

KYRGYZSTAN, KAZAKHSTAN, TAJIKISTAN
The Human Dimension Implementation Meeting (HDIM) of OSCE
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On behalf of LGBTIQA organization Labrys, AlmatyQ and Equal opportunities

Thank you Madame Moderator,

I am presenting this Statement to highlight critical issues concerning the human rights of lesbian, gay, bisexual, transgender and intersex people in Kyrgyzstan, Kazakhstan and Tajikistan. I will focus on hate speech and crimes perpetrated against these groups by various state and non-state actors.

I welcome the statement of the Kyrgyz delegation for mentioning sexual orientation and gender identity in relation to hate crimes in session 12.

The three states are not taking any action to stop the on-going homophobic and transphobic hate speech by public officials. In fact, they are exacerbating the situation by introducing and publicly discussing the need to limit LGBTI people in exercising their constitutional rights to freedom of expression and freedom of assembly. "Anti-gay propaganda" draft-laws have been introduced in the Parliaments of KG and KZ. This legislative initiative can lead to a sharp increase in the level of violence towards LGBTI community. Already since the draft law was introduced to the public, the number of threats increased against LGBTI communities, and attacks became more cruel.

Currently, there are no regulations in the legal framework of Kyrgyzstan, Kazakhstan and Tajikistan that would ensure accountability for hate speech in relation to LGBTI communities. Kyrgyz and Kazakh Criminal Codes provide only responsibility for instigating «national, racial, religious or interregional hatred». In addition, the Criminal Codes of these states do not have a hate motive in relation to crimes committed against LGBTI citizens. Crimes clearly motivated by homophobia and transphobia are investigated and classified without taking this motive into account. Only ethnic or religious hatred is considered an aggravating circumstance in an article of the Criminal Code.

Cases based on hate crime and hate speech:

Kazakhstan: "In Ust-Kamenogorsk there is a group so-called "Occupy Pedophilyai" – similar to Russian neo-nazi group. Kazakstani "guardians of morality" provided a round-up of pedophiles in Ust-Kamenogorsk and Almaty but actually this was a cover for tortures of homosexuals. In 2013 activists of "Occupy Pedophilyai" in Almaty were arrested and accused not of crime but of hooliganism."

Kazakhstan: "The hate crime happened in Ust-Kamenogorsk in 2015 when two men killed their friend because he said that he was gay. The reason that the accused mentioned is drinking alcohol together from one glass. The court sentenced them by Crime Rule 99 – "murder committed with special cruelty group of persons by prior conspiracy of hooliganism".

Kyrgyzstan: *'On 17 May 2015 in Bishkek, representative of the movement "Kalys" and "Kyrk Choro" illegally broke into the event of the LGBT organization "Labrys", dedicated to the celebration of the International Day Against Homophobia and Transphobia. The crowd of aggressive men threatened and insulted the activists, one of the participants of the event received injuries. At 15:15 the attackers broke the lock on the gate and broke into the cafe. There was a scuffle. One of the girls participating was injured. LGBT activists called the police and asked the representatives of "Kalys" and "Kyrk Choro" to leave the territory, saying that their actions violate Kyrgyz legislation. The result was an agreement to continue talks outside the territory of the cafe – on the other side of gates. The attackers told the activists that they should stop the event, otherwise they will call more people and create a real threat to the security of all participants.*

When participants were taken as witnesses to the police station they were cramped into the police car, had their hands twisted and hair pulled. Labrys reports they spent more than 5 hours at the police station without access to medical aid, toilet, water or food. The police also demanded from several participants to reveal their genital in a search for transgender people. During the time of the stay at the police department police officers swore at and threatened the activists and refused them legal representation. Law enforcement officers showed the testimonies of the witnesses to the attackers, who attempted to note down personal information of the activists. Attitude of the police was very different to the members of the Kalys and Kirk Choro movement, as they could get up, move around the police station, to eat and drink.

After the incident, a criminal case under article 234 (hooliganism) of the Criminal Code has been opened.'

Kyrgyzstan: *"On 3 April 2015 the office of Labrys was attacked: three bottles with explosives were thrown into the yard of the human rights organisation, two of which caused open fire. Labrys' CCTV cameras have recorded two unknown persons, who around 22:30 of April 3rd attacked the office of the organisation. In spite of the open fire, the office building remained untouched by it, ensuring that organisational property was safe. The nature of the attack shows that the attackers were planning arson. This incident is not the first in the history of the organisation - its activists have been subjected to threats of physical violence numerous times, while the office building was thrown stones at.'*

Labrys note that the quantity of threats and attacks against LGBTIQ communities, as well as LGBTIQ human rights defenders, has increased with the registration of the homophobic draft law in the Kyrgyz Parliament, which introduces criminal and administrative liability for "formation of positive attitude to non-traditional forms of sexual relations".

Kyrgyzstan: *"A national homo/transphobic newspaper "Delo" has published illegally taken photos of LGBTIQ people at an internal event taking place during IDAHOT week, after the attack on 17th of May on Labrys event. This was outing for LGBTIQ people with hate speech, humiliation and mockeries.*

<http://delo.kg/index.php/2011-08-04-18-06-33/8694-gomoseksualisty-i-naturaly-kto-kogo-ushchemlyayet>

<http://delo.kg/index.php/2011-08-04-18-06-33/8636-gej-svadba-pela-i-plyasala>

Kazakhstan: *"In 2013. One of the brides in a widely publicized unofficial lesbian wedding held in 2013 was found dead a year later. Her partner and two other women were ultimately convicted of the murder. Shortly after investigation of the case began, a group of anti-LGBT activists erected a brick wall in front of a gay club in the city of Almaty. The club owners did not call the police."*

Kyrgyzstan: *"16-year old transgender girl Z. was engaged in sex work in order to earn for living. In 2014 she was illegally detained several times by law enforcement officers (in Kyrgyzstan there is no criminal or administrative liability for sex work). At one of the detentions the girl was verbally and physically abused, as well as forced into sexual activities at the police department, in another case – she was extorted money and then raped by a group of police officers."*

Kyrgyzstan: *"6-8 policemen brought a 19 years old MTF-cross-dresser to the police station and forced her to undress, whereupon she was filmed on a camera. This video was later distributed on local social media web sites and mobile applications. The incident was accompanied with humiliation and mockery towards the victim. Policemen said that the victim is disgusting; because a man shouldn't wear a female clothes and called a victim a faggot. One of the policeman stole her phone and money. The case has taken place in a police station."*

Kyrgyzstan: *"In November 2014 a 18 years old transgender girl X. – a sex worker – was attacked by her client and his friends. The 4 young men identified themselves as police officers forced her to undress, threatening that if she does not oblige they will imprison her and rape. The men verbally abused the girl, touched her breast, filmed her naked on camera. The attackers demanded that X. provide them with 1000 USD – in a contrary case they threatened to place the video with the girl in the Internet and local TV channels. The girl was let go, so she would find the required amount of money. When she was not able to find the money and informed the attackers, her video was widely distributed in the Internet. After finding out about this, the girl filed a complaint with the police concerning the humiliation and extortion she experienced – currently the case is under investigation. All attackers were identified, however, the lawyer hired by them is using pressure on the investigator, threatening and threatening to ensure cancellation of the investigator's employment with the police should the case be submitted for court consideration. The investigator has also exhibited signs of transphobia towards the victim."*

Tajikistan. *"in 2012, one gay man was beaten at the Philharmonic Hall (concert hall) in the city of Dushanbe, and the other man, who gave an interview to the news said: "I think these guys [the attackers] did the right thing .. . If I were there, I would have joined in the beating, so they knew that to be gay is out of the Tajiki society."*

"The blogger wrote about the incident in which a university student was "severely beaten" eight classmates after he was seen kissing another man; His face and clothes were covered with blood. Among the comments of his post, a former student of the University he wrote: "The constant humiliation and threats of physical violence [are] part of what it means to be gay in Tajikistan."

"When the sexual orientation of one man was discovered, the members of his community mocked him and his family, until these offenses did not become so bad that he had hanged himself. Many in

Tajikistan think homosexuality is disease. This position is also adhere to the Ministry of Health; one of the officials of the department anonymously, told reporters that "homosexuality is contrary to nature." One blogger explains that "attempts" of family members and friends or yourself to convince you that (being gay) is a disease and that it should be treated as soon as possible, then when another blogger expresses his opinion that "homosexuals are neither the Tajiks nor Muslims. They are sick people. "There were reports of doctors who are LGBT mental health treatment and injected drugs that increase the level of testosterone. One man was a victim of forced "treatment" of the members of his community, he was tied to a radiator and left in the cold and without food for the weekend while Mullah read prayers to exorcise his "evil spirits."

Tajikistan. "In January 2012, a group of men attacked a couple of gay men with close to a nightclub after disturbed them in the club. All the participants were taken to the police station and released the same night. The next day, when one of the gay men returned to write the statement, he was discouraged by the police officer, who told him, "If you write it, you will be even worse", and added other homophobic comments. As a result, the victim did not write the statement.

Tajikistan. "20-year-old gay man was raped, beaten and robbed by three men, Nona turned to law enforcement agencies, because I wanted to avoid further abuse. More notorious case in which the 23-year-old student of the Tajik National University, a representative of the gay community died from seven-stab injured. It was marked as a robbery and closed. However, none of his belongings were not stolen his money and cell phone were with him when he found out the police. The organization's representative dealing with the rights of LGBT people in Tajikistan, said that in informal conversations the police claimed that the victim does not have to be gay, implying that the crime was justified on these grounds. The killers have gone unpunished.

Tajikistan. "Article 74 of the Civil Code of the Republic of Tajikistan allows officially change gender identity, if an authorized person will get a medical certificate; despite the fact that such a document does not exist. United States Department reports that "this creates internal problems (for transgender people), involved in everything that requires the identification of the state." Moreover, each time b transgender people need to pass authentication, invade their privacy, and they are at risk of humiliation and violence. One consequence of this situation is that transgender people cannot get a passport, appropriate to their gender identity, and therefore it is difficult to leave the country. The severity of this problem is compounded by the fact that hormone therapy and other treatments for transgender people in Tajikistan are not available and they have to go abroad to get them. A Tajik transgender woman experienced these problems firsthand. She could not get a passport that reflects her gender identity, but she was forced to make several trips to Moscow for a sex change operation, since such procedures are not widely available in Tajikistan. She told to the members of the public human rights organizations that her exhausting every time she is going to leave, subjected to strip searches under the pretext that it might bear drugs. She described these events as "humiliating."

Tajikistan. "From the beginning of 2014, the famous "Radio Ozodi" constantly is talking about LGBT in a negative context. Articles about LGBT, where talk of marriage between the LGBT community. Just published articles where as if LGBT community wants to leave the country, and more. After

these articles, society has become more negative about LGBT community in Tajikistan. This is evident from the publications of articles and commentaries Tajiks.”

Recommendation:

- All three state have general laws, which protect all citizens. However, there are no laws specifically protecting the LGBTI community from hate crimes. This situation justifies hate crimes and neglects violations of human rights. We urge Tajikistan, Kazakhstan and Kyrgyzstan to introduce comprehensive laws and policies against hate crimes, violence and discrimination, that are inclusive of LGBTI.
- Take measures to reports, investigation and prosecution of hate crimes against members of the LGBT community.

In conclusion, I want to say that Labrys is ready to collaborate with the Kyrgyz government to ensure tolerance and non-discrimination of LGBTI people.

Thank you for your attention.