

**Situation of lesbian, bisexual and transgender women in
Kazakhstan:
Alternative report on implementation of the International
Covenant on economic, social and cultural rights**

Submitted for the consideration of the CESCR on the Second periodic report by
Kazakhstan under articles 2, 6, 7 and 12 of the International Covenant on Economic,
Social and Cultural Rights (CESCR) E/C.12/KAZ/2.

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This report was prepared by the Kazakhstan Feminist Initiative “Feminita”

Executive summary

The present submission was prepared by Kazakhstan Feminist Initiative “Feminita” for the consideration of the UN Committee on Economic, Social and Cultural Rights as an additional source of information to the second periodic report of the Republic of Kazakhstan with some proposed questions for the List of Issues to be provided to the State party.

The submission covers the following issues: (1) discrimination of lesbian, bisexual and transgender (LBT women) in employment; (2) hate crimes on the grounds of sexual orientation and gender identity.

Most of the data presented in the present submission was obtained by the reporting organization in course of its research and monitoring activities in Kazakhstan.

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1. Suggested questions for the List of Issues

Article 2 (2) – Non-discrimination

1. Please describe the measures adopted to prevent and punish discrimination based on gender identity and sexual orientation, and the remedies available to victims of such discrimination. Please indicate whether the State party plans to include gender expression and gender identity as explicit grounds of discrimination in the various anti-discrimination laws at the national, regional and community levels.

2. Specify what steps have been taken to decriminalize homosexual practices and to prevent any discrimination based on sexual orientation in the exercise of economic, social and cultural rights, including awareness campaigns aimed at preventing any de facto discrimination.

3. Please provide information on legislative or other measures taken in order to establish of an effective mechanism for filing and examining complaints in cases of discrimination based on SOGI.

4. Please provide further information on the nature and impact of measures taken, including awareness-raising campaigns carried out, to prevent and combat violence and discrimination based on sexual orientation or gender identity and to prosecute and punish those responsible, including when they are members of the police or the Armed Forces.

Article 6 – Right to work

1. Please provide updated information on unemployment in the State party, disaggregated by sex, age and geographic location. Please also provide information on the measures taken to combat unemployment among the groups most vulnerable to unemployment, including women, persons with disabilities, lesbian, gay, bisexual, transgender and intersex persons and young people.
2. Please provide examples of the court judgments or decisions of other state bodies in which the dismissal of an employee was declared discriminatory in connection with his or her sexual orientation or gender identity, including decisions in which a direct violation of Article 6 of the Labor Code is indicated. Please also provide information on whether these decisions assist the employee in reassuming his or her post and in receiving compensation for the moral damages and financial losses, and to what degree these decisions have a preventative effect on the further practice of organizations involved in their policies and treatment of employees.
3. Please provide updated information on unemployment in the State party, disaggregated by sex, age and geographic location. Please also provide information on the measures taken to combat unemployment among the groups most vulnerable to unemployment, including women, persons with disabilities, lesbian, gay, bisexual, transgender and intersex persons and young people.

Article 12 - Right to highest attainable standard of physical and mental health

1. Please provide information on measures taken by the State party to collect data on health needs of lesbian, bisexual and transgender women, especially in sexual and reproductive health, and measures taken to meeting these needs.

2. Background information on the gender politics of Kazakhstan

Kazakhstan positions itself as a country with a high level of tolerance, social and economic development and culture. The government is investing in strengthening its reputation of a commodity exporter on the world stage, creating an image of a stable partner in various fields, from economics to social issues. According to numerous state programs and strategies, the Republic of Kazakhstan will enter the top thirty developed countries in the near future. At first it was 2020, then the time for achieving results was shifted to 2030 and soon to 2050¹. Probably, in this way the Government demonstrates that it needs more time.

¹ Strategies and Programs of Republic of Kazakhstan. The official website of the President. Available at: http://www.akorda.kz/ru/official_documents/strategies_and_programs.

Repeatedly Kazakhstani officials underline the fact of signing international documents, including the Convention on the Elimination of All Forms of Discrimination against Women of 1979, the Declaration on the Elimination of Violence against Women of 1993, the Beijing Declaration and the Platform for Action of 1995. A significant emphasis is placed on the institution of the family, which is considered exclusively as an object of social protection.

A 2010 gender assessment by USAID in Central Asia found that “those working in government who are familiar with the term [gender] understand it as only addressing women’s issues, or ensuring equal participation of men and women in government committees or boards.”² When women’s disadvantaged position in society is acknowledged, it is often understood as the product of inherent differences between the sexes and not as arising from socially constructed inequalities. When a number of experts in Kazakhstan were asked for the Country Gender Assessment conducted by the Asian Development Bank to explain why, in their opinion, women experience discrimination despite the existence of a law that affirms formal guarantees of equality and mechanisms for promoting gender equality, the majority (62.5%) responded that “gender bias is present in many politicians and civil servants who believe that inequality is natural and inevitable.”³

The Concept of Family and Gender Policy-2030 adopted in 2017 is the most important document representing the state "picture" of gender. The Concept approved three basic principles for the implementation of the state program:

- "- ensuring the equality of all economic, social, cultural, civil and political rights irrespective of sex;
- ensuring non-discrimination and no gender asymmetry in state and public life;
- formation of gender understanding and the eradication of gender stereotypes in society”⁴.

This policy document replaces the older version of Kazakhstan’s 2006-2016 Gender Equality Strategy, implementation of which the State party was criticized by the Committee in its Concluding Observation of 7 June 2010 to the first cycle review of the State report to CESCR. The Committee expressed a “deep concern by the persistence of prejudices and customary practices in Kazakhstan that perpetuate negative stereotypical roles for women, despite the adoption of the Kazakhstan’s 2006-2016 Gender Equality Strategy”, recommending the State party to “strengthen efforts to eliminate negative stereotypes and societal attitudes that discriminate against women, including through awareness-raising programmes and, in particular, the correction of discriminatory language and images in textbooks and the media”⁵. The Committee also recommended that the State party “adopt time-bound targets and allocate the necessary resources to ensure the proper functioning of the National Commission on Family and Gender and the effective implementation of the 2006-2016 Gender Equality Strategy”⁶.

Although Kazakhstan updated the older gender equality strategy with the Family and Gender Policy Concept in the Republic of Kazakhstan until 2030, in partial fulfillment of the

² S. Somach and D. Rubin. 2010. Gender Assessment: USAID/Central Asian Republics. Washington, DC: United States Agency for International Development. p. 18.

³ Asian Development Bank. 2013. Kazakhstan. Gender Country Assessment. p. 10.

⁴ Family and Gender Policy Concept in the Republic of Kazakhstan until 2030. Zakon.kz. Available at: <https://www.zakon.kz/4836884-koncepcija-semejnoj-i-gendernoj.html>.

⁵ Concluding Observations of the CESCR to Kazakhstan, 7 June 2010. Available at: <https://goo.gl/cgi72v>.

⁶ Concluding Observations of the CESCR to Kazakhstan, 7 June 2010. Available at: <https://goo.gl/cgi72v>.

Committee's recommendation, the new Strategy raises further questions. For example, OECD in its 2017 review of Gender Policy Delivery expressed a concern that unlike the 2006-2016 Gender Equality Strategy the new strategy adopted in 2017⁷ combines gender equality and family portfolios rather than establishing a stand-alone gender equality strategy in Kazakhstan⁸, and thereby strengthens and reinforces the traditional link between women and family institution. The new strategy also remains exclusive of the gender spectrum.

Concern about such gender stereotypes was expressed in the alternative report of the Kazakhstan Feminist Initiative "Feminita" on the implementation of the provisions of the International Covenant on Civil and Political Rights of May 27, 2016. Then Kazakhstan received recommendations from the Human Rights Committee, in which the State party was recommended to include sexual orientation and gender identity as prohibited grounds for discrimination⁹. Additionally the Committee recommended to "indicate whether steps have been or are being taken to adopt comprehensive anti-discrimination legislation that addresses discrimination, including in the private sphere; prohibits direct, indirect and multiple discrimination; contains a comprehensive list of prohibited grounds for discrimination, including sexual orientation and gender identity; and provides for effective remedies in judicial and administrative proceedings"¹⁰. To which the State reported that "regulations on the prohibition of any form of discrimination, without distinction between indirect, direct and multiple discrimination, are set out in the relevant laws. Establishing an exhaustive list of prohibited grounds for discrimination, as the Committee has requested, seems impracticable, as the right of persons to bring proceedings before a court would be limited if they faced a form of discrimination not covered by such a list"¹¹.

3. Discrimination of LBT women in employment

Articles 6 and 7 of the International Covenant on Social, Economic and Cultural Rights provide for the right to work and to fair working conditions. These rights should be guaranteed to everyone without any discrimination. As it is highlighted in the CESCR General Comment No. 23 (2016) on the right to just and favourable conditions of work (article 7 of the ICESCR), "equality applies to all workers without distinction based on [...] sexual orientation [and] gender identity or any other ground"¹²; and the State parties should "[g]uarantee through law the exercise of the right [to just and favourable conditions of work] without discrimination of any kind as to [...] sexual orientation, gender identity, intersex status [...] or any other status."¹³ CESCR General comment explicitly includes such grounds

⁷ Family and Gender Policy Concept in the Republic of Kazakhstan until 2030. Available at: https://online.zakon.kz/Document/?doc_id=37778759#pos=0;0.

⁸ OECD (2017), Gender Policy Delivery in Kazakhstan, OECD Public Governance Reviews. OECD Publishing, Paris.

⁹ Concluding Observations on the CCPR to Kazakhstan. Available at: <https://goo.gl/cJjJYv>.

¹⁰ List of issues in relation to the second periodic report of Kazakhstan. Replies of Kazakhstan to the list of issues, 24 March 2016. Available at:

<https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/077/81/PDF/G1607781.pdf?OpenElement>.

¹¹ Ibid.

¹² E/C.12/GC/23, para. 11.

¹³ Ibid, para. 65(a).

as sexual orientation and gender identity into the scope of article 2, paragraph 2 of the ICESCR.¹⁴

Labor discrimination against LBT women in Kazakhstan ranges from insults, humiliation, harassment, withholding of bonuses, illegal dismissals, or forced resignations. These negative consequences and risks affect LBT persons regardless of whether they are open about their sexual orientation and gender identity or not. In either case, regardless of the tactic chosen by LBT persons, there always remains the risk of outing – the collection of information about a person’s sexual orientation or gender identity and disclosure of this information by someone to a third party or to an employer without the person’s consent.

In its second periodic report in 2017, Kazakhstan notes that “the basic direction in the sphere of realization of human rights in the republic is equal pay for equal work for men and women. This principle is enshrined in the Constitution of the Republic of Kazakhstan (paragraph 2 of Article 24), which provides for the right of citizens to remuneration for work without any discrimination. This requirement is of a general nature, i.e. it applies to all persons regardless of the scope of employment. This includes prohibition of discrimination in any form (Article 14 of the Constitution of the Republic of Kazakhstan).”¹⁵ Also, Article 6 of the Kazakhstan Labor Code states that no one may be subjected to any discrimination in the exercise of labor rights on grounds of origin, social, official and property status, sex, race, nationality, language, attitude towards religion, beliefs, residence, age or physical disabilities, as well as belonging to public associations.

However, the provisions of the laws are violated by the state itself. During the period 2016-2017 - we know of several cases (see cases 1.1, 1.2 and 1.3), when sexual orientation and gender identity (SOGI) caused the dismissal of a person from employment.

Case 1.1. From 20 to 26 November 2016, lesbian J. was under house arrest for a week in a village in the West Kazakhstan region after she was outed by her acquaintances. Relatives forced J. to go to the local mullah (religious representative), who conducted a ritual of "treatment against homosexuality" and her cell phone was taken away for the period of house arrest. Upon return to her workplace J. learned that she was fired - the employer cited her prolonged absence and lack of communication as reasons for dismissal. J. decided not to try reinstating herself in the workplace¹⁶.

Case 1.2. In the Soros Foundation Kazakhstan based research project on "Stigmatization of the LGBTIQ community in interaction with law enforcement agencies in the Republic of Kazakhstan," a case was recorded: "My acquaintance [from the LBTQ community] was fired from her job. The system administrator read

¹⁴ General comment No. 20 (2009), Non-discrimination in economic, social and cultural rights (art. 2, para. 2, of the International Covenant on Economic, Social and Cultural Rights), E/C.12/GC/20, para. 32.

¹⁵ Committee on Economic, Social and Cultural Rights. Consideration of reports submitted by States parties in accordance with articles 16 and 17 of the International Covenant on Economic, Social and Cultural Rights. Second periodic reports of States parties due in 2015. Available at: <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=4slQ6QSmlBEDzFEovLCuWzkLn5QA2sHMzcgILbdGh1oYTFM%2fUsEqCwZj6HDWXRQuchV8WxUh%2by8sqIVHVMYP%2fP1clGNBPrtcZ9NG0huWMD%2fZl%2fBz8SZZgOCQo0kUvMha>.

¹⁶ Case documented by Kazakhstan Feminist Initiative “Feminita”.

and gave her private correspondence with her girlfriend to the company's leadership, which immediately fired the woman. But she did not report this case to law enforcement bodies on this occasion because of lack of direct prohibition of people based on their sexual orientation and gender identity.”¹⁷

Case 1.3. *On May 6, 2015, management of the Border Guard Service of the National Security Committee of the Republic of Kazakhstan fired two female soldiers for kisses between them following an anonymous video taken from outdoor CCTV-surveillance cameras broadcasting monitor that went viral in the local social media. On the video the two women, clearly identifiable, are seen kissing at the security outpost. Following the scandal the management of the border service instituted disciplinary proceedings against women and dismissed them, stating, as an official reason, "absence from post for 3 hours or more without a good reason". After the dismissal, these women soldiers appealed to the local court demanding that their dismissal be declared illegal. The court granted the claim and found their dismissal illegal¹⁸. In its decision, the court did not refer to discrimination as the possible reason for the dismissal of women from military service. The Border Service of the Committee of the National Security Committee of Republic of Kazakhstan denied the connection between the video and dismissal of women. Women themselves link their dismissal with the online video and their sexual orientation.*

It is important to note that the indicators of perceived discrimination would be much higher, and the number of incidents with discrimination in the workplace (unlawful dismissals, refusals to promote) would be significantly greater if many employees did not hide their sexual orientation or gender identity. It is the awareness of these serious risks and the fear of further negative consequences that make many LBT women continue to hide their sexual orientation or gender identity at work. The threat of discrimination, including undue dismissal, means that people with a different sexual orientation are forced to bear the additional burden of silence and isolation from others in order to avoid the negative consequences that can result from openness about their gender identity or sexual orientation. This fear, as well as the obsession with silence about their sexual orientation and gender identity, can have various negative consequences, affecting the relationship of LBT women with colleagues in the workplace, and oftentimes leading to serious psychological problems.

Recommendations

1. The State party should take all measures necessary to ensure that discrimination based on sexual orientation or gender identity is explicitly prohibited in anti-discrimination legislation and that same-sex couples have access to advantages now reserved for married couples; eradicate negative stereotypes about and stigmatization of lesbian, gay, bisexual, transgender and intersex persons, including by revising textbooks and conducting awareness- raising campaigns for the public,

¹⁷ Pushilin A. Stigmatization of the LGBTIQ community in interaction with law enforcement agencies in the Republic of Kazakhstan, Almaty, 2016, p. 15.

¹⁸ "In Atyrau dismissed women border guards won the court", Today.kz, August 27, 2015. Available at: <http://today.kz/news/proisshestviya/2015-08-27/624676-v-atoryau-uvolennye-zensinypogranicniki-vyigrali-sud/>.

health-care providers, social workers and law enforcement and other public officials; and ensure prompt, impartial and effective investigation and prosecution of cases of violence against lesbian, gay, bisexual, transgender and intersex persons (based on the concluding observations of the UN Committee on Economic, Social and Cultural Rights on the former Yugoslav Republic of Macedonia in 2016).

2. The State party should adopt comprehensive anti-discrimination legislation, explicitly addressing all areas of life, including employment, identifying and prohibiting discrimination on any grounds, including sexual orientation, gender identity and gender identity. Legislation should impose appropriate penalties for direct and indirect discrimination committed by both public and private organizations, and should provide effective remedies (based on the concluding observations of the UN Human Rights Committee on the Republic of Korea in 2015).

4. Hate crimes on the grounds of sexual orientation and gender identity; police misconduct

The Committee has already expressed its concerns on hate crimes, violence and police abuse against LBT women and recommended State parties to take relevant measures to cure the problem.¹⁹

Hate crimes against the LGBT community, and in particular LBT women, are not recorded by law enforcement agencies of Kazakhstan, however this does not mean there are no such crimes. Judicial practice in dealing with cases of discrimination based on sexual orientation, gender identity (SOGI) and hate crimes on these grounds is absent. This is due to the fact that SOGI are not recognised as one of the prohibited grounds for discrimination²⁰, as a result of which victims of hate crimes based on SOGI prefer not to apply for protection to Kazakh courts, understanding the futility of such an initiative. Nevertheless, despite the absence of official statistics, the problem of violence is extremely relevant for LBT women in Kazakhstan, as evidenced by the results of our work (including case monitoring, interviews with community representatives, etc.).

Moreover, the practice shows that in reality, police representatives not only do not protect lesbian, bisexual and transgender women from violence committed by private individuals, but they also violate their rights. So often LBT women face blackmail from the police (see cases 2.1, 2.2, 2.3 and 2.4)

Case 2.1. In the winter of 2004, lesbian D. met with a girl with whom she went outside the city. In the backseat of her car they started kissing and 10 minutes later a police car drove up to them. D. was taken away and she was accused by the police of being a lesbian, who started sniffing her fingers. The police began to press, telling her that she needs to bring money, that if D. does not comply, they will go to her university

¹⁹ See, e.g.: Concluding Observations: Morocco (2015), E/C.12/MAR/CO/4, paras. 15—16; Concluding Observations: Uganda (2015), E/C.12/UGA/CO/1, para. 16; Concluding Observations: Dominican Republic (2016), E/C.12/DOM/CO/4, paras. 25—26; Concluding Observations: The former Yugoslav Republic of Macedonia (2016), E/C.12/MKD/CO/2-4, paras. 25—26.

²⁰ Kazakhstan International Bureau for Human Rights and Rule of Law "Preliminary Overview Report on Certain Aspects of Inequality and Discrimination in the Republic of Kazakhstan", 2015. Available at: <http://ihahr.org/sites/default/files/files/kazahstandiskriminaciya-2015-doklad.doc>.

and out her to everyone as a lesbian. D. at that time was 19 years old and, frightened of the consequences, she brought them the money. Her parents found out about her sexual orientation following this case.²¹

Case 2.2. In 2017, lesbian M., who lives in the village of Boraldai, Ili district, Almaty region, said that she had a double blackmail case when both herself and her partner were extorted money. Local police officers saw them in their car, in which they retired for a date. The officers knocked on the window and said that it is prohibited to engage in intimate relationships inside a car. They recorded the number plates of this car and began a year-long story of extortion of money.²²

Case 2.3. In March 2017, a lesbian T. was beaten near a gay club. She filed a statement to the Almalinsky Department of Internal Affairs in Almaty. The case on infliction of bodily injuries of medium gravity was recorded, but no investigative actions, except face-to-face questioning, were conducted. In addition, when filing the application, T. and her friend were subjected to bullying by the Almalinsky police department. According to T., police officers established her nationality, then switched to sexual orientation. They asked why the girls went to a club of "some perverts and pedophiles", clarifying if T. was normal. The questioning was accompanied by verbal insults, swearing and laughter from the officers of the district Internal Affairs Department. In addition, the police in the presence of T. and her friend recommended their attackers to write a counter-charge, which they did. The police accepted the statement of the attacker without requesting any medical examination certificates and threatened T. and her friend that they would be punished, not the attacker. Till now, T. can not find out the names of the investigators who were to conduct the investigation. All attempts by the victim to clarify the name and position of the investigators are ignored. Thus, the case was not brought to court.²³

Case 2.4. A similar incident happened on June 14, 2017 with a transgender woman in Astana, who was beaten and robbed by a taxi driver. She went to the police to submit a report on this. The police found the offending taxi driver, however, instead of pressing charges against him they themselves wrote a counter-charge on behalf of the "injured" taxi driver, claiming that this taxi driver was attacked, and then summoned transgender woman to the court as a defendant. The court found out that the counter-charge was written in Russian, while the taxi driver did not understand the Russian language well. He admitted that he did not write or submit the counter-charge, but only signed the statement that was prepared by the police.²⁴

Recommendations

1. The State party should clearly and formally state that it does not tolerate any form of social stigmatization, language of hatred, discrimination or violence against persons on the basis of their sexual orientation, gender identity or gender expression. The state must also take all necessary measures to strengthen the national legal framework that

²¹ Case documented by Kazakhstan Feminist Initiative "Feminita".

²² Case documented by Kazakhstan Feminist Initiative "Feminita".

²³ Case documented by Kazakhstan Feminist Initiative "Feminita".

²⁴ Case documented by Kazakhstan Feminist Initiative "Feminita".

would protect LGBT people from discrimination and violence and ensure the timely investigation, prosecution and punishment of any act of violence motivated by the sexual orientation and/or gender identity of the victim (based on the concluding observations of the UN Human Rights Committee in Russia in 2015);

2. State party should ensure that no member of the law enforcement agencies engages in blackmail, violence, stigmatization and discrimination of lesbian, bisexual, trans-women in Kazakhstan, and that every such case is punished in accordance with international standards of human rights law. State party should ensure that members of law enforcement agencies do not engage in breach of conduct by helping the perpetrators of homo- and transphobic hate crimes against lesbian, bisexual and trans-women write counter-statements against their victims.

3. State party should organise and implement a complex of measures on raising awareness of members of law enforcement agencies on the rights and freedoms of lesbian, bisexual and trans-women in Kazakhstan.

5. Health needs of LBT women

As stated in the CESCR General Comment, “[n]on-discrimination, in the context of the right to sexual and reproductive health, [...] encompasses the right of all persons, including lesbian, gay, bisexual, transgender and intersex persons, to be fully respected for their sexual orientation, gender identity and intersex status.”²⁵ Particularly, “[information on sexual and reproductive health] must be provided in a manner consistent with the needs of the individual and the community, taking into consideration [...] sexual orientation, gender identity and intersex status.”²⁶

According to needs assessment research of LBQ-women in Kazakhstan conducted by Kazakhstan Feminist Initiative “Feminita” in 2016-2017²⁷, the most important services for 228 respondents included the help of psychologist (for 105 respondents), informational-resource center (105) and medicine services (93). Also 64% of respondents answered that they do not know anything about specific health needs for LBQ-women.

The discourse about the health of LGBT people in Kazakhstan is aimed at covering only those related to HIV/AIDS, whereas LGBT people can have very different health needs and problems or not have them at all. Since former Soviet Union homosexuality was seen as "homosexuality," which only meant illness. Despite this pathological approach to the LGBT community in general, the health issues of homosexual men have been voiced more and received more attention and supervision, than health issues of LBT women, because of the HIV/AIDS discourse. When visiting medical institutions lesbian, bisexual, transgender women are perceived by default as heterosexual. And often, in order to avoid unnecessary questions and/or interference in privacy, LBT women prefer not to disclose their sexual orientation.

²⁵ General Comment No. 22 (2016) on the right to sexual and reproductive health (article 12 of the International Covenant on Economic, Social and Cultural Rights), E/C.12/GC/22, para. 23.

²⁶ Ibid, paras. 18—19.

²⁷ “I call my partner “sister”: Results of needs assessment of lesbian, bisexual, queer women in Kazakhstan” by Kazakhstan Feminist Initiative “Feminita”, May 2017

Case 3.1. When visiting clinics, lesbian woman A. often pretends that she is a heterosexual, because when once she informed a medical specialist about her sexual orientation she was forced to listen to gynecologist's instruction regarding the importance of having children and that men's sexual energy is important for women's health and life purpose²⁸.

Case 3.2. A bisexual women N. told her gynecologist that she has sexual relationships with women. The doctor was shocked and recommended to go to psychiatrist first. She denied to conduct observation of N.

Because of such unpleasant experiences lesbian, bisexual and transgender women rarely visit medical specialists and prefer self-medication at home.

However, medical services for LBT women are problematic not only because of visits to gynecologists, but also because of unsatisfied reproductive needs, such as artificial insemination, which is only available to heterosexual couples in Kazakhstan, because legislatively lesbians or bisexual women can not legally form a recognised union. A representative of the Center for In Vitro Fertilization "IVF" in Almaty commented: "It is possible to apply for in vitro fertilization only if you register it as one girl who undergoes IVF individually with donor sperm. Our legal department states that you will not be able to formalize everything as a lesbian couple in the registry office, as we cannot legislate it"²⁹.

The 2011 Code of Kazakhstan on Marriage (Matrimony) and the Family directly discriminates against other unions except for the heterosexual marriage of a man and a woman. Article 11 states that "marriage between persons of the same sex is not allowed"³⁰. Thus, at the legislative level, the Government of Kazakhstan prohibits same-sex marriage. It is important to note that the 1998 Law "On Marriage and the Family" did not contain such a formulation³¹.

In Kazakhstan, the cost of the IVF procedure is about 1 million tenge (\$ 3,080) and it is included in the guaranteed amount of free medical care. However, such quotas are not given to all women who wish, and despite the fact that the procedure is available for single women, the preference is given to married heterosexual couples, since the quota does not cover the costs of donation (eggs, sperm bank)³². Thus, the reproductive rights of homosexual, bisexual women are violated at the legislative level in Kazakhstan. These women are forced to resort to independent, domestic injections of sperm, or to resort to far more expensive services abroad.

Recommendations

²⁸ Case documented by Kazakhstan Feminist Initiative "Feminita".

²⁹ Case documented by Kazakhstan Feminist Initiative "Feminita".

³⁰ The Code of the Republic of Kazakhstan "About marriage (matrimony) and family", December 26, 2011, No. 518-IV. Available at: <http://adilet.zan.kz/rus/docs/K1100000518>.

³¹ Marriage and family law of the Republic of Kazakhstan, December 17, 1998 No. 321-I. Available at: <https://www.zakon.kz/212247-zakon-o-brake-i-seme.html>.

³² "How to get a quota for in vitro fertilization in Kazakhstan", Karapuz.kz. Available at: http://karapuz.kz/pages_out.php?cid=1210.

1. The State party should amend a list of reasons for prohibited discrimination in the Marriage and Family Code by eliminating discrimination on the grounds of sexual orientation or gender identity; take legislative, administrative and other measures to equalization of the legal status of persons in a registered marriage and those who are in de facto marital relationships (including same sex), at least concerning property rights and duties; take legislative, administrative and other measures in order to ensure for LBT women the possibility of non-anonymous sperm donorship, as well as to ensure non-discrimination of LBT persons in obtaining services related to the use of assisted reproductive technologies.
2. The State party should provide continued education to healthcare professionals with awareness raising aspects covering diversity of sexual orientation and gender identities, and their responsibilities when providing care for homosexual, bisexual and transgender patients. Education programmes on human sexuality and gender identity should be initiated in medical schools in an attempt to reduce homophobia and heterosexism. These programmes should teach skills that enable professionals to take histories free from bias towards sexual orientation and gender identity.
3. The State party should ensure collection of data on health-related needs of lesbian, bisexual and transgender women in Kazakhstan, including sexual and reproductive health. Following results of such researches the State party should, in collaboration with local NGOs working with LBT women, develop programs aimed at meeting these needs.

About Kazakhstan Feminist Initiative “Feminita”

The Kazakhstan Feminist Initiative "Feminita" is a queer-feminist grassroots initiative aimed at building and consolidating the LBT-community (lesbian, bisexual, transgender people). "Feminita" was created in 2015 as a platform for many other activists and feminists in Kazakhstan and focuses on two important tasks - international advocacy and education, giving an understanding of sexuality, identity, feminism, queer theory, corporeality.