**Submission to the CEDAW Committee re:**

**General Recommendation on Trafficking in Women & Girls in the context of Global Migration**

“Shah-Ayim” Network

February 18, 2019

The “Shah-Ayim” network unites sex workers and allies from three countries - Kyrgyzstan, Russia and Tajikistan.

This submission suggests that the General recommendation on trafficking of women and girls in the context of global migration should include a clear **distinction between trafficking and sex work**, because conflation these concepts harms sex workers and undermines efforts to identify people who are truly victims of trafficking, support them and punish those responsible for the trafficking.

The second thing that should be indicated in the General Recommendation is the **role of law enforcement agencies** that are involved in anti-trafficking activities. Their activities are often directed **against sex workers**, and the reasons for such actions are explained by anti-trafficking measures. In fact, this is only a pretext, the real goal is persecution of sex workers, which are accompanied by violence, extortion, threats and blackmail by the police.

**Conflation sex work and human trafficking**

The Briefing Paper “Sex work is not trafficking”[[1]](#footnote-1) issued by NSWP gives the history of roots of conflation human trafficking with sex work. Main points are listed here:

- At the beginning of the 20th century, international conventions established that the movement of women from one country to another for prostitution is tantamount to trafficking, irrespective of consent

- The preamble of the 1949 Convention on Suppression of all Forms of Trafficking in Persons and the Exploitation of the Prostitution of Others declared that its purpose was to establish prostitution as a practice that is “incompatible with the dignity and worth of the human person.” This endorsed an interpretation of prostitution as an inherent form of exploitation.

- Article 6 of the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) is about measure on exploitation of prostitution, but clear definitions of each term are absent.

At the same time, over the past decade CEDAW Committee gave sufficient number of Concluding Observations to different countries aimed to improve the situation of sex workers; moreover, there is a tendency when the recommendations regarding the situation of sex workers and trafficking are already divided (i.e. Concluding Observations, Tajikistan, 71st session).

- In 2000 the definition of exploitation emerged in international law related to trafficking in persons. The UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (2000) defines trafficking as:

**Activities**: recruitment, transportation, transfer, harbouring or receipt of a person.

**Means**: force, deception, abduction, coercion, fraud, threats, abuse of power or a position of vulnerability.

**Purpose**: exploitation, including forced labour, or removal of organs

The Protocol containing progressive definition became a supplement to the UN Convention against Transnational Organized Crime. Trafficking was to be tackled as a crime, with the main focus on law enforcement and prosecution, not on the protection of human rights. National laws and policies have followed this model, developing anti-trafficking laws which seek to criminalise involved parties. In countries where sex work is illegal de jure or de facto, enforcing the law to prevent trafficking has once again been conflated with enforcing laws and practices against sex workers.

At the level of individual countries, the conflation of these concepts leads to practices that result in sex workers suffering, but the real victims of trafficking cannot receive help.

For example, **in Kyrgyzstan**, where individual adult sex work is neither a crime nor an administrative offense, police raids are constantly under way. Orders for such raids are usually closed. At the same time, there are isolated examples when the content of such orders became public. For example, on July 10, 2015, the newspaper “Vecherny Bishkek” [[2]](#footnote-2) published an article about the raid with a demonstration of a copy of the Plan for conducting preventive and investigative measures under the code name “Butterfly”. In this document, one of the reasons for the raid is "identifying recruiters for sexual exploitation." Meanwhile the usual raid is as follows: the place where the sex workers are located is pulled up by a mini bus, accompanied by the police. All sex workers who are in this moment on the street, without giving reasons, are forced to get into the mini bus with words or with the use of physical force and are taken to the police station. Police extort money in exchange for release. Those who have money with them, give it away and go out. Those who have no money remain at the police station, they are fingerprinted and photographed for the so-called card index, protocols on administrative offenses are also drawn up for sex workers under the article “Petty hooliganism” or “Disobeying a lawful order of a police officer”. Thus, it is clear that the police are not taking any action to identify those who recruit for sexual exploitation.

During repeated meetings with the police department, which is briefly called the “Department of Morals”, police officers say that there are many allegations of missing girls, so they need to keep a file of sex workers with photos and fingerprints. At the same time, no regulatory document contains such a norm. The effectiveness of raids to search for missing women and to identify those who recruit is very low.

Another example **from Tajikistan**: NGOs are involved in the work in the field of human trafficking. The main methodological support is provided by the IOM. In a personal conversation, one of the staff of such an NGO said: “There are many victims of sexual trafficking in the country. Every woman or girl who leaves her hometown to other cities and districts and finds work as a waitress, for example, and simultaneously does sex work — every such woman is a victim of trafficking. These women need to be rescued and helped to return home”. The interviewee is confident that every sex worker who thinks that she voluntarily does sex work is mistaken because she has developed Stockholm syndrome.

This position does not take into account the opinion of sex workers and is based on the fact that sex workers cannot make a conscious choice, they are denied the right to self-determination, they are considered to be not quite healthy. It does not take into account at all that returning home can entail extremely negative consequences for a sex worker, ranging from depriving a woman of earnings, which guarantees a certain level of independence and the ability to provide for her children, to violence from family members. If the family finds out about the occupation of their relative, then they, including, can be kicked out of the house and forbidden to see their children or even deprive them of parental rights.

**The role of law enforcement agencies in anti-trafficking activities**

Law enforcement agencies use the punishment provided by the law against trafficking in persons for profit.

An example from **Kyrgyzstan**: police find and detain those sex workers who went abroad to earn money, find out information about who helped them to leave, force them to write statements, sometimes they are asked to specify the names of specific people under pressure and threats who allegedly took them forcibly or fraudulently, and then sold them into sexual slavery, indicate that she had worked a certain amount and was able to “escape”. The police are seeking such “cooperation” either with threats or promises of remuneration for “facilitating for the investigation”. Police then find people reported by sex workers and extort large sums of money from them in exchange for not initiating a criminal case.

**Persecution of sex workers within countries and contribution to global migration**

Law enforcement agencies in all three countries are persecuting sex workers: in Kyrgyzstan, under the pretext of public demands and discriminatory use of administrative articles on petty hooliganism or insubordination to police officers, in Tajikistan and Russia, sex work is punished by administrative means, despite recommendations from the CEDAW committee to decriminalize sex work and repeal the relevant articles of the administrative code (in Tajikistan - administrative article 130[[3]](#footnote-3), in Russia - 6.11[[4]](#footnote-4)).

In **Kyrgyzstan**, a direct link has been established between the persecution of the police and the increase in the flow of sex workers who go abroad, not seeing opportunities to continue sex work in the country. In the summer 2016, the city police announced[[5]](#footnote-5) that it would “cleanse Bishkek (the capital) from prostitutes in one week.” Then mass raids followed, the police also called on conscious citizens not to stand aside - to find and photograph sex workers and bring their photos to the police[[6]](#footnote-6).

2.5 years have passed since this police campaign. During this period, the flow of sex workers going abroad has increased, and the level of migration within the country has also increased: sex workers more often change settlements due to raids and pressure from the police.

The Picture 1 shows the dynamics of the reduction in the number of sex workers who are participants in HIV prevention programs in Bishkek, Kyrgyzstan. Some sex workers went abroad, some sex workers migrate within the country, not staying in one place for a long time, as a result they lose access even to the small amount of support provided by non-governmental organizations.

**Picture 1**. Dynamics of coverage of sex workers by HIV programs in 2016-2018, Bishkek (absolute number of sex workers is indicated).

**In Tajikistan**, the police, after detaining sex workers and identifying their identities, send corresponding letters to relatives, informing them about the occupation of women. Thus, during one of the raids in 2016 in the city of Kurgan-Tyube, 182 sex workers were detained, who came to the regional center from nearby areas. The police sent letters to the relatives of all 182 women demanding "to return their loved ones to the right path, otherwise they will be fined”[[7]](#footnote-7). The Committee on Women and Family Affairs under the Government of Tajikistan also reports: "If the guilt of the detainees [sex workers] is proved, information about them goes to the parents"[[8]](#footnote-8). Sex workers, returning to their native village or city, inevitably face violence from relatives, some are completely thrown out of their home, or woman cannot continue living in humiliating and threatening environment. As a result, women are leaving again, but now they have almost no opportunity to return back because of the threat of violence. Many are deprived of the opportunity to see children, sometimes relatives deny women parental rights. Thus, police actions force women to migrate, family ties are broken, and there are far fewer opportunities for women to get support.

**Russia** is a host country for migrants, including migrant sex workers from Central Asia, the global south and African countries. Migrant sex workers are subject to much more brutal forms of harassment and violence from the police and social movements that are fighting for morality and ethics. One of the cases was widely reported in the press - the attacks of the nationalist Datsik on salons in St. Petersburg. Mostly female sex workers from Africa and from the former republics of the Soviet Union suffered from these attacks. One of the women jumped out of the window for fear and broke her spine. However, this case was excluded from the criminal case file, which was initiated against Datsik in connection with attacks[[9]](#footnote-9).

Migrants sex workers are constantly under the threat of deportation, they practically cannot protect themselves with the use of legal tools. For example, police raids are often targeted: the police are looking for migrant women sex workers, because they cannot protect themselves, they do not speak Russian well or do not speak at all. They are afraid to be deported, and are willing to pay the police or provide sexual services for free in order to continue working.

**Resources to support victims of trafficking**

In **Kyrgyzstan,** the resources that are available to support victims of human trafficking are not fully demanded. Different women in difficult situations can get this assistance, including those who were not trafficked. One of the reasons is that women faced with human trafficking often do not want to apply to these programs if there is some opportunity to cope with the consequences on their own. Due to a long and persistent information campaign both at the global level and at the country level, human trafficking is equal to sex work according to public opinion. In this regard, a woman who got into a real trafficking situation and did not have the experience of voluntary sex work prior to departure, she does not want her relatives and close associates to consider her a “*prostitute*”.

**The law enforcement agencies,** whose duties are to investigate crimes of human trafficking and assist those who really need help, have neither the authority nor the means to do so. For example, in one of the cases young woman was forcibly taken from Kyrgyzstan to Kazakhstan. She managed to send a message to Kyrgyzstan and asked for help. In Kyrgyzstan, neither the relevant division of the Ministry of Internal Affairs, nor the IOM was able to use the legal tools to return her home. At the same time, the police of Kazakhstan sent the woman to the Migration Service and said her to report there on the loss of documents, but not say that she was a victim of trafficking.

**Global traffic data**

At the global level, it is clear that leading agencies, such as the International Organization for Migration and UNODC, which monitor traffic data, publish conflicting data on forms of exploitation.

For example, IOM data say that in 10 years the proportion of women in traffic has decreased, and the share of sexual exploitation among other forms has also decreased. In 2016, the proportion of women victims of trafficking for sexual exploitation was 28%.[[10]](#footnote-10)

UNODC data is different: 83%[[11]](#footnote-11) of women victims of trafficking have been sexually exploited - data for 2016 or the latest available.

In other words, it opens the field for data manipulation, distracts attention from real problems and forces to invest resources in those activities that have no effect, but only show the fight against traffic.

**Conclusion and recommendations**

1. The conflation of human trafficking, sex work, migration and mobility have a negative impact on both the situation of sex workers and the situation of people who are really in an exploitative situation, and this conflation must be stopped.

2. The General Recommendation on Trafficking in Women & Girls in the context of Global Migration should include a clear description of its scope of application so that a sex worker who voluntarily travels outside her country is not considered a victim of traffic, and therefore does not become an object to manipulate by the police and other government bodies that are called to deal with trafficking.

3. Sex workers who voluntarily wish to work outside their own country should be able to move, and they should have the legal status of a labour migrant as well as have an access to the health and human rights services in the country of destination without fear to be deported.

4. The CEDAW State parties are more willing to implement any activities in the field of trafficking in persons than the direct CEDAW recommendations aimed at improving the situation of sex workers. Governments interpret the recommendations of the CEDAW Committee in a repressive way: for example, in 2013 Tajikistan was recommended to remove the punishment for sex work, but this did not happen, moreover in 2015 the punishment was toughened, and the Head of the delegation at the 71st session said that sex work is not a criminal offense in Tajikistan, sex work is punished only as an administrative offense.

1. <https://www.nswp.org/sites/nswp.org/files/SW%20is%20Not%20Trafficking.pdf> [↑](#footnote-ref-1)
2. [https://www.vb.kg/doc/319547\_sverdlovskoe\_yvd:\_prostitytki\_pagybno\_vliiaut\_na\_imidj\_bishkeka.html](https://www.vb.kg/doc/319547_sverdlovskoe_yvd%3A_prostitytki_pagybno_vliiaut_na_imidj_bishkeka.html) [↑](#footnote-ref-2)
3. <https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fTJK%2fCO%2f4-5&Lang=ru>, CO #20 (b) [↑](#footnote-ref-3)
4. <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsnINnqKYBbHCTOaqVs8CBP2%2fEJgS2uWhk7nuL22CY5Q6EygEUW%2bboviXGrJ6B4KEJr4JalKJZyYib0P1wYeg13mjbxpuvgBQIHs8SaZvXdjX>, CO #26 (c) [↑](#footnote-ref-4)
5. Deputy head of the Central Internal Affairs Directorate of the capital promised to clean Bishkek from prostitutes in a week // Kaktusmedia dated June 14, 2016. Source:

[https://kaktus.media/doc/340008\_i.\_o.\_glavy\_gyvd\_stolicy\_poobeshal\_za\_nedelu\_ochistit\_bishkek\_ot\_prostitytok.html](https://kaktus.media/doc/340008_i._o._glavy_gyvd_stolicy_poobeshal_za_nedelu_ochistit_bishkek_ot_prostitytok.html%20) (data available by February 18, 2019) [↑](#footnote-ref-5)
6. Bishkek GUVD (Head Department of Internal Affairs) offers residents to conduct raids to combat prostitutes // Kaktusmedia dated June 16, 2016. Source: <https://kaktus.media/doc/340165_gyvd_bishkeka_predlagaet_jiteliam_provodit_reydy_po_borbe_s_prostitytkami.html> (data available as of February 18, 2019) [↑](#footnote-ref-6)
7. Prostitutes were expelled from Kurgan-Tyube, dated April 22, 2016. Source: <https://rus.ozodi.org/a/27689911.html> (data available as of February 17, 2019) [↑](#footnote-ref-7)
8. Experts told what is the cause of prostitution in Tajikistan, dated November 25, 2017. Source: <http://ru.sputnik-tj.com/country/20171125/1023988009/ehksperty-rasskazali-chto-yavlyaetsya-prichinoj-prostitucii-v-tadzhikistane.html> (data available as of February 17, 2019) [↑](#footnote-ref-8)
9. <https://www.osce.org/odihr/395945?download=true> [↑](#footnote-ref-9)
10. <https://www.iom.int/sites/default/files/our_work/DMM/MAD/A4-Trafficking-External-Brief.pdf> [↑](#footnote-ref-10)
11. <https://www.unodc.org/documents/data-and-analysis/glotip/2018/GLOTiP_2018_BOOK_web_small.pdf> [↑](#footnote-ref-11)