



DISCRIMINATION AGAINST WOMEN IN THE EMPLOYMENT SPHERE IN BELARUS

**Alternative Report on Compliance with the Convention on the Elimination
of all Forms of Discrimination Against Women by Belarus**

**Prepared by the Anti-Discrimination Centre Memorial
with the assistance of Her Rights Center
For the 65th session of the UN CEDAW, 2016**

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Photo: archive University of Virginia, autor - professor Thomas T. Hammond (1920-1993).
USSR: 1960-70 years. Digitalized by Anna Kromin
<https://virginia.app.box.com/v/HammondSlidesCREEES>

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OVERVIEW

The situation of women in Belarus remains difficult for a number of reasons: while politicians and the media convey patriarchal stereotypes to a wide audience, pronounced gender discrimination in the employment sphere aggravates the difficult economic situation, poverty, and unemployment.

Although Belarus yet to adopt a special law barring discrimination and does not have a separate law against gender discrimination, the Constitution and industry-specific laws ban any discrimination, including on the basis of gender, and the National Strategy on the Sustainable Socio-Economic Development of the Republic of Belarus for the Period until 2030 states that “gender equality is necessary for society’s sustainable development and is one of the current challenges for realizing human rights and ensuring social fairness” (point 8.7).¹

DISCRIMINATION AGAINST WOMEN IN THE PUBLIC APPEARANCES OF POLITICIANS AND REPRESENTATIVES OF STATE INSTITUTIONS

Even though the government officially professes to adhere to the values of gender equality and non-discrimination, politicians and other public representatives of state institutions continue to convey stereotypical and frequently discriminatory statements about women in interviews and speeches.

One example is a video interview given by Nikolai Ulakhovich, chair of the Belarusian Patriotic Party, during the parliamentary campaign in 2016. During this interview, he stated that a woman’s primary responsibility is to raise children and that “gender equality is perverting society.”^{2,3}

In another example, Lidia Ermoshina, chair of the Central Election Committee, has repeatedly spoken out sharply on the topic of women’s participation in political life, thus conveying traditional, discriminatory attitudes: “Women are not interested in politics, they are apolitical by nature.”⁴ “These ‘women’ have nothing better to do? They should sit at home and make borscht, not roam around squares” (on women’s participation in political actions in 2010).⁵

The role of women in social consciousness is reduced to the traditional role of mother and wife, and women are conveyed as symbols of beauty, spring, and warmth. The president, ministers, and other senior Belarusian officials have repeatedly spoken about this in their speeches.^{6,7} Once the president even said that “being president is not the business of a woman.”⁸

These kinds of statements help traditional notions of the role and status of women in Belarusian society become entrenched and have an overall negative effect on the process of achieving gender equality. Also, this negative effect is significantly intensified because the people who shape and influence policies address these statements to a wide audience.

¹ Text of the national strategy: http://www.economy.gov.by/dadvfiles/001251_55175_NSUR.pdf

² <http://news.tut.by/politics/508070.html>

³ <http://naviny.by/article/20160824/1472018817-nikolay-ulahovich-lukashenko-otec-nacii-ego-mozhno-sravnit-so-stalinym>

⁴ <http://www.kp.by/daily/26574/3590093/>

⁵ <http://news.tut.by/elections/208894.html>

⁶ <http://sputnik.by/society/20150306/1014212742.html>

⁷ <http://sputnik.by/society/20150307/1014223522.html>

⁸ <http://udf.by/news/multi/audio/48146-lukashenko-prezident-zhenschina-kak-to-ne-ochen-smotritsya.html>

LACK OF PROTECTION OF WOMEN FROM DISCRIMINATION IN THE MEDIA

Belarusian law contains operating principles for the media (Article 4 of the Law of the Republic of Belarus of July 17, 2008 No. 427-Z “On the Media”), including principles such as reliability of information, respect for human rights and freedoms, protection of morals, and observance of professional ethics rules for journalists and universal moral rules. However, given the existing stereotypes and traditional notions of the role and status of women, general principles alone are not sufficient to protect women from discrimination: proving instances of discrimination against women in the media will be extremely difficult unless discrimination in the media is banned and journalists, editorial boards, editors and others are held liable for their discriminatory actions and materials.

Discriminatory materials do not generally contain objective information and facts, only stereotypical notions and generalizations that amount to value judgments in respect of women (usually in insulting terms).

Articles are frequently published that degrade women whose appearances do not “match” standards of beauty and that relegate the value of women to maternal functions and to the role of wife and housewife, while conveying stereotypes regarding their abilities and personal traits.

These articles are usually accompanied by apologies to readers they may offend. When individuals and organizations write letters about these articles, the editorial board / journalists generally refuse to acknowledge the discriminatory nature of their material or only acknowledge that the tone may have been “sharp.” For example, a reader of the internet portal rebenok.by who was trying to have an article offensive to heavier women removed from this website turned to the Her Rights Center for assistance.⁹ Even though the editorial board deleted this article after the Center got involved, it never admitted to the article’s discriminatory nature.

DISCRIMINATION AGAINST WOMEN IN ADVERTISING

There are some mechanisms to protect against discrimination in advertising, but there is no direct ban on discrimination.

Instead, Belarusian law contains a definition of “unethical advertising,” which includes, among other things, offensive words, comparisons, and images in respect of external appearance, age group, gender, etc. (Article 26 of the Law of the Republic of Belarus of May 10, 2007 No. 225-Z “On Advertising”). The Ministry of Trade and local executive authorities of the Republic of Belarus caution against and delete improper advertisements to the extent of their competencies.

Even so, in practice discriminatory advertising is widespread in Belarus. A determination of the ethical nature of an advertisement (and whether or not it should be allowed) is usually based on existing stereotypes and traditional notions about the image of a woman. And the people making these decisions do not generally have sufficient or even basic knowledge about the criteria for discrimination. In this situation, there is clearly a need to make systematic changes to the process of evaluating advertisements for discrimination.

Examples of these kinds of advertisements can be found in a review article.¹⁰

WOMEN HAVE LITTLE KNOWLEDGE OF THEIR LEGAL RIGHTS

The Her Rights Center, which works with requests from women for legal assistance on a daily basis, notes that in most cases women are not aware of their rights and the possibilities for protecting them. Women frequently lack the financial means to consult an attorney, and government institutions frequently neglect to explain their rights to them, even when required to do so by law. This is particularly true in cases of domestic violence. The incompetence and negligence of employees at various agencies frequently results in an even greater violation of rights and discrimination.

⁹ The original text is reproduced in screenshots. Files containing the appeal of the Her Rights Center and the editor’s response are attached.

Article deleted: <http://rebenok.by/inf/features/23023-tolstye-lyudi-kogda-dumayut-ne-golovo-i-stadnymi-klishe.html>

¹⁰ <http://marketing.by/analitika/razbiraem-seksiz-v-belorusskoy-reklame/>

GENDER UPBRINGING, EDUCATION, CAREER

The Education Code of the Republic of Belarus identifies one of the components of upbringing as gender upbringing, which, in the opinion of lawmakers, constitutes “...*the student’s shaping of notions about the role and purpose of men and women in contemporary society.*” Thus, gender upbringing is based on the traditional gender role approach, which shapes students’ understanding of themselves as girls or boys in the conventional sense.

For example, schools still offer life skills lessons where the class is divided into two groups by gender. Generally, girls receive instruction in the basics of cooking, gardening, sewing, knitting, etc. (in essence, service work), while boys receive technical instruction in woodworking, carpentry, etc. This kind of division does not allow for student preference or the development of individual abilities and helps entrench stereotypes regarding the division of labor into traditional “male” and “female” roles.

As of 2015, 56.1 percent of Belarusian women and 43.9 percent of Belarusian men had a higher education.¹¹ These numbers have remained the same for several years. Interestingly, most women who have a higher education work in the medical, agricultural, socio-economic, and public spheres, while it is mainly men who have graduate degrees in these areas. This can in many ways be explained by the fact that from pre-school on, girls are oriented towards housework and performing the roles of mother and wife.

Additionally, fewer women hold senior positions in education like rector, vice-rector, director of an affiliated institution than men (women – 66, men – 216). As of 2016, women accounted for 66 percent of teachers and assistants at institutions of higher learning, 21.6 percent of professors, 36.6 percent of deans, and only 9.1 percent of rectors. Most women working in education are employed at the level of teacher or lecturer (65 percent women and 50.1 percent men). Typically, the higher the positions and salaries at an educational institution, the fewer women work there.

It should be noted that women employed by government institutions are more educated: 33.5 percent of workers at government agencies with a higher education are women as compared to 24.5 percent of men. According to the RB Statistics Committee¹¹, in 2014–2016 81.9 percent of education workers were women, 85.3 percent of healthcare and social service workers were woman, 75.5 percent of financial workers were women; and 73.4 percent of hotel and restaurant workers were women. Meanwhile, male workers predominated in construction (81.4 percent), mining (72.3 percent), and production and distribution of electricity, gas, and water (81.4 percent). The spheres where the ratio of female to male workers was essentially identical included government administration (55.7 percent women and 44.2 percent men), real estate and other consumer services (52.9 percent women and 47.1 percent men) and manufacturing (46.6 percent women and 53.4 percent men).

Thus, it is clear that on the job market men occupy a greater number of more profitable positions, while women are better represented in less prestigious and less well-paid spheres and at lower ranks on professional hierarchies. Also, women face hidden barriers to career advancement. Gender segregation is supported by stereotypical notions about the division of roles between men and women, where men are responsible for financial security and women are expected to serve the family and care for children.

Unfortunately, Belarus has not taken any specific measures to overcome gender segregation in professional life.

¹¹ http://www.belstat.gov.by/ofitsialnaya-statistika/solialnaya-sfera/demografiya_2/metodologiya-otvetstvennye-za-informatsionnoe-s_2/index_5080/

THE RIGHT TO EQUAL PAY

According to statistics from the National Statistics Committee of the Republic of Belarus¹², in 2016, women earned on average 76.2 percent of the salary of men. Even in spheres like education, healthcare, and hotels and restaurants (where most employees are women), they receive 84.3 percent, 85.6 percent, and 71.2 percent respectively of the salaries of males working in these professions. In most other spheres, women earned 70–72 percent of the salaries of men.

In the majority of cases, women do not assert their right to equal pay for equal work. First of all, they have a low opinion of themselves due to gender stereotypes and thus do not even question why they earn less than their male colleagues. Second of all, when setting salaries, employers and workers are guided by the stereotype that “men are the breadwinners, so they must be paid more.” Third of all, in some organizations the bonus system is not transparent and is usually aimed at providing incentives for men. Finally, most women just do not know how to stand up for their rights to equal pay and fear punishment from their employer and loss of employment if they do this.

RESTRICTIONS ON THE RIGHT OF YOUNG WOMEN TO CHOOSE A PROFESSION

In Belarus, a number of state institutions of higher learning like the Academy of the Ministry of Internal Affairs (MIA Academy), the Military Academy, the Institute of the Border Service, the Institute of Command Engineers of the Ministry of Emergency Situations, and the Military Department of Belarusian State University have a separate competition for state-financed spots for women, different passing scores for women, and fewer seats for women unless they are completely barred from certain specializations and (or) faculties.¹³

In a 2011 interview, the head of the MIA Academy explained that one reason for the difference in number of women and men selected for the same specialization was “...*the difficulty of the profession and of studying at the academy.*” According to him, “*an MIA officer must have certain psychological characteristics and moral qualities, be in excellent physical shape, be strong and sturdy, and be able to meet the high demands placed on him. Also, no one is going to wait three years for a woman to come off of maternity leave.*”¹⁴

The Her Rights Center contacted these institutes regarding the question of admitting women. In their responses, the institutes stated that the number of women accepted depends on the needs and requirements of state security agencies. However, they did not provide any clear criteria to justify this division by gender.

Thus, the number of spaces for women at each institute depends not on the applicant’s individual abilities or skills, but on the “needs” of the corresponding structures; however, this cannot explain the basis for their preference for male students. When there is no “demand,” women will not be able to enroll no matter how high their scores. This kind of “restriction from above” on the acceptance of women at military institutes has become an entrenched, system-wide practice.

It is worth noting that the MIA Academy also enrolls students for extramural, tuition-based programs. With these programs, there is no separate competition for men and women and the passing score for both groups is the same. Thus, women are afforded more opportunities for receiving an education at the MIA Academy if they pay for it.

¹² Men and women in the Republic of Belarus 2016. http://www.belstat.gov.by/ofitsialnaya-statistika/solialnaya-sfera/demografiya_2/metodologiya-otvetstvnyye-za-informatsionnoe-s_2/index_5080/

¹³ <http://www.academy.mia.by/index.php/ru/1-stupen-vo/plan>

¹⁴ <http://news.tut.by/society/233837.html>

In December 2014, a 14-year-old girl was forcibly placed in a children’s shelter in connection with accusations of being at social risk (the mother was unemployed and the home was messy and cold). However, the girl’s wish not to be taken from her family was ignored, as was the fact that she herself could have picked up the room and turned on the heat.

However, the Belarusian Constitution guarantees an education for all in accordance with the individual's abilities and states that everyone may, on a competitive basis, obtain an appropriate education at state educational institutions free of charge (Article 49).¹⁵ But when women try to enroll at military institutes, this right is restricted, expensive, or simply not possible.

LIST OF BANNED PROFESSIONS

Belarus has a list of professions prohibited to women (Resolution of the Ministry of Labor and Social Protection of the Republic of Belarus of June 12, 2014 No. 35 “On the approval of a list of heavy jobs and jobs involving hazardous and (or) dangerous work conditions that are prohibited to women”). This list is an example of overt employment discrimination against women and violates their right to freely choose their profession or type of job.

The existence of this list is justified by the government as a way to protect women. According to the Ministry of Labor and Social Protection and the Ministry of Health (explanatory letter on the use of the List of December 30, 2002 No. 11-16/6497/14-15-4/4068), “at such work places, hazards to life and health must be eliminated (jobs involving mining, heights, or underground work, work in extreme conditions or emergency situations, work with pressure vessels, and other work connected with high emotional stress and risk to life); if these factors are present, the labor of women may not be used.”

With this type of approach, the government conveys the idea that women are merely agents of childbirth and motherhood. It deprives them of the ability to choose and exercise their right to work, while at the same time completely ignoring their wish and (or) ability to have children and whether or not they already have children. Obviously, even when conditions may be hazardous, it is the woman (and not the state) that must decide what she wants: to have a job from the list or to take care of her health for a possible future pregnancy.

Meanwhile, there are a number of professions that are not prohibited to women (and that actually employ mainly women), but involve lifting objects heavier than established norms. These professions include cooks, hospital nurses, yard keepers, warehouse workers, salespeople in small stores, etc.

Another argument the government uses to defend its discriminatory list is that these professions and job may be open to women if work conditions are created that meet the parameters for workload indicators for women. However, this is difficult to put into practice due to existing stereotypes regarding the employment of women in traditionally male spheres (employers simply do not want to hire women for these jobs). Also, employers usually have no interest (primarily for financial reasons) in creating the necessary conditions—it is easier for them to just hire men. Finally, it is frequently not possible to create these conditions for technical reasons.

Moreover, the list includes jobs that are prohibited to women under any condition (i.e., prohibited regardless of the results of workplace certification), for example underground mining work, underground construction work, and work in high places.

Women regularly experience problems due to bans on profession. For example, N.B., a Belarusian woman, obtained a driving license category for working as an international truck driver, but was not able to find a job anywhere because this profession is on the list of prohibited professions.¹⁶ However, she chose this profession because it was her wish and her dream and because it offers a high salary. Thus, women face existing stereotypes regarding employment in traditionally male spheres and also bans established by law that make it virtually impossible for them to be hired for certain interesting jobs.

¹⁵ <http://www.pravo.by/main.aspx?guid=14551>

¹⁶ <http://auto.tut.by/news/exclusive/337615.html>

THE RIGHT TO EQUAL OPPORTUNITIES DURING THE HIRING PROCESS

Unfortunately, both overt and covert employment discrimination against women continues to be seen in Belarus. Despite existing laws banning gender discrimination in the work sphere, these bans are frequently token and are in practice violated by employers, who are rarely held accountable for this.

In addition to their work functions, Belarusian women are assigned the duties of caring for their children and families and managing the household. Therefore, the law contains a number of guarantees for pregnant women, women on maternity leave to care for a child under the age of three, and women on leave to care for a child with a disability.

Some guarantees are also in effect for men caring for an infant, but according to data from the National Statistics Committee¹⁷, only one percent of Belarusian men take advantage of paternity leave. It can therefore be said that measures to support the parents of young children relate to women in the absolute majority of cases.

But these measures and the stereotypical view of women as responsible for raising children (and thus able to take maternity leave and leave to care for sick children) usually mean that it is harder for women to find work, since these guarantees turn women into “unsuitable” workers for employers.

Therefore, women face discrimination even at the interview stage. According to a survey, in almost 95 percent of interviews female candidates were asked questions about their marital status, whether or not they have children, the frequency of their children’s illnesses, availability of a nanny, and so forth. Men are almost never asked these kinds of questions during the hiring process.

After the interview, preference is frequently given to male candidates even when female candidates have the same level of education, skills, and experience. Belarus continues to lack mechanisms to prove discrimination and to hold people accountable for it.

BANS ON SOME TYPES OF JOBS FOR PREGNANT WOMEN AND THE MOTHERS OF SMALL CHILDREN

The right to free selection of a profession or type of job is also restricted by bans on overtime, business trips, and work on state holidays, other holidays, and weekends that are in place for pregnant women and women with children under the age of three (Article 263 of the Labor Code). The state views these bans as a way of showing special concern for women as individuals in need of increased social and legal protection. Meanwhile, however, the government ignores the legal context and practices specific to this situation. For example, Belarus has a contract system for employment, which means that a dishonest employer may avoid fulfilling his obligations to mothers. Also, women are put in a vulnerable position since employers may initially view them as “unsuitable” workers because the guarantees envisaged by the law for women are not beneficial from the employer’s standpoint.

In practice, a woman may choose not to take advantage of these guarantees out of concern that her employer may not enter into a new contract with her when her current contract expires, or that she will not be promoted, receive a bonus, etc.

Thus, Article 263 of the Labor Code takes on a discriminatory nature, since some of the bans and restrictions have no connection whatsoever with the functions of pregnancy, birth, or nursing. These bans and restrictions also ignore a woman’s right to choose her profession and make women “potentially unsuitable” as employees.

In June 2016, Minister of Labor and Social Protection Marianna Shchetkina proposed lifting restrictions on holiday and weekend work and on business trips for working women with children under the age of three.¹⁸ However, even though these amendments were made to the Labor Code, a

¹⁷ Men and women in the Republic of Belarus 2016. http://www.belstat.gov.by/ofitsialnaya-statistika/solialnaya-sfera/demografiya_2/metodologiya-otvetstvennye-za-informatsionoe-s_2/index_5080/

¹⁸ <http://finance.tut.by/news501714.html>

ban on working on weekends or during off hours remains in place for pregnant women (even if, for example, a woman's health is good enough to allow her to go on a business trip). It should be noted that payment for work during these times should be higher than it is for workers working normal hours.

Thus, these restrictive measures are aimed not at creating conditions to protect motherhood, but at restricting opportunities for women to prepare for, access, participate in, and advance in economic activities. Moreover, many bans and restrictions are set up exclusively for women and not for men who may also have family obligations.

The Her Rights Center notes with regret that in Belarus measures to protect women from wrongful dismissal in connection with the appearance or presence of children and (or) the possibility of having children frequently leads to even greater discrimination against women. The Center received several requests for help from women whose employers forced them to agree to dissolve labor contracts after these women notified them of their pregnancies. When threatened by their employers, women usually consent to terminating their labor contracts by mutual agreement of the parties because they have a very low level of legal literacy and do not know how to stand up for their rights.

Also, many women consent to voluntary resignation because they do not want to continue working at a company after being subjected to this kind of treatment and threats. Even if a woman does not agree to resign by mutual agreement of the parties, employers may "get rid" of a pregnant woman or a woman returning from maternity leave by eliminating her position "due to business needs."

One woman who came to the Her Rights Center for help reported that after she returned from leave to care for a child under the age of three, she was not reinstated to her previous position but offered a less prestigious position. She agreed to this because she did not even know that employers do not have the right to do this without the employee's consent.

The Her Rights Center also notes that it is sometimes difficult for mothers to take advantage of social guarantees like leave, additional days off, and additional breaks for nursing because their employers simply do not allow this: "Either you follow our rules, or you can resign if you don't like it."

Pregnant women working under a temporary contract to replace an employee on maternity leave have even fewer protections. When the main employee returns from leave, the temporary worker is automatically dismissed. Even if the temporary worker is pregnant or has given birth, her temporary contract is dissolved as soon as the main employee returns from leave.

Women living in an unregistered marriage are also in a vulnerable position. Even though there is basically no difference between this kind of relationship and a registered marriage (joint management of the household, child-rearing, property, etc.), Belarusian law lacks any financial or property guarantees for women if these relationships end.

Unregistered relationships may be long-term relationships accompanied by birth and child rearing. In these cases, women generally take advantage of pregnancy, birth, and maternity leaves. Thus, during this period they do not typically work, and they frequently lose their professional qualifications while raising their children and managing the household.

Due to their low level of legal literacy, women usually do not consider the consequences of situations where property (including real estate) is registered to the man with whom they reside. Since what actually amounts to joint marital property is not legally considered as such in these types of relationships, it cannot be divided with or inherited by the woman under the law.

The Her Rights Center also frequently receives requests for help from women ending an unregistered conjugal relationship.¹⁹ A huge problem for women in this situation is that they (and usually their children) are left without a roof over their heads if the apartment is registered to the man.

¹⁹ Her Rights Center database of requests for assistance

WORKPLACE SEXUAL HARASSMENT

The Her Rights Center has anonymous evidence of instances of sexual harassment and other actions of a sexual nature in the workplace. Women generally start telling their relatives and friends about harassment after they have resigned. They rarely want to appeal to a court for help for a number of reasons, including lack of emotional strength, the intimate nature of the topic, the fact that instances of sexual harassment are extremely difficult to prove, etc. Victims note that there are not usually any witnesses to the harassment, and if there are, these witnesses are scared to lose their jobs and will most likely refuse to testify. Women also have a hard time deciding to file a complaint because they are frequently ashamed and blame themselves for what happened. All of this is compounded by fear of losing their jobs or being fired “under an article” (in other words, for an egregious error or a disciplinary violation, making it very difficult to find another job). Finally, women frequently do not know how to solve the problem and whom to ask for help.

Several years ago, online surveys were conducted where over 50 percent of women confessed that they had experienced some form of sexual harassment at work. Over 20 percent of the victims said that they resigned or were fired after an incident.

Overall, though, the topics of sexual harassment, sexual advances, and behavior degrading to women have been poorly researched—the facts are suppressed, and no one knows the true extent of the problem.

Belarus currently lacks any judicial practice with these kinds of cases.

ATTEMPTS TO RESTRICT THE RIGHTS OF WOMEN TO MOTHERHOOD

The Her Rights Center notes that Belarus has a history of forcing women from at-risk categories (women with alcohol and other addictions, low-income women, and women in medical labor centers, where addicts are placed against their will and required to perform forced labor) to undergo sterilization.

One victim who was treated for alcoholism at a medical labor center recounted how she was forced to undergo sterilization. Since it is not officially possible to perform sterilization procedures without the woman's consent, staff members at the center used blackmail, threats, and bullying to get this woman to sign a document where she supposedly consented to this procedure. This victim is still frightened to speak openly about this and it is hard for her to speak about her experience. In the past she suffered from alcoholism, but now she has a job, is raising her children left with her, and is trying to restore her parental rights for one of her children who was taken from her by the state during her illness. Under the law, there is a specific list of indications for performing sterilization, but doctors can only perform this procedure with the consent of the woman. In practice, however, consent is achieved through pressure and sometimes even violence.

It is likely that other women have been in similar situations and that the “voluntary-forced” sterilization of women determined by the state to be at risk is practiced throughout the country. Such measures are unacceptable, since they violate a woman's reproductive rights and aggravate her already fragile emotional state and social position, which puts her at even greater risk.

UNJUSTIFIED REMOVAL OF CHILDREN FROM WOMEN

Presidential decree No. 18 of November 24, 2006 “On Additional Measures for the State Protection of Children in At-Risk Families,” is currently in effect in Belarus. This decree allows children to be removed from at-risk families and obligates parents to refund the state for the money it spends supporting these children. Under this decree, in certain conditions any family may be determined to be at risk and the children may be deemed at social risk. Moreover, in order to protect children in

special cases and on the basis of the results of an investigation and a plan to help a family, the Social Risk Commission may petition the Juvenile Affairs Commission to find the child in need of state protection. This means that the child can be removed from the family and placed in an orphanage or other children's institution.

Many situations where families are found to be at social risk and (or) children are removed as a matter of "urgency" from their parents are actually ambiguous. A closer analysis of these situations shows that they amount to nothing more than groundless restrictions on the right of women and children to a private family life. In and of itself, the procedure for temporarily removing a child from its family envisaged by this Decree is discriminatory because it is not based on a court verdict. Pursuant to Article 32 of the Constitution, "Children may be separated from their family against the consent of their parents or persons in loco parentis only according to the verdict of the court of law, if the parents or persons in loco parentis fail in their duty towards their children."

Unfortunately, the practice of applying this decree is such that in these situations the state acts as an "observer," a "collector," and an "appraiser." By the same token, state agencies and institutions may implement a number of measures and use various means to influence the situations of "at-risk" families within the framework of their authorities. In particular, this could involve providing targeted social assistance, psychological help, and social services (social worker, babysitter, foster support, etc.), allocating subsidies for housing, and so forth.

Frequently, however, the very criteria for determining that a family is at risk or for registering children as children at social risk, or the assessments of these criteria are perfunctory at best. An international legal approach is also usually ignored: removal of children is an exceptional measure for protecting a child, since the family is the natural environment for a child and each child has the right to live in a family. Thus, the example of parents who were able to prove the lack of grounds for finding children to be living in social risk is particularly noteworthy.²⁰ Not all parents, however, are able to launch the first steps of the appeal procedure and take advantage of opportunities to help change the situation.

Additionally, it is common for these situations to be accompanied by a violation of a woman's right to protect her own rights and legal interests. The Her Rights Center has documented three cases where women were threatened by workers at state agencies and institutions when they went to those institutions for protection from violence on the part of their husbands or former husbands.²¹ The threats included registration of their families as families at social risk or removal of children if the women appeared again for help, since their appeals were supposedly evidence of an at-risk situation.

On June 1, 2016, an individual complaint against Belarus connected with the removal of a child from a family at social risk was submitted to the UN Human Rights Committee.²²

²⁰ <http://news.tut.by/society/500695.html>

²¹ Her Rights Center database of requests for assistance

²² <http://www.gorod212.by/article/1251934>

CONCLUSIONS AND RECOMMENDATIONS

The fact that Belarus lacks a comprehensive anti-discrimination law and a special law on the equality of men and women makes it extremely difficult to combat gender discrimination.

There is virtually no judicial practice protecting women from discrimination. Even though Belarusian law contains a number of anti-discrimination articles, there is a discrepancy between rights enshrined in the law and their practical implementation. Paradoxically, “protective” norms frequently become additional barriers for women seeking jobs. Overall, workplace discrimination against women continues to be one of the most difficult forms of discrimination to prove: judges are not familiar with the concepts of gender discrimination, gender violence, and sexual harassment, and some forms of sexual advances are considered normal and viewed as a form of attention and flirting. Employers can backdate documents, falsify data, and threaten other workers for any evidence. This is why it is difficult for women to stand up for their rights and bring a case to court to prove instances of labor discrimination.

An anti-discrimination law must be passed that contains a clear definition of gender discrimination and envisages additional mechanisms for protection from discrimination and liability for gender discrimination. Also needed are separate laws asserting the equality of men and women, equal pay, and equal opportunities for professional fulfillment and careers.

The list of professions prohibited to women must be revoked in full and removed from use. The creation of work conditions that are not hazardous to a woman’s health can only be welcomed, but women also cannot be denied the opportunity to work in certain specializations because the work poses “a hazard to a woman’s reproductive health,” and women must be able to freely choose their professions and careers alongside men. Restrictions connected with the gender of applicants to institutions of higher learning (including military, police, and others), different quotas for men and women admitted to these institutions, different requirements for entrance exams, different terms of payment, and different opportunities for future employment in specializations must all be abolished.

Norms relating to the protection of the rights of parents to young children must be reviewed, extended to fathers, and made attractive to men so that caring for a child ceases to be a purely female matter. Employers must be barred from asking questions about a woman’s marital status, pregnancy, children, or plans to have children during the hiring process.

The law must also clearly and unequivocally define the concept of sexual harassment, ban sexual harassment, punish guilty parties, and provide for compensation for the victim’s suffering. Guarantees protecting the rights of victims from sexual harassment at work and from the risk of dismissal and material losses connected with complaints about managers’ behavior must be introduced. Judges and law enforcement agencies must be trained in methods for reviewing lawsuits and complaints in cases of sexual violence, harassment, and abuse.

Additional measures must be taken to protect the property rights of women whose relationships with their partner and the father of their children was never officially registered, a mechanism must be developed to prove the maintenance of a joint household, and the concept of joint responsibility for children and their support must be introduced.

It is important to promote legal education for women and give them the knowledge they need about their rights and opportunities for legal protection. There must be an action plan to counter the proliferation of sexist and patriarchal stereotypes in the media, advertising, and the statements of politicians and officials. When developing this action plan, the expert opinions of activists from the women’s movement and human rights defenders must be taking into consideration.

The practices of deeming a family at social risk and (or) removing children from their mothers on the basis of token criteria must end. Each specific situation must be carefully and comprehensively studied, and an individual approach must be taken to investigating each family. The government may remove a child from its home only as an extreme measure to protect the rights and interests of the child in exceptional circumstances and only in accordance with a court verdict. Moreover, before making such a decision, the state must take all possible measures and use all the means and mechanisms at its disposal to change the situation in the family.

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