



## **Coalition on CEDAW & Women's access to justice 2009 – 2012**

[Fragment of the factsheet “Women's access to justice in Central and Eastern Europe and Central Asia” published by KARAT Coalition].

### **Barriers and recommendations**

The outcomes of the study conducted in Azerbaijan, Kyrgyzstan, Poland, Tajikistan and Uzbekistan conclude that the barriers that hamper women's access to justice at the national and thus also at the international level cannot be overcome simply by passing or ratifying the legislation acts. Although some of the barriers can be characterized as purely of legal nature, the major obstacles are of socio-economic and cultural nature with a strong gender aspect resulting from traditional and/or religious values which prevail in the societies. However, concerning the law, the lack of holistic gender sensitive approach in legislation is characteristic for all studied countries.

### **The identified barriers that hamper women's access to justice are as follows:**

#### **1. Legal barriers:**

- Adopted law is imperfect and does not suit the women's needs (*e.g., lack of specific law on domestic violence in Tajikistan or lack of definition of a “victim of human trafficking” in Uzbekistan*).
- Lack of domestication of human rights treaties.
- Lack of ratification of OP CEDAW<sup>1</sup> in Tajikistan and Uzbekistan.
- Lack of monitoring of the impact of law on women's situation in all areas of life, including their access to justice (*e.g., criminalization of abortion in Poland seriously hampers women's access to legal abortion*).

#### **2. Institutional barriers related to the lack of or insufficient implementation of adopted law:**

- Excessive and often corrupt bureaucracy.

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<sup>1</sup> The Optional Protocol to the Convention on Elimination of All Forms of Discrimination against Women (OP-CEDAW) is a separate treaty that supplements the CEDAW Convention. It does not introduce any new rights but strengthens the Convention by establishing two procedures that can be used to address the violations of women's human rights: the communications procedure and inquiry procedure.

- Gender-biased approach of the law enforcement institutions (*e.g., victims of human trafficking in Uzbekistan are often humiliated and charged for illegal prostitution or border crossing*).
- Lack of institutional mechanisms for women's rights protection (*e.g., institution of attaché for protecting Uzbek migrants' rights in destination countries; Women's Rights Ombudsperson*).
- Insufficient knowledge about the human rights and gender oriented legislation of people directly responsible for its implementation like the police officers, custom officers, judges or health care providers.
- Insufficient number of women in the police forces in the countries of Central Asia and Azerbaijan.
- Difficult accessibility to the legal advice and judicial system (*e.g., lack of legal institution's representatives in rural areas, high costs of legal advice, lack of information on legal measures available to victims of women's rights violations*).

### **3. Socio-economic barriers:**

- Low status of women in a society.
- Economical dependence of women on their husbands and their families (*e.g., custom of early marriages in Azerbaijan or Kyrgyzstan condemns the women to housework and prevents them from earning their own money*).
- Lack of confidence in the state's institutions (*e.g., victims of domestic violence cannot rely on police support, victims of human trafficking in Uzbekistan often tend not to seek police's protection and punishment of their traffickers, in Poland women seeking access to lawful abortion risk facing the doctors' indiscretion*).
- Growing influence of conservative and religious forces (*e.g. Polish Catholic Church influences the public opinion and state's policy concerning women's reproductive rights*).
- Low level of women's education and legal literacy (*e.g., girls in rural areas of Central Asia cannot often complete even secondary education, are not sent to higher education institutions and marry while still in their teens, Kyrgyz men usually kidnap and marry the teenage girls depriving them from decent education*).
- Vulnerable position of internal and external women migrants.
- Strong position of informal religious leaders in the communities.

### **4. Cultural barriers:**

- Traditional image of gender roles (*e.g., perceiving a woman in the context of her reproductive role what results in early marriages in the countries of Central Asia, polygamy in Tajikistan or huge abortion underground in Poland*).
- Gender stereotypes persisting in a society.
- Stigmatization of certain behaviors as contradictory to traditional and/or religious values (*e.g., reporting domestic violence exposes a woman to social ostracism in Azerbaijan and Tajikistan, Kyrgyz woman who wants to leave the kidnapper's house is often condemned by her relatives and neighbors*).
- Patriarchal, sexist and judging attitude of society towards women (*e.g., negative attitude of public opinion towards divorced women in the countries of Central Asia, or women who terminated their pregnancies in Poland*).
- Giving priority to family at the cost of women's rights.
- Cultivating the harmful practices (*e.g., bride kidnapping in Kyrgyzstan*).

## **Recommendations:**

The large number of barriers which hamper women's access to justice at the national level indicates an urgent need that the states pay more attention to the systematic solutions.

In order to guarantee gender equality in practice and empower women to use the justice systems the states should take actions to:

### **1. Improve the legal framework by:**

- Reviewing and revising of existing law in the context of its impact on women's rights protection and its coherence with gender equality and non discrimination.
- Ratification of OP CEDAW by the countries which have not done it yet.
- Establishing the Ombudsperson for gender equality.
- Adopting the specific legal acts addressing women's rights violations which would guarantee the women's protection from discrimination in all areas of life.
- Ensuring that existing law recognizes and respects full range of sexual and reproductive rights secured in the Beijing Platform for Action and ICPD Program for Action (Cairo).
- Monitoring of law's implementation and its impact on women's rights protection.
- Observing the rule of secular state.

### **2. Improve the implementation of adopted law by:**

- Providing the special trainings for law enforcement officers, judges and officials on the women's human rights and gender equality legislation.
- Providing the comprehensive system of support for victims of women's rights violations which would facilitate their access to justice and offer them a broad range of help such as shelters, hot lines or free legal, psychological and medical services.
- Ensuring the criminal liability of perpetrators of women's rights violations and the adequate compensation for the victims.
- Allocating budget for financial compensation to victims of women's rights violations.
- Gathering and reviewing of data on women's rights violations.
- Ensuring the real accessibility of law enforcement institutions, legal services and juridical systems in respect of their proximity as well as their economic and procedural availability.
- Establishing the state's institutions responsible for protecting women's rights and gender equality, e.g. Ombudsman's institution.
- Ensuring that the number of women in the police forces is adequate to protect women's rights.
- Taking actions to counteract corruption and uphold the rule of law.
- Establishing the institutional platform of regular cooperation between women's rights oriented NGOs and the state's institutions.
- Developing the programs aimed at increasing the legal literacy of women at national and international level.

### **3. Improve the socio-economic situation of women by:**

- Providing the comprehensive system of support for women who want to continue their education and/or to become economically independent from their families (e.g. gender sensitive labor law, vocational guidance and courses, scholarships).
- Providing the social guarantees for women like social benefits, medical insurance, pension and alimony.
- Conducting the regular campaigns on raising awareness in a society on women's human rights and gender equality.

- Sensitizing the public authorities and institutions to vulnerability of women's migrants, including women from informal religious marriages and victims of human trafficking.
- Guaranteeing the separation of Church and State in the public institutions.
- Making public media promote gender equality concept in a society.

#### **4. Eliminate the cultural barriers by:**

- Ensuring that the education system - for both girls and boys - is free from any stereotyped concept of the gender roles and promotes gender sensitive behaviors.
- Developing the programs for boys and men to increase their knowledge about the women's human rights and gender equality.
- Developing the programs for girls and women to increase their self-esteem.
- Monitoring of the impact of customs and traditions on the women's situation in all spheres of life.
- Eliminating traditional harmful practices.
- Involving the men in women's rights discourse and activities.
- Involving the informal religious leaders in activities for raising the women's status in a society and eliminating discrimination against women.
- Ensuring that the rights of people who are directly responsible for implementation of women's rights in the certain areas do not violate or limit these rights (*e.g., conscience clause and its influence on women's reproductive rights in Poland*).

The proved barriers that hamper women's access to justice in the region of Eastern and Central Europe and Central Asia demands the special attention of CEDAW Committee. In order to facilitate the positive changes in the States Parties the CEDAW Committee should assess the realization of the rule of equal access to justice through monitoring the number of lawsuits and cases reported to the national investigation bodies in gender specific women's rights violations often identified as socio-cultural taboo by women's rights advocates. In cases where the number of lawsuits is disproportionately low to a scale of discriminatory acts reported by women's rights advocates, the CEDAW Committee should thoroughly examine the problem using the inquiry procedure provided by OP CEDAW. To make the international justice system more available to individual victims of women's rights violation, the CEDAW Committee and other human rights bodies, whenever possible, should approach the admissibility criterion of exhausting the domestic legal remedies in a gender-sensitive manner and take into account the reality of women's access to justice. To guarantee that the State Parties meet their obligations in terms of eliminations of all form of discrimination against women, the international human rights' institutions should support the non government organizations which monitor the observance of women's rights and work for increasing the awareness of women's human rights in the societies, especially in the countries where tradition and/or religion highly determine a behavior of people.