

Sexualized violence against women and girls with disabilities in Central Asia

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Aims and methods

- The aim of the study is to explore legal and other barriers to access to justice for victims of sexualized violence against women and girls with disabilities in Central Asia.
- Three countries were studied – Kazakhstan, Kyrgyzstan and Uzbekistan.
- Methods
 - desk reviews of number of judicial cases,
 - review of the secondary literature (reports, studies, etc.),
 - interviews (with victims, experts, lawyers and people from law enforcement and judiciary) which were conducted in all three countries.

- Rape with threat of force - my brother took advantage of the situation when no one was home and when my parents went to work. My brother always threatened me that he would beat me if I told anyone that he was raping me (victim, UZ)
- People with disabilities are generally unaware of their rights and responsibilities, which exacerbates their socialization and integration problems. At the same time, women and girls with disabilities are subject to disproportionately higher levels of discrimination. Women and girls with disabilities are more likely to be subjected to psychological and sexual violence both within and outside the family, and they have less access to education, employment, and socialization in everyday life (advocate, KZ)
- She understands and answers, only she had paralysis, I think. But first of all, how can I say, well, this is my opinion, as the lawyer noted, but first of all, she was not worried about her health, but about money, so that they would pay compensation, because she had no parents or relatives. She rented an apartment, especially since she had psychological trauma after all. Somehow, she was worried about money. And it was very terrible when she was raped for twelve hours. One person raped or a group? One. One person...Yes. And especially an acquaintance. (advocate, KG)

Kazakhstan

- Vague formulations of definitions of crimes related to sexualized violence;
- Law enforcement agencies and courts perceive violence only as physical. Threats of psychological and economic violence are never taken into account, the concept of "consent to sex" is still not considered in criminal cases, "she wanted it herself, and the investigator, prosecutor, judge are not concerned about the fact that they have a person with a disability in front of them, i.e. with deviations, including mental ones;
- Many norms of criminal law are completely transferred from old Soviet legal norms and violate modern constitutional human rights, including in relation to women and girls with disabilities;
- The absence of classifying certain violent acts as crimes;
- As a consequence of discrimination against women and girls with disabilities at various levels in general, as well as in combination with other forms of social isolation/vulnerability;
- There are no universal statistics on the prevalence of violence against women and girls with disabilities, but global, regional and national studies indicate that violence against women is horrifyingly widespread;
- Decriminalization of crimes in the domestic sphere.

Kyrgyzstan

- Improving the skills of law enforcement officers, investigators, prosecutors and judges in working with persons with disabilities;
- Developing and implementing specialized training programs and methodological materials for professionals
- Providing psychological and legal support to victims of sexualized violence with disabilities;
- Developing and adopting specific legislation that takes into account the rights and needs of women and girls with disabilities
- Raising public awareness and combating stigma regarding disability and sexualized violence through educational campaigns and information programs
- Providing communication tools: introducing technologies and services, such as sign language interpreters and specialized equipment for the visually and hearing impaired, to facilitate the process of communication.
- Reforming legislation: adopting and implementing laws that clearly define the rights and protections for victims of sexualized violence, taking into account disability.
- Violence prevention: Implementing education and prevention programs to prevent violence, especially among vulnerable groups.

Uzbekistan

- The definition of rape is based on the use or threat of violence, and not on the lack of consent.
- Lack of awareness and information among women, especially women and girls with disabilities, about all forms of gender-based violence against women and girls, including domestic and sexual violence.
- The private-public nature of criminal prosecution as an obstacle to access to justice (the criminal procedure legislation of the Republic of Uzbekistan does not specify the types of criminal prosecution, but in legal literature it is divided into types).
- In practice, priority is given to reconciliation, not criminal proceedings. Also, responsible police officers dissuade victims from filing complaints.
- Society does not encourage women and girls to contact law enforcement agencies with complaints of gender violence.
- The burden of proof is difficult for plaintiffs.
- Difficulty in accessing forensic examination.
- The need to constantly continue to improve the qualifications of judges, prosecutors, and other law enforcement officers regarding investigation and interrogation methods that take into account gender specifics and the special needs of disabled women.

Overall findings

- All countries have signed relevant international agreements that aim to protect from sexualized violence. There are also laws adopted regarding domestic violence. The legislation in many cases also considers assault against women with disabilities (WwDs), as an aggravating circumstance where active sexual consent is problematic in many cases.
- There are various barriers related to the legislative framework in all countries which do not distinguish sexualized violence against WwDs from other cases of such violence. The disability-neutral legislation may potentially discriminate against special needs of women with disabilities.
- There are procedural issues which complicate access to justice by WwDs. Advocates often complain about the quality of forensic expertise, especially forensic psychiatric expertise. Often courts even deny conducting expertise. The possibility of reconciliation of parties embedded in the criminal laws impedes access to justice (due to social pressure, etc). In some cases good advances are made in legislation to make it impossible to stop the case even if at the victim's request. Judges and prosecutors may tend to take the perpetrator's side due to missed deadlines to file claims and the victim's disability status.
- Also, it is good when there is a possibility (and good use of it by attorneys) of deposition of testimony in order to avoid painful multiple testimonies during all processes. For WwDs this is not only morally depressing, but also difficult due to their physical status. There is a need to improve the effectiveness of work of bailiffs in order to follow up on the court's decisions (about compensations, etc.)
- There are social and technical issues complicating access to justice by victims with disabilities – for example, difficulties with obtaining documents such as power of attorney for advocates. There are also often financial hardships experienced by victims and their families. Some, even minor, costs associated with investigation and trial processes are high for them. There is also social pressure not to expose life of women with disabilities to the public, especially cases with the sexualized violence.
- There are significant technical barriers disabling access to justice due to the lack of accessible court rooms, translators, special assistants, special prints, etc. There is also limited possibilities for victims to have with women from law enforcement to work on their cases. Often the need to provide psychological assistance was raised in interviews, which is especially when there are cases with mental disability involved.

Recommendations

- Increase the skills of lawyers and organizations providing free legal aid in working with women and girls with disabilities who have experienced sexualized violence, or any type of violence and where legal advice is needed; improve the collection of disaggregated data taking into account the interests of persons with disabilities;
- Involve NGOs providing assistance to women or all other vulnerable groups of the population, directly accompany women victims with disabilities at all stages of the criminal process within the framework of the law, and create good practices and reporting on this issue; build their capacity with a focus on gender specifics and the special needs of women with disabilities;
- Develop and implement measures to ensure unconditional and unimpeded access of persons, women with disabilities, victims of sexualized violence, to justice and receiving full protection in accordance with the law, so that criminals do not remain unnoticed, especially for girls and women with mental disabilities;
- Develop and introduce special procedural guarantees aimed at protecting women with disabilities, victims of sexualized violence during pre-trial and trial proceedings