

Report on Kyrgyzstan 8th Round of the Universal Periodic Review – May 2010

This report is submitted by: LGBT Organization Labrys (Kyrgyzstan)¹ and The Sexual Rights Initiative². This report deals with **sexual rights** in Kyrgyzstan and makes references specifically to the **situation of lesbian, gay, bisexual and transgender people (LGBT); social perceptions of sexuality and violence against women, sex workers, young men and women.**

Summary

1. This report describes lack of implementation of the progressive legislation related to gender and domestic violence that exists in Kyrgyzstan, it highlights gender norms harmful to young people and particularly young women, provides insights on social perceptions of sexuality and their impact on people's health. The report covers sexual orientation and gender identity based discrimination, specifically referring to domestic and street violence and human rights violations against lesbian, gay, bisexual and transgender people committed by law enforcement bodies. In addition, it touches on lack of recognition of transgender identities by Kyrgyz government and obstacles to LGBT access to healthcare. Finally, the report briefly discusses early, arranged and non-consensual marriages including polygamy, situation of people living with HIV, sex workers' abuse by the law enforcement bodies and social taboo on sexual violence. Each thematic section includes recommendations for the Kyrgyz government.

Background

2. Kyrgyzstan has ratified all major UN Conventions, specifically the Convention on the Elimination of All Forms of Racial Discrimination, International Covenant on Civil and Political Rights, Convention against Torture, the Convention on the Elimination of All Forms of Discrimination against Women, the International Covenant on Economic, Social and Cultural Rights, and the Convention on the Rights of the Child.

3. Kyrgyzstan is considered to be a leader in civil society development and progressive legislation in Central Asia. Kyrgyzstan has legislation on gender equality and family violence that provide legal framework for improving the situation of women. In reality the laws used rarely when addressing specific cases of discrimination or ensuring that existing traditional gender norms transform and do not harm women. For example, Kyrgyz Department of Interior issued 101 temporary protective orders in 2005 while making 8579 visits in response to calls related to domestic violence.³ It is common for police to take the side of the perpetrator due to their traditional understanding of the power dynamic between spouses inside the family.

4. **Recommendations** – Kyrgyz state should:

- a) Establish mechanisms to ensure that the existing legislation is enacted, monitored and implemented by the state institutions;
- b) Train public officials to use gender perspective in their work;
- c) Take all necessary measures to challenge social norms that discriminate women through raising awareness and implementing existing legal norms.

Gender norms

5. Kyrgyz society leaves little room for independence for women and young people in general. The women are expected to live with their natal family and then join the family of their husband without a socially acceptable possibility of returning. Women whose lives fall outside of this cycle find themselves struggling because of inability to sustain themselves and social stigma. They also perceive experiencing violence from their spouse as their destiny and take measures to bear the situation without leaving it. Men are expected to be strong, distant and rough which puts them under pressure of constantly having to prove their masculinity through engaging in risky behaviours. Suicide rates among men are three times higher than among women.⁴ Men are unlikely to use medical services unless their health is in a critical condition.

Sexuality and access to information

6. Kyrgyz society perceives the issues of sexuality as taboo, and sexuality is maintained within the marriage context and largely not discussed either inside or outside the family. Muslim and nationalist groups protest open

¹ Founded in 2004 to protect human rights of lesbian, gay, bisexual and transgender people

² Coalition including Action Canada for Population and Development; Creating Resources for Empowerment and Action – CREA- India; Mulabi, Latin American Space for Sexualities and Rights; and others.

³ A Global website 'Stop Violence Against Women' that monitors the situation on violence against women in different countries http://stopvaw.org/sites/3f6d15f4-c12d-4515-8544-26b7a3a5a41e/uploads/KYRGYZSTAN_VAW_FACT_SHEET_2006.pdf (accessed 20 September 2009)

⁴ Genderstan blog offering gender perspective on Kyrgyz society <http://genderstan.wordpress.com/page/9/> (accessed 20 September 2009)

information or education about sexuality for young people. As a result, young people are unlikely to learn about sexuality from their parents or school and their main source of information is their peers. Youth specifically lack information about basic sexual hygiene, contraception, STIs and changes in their bodies at puberty. There is a misconception among the general population that women are responsible for sex of the baby that they carry. As male children are valued more than female children, women may be giving birth to a number of girls every year hoping for a male child. In some ethnic minority communities and among ethnic Kyrgyz in rural areas gender-selective abortion is practiced.

7. Women in rural areas have little access to information about their bodies or to healthcare services related to their sexuality. Some reports note that as many as 50% of women in the rural areas never had 'complete gynaecological, general practitioner, paediatric, or ultrasound technician exam' and 10% did not know that they were pregnant.⁵ As a result, young women may encounter situations when they have to hide an unexpected unwanted pregnancy from their families and seek unsafe abortions. Women who give birth outside of marriage fear being disowned by their families and would rather have an unsafe abortion than let their family know and ask for support.

8. **Recommendations** - Kyrgyz state should:

- a) Investigate the situation of women's access to healthcare in the sphere of sexual and reproductive health; implement strategies to promote access to sexual and reproductive health facilities and awareness-raising campaigns to increase adolescents and women's consultations;
- b) Develop state programs of sexuality education for young and adults that are safe, peer-to-peer, accessible, and non-judgmental;
- c) Work with religious and other communities to dispel myths that are damaging for the full enjoyment of individuals, and particularly women's reproductive rights and health.

Sexual orientation, gender identity and expression based discrimination

Domestic violence against lesbian, gay, bisexual and transgender people

9. Given the lack of information on sexuality, many families of lesbian, gay, bisexual and transgender people react with negativity, pressure and sometimes violence when they find out about their family member's identity.⁶ Dozens of cases of domestic violence in form of beating, humiliation, house arrest, restricted movement and curative rape against lesbian, gay, bisexual and transgender (LGBT) people have been documented by local and international organizations.^{7 8} The government usually responds with arguments that violence is prevalent in Kyrgyz society and that LGBT people are not directly targeted.

10. **Recommendations**

- a) Train law enforcement and judges in recognizing, investigating, and prosecuting domestic violence and discrimination based on sexual orientation or gender identity.;
- b) Implement fully the 2003 Law on Social-Legal Protection from Domestic Violence, ensuring that all criminal justice personnel are educated about its provisions and are prepared to enforce them and that the general public is aware of the provisions and informed about their rights.

Violations perpetrated by law enforcement bodies

11. Despite decriminalization of sex between men in 1998, police continue to detain and harass gay men. Kyrgyz LGBT organizations report that the usual scenarios for blackmailing include fake advertisements in newspapers that end up in meeting police officers instead of another man. Another common practice is seizing gay men when they walk out of the gay club and threatening to disclose information about their sexual orientation to their relatives or employers, or start a criminal case against them unless they pay a bribe or provide sexual services.

12. In addition to harassing individual LGBT people, there have been documented reports of law enforcement bodies raiding LGBT organizations. LGBT Organization 'Labrys' has been raided a number of times with two situations that required involvement of human rights defenders and lawyers. On two separate occasions on June 4th 2006 and April 8th 2008 during unwarranted raids police officers threatened to arrest those present at Labrys

⁵ Wejnert, Parrot and Djumabayeva *Maternal Health in countries in transition: Poland and Kyrgyzstan 1990-2006* Marriage and Family Review Vol. 44 p. 285

⁶ Human Rights Watch 'These Everyday Humiliations: Violence Against Lesbian, Bisexual Women and Transgender Men in Kyrgyzstan' <http://www.hrw.org/reports/2008/kyrgyzstan1008/2.htm> (accessed 19 September 2009)

⁷ Open Society Institute SHARP and Soros Foundation Kyrgyzstan Report on LGBT Access to healthcare in Kyrgyzstan (2007) http://www.soros.org/initiatives/health/focus/sharp/articles_publications/publications/kyrgyzstan_20070731/kyrgyzstan_20071030.pdf

⁸ Human Rights Watch 'These Everyday Humiliations: Violence Against Lesbian, Bisexual Women and Transgender Men in Kyrgyzstan' <http://www.hrw.org/reports/2008/kyrgyzstan1008/2.htm> (accessed 19 September 2009)

office without identity documents, threatened to rape all the people inside the office and demanded Labrys documentation and rent statements.⁹ A similar situation happened to another LGBT organization based in Kara Balta when a police officer forcefully entered their office, beat the people inside the office and knocked the director of the organization unconscious.¹⁰ Other organizations working on sexual rights, torture and HIV prevention reported similar raids.

13. Recommendations - Kyrgyz state should:

- a) Take all necessary policing and other measures to prevent and provide protection from all forms of violence and harassment related to sexual orientation and gender identity;
- b) Take all necessary legislative measures to impose appropriate criminal penalties for violence, threats of violence, incitement to violence and related harassment, based on the sexual orientation or gender identity of any person or group of persons, in all spheres of life, including the family;
- c) Ensure that perpetration of such violence is vigorously investigated, and that, where appropriate evidence is found, those responsible are prosecuted, tried and duly punished, and that victims are provided with appropriate remedies and redress, including compensation;
- d) Undertake campaigns of awareness-raising, directed to the general public as well as to actual and potential perpetrators of violence, in order to combat the prejudices that underlie violence related to sexual orientation and gender identity.

Harassment of LGBT people in public

14. OSCE/ODIHR¹¹, Human Rights First¹², Human Rights Watch¹³ and Open Society Institute/SHARP in cooperation with Soros Foundation-Kyrgyzstan¹⁴ and Labrys¹⁵ documented cases of street violence against LGBT people. Only one street beating case was investigated due to police interference during the attack. LGBT people do not report these cases to the police due to lack of trust and prior abuse from the police.

15. In July 2008, a 26-year-old 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. The offenders threatened to kill her if she continued wearing female clothes, took her money and clothes and left her in the forest. When the case was taken to Bishkek Sverdlovskiy district police office, the officer refused to register a rape on the grounds of her being a sex worker and not officially a woman. Article 129 of Criminal Code of the Kyrgyz Republic ("On rape") refers to women exclusively, which was the grounds police used to refuse to register her case as a rape case. In addition, she was called names by the police officers.¹⁶

16. Recommendations

- a) Government agencies responsible for human rights protection in Kyrgyzstan should actively support the rights of LGBT people and cooperate with LGBT NGOs in addressing these rights;

Transgender people's situation

17. Transgender people remain one of the most vulnerable groups in Kyrgyzstan due to high rates of unemployment, lack of state recognition of their identities and an unclear system of provision of medical services related to gender reassignment. The discrepancy of their official gender marker and their appearance makes them vulnerable to the law enforcement bodies and any state body where documents are required. Kyrgyz Ministry of Health agreed to start a working group on establishing a procedure for changing documents for transgender people which is a positive development. However, transgender communities express concern over their participation in making decisions about their identity recognition and healthcare.

⁹ Labrys video documentation produced in March 2009 and Human Rights Watch's press release Kyrgyzstan: Halt Anti-Gay Raids "<http://www.hrw.org/en/news/2008/04/16/kyrgyzstan-halt-anti-gay-raid>

¹⁰ Personal communication with members of Gender Vector NGO June – July 2009

¹¹ OSCE/ ODIHR Annual report 2007 Hate Crimes in the OSCE region: incidents and responses p.115
http://www.osce.org/publications/odihr/2008/10/33850_1196_en.pdf (accessed 21 September)

¹² <http://www.humanrightsfirst.org/discrimination/reports.aspx?s=lgbt&p=genderiden> (accessed 15 September 2009)

¹³ Human Rights Watch 'These Everyday Humiliations: Violence Against Lesbian, Bisexual Women and Transgender Men in Kyrgyzstan' <http://www.hrw.org/reports/2008/kyrgyzstan1008/2.htm> (accessed 19 September 2009)

¹⁴ Open Society Institute SHARP and Soros Foundation Kyrgyzstan Report on LGBT Access to healthcare in Kyrgyzstan (2007) http://www.soros.org/initiatives/health/focus/sharp/articles_publications/publications/kyrgyzstan_20070731/kyrgyzstan_20071030.pdf (accessed 18 September 2009)

¹⁵ <http://kyrgyzlabrys.wordpress.com/2008/08/14/summer-time-in-labrys/> (accessed 18 September 2009)

¹⁶ Labrys Shadow Report for CEDAW Committee http://www.iwraw-ap.org/resources/pdf/42_shadow_reports/Kyrgyzstan_SR_Labrys.pdf p.9 (accessed 23 September 2009)

18. **Recommendations** - Kyrgyz state should:

- a) Establish a system of gender marker change that is responsive to transgender people's needs and experiences in consultation with transgender communities;
- b) Train law enforcement bodies, medical specialists and civil registry clerks on gender identity issues to ensure access to quality services for transgender people;

LGBT Access to healthcare

19. According to OSI Access to Healthcare report, LGBT people are unlikely to address health concerns fearing discrimination and disclosure. In addition, medical specialists may respond to their LGBT patients with disgust and prejudice.¹⁷ Medical textbooks used for teaching in medical universities provide a pathologized view on sexual orientation and gender identity which creates further stigma and discrimination of LGBT patients. In Labrys experience of working with psychiatrists, many of them did not know that World Health Organization excluded homosexuality from the list of disorders. In one of the recently documented cases, a psychiatrist from Kyrgyz Republican Center of Mental Health misinformed parents about their 20-year-old daughter's involvement with LGBT organization Labrys that resulted in a number of potentially unsafe situations for their daughter, her partner and Labrys staff¹⁸.

20. **Recommendations** - Kyrgyz state should:

- a) Include most recent research and information about sexual orientation and gender identity in medical universities' curriculum; implement training programs to address medical and other health agent's prejudices against LGBT patients;
- b) In accordance with UDHR Article 21, para. 2, ICCPR Article 25 (c), ensure LGBT people's access to quality health services.

Early, arranged and forced marriages and polygamy

21. Kyrgyzstan has the highest number of early marriages per capita in the former Soviet Union with 0,3 % of women ages 15 to 19 got married before reaching 15 years, and 21.2% of women in 20 to 24 age cohort were married before the age of 18.¹⁹ According to the data of Ministry of Justice of the KR 104 marriages with persons from 16 to 18 years old were registered in 2006, 108 marriages in 2007 and 91 marriages in 2008.²⁰ Young women especially in rural areas often worry about either being kidnapped or forced by parents into an arranged marriage, some of them leave their native villages to study or work in bigger cities. They take careful safety measures when they return home for holidays.

22. Due to predominantly male decision makers' traditional views on marriage, legalizing polygamy is discussed in parliament ever other year, last time it was proposed and was defeated in 2007. The issues of domestic violence, bride kidnapping and forced marriages that are well documented in Kyrgyzstan do not receive sufficient attention from the politicians because they perceive these as part the social order and not as human rights violations. The existing patriarchal environment discourages reporting of any forms of violence against women with official data, for example, on polygamy showing that only 2 polygamy cases were considered by the police in 2007 and 2 were submitted to the court. In 2008 there were no reported polygamy cases²¹.

23. **Recommendations** - Kyrgyz state should:

- a) Investigate the situation with early marriages;
- b) Run state programs of raising awareness about the impact of early marriages, forced marriages and polygamy on families, women's health and society in general.

¹⁷ Open Society Institute SHARP and Soros Foundation Kyrgyzstan Report on LGBT Access to healthcare in Kyrgyzstan (2007) http://www.soros.org/initiatives/health/focus/sharp/articles_publications/publications/kyrgyzstan_20070731/kyrgyzstan_20071030.pdf (accessed 18 September 2009)

¹⁸ Labrys official documentation, August 2009

¹⁹ 2005 UNICEF data in 2009 Expert paper on early marriage (United Nations Division for the Advancement of Women), http://www.un.org/womenwatch/daw/egm/vaw_legislation_2009/Expert%20Paper%20EGMGPLHP%20Cheryl%20Thomas%20revised_.pdf (accessed 21 September 2009)

²⁰ UN Division for the Advancement of Women Expert Paper *Legal Analysis of the Legislation Regulating Relations in Protection of Women from Violence in Kyrgyzstan* pp.12 http://www.un.org/womenwatch/daw/egm/vaw_legislation_2009/Expert%20Paper%20EGMGPLHP%20Ruslan%20Khakimov%20revised_.pdf (accessed 4 October 2009)

²¹ UN Division for the Advancement of Women Expert Paper *Legal Analysis of the Legislation Regulating Relations in Protection of Women from Violence in Kyrgyzstan* pp.13 http://www.un.org/womenwatch/daw/egm/vaw_legislation_2009/Expert%20Paper%20EGMGPLHP%20Ruslan%20Khakimov%20revised_.pdf (accessed 4 October 2009)

Sex workers' situation

24. There are approximately ten thousand sex workers working in Kyrgyzstan. Over half of these sex workers do not have government issued IDs and are constantly harassed by the police despite the fact that there are no legal provisions related to voluntary sex work in Kyrgyz legislation. 64.3% of women who sell sex in Kyrgyz Republic reported that they have been subject to violent actions from the police²². According to NGO reports and research, every 14th sexual contact of an average sex worker is for free which means that the services are not consensual. 45% of the free sexual contacts represent employees of law enforcement bodies.²³

25. **Recommendations** - Kyrgyz state should:

- a) Simplify the process of obtaining government-issued identity documents;
- b) Involve sex workers in developing policies that affect their lives;
- b) Investigate cases of police violence against sex workers, duly punish those responsible and ensure that no further violence occurs.

Sexual violence

26. Sexual violence remains a taboo issue in Kyrgyzstan. Services for survivors of sexual abuse and violence are scarce and information about them is not available publicly. According to Ministry of Interior there were 259 registered cases of rape in 2007, 235 of these resulted in convictions. The estimate provided by NGOs is at least ten-fold²⁴, however, there is to date no reliable data on the actual numbers of women and men who experienced sexual violence. Rape often occurs during the process of bride kidnapping when the young woman is brought to the house of her future husband and assumed to be his wife if she is not able to leave the house.

27. **Recommendations** - Kyrgyz state should:

- a) Investigate the situation of sexual violence in the country;
- b) Provide training to medical specialists, law enforcement agencies, judges and social workers about addressing sexual violence and providing assistance to survivors;
- c) Raise awareness among the general public about sexual violence.

People living with HIV/AIDS

28. According to official data up to 1 of August 2009 2476 HIV cases are registered²⁵ (cumulative data since 1997). Voluntary counseling and testing with appropriate quality remains inaccessible. People have an opportunity to get tested but without counseling. More than 60% of people living with HIV (PLHIV) are injecting drug users (IDUs) or former IDUs. After being diagnosed with HIV, people generally do not stop taking drugs and are under constant surveillance and pressure from the police because of their consumption of illegal drugs. Methadone programs are working in Kyrgyzstan but the quality of using these programs remains low and people take both methadone and illegal drugs²⁶. Due to absence of identity documents, PLHIV have limited opportunity to get registered in official medical facility and get medical care and support²⁷. The most critical need of PLHIV is absence of place for constant accommodation²⁸. The majority of PLHIV are socially unprotected, excluded from their families due to drug using, getting jailed or HIV positive status. In context of medical issues PLHIV have no appropriate access to viral load test, especially those who live in provinces. As a consequence people don't get antiretroviral therapy in time or they continue get inadequate treatment within significant period of time. HIV/TB co-infected people and PLHIV in prisons need special attention due to lack (sometimes absence) of appropriate support.

29. **Recommendations** - Kyrgyz state should:

- a) Ensure legal status for people living with HIV by establishing easier procedures for them to get state-issued IDs;
- b) Raise awareness about HIV and the situation of people living with HIV to prevent and address all forms discrimination towards PLHIV and their families
- c) Implement the existing Kyrgyz legislation which regulate providing necessary support and care to people living with HIV.

²² Crago, A. – L. Presentation of research on Sex Workers' Rights Advocacy Network in Central and Eastern Europe and Central Asia. – IAC, Mexico city, July – August 2008 quoted in Tais Plus Shadow report http://www.iwraw-ap.org/resources/pdf/42_shadow_reports/Kyrgyzstan_SR_TaisPlus.pdf (accessed 20 September 2009)

²³ Genderstan blog quoting a research project on sex worker situation in Kyrgyzstan in 2007 <http://genderstan.wordpress.com/page/7/> (accessed 1 October 2009)

²⁴ <http://stopvaw.org/Kyrgyzstan.html> (accessed 20 September 2009)

²⁵ <http://www.aids.gov.kg/ru/>

²⁶ Roschupkin G. Capacity of organizations founded by People Living with HIV/AIDS in Kazakhstan, Kyrgyzstan, Tajikistan and Uzbekistan. Research Report. - 2009. – p. 12 // CAPACITY USAID-funded project.

²⁷ Analysis of provision services on treatment, care and support to PLHIV in Bishkek, Kyrgyzstan. – 2007. – p. 12. – AAA / International HIV/AIDS Alliance.

²⁸ Ibid