



ECOM



LABRYS
KYRGYZSTAN

Human Rights Violations based on Sexual Orientation and Gender Identity in Kyrgyzstan

**An Alternative Report
Regarding the List of Issues
CCPR/C/KGZ/Q/3**

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Human Rights Violations based on Sexual Orientation and Gender Identity in Kyrgyzstan. An "alternative report" as a commentary regarding the List of Issues CCPR/C/KGZ/Q/3. 136th Session Human Rights Committee.

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I. Introduction

1. The Kyrgyz Republic acceded to the International Covenant on Civil and Political Rights (hereinafter referred to as Covenant) in 1994 and has a "State Party" status within the framework of the Covenant. Kyrgyzstan submitted its third periodic report on 25 February 2020. The Report contains the State Party's arbitrary replies to the previous Concluding Observations CCPR/C/KGZ/CO/2 and other updates on the state of human rights in the country it deemed worthy to provide.

2. The current Alternative Report — a commentary on the List of Issues CCPR/C/KGZ/Q/3 — is submitted as per the invitation of the Human Rights Committee (hereinafter, Committee/HRCtee) that welcomes "alternative reports" from regional NGOs regarding the observation of the Covenant by a State Party, in this case, by Kyrgyzstan. Previously, in 2020, ECOM, in a coalition with Public Organization "Kyrgyz Indigo" and LGBT Organisation "Labrys," had already submitted an alternative report¹ on CCPR/C/KGZ/CO/2 and the State Party's Report CCPR/C/KGZ/3. The present report is being filed to provide additional information for the Committee's consideration as the reporting country has not adopted any steps or measures to tackle the rampant stigma and discrimination of the LGBT persons in Kyrgyzstan.

3. In its List of Issues CCPR/C/KGZ/Q/3 (later referred to as LoI), para 8, the Committee inquired of Kyrgyzstan to comment on the measures taken or planned to: (a) prevent and combat all forms of discrimination based on sexual orientation and gender identity, including in employment, housing, health and family law; (b) address harassment and violence against lesbian, gay, bisexual, transsexual and intersex persons; and (c) raise awareness about principles of non-discrimination among State officials and the population at large. Further, the same paragraph queried Kyrgyzstan to respond to reports of social stigmatization, harassment, violence and discrimination against lesbian, gay, bisexual, transsexual and intersex persons by State officials and private individuals, including extortion and arbitrary arrest and detention by law enforcement officials. Finally, the paragraph asked the State Party to report on measures taken to investigate interference in the private life of, and hate speech and discrimination against, representatives of lesbian, gay, bisexual, transsexual and intersex persons in connection with the 2020 parliamentary elections. In conjunction with these inquiries, LoI (para 23) requested Kyrgyzstan to report on the content of draft law No. 6-28018/19 amending the Law on Non-Commercial Organizations, imposing strict control over international financing of non-governmental organizations. Unfortunately, no measures were taken by Kyrgyzstan to mitigate any of the negative impacts of the aforementioned violations of human rights of the LGBTQ persons in the country. On the contrary.

4. "ECOM - Eurasian Coalition on Health, Rights, Gender and Sexual Diversity" (hereinafter, ECOM), LGBT Organisation "Labrys" and Initiative group "Myrzayim" file this report as supplementary information to that already provided by ECOM, Labrys, and Kyrgyz Indigo to HRCtee in 2020. To remind the honorable Committee, ECOM is a regional NGO that is adept in working with gay men, other MSM, and trans people specifically in the area of ensuring their right to health, which makes it competent in revealing drawbacks in state healthcare services and offering professional recommendations to amend them, which public servants may lack due to not having the necessary training. Labrys is a grassroots platform for advancement and protection of the human rights of LGBT people in Kyrgyzstan and Central Asia equipped with advocacy instruments moved by different generations of activists. Myrzayim is a transgender initiative group for trans people and led by trans people, to increase the potential to improve the quality of life, protect and promote the rights of transgender, gender non-conformal and non-binary people in Kyrgyzstan. Being competent in working with and advocating for the LGBT community in Kyrgyzstan, the current coalition is forced to file

¹https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2fCCPR%2fCO%2fKGZ%2f42950&Lang=en

yet another report on human rights violations based on sexual orientation and gender identity (SOGI) as the State Party intentionally continues to adamantly deny them their rights protection under the Covenant and, moreover, even sponsors the ongoing stigma, discrimination, harassment, hate, and violence perpetrated against them by the general public and state officials.

5. Article 40 section 1 of the Covenant states that “[t]he State Parties to the present Covenant undertake to submit reports on the measures they have adopted which give effect to the rights recognized herein and on the progress made in the enjoyment of those rights.” Article 40 section 2 of the Covenant stipulates that “[r]eports shall indicate the factors and difficulties, if any, affecting the implementation of the present Covenant.” ECOM, Labrys, and Myrzayim consider that, within the scope of the right to equality before the law (Article 26 of the Covenant), right to privacy (Article 17 of the Covenant), freedom from torture (Article 7 of the Convention), right to fair trial (Article 14 of the Covenant), freedom of expression and freedom of association (Articles 19 & 22 of the Covenant), Kyrgyzstan’s reports actively fail to address the state of human rights of the LGBT on its territory. The given report will provide additional information to that already filed by an ECOM coalition in 2020, so as to not overburden HRCtee with redundant text.

II. Article 26 — Right to Equality Before the Law

6. The overarching problem, which lies at the core of people in Kyrgyzstan not being able to protect their rights based on SOGI effectively, is the absence of a law that would ban all forms of discrimination, including discrimination based on SOGI expressly. Kyrgyzstan deliberately denies adopting such legislation, which is imperative for said populations to be able to protect their rights if violated based on hate and, overall, to decrease the levels of SOGI-based stigma and discrimination, as well as enhance the prevention of relevant human rights violations. The current levels of stigma and discrimination do not allow LGBT persons to protect their rights from hate based on SOGI. Kyrgyzstan legislation does not even have hate crimes as such (as UN understands them²), not to mention SOGI-based hate crimes. Therefore, there is no law to prevent others from committing hate speech or hate crimes against the LGBT based on SOGI discrimination and the latter cannot reinstate their violated rights properly for the exact same reason.

7. While on the topic of hate speech, HRCtee may want to take note of the following. Labrys conducted a monitoring programme³ in 2020, surveying the Internet and the media for mentions of “LGBT” in Kyrgyzstan to identify the tendency fluctuations with which the community is being mentioned. Overall, Labrys documented 381 articles/publications and materials where LGBT were mentioned in 2020. From that volume, 258 of them included hate and/or incitement to hate/violence against the LGBT. The monitoring also revealed that the main motivator behind mentioning LGBT in said publications was the political situation in the country: information that mentions LGBT in a negative light increases as important political events erupt or are being expected in Kyrgyzstan. In 2020, this tendency was identified during: events around March 8; initiation of Draft Law on Non-Commercial Organisations; parliamentary elections; meetings and change of government powers. Among the most discussed and shared materials were homophobic comments made by Kyrgyzstan parliamentaries and forced outing of LGBT persons.

8. Hate speech that addressed LGBT persons from politicians, public figures, government officials, the media and the general public varied greatly and goes without reprimand or any sort of punishment. For instance, the same monitoring conducted by Labrys revealed that noise began to grow way before the “solidarity march” scheduled for March 8: mass media and users would associate it with “gay parade” and would call

² A hate crime is a prejudice-motivated crime which occurs when a perpetrator targets a victim because of their membership (or perceived membership) of a certain social group or racial demographic, UN Taxonomy, <https://www.ohchr.org/en/taxonomy/term/897>

³ “Hate, Attack, and Furthering of Political Interest Using Homophobia: How Mass Media Mentions LGBT,” Kloop, 2021, Available in Russian: <https://kloop.kg/blog/2021/01/23/nenavist-rasprava-i-prodvizhenie-politicheskikh-interesov-na-fone-gomofobii-kak-lgbt-upominayut-v-smi-i-sotssetyah-kyrgyzstana/>

to prevent the action. After the violent events that went down during the march, world media published information about unidentified people attacking the participants of the march and about law enforcement detaining participants and organisers of the march instead of the actual attackers. Other local mass media would continue to publish information about the event calling it a “gay parade” and would publish other homophobic comments made by MPs. In relation to the Draft Law on Non-Commercial Organisations, the monitoring revealed that some MPs expressly stated that they did not read the draft but they signed it just to ban “gay parades.” In Q3 2020, the activity mentioning LGBT in the media was exceptionally high due to the expected parliamentary elections: many parties and parliamentary candidates were attributed to be or have connections to LGBT; mass media would publish material on parties claiming them to be sided with the West and protectors of LGBT, thereby discrediting them in the election race. As Human Rights Watch fairly puts it, “LGBT issues in Kyrgyzstan are often used as a scaremongering tactic by politicians to taint their opponents.”⁴ The LGBT platform of Kyrgyzstan made an open statement saying it did not support any party.⁵ Mainly, the one party that was bullied and hated against the most was the party “Reforma”. After the revolution happened later, the power was effectively consolidated in one philosophy’s hands. The Labrys research reveals that political movements that tried to resolve the situation with legal means, as well as social media users and mass media that would attempt to voice their disagreement with the situation — were all automatically designated as LGBT apologists. The new power made certain steps that now expressly put the lives of LGBT in outright danger. One of such steps was the new Constitution, which bans everything that does not coincide with the moral values and culture of the people of Kyrgyzstan. Notably, the new provisions included Article 10 (4) which specify that activities “contrary to moral and ethical values and the public consciousness of the people of Kyrgyzstan” may be prohibited to protect the younger generation⁶ — which is akin to Russia’s ban on “gay propaganda” but on a constitutional level. Every march that happened to voice disagreement with said constitutional amendments was labeled as a “gay parade.” Finally, the 2020 monitoring by Labrys revealed many online groups, profiles, and chats that would publish photos and contacts of LGBT persons to incite bullying and violence against them. Malicious users would also post false pro-LGBT content to amass LGBT audience to then further harass, stalk, blackmail or attack them. Labrys concludes that LGBT is intentionally used as an instrument to further the political agenda by certain actors. Inciting hate for LGBT is a means to mobilise the general public to quell anyone speaking out against the populist agenda.

9. HRCtee should take note of the 2020 revolution that happened in Kyrgyzstan, which involved various instances that endanger the fundamental human rights and freedoms enshrined in the Covenant for all people in Kyrgyzstan, but for the LGBT in particular. Among other events that happened in 2020 and 2021: the parliamentary election results were protested by the youth and the general public because of alleged corruption and violation of the elections that allowed for government apologists to succeed; then, the results were deemed illegal; the MPs stayed in their office nonetheless as new elections would not be scheduled for another year, during which the rightist, illegally seating MPs would adopt questionable laws; a referendum was called to amend the constitution, which resulted in said amendment that endangers LGBT and also changing Kyrgyzstan to a presidential republic, vesting most powers in one hands; MP count was reduced from 120 to 90; “kuriltai,” or people’s council, was given official status and powers parallel to the parliament.⁷ As described by a member of PO “Kyrgyz Indigo,” said revolution resulted in people who had just recently been imprisoned coming to power.⁸ Considering the context revealed by Labrys’ monitoring

⁴ Kyrgyzstan Short Profile, Human Rights Watch, <https://www.hrw.org/video-photos/interactive/2021/04/23/country-profiles-sexual-orientation-and-gender-identity#kyrgyzstan>

⁵ “The LGBT Platform of Kyrgyzstan Says It Does Not Cooperate with Any Political Party,” Vesti, 2020, Available in Russian: <https://vesti.kg/politika/item/75174-lgbt-platforma-kyrgyzstana-zavavlyayet-cto-ne-sotrudnichaet-ni-s-odnoj-partiej.html>

⁶ AL KGZ 2/2021, <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?qId=26532>

⁷ “On Eve Of Elections, What Have Kyrgyz Gained From Their 2020 Revolution?,” Radio Free Europe, 2021, <https://www.rferl.org/a/31581745.html>

⁸ “The LGBTQ+ Community Has Become the Main Tool of the Political Leaders to Divert Attention from Real Problems,” LSVD, 2021, <https://www.lsvd.de/de/ct/4104-quot-The-LGBT-community-has-become-the-main-tool-of-the-political-leaders-to-divert-attention-from-real-problems-quot>

research, said political events do not spell any progress in favor of the LGBT; and any and all incremental steps towards sensitization of law enforcement and medical workers seem to fade into non-existence.

10. At this point, it is important to point out the "Concept of the Spiritual and Moral Development" published by the Ministry of Culture of Kyrgyzstan in 2021 that outlines the directions in which the new national agenda is headed after the revolution which harbors provisions that will most definitely be used to suppress and violate any freedom of self-determination that is deviant from what the government deems 'normal.' Notably, the red flag is the cornerstone of the Concept, which establishes the priority of the social and state interests over the individual ones.⁹ The President, Sadyr Zhaparov decreed the development of this Concept. Among the key principles enshrined in the Concept, in addition to the one mentioned afore, are: priority of spiritual and moral values over the material ones; spiritual and moral development based on primordial folk values and national-cultural heritage; as well as the main aim of the family and the parents to be the upbringing of a true patriot and for him to continue the glorified way of the ancestors.¹⁰ To mention, that in practice this decree did not affect anything. However, the Constitution (adopted by referendum (popular vote) on April 11, 2021) introduced norms that are alarming. Parts 4 and 5 of Article 10 of the Constitution of the Kyrgyz Republic contains: "4. In order to protect the younger generation, activities that are contrary to moral and moral values, public consciousness of the people of the Kyrgyz Republic may be limited by law. 5. The list of activities subject to restriction and the list of restricted access and dissemination of information shall be established by law." As the Committee may see, the President ordering this Concept from the Culture Ministry and the language of the mentioned articles in the Constitution already allows to pinpoint the trend of ostracizing everyone who does not abide by them, of course, the LGBT will be the first in line to be further described and persecuted as that which damages the 'primordial' 'moral values' and 'culture' of the 'ancestors.'

III. Article 17 — Right to Privacy

11. Given the active weaponisation of LGBT and scaremongering around LGBT and the West to further discriminatory populist agenda of the political forces in power and those that wish to gain the favor of the general public, the right to privacy is easily trampled over to reach desired results. During the 2020 parliamentary election race, various instances of forced outing of LGBT persons happened. The above research by Labrys indicates that such forced outing of LGBT persons occurred, for example, via illegal publishing of a sex video on social media: the video included names, work and education places and other information that would tie the mentioned people to the "Reforma" political party. All of this not only was actively aimed to discredit these people but also put their lives in danger. Eurasianet describes the instance:

The anti-opposition screed featured secretly filmed video images of two politically active, male alumni of the American University of Central Asia, or AUCA, engaging in intimate relations. For the people believed to be behind the smear – the widespread assumption is that only the security services would have been able to pull it off – the footage killed several birds with one stone. The two men were disposable collateral. They had to flee the country amid threats. But by drawing a link between them, opposition politics and – the cherry on the cake – an American-style university, the disseminators of the video struck a blow for pro-status quo parties.¹¹

With said university in mind, social media posts accused the American University of Central Asia of "making Kyrgyz people gay."¹² Apart from this, several videos of trans women were shared, some exposing their names and social media profiles, risking their

⁹ "Digest on the Situation of Human Rights Violations of the LGBT in Kyrgyzstan Q1 2021," 2021, Available in Russian: <https://labrys.kg/news/tpost/lxrribve71-daidzhest-o-situatsii-lgbt-v-kr-za-2-i-k>

¹⁰ "What Is Written in the Concept of Spiritual and Moral Development?", 2021, Available in Russian: <https://kloop.kg/blog/2021/05/11/prioritet-obshhestvennyh-i-gosudarstvennyh-interesov-nad-individualnymi-cto-propisano-v-kontseptsii-duhovno-nravstvennogo-razvitiya/>

¹¹ "The Weaponization of Homophobia in Kyrgyzstan," Eurasianet, 2022, <https://eurasianet.org/perspectives-the-weaponization-of-homophobia-in-kyrgyzstan-and-belarus>

¹² *Annual Review of the Human Rights Situation of Lesbian, Gay, Bisexual, Trans and Intersex People in Europe and Central Asia*, ILGA-Europe, 2022, <https://ilga-europe.org/files/uploads/2022/04/annual-review-2022.pdf> , "Kyrgyzstan"

safety.¹³ Privacy seems to mean nothing in Kyrgyzstan: it is simply neglected and stepped over by the Kyrgyzstan government, especially now that it has constitutionalized that anything that goes against Kyrgyz 'moral values' and 'culture' is banned outright. Now, LGBT persons are not only unsafe in the public, they cannot be safe even in the private. This is a gross and intentional violation of the Covenant, revealing the absence of respect that Kyrgyzstan has under its obligations before the CCPR, the Committee, and its people, whose rights and freedoms are protected under the Covenant.

IV. Article 17 — Freedom from Torture

12. The LGBT seem to be a weapon, a commodity, and an object for the Kyrgyzstan government to use and abuse, physically and psychologically, however it wishes. ILGA-Europe reports of continued cases of police luring LGBT people on fake dates, after which the undercover police resort to extortion, other threats, and violence.¹⁴ The same report also provides mentions of conversion therapy cases,¹⁵ which are unapologetically deemed by the UN as torture.¹⁶ Over a hundred cases of SOGI-based hate crimes are reported by ILGA-Europe, including physical attacks and murder, in 2021 alone. Among others, notably, in April 2021:

A young woman Aizada Kanatbekova was abducted and murdered, receiving nationwide attention. The police had failed to respond to Kanatbekova's cries for help. A rally against the police's failure and bride abduction was disturbed by provocateurs who shouted that it was organised by LGBT people. According to a video, these included police officers in civilian clothes. A few days later, an anti-LGBT and anti-NGO demonstration was held in Bishkek. The protesters called on the state to "protect" minors from Western LGBT ideology. It was later rumored that several protesters were police officers.¹⁷

It should be noted here that the UN CAT has already underlined that Kyrgyzstan should investigate and prosecute cases of torture and ill-treatment against LGBT people by law enforcement according with the proper legal procedure, identifying cases of torture and ill-treatment mis-prosecuted by the State Party.¹⁸ Sadly, cases of violation of human rights based on SOGI are not investigated or prosecuted properly in Kyrgyzstan.

V. Article 14 — Right to Fair Trial

13. State-sponsored stigma, discrimination, hate, and incite to violence against LGBT persons not only bolster hate crime cases but they also devoid such victims of seeking justice. As provided in the 2020 report by an ECOM coalition and in this report above, the law enforcement is a hate crime perpetrator itself. Thereby, LGBT victims of SOGI-based hate do not want to turn to police to prosecute their abusers, whoever they may be, for fear of being further abused, extorted, blackmailed, or attacked by the law enforcement. In addition, such investigation, even if opened, will not be prosecuted properly as Kyrgyzstan does not protect SOGI from discrimination and there are no relevant hate crimes defined properly by the law. Even if cases are opened, they are prosecuted as hooliganism, which is not even remotely accurate to the violation cases at hand. Also, such investigation and trial will most likely entail forced outing of the LGBT victim, which will result in social retribution (loss of work, persecution by friends and family, ostracism, attacks online and offline by strangers, etc.). Therefore, on top of everything else above, the LGBT in Kyrgyzstan are denied their right to fair trial under the Covenant.

¹³ Ibid.

¹⁴ *Annual Review of the Human Rights Situation of Lesbian, Gay, Bisexual, Trans and Intersex People in Europe and Central Asia*, ILGA-Europe, 2022, <https://ilga-europe.org/files/uploads/2022/04/annual-review-2022.pdf>, "Kyrgyzstan"

¹⁵ Ibid.

¹⁶ *Practices of the So-Called "Conversion Therapy"*, UN Independent Expert on SOGI-Based Violence, <https://undocs.org/A/HRC/44/53>, para 55

¹⁷ *Annual Review of the Human Rights Situation of Lesbian, Gay, Bisexual, Trans and Intersex People in Europe and Central Asia*, ILGA-Europe, 2022, <https://ilga-europe.org/files/uploads/2022/04/annual-review-2022.pdf>, "Kyrgyzstan"

¹⁸ CAT/C/KGZ/CO/2,

https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CAT%2fC%2fKGZ%2fCO%2f3&Lang=en

VI. Articles 19 & 22 — Freedom of Expression and Freedom of Association

14. LGBT people cannot freely exercise their freedom of expression and association, again, based on state-sponsored SOGI-based discrimination. In addition to mentioned cases above, the draconic laws impede LGBT organisations from receiving international funding and support, as well as make their activity extremely convoluted and complex based on legal demands, which is meant to discourage any dissent from the official agenda presented as dogma. On top of that, violence is also used as a means to limit LGBT freedom of expression. Several UN Mandates and Special Rapporteurs have presented their joint concern in 2021 in which they received various reports of such violations:

- that the office of the LGBT PO “Kyrgyz Indigo” in Bishkek was broken into; the perpetrators sat in cars to survey the area after the unsuccessful attempt;
- a video containing personal information, including SOGI information, about 16 employees of the organisation was published to YouTube (the video was allegedly made by law enforcement officers based on what they could gather);
- unknown social media accounts, known as “troll factories”, reportedly use fake accounts to spread false information about civil society activists’ SOGI in an attempt to discredit them, or reportedly disclose the SOGI of LGBT people without their consent;
- in 2019-2020, a series of “#ReAction” rallies demanded freedom of expression and a fair investigation of corruption allegations but in an attempt to discredit the rallies, some provocateurs brought the rainbow flag to the rally and later distributed information that some LGBT people organised the rallies;
- the rally sparked by the above case of a murder of a young woman abducted and killed in a case of “bride kidnapping” was countered by a rally against LGBT people and NGOs that took place at the Ala-Too Square in Bishkek, from which the latter obstructed the “I don’t want to be killed” rally, defamed participants and publicly threatened them in the presence of police officers who reportedly did not intervene, as well as it is alleged that some plain-clothed police officers directed the provocateurs who obstructed the protest.¹⁹

The joint statement concluded that: “these various actions have a chilling effect on human rights defenders in Kyrgyzstan, especially those working on the rights of LGBTI people [and] such intimidation may discourage them from exercising their rights for fear of retaliation or harassment.”²⁰ To further emphasise the dire situation of the freedom of expression in Kyrgyzstan, the UN Special Rapporteur on Human Rights Defenders wrote an open communique where they “expressed further concern at alleged widespread use of homophobic and transphobic narratives that further marginalises LGBT and gender-diverse people and human rights defenders working to protect and promote the rights of the LGBTI people.”²¹

15. In addition to the law that hinders the right to freedom of association (draft law No. 6-28018/19 amending the Law on Non-Commercial Organizations), the new law “On Protection from Inaccurate Information,” enacted by the Kyrgyzstan President on August 23, 2021, now creates a grave peril to freedom of expression. The law creates a watchdog body to scour the Internet and mass media for any information it deems ‘inaccurate’ and to then identify the author of such information and deal with them both. The critics of the law believe it will be definitely abused to target Kyrgyz critical of the government and the president, in addition to targeting those writing about or advocating in regard to domestically controversial social issues, like LGBT rights or women’s rights.²² The process of who will be in charge, what kind of information is inaccurate, which claims will be taken into account and any other nuances are unclear from the law, giving the new presidential Kyrgyzstan freedom to interpret and use it however it wants, including, as shown above, to undermine any opposition to the ruling agenda.

¹⁹ AL KGZ 2/2021, <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=26532>

²⁰ Ibid.

²¹ “Kyrgyzstan: surveillance, marginalisation and targeting of LGBT defenders (joint communication),” UN Human Rights Special Procedures, 2021, <https://srdefenders.org/kyrgyzstan-surveillance-marginalisation-and-targeting-of-lgbt-defenders-joint-communication/>

²² “Will Kyrgyzstan’s ‘False Information’ Law Threaten Free Speech?,” The Diplomat, 2021, <https://thediplomat.com/2021/08/will-kyrgyzstans-false-information-law-threaten-free-speech/>

VII. Freedom of Gender Identity as Part of Right to Non-Discrimination

16. There has been a notable negative change in Kyrgyzstan legislation since the last alternative report, submitted by ECOM's coalition in 2020. In particular, the Kyrgyz Parliament has also removed a section in the law "On Acts of Civil Status" No.10²³ dated August 1, 2020, that allowed legal gender recognition on the basis of medical certification.²⁴ Previously, trans people could apply for legal gender recognition based on medical reports. Now this provision is excluded. Presently, trans people have to fight in pre-trial and judicial proceedings in order to change their gender marker in birth certificates, which is a discriminatory, expensive and pejorative process that does not have proper regulation, as everything depends on the judiciary and the lawyer, as well as on their finances. At the moment the whole process is unregulated and includes receiving a refusal at the Registry Office, which is then appealed in court and as a result of an expensive, difficult, stressful and lengthy procedure, a trans person has a chance to get the desired document. LGBT organisations in Kyrgyzstan tried to appeal the matter. Kyrgyz Indigo turned to the Constitutional Court requesting the annulment of the 2020 amendments of the law "On Acts of Civil Status", which no longer make it mandatory for the authorities to approve legal gender recognition (LGR) applications on the basis of a medical certificate. The Constitutional Court refused to address the case, but the Administrative Court ruled in favour of a trans applicant, who then successfully changed his gender marker. This means that trans people can now access LGR, but through a burdensome and time-consuming court procedure, to challenge the initial denial of their application. Apart from this, trans people who do not wish to undergo sex reassignment surgeries, virtually, have no ability to obtain their desired documents that would fit their chosen gender identity and gender expression. Overall, such an approach by Kyrgyzstan to legal gender confirmation is abhorrent and falls behind any common sense, decency, science, and respect for human dignity, as well as it does not correspond to the UN practice and the Covenant protections for gender identity and gender expression.

VIII. Concluding Note

17. The situation with the protection of the fundamental human rights and freedoms of the LGBT under the Covenant are in a dire state in Kyrgyzstan. The situation has deteriorated significantly since the 2020 revolution, the new parliament in charge, the constitutional amendments, and the new transformation into a presidential republic. LGBT are weaponised by the political and other elites in Kyrgyzstan and used to scaremonger to manipulate the electorate who is absolutely prejudiced and utterly uneducated in the realm of sex and reproductive education, as well as issues of sexual orientation, gender identity and gender expression. The populist government and politicians are using LGBT in conjunction with the West, presenting the West as an enemy to the Kyrgyz 'moral values' and 'culture,' and LGBT as a 'weapon' of the West to disrupt the Kyrgyz tradition. Kyrgyzstan not only does not properly protect the rights and freedoms of the LGBT under the Covenant, it is, in fact, actively violating them itself or inciting others to violate them. State-sponsored stigma, discrimination, and violence against the LGBT is a norm in Kyrgyzstan, especially when the government needs to divert attention from the real problems the country has or to discredit its opponents. The LGBT are a commodity and a collateral in Kyrgyzstan who are denied their human rights not only under the Covenant but even under the Kyrgyzstan Constitution as well.

²³ Law "On Acts of Civil Status," Available in Russian: <http://cbd.minjust.gov.kg/act/view/ru-ru/112094>

²⁴ Kyrgyzstan Short Profile, Human Rights Watch, <https://www.hrw.org/video-photos/interactive/2021/04/23/country-profiles-sexual-orientation-and-gender-identity#kyrgyzstan>

RECOMMENDATIONS

ECOM, Labrys and Myrzayim recommend that the Committee uses its authority over the Kyrgyz Republic and demands that it follows its international obligations under the Covenant, as well as its national obligations, before its people in a multi-dimensional fashion, and that the Kyrgyz Republic swiftly undertakes respective activities and steps to secure the rule of law and equality of all people, LGBT persons included, before the law on all its territory. With this consideration in mind, ECOM, Labrys and Myrzayim ask the Human Rights Committee, during its 136th Session, to recommend that Kyrgyzstan:

- Adopts all-inclusive anti-discriminatory legislation, which would ban all forms of discrimination and would protect all people from any discrimination, including from discrimination based on the grounds of gender identity, gender expression, and sexual orientation;
- Separates the crimes committed out of hate based on the victim's sexual orientation and/or gender identity into a distinct, individual category of crimes, and identifies sexual orientation and gender identity as protected grounds that construe aggravating circumstances if they are the motive for committing a crime;
- Introduces contemporary definitions of hate speech to its criminal legislation and adds sexual orientation and gender identity as protected grounds against which hate should not be incited;
- Integrates progressive and scientifically based sex and reproductive health education into secondary and higher education institutions while observing that LGBT and SOGI issues are included into the curriculum;
- Adopts and carries out policies and measures to sensitize the law-enforcement and medical workers, as well as the general public, with regards to SOGI issues and decreasing stigmatization of the LGBT;
- Bans "conversion therapy" as a crime that violates the LGBT's right to privacy, self-determination, health, bodily and mental integrity and freedom from cruel and inhuman treatment;
- Simplifies the process of creation of non-commercial organisations and abolishes unnecessary obstacles for them receiving international funding and support;
- Creates a dignified, research-based procedure for legal gender confirmation that would be akin to a simple administrative process that would allow people to receive/alter their identifying documents in conformity with their gender identity and gender expression without the necessity to undergo and present a medical certificate of a gender reassignment surgery completion.