

HUMAN
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WATCH

These Everyday Humiliations

**Violence Against Lesbians, Bisexual Women, and
Transgender Men in Kyrgyzstan**

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Printed in the United States of America
ISBN: 1-56432-381-1
Cover design by Rafael Jimenez

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I. Introduction: Struggling for Recognition, Seeking Safety

Askar, 25, considers himself a transgender man. Born female, at 21 he adopted more masculine clothes and hairstyles. His father and brother claimed their right to control him as one of the “women” in the family. Their punishment began with rules. It developed into beatings.

Two years ago I started wearing this men’s type of clothing everywhere, on streets, at school, and they did not like it at all...At first it was just lectures, very long lectures on things, like that girls must wear skirts. My father liked when girls would wear a headscarf, as a proper Muslim girl should do. The hair had to be long and the girl must stay at home, cook, do laundry and clean the house, and so on, and wait for her husband, the prince... Then it turned into stricter measures...My brother was rude about it; he would not allow me to answer the phone. They told me that I had to be at home at seven o’clock sharp every evening. In addition, everything, including food and other things, should be ready for them by the time they came home...I just wanted to stop doing things [my father’s] way and resist the pressure to live my life the way he wanted me to live.¹

In a 2006 report, “Reconciled to Violence: State Failure to Stop Domestic Abuse and Abduction of Women in Kyrgyzstan,” Human Rights Watch documented the national problem of violence against women in Kyrgyzstan, and how, despite progressive laws, the state has failed to protect women’s rights to physical security and autonomy.²

This report pursues those themes. In the national landscape of inequality, some women have particular vulnerabilities, and have specific difficulties in finding protection from the state. Women who are attracted to other women, and who violate rigid gender roles defining what a “woman” should be, transgress against the “father’s way”: deeply ingrained cultural and social definitions of womanhood.

¹ Human Rights Watch interview with Askar, Bishkek, November 2005.

² Human Rights Watch, *Reconciled to Violence: State Failure to Stop Domestic Abuse and Abduction of Women in Kyrgyzstan*, vol. 18, no.9 (D), September 2006, <http://hrw.org/reports/2006/kyrgyzstan0906/kyrgyzstan0906web.pdf>.

Lesbians, transgender men, and women who have sex with other women are frequently subjected to violence, rape, psychological abuse, and confinement and stigmatization. Abuses may happen on the street or in the home, at the hands of strangers or family members. Survivors find little practical hope of government protection, because of social prejudice and silence. This report offers personal testimonies suggesting the scope of a previously invisible phenomenon. The Kyrgyzstan government's response to violence against women will be incomplete until it identifies and addresses the actual situations of all the victims. This report therefore explains Kyrgyzstan's human rights obligations, while offering recommendations for state action.

This report will deal with identities and terms that may be unfamiliar to many readers in Kyrgyzstan:

- We use “lesbian” to refer to women who are primarily attracted to other women—whose sexual and emotional attractions are directed at other women, and whose self-identity is partly built around the fact. Bisexual women are attracted to both women and men. “Women who have sex with women” is a phrase used to describe those who do not necessarily identify as “lesbians” or “bisexuals,” but nonetheless at times engage in sexual and emotional relationships with other women.
- “Transgender people” are people who feel their inner selves to be different from how their bodies are categorized. Understanding their experiences means recognizing how *gender* is not the same as *biological sex*. *Biological sex* means how we classify bodies as male or female. Those who do the classifying use factors such as hormones, chromosomes, and sex organs. *Gender* describes how we attach social and cultural meanings to the ideas of “masculinity” and “femininity.” Being “masculine,” to a society or an individual, is very different from being a “man.” It involves cultural ideas about “manly” behavior that are very different from just interpreting chromosomes or sex organs.

Everyone has a *gender identity*, a sense of themselves as masculine or feminine (or a sense that these terms are not relevant to them). Many people's inner sense of

themselves as masculine or feminine is not the same as the sex they were classified as at birth. Female-to-male (FTM) transgender people were born with female bodies but have a predominantly male gender identity; male-to-female (MTF) transgender people were born with male bodies but have a predominantly female gender identity.

(Reference to these groups in this report will sometimes be shortened to “lesbians and transgender men,” not to minimize other identities, but to avoid unwieldy acronyms).

Many of these words have counterparts rooted in Kyrgyz culture. In the southern Kyrgyz dialect, “*kız bala*” refers to a young girl who demonstrates behavior considered “masculine.” In the northern Kyrgyz dialect, the term suggests a “masculine” adult woman. “*Erkek kız*” is another Kyrgyz term for a woman considered to be “like a man.”

The point here is not so much to distinguish “indigenous” identities from others as to observe that people have a right to identify as they choose. However, the Kyrgyz government allows families and communities to enforce conformity. Forcing people into a single model of whom to love and how to identify themselves violates their human rights.

The situation of lesbian women and transgender men is part and parcel of the vulnerability to violence women face throughout Kyrgyzstan. Family members, spouses, and even strangers use violence to remind women, and transgender men, of the behavior expected of them—as women. Strangers may assault them on the street. Families may beat them. Police may deny them protection. Yet there is a particular factor in the abuses they face: they are singled out not just as women but because of their sexual orientation or gender identity, because they identify themselves in ways that defy social expectations. This report does not claim, nor does our research provide a basis for suggesting, that the situation of lesbians and transgender men is worse than that of other women who face violence in Kyrgyzstan. However, this report does suggest that their specific vulnerability, caused by prejudice, has to be addressed if the violence against them is to be effectively halted or prevented.

The violence stems from prejudice, and so does the state's inaction. At a roundtable organized in 2005 to address lesbian, bisexual, and transgender people's rights, an official from the Ministry of the Interior, which oversees the police, made a telling statement:

In Bishkek you want all this? ... You will never have the green light here. It would happen in America, or somewhere else in the West, but not here... You will have to keep hiding in basements with all your business... You say, "We are afraid because they beat us." For instance, I would also beat them. Let's say I walk in a park with my son. I have just one son. And there are two guys walking holding each other's hands. I would beat them up too.³

The need for addressing prejudice is urgent. According to a survey conducted between July 2006 and January 2007 by Labrys—a non-governmental organization (NGO) serving lesbians, bisexual women, women who have sex with women, and transgender men—60 percent of respondents who identified as lesbian, bisexual, or transgender had not told their parents about their sexual orientation or gender identity.⁴ Of those who told their parents, 18 percent experienced physical violence as a result and 56 percent of their families tried to force them to change their sexual orientation. Moreover, 23 percent, or approximately one in four of those surveyed, have experienced sexual assault during their lives.⁵

Labrys, a non-governmental organization in Kyrgyzstan, was formed in 2005 to respond to these needs through advocacy, community organizing, and service

³ Quoted in Timurkhan Djedilbayev and Anna Dovgopol, "Roundtable," *Labrys Magazine*, vol. 1, February 2005.

⁴ This study remains unpublished but a summary of its results is on file at Human Rights Watch. It was conducted by questionnaire amplified by structured interview. Interviews and questionnaires were administered by six different interviewers of different identities and from different ethnic groups, over the six months of the research. The figures above reflect percentages of the 94 respondents to the questionnaire. Participants in the research were largely drawn from social networks of the clients of Labrys' services (although a high number of respondents did not regularly visit the Labrys office), almost all from Bishkek or the surrounding areas. It is possible that it underestimates the rate of violence experienced by women or transgender people in rural or outlying areas.

⁵ Given the high rates of sexual assault reported by respondents, it is striking that the vast majority of respondents were below 30, raising the question of how many would experience sexual assault in the remaining course of a lifetime. Even one of the study's authors was shocked by the high numbers of cases of sexual assault. "We [previously] knew of 5-8 cases only." (Human Rights Watch telephone interview with Anna Kirey, January 29, 2007).

delivery.⁶ The organization found chronic depression, alcoholism, and repeated suicide attempts among its target population. Anna Kirey, Labrys program coordinator, says she wanted to ask in the survey, “Where do you see yourself in five years? ... Some people had trouble because they couldn’t see themselves in five years. They don’t feel like they have a future.”⁷

Kyrgyzstan has undertaken promising reforms. Under the Soviet-era penal code, consensual sex between adult men could be punished with up to two years imprisonment. The new Criminal Code of the Kyrgyz Republic, which entered into force on January 1, 1998, decriminalized consensual sex between adult men.

However, a legacy of discrimination against people identified as “homosexuals” persists, and Kyrgyz law offers no protections. In 1994, the United Nations Human Rights Committee, the authoritative body responsible for interpreting and monitoring compliance with the International Covenant on Civil and Political Rights (ICCPR)—to which Kyrgyzstan is a party—held that “sexual orientation” was a status protected from discrimination. The human right to be free from discrimination on the basis of sexual orientation has been affirmed by international human rights systems. Kyrgyzstan should do so as well.

In another step forward, in 2003 Kyrgyzstan enacted the Law on Social-Legal Protection from Domestic Violence (the Domestic Violence Law). On paper, the law is highly progressive, and significantly, it recognizes not only spousal abuse but all forms of family violence. Given the prevalence of domestic violence in the lives of lesbians and transgender men, from both spouses and other family members, effectively implementing this law is critical to their well-being.

The UN special rapporteur on violence against women has called women’s sexuality a “battleground”⁸ worldwide, observing that:

⁶ Labrys is also the first and only organization dedicated to the empowerment of lesbians and transgender men in Central Asia.

⁷ Human Rights Watch telephone interview with Anna Kirey, May 14, 2007.

⁸ “Preliminary report submitted by the Special Rapporteur on violence against women, its causes and consequences,” E/CN.4/1995/42, November 22, 1994, p. 60.

A woman who is perceived to be acting in a manner deemed to be sexually inappropriate by communal standards is liable to be punished... Women who choose options which are disapproved of by the community, whether to have a sexual relationship with a man in a non-marital relationship, to have such a relationship outside of ethnic, religious or class communities, or to live out their sexuality in ways other than heterosexuality, are often subjected to violence and degrading treatment...⁹

This report shows one instance of this worldwide problem, the “policing” of such lives in Kyrgyzstan. Recent legal changes offer hope for lesbians, bisexual women, and transgender men in Kyrgyzstan. An active commitment to equality and protection is essential, though. Otherwise, injustice will continue.

Methodology

This report is based on interviews with 17 survivors of abuse who identified as lesbians, bisexual women, women who have sex with women, or transgender men. Ten of these interviews took place in Bishkek in 2005, when two Human Rights Watch staff members traveled to Kyrgyzstan to research domestic violence and the kidnapping of girls and women for forced marriage. That work became the foundation of this report. Two subsequent interviews were conducted in Bishkek in January 2005 by the human rights organization Labrys for Human Rights Watch. In July-August 2007, two Human Rights Watch researchers conducted interviews with five additional survivors in Kyrgyzstan. Some interviews were conducted in Russian by researchers fluent in Russian, others were conducted by native Russian speakers.

Over the course of this project, multiple interviews were also conducted by telephone and email from New York. Throughout this period and in follow-up research through August 2008, Human Rights Watch also spoke with various NGOs in Kyrgyzstan and internationally that work in support of human rights, LGBT rights, sex worker rights, and HIV/AIDS prevention and treatment.

⁹ "Report of the Special Rapporteur on violence against women, its causes and consequences," UN Doc. E/CN.4/1997/47, 12 February 1997.

This sample of victims interviewed for this report is small. The invisibility of lesbians and transgender men in Kyrgyzstan, coupled with the gravity of the violence they endure, limited our access to people willing to speak. The report presents examples and does not claim a comprehensive picture. However, the in-depth portraits we present show people who are still left out of the state's response to violence. They illustrate how severe the consequences of that omission on individual lives can be.

The identities of most of the people interviewed for this report, and some of their identifying information, have been withheld to protect their privacy and safety.

II. Domestic Violence, Rape, and Harassment

Domestic Violence and Abuse

“Home is not the only place where I don’t feel safe, but it is the only place where I am in constant danger.”¹⁰

Violence against women and girls in families is generally high in Kyrgyzstan.¹¹ Labrys’ research (particularly its 2006-7 survey) found that many lesbians and transgender men’s experiences of domestic violence begin as children in their natal home. However in adolescence, a girl’s refusal to conform to cultural understandings of sexuality and “femininity” becomes a force and fact behind the kinds of abuse that she may suffer. Nurbek, a Labrys advocate, comments, “[M]ost of our cases are about domestic violence.”¹² Moreover, once adults, lesbians and transgender men may have no choice but to marry, becoming vulnerable to the domestic violence that is too often a part of married life in Kyrgyzstan—particularly vulnerable if a woman’s husband questions her “femininity.”¹³

“Never act like a man”: beatings

Nurbek, a 25-year-old transgender man, received a harsh beating in 2004 when he was expelled from university for what the school administration termed his “abnormal sexual orientation.”¹⁴ “My father came home, took me into the room and started beating me. At first he beat me with a stool, then with a rolling pin, then the rolling pin broke. Then he started beating me with his fists. Then he kicked me a lot. Until he was tired, basically. The next day the same round was repeated. After lunch he started beating me again...He beat me with whatever came into his hands,

¹⁰Human Rights Watch interview with Nurbek, Bishkek, November 1, 2005.

¹¹“Reconciled to Violence” examines the phenomenon of spousal abuse and bride kidnapping in detail. Without being identified as such, at least one lesbian (or bisexual) woman’s testimony is included in the report.

¹²“Gender Talk” radio show on WNBR with hosts Nancy Nangeroni and Gordene O. MacKenzie and guests Nurbek and Anna Kirey, August 5, 2006, <http://www.gendertalk.com/real/550/gt570.shtml>.

¹³Ibid.

¹⁴Human Rights Watch interview with Nurbek, Bishkek, November 1, 2005.

whatever he could use.”¹⁵ Nurbek was diagnosed with a concussion, broken ribs, and brain and skull trauma. He chose not to report the attack to the police.

Gulzat and Keres are a lesbian couple in their late twenties. Keres’ family detests their relationship. One night in 2006, Keres’ family arrived at the apartment the couple shared. Gulzat explained:

Keres’ mother is an authoritative woman...She forced her way into the room, saying to me “You stayed in my house, why can’t I enter yours?” She took her pocketbook and slammed Keres’ head with it three times. Keres was standing like she was made of stone; she did not even move when her mother was beating her. All Keres’ family joined them in the apartment. Her brother stood on the bed without even taking his shoes off...I still have scars from that day.¹⁶

Askar described how his father charged his brother with keeping Askar under control and a “good daughter.” After Askar adopted a masculine appearance, the treatment worsened:

[W]hen I was younger [my brother] would use sticks to beat me. But when I grew up, he started using his hands. Then when the sudden change in my image happened, he started using his fists against me. It makes me laugh to think that he used to say: “You’re not a man, so never act like a man.” At the same time, he always behaved with me and treated me like a guy. I mean that he would beat me up; he would teach me lessons the guy’s way...If he thought that I should not have been a guy and that I was a girl, then why didn’t he treat me like a girl?

[W]e had a particularly bad fight that lasted for about two hours. It was so, so, I do not even know how to describe it, so many bad things

¹⁵ Ibid.

¹⁶ Human Rights Watch interview with Gulzat and Keres, Bishkek, July 7, 2007.

happened. The most humiliating thing was that I could not leave my room and wash away my blood; they wouldn't let me.¹⁷

Askar also never reported this violence to the police.

Some victims report death threats. Djazgul, a 23-year-old lesbian, has a brother who disapproves of her lesbian friends; he warned her, "If I ever see you with this gang again, I am not responsible for my actions."¹⁸ Shoirra, a 46-year-old lesbian, has been threatened by her girlfriend's husband: he says he plans to kill the two women, then himself.¹⁹ Gulzat told us that "Keres' mother and brother said they will beat me really badly if they ever see us together. Her uncle promised he will hire someone to kill me."²⁰

"These everyday humiliations": psychological abuse

Nurbek observed, "Violence is not limited to the physical. There is also a psychological pressure: these everyday humiliations."²¹ Nurbek's family regularly told him that he was abnormal, accused him of being a drug addict, and told him they wished he would die. He attempted suicide three times.

Askar eventually required psychiatric care because of deep depression and multiple suicide attempts:

[My brother] used to say: "Now you are the sick one, so we cannot even say a word to you. You are our cranky, sick child." Sick, sick, for so many years I heard from him that I am the freak in the family, that I am, according to his words, a little piece of shit which was so small but which stunk real bad. He used to say to me, "Who are you in this

¹⁷ Human Rights Watch interview with Askar, Bishkek, November 1, 2005.

¹⁸ Human Rights Watch interview with Djazgul, Bishkek, August 8, 2007.

¹⁹ Human Rights Watch interview with Shoirra, Bishkek, July 7, 2007.

²⁰ Human Rights Watch interview with Gulzat and Keres, Bishkek, July 7, 2007.

²¹ Human Rights Watch interview with Nurbek, Bishkek, November 1, 2005.

house? Your mere existence gets on everybody's nerves. You should not have been born at all."²²

The consequences of abuse infuse all areas of people's lives: pursuing education, keeping a job, staying healthy. When Sasha's family discovered she was a lesbian, they threw her out of the house: "I found a job as a waitress, gave up my studies and just drank all my money away. I was in a horrible state."²³

"So that I, as he says, won't leave": restricted movement

Abusive family members restrict the movement of the women of their families—or those they treat as women—in order to isolate and control them. Human Rights Watch has documented this common pattern in Kyrgyzstan.²⁴ Lesbians and transgender men may therefore be blocked from escaping a violent home. Lesbians and transgender men Human Rights Watch interviewed describe their abusers' methods: creating financial dependency, enforcing curfews, dictating their movement within and outside the home, and isolating them from sympathetic family and friends. In some cases, families capture women who escape and force them to return.

When Keres's parents invaded her and Gulzat's home, they forced Keres to return with them. Gulzat said, "I am afraid of leaving my home or office. I get all sweaty whenever I walk in the street. It's been a long time since I've seen a park or the main square."²⁵

Nurbek's entire family monitored his movements. His uncle would send him home if found outside; his family checked his notebooks for phone numbers of his friends, warning them not to keep in touch with him.

²² Human Rights Watch interview with Askar, Bishkek, November 1, 2005.

²³ "I love you, life!" by Sasha Sladkyi in *Labrys Magazine*, no. 1, February 2005.

²⁴ This pattern is documented in "Reconciled to Violence."

²⁵ Human Rights Watch interview with Gulzat and Keres, Bishkek, July 7, 2007.

[My father] hits me in the face. Specifically to leave marks, so that, as he says, I won't leave. If he would beat me, and let's say broke my hand or leg, I would still run away easily. But how will I appear in such shape [with my face bruised]? This, he knows, is the thing that holds me and that's why he does it...

I was constantly being controlled. For every trip to the city, I had to find thousands of tricks. ... [My family] also controlled me financially. For instance, [my sister] signed instead of me to get my salary, so that I would have less opportunity to go to the city.²⁶

The shortage of shelters in Kyrgyzstan for women facing violence hurts lesbians, bisexual women, and transgender men, as it hurts all victims. They are additionally burdened by the lack of services specific to their needs.²⁷ Women's crisis services may assume all clients are heterosexual and all perpetrators husbands, though in the case of lesbians and transgender men, perpetrators are often non-spouse family members. Transgender men may be unwelcome in women's shelters by virtue of identifying as men; likewise, claiming to be "women" for the sake of obtaining services can be a negation of their identities that replicates, instead of offering refuge from, abuse.²⁸ Further, when someone is abused because of their sexuality or gender identity, it is vital that emergency services take those specific vulnerabilities into account in developing a plan for short- and long-term survival.

²⁶ Human Rights Watch interview with Nurbek, Bishkek, November 1, 2005.

²⁷ Each Kyrgyz regional center should have one women's shelter, but each shelter typically has only two or three beds. For instance, in Bishkek, with a population close to a million, the local women's shelter has twelve beds. The shelter provides refuge to victims of trafficking as well as of domestic violence. It is run by a local NGO and financed by international organizations. The state's role is limited to providing rooms and utilities free of charge.

²⁸ An activist told Human Rights Watch, "There was a woman or FTM, who went to [a women's shelter] and they called me. They didn't know if he was a boy or a girl. He was trafficked from somewhere. He said he was a boy, and he looked like a girl. He was afraid to go out on the street because he was afraid he would be beaten up. He was very scared. We took him to the border and helped him leave the country. We didn't know how to help him." Human Rights Watch telephone interview with Anna Kirey, January 29, 2007.

“Because she was of the age, not married and without children”: pressure to marry

Djazgul says:

The marriage talks started when I turned 20. My uncle and brother began saying “You will become an old maid. You should marry.” My mom also asks me to consider marriage, “Think what people will say. I need grandchildren. Soon, you’ll be 25, then 27, then 30 and nobody will marry you.”²⁹

Many daughters in Kyrgyzstan feel parental pressure to enter a heterosexual marriage. But parents may see in marriage a means to hide or avoid social stigma—a heterosexual, or homosexual, “shame.” Elmira told us:

My mother was continuously beating me throughout my life. She beat me especially hard when I said I would not marry my common-law husband [a man with whom she had had a long relationship].... I was traumatized by her attitude, she just wanted the wedding to happen. She told me, “Just make the wedding for us. Then, you can divorce him next day and come back, or do whatever you want, but we need you to get married.” I asked my mother, “Is my happiness of no interest for you?” My mother beat me in response.

After she met her lesbian lover—“I never loved anyone so much before,” she told us—“my mother severely beat me again, and I left home”:

My mother warned me, “We will find you, and lock you up. Have you lost your mind?” Before leaving, I told my family that I will never be married again, that I am fed up with men.... But they will never let me live my life if I stay with them at home. I want to live separately from my family.... I spoke to my sisters on the phone and they told me that “If anything happens to our mom [because of the shame she feels], do

²⁹ Human Rights Watch interview with Djazgul, Bishkek, August 6, 2007.

not even dream of staying alive.” My sisters don’t support that I love a girl. They said, “[Lesbians] are not human beings. ... Mom tells the truth: you should be locked up; you’re crazy.”³⁰

Human Rights Watch spoke to Elmira in the Labrys shelter in Bishkek, where she had been living for weeks, rejected by her family. Some weeks later, the shelter closed for lack of funds.³¹

Many families believe sexual relations with someone of the opposite sex can “cure” homosexuality. Askar told us,

[M]y father used to put pressure on my mother, telling her, “She is not normal and it is your fault.” ...I lied to them at first. I told my mother: “I am not ready for marriage yet, Mom. Let’s think about it later. I’m thinking about my professional career.” ... She started putting more pressure on me, saying, “Father is very angry with you, so is your brother.”³²

Many women in Kyrgyzstan face the threat of forced or early marriage. A group of women interviewed by Human Rights Watch made clear: “Parents who ‘suspect’ try to marry girls off early.”³³ Nurbek told Human Rights Watch, “A couple of days ago, I found out that they are looking for someone that they can marry me to, so that I would forget about [being transgender]...and everything would be okay....It is very possible that they will try to do it secretly. You know, in our country, a girl’s agreement is not needed.”³⁴

³⁰ Human Rights Watch interview with Elmira, Bishkek, August 6, 2007.

³¹ The Labrys emergency shelter works to respond to the urgent needs of lesbian women and transgender men, but has been recurrently threatened by financial limitations, and was forced to close in 2007. In February 2008 Labrys was able to re-open a community center and shelter with six beds and two rooms.

³² Human Rights Watch interview with Askar, Bishkek, November 1, 2005.

³³ Human Rights Watch group interview with Labrys members, Bishkek, October 29, 2005.

³⁴ Human Rights Watch interview with Nurbek, Bishkek, November 1, 2005.

Punitive and “Curative” Rape

Tursunai, a 24-year-old lesbian, was raped at a friend’s home in 2004.

After some time my friend suddenly disappeared and the men started to sexually harass me. I wanted to leave to room, but the door was locked. I was trying to break away from them with all my strength, but they were stronger. Then I begged them not to do that. I told them that I never had had sex with men before. I cried. Nothing worked.

Later, it turned out that the friend who invited me over had complained to them that I was a lesbian. They promised that they would help her to “cure” me. That is why she left and why she also locked the door. After that I had a nervous breakdown. I quit my job, stopped hanging out with my friends. I would spend the whole day just lying down at home. ... Now everything is in the past. The only thing is, usually, I do not want to remember it or even talk about it.³⁵

As the Labrys survey indicated, 23% of respondents, or almost one in four, experienced sexual assault.³⁶ High levels of shame, stigma, and fear around sexual assault raise the possibility that even these numbers could be an undercount. Anger at women who do not conform, or the drive to end their nonconformity, are reported motives.

Damira, 20, recounts:

In 2002 I had a girlfriend from a very strict family. We were hiding our relationships from everyone, but someone still told her brothers, “Do not allow your sister to hang out with this lesbian.” Once we were going for a walk. Her brothers approached us, told her to go home, and took me behind the corner to “talk.” And there, having intimidated me, the two of them raped me. They told me, “This is your punishment for

³⁵ Labrys interview with Tursunai, Bishkek, November 2005, on file at Human Rights Watch.

³⁶ Unpublished Labrys survey, on file at Human Rights Watch.

being this way and hanging around our sister.” Where we were was quite crowded, but I was afraid to cry for help. Nobody would have come out because these guys were thugs and everyone was afraid of them. I told my girlfriend about what happened to me, but even she was not able to do anything. As it turned out, they beat her too.

At this point my relationship with my parents had really deteriorated. Sometimes my mom would say, “I wish you were raped, maybe then you would understand.” That’s why I did not say anything to them. My girlfriend’s brothers kept approaching me afterwards. They demanded that I have sex with them. Until we moved away, I had to hide to avoid another rape.

After that incident, my vagina got sick [with gynecological problems], but I did not go for medical help. A year later, I had to be hospitalized. As it turned out, I had a severe infection in my uterus...

Damira had been raped before, when she was 12: “I liked a girl who lived nearby and I used to visit her often on evenings. Once I was caught by several drunk guys, who beat me up and raped me. I did not mention anything to my mom or to anybody else due to the fear of them not being able to understand, as my parents were against me walking in the evenings.” She says: “After all these incidents, sometimes I feel like I am losing my mind. I can’t communicate normally with people. I fight with my parents and my girlfriend. I actually did not tell anybody. My girlfriend and parents do not know.”³⁷

During the looting that followed the Tulip Revolution in March 2005, Gulzat was raped by two men while three others watched. “They punched me in the head, cursing the whole time. They beat me badly before they took what they wanted. [At first] they thought I was a man, that’s probably why they beat me so badly. They did

³⁷ Labrys interview with Damira, Bishkek, November 2005, on file at Human Rights Watch.

not beat any of the other girls... I had men's clothes on. Maybe if they had realized from the beginning that I was a woman, they would not have beaten me so hard.”³⁸

Trauma follows violence, particularly in the absence of counseling appropriate to the circumstances. After she was raped the second time, Damira dropped out of high school and could not keep a job. A Labrys staffer reported, “She wanders the streets at night and she is drunk most of the time. She appears destitute. There is a lot of despair.”³⁹

Harassment in Public

In a 2004 survey of 43 lesbian, gay, bisexual, and transgender people in Kyrgyzstan (33 identifying as men and 10 as women) by two Dutch organizations, 65% of respondents reported being physically or sexually attacked because of their sexual orientation. Almost every respondent knew someone who experienced firsthand harassment, public humiliation, or assault.⁴⁰

Men frequently harass women in public in Kyrgyz cities and towns, and motives are not always clear. One lesbian described a physical assault: “Late in the evening, I was with my friends, two girls who are very straight looking. I was wearing a fleece jacket. Two guys approached us and were talking to them. At first I thought that they were my friends' acquaintances. Suddenly, one of them came up to me and punched me in the shoulder and then again in the chest. He said ‘I know you, bitch...’ They ran away, leaving me with big bruises.”⁴¹ She thought the men may have approached her and her friends to flirt with them but when they noticed her “masculine” manner, one attacked.

Others describe less equivocal harassment. One wrote how “People used to make fun of me all the time when I was in the streets. They would ask something like,

³⁸ Human Rights Watch interview with Gulzat and Keres, Bishkek, July 31, 2007.

³⁹ Human Rights Watch telephone interview with Anna Kirey, January 29, 2007.

⁴⁰ Dennis van der Veur, “Kyrgyzstan: The county of human rights...but not for homosexuals!” a HIVOS/COC Netherlands report, August 2004, pp. 47-51.

⁴¹ Human Rights Watch interview with Djazgul, Bishkek, August 8, 2007.

‘What do you have between your legs?’ Or when I’d go to the farmer’s market, men would try in an underhanded way to touch my breasts to verify if they were there.”⁴²

Not conforming to gender norms means being dangerously conspicuous. One woman, with short hair, explained, “If people who speak Kyrgyz see me, they ask if I’m *kysz*, or *bala*. My gender is discussed on the spot...There’s a lot of staring, trying to define. Sometimes they say something negative, and something they are just asking ‘who or what are you?’”⁴³ A lesbian told Human Rights Watch, “One time, these men on the street thought that I was a gay man and wanted to beat me up. I didn’t know which would be better, to say I was [a gay man] or to say, no I’m a lesbian. So I ran. They chased me and I just managed to get inside [my apartment], but they beat at the door for hours.”⁴⁴

Djazgul told Human Rights Watch that harassment eroded her ability to live normally. “For the last three years, I’ve been living under constant stress. I do not want to leave the house and see people. I do not want to use the public transportation. I am tired of the constant question ‘Are you a guy or a girl?’ I am psychologically closing myself down.”⁴⁵

⁴² Kim, “Lesbian, who is she?” *Labrys Magazine*, vol. 2, March – April 2005.

⁴³ Human Rights Watch telephone interview with Toleskan, May 14, 2007.

⁴⁴ Human Rights Watch group interview with Labrys members, Bishkek, October 29, 2005.

⁴⁵ Human Rights Watch interview with Djazgul, Bishkek, August 8, 2007.

III. Official Responses: Old Mistrust, Ongoing Harassment

In 2005, Labrys organized a roundtable to address governmental responses to violence against lesbians and transgender men; a representative of the Ministry of the Interior, which oversees the police, attended and spoke. He responded to descriptions of physical and sexual violence by saying “Show us the facts you are talking about. ‘I am a homosexual; my name is such and such and it happened...’ Nobody has ever brought these issues up with the police.”⁴⁶

In fact, a gulf of mistrust separates the general public in Kyrgyzstan from the forces claiming to protect them. A survey by the Organization of Security and Cooperation in Europe showed that a high percentage of Kyrgyzstan’s citizens did not believe police would help them in an emergency.⁴⁷ In another report published in 2005, the OSCE pointed to lack of trust in the police, seen by some as a “corrupt and undemocratic institution that protects only the interests of the state authority.”⁴⁸

Domestic violence, a grave problem for many women as well as lesbians and transgender men, goes underreported because of both a culture of silence and the failure of officials and society alike to acknowledge its gravity. And this extends beyond specific issues of sexual orientation and gender identity. When hospital officials instructed Askar to report a beating from his father to the police, he did not; his mother had taught him otherwise. “In spite of all the beatings she gets from my father, she would never go to the police... [E]veryone, they all keep silent about it.”⁴⁹

Despite Kyrgyzstan’s progressive law on domestic violence, authorities (as described below) have failed to act on many of its provisions. Shaira described how her partner’s husband abused her: “Once he beat her really badly, and we decided to

⁴⁶ Quoted in Timurkhan Djedilbayev and Anna Dovgopol, “Roundtable,” *Labrys Magazine*, vol. 1, February 2005.

⁴⁷ “Executive summary of the report on social research results of public opinion in Pervomaisky district and the staff of Pervomaisky district police organization (ROVD) of Bishkek city,” OSCE, 2004. On file with Human Rights Watch.

⁴⁸ OSCE Centre in Bishkek, Concept Paper, “Kyrgyz Republic: Police Reform Strategy,” http://www.osce.org/documents/cib/2005/04/13866_en.pdf, (accessed April 8, 2006).

⁴⁹ Human Rights Watch interview with Askar, Bishkek, November 1, 2005.

appeal to the police. So she went to the police and wrote an appeal. She wrote that her husband beat her. The police said that it was a family matter and refused to take any action.”⁵⁰

It is also clear, though, that lesbian, gay, bisexual, and transgender people—who only a decade ago still lived under the shadow of criminal penalties for (male) homosexual conduct—have particular reasons to mistrust the police. Surveys and individual cases show that lesbians, gays, bisexuals and transgender people face official harassment. The 2004 Dutch study of lesbians and gay men found 51% of respondents reporting problems with the police because of their sexual orientation.⁵¹ Another 35% knew someone else who had experienced police violence related to their sexual orientation. The report includes individual accounts of police raping lesbians and arresting lesbians who were caught holding hands.⁵²

Askar told us: “[T]he police do not help. If you pay them good money or if they are interested in something personally, then yes, they would help. But in general, if someone beats you up on a street...I personally have had problems with the police, so I do not trust them. All they do is they sit there, impudently smirking and saying, ‘So you like this pop group t.A.T.u?’”⁵³

Djazgul believed that police attitudes would prevent them from protecting her. “I have never reported anything, never tried to get in touch with the police. I could apply to them about the beatings from my brother. But you know what kind of people the police are, right? They will not understand me.”⁵⁴ One lesbian explained to

⁵⁰ Human Rights Watch interview with Shoir, Bishkek, July 7, 2007.

⁵¹ Dennis van der Veur, “Kyrgyzstan: The county of human rights...but not for homosexuals!” a HIVOS/COC Netherlands report, August 2004, pp. 47-51.

⁵² An earlier study of barriers to HIV/AIDS prevention programs for men who have sex with men, conducted in 1997 by the WHO and UNAIDS, found that 11% of respondents cited police intolerance as a major obstacle to accessing prevention programs. See Robert Oostvogels, “Assessment of Men who have Sex with Men in Bishkek, Kyrgyzstan,” prepared for Republican AIDS Center, August 25, 1997, on file at Human Rights Watch.

⁵³ Human Rights Watch interview with Askar, Bishkek, November 1, 2005. t.A.T.u. is a Russian singing duo whose two leads have sometimes suggested they are lesbians.

⁵⁴ Human Rights Watch interview with Djazgul, Bishkek, August 8, 2007.

Human Rights Watch, “There are many instances of discrimination, but no one does anything because they are afraid.”⁵⁵

Advocates told Human Rights Watch of six men who raped a lesbian couple in a provincial town; when the victims went to the police, the officers allegedly refused to file the report and told them the rape was their own fault.⁵⁶ In another indicative instance, Nurbek consulted a lawyer in 2005 about going to court under the country’s new domestic violence law. His filing would have been a first in Kyrgyzstan: a domestic violence claim in which the victim explicitly acknowledged sexual orientation or gender identity as factors in the abuse. He ultimately did not do so: his attorney explained that he would have to return to his home village to file the case, putting him in direct danger. He had also witnessed his uncle bribe his way out of prosecution for raping a young girl in his village. He feared his extended family’s ties to the police would make investigation or protection impossible: “If the case fails, the lives of me and my family will be in danger.”⁵⁷ Yet Nurbek added, “Maybe I would turn to the police for something else, like being a victim of robbery, but not for sexual orientation.”⁵⁸

Police misconduct is real. For instance, Damira, who had already been raped twice, was gang-raped by off-duty officers in 2005:

I was coming home at night. Our village is situated quite far from the city, so there were no more buses and taxis at that time. Usually, there would be several cars taking people to their homes for a modest fee. However, that night ... there was just one car with several guys inside. They agreed to give me a ride. ...

During our conversation it became clear that they were working in the police (*militia*). Later on, when they were trying to pick up prostitutes,

⁵⁵ Human Rights Watch group interview with Labrys members, Bishkek, October 29, 2005.

⁵⁶ Ibid.

⁵⁷ E-mail from Nurbek, February 14, 2006.

⁵⁸ Human Rights Watch interview with Nurbek, Bishkek, July 26, 2007.

they showed their police identification documents. The prostitutes refused to go with them and we kept driving. ... As it was at night, and around us were just mountains, I was afraid to leave the car. I had to hope for their decency. After some time they stopped the car ... And after that they raped me, taking turns. At sunrise one of them (who did not participate) showed me the direction, gave me 10 *soms* [about \$US 0.25], and told me if I told anyone what happened they would find me and I would be the one to suffer.⁵⁹

Incidents between 2005 and 2008 also suggest that police and authorities, while harassing a range of civil society groups, have been moved by prejudice to target organizations that defend lesbian, gay, and transgender people's human rights.

OASIS—a group working on behalf of gay men, men who have sex with men, lesbians, and transgender people—was not able to register as a non-governmental organization (NGO) with the authorities for three years. They had to redefine their mission to stress HIV/AIDS prevention and could only register with the help of another established NGO. Labrys officially registered as an NGO in 2006, but had to suppress references to lesbians in its official papers because, a staffer says, “of the stigma still attached to homosexuality. When people see the word 'lesbian' their relationship [to the group] might immediately change and officials may find thousands of ‘real’ reasons for not registering or complicating many things.”⁶⁰

Despite Labrys' official status, in December 2005 a Bishkek policeman paid a threatening call on its office, demanding to see its documents, as well as the IDs of all those present. Labrys suspects that when a neighbor complained about lesbians and transgender people visiting the building, a police officer saw a pretext for extortion.⁶¹ In February 2006, Nurbek's enraged father threatened bodily harm to Labrys's members, as well as damage to its property. Labrys had to close its office

⁵⁹ Labrys interview with Damira, November 2005, on file at Human Rights Watch.

⁶⁰ Email from Anna Dogvopol, April 10, 2007. The group plans to re-register as an organization openly working on issues of sexual orientation and gender identity.

⁶¹ Human Rights Watch telephone interview with Labrys members who asked not to be named, March 12, 2007.

temporarily, but—remembering the previous police harassment—did not report the threat to authorities.⁶²

Police again visited Labrys in early June 2006 to ask about its work; staff told them that the organization served women victims of domestic violence. Two days later, on June 4, police raided the office, which doubled as an emergency shelter for violence survivors. Six lesbians and transgender men were living in the shelter, and immediately telephoned Labrys staff. A staff member told Human Rights Watch:

They were very, very scared. They asked us to come over right away. They had decided not to open the door to the police, so the police were threatening them. The police accused the people inside the apartment of not wanting to open the door because they were hiding criminals. They shouted threats – “We will rape you; we will kill you! Open this door!” ...

I finally arrived with another staff person. We opened the door and let the police in. ...They asked me questions: “What kind of organization is this? What do you do?” We had pictures of transgender foreigners on the wall. They said, “Now we see what you do.” They requested to see our official documents. They had no right to do this, but I didn’t know that at the time.⁶³

On April 8, 2008, police carried out another warrantless raid on Labrys, while the group was hosting a dinner for two Kyrgyz partner organizations and three visiting international groups—COC (Cultuur en Outspannings-Centrum) and HIVOS (Humanist Institute for Cooperation with Developing Countries) from the Netherlands, and Gender Doc-M from Moldova. The officers demanded to see the organization’s registration documents, statutes, and rent statements. After threatening to arrest anyone who resisted or failed to produce identification, they gained entry to a locked private office and rifled desks and files. Later, the district police chief arrived and

⁶² Email from Labrys, February 28, 2006.

⁶³ Ibid.

said the officers would leave only if Labrys promised to submit its administrative and financial documents to the police station the following day.⁶⁴

All this happened as Kyrgyz authorities were showing growing hostility toward civil society groups in general.⁶⁵ However, the fragile state of lesbian, gay, and transgender organizing in Kyrgyzstan—the fear those communities feel of exposure and government repression—means that harassment may have a disproportionate effect in inhibiting their work and outreach.

Some government officials have actively opposed human rights protections based on sexual orientation and gender identity. One said: “It is necessary to struggle with homosexuality. It is one of those negative consequences of the western civilization that gradually comes to us together with elements of democracy ... Therefore we should not permit the spread of this phenomenon in Kyrgyzstan. Non-traditional sexual orientation offends the honor and dignity of men and women, and the historically developed intra-family relations of the Kyrgyz.”⁶⁶

Others have simply denied that discrimination based on sexual orientation or gender identity is a pervasive problem. A staffer from the Office of the Ombudsman, which plays a critical role in protecting the rights of all Kyrgyzstan’s people, attended a 2005 Labrys roundtable—a strongly positive step—but asserted that existing rights protections were fully sufficient: “I believe that the rights of homosexuals are

⁶⁴ “Kyrgyzstan: Halt Anti-Gay Raids: Police Search LGBT ‘Safe Space,’” Human Rights Watch news release, April 17, 2008, <http://hrw.org/english/docs/2008/04/17/kyrgyz18570.htm>.

⁶⁵ In early 2006, Minister of Justice Marat Kaipov launched criminal charges against several NGOs working on human rights and democracy, and announced investigations of all NGOs operating in Kyrgyzstan that received foreign funding. In March 2006, the then ombudsman Tursunbai Bakir uulu proposed, in a letter to Prime Minister Feliks Kulov, a ban on foreign NGOs working in Kyrgyzstan, as well as on domestic NGOs receiving foreign funding. Approximately 7000 NGOs operate in Kyrgyzstan, and with little domestic funding available, most could not operate without funding from foreign donors, including the United Nations, the Organization for Security and Cooperation in Europe, and private foundations. The government ultimately rejected these initiatives, but physical attacks on civil society activists also became a feature of Kyrgyz political life.

⁶⁶ Tursunbek Akun, former chairman of the Presidential Commission for Human Rights and later national ombudsman, quoted in E. Nurubayev, “Gay problems of Kyrgyzstan,” Institute for War and Peace Reporting, reprinted in Dennis van der Veur, “Kyrgyzstan: The county of human rights...but not for homosexuals!” a HIVOS/COC Netherlands report, August 2004, p. 53.

protected by the national law in spite of the absence of clauses concerning this particular discrimination issue.”⁶⁷

Silence is not enough, though. The government must take active steps to overcome both pervasive fear and the continuing patterns of harassment by police and other officials, if lesbians and transgender men are to have meaningful access to legal protections. Victims told Human Rights Watch such action was urgently needed. Elmira, whose mother had physically abused her for years, said, “I don’t want to ask the police for protection from my mom because I don’t trust them. But I do want a governmental agency to tell my mom that she can’t beat me. Then, I could live my life.”⁶⁸

⁶⁷ Timurkhan Djedilbayev and Anna Dovgopol, “Roundtable,” *Labrys Magazine*, vol. 1, February 2005.

⁶⁸ Human Rights Watch interview with Elmira, Bishkek, August 8, 2007.

IV. Background and Context

Legal and Social Status of Women in Kyrgyzstan

Understanding the difficulties facing lesbians and transgender men in Kyrgyzstan entails understanding the troubled situation of women more generally.

In Kyrgyzstan, communities and families have strict assumptions about how women and men should look and act. Standards vary with ethnicity, region, and religion, but compliance with traditional roles for women and men is generally strictly enforced. Women's autonomy is hindered by domestic violence, their low economic status, and by social expectations that they be dutiful wives and mothers. The 2006 Human Rights Watch report "Reconciled to Violence" details the severity of abuses such as domestic violence, forced marriage, bride kidnapping, and rape in some women's lives.

The Kyrgyzstan government's own report to the United Nations Committee on the Elimination of Discrimination Against Women (CEDAW Committee) in 2002 acknowledged that barriers to the achievement of women's equality in the country included "the growth of poverty and unemployment, a low level of social protection, the low participation of women in decision-making, and the persistence of gender stereotypes and traditions."⁶⁹

In its 2004 review of Kyrgyzstan, the CEDAW Committee expressed concern about the status of women in Kyrgyzstan, growing rates of poverty among women, rising female unemployment, and women's low status in the labor market. The committee found that "[u]nemployment among women is rising steadily, and some 53.3 per cent of the total number of unemployed are women."⁷⁰ The Committee also pointed to "the persistence of discriminatory cultural practices and stereotypes related to the roles

⁶⁹ The committee considered the second periodic report of Kyrgyzstan (CEDAW/C/KGZ/2 and Add.1) at its 632nd and 633rd meetings, on January 14, 2004 (see CEDAW/C/SR.632 and 633). "Report of the Committee on the Elimination of Discrimination against Women," Thirtieth session (January 12-30, 2004), Thirty-first session (July 6-23, 2004), General Assembly Official Records, Fifty-ninth Session, Supplement No. 38 (A/59/38), United Nations, New York, 2004.

⁷⁰ Ibid.

and responsibilities of women and men in all areas of life, and the deep-rooted patriarchal attitudes, which undermine women’s social status and are obstacles to the full implementation of the Convention.” It urged the government “[to] take action to change stereotypical attitudes and perceptions as to men’s and women’s roles and responsibilities.”

Domestic violence and underemployment also limit Kyrgyz lesbians and transgender men’s capacity to afford an adequate standard of living or to live independently. Lack of gender parity in employment severely restricts their autonomy, increasing the likelihood that they will be dependent on families, forced into marriage, and incapable of leaving domestic abuse. Stereotypical attitudes subject both to discrimination and violence for their failure to conform.

Family life

Very few women in Kyrgyzstan live independently.⁷¹ The vast majority move directly from living with their parents in homes dominated by their fathers to living in homes dominated by their husbands. While women have working niches in many economic areas, from agriculture to bazaar trading, these activities—which are often survival strategies for families endangered by economic insecurity—generally do not bring them rights within the home. Often, any sign of women’s independence leads to retaliatory violence.

Domestic violence is a serious problem in Kyrgyzstan. Experts who work with victims of domestic violence agree that domestic violence is pervasive in Kyrgyzstan and that it affects women in every social stratum and region of the country. Local experts who have closely tracked the problem for years point to increasing violence. One government official with responsibility for women and family concerns told Human Rights Watch in 2005, “As an expert on these issues, I can say that the situation of violence against women is getting worse.”⁷²

⁷¹ Even orphaned girls and widows, typically assisted by extended family networks after the death of their parents or husbands, are unlikely to live alone.

⁷² Human Rights Watch interview with Taalaygul Isakunova, Bishkek, October 31, 2005. At the time, Isakunova was an expert for the National Council under the President of the Kyrgyz Republic on Women, Family, and Gender Development. Isakunova subsequently left that position.

In 2003, the Kyrgyz government enacted a “Law on Social-Legal Protection from Domestic Violence” to address the issue. The law defines domestic violence as “any intentional act by one family member directed towards another family member if such act limits [the] victim’s legal rights and freedoms, inflicts physical or mental suffering and causes moral harm; or contains a threat to the physical or mental development of a minor member of the family.” Notably, the law covers all forms of family relationships, prohibiting violence by parents and siblings in addition to violence by spouses, and is gender neutral.⁷³

Especially important is the provision (article 21) on orders of protection, granted against acts of violence that a perpetrator “committed or attempted to commit.” The law envisions two types of such orders: temporary restraining orders issued by law enforcement agencies and protective court orders. The former entitles a victim to immediate police protection for up to 15 days, with police assuming an obligation to investigate the complaint and to monitor the abuser’s behavior. Protective court orders issued by judges last for terms of one to six months. Violating a police protection order brings a fine or 10 days’ administrative arrest; violating a court order is punishable by a larger fine and 10 to 15 days’ administrative arrest. Effectively implementing this law would have a major, positive impact on the rights of lesbians and transgender men.

The law has not been effectively implemented. In 2008 the Forum of Women's NGOs of Kyrgyzstan reported that, over the five years since the law came into effect, the National Statistics Committee showed 4,651 women seeking assistance from shelters and other organizations, and 4,135 cases of violence against women registered by state and non-state institutions. Despite these numbers, courts issued only 18 protection orders against domestic violence. (Police still do not maintain disaggregated data on domestic violence, including adequate statistics on police protection orders). According to the Forum, in the Kochkor district of Naryn province, 150 domestic violence complaints were filed with police in 2006—but only 19 cases reached courts, and only four protection orders were issued as a result.⁷⁴ People

⁷³ Law on Social-Legal Protection from Domestic Violence, 2003.

⁷⁴ Forum of Women's NGOs of Kyrgyzstan, “Information for the CEDAW Pre-Session (42nd CEDAW session),” 2008, http://www2.ohchr.org/english/bodies/cedaw/docs/ngos/ForumofWomensNGOS_Kyrgyzstan42.pdf.

already dissuaded by stigma and prejudice from making their complaints public will be disproportionately affected by such an atmosphere of impunity, as will people who already fear that police and judges will be indisposed to give them a fair hearing. Ensuring the law's protections are fully realized is critical for all Kyrgyzstan's women.

Sexual Orientation, Gender Identity, and the Law in Kyrgyzstan

"We don't put you in jail; we don't beat you; what more do you want?"⁷⁵: The legal status of homosexual conduct

In Soviet-era Kyrgyzstan, sex between women, unlike sex between men, was never criminalized. Under the law, adult men engaging in consensual sex could be sentenced to up to two years' imprisonment. Reliable data on the how the law was enforced is scarce.⁷⁶ Available information suggests that the sanctions, while specifically targeting men, more broadly encouraged social stigma, fostered homophobia, and kept most lesbian, gay, bisexual, and transgender people firmly concealed in fear.⁷⁷

On January 1, 1998, seven years after declaring its independence from the Soviet Union, Kyrgyzstan adopted a new Criminal Code, decriminalizing consensual sex between adult men. However, legal differentiations continue: contemporary Kyrgyz law confines the legal definition of rape to acts committed by a man against a

⁷⁵ University professor's comment to his lesbian student, as recounted by the student in Human Rights Watch group interview with Labrys members, Bishkek, October 29, 2005.

⁷⁶ Official estimates suggest approximately 50,000 men were imprisoned in jails or sent to camps across the Soviet Union on charges related to homosexual conduct from the passage of the Stalin-era law till the USSR's dissolution; however the real figure is believed to be significantly higher. ("Kyrgyzstan: Focus on Gay and Lesbian Rights," *Integrated Regional Information Networks (IRIN)*, January 11, 2005, <http://www.alertnet.org/thenews/newsdesk/IRIN/36a54bc140eef1e95f0110d366f6e218.htm>). Kyrgyzstan's Ministry of Justice officials informed Amnesty International that no criminal cases had been brought under this article in 1991, though there were convictions in 1990 ("Kyrgyzstan: AI Concerns in Europe" Issue November 1991 - April 1992 [EUR 01/03/92]; June 1992, <http://www.qrd.org/qrd/browse/queer.amnesty.international.report>). Research on men having sex with men in Kyrgyzstan conducted in 1997, the year before country repealed the old Soviet law, found that "The police take men to their station if caught in the act (beatings are normal)" (Dr. Robert Oostvogels, "Assessment of Men who have Sex with Men in Bishkek, Kyrgyzstan," UNAIDS 1997, on file at Human Rights Watch).

⁷⁷ "The Rights of Lesbians and Gay Men in the Russian Federation," a report by the International Gay and Lesbian Human Rights Commission, 1994.

woman. The act of a man raping a man (or a woman raping a woman) is consigned to a separate provision with a (potentially) lesser penalty.⁷⁸

Decriminalizing homosexual conduct has not significantly diminished discrimination. Robert Oostvogels, author of a 1997 World Health Organization (WHO) report on men who have sex with men (MSM) in Kyrgyzstan, told Human Rights Watch “No measures were taken to spread awareness among the general population and I am afraid it was mainly a change on paper. In reality, nothing much changed.”⁷⁹ Reports of police harassment of lesbian, gay, bisexual and transgender people continue, and the government has taken no further steps to secure their rights, such as introducing legislation to protect against discrimination, to ensure equal treatment for all kinds of families, or prevent or punish violence.⁸⁰

Ministry of Health policy allows transgender people in Kyrgyzstan in principle to undergo sex reassignment surgery (SRS), and afterward they may legally change their gender in official identity papers.⁸¹ However, SRS is not now performed in the medical system in Kyrgyzstan—and complete SRS is a condition for legal identity change. A Ministry of Health representative told Labrys in May 2007 that it recognized the need for improved procedures for legal identity change and that it was developing a more streamlined process.⁸² In the meantime, transgender men (and women) experience tremendous hardship as a result of having a legal identity in limbo.

⁷⁸ Article 129 of the criminal code states that “The act of rape, i.e. the sexual act with the use of physical force or the threat of its use, upon a female victim, as well as taking advantage of the helpless state of a female victim, -is punishable by imprisonment of five to eight years...Article 130 states that comparable “homosexual or other sexual acts with the use of physical force”—the rest of the language is parallel—“are punishable by imprisonment of three to eight years.”

⁷⁹ E- mail to Human Rights Watch from Robert Oostvogels, February 2, 2007.

⁸⁰ Kyrgyzstan’s HIV/AIDS law (“Act No. 149 of 13 August 2005 on HIV/AIDS in the Republic of Kyrgyzstan” adopted July 1, 2005) contains the only positive or neutral reference to sexual orientation or gender identity in Kyrgyz law or public policy, committing the state to address the needs of men who have sex with men in the context of HIV/AIDS service provision, but making no reference to lesbians, bisexual women, or transgender people.

⁸¹ Human Rights Watch telephone interview with Anna Kirey, May 14, 2007.

⁸² Ibid.; e-mail to Human Rights Watch from Anna Kirey, August 16, 2008.

*“It would be better if you were a prostitute or a drug addict than a lesbian”⁸³:
Social perceptions of sexual orientation and gender identity*

Though the Soviet penal code’s criminalization of homosexual conduct has been lifted, it continues to resonate in the public perception of lesbian, gay, bisexual, and transgender people in Kyrgyzstan. One of its legacies may be the pervasive attitude that lesbians, gays, bisexuals, and transgender people are criminals.⁸⁴

Another myth is that lesbians, bisexuals, and transgender men are mentally ill. Until 1999, “homosexual orientation” was included in the “personality disturbances” section of the diagnostic manual issued by the Ministry of Health.⁸⁵ Forced psychiatric treatment was a persistent threat. “Because male homosexuality was punishable by law, psychiatric treatment appears to have been largely directed against lesbians,” one human rights organization reported in the 1990s. “A pervasive conviction that homosexuality is indeed a mental illness ... provided the conditions for the forced psychiatric treatment of lesbians.”⁸⁶

Cultural understandings shift slowly. Feruza, a woman who was once married and has a son, told Human Rights Watch that when she found love with another woman, her sister considered her “really sick...[she] thinks that I have completely gone out of my mind and that I have a mental disorder.”⁸⁷

⁸³ One mother’s comment upon learning her daughter was a lesbian, recounted by the daughter in Human Rights Watch group interview with Labrys members, Bishkek, October 29, 2005.

⁸⁴ This may, at least in part, be due to the government’s management of decriminalization. It did nothing to educate the public when it repealed the law against male homosexual conduct. Gulnara Kurmanova of the HIV/AIDS outreach organization Tais Plus reports, “Until now many people, including policemen, do not know that the law in our country does not prosecute homosexuality” (email to Human Rights Watch from Gulnara Kurmanova, February 2, 2007).

⁸⁵ *Mezhdunarodnaya statisticheskaya klassifikatsiya bolezney, travm i prichin smerti* (International Statistical Classification of Diseases and Related Health Problems), 9th edition, adapted for use in the USSR, Moscow 1982, sec. V.

⁸⁶ “The Rights of Lesbians and Gay Men in the Russian Federation,” a report by the International Gay and Lesbian Human Rights Commission, 1994.

⁸⁷ Human Rights Watch interview with Feruza, Bishkek, November 1, 2005.

Religious authorities preach and foster prejudice. In a country that is 75% Muslim,⁸⁸ clerics' approach to homosexuality has great impact. Mufti Lugmar azhi Guahunov, then the leader of the Muslim *umma* in Kyrgyzstan, said in 2005, "I think we should unite our efforts and maybe start punishing people for such behavior. Thousands of Muslims will be punished by Allah for not preventing, not stopping, lesbians and homosexuals."⁸⁹

Likewise, the Russian Orthodox Church has voiced hostility to lesbians and gays. Igor Dronov, a senior Russian Orthodox priest in Bishkek, declared that tolerating them "washes out the essence of absolute moral values. Of course, our church will not fight homosexuality with weapons, but we will never tolerate it."⁹⁰ In 2008, the Russian Orthodox Church in Kyrgyzstan denied a press report that it accepted lesbians and gays as worshippers, with priests calling a press conference to declare the church "has never supported, does not support, and will never support sodomites."⁹¹

⁸⁸ "Kyrgyzstan" in *CIA World Fact Book* (2007), <https://www.cia.gov/library/publications/the-world-factbook/geos/kg.html#People>, (accessed May 24, 2007).

⁸⁹ "Kyrgyzstan: Focus on Gay and Lesbian Rights," "Focus on Gay and Lesbian Rights," *IRIN*, January 11, 2005, at <http://www.alertnet.org/thenews/newsdesk/IRIN/36a54bc140eef1e95f0110d366f6e218.htm> (accessed August 2, 2008).

⁹⁰ *Ibid.*

⁹¹ "Russian Orthodox Church Has Never Supported, Does Not Support, and Will Never Support Sodomites," press release by the Central Asian eparchy of the Russian Orthodox Church, March 3, 2008, <http://kyrgyzlabrys.wordpress.com/2008/03/04/russian-orthodox-church-against-sodomites/>, accessed September 4, 2008.

V. Legal Standards

The Constitution of the Kyrgyz Republic guarantees its adherence to “international treaties and agreements, provided that they have taken legal effect.”⁹² To its credit, Kyrgyzstan has ratified many key international instruments; these guarantee equality and freedom from violence for all people—including lesbians and transgender men. Yet failure to prevent, investigate, and punish discrimination and violence based on sexual orientation and gender identity violates Kyrgyzstan’s obligations under international law.

Discrimination

The International Covenant on Civil and Political Rights (ICCPR), to which Kyrgyzstan acceded on October 7, 1994, requires states to “respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”⁹³ In the 1994 case of *Toonen v Australia*, the U.N. Human Rights Committee, the authoritative body responsible for interpreting the ICCPR and monitoring States’ compliance with their obligations, held that “sexual orientation” was a status protected from discrimination under the ICCPR’s equality clauses.⁹⁴ Specifically, it held that “the reference to ‘sex’ in articles 2, para. 1 and article 26 is to be taken as including sexual orientation.”⁹⁵

Likewise, the Convention on the Elimination of All Forms of Discrimination Against Women or CEDAW, which Kyrgyzstan ratified in 1997, obligates states in article 1 to eradicate “any distinction, exclusion or restriction made on the basis of sex which

⁹² Constitution of the Kyrgyz Republic as amended in October 2007, art. 12, para. 3.

⁹³ International Covenant on Civil and Political Rights, art. 2.1.

⁹⁴ *Nicholas Toonen v Australia*, Human Rights Committee, 50th Sess., Case no. 488/1992, UN Doc. CCPR/c/50/D/488/1992.

⁹⁵ The ICCPR states in article 26: “All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”

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." Its article 5.a. commits states "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." Both articles are violated when people are singled out for unequal treatment because they fail to conform to social or cultural expectations for women and men.

In its concluding comments on Kyrgyzstan in 1999, the Committee on the Elimination of Discrimination Against Women condemned reports that lesbians were subject to punishment in Kyrgyzstan, and stated, "The Committee recommends that lesbianism be reconceptualized as a sexual orientation." The Committee's recommendation that lesbian identity be located under the rubric of "sexual orientation" requires according it the discrimination protections demanded under international law.⁹⁶

The "Yogyakarta Principles on the Application of International Human Rights Law in relation to Sexual Orientation and Gender Identity," a set of international legal principles drafted by a distinguished group of human rights experts and released in 2007, affirm the standards of the ICCPR and CEDAW. "Everyone is entitled to enjoy all human rights without discrimination on the basis of sexual orientation or gender identity...Discrimination on the basis of sexual orientation or gender identity includes any distinction, exclusion, restriction or preference based on sexual orientation or gender identity which has the purpose or effect of nullifying or impairing equality before the law or the equal protection of the law, or the recognition, enjoyment or exercise, on an equal basis, of all human rights and fundamental freedoms." They instruct states to amend domestic legislation accordingly, including by targeting public and private acts of discrimination.⁹⁷

⁹⁶ "Report of the Committee on the Elimination of Discrimination against Women" (Fifty-fourth session, 1999), U.N. Doc A/54/38 (Part I), 4 May 1999, p. 128,

⁹⁷ "Yogyakarta Principles on the Application of International Human Rights Law in relation to Sexual Orientation and Gender Identity," principle 2.

Finally, Kyrgyz domestic law contains equivalent promises of equality. Article 13 of the Constitution of the Kyrgyz Republic guarantees that “every person shall enjoy basic human rights and freedoms from birth.”⁹⁸ The Constitution affirms that all people “shall be equal before the law” without distinction: “No one may be subjected to any discrimination, [and] rights and freedoms of persons shall not be abridged on account of origin, gender, race, nationality, language, creed, political and religious convictions, or on any other account of personal or public nature.”⁹⁹ Furthermore, while the Constitution grants support to folk customs and traditions, it does so conditional on the principle that that they “shall not contradict human rights and freedoms.”¹⁰⁰

Violence and Abuse

The ICCPR requires states to prohibit and prevent torture and other cruel, inhuman, or degrading treatment or punishment, including by private actors.¹⁰¹ The ICCPR’s prohibition against torture and cruel, inhuman, or degrading treatment or punishment applies “not only to acts that cause physical pain but also to acts that cause mental suffering to the victims.”¹⁰² As a general principle, states may be responsible for private acts if they fail to act with due diligence to prevent violations of rights or to investigate and punish acts of violence.¹⁰³

The 1993 United Nations Declaration on the Elimination of Violence against Women affirms “that violence against women constitutes a violation of the rights and fundamental freedoms of women.”¹⁰⁴ Article 1 of the declaration specifically states that “the term ‘violence against women’ means any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or

⁹⁸ Constitution of the Kyrgyz Republic as amended in October 2007, art. 13, para. 1.

⁹⁹ *Ibid.*, art. 13, para. 3.

¹⁰⁰ *Ibid.*, art. 16, para. 1.

¹⁰¹ ICCPR, art. 7.

¹⁰² Human Rights Committee, “General Comment No. 20: Replaces general comment 7, concerning prohibition of torture and cruel treatment or punishment (Art. 7),” October 3, 1992.

¹⁰³ Committee on the Elimination of Discrimination against Women, “General Recommendation 19, Violence against women” (Eleventh session, 1992), U.N. Doc. A/47/38 at 1 (1993).

¹⁰⁴ “Declaration on the Elimination of Violence against Women,” General Assembly resolution 48/104, December 20, 1993.

suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.” The CEDAW Committee recognizes that pervasive sex-based stereotyping perpetuates social prejudices and contributes to gender-based violence.¹⁰⁵ The CEDAW Committee proposes a various measures to combat gender-based violence, including instituting effective complaints procedures and remedies for survivors, and providing appropriate medical care and services.

The Yogyakarta Principles state that “everyone has the right to be free from torture and from cruel, inhuman or degrading treatment or punishment, including for reasons relating to sexual orientation or gender identity.” The Principles further instruct states to “take all necessary legislative, administrative and other measures to prevent and provide protection from torture and cruel, inhuman or degrading treatment or punishment, perpetrated for reasons relating to the sexual orientation or gender identity of the victim, as well as the incitement of such acts.”¹⁰⁶

In 2003, as noted above, Kyrgyzstan adopted the Law on Social-Legal Protection from Domestic Violence—the result of years of lobbying by women’s rights groups. As also noted above, implementation of the law remains seriously inadequate.

The Kyrgyz Administrative Code also specifically addresses domestic violence. Article 66-3 imposes an administrative fine on the perpetrator of domestic violence, including physical, psychological, and sexual abuse, when that abuse does not qualify for criminal liability but is found to “violate the person’s constitutional or other rights, result in light damage to a person’s health, cause physical or psychological suffering, or damage a person’s physical or psychological development—regardless of age or sex.”

¹⁰⁵ Committee on the Elimination of Discrimination against Women, “General Recommendation 19, Violence against women.”

¹⁰⁶ “Yogyakarta Principles on the Application of International Human Rights Law in relation to Sexual Orientation and Gender Identity,” principle 10.

Forced or Coerced Marriage

International law dictates that marriages should take place only with the clear consent of both people. Article 1 (1) of the Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages (ratified by Kyrgyzstan in 1997) states that “No marriage shall be legally entered into without the full and free consent of both parties, such consent to be expressed by them in person after due publicity and in the presence of the authority competent to solemnize the marriage and of witnesses, as prescribed by law.”

VI. Recommendations

The most common refrain from the lesbians, bisexual women, women who have sex with women, and transgender men that Human Rights Watch spoke with for this report was the simplest: acknowledge that we exist. Such an acknowledgement means they are bearers of rights, and that their sexual orientation or gender identity cannot be used to deny those rights or subject them to violence or discrimination.

As an essential first step, authorities should publicly reaffirm that all such people have a right to live free from discrimination and violence and that any acts to the contrary are illegal and will be prosecuted. They should repeat the same message whenever an incident of discrimination or abuse comes to light.

These recommendations spell out that principle in greater detail.

To the Government of Kyrgyzstan

Educate law enforcement and the judiciary about lesbians and transgender men:

- Require members of the police and the judiciary to engage in outreach to lesbian, gay, bisexual, and transgender people and civil society agents representing their concerns, to explore barriers to justice and protection and ways to overcome them.
- Train law enforcement and judicial personnel in recognizing, investigating, and prosecuting domestic violence and discrimination based on sexual orientation or gender identity. Ensure that such training is fully integrated into existing training programs and provided to personnel at all ranks.
- Refrain from statements that incite hatred, violence, and discrimination based on sexual orientation, gender, or gender identity.
- End and repudiate all violence and harassment by police and other agents of the state against lesbians, gays, bisexuals, and transgender people. Credible, independent oversight bodies including the Office of the Ombudsman should be empowered to investigate all allegations of police and official misconduct.

- Establish an independent mechanism to monitor and oversee police treatment of female and transgender victims of violence.

Educate the public:

- 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.
- Launch a national public education campaign about rights protections, legal remedies, and social services available for victims of violence and discrimination, particularly as they relate to women's rights, sexual orientation, and gender identity. Distribute (in Kyrgyz and Russian) information about the Law on Social-Legal Protection from Domestic Violence, provisions of the Criminal Code of the Kyrgyz Republic on assault, and constitutional protections for privacy and guarantees of equality before the law. Make information available through the state media, libraries, schools, and other public institutions.

Legal and policy measures:

- 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. Ensure that authorities effectively gather statistics about reported cases of domestic violence under the provisions of the law, including violence related to sexual orientation and gender identity. These statistics should include information about all actions taken by police and other authorities in response to complaints, and should be disseminated widely and in a timely way.
- Amend Kyrgyz law to ensure that wherever family ties are taken into consideration, lesbian, gay, bisexual, and transgender partners and their children will be considered on an equal basis with other forms of family and heterosexual relationships.

- Include sexual orientation- and gender identity–based discrimination expressly in the mandate of the Office of the Ombudsman as an issue to be monitored and addressed.
- In accordance with the concerns of the CEDAW Committee during its 2004 review of Kyrgyzstan, develop inclusive and non-discriminatory policies and programs for all women’s financial empowerment: including ensuring safety on transportation routes, providing job training programs, launching legal aid programs that are free of charge or economically accessible, strengthening prohibitions on discrimination in employment, and providing remuneration for labor by all members of the household.
- Amend the Criminal Code of the Kyrgyz Republic to include a single, gender-neutral criminal provision on rape, including criminalizing marital rape.
- Take all necessary legislative, administrative, and other measures to respect and legally recognize each person’s self-defined gender identity, and to ensure that procedures exist whereby all state-issued identity papers which indicate a person’s gender/sex reflect the person’s self-defined gender identity. Ensure that changes to identity documents will be recognized in all contexts where the identification or disaggregation of persons by gender is required by law or policy.
- Amend article 15 of the constitution of the Kyrgyz Republic to bar discrimination on all grounds recognized in international human rights law and jurisprudence, including sexual orientation and gender identity.

Improve direct services for lesbians and transgender men:

- Establish new and financially support existing short-term crisis response centers and long-term shelters that can provide targeted assistance to lesbians and transgender men, and their minor children, either with other victims of violence or in independent facilities. Provide necessary security to ensure victims’ safety during their stay. Ensure that such shelters provide mediation with abusers only at the victim’s request.
- The Ministry of Health should work with other agencies to ensure the training of healthcare providers, social workers, educators, and medical students about sexual orientation and gender identity, including transgender healthcare and domestic violence. Ensure that training is fully integrated into

existing curricula and provided to healthcare professionals at all ranks. Civil society, particularly lesbian, gay, bisexual, and transgender NGOs, should be consulted at all stages of the process.

To Donors

- Increase financial and technical assistance to civil society organizations providing services to lesbians, gays, bisexuals, and transgender people who have suffered violence, including domestic violence and discrimination on the basis of their sexual orientation and gender identity. Specifically, increase funding for community organizing, advocacy, and direct services to lesbians, bisexual women, and transgender men. Services could include short and long-term shelters, legal aid, crisis hotlines, counseling, medical assistance, and job training.

To International Financial Institutions

- The World Bank and the European Bank for Reconstruction and Development should include gender-based violence and discrimination against lesbians and transgender men among the issues raised in their country strategies for Kyrgyzstan, and encourage the Kyrgyz authorities to take adequate measures to address them.

To the United Nations

- All parts of the UN working on Kyrgyzstan, with particular attention from the human rights mechanisms and UN agencies, should be attentive to issues of sexual orientation and gender identity as they relate to their mandates.

To the Organization for Security and Cooperation in Europe

- Include human rights and, specifically, discrimination and violence against lesbians and transgender men—including domestic violence—among the components of the OSCE Police Assistance Program for Kyrgyzstan. Work with local and international human rights groups to integrate human rights and

attention to the problem of violence against lesbians and transgender men into projects already in the assistance program.

To the European Union

- Raise the issue of violence and discrimination against lesbians and transgender men in meetings with senior Kyrgyz government officials. Encourage the government of Kyrgyzstan to enforce laws against violence and implement laws against discrimination.
- Ensure that Technical Aid to the Commonwealth of Independent States (TACIS) and related EuropeAid funding for direct services—including legal and psychological counseling and housing and medical treatment—includes and reaches lesbian, bisexual, and transgender victims of violence. Fund civil society initiatives that conduct research and advocacy on lesbian, gay, bisexual, and transgender human rights.

To the United States Government

- Ensure that USAID and other U.S. government funding for direct services to victims of violence—including legal and psychological counseling and housing and medical treatment—also reaches lesbian and transgender victims and organizations that offer them services. Fund civil society initiatives that conduct research and advocacy on lesbian and transgender human rights.
- Raise the issue of gender-based violence, including violence and discrimination against lesbians and transgender men, in meetings with senior Kyrgyz government officials. Encourage the government of Kyrgyzstan to enforce laws against violence and implement laws prohibiting discrimination against lesbians and transgender men.

VII. Appendix: Terminology

Biological sex: the biological classification of bodies as male or female, based on factors including external sex organs, internal sexual and reproductive organs, hormones, or chromosomes.

Bisexual: a person who is attracted to women and men.

Gay: a synonym for homosexual in English and some other languages. Sometimes used to describe only males who are attracted primarily to other males.

Gender: the social and cultural codes used to distinguish between what a society considers “masculine” or “feminine” conduct.

Gender-based violence: violence directed against a person on the basis of gender or sex. Gender-based violence can include sexual violence, domestic violence, psychological abuse, sexual exploitation, sexual harassment, harmful traditional practices, and discriminatory practices based on gender. The term originally described violence against women but is now taken to include violence targeted at both women and men because of how they experience and express their genders and sexualities.

HIV: human immunodeficiency virus, the virus which causes Acquired Immune Deficiency Syndrome (AIDS).

Homosexual: a person attracted primarily to people of the same sex.

Lesbian: a female attracted primarily to other females.

LGBT: lesbian, gay, bisexual, or transgender; an inclusive term for groups and identities sometimes also associated together as “sexual minorities.”

Sexual orientation: 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.

Transgender: one whose inner gender identity or outward gender expression differs from the physical characteristics of their body at birth. Female-to-male (FTM) transgender people were born with female bodies but have a predominantly male gender identity; male-to-female (MTF) transgender people were born with male bodies but have a predominantly female gender identity.

Women who have sex with women: women who engage in sexual behavior with other women, but do not necessarily identify as “gay,” “homosexual,” “lesbian,” or “bisexual.”

VIII. Acknowledgements

This report was written by Jessica Stern, researcher in the Lesbian, Gay, Bisexual, and Transgender Rights program at Human Rights Watch. It is based on interviews conducted in Kyrgyzstan between 2005-2007 by Maria Lysitsyna and Acacia Shields, researchers in the Europe/Central Asia division at Human Rights Watch, as well as on interviews conducted by telephone and e-mail by Jessica Stern. Labrys, a Kyrgyzstan non-governmental organization working with lesbian and bisexual women and transgender men, provided regular assistance. The report was edited by Scott Long, director of the Lesbian, Gay, Bisexual, and Transgender Rights program at Human Rights Watch; Rachel Denber, deputy director of the Europe/Central Asia division; Andrea Berg, researcher in the Europe/Central Asia division; Janet Walsh, deputy director of the Women's Rights division; Dinah PoKempner, general counsel; and Joseph Saunders, deputy program director. Production assistance was provided by Iwona Zielinska, associate in the Lesbian, Gay, Bisexual, and Transgender Rights Program. Grace Choi and Fitzroy Hepkins prepared the report for publication.

Anna Kirey of Labrys, along with other Labrys members who wish not to be named, reviewed the report and offered invaluable assistance at all stages. Dennis van der Veur, formerly of the Netherlands NGO CoC, and now of the Office of the Council of Europe Commissioner for Human Rights, also provided advice and assistance.