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(Kyrgyz Republic)

SHADOW REPORT

DISCRIMINATION AND VIOLENCE AGAINST LESBIAN AND BISEXUAL WOMEN AND TRANSGENDER PEOPLE IN KYRGYZ REPUBLIC

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LGBT Organization 'Labrys' is a non-governmental organization in Kyrgyzstan that has worked to empower Lesbian, Bisexual and Transgender people and protect their human rights since 2004. 'Labrys' provides services for over 300 lesbian, bisexual women and transgender people (LBT) in Kyrgyz Republic.

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Executive Summary

The shadow report describes the situation of lesbian, bisexual women and transgender people (LBT) in Kyrgyz Republic. The report cites existing research data and documented cases of violence against LBT people. It specifically focuses on the issue of forced marriages, violence and prejudice in society and among social institutions such as media, civil society and state. The report touches on the rights lesbian, bisexual women and transgender people from rural areas who experience isolation and unemployment due to being cut off from the existing social networks. The report provides information about the issues of sexual violence and family violence against LBT people and suggests recommendations to improve the situation. The report has specific focus on the rights of transgender people who need special attention due to high level of violence and discrimination against them.

The report is structured according to the form of discrimination and lists relevant CEDAW articles.

Key terms:

LBT – abbreviation for lesbian, bisexual women and transgender people.

Lesbians are women, who experience emotional, romantic and physical attraction to other women.

Bisexual women are women, who experience emotional, romantic and physical attraction both to men and women.

Transgender people are people who regard the sex that was ascribed to them at birth as not reflecting, or not fully reflecting their gender identity. For the purposes of this report both transgender men and women are included. Transgender women are people who were assigned male sex at birth but identify and live as women. Transgender men are people who were assigned female sex at birth but identify and live as men.

Sexual Orientation is the way in which a person's sexual and emotional desires are directed. The term categorizes according to the sex of the object of desire—that is, it describes whether a person is attracted primarily toward people of the same or opposite sex or to both.

Gender identity refers to each person's deeply felt internal and individual experience of gender, which may or may not correspond with the sex assigned at birth, including the personal sense of the body (which may involve, if freely chosen, modification of bodily appearance or function by medical, surgical or other means) and other expressions of gender, including dress, speech and mannerisms.¹

Introduction

The Kyrgyz Republic has for the last sixteen years identified itself as a democratic country and committed to fulfilment and protection to human rights. Despite these obligations, it remains a deeply traditional post-Soviet society with gender stereotypes and social behaviour norms specific to the Central Asian region as a whole. Sexuality and gender that differ from the generally accepted norms are not accepted at any level of society, starting from families and ending with governmental structures, which remain rigid and conservative.

Looking, behaving, and *living* in ways that are not “like everybody else” is severely punished both in Bishkek and rural areas of the country – Labrys has documented cases of violence toward lesbian, bisexual and transgender people, including rapes, thrashing and psychological pressure, as well as forced marriage and bride kidnapping. In 2006-2007 “Labrys” conducted a large LBT needs assessment research covering 85 LBT people living in Bishkek. A large number of respondents came to the capital city escaping discrimination they face from their family and communities. Results of the research were incorporated in the OSI/Soros Foundation Kyrgyzstan report on “Access to Healthcare for LGBT in Kyrgyzstan” (2007). The following data from Labrys research demonstrates the level of societal homophobia, discrimination and violence against lesbian, bisexual women and transgender people:

¹ Definition from Yogyakarta Principles on Application of International Human Rights Law in relation to Sexual Orientation and Gender Identity http://www.yogyakartaprinciples.org/principles_en.htm

- 23% of lesbian and bisexual women had forced sexual contacts (some of these cases involve ‘curative rapes’)
- 35% of lesbian, bisexual, transgender people believe that their sexual orientation or gender identity create problems for them in society
- 55% of surveyed LBT people named relations with family and relatives as their main concern
- 28% actively tried to change their sexual orientation or gender identity²
- 56% of them had families that tried to force them to change their sexual orientation or gender identity through persuasion or, by sending them to a psychologist or psychiatrist. Some families arranged meetings with men, married their daughters off or used violence or house arrest to try to force them to change
- 32% earn below \$100 US dollars per month

The status of Lesbian, Bisexual women and Transgender people under specific CEDAW Articles

Prejudice in Society

Article 3 of the CEDAW Convention requires the States Parties to “ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men”. The right to privacy and bodily autonomy plays a key role in providing comprehensive development and progress of a significant group of women. An LBT person without a fixed right to sexuality and gender identity experiences significantly more inequality than most other groups of women. In the Third Periodic Report of Kyrgyz Republic on obligations undertaken regarding CEDAW there is no mention of lesbian, bisexual women and transgender people’s rights which restricts their “exercise and enjoyment of human rights and fundamental freedoms”. Lesbian, bisexual women’s and transgender people’s issues are absent from any state documents which makes this group of women invisible for state programs despite their vulnerable status in society.

Article 11 of the CEDAW Convention requires States Parties to “take all appropriate measures to eliminate discrimination against women in the field of employment...” With regard to lesbian, bisexual women and transgender people the Kyrgyz Republic fails to comply with the CEDAW requirements. Because of their sexual orientation and/or gender identity many LBT people find themselves working in poorly paid jobs that do not correspond with their qualifications. Kyrgyz laws do not include prohibition of employment discrimination on the basis of sexual orientation and/or gender identity/expression. This allows for wide opportunities for unpunished discrimination of LBT women in receiving payment for their work and in employment in general. Labrys has documented cases of LBT people being fired from their jobs based on these characteristics. Most LBT people are cut off from social networks that are necessary for finding and securing employment. The Kyrgyz society expects women’s income to be secondary because they are expected to have support of their male partners or family. This system makes it very difficult for LBT people to make a living.

² A lot of LBT people feel guilty and abnormal because they have same-sex attractions or feelings of being a wrong body. These feelings sometimes make LBT people try to turn to what society perceives as a norm which may lead to depression, anxiety and suicide.

Article 14 of the CEDAW Convention requires States Parties to “take into account the particular problems faced by rural women”. The majority of lesbian, bisexual women and transgender people that Labrys works with come from rural areas of the Kyrgyz Republic. Many young LBT people are compelled to leave their homes and break all ties with family members and usual social networks due to intolerable pressure and/or violence from relatives. There are also cases when women are rejected by their families and have nothing left to do but to leave for the capital city. There, like many migrant women, they do not find much support and assistance due to the expectation that a woman can only function within a family.

Recommendations

- Adopt national anti-discrimination laws on grounds of sexual orientation and gender identity.
- Conduct awareness raising human rights campaigns in schools and media promoting tolerance and respect for lesbian, gay, bisexual and transgender people.

Prejudice in Mass Media and Civil Society

Article 2 point (e) of the CEDAW Convention requires States Parties to “to take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise”. Hate speech, homophobic remarks and discrimination are usually the most frequent forms of hate crime that lesbian, bisexual women and transgender people encounter in the Kyrgyz Republic.

Mass media services are instrumental in perpetuating the discrimination of lesbian, bisexual women and transgender people. TV and press reports on LBT events are provocative, causing even greater intolerance toward the lesbian, gay, bisexual and transgender communities. In 2007 and 2008 Labrys witnessed and reported on dozen cases of biased reporting filled with militant homophobia and calls for rejection of lesbian, gay, bisexual, transgender people.

Over the years of Labrys work, dozens of articles have been published in the Kyrgyz Republic covering LBT issues in prejudiced and distorted ways, in some cases inciting hatred. In republic’s most popular newspaper, Vecherniy Bishkek, published in July 2007 an article described homosexual lifestyle in humiliating terms, also using derogatory names for homosexual people.³

At an information meeting with UNFPA consultants on sexual and reproductive health, leader of Muslim women’s organization described the participation of Labrys leaders there as a sin for her.⁴

In October 2007 Labrys held a press conference to highlight the publication of a brochure on homosexuality in the Kyrgyz Republic. Soon after two articles were published in Kyrgyz and Russian language newspapers, criticizing homosexuality and calling it a ‘disease’ that comes from the West.⁵ The articles described may have an impact on violent and

³ <http://kyrgyzlabrys.wordpress.com/2007/07/16/yet-another-homophobic-article/>

⁴ This happened in August 2007: <http://kyrgyzlabrys.wordpress.com/2007/08/30/its-a-sin-for-me-to-sit-next-to-you-but-i-do-that-out-of-tolerance/>

⁵ The link to Kyrgyz language article on our blog is <http://kyrgyzlabrys.wordpress.com/2007/11/01/kyrgyz-language-newspaper-writes-about-homosexuality-in-Kyrgyz-Republic/>.

aggressive attitudes in society towards LBT people. Labrys staff members who spoke publicly about their identities have been ridiculed on the streets and received threats from people who saw them speaking on television.

Representatives of both Muslim and Christian religious institutions expressed their discontent and called for action to react to existence of lesbian, gay, bisexual and transgender people in Kyrgyzstan⁶ which followed after media coverage of Labrys public events.

Article 2 point (d) of the CEDAW Convention requires States Parties to “refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation”. It is often that not only issues of lesbian, bisexual women and transgender people are overlooked by public institutions and civil society activists, but violations of their rights are also promoted, as is the case with current Ombudsman of Kyrgyz Republic Tursunbek Akun, was quoted stating:

“It is necessary to struggle with homosexuality. It is one of those negative consequences of the western civilization what gradually comes to us together with elements of democracy. (...)Therefore we should not admit the distribution of this phenomenon in Kyrgyz Republic. Non-traditional sexual orientation offends the honor and advantage of men and women and historically developed interfamily relations of the Kyrgyz.”⁷

Other political figures including former and present members of Parliament and leaders of political parties have been quoted publicly condemning homosexuality.

Recommendation

- Take steps to ensure that state officials abstain from derogatory statements on sexual orientation and gender identity; and create adequate mechanisms to address sex and gender stereotypes in the media and religious institutions

Article 2 point (e) of the CEDAW Convention requires States Parties to “repeal all national penal provisions, which constitute discrimination against women”. While ‘sodomy’ was deleted from the 1999 edition of the Criminal Code of Kyrgyz Republic, there are still provisions for forced ‘sodomy’ and ‘lesbianism’ mentioned in Articles 130, 131 and 132. This constitutes a form of discrimination in itself and a failure to comply with requirements of the Convention. In addition, Concluding Comments of the CEDAW Committee on the initial report of Kyrgyz Republic, Comments 127 and 128, express the Committee’s concern with the fact that “lesbianism is classified as a sexual offence in the Penal Code”, and recommend the Kyrgyz government to “reconceptualize lesbianism as a sexual orientation and abolish penalties for its practice. However, ‘lesbianism’ is still included in the Criminal Code of Kyrgyz Republic, as demonstrated earlier – and moreover, is specified as a special kind of forced sexual violence.

⁶<http://kyrgyzlabrys.wordpress.com/2008/03/04/russian-orthodox-church-against-sodomites/>

⁷Van Der Vuer, Dennis, “Kyrgyz Republic: Country of Human Rights... but not for Homosexuals!”, COC-Netherlands report on LGBT situation in Kyrgyz Republic, 2004.

Recommendations:

- Reconsider rape provisions in Criminal Code
- Reconceptualize homosexuality ('lesbianism' as the worded in Kyrgyz Criminal Code) as a sexual orientation
- Change criminal code provisions about rape to be generic not specific to gender

Institutionalized discrimination

Article 7 point (e) of the CEDAW Convention requires States Parties to “ensure to women, the right to participate in non-governmental organizations and associations concerned with the public and political life of the country”. In Labrys experience state law enforcement bodies have overstepped their authority with unfounded persecution of the organization. Every year since its establishment, first as an initiative group for the protection of the rights of vulnerable groups of women, and now as an LGBT organization, Labrys has been a victim of illegal raids on its Labrys premises by district militia officers. Usually officers claim their entry is on the grounds of checking the activity of Labrys women, who gather for projects, trainings and discussions at the organization’s office. The suspicions are usually that Labrys is a ‘brothel’ or an otherwise illegal establishment.

On 8 April 2008 Labrys had an official dinner at its Community Center premises with representatives of donor organizations and partner organizations (Gender Doc-M, Anti-AIDS Association, Tais Plus), when several militia officers demanded entrance. Once inside they proceeded with demanding that everyone present (nearly 30 people) their IDs, or else they would be detained for identification purposes and sent to temporary detention. When Labrys and its guests refused to comply the militia called for back up, and soon there were six militia officers in the office. Accusations were thrown around by the officers that the Community Centre was a brothel, and that there were suspicions of drugs as well. The militia was present in the office for more than two hours, leaving after negotiations with human rights defenders that came to Labrys’ assistance. The case was documented and also filed for consideration of UN Special Rapporteurs on Violence Against Women, Arbitrary Detention and Human Rights Defenders.

Article 12 of the CEDAW Convention requires States Parties to “take all appropriate measures to eliminate discrimination against women in the field of health care...” In practice this requirement is not duly carried out by the government of Kyrgyz Republic, which fails to address specific needs of lesbian, bisexual women and transgender people. According to the report of Open Society Institute and Soros Foundation - Kyrgyzstan (July 2007) ‘Access to Healthcare for LGBT in Kyrgyzstan’, medical specialists in Kyrgyz Republic often have intolerant attitudes towards LBT, which results in LBT people turning for medical services only in extremely urgent cases. Also the Kyrgyz healthcare system lacks knowledge on specifics of working with LBT. In particular this concerns the process of medical transition for transgender people. In the period between 2006 and 2007 “Labrys” has turned to medical institutions several times with requests of medical assistance for transsexuals going through a hormonal therapy and gender reassignment surgeries. The majority of medical specialists refused to render assistance referring to lack of knowledge and information on medical transition for transgender people.

Article 16 point (b) of the CEDAW Convention requires States Parties to “ensure, on a basis of equality of men and women, the same right freely to choose a spouse and to enter into marriage only with their free and full consent”. For lesbian, bisexual women and transgender people heterosexual marriage is a traumatic and critical issue. Many

marriages in Kyrgyzstan are arranged, forced or women are kidnapped as brides. Traditional perception of divorce pressures them to stay with the man who was forced upon them as a husband. For LBT people most marriages are forced and may have violent consequences for their female partners. There are several documented cases in archives of Labrys, when lesbians were forced by their parents to marry men. One young woman was taken to a rural area by her relatives against her will to be given away in marriage and isolated from her LBT peers. A bisexual woman was “kidnapped” by a man and forced to marry, who then systematically beaten and abused her for several years (Labrys Magazine, Issue 6, p 6-8). One of Labrys staff members has to hide the fact of her employment with Labrys in fear of being taken away to Osh by her relatives, who promised to do so should they find out she is involved with lesbian women.

Recommendations:

- Develop and take measures to address social norms which contribute to prejudice and violence against LBT people
- Take legal and other necessary action to combat and prevent harmful traditional practices that affect women such as bride kidnapping and forced marriage.
- Ensure that education programs address gender identity and sexual orientation

Article 5 of the CEDAW Convention requires States Parties to take measures “to modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women.”

A number of cases of forced marriage and curative rapes of lesbian and bisexual women have been documented. These incidents occur due to stereotypical ideas about women’s roles that are restricted to marriage and heterosexual sexual relations. Some of the curative rapes were encouraged by family and friends who believed that this would change the LBT person to fulfil her duty to society.

Maladjusted legislation on gender markers for transgender people

Kyrgyz legislation is not geared toward addressing issues of changing gender markers for transgender people. Despite the medical recommendations for social adaptation Kyrgyz transgender men and transgender women cannot have their identity documents modified to reflect their desired gender identities. Transgender people are not able to secure employment because their gender presentation and their official documents do not match. With such documents, transgender people cannot find employment in accordance with their qualifications, as they come across lack of understanding and intolerance from employers. Some of them experience severe violence if their passport identity is discovered. With no suitable documents it is nearly impossible for transgender people to live as full members of the society. Transgender women often start selling sex because there are no other jobs available to them.

Four recently documented by “Labrys” cases demonstrate critical need for an immediate solution of this problem:

In December 2007 a transgender man was attacked in the middle of the capital city for his non-standard look. Two drunk men harassed the boy, threatening to rape him with an

intent on finding out his biological gender forcing him to escape through half of the city.⁸ When he entered a local shop and asked the guard for protection, the guard asked him to leave the shop. After the incident in a conversation with Labrys the transgender man decided not to report the case to the police fearing ridicule.

In February 2008, a transgender woman was arrested for being attacked by a man, who managed to turn the police against her justifying his actions by the fact that “she is not what she looks like”. The woman had to spend three nights at the detention center. Police also demanded money in exchange for her sister’s passport, which was confiscated as a means (illegal) of guaranteeing that she did not leave the city.⁹

In July 2008, a transgender woman was attacked and gang-raped by three men early in the morning after being abducted from Bishkek to suburban areas. She was raped with a bottle several times and burned with cigarette tips all over her body and genitals. Knowing she was a transsexual woman (possibly from previous encounters), the offenders burnt her bra and accused her of being a ‘freak’. The offenders said that if they see her wearing female attire again they would kill her. She was then they left her half-nude in the forest, also robbing her of her belongings and money. Her case was documented by Labrys and taken to district militia office. However, there she was denied assistance on the grounds of her being a sex worker and not a biological woman. Article 129 of Criminal Code of the Kyrgyz Republic (“On rape”) refers to women exclusively, which was the grounds policed used to refuse to register her case as a rape case. In addition to being victimized by the rapists, the trans-woman was also severely insulted by the police investigator who also called her a ‘faggot’.

In August 2008 a transgender woman asked for shelter at Labrys after her mother warned her that her brothers were looking for her to kill her as they considered her a ‘shame to the family’. The culture of shame affects many women in Kyrgyzstan and this cultural issue remains unaddressed by the government.

Recommendations:

- Take measures to recognize transgender people’s gender identity legally
- Adopt mechanisms to change gender identity documents officially
- Develop medical system to address transgender people’s medical needs
- Include violence based on gender identity/expression and sexual orientation into 2003 ‘Law on Family Violence’ and take measures for the law to be implemented to address family violence based on gender identity and sexual orientation.
- Conduct proper investigations on violence against LBT people, duly punishing those responsible and set up administrative and legal frameworks to eradicate such practices.

⁸ <http://kyrgyzlabrys.wordpress.com/2007/11/27/ftm-transsexual-attacked-by-two-drunk-men-in-bishkek-city-center/>

⁹ <http://kyrgyzlabrys.wordpress.com/2008/02/27/transgirl-mtf-arrested-for-hooliganism-uncommitted/>