



*Prepared by Lesbian, Gay, Bisexual, Transgender, Intersex, Queer and Allies organization «Labrys»*

## **SHADOW REPORT**

### **«DISCRIMINATORY LAWS AND PRACTICES, HATE SPEECH AND HATE CRIMES AGAINST LGBTI COMMUNITIES OF KYRGYZSTAN»**

*Submitted for the 60th CEDAW Session  
Geneva, Switzerland  
16 February - 6 March 2015*

LGBTIQA organization «Labrys» is a grass roots organization established in Kyrgyzstan in 2004, working on protection and promotion of LGBTIQA communities rights and freedoms in the country and the Central Asian region.

# TABLE OF CONTENTS

1. EXECUTIVE SUMMARY
2. KEY TERMS
3. INTRODUCTION
4. STATUS OF LGBTI PEOPLE IN KYRGYZSTAN UNDER SPECIFIC CEDAW ARTICLES
  - 4.1. DISCRIMINATION OF LGBTI COMMUNITIES ON LEGISLATIVE LEVEL
  - 4.2. LEGAL RECOGNITION OF TRANSGENDER PEOPLE
  - 4.3. HATE SPEECH AND HATE CRIMES AGAINST LGBTI
  - 4.4. DISCRIMINATION OF LGBTI BY LAW ENFORCEMENT AGENCIES AND MEDICAL SPECIALISTS

## 1. EXECUTIVE SUMMARY

This shadow report is based on cases documented by LGBTIQA organization «Labrys» in 2011-2015, describing the situation of lesbian, bisexual women, transgender and intersex (LBTI) people in Kyrgyzstan. The report includes information about institutionalized discrimination of LBTI on the part of the government such as legal recognition of transgender people, hate speeches and crimes against LBTI communities, as well as everyday violations of rights that LBTI people face from state institutions – law enforcement agencies, medical institutions, employees of civil registries, as well as the border service.

Stigma and discrimination against LBTI, already existent in the deeply patriarchal Kyrgyzstani society, are reinforced by legislative initiatives of the Kyrgyz Parliament aimed at prohibiting «formation of a positive attitude to non-traditional sexual relations». Transgender people are especially vulnerable to stigma, discrimination and violence, due to impossibility of obtaining documents that reflect their gender identity, as there is no officially approved, quick, transparent and accessible procedure of gender marker change in documents for transgender people.

## 2. KEY TERMS

**LBTI** – abbreviation for lesbian, bisexual women, transgender and intersexual 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 identified 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.

**INTERSEX PEOPLE** are born with physical, hormonal or genetic features that are neither wholly female nor wholly male; or a combination of female and male; or neither female nor male<sup>1</sup>.

**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<sup>2</sup>.

### **3. INTRODUCTION**

Although consensual homosexual relations between adults were decriminalized in Kyrgyzstan in 1998, the level of homophobia and transphobia has since then increased due to various internal and external influences.

Following the 42nd CEDAW Session that took place in October 2008 Kyrgyzstan received two concluding observations concerning the rights of LBT women. Concluding observation 43 voiced the concern of the Committee «about reports of discrimination and harassment against women because of their sexuality [...]», whereas concluding observation 44 urged the «State party to take all appropriate measures to ensure that the Convention applies to all women without discrimination and to further take all necessary steps to protect them from all forms of discrimination and violence by public and private individuals». Kyrgyzstan has not implemented this recommendation, although LGBTIQA organization «Labrys» has approached the Kyrgyz Government on several occasions offering cooperation in its implementation.

On the contrary, the Kyrgyz State is taking steps to officially limit the rights and freedoms of lesbians, bisexual women and transgender people in the country. In March 2014 following Russia's suit members of the Kyrgyz Parliament have introduced a draft law prohibiting any public mention of homosexuality, not just among minors, making it punishable administratively with heavy fines and criminally for up to 1 year in jail. This has sent a clear message to the already homophobic and transphobic society of Kyrgyzstan that it is «normal» to discriminate against lesbian, bisexual women, transgender and intersex people - and furthermore, that it is 'normal' to violate their rights. Just as in Russia, following the adoption of their law on «propaganda of homosexuality», the level of homophobic and transphobic violence in Kyrgyzstan has dramatically increased since introduction of the draft law.

## **4. STATUS OF LGBTI PEOPLE IN KYRGYZSTAN UNDER SPECIFIC CEDAW ARTICLES**

### **4.1. DISCRIMINATION OF LGBTI COMMUNITIES ON LEGISLATIVE LEVEL**

---

<sup>1</sup> What is intersex? Defining intersex. Organization Intersex International Australia Limited. Source: <https://oii.org.au/18106/what-is-intersex/>

<sup>2</sup> Definition from Yogyakarta Principles on Application of International Human Rights Law in relation to Sexual Orientation and Gender Identity. Source: [http://www.yogyakartaprinciples.org/principles\\_en.pdf](http://www.yogyakartaprinciples.org/principles_en.pdf)

**Article 1 of CEDAW** defines «discrimination against women» as «any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field». Also **Article 2 (d) of CEDAW** recommends that States Parties «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». These norms of the Convention are not, however, implemented by Kyrgyzstan, whose Parliament has in 2014 initiated and passed in the first reading a draft law, which introduces criminal and administrative liability for «formation of a positive attitude to non-traditional sexual relations».

The draft law titled «On introduction of amendments into certain legislative acts of the Kyrgyz Republic»<sup>3</sup>, registered on 6 May 2015 under the number 6-11804/14, introduces amendments into the Kyrgyz Administrative Code, Penal Code, as well as Laws «On peaceful assemblies» and «On mass media». This draft law violates the rights of LGBTI communities by prohibiting distribution of neutral or positive information about homosexuality and transsexuality in any public and private spaces. The draft law limits the freedom of speech, the freedom to search and share information, as well as the freedom of peaceful assemblies of LGBTI people in Kyrgyzstan. As opposed to the similar law that was passed in the Russian Federation, the Kyrgyz draft law is aimed not only at minors – it limits access to information about sexual orientation and gender identity for all citizens of the country regardless of their age. The draft law has passed the first reading in the Parliament of Kyrgyzstan and currently is moving forward through the Parliament system. If it is passed, the violators may risk up to 1 year in jail and heavy fines. When interpreting the bill members of Kyrgyz Parliament who initiated it openly stated that they want to limit public assembly by outlawing LGBT groups.

During discussion of the draft law, MPs systematically made homophobic statements, calling for violence towards LGBT people and banning LGBT organizations.

**Case #1. Kyrgyz MP Narynbek Moldobaev, 2014.**

*«At a session of the parliamentary committee on legality, law and order, and fighting crime on 10 June 2014, when the draft law on prohibiting so called ‘gay propaganda’, MP Moldobaev said: ‘I myself have a very bad attitude to this phenomenon. If it were up to me, I would shoot them (LGBT) all on the main square...»<sup>4</sup>*

**Case #2. Vice speaker of the Kyrgyz Parliament Torobai Zulpukarov, 2014.**

*«On 12 March 2014 in an interview to information agency K-News vice speaker of the Kyrgyz Parliament Torobai Zulpukarov stated: «Very often homosexuals try to get themselves the same rights as in Europe, for example, like adoption of children or same sex marriage. But in Kyrgyzstan this is impossible, it is against our traditions. I am against this and I think any public actions of LGBT should be prohibited»<sup>5</sup>.*

---

<sup>3</sup> On introducing amendments into certain legislative acts of the Kyrgyz Republic (Criminal Code, Administrative Code, Laws «On peaceful assemblies» and «On mass media»). Source: <http://kenesh.kg/lawprojects/lps.aspx?view=projectinfo&id=122027>

<sup>4</sup> MP provides an excursus into the history of homosexuality for his colleagues. Sources: [http://www.vb.kg/doc/276297\\_depytat\\_provel\\_dlia\\_kolleg\\_ekskyrsv\\_istoriu\\_gomoseksyalizma.html](http://www.vb.kg/doc/276297_depytat_provel_dlia_kolleg_ekskyrsv_istoriu_gomoseksyalizma.html), <http://jashtar.kg/kyrgyzstan/society/3981-deputat-provel-dlya-kolleg-ekskurs-v-istoriyu-gomoseksualizma.html>

<sup>5</sup> Vice Speaker of the Kyrgyz Parliament will develop a draft law banning propaganda of homosexuality in Kyrgyzstan. Source: [http://www.knews.kg/society/46598\\_vitse-spiker\\_jk\\_vozmetsya\\_za\\_razrabotku\\_zakonoproekta\\_zapreshchayuschego\\_gey-propagandu\\_v\\_kyrgyzstane/](http://www.knews.kg/society/46598_vitse-spiker_jk_vozmetsya_za_razrabotku_zakonoproekta_zapreshchayuschego_gey-propagandu_v_kyrgyzstane/)

In a country where there is no system of sexual education at all – passing of this draft law will exacerbate the situation with access to sexual and reproductive rights for all citizens of the country, first and foremost – for young women. Women, who suffer intersectional discrimination, such as LGBTI women, will be most vulnerable in this case. This legislative initiative can lead to a sharp increase in the level of violence towards LGBTI women, especially towards transgender women, who are engaged in sex work. Already as the draft law is being discussed in the public an increase in the number of threats and the cruelty of attacks against LGBTI communities of Kyrgyzstan have been noted.

With regards to consequences of draft laws that discriminate against LGBTI, the UN Committee on the Rights of the Child in its Concluding observations for the joint fourth and fifth periodic reports of the Russian Federation (2014) has also noted that the law in fact «encourages the stigmatization of and discrimination against lesbian, gay, bisexual, transgender and intersex (LGBTI) persons» and «lead[s] to the targeting and ongoing persecution of the country's LGBTI community, including through abuse and violence, in particular against underage LGBTI-rights activists»<sup>6</sup>.

#### **Recommendations:**

- The State Party is recommended to withdraw the discriminatory draft law, which introduces criminal and administrative liability for the formation of a «positive attitude to non-traditional forms of sexual relations»;
- The State Party is recommended to conduct an analysis of its national legislation with regards to its compliance with the international human rights norms on the issues of sexual orientation and gender identity;
- The State Party is recommended to develop and approve a comprehensive anti-discrimination legislation, which would include sexual orientation and gender identity as grounds for protection.

## **4.2. LEGAL RECOGNITION OF TRANSGENDER PEOPLE**

**Article 15 (2) of CEDAW** states that «*States Parties shall accord to women, in civil matters, a legal capacity identical to that of men and the same opportunities to exercise that capacity*». Also **Article 3 of CEDAW** states that «*States Parties shall take in all fields, in particular in the political, social, economic and cultural fields, all appropriate measures, including legislation, 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*».

These norms are violated by Kyrgyzstan with regards to transgender people, as there is no official procedure of gender marker change for transgender people. Kyrgyzstan's legislation has a norm, which provides for gender marker change in documents of transgender people, but only «*if a document of an officially certified standard significative of change of sex and issued by a medical institution*» is presented<sup>7</sup>. Although the law mentions a document of an officially certified standard, no such document was approved by the government so far. As a result Kyrgyzstan lacks a procedure of changing the gender marker in identity documents of transgender people, who in

---

<sup>6</sup> Committee on the Rights of the Child (2014) Concluding observations on the combined fourth and fifth periodic reports of the Russian Federation, CRC/C/RUS/CO/4-5, para. 24. Source:

[http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CRC/C/RUS/CO/4-5](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC/C/RUS/CO/4-5)

<sup>7</sup> Law of the Kyrgyz Republic «On Acts of Civil Status». Article 72. Source:

[http://online.adviser.kg/Document/?link\\_id=1000867988](http://online.adviser.kg/Document/?link_id=1000867988)

turn face multiple forms of discrimination and violations of their rights not having documents that adequately reflect their gender identity.

Lack of a speedy, transparent and accessible procedure of gender marker change leads to violations of rights of transgender people in Kyrgyzstan, such as, for example, discrimination and abuse, as well as extortion on the part of civil registry employees and members of the Border Services of Kyrgyzstan, as well as physical and sexual violence perpetrated by law enforcement officers.

**Case #3. D., 43 years old, Bishkek**

*«Since January 2012 transgender man D. repeatedly asked the registrar to change the passport data in accordance with his chosen gender identity. An employee of the office refused to accept the application for name change and the correction for gender marker in the civil registration roster explaining the necessity to undergo sex reassignment surgery. In the spring of 2013 D. removed his mammary glands and received a certificate of «sex reassignment surgery». However, D.'s application was again denied by the registrar because an employee of the registrar's office claimed that in accordance with the legislation of Kyrgyzstan changing the name and gender marker in the civil registration roster can be made only after all sex reassignment surgeries, and after the meeting the panel of doctors of all specialties to confirm the sex reassignment»<sup>8</sup>.*

**Case #4. V., 33 years old, Bishkek**

*«In January 2015 transgender man S. turned to his district civil registry office with a goal to change the gender marker in his documents. Employees of the registry refused to accept his documents demanding that he present them a medical certificate of a «certified standard». S. had a medical certificate that confirmed his having been diagnosed with F64.0 – «Transsexualism» – but as the certificate was not of a «certified standard» (there is no such certificate in existence yet), his documents were not accepted by the civil registry»<sup>9</sup>.*

**Case #5. T., 27 years old, Bishkek**

*«In December 2014 transgender man T. was going through the border control at the airport in Bishkek. T. had ID documents that did not reflect his gender identity – i.e. they indicated a female name and surname. T. was undergoing a medical transition – he had a gender reassignment surgery, as well as was on hormonal treatment for over a year at the moment of the incident. Border service officer expressed his doubt whether T. was presenting his own documents, to which T. had to explain that he is a transgender man and presented a medical certificate (not of a «certified standard»). The documents did not satisfy the officer, so he took T. to head of the duty. At the head's room three border service officers (all cisgender males) started asking T. questions of a personal character concerning his gender identity and sexual orientation. Further under the pretext of drug trafficking suspicions the officers forced T. to completely undress for strip search. After all the questioning and searching T. received his documents back, but was not allowed to exit the country. After all the humiliation and psychological violence that T. suffered at the hands of the border service officers, he decided not to argue their decision, and was forced to cancel the work-related trip»<sup>10</sup>.*

---

<sup>8</sup> Interview of LGBTIQA organization «Labrys» with D. Bishkek, July, 2013.

<sup>9</sup> Interview of LGBTIQA organization «Labrys» with V. Bishkek, January, 2015.

<sup>10</sup> Interview of LGBTIQA organization «Labrys» with T. Bishkek, December, 2014.

**Article 11 of CEDAW** states that «*States Parties shall take all appropriate measures to eliminate discrimination against women in the field of employment*». This norm of the Convention is not implemented by Kyrgyzstan with regards to transgender people, who due to not having documents that reflect their gender identity/gender self-expression, are forced to work at low-paid and low qualification job (where ID documents are not required), such as car washes, construction sites, menial job in outdoor markets. Also, many transgender women are forced to engage in sex work, where often their clients and law enforcement officers may subject them to physical and sexual violence.

**Case #6. Z., 16 years old, Bishkek**

*«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»<sup>11</sup>.*

**Case #7. X., 18 years old, Bishkek**

*«In November 2014 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 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»<sup>12</sup>.*

The national report of the Kyrgyz Republic (point 61) says that work on creating a procedure of gender marker change for transgender people is currently underway. This information does not correctly describe the actual situation. Indeed with the initiative of Soros Foundation Kyrgyzstan and LGBTIQA organization «Labrys» a working group under the Ministry of Health of the Kyrgyz Republic was created in 2009, which had developed a package of documents on gender marker change (including the procedure for medical and psychological examination, including the certificate of a «certified standard»). This package of documents was not approved. Currently there are no working groups under the Ministry of Health of the Kyrgyz Republic, which would be working on the medical-psychological examination and gender marker change in documents of transgender people.

**Recommendation:**

- The State Party is recommended jointly with the transgender community of Kyrgyzstan, as well as civil society and grassroots organizations – to finalize and approve the official procedure of gender marker change in identity documents of transgender people of Kyrgyzstan. The procedure of gender marker change in identity documents of transgender people should be speedy, transparent, accessible and implemented on

---

<sup>11</sup> Interviews of LGBTIQA organization «Labrys» with Z. Bishkek, 2014.

<sup>12</sup> Interview of LGBTIQA organization «Labrys» with Q. Bishkek, November, 2014.

the basis of a document of a certified standard without requirements of obligatory gender reassignment surgeries.

### 4.3. HATE SPEECH AND HATE CRIMES AGAINST LGBTI PEOPLE

**Articles 1, 2 and 5 of CEDAW** state that States Parties take obligations to pursue a policy of eliminating discrimination against women, as well as 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.*» But currently the general opinion that LGBTI communities are not socially equal to heterosexual majority that exists in Kyrgyzstan is being exacerbated by the State exactly, including discriminatory legislative initiatives (see 4.1), as well as hate speech towards LGBTI people on the part of public officials.

**Case #8. Representative of «Butun Kyrgyzstan» political party, Adakhan Madumarov, 2012.**

«On 20 November 2012 during a public debate on TV Adakhan Madumarov from «Butun Kyrgyzstan» was asked: «What is your attitude towards LGBT communities?» Madumarov responded: «My position is very strict. We need to decisively fight with everything that goes against the human nature»<sup>13</sup>.

Hate speech is also perpetrated by religious leaders and public figures of Kyrgyzstan.

**Case #9. Spiritual Office of Muslims of Kyrgyz Republic, 2014.**

«In January 2014 the Spiritual Office of Muslims of Kyrgyzstan (DUMK) published on its website (<http://muftiyat.kg/>) a fatwa signed by the Mufti of Kyrgyzstan Maksat aji Toktomushev. The fatwa uses a citation, which can be translated as «when you see a homosexual – kill him». As fatwa in its form is a religious decree, the citation can be used as a direct call for physical extermination of LGBTI in Kyrgyzstan. After the publication of the fatwa five civil society organization of Kyrgyzstan turned to the Kyrgyz State Committee on National Security, as well as the Prosecutor General's office, with request to provide a legal examination of the fatwa. This resulted in representative of LGBTIQ organization «Labrys» being called into the office of the National Security Committee for «verbal explanation» of our request. No further actions were taken neither by the Committee nor the Prosecutor General's office»<sup>14</sup>.

Currently, there are no regulations in the legal framework of the Kyrgyz Republic that would ensure accountability for hate speech in relation to LGBTI communities. Kyrgyz Criminal Code provides only responsibility for instigating «national, racial, religious or interregional hatred»<sup>15</sup>. Also, the Criminal Code of Kyrgyzstan does not have a hate motive in relation to crimes committed against LGBTI citizens. Crimes clearly motivated by hatred - homophobia and

---

<sup>13</sup> Debates of candidates into Bishkek City Council representing «Erkin El», «Zamandash» and «Butun Kyrgyzstan» parties. Source: [http://kloop.kg/blog/2012/11/21/debaty-kandidatov-v-deputaty-bishkekskogo-gorodskogo-kenesha-e-rkin-e-l-zamandash-sovremennik-i-butun-ky-rgy-zstan-video/?utm\\_source=twitterfeed&utm\\_medium=twitter&utm\\_campaign=Feed%3A+kloopkg+%28](http://kloop.kg/blog/2012/11/21/debaty-kandidatov-v-deputaty-bishkekskogo-gorodskogo-kenesha-e-rkin-e-l-zamandash-sovremennik-i-butun-ky-rgy-zstan-video/?utm_source=twitterfeed&utm_medium=twitter&utm_campaign=Feed%3A+kloopkg+%28)

<sup>14</sup> Mufti of Kyrgyzstan calls for murders of gay men. Source: [http://www.knews.kg/society/44190\\_muftiy\\_kyrgyzstana\\_prizyivaet\\_ubivat\\_geev\\_pravozaschitniki/](http://www.knews.kg/society/44190_muftiy_kyrgyzstana_prizyivaet_ubivat_geev_pravozaschitniki/)

<sup>15</sup> Criminal Code of the Kyrgyz Republic. Article 299. Incitement of national, racial, religious or interregional enmity. Source: [http://www.kenesh.kg/RU/Articles/7307-UGOLOVNYJ\\_KODEKS\\_KYRGYZSKOJ\\_RESPUBLIKI\\_v\\_red\\_ZKR\\_10\\_ot\\_1032012g.aspx](http://www.kenesh.kg/RU/Articles/7307-UGOLOVNYJ_KODEKS_KYRGYZSKOJ_RESPUBLIKI_v_red_ZKR_10_ot_1032012g.aspx)

transphobia - are investigated and classified without taking this motive into account. Only ethnic or religious hatred is considered an aggravating circumstance in one article of the Criminal Code - «Murder»<sup>16</sup>.

#### **Case #10., G. 33 years old, Bishkek**

*«In October 2011 a transgender woman that engaged in sex work was attacked. The attacker knew about G.'s gender identity, so he fully planned his attack in advance. The young man physically abused the transgender woman for several hours, inflicting numerous stab wounds. Beatings were accompanied by coercion to perform sexual acts, insults and threats. «I'll kill all of you, to cleanse the world!» - he cried. The girl suffered serious injury - cut wounds and hematomas all over her body. Following the attack the transgender woman filed a case with the police, which initiated an investigation. There was a trial, however, the crime was not qualified as a hate crime to LGBTI, while the attacker was declared insane»<sup>17</sup>.*

#### **Case #11., A. 27 years old, Bishkek**

*«In February 2012 three men attacked a lesbian near the city's gay club. The men surrounded her and laughed at her and asked, «Who are you - a boy or a girl?», «You look like a boy, so you are probably a lesbian?!» Then men began to push the girl from one to another, saying all the while: «We will show you how to fuck with guys!». She tried to escape, but one of the guys strongly kicked her in the back, and then all three started beating her. One of the men grabbed her by the hair and dragged her away from the road. The girl managed to escape, because the incident drew attention of another man who frightened the young men and called an ambulance for the girl. After the incident, the girl turned to law enforcement agencies, but her application was not accepted. The police justified it by saying that they «will not find the attackers anyway»<sup>18</sup>.*

#### **Recommendations:**

- The State Party is recommended to complete the list of factors that aggravate the liability for criminal offences (article 55 of the Criminal Code) and to include there «committing a crime motivated by hate or enmity towards religion, nation or race, sexual orientation or gender identity»;
- The State Party is recommended to add to the list of characteristics protected by article 299 of the Criminal Code a reference to sexual orientation and gender identity, and to modify part 1 of the aforementioned article in the following way: «Actions aimed at inciting national, racial, religious or interreligious enmity, humiliation of national pride, as well as propaganda of exclusiveness, superiority or inferiority of citizens based on their attitude to religion, nation or race, sexual orientation or gender identity, if such actions were committed publicly or via mass media».

#### **4.4. DISCRIMINATION OF LGBTI BY LAW ENFORCEMENT AGENCIES AND MEDICAL SPECIALISTS**

**Article 12 of CEDAW** states that «States Parties shall take all appropriate measures to eliminate discrimination against women in the field of health care». Also **Article 15 (1) of the Convention** clarifies that «States Parties shall accord to women equality with men before the law». In practice these norms of the Convention are not implemented fully with regards to LGBTI women.

---

<sup>16</sup> Criminal Code of the Kyrgyz Republic. Article 97. Murder. Source: [http://www.kenesh.kg/RU/Articles/7307-UGOLOVNYJ\\_KODEKS\\_KYRGYZSKOJ\\_RESPUBLIKI\\_v\\_red\\_ZKR\\_10\\_ot\\_1032012g.aspx](http://www.kenesh.kg/RU/Articles/7307-UGOLOVNYJ_KODEKS_KYRGYZSKOJ_RESPUBLIKI_v_red_ZKR_10_ot_1032012g.aspx)

<sup>17</sup> Interview of LGBTIQA organization «Labrys» with G. Bishkek, October, 2011.

<sup>18</sup> Interview of LGBTIQA organization «Labrys» with A. Bishkek, March, 2012.

According to the LGBTIQ community needs assessment conducted by LGBTIQA organization «Labrys» in 2012-2013 many LGBTI face homophobia and transphobia on the part of health professionals. Experts refuse to provide services after the disclosure of sexual orientation and / or gender identity of patients, referring to lack of information about the specific needs of LGBTI or openly expressing their homophobic and transphobic position. LGBTI often also face breach of confidentiality in health care facilities, forcing them to abandon the care for their health due to lack of access to quality health care.

**Case #12. B., 41 years old, Bishkek**

*«In November 2012, after an attack by an unknown person, trans man B. was hospitalized. After reviewing the patient's passport (the passport's gender marker did not match gender identity and gender expression of the patient), doctors and nurses started to use the female name for B. according to the passport data, despite the fact that B. looked and behaved like a man. The situation occurred in front of other patients and visitors. Nurses loudly discussed the discrepancy between the appearance of the patient and his documents. As a result, B. was forced to abandon hospitalization without receiving any medical care»<sup>19</sup>.*

**Case #13. Y., 20 years old, Bishkek**

*«Y. was born intersex person and had both female and male type genitalia. In early childhood, she underwent surgery, which left only the male genitalia. Relatives hid from Y. her intersexuality, forcing to take anti-estrogens under the guise of headache pills, and raised her as a boy. When Y. grew up, she realized that her gender identity was a female, at which point she turned to healthcare professionals friendly to LGBTI and learned about her intersexuality. Now Y. plans hormonal therapy and change documents in order to live in the right gender. Due to the fact that Y.'s doctors and parents had not chosen her gender correctly, the girl had health problems - obesity, breast pain, pain during sexual intercourse»<sup>20</sup>.*

Medical specialists of Kyrgyzstan are absolutely not aware about the phenomenon of intersexuality. When a person is born intersexual doctors decide with the person's parents - characteristics of which sex to keep and which to remove surgically. The specialists conduct even the kinds of surgeries that are not required medically, and which may lead to problems with health and adaptation for intersex children and adults. Usually the choice is made in favor of male characteristics. Such decisions are taken without regard to self-identity of a person and can greatly undermine the health of an intersex person, and subsequently lead to the need to carry out a medical «transition» from one gender to another.

The law enforcement agencies of Kyrgyzstan have a very high level of homophobia and transphobia which coupled with low awareness on concepts of sexual orientation and gender identity, leads to persistent discrimination and violence (both physical and sexual) by the police in relation to LGBTI communities.

**Recommendations:**

- The State Party is recommended - in conjunction with community LGBTIQA organizations - to develop and implement a system of raising awareness of health professionals on sexual orientation and gender identity, including through the inclusion of educational blocks on SOGI in the curricula of higher education institutions that prepare health care workers;

---

<sup>19</sup> Interview of LGBTIQA organization «Labrys» with B. Bishkek, December, 2012.

<sup>20</sup> Interview of LGBTIQA organization «Labrys» with Y. Bishkek, June, 2014.

- The State Party is recommended - in conjunction with community LGBTIQA organizations - to develop and implement a system of raising awareness of law enforcement agencies on issues of sexual orientation and gender identity, including through the inclusion of educational blocks on SOGI in the curricula of higher education institutions that prepare law enforcement officers.