



VIOLATIONS OF THE RIGHTS OF PEOPLE LIVING WITH HIV AND REPRESENTATIVES OF KEY GROUPS IN **TAJIKISTAN**

Evidences gathered through
the REAct tool during 2020

ABOUT REACT

REAct (Rights – Evidence – Action) is a tool that was developed by Frontline AIDS (Great Britain) for monitoring and response to human rights violations at communities level.

In Eastern Europe and Central Asia region, REAct system is implemented by ICF “Alliance for Public Health” as part of the regional project #SoS_project with financial support of the Global Fund to Fight AIDS, Tuberculosis and Malaria.

REAct enables organizations to record and respond to human rights barriers in accessing HIV prevention and treatment.

In Tajikistan, the implementation of the REAct system is provided by the NGO “SPIN Plus” as sub-recipient of #SoS_project.

The cases are documented by 7 partner organizations working with key groups.



165

APPEALS FOR 2020

8

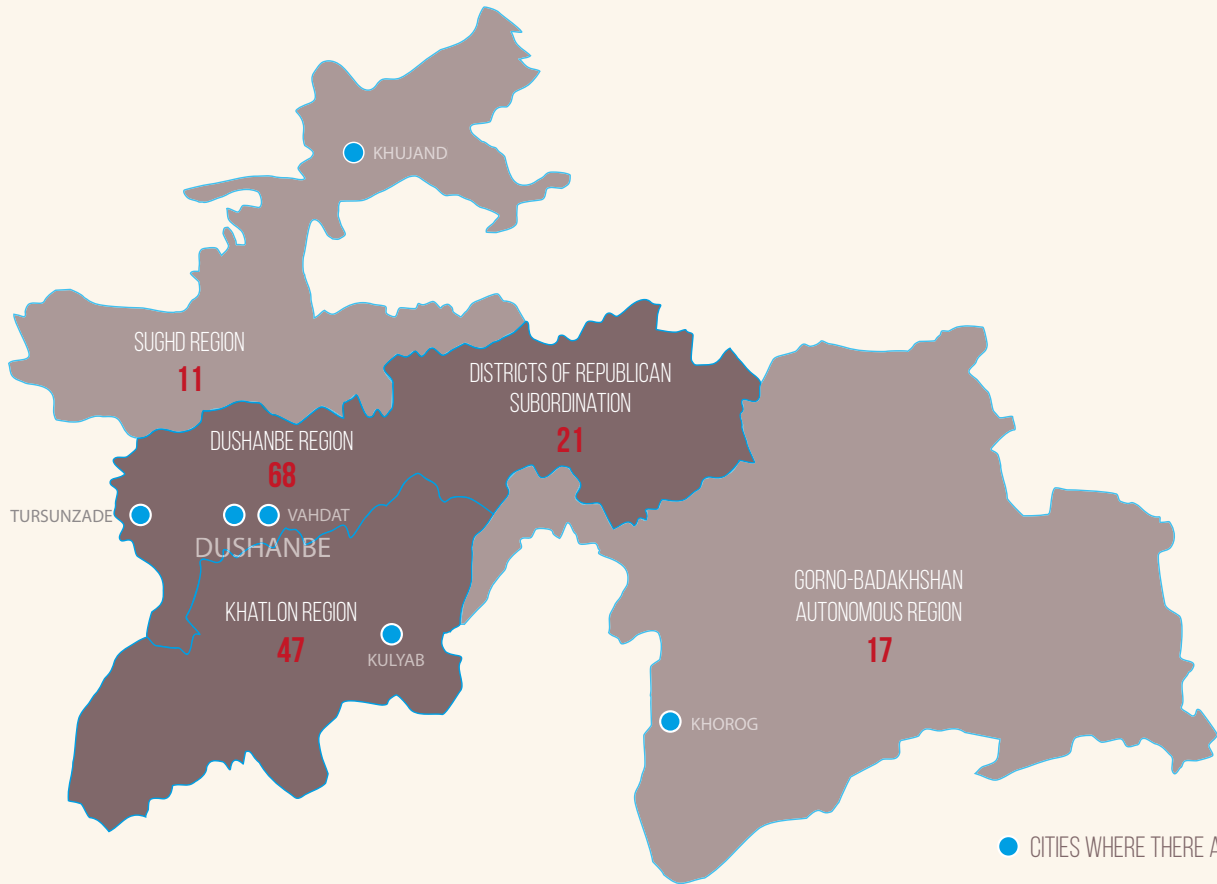
ORGANIZATIONS FROM COMMUNITIES

7

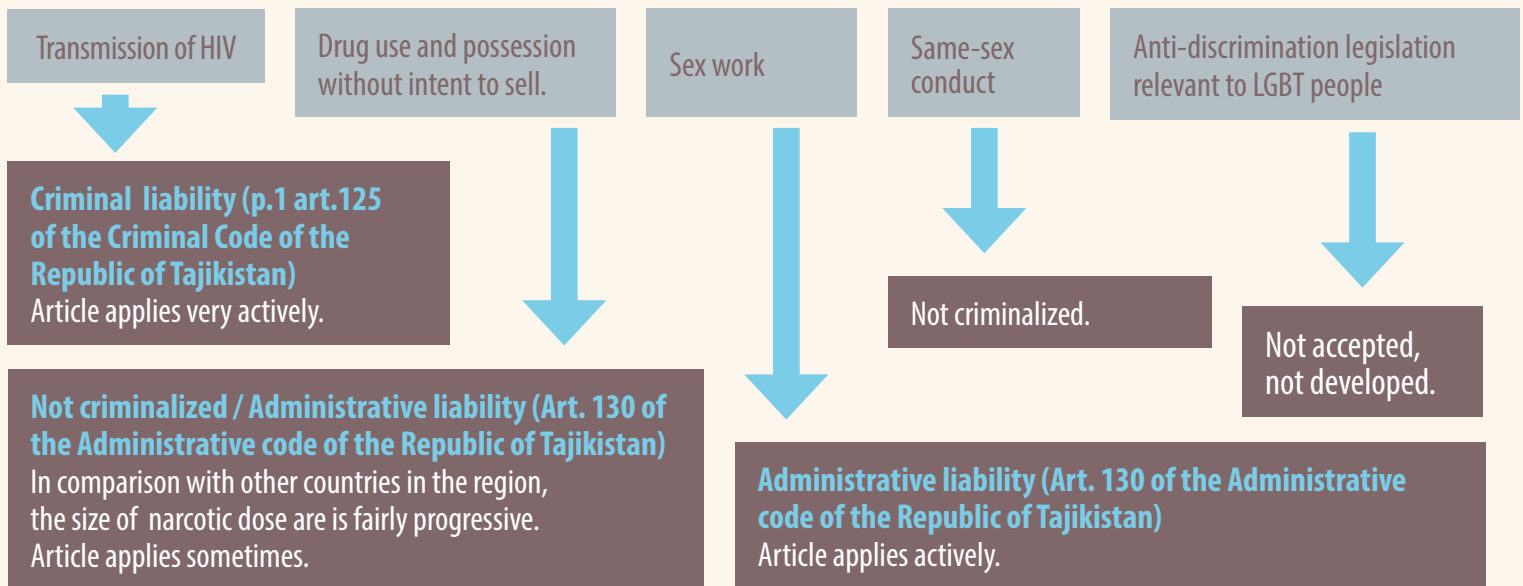
REACTORS (DOCUMENTATORS)

6

CITIES WHERE THERE ARE REACTORS



LEGAL ENVIRONMENT



Tajikistan is a country with a high degree of stigma and criminalization of key population groups. People living with HIV are often prosecuted with widespread formulation “knowingly exposing another person to the danger of contracting HIV infection” under which even intimate relations with the use of condoms are covered and the defendant

may have an undetectable viral load. Despite the fact that sex work and narcotic drug use / possession without the purpose of

marketing are an administrative offense and the size of narcotic dose is fairly progressive in the region – both drug users and sex workers are persecuted by law enforcement agencies as potential perpetrators under article 125 p .1 of the criminal code of the Republic of Tajikistan.

There are currently no significant reforms aimed at softening these criminalizing laws (particularly article 125 p .1 of the Criminal Code of the Republic of Tajikistan

CLIENTS

165

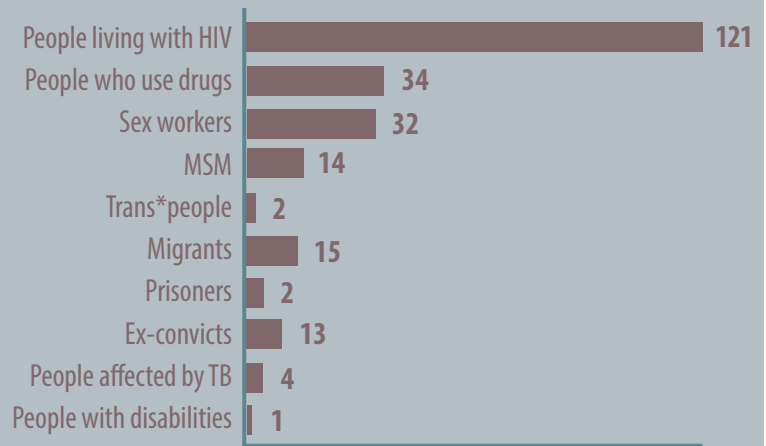
representatives of key groups sought the assistance of the REActors In 2020 with regard to violations of their rights.

Often, clients are simultaneously representatives of several key groups (sex worker + PLHIV, PLHIV + PWID), therefore the sum of values for key groups will exceed the total number of registered clients (165).

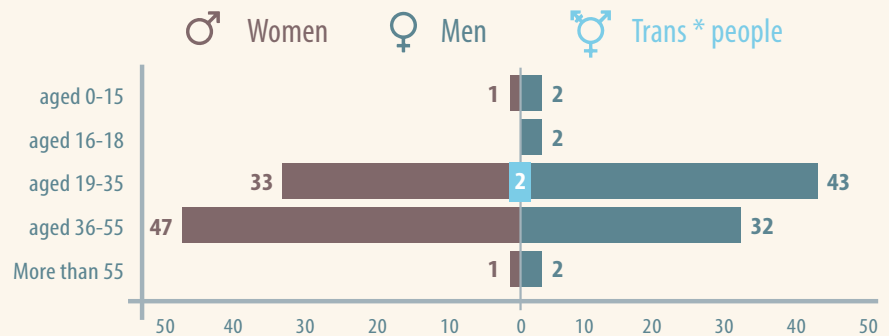
Clients from key groups ("migrants," "prisoners," "ex-convicts," "people affected by tuberculosis," "people with disabilities") are at the same time representatives of the main 4 key groups, therefore these cases are taken into account in statistics of main groups considering violations in cases often covered specifically HIV status, drug use, sex work or sexual orientation.

NUMBER OF CLIENTS

For each key group



GENDER – AGE STRUCTURE



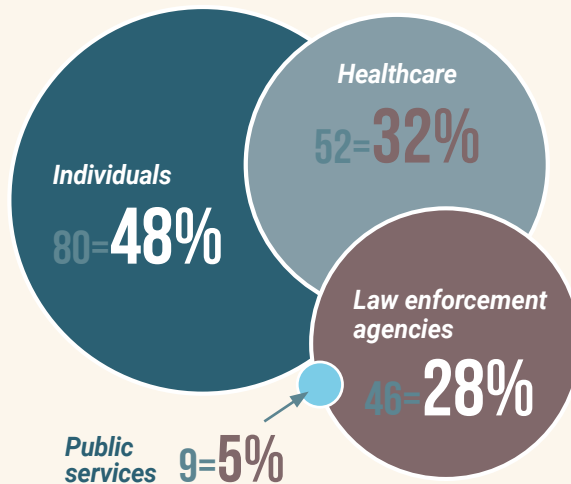
ALL KEY GROUPS

MAIN PERPETRATORS

Number of cases and their proportion of all cases registered

NOTE:

in one case, may be several types of violation at the same time, for violence by intimate partner statements. That's why, up to more than 100%.



Individuals: sex partner, family members, neighbours, clients of the sex worker, employer, passersby on the street, unknowns

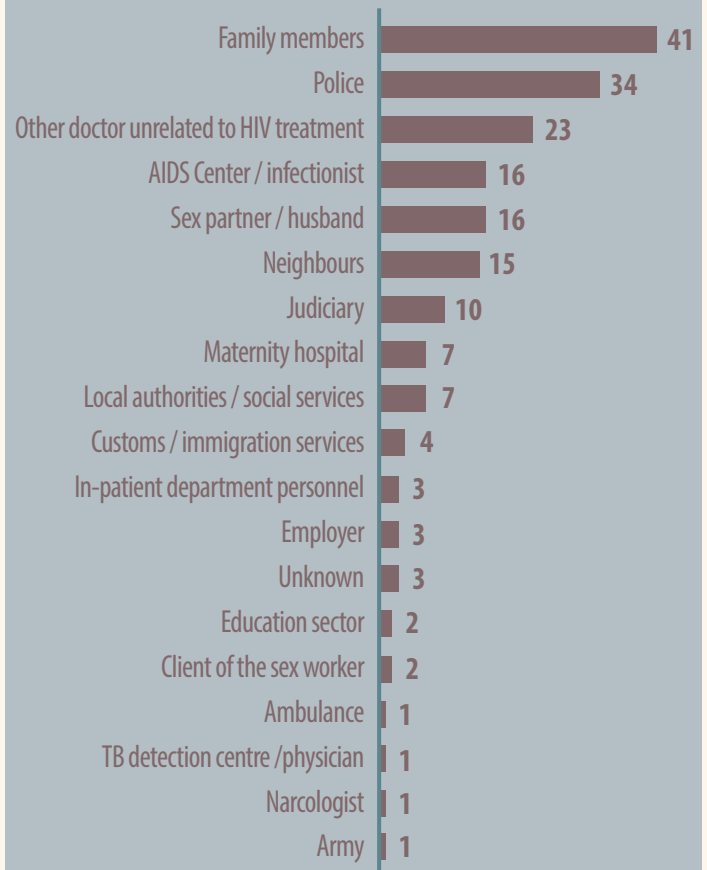
Healthcare: doctors / institutions that specialize in HIV (infection disease doctors, laboratory staff), other doctor unrelated to HIV treatment (dentist, gynecologist, etc.), maternity hospital staff, in-patient department personnel, narcologists and OST site staff.

Law enforcement agencies: detectives, police officers, military commissariat employees, customs / migration service officers, representatives of the judicial system (judges, prosecutors, public defenders)

Public services: education sector, staff of the civil registry office, social services, tutorship and guardianship authorities.

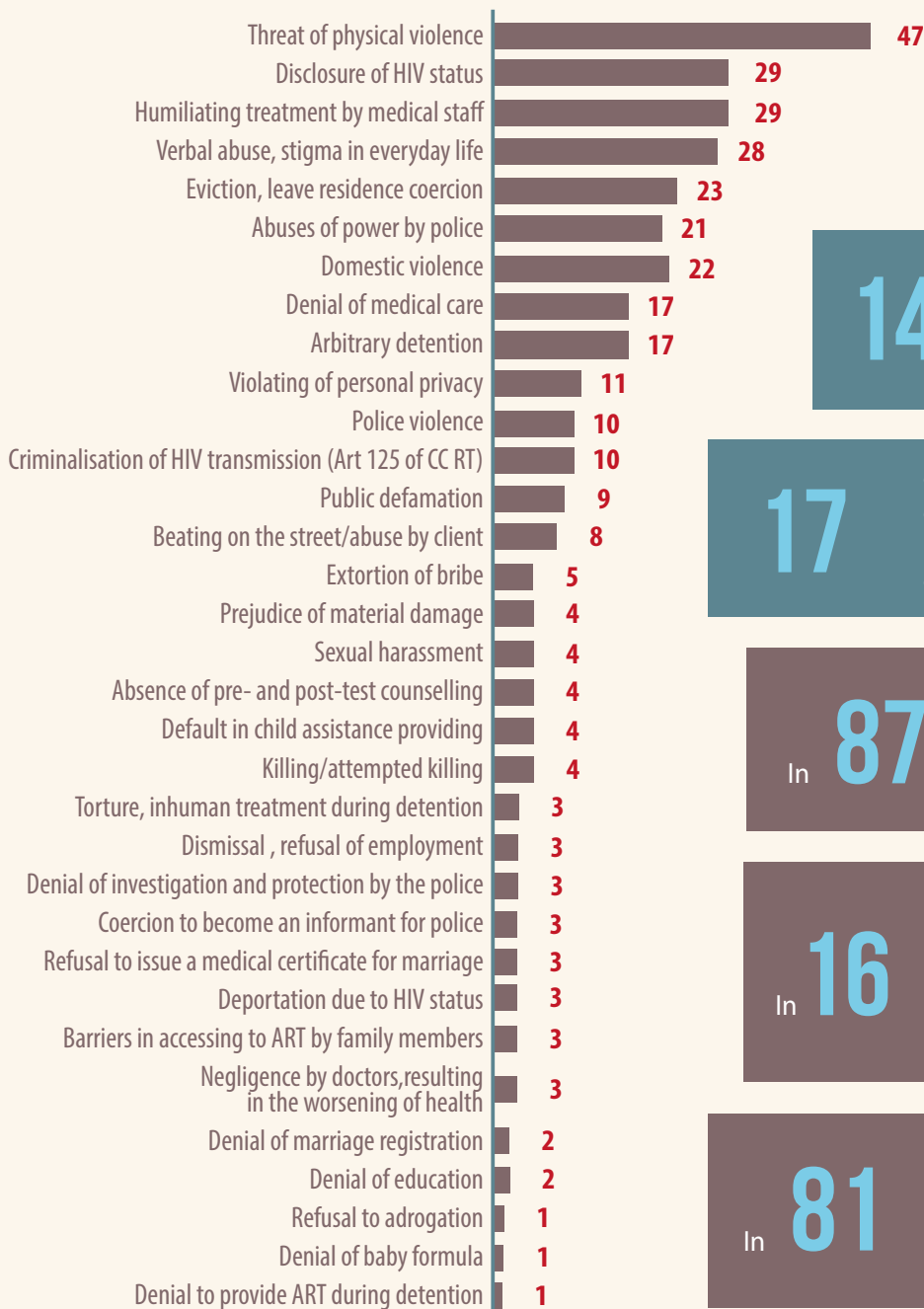
ALL PERPETRATORS OF VIOLATIONS

Number of registered cases for all key groups



ALL TYPES OF VIOLATIONS

Number of cases in total of all key groups



165

statements were registered during 2020

148 (90%)

statements were qualified as a violation of human rights

17

cases do not have evidence of discrimination and violation of rights but fix the need for legal advice of clients on trivial matters

In 87

cases, state representatives directly violate human rights (government employees are responsible for incident)

In 16

cases, law enforcement agencies failed to protect human rights after relevant statements or the victim did not apply for assistance due to fear or lack of trust in law enforcement bodies

In 81

cases, manifestations of stigma, abuse and violence as a result of ineffectiveness of anti-discrimination laws and promoting by State are documented

PEOPLE LIVING WITH HIV

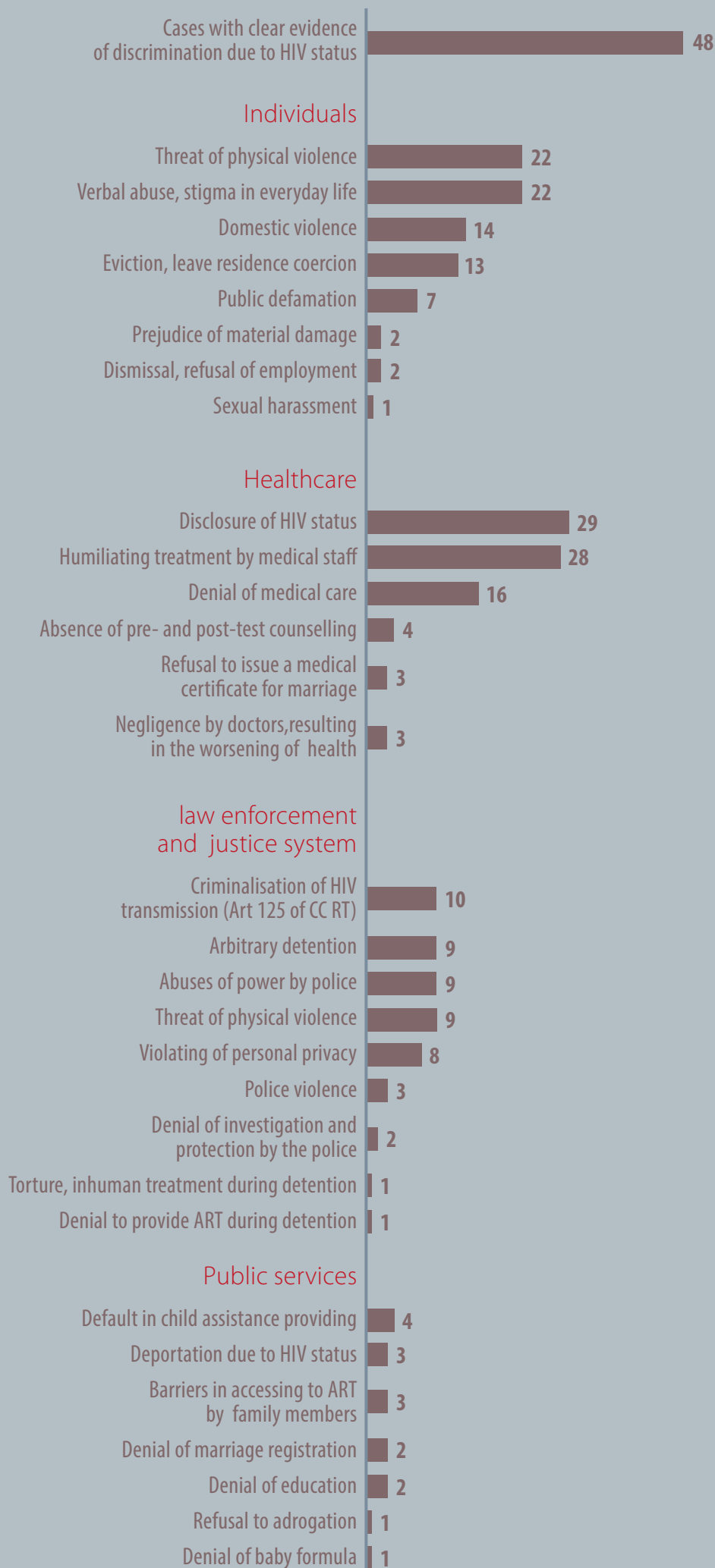
From all 121 cases in this key group, 49 cases have **clear evidence of discrimination namely due to HIV status** which is reflected in **refusal of employment, in provision of health-care services, in registration of tutorship of a child or in marriage**. The presence of HIV infection in one of partners is direct barrier to **marriage**. The disclosure of a positive status to family members often entailed the prohibition of marriage by their part against the wishes of the couple.

PERPETRATOR OF VIOLATIONS

Number of cases for each violator



TYPES OF VIOLATIONS



The most of all violations of the rights of people living with HIV were documented on the part of their **family members, spouses and neighbours**. PLHIV are subjected to **the deepest stigma and verbal abuse in everyday life** and domestic violence. There have been documented cases when family members, cohabitants do not allow **PLHIV** to eat with them at the same table, use common dishes or even kicked out of the house. However, when reactors offer to WLHIV affected by domestic violence assistance in writing a statement to the police against the abuser, WLHIV most often refuse to take further actions **due to fear or lack of trust in law enforcement bodies** even if the victim wrote the statement, no adequate actions have been taken **by the police**. Such cases demonstrate the lack of effective mechanism in the state to protect the rights of its citizens.

In the documented cases of the **criminalization of HIV transmission**, the national REAct coordinator in Tajikistan, as a professional lawyer, tried to defend before a court PLHIV who were wrongly accused. However, for the whole year, no court case has been decided in favor of our clients. PLHIV were sentenced to prison terms ranging from 3 to 5 years. Pre-trial investigations in such cases are often accompanied by a multitude of violations of rights by law enforcement agencies in the form of **threats, pressure, use of physical force, abuse of power, arbitrary detentions and violating of personal privacy of the client**.

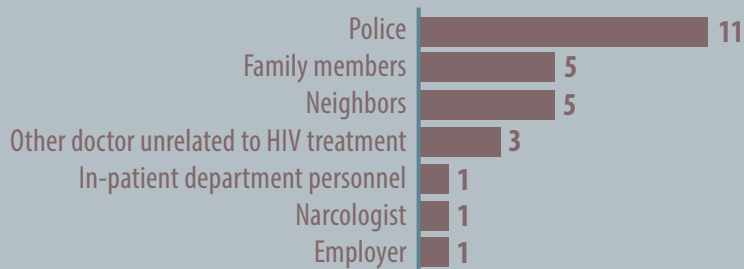
On the part of physicians, as well as paramedical personnel, there are degrading treatment, verbal abuse towards PLHIV, especially when they receive free (preferential) medical services. Patient's HIV status is often communicated to other public health care workers and may even be **publicly disclosed** to anyone in the waiting room. Pregnant WLHIV were complaining about disregard and **negligence of doctors in childbirth**. It happens during diagnostics for pregnant women and HIV testing, **pregnant women do not receive high-quality post-test counseling** which entails denying their HIV status and ART refusing.

It has also documented the cases when **family members were prevented to obtain accessing to ART** for their HIV-positive family member due to popular myths about HIV, failure to status understand and fear.

PEOPLE WHO INJECT DRUGS

PERPETRATOR OF VIOLATIONS

Number of cases for each violator

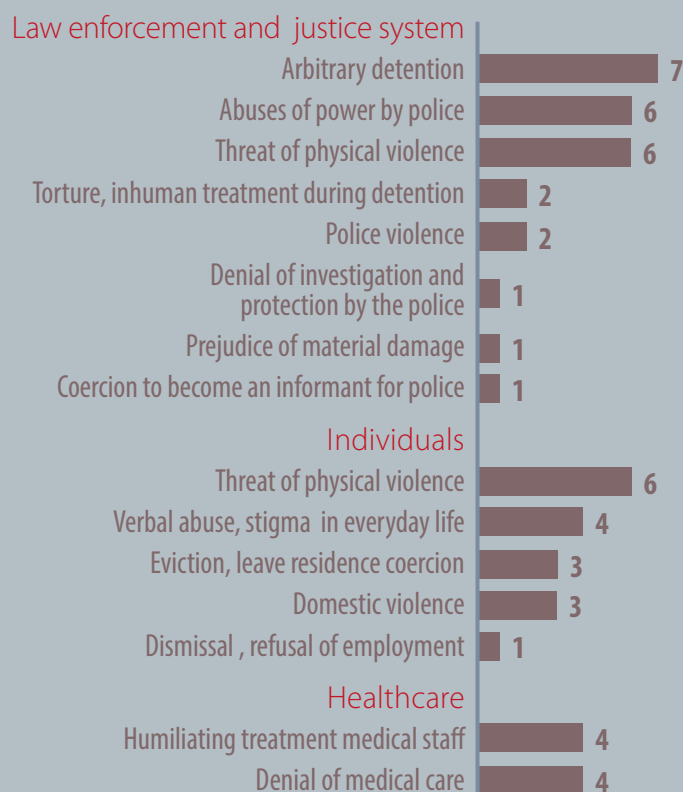


33 cases were documented where the victim is, among other things, a drug user. 66% of them also have a positive HIV status and 21% are the members of the opioid substitution therapy (OST) program.

Often, it is the OST site that is the "hunting site" for policemen. It is known about 6 cases of **detention of patients on the way out of the site**. Site visitors have been blacklisted as potential perpetrators and are often **charged with crimes they did not commit**. In this way, law enforcement officers are trying to increase clearance rate in their department.

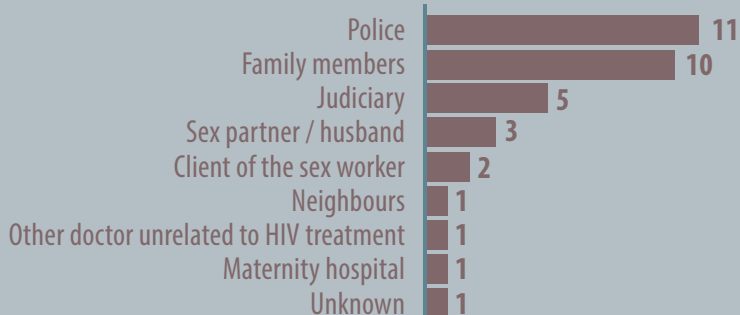
People who use drugs are often vulnerable to all forms of **stigma and violence from family members and neighbors due to their dependence**. Because the family members kicked PWID out of the house, they end up on the streets even closer to street drugs.

TYPES OF VIOLATIONS



SEX WORKERS

PERPETRATOR OF VIOLATIONS



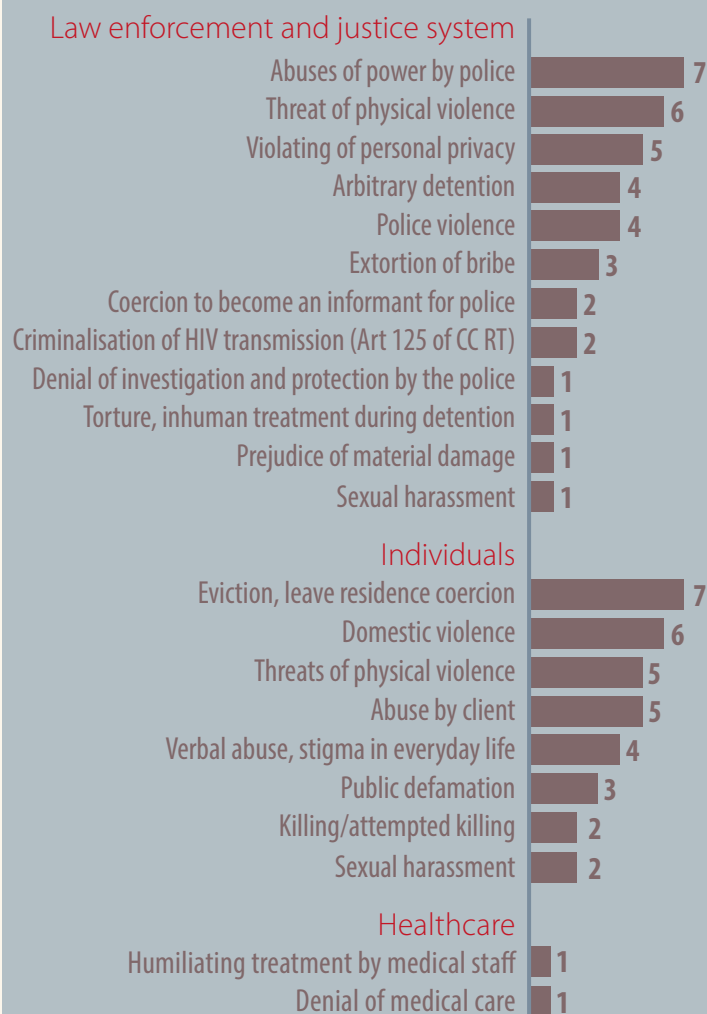
Out of a total of 32 sex workers who appealed to REAct, 30% also have a positive HIV status exacerbating their life situation and increased their vulnerability to violations of their rights. Persecution by the law enforcement authorities of sex workers often focused on criminalization of HIV transmission, rather than the sex work itself.

At the same time, police officers practice **raids on the apartments of sex workers** or detain them "on the road" without justification for extortion of bribe. Informal detentions are accompanied by **horri-fication, threats and use of force by police officers**. In addition to extortion of bribe, police officers also force sex workers to **become an informant for police and to dime their clients out**.

Sex workers, in their occupations, are particularly **vulnerable to domestic violence, stigma from family members and abuse by clients**. In each such case, REActors offered girl to apply with statement to the police but the victims did not often agree to further solve the case due to mistrust of the representatives of law enforcement agencies.

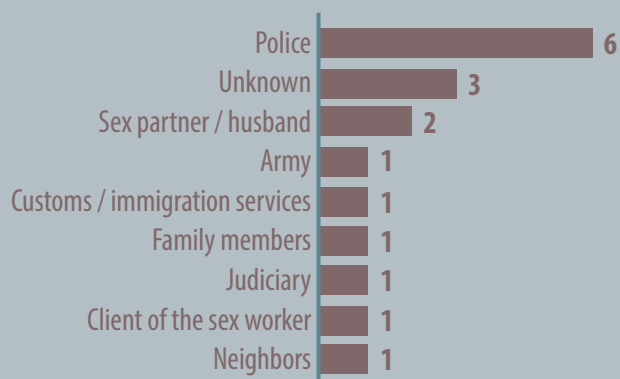
Also, it should be noted that 2 cases were documented in which after the statement to the police, the investigation ended with the punishment of the perpetrator and compensation for damage of the victim.

TYPES OF VIOLATIONS



MSM AND TRANS * PEOPLE

PERPETRATOR OF VIOLATIONS



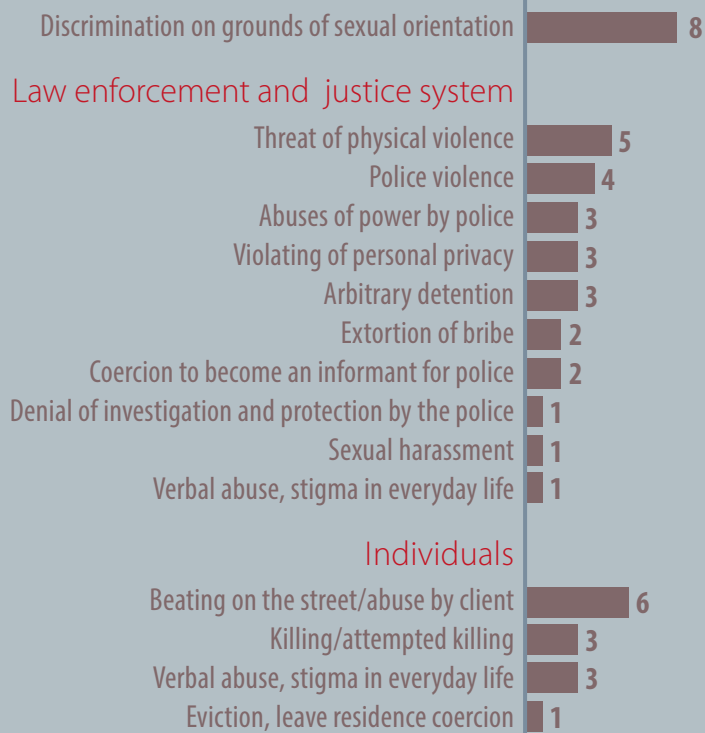
Of the 16 cases, 9 were directly related to discrimination on grounds of sexual orientation or gender identity.

Out of a total of 16 clients in the group of MSM and trans*people – 40% are also sex workers, therefore more than half of the cases were related to sex services providing and only a part of the cases related to belonging to the LGBT community.

At the same time, there are **persecution of homosexual couples, arbitrary detention, abuse, use of force by law enforcement agencies**, as well as **blackmail to extort a bribe** or coercion to become an informant and provide information on their clients.

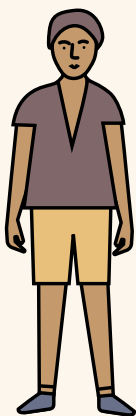
In everyday life, representatives of LGBT community suffer repeated verbal abuse in their direction, as well as **hate-motivated violence**

TYPES OF VIOLATIONS



(which includes **attempted killing**) by passers-by, cafe / club visitors, neighbors, family members or clients. In one case of violence, the victim applied with statement to the police but **investigation has not been done.**

EXAMPLES OF CASES



PLHIV, viral load – undetectable, 44 years old, December 2020

The woman has been living with HIV status for a long time. In December 2020, she was called to the Department of MIA of the city ***. She went and at the entrance they began to ask her where she got this disease, who she infected, and let her write an explanatory. She refused to write an explanatory and sign any documents. After interrogating, they let her out. Next **week, the officers of the Department of MIA took all the woman's phone numbers** from the mobile operator and started calling all her friends and family members, **demanding that they pass HIV tests**. As a result, everyone went to get tested for HIV, they all have negative results. **But family members and friends started to avoid her at all costs and to stigmatize.**

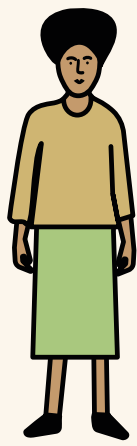
Solution: the national REAct coordinator (a professional lawyer) proposed to make a statement to the highest State body against illegal actions by police officers, as well as illegal disclosure of information by the mobile company ***. But, unfortunately, PLHIV did not agree to apply to the law enforcement bodies due to fear.

PLHIV, pregnant, 20 years old, January 2020

Pregnant with her first child, she passed all the tests to be registered. She **was found to be HIV-positive**. In the last month of pregnancy, she had critical condition of health. She was sent to maternity hospital. At the maternity hospital in the city of ***, she was initially rejected. **Neither of medical personnel did not go to her. She started hemorrhaging.** The mother-in-law immediately made a call to NGO where she worked as volunteer. The director of the organization called the maternity hospital that they receive the woman. She was received but placed in a separate room and all employees were forbidden to visit her. Everyone avoided her, even **forbidding her to go into the maternity hospital hallway, to hold the stair railings**. She was warned that when **visiting the toilet, she should thoroughly wash everything** after herself. She wanted to attempt a natural childbirth but she was forced to perform the c-section.

Solution: client did not want to write a complaint because everything ended well, the child was born healthy. REActor gave enlightening talk with maternity hospital chief physician about the unacceptable behavior of the medical





Sex worker, trans*girl, 20 years old,

December 2020

She received client who found her in the ad. He turned out to be a police officer, presented himself and showed his ID. He said that she should go with him to the office. There was a car waiting for them downstairs and another **police officer** was inside. But she was not taken to the office but to a sparsely populated place. Where they began to beat her, **abuse her belonging to trans people**, etc. Thereafter, **they** began **filming her** and forced to say that some illegal pills had been found in her apartment. during the filming, **she held these pills in hand**. as a result, she was forced to collaborate with the police and released.

Two boys, gays, 21 years old,

November 2020

Law enforcement officers look **two boys-gays** on the street and approach them. They show their official identification documents and offer to **go to the police department** to verify their identity. In the department, **they're taking their phones, call the family members** of one of them and say: "Did you know that your nephew dates men? Aren't you ashamed of yourself? Such a shame!" They are also accused of allegedly disobeying police officers during the confirmation of their identity. **They are forced to pay a fine** and released.

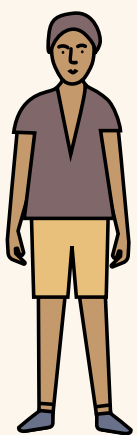
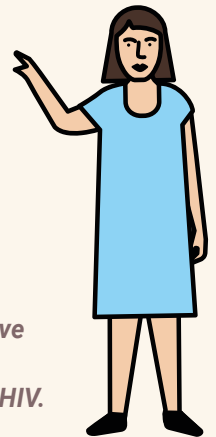


Solution: clients do not want to write a complaint because they don't want to make public disclosures their orientation. They were provided with consultations about their rights and in repeated cases of this situation, it is recommended to contact REActor immediately.

Sexual partner of PWID, working emigrant in Russia, 30 years old, August 2020

A complaint was made by a young girl against the staff of the **AIDS Centre**. Her sexual partner (PWID) was diagnosed with HIV infection during the **epidemiological investigation**, the AIDS Center staff tried to somehow take a sample of the girl's blood for research. Under pretext that all migrants who returned from migration should give blood for analysis, they **came to the girl's house and took blood** from vein. The girl was not diagnosed with HIV. After some time, she heard from her **neighbors**: "You had a visit from the AIDS center and you're probably HIV-positive. As the result, the neighbor's attitude toward her got really bad and people began to keep away from her.

Solution: we turned to the Director of the AIDS Center and he admitted that his staff should have given a pre-test consultation and then the girl would voluntarily pass all the tests but not take her blood by trickery. We gave enlightening talk with employees, they apologized. During the month of August, together with the staff of the AIDS center, we held 8 meetings in the mahalla (district) where the girl lived, in order to educate people about HIV. There has been an improvement in the girl's relationship with the makhalla residents and her neighbours.



PLHIV, woman, 24 years old,

July 2020

When the client went **with appointment card from the AIDS Center** to the tuberculosis dispensary to take an X-ray, she faced discrimination. The doctor, after seeing from where is the appointment card, began to look with disdain and then, forcefully holding client hand, escorted her out the door and in front of all the people **said in a loud voice that they will receive HIV patients in the afternoon**. In her opinion, normal people should pass first and then people with HIV-least of all.

Solution: We gave enlightening talk with tuberculosis dispensary chief physician. The doctor who committed the act of discrimination was reprimanded.

PLHIV, man, 42 years old, May 2020

In the middle of the month, he was ill for several days and one day, his **temperature went up**. He went to the district doctor, was medically examined and received an appointment for treatment. When he returned to the hostel, **all the residents had already gathered** at the entrance **of hostel**. And one of the neighbors began to mess over, **scream at him to move out of here**. They shut the door of hostel to him They began to abuse him, to say in a loud voice, that **"it's not enough that you're HIV-positive but you also have coronavirus disease, you shouldn't be here and live. There are children and old people here, we have a weakened immune system and you will infect us."** They didn't open for him, he tried to open the door but he couldn't do it.

Solution: we called the commandant of the hostel, asked to gather all the residents in order to calm them down. We called the doctor, he announced to everyone that PLHIV did not have a coronavirus but a common cold. We gave enlightening talk on HIV to reduce the stigma towards PLHIV.



PWID, members of OST program, 32 years old, January 2020

Just **in front of the OST site**, without showing their ID and without explaining why, he and his brother were **detained by the police officers**. After being held in the city police department

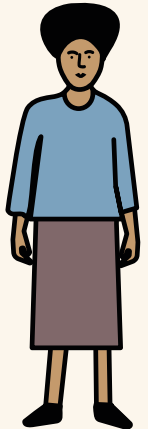


for 4-5 hours, discriminated and yelled at in every possible way, they were told that somewhere there was a theft because of this, they say, you were detained. They took their fingerprints and then changed their version citing the fact that he and his brother had a bigger **beard than allowed**. Due to the fact that they are drug users, they do that to them right in front of OST site, they are captured and taken to the police department.

Solution: client was given advice about how to protect his rights during detention. He refused further proceedings due to fear.

Sex worker, 22 years old, January 2020

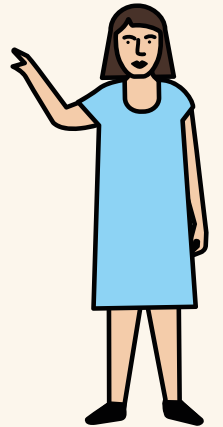
She was standing on the road, car pulled up, she thought – clients but **three policemen got out** of the car and approached her, and asked her why she was standing. She said that she was waiting for bus. And they said that it looks like, she was a prostitute and if she didn't like something, they'll take her to **the department and there will be another way to talk**. She got scared, then one told his colleagues do not scare her. And he told her that if she doesn't want trouble, then he can settle everything if she **pays them 100 soms for each**. She had 200 soms, she could hide 50 and gave him the remaining 150, they left.



Solution: client refused to write a complaint because she fears for her safety.

Trans*girl, 22 years old, December 2020

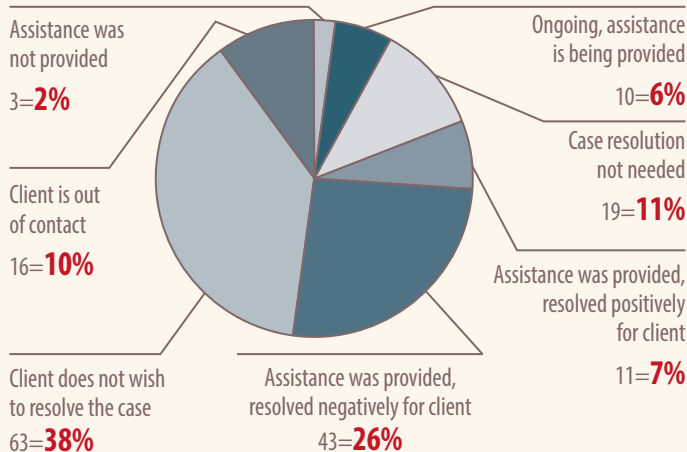
Transgender woman who flew from Moscow to Dushanbe was stigmatized and discriminated in Dushanbe airport by customs control officers due to her appearance and gender identity. Once she approaches the customs control point and presents her passport, the customs officer immediately starts asking who she is – a man or a woman. She responded that she is transgender woman. Then he begins to speak swear words. He uses the words "are you gay**rd, are you not afraid for God, you saw yourself in the mirror, your place is in hell". Then he calls another employee who comes and laughs at her. After all, he puts a stamp in the passport and says to go away.



Solution: beneficiary contacted REActor and told about situation. He offered to write complaint but she refused because she just wanted to know do they have the right to treat transgender women in this way and what to do in these cases.

RESPONSE TO VIOLATIONS

RESOLUTION STATUS OF THE CASE



Primary legal aid by REActors consists of legal advice and assistance in the preparation of complaints or statements. However, both the victims and REActors themselves (also being representatives of vulnerable groups) scared to work once again in coordination with police officers due to negative experiences with them in the past, as well as due to fear for their safety.

First of all, **legal support** of the case by REActor is to arbitrate between the victim and the perpetrator. In this way, most cases are resolved where the perpetrator is a medical professional, a representative of the education sector or other services, as well as neighbors and family members. REActors give enlightening talk with the perpetrator with a view to educating about HIV and reduce stigma. If client is ready to defend his rights or he needs the **protection of professional attorney** (cases on criminalization) then this client is redirected to a professional attorney from the Center for Human Rights.

Unfortunately, third of cases still remains without appropriate response because the **victims themselves agree to follow through with their cases** and refuse legal assistance from REActors or attorney due to fear of interaction with law enforcement agencies and lack of trust in justice system in general. Victims also prefer to tolerate systematic violation of their rights rather than disclose their HIV status, sexual orientation or belonging to key groups in the course of legal proceedings.

REActors document and resolve cases of rights violations and are paralegals, peer counselors, outreach workers in organizations that provide HIV prevention and treatment, as well as harm reduction services.

Medical and social assistance to the victim is provided in the form of consultations, redirection and escort to partner organizations or health facilities to receive other necessary services for prevention and treatment.

RECOMMENDATIONS FOR NATIONAL AUTHORITIES ON FULFILLMENT OF THEIR RESPONSIBILITIES IN HUMAN RIGHTS FIELD

1. To implement the recommendation of the UN Committee on the Elimination of Discrimination against Women, decriminalize HIV transmission (art.125 of the Criminal Code) and repeal government decrees of September 25, 2018 and October 1, 2004 prohibiting HIV-infected women from obtaining a medical degree, adopting a child or being legal guardian.
2. To take into account and promote the recommendations of the UN human rights treaty bodies, to improve the situation of key groups, including the recommendations of the Human Rights Committee, the Committee on Economic, Social and Cultural Rights, the Committee against Torture, and the Committee on the Elimination of Discrimination against Women. In particular, based on the recommendations given to Tajikistan, it is possible to develop information sessions/booklets/materials for the Ombudsman's office, police, medical workers.
3. To include modules on the rights of key populations in training / retraining / continuing education programs for health workers in the structure of the medical ethics course, as well as in the structure of classes in deontology.
4. To promote dialogue with public health officials on how to improve the effectiveness of the HIV and TB treatment cascade by removing legal barriers to access to diagnosis, treatment and care for key populations.
5. To develop cooperation with major donors and programs on HIV and TB to incorporate REAct in the monitoring and evaluation system of the impact of violations / protection of the rights of key populations on health indicators.
1. To develop cooperation with government agencies to implement the results of REAct work in the process of reforming national legislation and law enforcement practice.

STRATEGIC STEPS IN THE FRAMEWORK OF REACT FOR 2021

Apart from documenting human rights violations and providing assistance to victims at the individual level, the following activities are planned:

- Presentation of data collected through the REAct system for high-level governmental representations, members of the Country Coordinating Mechanisms, representatives of the Ombudsman's office
- Trainings/webinars, distribution of information material with a view to raising awareness of key groups representatives about their rights and the most effective ways to protect them
- Engaging of professional attorneys to defend the rights of key groups representatives in courts and creating a pool of friendly attorneys through raising their awareness of the rights and needs of people living with HIV or vulnerable to HIV
- Training hub for REActors and paralegals with a view to increase their competence in the process of providing primary legal aid
- Integrate the cases collected in shadow reports to UN bodies in cooperation with regional networks of key groups representatives.
- Media coverage of strategic cases with a view to reducing stigma towards PLHIV and representatives of key groups.
- Ensuring financial stability and continuation of REAct component implementation once regional project # SoS_project has terminated its activities.

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More about REAct: www.react-aph.org

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