

KYRGYZSTAN: HUMAN RIGHTS VIOLATIONS OF LGBT

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Submitted by the LGBTIQA¹ organization “Kyrgyz Indigo” and endorsed by the Initiative Group “Yug-Antilopa” and LGBT organization “Pathfinder”.

Contact information: Dastan Kasmamytov, dastanurbek@gmail.com and Ruslan Kim, ruslan.kimm@gmail.com

¹ LGBTIQA - Lesbian, gay, bisexual, transgender, intersex, queer, allies

SUMMARY

This report describes the situation of the human rights of LGBT people in the Kyrgyz Republic, including violence, hate crimes and discrimination based on sexual orientation and gender identity. Violence, discrimination and hate crimes on the basis of sexual orientation and gender identity are not only menacingly systematic, but also amplified in the context of recent unconstitutional legislative initiatives, infringing upon human rights. So, along with systematic discrimination in employment, healthcare, and structural violence by law enforcement officers, in 2014 some members of the Parliament initiated law bills against LGBT communities, involving criminal and administrative responsibility for "the formation of a positive attitude toward nontraditional forms of sexual relations." The report contains information on the implementation of the recommendations related to sexual orientation and gender identity and adopted by Kyrgyzstan in the previous session on the UPR. The report also provides additional recommendations to the state and its individual institutions. Several recommendations and information were taken from the alternative report on the implementation of the ICCPR, prepared jointly by LGBTIQ organization "Kyrgyz Indigo," LGBTIQ organization "Labrys," and Bishkek Feminist Collective SQ in 2014. Detailed information about the human rights of transgender individuals is described in the alternative report, prepared by the LGBTIQ organization "Labrys" and Bishkek Feminist Collective SQ.

IMPLEMENTATION OF UPR RECOMMENDATIONS, ADOPTED BY KYRGYZSTAN IN 2010

1. Many UPR recommendations, adopted by Kyrgyzstan in 2010 and directly or indirectly related to LGBT, were not implemented by the state. The State did not appeal to LGBT organizations for technical assistance in implementing the recommendations.
2. Czech Republic, recommendation 77.13: "Review the compliance of its national legislation with provisions of the International Covenant on Civil and Political Rights on non-discrimination, in particular with regard to women and persons of minority ethnicity, sexual orientation or gender identity".
3. This recommendation has not been implemented. Since 2010 Kyrgyzstan has not conducted any review of compliance of the national legislation with the ICCPR. This recommendation was re-announced at the 110th session of the Human Rights Committee in March 2014 and was mentioned in the alternative report prepared by LGBTIQ organizations. On May 6, 2014 during the UPR national consultations, the Office of the President noted the difficulties in financial and human resources to implement this recommendation and announced its willingness to cooperate with LGBTIQ organizations and asked them to prepare their own report on compliance of national legislation with the provisions of the ICCPR. This review will be prepared by the end of August 2014 and it will be submitted for the consideration of the President's Office, the Ombudsman and other governmental authorities. Therefore we recommend the following to Kyrgyzstan:

4. **Recommendation:** Implement those recommendations, which were provided in the report on compliance of national legislation with the provisions of the ICCPR, prepared by LGBTIQ organizations.

5. Uruguay, recommendation 76.62: “Intensify in practice sanctions in cases of domestic violence, bride kidnapping, forced marriage, polygamy and discrimination against women due to sexual orientation, as well as promote mechanisms of protection that guarantee the rights of victims of domestic violence”.

6. This recommendation has not been implemented in regards to LGBT. LGBT organizations continue to document cases of domestic violence against LGBT people, including minors. In 2013-2014 Kyrgyz Indigo documented a case of bullying of a gay adolescent by his parents, whom they at first locked in the basement, and then kicked out into the street; several cases of psychological pressure and house arrest of LGBT, who revealed their sexual orientation and gender identity to their parents or relatives, a case of rape of a young lesbian by her brothers and their friends. There were also cases when parents forcibly sent their child to another country, tried to "cure" or blackmailed them by a denial of financial support. Many cases of domestic violence against LGBT women and children remain invisible, unreported, and victims of domestic violence do not get access to justice and the necessary assistance. LGBT children, subjected to domestic violence, often cannot go to crisis centers and orphanages, fearing disclosure of their sexual orientation and gender identity and further bullying and violence. They also can not live in the only shelter for GBT men in Kyrgyzstan, as the shelter requires inhabitants to be 18 or older. Thus, LGBT children facing domestic violence end up on the street and are often forced into sex work to survive.

7. Existing mechanisms and programs to protect children in the country ignore LGBT children and adolescents, leaving them without access to justice and to services. The state does not take into consideration mandatory privacy and security when assisting LGBT children and women, who are victims of domestic violence. Therefore, we recommend the following to Kyrgyzstan:

8. **Recommendation:** Develop and implement a mechanism to protect the confidentiality of LGBT victims of domestic violence, especially of LBT women and LGBT children if they apply to public authorities for assistance.

9. **Recommendation:** Legislate an opportunity for LGBT organizations to work with minors, so they could provide legal, medical and psychological services, and a safe shelter for LGBT children, who are victims of domestic violence.

10. Kyrgyz Indigo also documented cases of LGBT people being coerced into marriage. This led to psychological problems among gay and bisexual men, while for lesbian and bisexual

women forced marriage was sometimes accompanied by sexual violence². Human Rights Watch report from 2008 also described cases of corrective rape against LBT women as a means of punishment or "cure" that continues until nowadays. We recommend the following to Kyrgyzstan:

11. **Recommendation:** Develop and implement effective programs to prevent domestic violence, forced marriages and sexual violence, especially against LGBT children and adolescents, and LBT women.

12. **Recommendation:** Implement data gathering of complaints about domestic and sexual violence on a basis of sexual orientation and gender identity.

VIOLENCE, DISCRIMINATION AND HATE CRIMES AGAINST LGBT

13. Systematic sexual, physical and psychological violence against LGBT people at all levels, from the family to government structures, remains a major challenge, which is almost ignored by the state. LGBT organization "Kyrgyz Indigo" documents several incidents of violence against LGBT people every month, but the majority of such cases remains invisible because of fear of disclosure of sexual orientation and gender identity when LGBT people seek help. Introducing changes into existing legislation and implementing a comprehensive national program to combat violence are necessary to prevent violence against LGBT people.

14. The Constitution of the Kyrgyz Republic guarantees protection against discrimination under Article 16, (" No one shall be discriminated against on grounds of sex, race, language, disability, ethnicity, religion, age, political or other beliefs, education, origin, property or other status, and other circumstance ")³, however, de-facto there is no existing protection at the level of laws. There is no anti-discrimination legislation that includes sexual orientation and gender identity as protected grounds. Due to the lack of appropriate legislation, all victims, who suffered discrimination based on sexual orientation and gender identity at school, at work or while receiving services, have no access to justice, thus their constitutional right to non-discrimination is violated.

15. There is also a lack of hate crimes law that mentions sexual orientation and gender identity as a bias and specific mechanisms to protect the security and confidentiality when documenting and investigating cases of violence, hate crimes, and discrimination against members of LGBT communities. The legislation does not explicitly mention aggravating circumstances motivated by hatred towards LGBT people.

² Human Rights Watch report. "These Everyday Humiliations. Violence Against Lesbians, Bisexual Women, and Transgender Men in Kyrgyzstan". October 2008.

http://www.hrw.org/sites/default/files/related_material/kyrgyzstan1008_0.pdf

³ The Constitution of the Kyrgyz Republic. Art. 16. Source: http://www.gov.kg/?page_id=263

16. Absence of hate crime legislation leads to the growth of violence and hatred against LGBT people. For example, there was a burst of violence against LGBT communities after the Kyrgyz Muslims Spiritual Directorate issued a fatwa (a religious decree) on January 30, 2014. The fatwa quoted a hadith attributed to the Prophet Muhammad: "If you see a community of luts doing their deeds, you should kill the one who is doing it and the one to whom it is being done."

Recommendations to Kyrgyzstan:

17. Introduce and implement hate crime legislation that mentions sexual orientation and gender identity as a bias and includes monitoring and data gathering on hate crimes on a basis of sexual orientation and gender identity.

18. Develop and implement comprehensive anti-discrimination legislation, which will ban direct and indirect discrimination based on sexual orientation and gender identity.

19. Develop and implement programs to prevent hate crimes, discrimination and violence against LGBT, including large-scale awareness building campaigns for the general population in order to overcome prejudices that cause hatred and violence against LGBT people through the state media and public institutions.

20. Develop mechanisms to provide comprehensive legal, psychological and medical assistance to LGBT victims of hate crimes, discrimination and violence.

21. Introduce an entire course or course component on medical care for LGBT people in medical educational institutions for elimination of discrimination against LGBT when receiving medical services.

22. Prosecute the administration of prisons that allow separation of prisoners into categories/hierarchies and that do not react properly to violence in prisons.

TORTURE AND VIOLENCE AGAINST LGBT BY LAW ENFORCEMENT AGENCIES

23. LGBT people are often unable to seek protection because of violence and other abuses by law enforcement agencies. Torture and ill-treatment against LGBT people by law enforcement authorities is a systemic phenomenon in Kyrgyzstan. In all regions of the country, the police blackmail, humiliate, illegally detain, beat, and rape LGBT people. After the release of the HRW⁴ report on police violence against gay and bisexual men by law enforcement officers, Kyrgyzstan introduced anti-LGBT law bills instead of addressing the structural violence against LGBT people.

⁴ "They Said We Deserved This". Police Violence Against Gay and Bisexual Men in Kyrgyzstan. Human Rights Watch report, January 2014. Source: <http://www.hrw.org/reports/2014/01/29/they-said-we-deserved>

Recommendations:

24. Publicly acknowledge and condemn violence and torture towards LGBT people by law enforcement agencies.
25. Create and implement an effective independent and confidential mechanism to ensure that LGBT people and other vulnerable populations are able to complain about violence and torture perpetrated by law enforcement officers.
26. Abolish the “department of morals” at the Ministry of Internal Affairs.
27. Conduct mandatory training for law enforcement agencies on human rights and hate crimes together with LGBT organizations.

RESTRICTIONS ON FREEDOM OF EXPRESSION AND ASSEMBLY

28. On March 26, 2014 the draft law "On amendments to some legislative acts of the Kyrgyz Republic" was submitted for a public hearing. On May 6, 2014 it was posted on the official website of Jogorku Kenesh (the Parliament) in the second edition⁵. This legislative initiative is intended to introduce administrative and criminal responsibility for "the formation of a positive attitude toward nontraditional forms of sexual relations" (restriction of freedom for a term of six months to one year and a fine) and to ban "propaganda of homosexuality" at all levels.
29. According to one of the initiators of the bill, Torobay Zulpukarov, it becomes obvious that the purpose of such discriminatory initiative is to ban any statements/declarations/awareness building about LGBT issues: "It is contrary to our traditions. I'm against it and I think that any meetings of LGBT should be banned." He added that complaints about violence and demanding non-discrimination by LGBT is also considered as gay propaganda⁶.
30. Such legislative initiative contradicts a number of recommendations adopted by the Kyrgyz Republic under the UPR:
76.83 Take measures to ensure the unhindered exercise of freedom of expression and freedom of assembly (Austria)

⁵ Title: On amendments to certain legislative acts of the Kyrgyz Republic (the Criminal Code, the Code of the Kyrgyz Republic on administrative responsibility and into the laws "On peaceful gatherings", "On mass media"); Registration Number: 6-11804/14; Source:

<http://kenesh.kg/lawprojects/lps.aspx?view=projectinfo&id=122027>

⁶ Source:

http://www.knews.kg/society/46598_vitse-spiker_jk_vozmetsya_za_razrabotku_zakonoproekta_zapreschay_uschego_gey-propagandu_v_kyirgyzstane/

76.82 Take measures to ensure the right to freedom of expression, including guaranteeing unhindered access for independent media to airtime and the Internet, and to introduce criminal measures for the threatening of journalists and media outlets (Canada)

76. 89 Ensure the effective implementation of freedom of assembly, and, in particular, guarantee that participants in peaceful assemblies, as well as civil society activists and political parties, are free from pressure and are not prosecuted for exercising this right (Lithuania)

76. 14 Bring the Law on Peaceful Assembly into compliance with international human rights standards

31. The draft law violates several articles of the Constitution of the Kyrgyz Republic and provisions of international human rights law, in particular right to non-discrimination, to access to information and freedom of expression, association and assembly. Experts predict that the bill would lead to a burst of physical and psychological violence against LGBT people and their families, corruption, unfair judicial decisions with arbitrary interpretation of the concept of "propaganda", persecution of LGBT human rights defenders and closure of LGBTIQ organizations.

32. Moreover, the state also prevents the full introduction of sexual education into secondary schools and tolerated an attack on Reproductive Health Alliance in Kyrgyzstan (RHAK) from conservative political groups, who accused RHAK of propagating foreign values. Brochures of RHAK were heavily criticized because they had mentioned homosexuality as a normal sexual orientation. This situation violates the rights of young people to information and freedom of expression.

Recommendations:

33. Eliminate unconstitutional legislative initiatives related to LGBT.

34. Introduce compulsory age-appropriate comprehensive sex education in secondary schools, which also informs adolescents about their reproductive and sexual rights.

SECURITY OF LGBT HUMAN RIGHTS DEFENDERS

35. LGBT human rights defenders and organizations in Kyrgyzstan continue to be subjected to harassment and threats. During the first half of 2014 there have been several cases when there was a significant threat to the security of LGBT human rights defenders.

36. On February 27, 2014 members of the political movement "Kalys" held a protest near the U.S. Embassy against U.S. funding of non-governmental organizations in Kyrgyzstan, which, according to them, "promotes homosexuality and protects the rights of sexual minorities." They burnt a portrait of the blogger Ilya Lukash at the meeting declaring him as a gay activist. During the protest there were 25 law enforcement officers, who did not notice anything illegal

in what was going on. Human rights defenders repeatedly mentioned that this action threatens security of the blogger since his photographs were published in many print and online media and caused negative comments full of threats. Human rights activists even asked representatives of the General Prosecutor at the working meeting to remove his pictures from the Internet. Lukash had to leave the country later due to frequent threats and pressure⁷.

37. On April 2, 2014 the representatives of "Freedom House" arrived in Osh to meet with their partners. According to various sources from 30 to 100 people gathered at the hotel "Osh-Nuru" with threats to bomb it and demanded Freedom House not to support LGBT communities. Because of aggressive behavior of those who gathered meeting was disrupted⁸. The police took no action⁹.

38. On April 13, 2014 about 30 unknown people attacked three activists from LGBTQ organization "Kyrgyz Indigo." In the center of Bishkek the attackers were beating activists, using profanity and pointing to the sexual orientation of the victims. As a result, two activists appealed to the police station, however no criminal proceedings were initiated up to date.

39. There were also multiple online threats against a local LGBT activist after he spoke at the press conference about the HRW report on violence against gay and bisexual men by law enforcement officers. The state ignored his written request to take any actions against threats.

40. Above mentioned facts directly contradict recommendation 76.57, adopted by Kyrgyzstan in the first cycle of the UPR: "Stop all acts of intimidation, corporal punishment or arrest linked to the activities of human rights defenders, political activists and journalists, and guarantee freedom of expression, without introducing any provisions restricting its exercise"(Argentina).

We therefore **recommend** the following to Kyrgyzstan:

41. Conduct a complete and independent investigation of threats and persecution against LGBT human rights defenders and activists

42. Involve local non-governmental organizations, in particular LGBT organizations for implementation of the UPR recommendations adopted by Kyrgyzstan.

⁷ Source: <http://kloop.kg/blog/2014/03/10/aktivist-il-ya-lukash-pokinul-ky-rgy-zstan-posle-ugroz/>

⁸ Source: <http://kloop.kg/blog/2014/04/09/video-kak-sotrudnikov-fridom-haus-vy-gnali-iz-oshskogo-otelya/>

⁹ Source:

<http://kloop.kg/blog/2014/04/02/osh-neizvestny-e-sorvali-vstrechu-pravozashhitnikov-antigejskimi-prizy-vami/>