of Tajikistan and the Republican Center for Statistics and Medical Information. Discuss the possibility of including “Gender Statistics” add-on on these web pages.

The Republican Center for Statistics and Medical Information and Agency on Statistics under the President of RT and Civil Status Registration Offices shall initiate joint statistical bulletins, newsletters and other awareness materials covering gender factor in the field of public health.

In partnership with international and local public associations, conduct study on the causes and consequences of pregnancy among adolescence.

## **ARTICLE 13. SOCIAL AND ECONOMIC BENEFITS**

### **CHALLENGES.**

New unified pension system is being elaborated in Tajikistan, which shall include: insurance pension provision and state pension provision. It is envisaged that the amount of pension will depend not only on the length of work and earnings of an individual during the last five years of employment, but also on the amount of insurance premiums that will be paid by both the citizens themselves and their employers. According to the legislation, basic part of the pension (minimum) is established and determined in proportion to the established subsistence level of pensioners. However, due to the fact that the consumer basket cost was not calculated up till now, minimum subsistence level was not identified as well. In accordance with the President 's decree average pension is 271 somoni (30\$) due to 15 percent pension increasing from current September.<sup>13</sup>

Transition to a new pension system bears risks related to an increased gender gap in receiving pensions and entail aggravated status of women due to the enhanced linkage between the labor

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<sup>12</sup> See: Agency on Statistics under the President of RT. Healthcare in RT. 25th Anniversary of Independence, Dushanbe, 2016, pp. 53, 55.

<sup>13</sup> <https://news.tj/ru/news/tajikistan/society/20180202/v-tadzhikistane-srednii-razmer-pensii-sostavlyayet-30-dollarov-ssha>

contribution of an employee and the amount of the pension provision. Employment in Tajikistan is characterized by extremely high level of gender inequality, as economic activity of women is significantly lower than that of men, and their remuneration is also lower than that of men. To this end, significant number of women are in weaker position in terms of “defined contribution” which allows for decent pension. Furthermore, shift to the new defined contribution principles may decrease the role of redistribution elements within the pension system<sup>14</sup>.

The situation with providing social assistance to children with disabilities and parents of children with disabilities is rather acute. People with disabilities are entitled to minimum pensions that are below the minimum wage. Currently, the minimum wage is 400 somoni (44 US dollars), disability pension is 180 somoni (19 US dollars). In a traditional Tajik family, the woman is blamed when a child with disability is born. In many cases, men abandon both children and their mothers. Women face the need to provide for and take care of their children alone. Mothers or caregivers (guardians) of children with disabilities do not receive any additional benefits, therefore are facing difficult financial situation. They can not leave the children to find jobs. Since they do not work they do not have necessary work experience, which allows them to receive decent pension upon reaching retirement age.

Upon resuming work, parents of a child with disability are not entitled to support by a social worker, and are forced to hire a nurse at their own expense. Parents of children with disabilities are not entitled to income taxes exemptions. They are entitled to one day off per month paid by the state social insurance funds. Labor Code stipulates 14 days annual leave to parents of children with disabilities at their own expense. Similarly, Labor Code prohibits termination of employment agreement with such people. However, this provision applies only to indefinite contracts, whereas employers currently prefer to conclude fixed-term contracts.

The procedure for calculating social benefits due to sick leave and maternity leave in Tajikistan is calculated on the basis of the average wage in line with the provisions in the normative acts.<sup>15</sup> These rules apply only to employees with employment contract. Self-employed people (individual entrepreneurs) are not covered by the social security system in case of temporary disability, pregnancy and childbirth (for women). Nonetheless, individual entrepreneurs working under the patent pay solid tax rate, ranging for different types of activity they are involved in, this rate includes the amount of social tax and income tax in accordance with simplified taxation system.

## **RECOMMENDATIONS**

- ✓ To expand social support to mothers of children with disabilities and women taking care of a family member with disability it is necessary to develop state support measures covering social benefits. Ministry of Health and Social Protection of the Republic of Tajikistan, Ministry of Education and Science of the Republic of Tajikistan and other agencies shall include special courses on the specific approaches of work with people with disabilities and families of people with disabilities into the curriculum of professional retraining.
- ✓ Elaborate rules that allow individuals receiving social payments in case of illness, disability and during maternity leave. Foresee the possibility for suspending tax patent or certificate during illness and maternity leave.
- ✓ When developing and implementing policies it is necessary to stipulate transparent, accessible and non-discriminatory system of gender based social security and social insurance, involving public sector of Tajikistan.

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<sup>14</sup> Social protection related legislation and policy of RT: Gender assessment. Dushanbe, 2012. Developed with the support of UN WOMEN

<sup>15</sup> Approved by the Resolution of the Government # 313 as of 01.07.2007

## ARTICLE 14. RURAL WOMEN

### ACHIEVEMENTS.

In part of activities aimed at improving land legislation, gender specific norms regulating land use were introduced in the Land Code of RT.<sup>16</sup> Agency on Statistics under the President of RT is collecting and disseminating gender indicators in dehkan farm (DF) production on a regular basis, which allows tracking the activities of DF from gender perspective.

### CHALLENGES

Though women are dominating in agricultural activities, access to land aspect is clearly indicating gender inequality. Number of women headed dehkan farms (DF) had increased from 2695 to 31041 units in the period from 2004 to 2016. Nonetheless, number of women managing dehkan farms is 4 times as less in 2016, when comparing it with men, proportion of women managing DF is only 21.4%. Taking into consideration the recent efforts on consolidation of DF there is a risk that the share of women managers will further decrease.<sup>17</sup>

In practice, there are very few cases of direct discrimination against women at land distribution in Tajikistan. Nonetheless, due poor consideration of gender characteristics and differences, women are often subjected to indirect discrimination. Dehkan farms, headed by women, tend to have fewer shareholders on average, women are predominant shareholders and average area is smaller, compared to men headed DFs.

Women should have not only equal access to land and other resources, but also exercise real control over these resources, which implies the possibility of decision-making. At the same time, there is gender imbalance in the staff composition of agricultural, land management and other specialized entities. According to official statistics, the share of women among civil servants in the Ministry of Agriculture of the Republic of Tajikistan was 17%, in the Ministry of Land Reclamation and Water Resources of the Republic of Tajikistan - 15%, in the State Committee for Land Management and Geodesy - 22% as of January 1, 2014. Women are underrepresented in district departments of agriculture, land committee, commissions on farm restructuring, distribution of land. Only one woman is chairing district land committee out of 64 district land committees in Tajikistan.

Rural women have limited access to education. Rural women have fewer opportunities to obtain vocational education, not only compared to men, but also compared to urban women. According to the population census, conducted in 2010, 39.1% of employed women have vocational education (higher, incomplete higher, secondary vocational), this figure is only 8.7% among rural women.

Ensuring equal access for men and women to financial resources and loans is a precondition for the production development, including households involved in agricultural production on households' plots, farms, etc. However, women and women led DF are using commercial banks services less often than men, due to existing number of obstacles.

Key barriers for women in accessing loans are the following: collateral, high interest rates, uncertainty and low self-esteem, lack of experience and knowledge in using loans for entrepreneurial activity, etc. e

### RECOMMENDATIONS

#### Improved gender policies

Measures and actions implemented by the government are to focus on ensuring equal results for rural men and women rather than equal treatment of men and women to eliminate all forms of gender discrimination and implement SDG principle "Leaving no one behind".

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<sup>16</sup> The land is sole property of a state in Tajikistan. See. Land Code, article 10: "similar provisions to those set forth by civil and family legislation on joint ownership of spouses are valued for land parcels that were received (purchased) by physical person with right of alienation".

<sup>17</sup> See: State Statistics Committee of RT. Gender indicators in dehkan farms. Dushanbe, 2009, p.52-60, Agency on Statistics under the President of RT. Gender indicators in production activities and dehkan farms for 2009-2016. 2015, p 52-62.

It is necessary to ensure proactive promotion of women in agricultural management and to involve in the decision-making and implementation processes, appoint women to managerial positions in the entities responsible for agricultural development. "Presidential quotas" for girls from rural areas shall be used more actively when applying to a university for the education specific to leadership training in agriculture.

Enhance gender capacity and gender sensitivity among employees of the sector in state entities on all levels, specifically in terms of access to economic and social resources.

### **Improved gender statistics**

In order to expand the information base for conducting gender analysis on access of men and women to resources, it is necessary to improve the methodology for collecting and disseminating gender statistics:

- ✓ Household budget survey methodology and results shall include the variable "gender of the household" this information shall be reflected gender statistics publications
- ✓ Published results of Living standard and Employment statistics shall take into account significant differences not only between genders in general, but also between different groups of women and men (urban and rural, age groups, disability, etc.) therefore provide the indicators on all basic modules, such as other social groups of men and women.
- ✓ Expand the list of published statistics on gender issues in agriculture, role of women in ensuring food security in the households, communities and other gender aspects related to access to resources.

### **Building the capacity of rural men and women**

Strategies and programmes related to the development of education shall pay specific attention to expanding access of rural women to various types of education and outline special measures related to vocational education.

It is necessary to implement set of measures to raise public awareness in the field of rights to economic resources, the measures of the ongoing agrarian reform, opportunities and benefits foreseen for various types of farms, agricultural cooperatives, and other issues.

Due to changes in the legislative framework on alienation of land use rights and the establishment of land market, it is very important to introduce corresponding amendments to the legal framework and carry out awareness and information sharing activities among rural population.<sup>18</sup>

It is prerequisite to enhance the competitiveness of women, provide them with training in agriculture, set up of regular capacity building programs for women aimed at new funding systems, cropping patterns, application of ICT, etc.

Women and non-governmental organizations are to be involved in monitoring and evaluation of food security situation, climate change impacts on agriculture, as well as reduction of vulnerability among women to natural and other disasters.

### **Expanding access to financial resources**

In order to expand access to financial resources, it is necessary to introduce proactively socially oriented credit products for the most vulnerable groups of rural women, foreseeing preferential interest rate, without obligatory collateral credit schemes, group credits, on the basis of guarantee and other modalities; foreseeing possibilities for pre-term repayment of credits without fines and fees etc.

Expand the set up of successful credit unions that have a lot of advantages compared with other credit facilities:

Develop stimulation approaches along with state support fro micro-financial organizations implementing social responsibility successful programmes and projects.

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<sup>18</sup>Land Code of RT, Article 10 "similar provisions to those set forth by civil and family legislation on joint ownership of spouses are valued for land parcels that were received (purchased) by physical person with right of alienation".

Increase the spectrum and channels for micro-financial services to women by introducing flexible loan conditions, adapted issuance and repayment processes (including branch offices, agents, online services etc), expand and enhance the capacities of female staff in micro financial facilities etc.;

Provide opportunities for micro-financial organizations to participate in business projects developed by women to increase responsibility and confidence in loan repayments and successful implementation of such projects;

Replicate training programmes for women on the basics of entrepreneurship and business - foster shift from traditional programmes (tailoring, embroidery etc) and shift to innovative business models.

## **ARTICLE 15 EQUAL PROPERTY RIGHTS**

### **CHALLENGES.**

Under civil law, women and men have equal rights. The Civil Code contains gender-neutral norms. Nonetheless, in practice, men have more opportunities to have own property, dispose of the property, get bank loans to launch businesses, inherit property, etc.

Analysis of applications submitted to legal aid centers under various public organizations, indicate that women often do not receive any property after the divorce, as when married wives and husbands often reside with husband's parents. Although the Family Code of Tajikistan provides that spouses are members of joint property, they jointly own and use common property.

According to the legislation, the disposal of joint property by one of the spouses, the f consent of second spouse is mandatory. Nonetheless, in practice, wives do not often dispose of the income earned by their spouse, and they rarely know about such income. After the divorce, usually the wife remains alone, without housing and means for subsistence. The only benefit she can claim is a small amount of alimony, which is identified by a court, usually it is not enough even to feed the children.

Another injustice stipulated by the family law is related to jointly acquired immovable property of spouses. As per the legislation the disposal of common property requires consent of the second spouse. When unable to secure such consent, the spouse has a right to address the court to rule that the transaction is partially invalid due to absence of the consent and demand. This is applicable only to the cases where it can be proved that the other party had information about the transaction and knew about potential disagreement of the other spouse to carry out the transaction (Family Code, Article 35, p.2).

Tajik legislation foresees arrays to recognize such transactions invalid only in respect to the part (share) of the affected spouse. Though the share of the spouse who violated the rights of another spouse remains intact. It is apparently unjust. In any case, the rights of the spouse, whose verified consent was not obtained, often women, may face the situation when the transaction is considered partially invalid. So, within the housing arrangements, the spouse can either lose it or face the unwanted people as neighbour, etc. Therefore, to restore justice it is necessary to foresee the possibility to recognize such transaction as fully invalid, when the rights of other spouse were infringed, considering, in the meantime, the interests of the children. In this case, the agreement on such transaction shall be no longer valid<sup>19</sup>.

### **RECOMMENDATIONS**

Improve civil and family legislation with the view to ensure equal property rights for men and women.

Carry out awareness raising activities on equality related to property, hereditary rights for men and women, on importance to support women and girls

## **ARTICLE 16 MARRIAGE AND FAMILY LIFE**

### **ACHIEVEMENTS.**

The Government of RT had adopted a set of comprehensive measures to reinforce the institute of the family in the Republic of Tajikistan. It was decided that the year of 2015 will be announced as the

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<sup>19</sup> Tagaeva S.N. Family legislation development trends in Tajikistan. Report during the 2 National Rule of Law and Access to Justice Forum, November 2, 2016

year of the family. The very same year Concept for Family Development in the Republic of Tajikistan was developed.

Specific attention is paid at the moment to the aspect of the civil act registration reform. This system has a vivid gender dimension, as it serves as a ground for understanding the demographic situation, healthcare aspects in the country as well as certain issues related to preservation of formal matrimonial relations. The second step of digitalization in the system of civil registration was deployed which allows for the development of quality statistic data base, simplify the procedures related to civil act registration for the population and ensure 100% coverage of birth registration.

## **CHALLENGES**

The Family Code of Tajikistan was amended significantly in 2016 due to prohibition of marriages amongst relatives, obligatory medical examination prior to marriage etc.

Nonetheless, there is no possibility in Tajikistan to conduct genetic examination, furthermore this is a rather costly exercise for ordinary citizens. These amendments lead to additional layer of corruption and bureaucracy in the system of civil registration.

In line with the rules approved for obligatory medical examination of people entering into matrimony, it shall be provided on a free of charge basis, and the people about to get married are to be aware of the health status of each other. On the one hand, this provision breaches the human rights norms related to non-interference into the private life, on the other hand people that are about to get married often have to pay for medical examination.

It is feasible to carry out thematic research and assess how the norms introduced facilitate the development of a health family, prevention of infectious diseases including HIV. On the other hand it is possible to assess whether such requirements lead to decrease in formal registration of marriages increasing the number of purely religious marriages (nikoh). Lack of formalization of marriages leads to violation of the rights of women and children born during such relationships.

Another problem existing is related to existing legislative norm, which provides that in case of divorce wife can keep the surname only upon consent. In practice, failure to get consent as well as absence of the former husband in the country (for various reasons, one of which is labour migration) leads to financial and administrative challenges for women. Primarily, it is necessary to change all the documents that are issued using the surname of a husband and transfer to a maiden name, it is also necessary to change the documents of children etc.

Another issue of marriage relationships is related to divorce and equal custody related rights. The study conducted in 2016 by public organization “Human Rights Center” and public fund “Your Choice” in cooperation with Ministry of Justice of RT, Supreme Court, General Prosecution and supported by UNDP assessed efficiency of court decisions implementation in regards to family related cases. The top rated category of non-implemented decisions are case related to alimony for children. Mothers often wait for the alimony for years.

The problem per se is related the fact that the alimony amount is not substantial, on average 20-25 US dollars per child. Nonetheless, even this small amount is not being paid by fathers. Women are often taking care of two, three and even more children. There is still no effective mechanism for alimony recover. Court agency are poorly implementing their function. The composition of court agents is gender insensitive. Most of the staff members in executive jurisprudence are men, often male solidarity affect negatively resolution of this problem.

The problem of second and third wives is still acute, and it affects negatively the situation of women.

There is no statistics with the Supreme Court of RT on court decisions related to decrease of marriage age. As a result the situation is not tracked. Independent studies were not conducted as well. However, individual cases of young women, addressing the legal aid centers indicate that this is a valid problem. It is very acute when protecting the rights of young women who had contracted HIV from their husbands.

The Family Code of RT sets forth marriage age of 18 years. Nonetheless, there is a norm, allowing to decrease the marriage court via lodging application in the court. The parents can decrease the age limit for their daughters in dual modality, legally and illegally. The legal modality implies application

to the court based on the provisions of the Family Code of RT, the marriage age limit can be decreased individually by one year by court decision. However, this requires time and is rather costly.

Another option for parents to overstate the age of daughter, is addressing the Civil Status Registration Offices to obtain birth certificates. The staff of ZAGS do not always have means to verify the medical certificates on child birth which is used as a basis to indicate the age of a girl. Another means for parents to marry of their daughters below the age is a religious custom, nikoh. Therefore, when organizing marriages for their under age daughters parents are rarely contemplate on the consequences. They organize a wedding, thinking that they had ensured the lives of their daughters, thence all the problems are resolved. However, in reality this is just triggering the problems.

### **RECOMMENDATIONS:**

1. With due consideration and dense character of the HIV epidemic in Tajikistan, replace mandatory medical HIV testing for people getting married to voluntary testing on the grounds of confidentiality, providing pre- and post-test counseling. Introduce corresponding amendments to the Family Code of RT.
2. Analyze and elaborate reform proposals to the system of proceedings enforcement, taking into account the rights and interests of women and children. Enhance the capacity of judicial executors on gender equality.
3. Supreme Court of the Republic of Tajikistan shall review the jurisprudence on cases related to decrease in marriage age. Corresponding Resolution of the Supreme Court Plenum, indicating possible causes for reduction in marriage shall be approved, participation of the people to get married on their consent to enter the matrimony without presence of their parents.
4. All stakeholders are to conduct separate studies on early and forced marriages, as well as entering into actual marital relations.
5. Law of the Republic of Tajikistan "On State Registration of Civil Status Acts" shall be amended to protect the interest and rights of women, these amendments are to stipulate that "in line with mother's request, information about the father of the child may not be indicated in the birth registration" similarly, the legislative norm prescribing that " during the divorce, the spouse can keep the surname of the partner upon obtaining corresponding consent" shall be excluded.
6. Ensure proactive awareness raising campaigns and educational activities aimed at early marriages prevention.

### **APPENDIX 1.**

#### **LIST OF MEMBERS OF THE COALITION OF NGOS “FROM EQUALITY DE YURE TO EQUALITY DE FACTO**

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<b>#</b>	<b>Organization</b>	<b>Region</b>	<b>Head</b>
1.	Association of Parents of Children with Disabilities	Dushanbe	Sabohat Hakim-zade
2.	NGO “Bureau for Human Rights”	Dushanbe	Nargis Zokirova
3.	Public Fund “Your Choice”	Dushanbe	Larisa Aleksandrova
4.	NGO “Gender and Development”	Dushanbe	Nargis Saidova
5.	NGO “Jahon”	Dushanbe	Shahlo Abdunabizoda
6.	NGO “Zanoni Dehot”	Dushanbe	Shahriston Nabieva
7.	League of Women with Disabilities «Ishtirok”	Dushanbe	Saida Inoyatova

8.	League of Women Lawyers of Tajikistan	Dushanbe	Kanoat Hamidova
9.	Crisis Centre “Bovari ba Fardo”	Dushanbe	Gulnora Ahrorova
10.	NGO “New Panorama”	Dushanbe	Tatiana Bozrikova
11.	Network of HIV Positive Women	Dushanbe	Tahmina Haydarova
12.	NGO “Parastor”	Dushanbe	Rano Kasimova
13.	NGO “Fidokor”	Dushanbe	Dilbar Khalilova
14.	NGO “Academy of Painting”	Dushanbe	Rano Yuldasheva
15.	NGO “Najoti Kudakon”	Kulob	Qurbongul Kasimova
16.	NGO “Sayohat”	Kulob	Manzura Murodova
17.	NGO “Ilhom”	Kulob	Mehriniso Abdurahmonova
18.	NGO “Nisojon”	Kulob	Rano Bobokhonova
19.	NGO “Dilafruz”	Kurgan-tube	Rayhona Haqberdieva
20.	NGO “Bonuvoni Khatlon”	Kurgan-tube	Gulbahor Maqsudkhojaeva
21.	NGO “Elyor”	Shahritus	Khotira Yusupova
22.	NGO “Mohi Munir”	Qumsangir	Ziyoda Ashurova
23.	NGO “Bonuvoni Fardo”	Shahritus	Venera Jabbarova
24.	NGO “Mumtoz”	Rudaki	Rukhshona Shobudinova
25.	Charity Centre for Social Protection of Children “Munis”	Hisor	Mavjuda Hakimova
26.	NGO “Woman and Society”	Khujand	Muyasara Bobokhonova
27.	NGO “Sadoqat”	Istaravshan	Nigora Negmatulloeva
28.	NGO “Chashmai Hayot”	Khujand	Robiya Majidova
29.	NGO “Women of East”	Panjakent	Fatima Sharipova
30.	NGO “Nasl”	Khujand	Mahbuba Sultanova
31.	NGO “Khurshedi Zindagi”	Khujand	Shujoat Hasanova
32.	NGO “Gurdofarid”	Bobojon Gafurov	Rahbar Majidova
33.	NGO “MIR – Workshop of Initiatives for Development”	Khujand	Iroda Bobojonova
34.	NGO “Madina”	Khorugh	Nabot Dodkhudoeva
35.	NGO “Women for Justice”	Khorugh	Farosatmo Ghayurova
36.	NGO “Savob”	Khorugh	Laylo Nafasshoeva
37.	NGO “Youth For Healthy Lifestyle”	Khorugh	Savribonu Shanbezoda
38.	NGO “Madrason”	Kulob	M. Davlatova
39.	NGO “Samim”	Muminobod	Sh. Ghozieva