

PA “Human Rights Movement: Bir Duino – Kyrgyzstan”

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Dear colleagues, thank you for the opportunity to deliver my speech!

Over 28 years of independence, the Kyrgyz Republic has ratified a number of international conventions, including the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), signed the Beijing Declaration and acceded to the Beijing Platform for Action. Such fundamental laws of the Kyrgyz Republic as “On State Guarantees of Equal Rights and Opportunities for Men and Women” and “On Protection and Defense against Domestic Violence”, have been adopted. The first long-term document in the field of gender equality “The National Strategy of the Kyrgyz Republic for Achieving Gender Equality until 2020”¹ and the third National Action Plan are in force in Kyrgyzstan.² Thus, the Kyrgyz Republic has made commitments to take all necessary measures to prevent gender discrimination and violence in private and public life of its citizens.

However, the main problem remains the gap between the state obligations, fixed in national plans and programs, and their implementation. Attention of the authorities to the topic of gender discrimination and violence remains mostly at the level of rhetoric. In 2005, when the absence of women in parliament exposed problems in the field of access to political participation and decision-making, it was the activists of the women's movement who organized the campaign, as a result of which amendments were made to the Kyrgyz Republic Electoral Code introducing quotas for women, youth and ethnic minorities. The requirement for inclusion of both female and male surnames in the lists of candidates from political parties led to election of 24 women during the parliamentary elections in 2007 (26.6%). The number of women deputies in local keneshes decreases with every election and has reached a record low in the history of Kyrgyzstan - less than 10%. The number of women deputies of the Jogorku Kenesh is 15% (20 out of 120), which is half the 30% gender quotas set in the Electoral Code of the Kyrgyz Republic. In the Government, women are represented in only 2 leadership positions out of 22 - one Vice Prime Minister out of four and a Minister (Minister of Finance). Female deputies of local keneshes and the Jogorku Kenesh raised the issue of “pushing out and intimidation” of women candidates for deputies during elections and political activities. They experienced threats and intimidation from their male rivals and members of the family, who insisted that those women quit the election race. This year, a package of draft laws aimed at improving the electoral legislation was adopted, the main amendment introduced in this package of draft laws is the norm envisaging that at least 30% of the total number of deputies in local keneshes should be women.

The democratization processes have allowed Kyrgyzstan to advance in the field of regulatory and legal support of the gender balance, but the practical implementation of the accepted norms and obligations is still problematic. Today, the level of economic activity of women remains low, it has become apparent that they are being forced out of the sphere of

¹ <http://cbd.minjust.gov.kg/act/view/ru-ru/7182>

² The NAP for 2018-2020 has been approved by the KR government resolution No. 537 dd 19 November, 2018

management, women's dependence in family relations has increased, new cultural norms and stereotypes degrading women's dignity have emerged (the institution of "younger wives", abduction of women for the purpose of marriage, early marriages and limiting girls' access to education).

The Constitution of the Kyrgyz Republic prohibits discrimination, including discrimination based on sex. The Law of the Kyrgyz Republic "On State Guarantees of Equal Rights and Opportunities for Men and Women" also prohibits all forms of discrimination against women, but the consequences of failure to comply with the law are stated as a reference norm and envisage only using the possibilities of the legislation of the Kyrgyz Republic. Thus, the absence of actually established responsibility for gender discrimination in the legislation of the Kyrgyz Republic causes the law enforcement practice to ignore the facts of discrimination against women. In the period from 2013 to 2017, there were only 6 cases were considered in the courts of Kyrgyzstan for violation of equality (article 185 of the Criminal Code of the Kyrgyz Republic). Only in one of these cases a judgment was rendered - the person was convicted.

At the same time, according to the Labor Code of the Kyrgyz Republic: "It is forbidden to use female labor in cases of hard work and work in harmful and (or) dangerous working conditions, as well as in underground works, except for non-physical work or health-related and community services, it is also prohibited to use female labor for manual lifting or carrying of objects that exceed the established norms" (article 303), and according to the Law of the Kyrgyz Republic "On State Guarantees of Equal Rights and Opportunities for Men and Women": "Setting the requirements for professional qualifications based on the ability to fulfill duties only by persons of a certain gender is not gender-based discrimination". Based on this, there is a list of four hundred jobs and professions prohibited for women, approved by the decision No. 158 of the Government of the Kyrgyz Republic dated 24 March 2000. Thus, there are discriminatory rules, that restrict women's right to free choice of employment, in the labor legislation and in the law aimed at ensuring equal rights and opportunities for men and women.

Despite constant efforts of non-governmental, international and state structures to increase credibility of law enforcement agencies, the trend of illegal practices applied by individual employees of the internal affairs bodies continues.³ Police are not afraid to commit unlawful acts against LGBT persons, as they believe that they will have nowhere to turn to for support due to fear of a subsequent outing.⁴ Moreover, internal affairs officers remain the main violators of the rights of LGBT persons in Kyrgyzstan. During the period from 2016 to 2018, 35 cases related to law enforcement violence were documented. Most cases involve blackmailing, threats, and extortion. Cases of physical violence by the police, although they happen less frequently now, however, involve particular cruelty.

There are frequent cases when police officers are inactive, when illegal actions against LGBT persons are being committed or prepared. Two employees of Kyrgyz Indigo NGO filed an application against the leaders of the Kyrk Choro organization⁵, because of threats to their personal security. The police refused to initiate a criminal case due to lack of corpus delicti despite the fact that one of the representatives of Kyrk Choro stated that he would commit the attack on 1 May.⁶

Growth of systemic problems in the field of gender inequality and discrimination requires a significant change in the underlying social and managerial mechanisms, increased attention to this area and public recognition of existing problems by the authorities.

At the management level, the attitude towards gender issues remains formal, it is regularly excluded from the main stream of relevant management decisions. Despite some changes in the field of increasing gender sensitivity and appointment of persons responsible for gender issues in the agencies, there are no major changes in approaches to sectoral policy development and real

³ <http://indigo.kg/wp-content/uploads/2016/04/Oni-skazali-tak-vam-i-nado-HRV.pdf>

⁴ Outing — public disclosure of sexual orientation or gender identity of a person without his/her consent.

⁵ Kyrk Choro, nationalist NGO.

⁶ <https://www.currenttime.tv/amp/bishkek-anti-lgbt-protests/29819834.html>

access to equal rights and opportunities for the majority of the population. A formalized gender expertise tool has not become part of the government practice. We can state the superficial attitude of the authorities to national commitments in the field of gender policy. In particular, there is no practice of submitting a government report on the implementation of gender policies to the country's parliament. A weak control over the implementation of laws leads to cases when even the legislative body itself does not comply with the rules on special measures to promote gender equality in the process of submission and approval of the candidates to state bodies. Often, the state itself is not an exemplary employer. This attitude is also translated into the fulfillment of international obligations.

Deficiencies in fulfilling international obligations, as well as in the area of enforcement of national legislation at the level of official structures, influence public opinion and people's everyday behavior. As a result, such a deformation of legal and social norms affects both the public and private spheres of life of the citizens. In public space, this leads to unequal access to decision-making for women and men. In private and professional activities, this leads to increased gender discrimination, including increased gender-based violence.

The main activities in the field of overcoming gender discrimination are undertaken primarily by non-governmental and international organizations. The state's non-recognition of the problem of discrimination based on sex and gender affects not only the gender aspects of the realization of equal rights and opportunities, but also the existence of discrimination on other grounds, such as age, ethnicity or disability. The issues of discrimination are hushed up, and lack of discussion in this area leads to the fact that neither the public consciousness, nor the practice of judicial and law enforcement agencies are ready to change professional, cultural and social norms in this area.

At present, the level of domestic violence has increased, the facts of polygamy, early marriage, sexual harassment in the workplace have increased many times, a new type of gender-based violence has appeared, such as trafficking in women for labor and sexual exploitation. Due to economic dependence, inoperative child support mechanisms and the inability to support their families and children alone, many women are forced to maintain an unwanted marriage or accept the humiliating position of a second or third ("younger" or "older" wife). In such families, the level of psychological tension is very high and the risk of gender-based violence also seriously increases.

Forced marriages and bride kidnapping are still not unusual, they are the most common types of gender-based violence in the Kyrgyz Republic, and they disproportionately affect teenage girls, which leads to sexual offenses. While marriageable age is eighteen years, in accordance with article 14 of the Family Code, which complies with international human rights standards, religious and unregistered (de facto) marriages are really widespread and do not give spouses any legal protection, especially with regard to property and inheritance. Article 178 of the Criminal Code recognizes that religious ceremonies violate the Family Code, however, we don't know how often this provision is applied. Kidnapping of a bride (article 175 of the Criminal Code of the Kyrgyz Republic) is considered as a separate crime of forced marriage (article 176), which corresponds to the requirements of the Council of Europe Istanbul Convention. However, it often happens that a bride's abduction ends with a woman or girl marrying a man because she has no other choice and her chances of remarriage will be significantly reduced if she is kept for the night in the criminal's house. Abduction of a bride is often accompanied by rape, which is used as a means to prevent the victim from leaving. In such situations, people believe that the "family" has already formed, therefore, the rape is not investigated effectively, the fact that the bride was forced to marry is ignored and the rape is justified.

According to the study, more than 20% of marriages in the Kyrgyz Republic were concluded as a result of bride kidnapping. Abduction of a woman for the purpose of marriage in rural areas is almost twice as common as in urban settlements. Marriages by abducting women without their consent can be found more or less throughout Kyrgyzstan. As a rule, the practice takes place more

often among girls who did not get an education or received only primary education and in poor households.⁷

Bride kidnapping and the lack of an adequate reaction from the authorities became noticeable on 27 May, 2018, when a 20-year-old student of medical college Burulay Turdaaly kyzy was killed in the building of the Zhaiyl District Department of Internal Affairs of the Chuy oblast. The man who abducted her for the purpose of marriage was accused of the murder. Having mortally wounded her with a knife in the police department, he then injured himself. In February 2019, a city court sentenced him to 20 years in prison and payment of more than USD 11 thousand to the family of the victim as a compensation for moral and material damage.

In April 2019, amendments to the Criminal Code of the Kyrgyz Republic entered into force. Now, the punishment for kidnapping a bride without her consent is up to 10 years of imprisonment and a fine of USD 3 thousand. The amendments entered into force relatively recently, in April 2019. According to the Ministry of Internal Affairs of the Kyrgyz Republic, which voiced the data in 2018, over the past five years, 895 people have applied to the authorities with a statement related to abduction of brides, however, in 727 cases, no criminal cases were opened. Only 168 cases were investigated as criminal cases.⁸

Three bailiffs of the Talas judicial authorities who raped Kalia are still not arrested, despite the irrefutable evidence that was presented to the court. The case was delayed by the Talas Oblast Court, which acquitted the rapists and ruled with gross violations of the criminal procedural legislation. The defendants are still at large, and due to constant threats coming from them and people close to them against the woman and her two children, she was forced to leave for Bishkek. In July 2019, the Supreme Court of the Kyrgyz Republic cancelled the decisions of the city and oblast courts and returned the case for a retrial.

The complexity of legal protection of violated rights, the corruption in law enforcement agencies, the inaccessibility of qualified lawyer assistance lead to the fact that most victims of gender-based violence prefer not to resort to the justice system for protection of their rights. As a result, the facts of crimes and offenses based on gender are lost in criminal and administrative statistics and statistics of rejected cases. The non-transparent personnel selection system in which gender competence and sensitivity are not considered as indicators, a gender-unbalanced composition of local police inspectors, officers on duty and police investigators and prosecutors cause some mistrust among the affected women and is an additional obstacle for them to resort to law enforcement agencies. Weak control and supervision of implementation of the laws of the Kyrgyz Republic, both by the parliament and the prosecution authorities, as well as the lack of generalization of judicial practice on crimes and offenses based on gender and civil cases in the field of family relations, such as divorces, property division, establishment of paternity, alimony payment etc., also impede the improvement of procedural standards to increase the effectiveness of protecting women's rights.

The most acute and noticeable issue in the field of gender inequality is narrowing of women's access to the realization of economic opportunities. According to the research on the gender aspects of the labor market and development of entrepreneurship, women dominate the informal labor market, individual sectors of services and trade. This automatically cuts off many women from obtaining guaranteed social benefits, for example, in the field of healthcare, the right to leisure, etc. The proportion of women with two or more paid fields of work, excluding domestic work, is much higher than among men. The workload of women is reflected in the amount of time and attention they devote to the development and upbringing of children, including their education. According to the results of the PISA international students assessment, Kyrgyzstan was ranked last, both in 2006 and in 2009. At the same time, the actualization of the supportive role of fathers in this area has not become the norm for family relationships today.

⁷ Report on the results of the study Gender in the Perception of Society (2018).

https://kyrgyzstan.unfpa.org/sites/default/files/pub-pdf/GSPS_Russian_Final%20report.pdf

⁸ https://rus.azattyk.org/a/kyrgyzstan_un_bride_kidnapping/29499656.html/

Thus, at present, the problem of gender equality remains relevant for Kyrgyzstan. Many effective decisions in this area are not taken simply because of a lack of political will and a low level of gender sensitivity among government officials. Despite certain achievements, the realization of equal rights and opportunities for women and men today requires active work and constant attention, primarily from the state, since neglect of gender aspects leads to deepening of social and economic problems in the state.

Analysis of the current situation demonstrates that the following key problems remain in the field of gender equality today:

1. Weak state control over the implementation of international obligations and national legislation in the field of establishing a gender balance in political decision-making and lack of coordination in the implementation of gender policies at the national, territorial and sectoral levels.

2. Local self-government bodies do not have sufficient financial and human resources for the full execution of the functions assigned to them to protect citizens against domestic violence, including taking preventive measures.

3. Economic dependence and vulnerability of women, caused by the uneven distribution of reproductive and family burdens, as well as an unbalanced labor market, with a predominance of women in the informal economy and low-paid sectors of production, services and trade.

4. Lack of professional development opportunities for women.

5. Existence of gender discrimination and restriction of access to solving problems in this area within the framework of the legal system. Lack of anti-discrimination legislation and, accordingly, a legal mechanism to protect against all forms of discrimination.

6. Lack of government measures to create a culture of intolerance towards gender discrimination as a socially significant norm.

7. Lack of gender parity in political participation at all decision-making levels.

Recommendations for the state:

- 1) Strengthening control over the implementation of international obligations and norms of national legislation to prevent gender discrimination and violence in the private and public spheres, as well as national documents in the field of achieving gender equality by such state bodies of the Kyrgyz Republic as the Jogorku Kenesh, the Government, the State Personnel Service, the General Prosecutor's Office etc.;
- 2) Exclusion of discriminatory norms from national legislation, elimination of the ban restricting women's access to free choice of employment;
- 3) Monitoring and evaluating the implementation of the National Strategy on Gender Equality (2012-2020), the National Action Plans based on the Strategy (2012-2014, 2015-2017, 2018-2020), the Action Plan for implementation of Resolution 1325 of the UN Security Council on women, peace and security and the Law of the Kyrgyz Republic "On Protection and Defense against Domestic Violence" ;
- 4) Ensuring the allocation of budgetary funds to local authorities for implementation of the Law of the Kyrgyz Republic "On Protection and Defense against Domestic Violence";
- 5) Development of gender-oriented personnel policy in state and municipal services. Taking measures to increase the representation of women in representative bodies (in local keneshes and the Jogorku Kenesh of the Kyrgyz Republic), as well as in law enforcement bodies. Increasing women's representation to 50% at all decision-making levels;
- 6) Ensuring access of women and girls who have been sexually abused to fair justice and security at all stages of the trial, amendment of the legislation to ensure that all cases of sexual violence against women are submitted for consideration to women prosecutors and women investigators;

- 7) Adoption of an anti-discrimination law prohibiting all forms of discrimination according to a more expanded and open list of grounds for protection, providing an effective legal mechanism of protection and establishing real responsibility for discrimination;
- 8) Development and effective implementation of government measures to create a culture of intolerance to gender discrimination as a socially significant norm;
- 9) Expanding women's economic opportunities and increasing their economic activity by expanding sources of strengthening economic opportunities and moving from informal, shadow employment to the formal labor market.

Thank you for your attention!

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