

Parallel Report on Implementation of the Beijing Declaration and Platform for Action in Kazakhstan

Submitted for the consideration ahead of the sixty-fourth session of the Commission on the Status of Women (CSW64) and twenty-fifth anniversary review of the Beijing Declaration and Platform for Action (BDPfA)

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This report has been prepared by Kazakhstan Feminist Initiative “Feminita” in cooperation with initiative group AlmaTQ, Kazakhstan Union of People Living with HIV, and experts from the New Generation of Human Rights Defenders Coalition

Executive summary

The present submission was prepared by Kazakhstan Feminist Initiative “Feminita” in cooperation with initiative group AlmaTQ, Kazakhstan Union of People Living with HIV, and experts from the New Generation of Human Rights Defenders Coalition for the consideration ahead of the sixty-fourth session of the Commission on the Status of Women (CSW64) and twenty-fifth anniversary review of the Beijing Declaration and Platform for Action (BDPfA) as an additional source of information to the state report of the Republic of Kazakhstan with some proposed recommendations to be provided to the State party.

The submission covers the following issues: (1) background information on the gender politics of Kazakhstan; (2) analysis of key priority areas of concern for lesbian, bisexual, queer and transgender (LBQT) women, namely: *(i) human rights of women, (g) women in power and decision-making, (b) education and training, (f) women and economy, (c) women and health, (d) violence against women*; (3) situation on women living with HIV, women who use drugs, sex workers, and women in prisons; (4) situation on women with disabilities; followed by analysis of (5) women and economy, and (6) women in power and decision-making; (7) recommendations for the accelerated implementation of the Beijing Platform, (8) acknowledgements and general information about the working group.

Most of the data presented in the present submission were obtained by the reporting organisations in the course of their research and monitoring activities in Kazakhstan. The report also includes the latest information and outcomes from the fifth cycle CEDAW review of Kazakhstan from 2019.

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Background information on the gender politics of Kazakhstan

At the national level the Concept of Family and Gender Policy-2030 (the “Concept”) adopted in 2017 replaces the older version of Kazakhstan’s 2006-2016 Gender Equality Strategy which was reviewed at the country’s combined third and fourth periodic CEDAW reports. The CEDAW and CESCR committees¹ expressed their concerns at the persistence of “some forms of harmful practices and traditions and patriarchal attitudes and deep-rooted stereotypes regarding the roles and responsibilities of women and men in the family and in society, in particular those portraying women as caregivers”². The State’s response provided in its fifth periodic report to CEDAW on 1 June 2018, yet, largely remains descriptive of the Concept’s provisions in their formality (as opposed to their implementation in substance)³. While the concept of gender equality is articulated in policy, in practice, it is still interpreted narrowly. Improving the status of women is widely regarded as implementation of state commitments to provide social protection to women as mothers and caregivers, with little attention given to counteracting existing negative stereotypes and discriminatory practices and ensuring equal opportunities for all genders.

OECD in its 2017 review of Gender Policy Delivery expressed a concern that unlike the 2006-2016 Gender Equality Strategy the new strategy adopted in 2017⁴ combines gender equality and family portfolios rather than establishing a stand-alone gender equality strategy in Kazakhstan⁵, and thereby strengthens and reinforces the traditional link between women and the family institution. The new strategy also remains exclusive of the gender spectrum.

The Law On State Guarantees of Equal Rights and Equal Opportunities for Men and Women (the Gender Equality Law) sets the basic objective of state policy on gender equality as ensuring “equal rights and equal opportunities of men and women in all spheres of state and social life”⁶. Although the Law establishes specific guarantees of gender equality in the fields of family life, education, employment, health and culture, an individual seeking redress for a violation of the right to non-discrimination under the Gender Equality Law has no specific remedies available⁷. No individual is entitled to bring a claim directly under the Gender Equality Law; rather individuals are required to bring claims under Article 145 of the Kazakhstan Criminal Code which in practice remains ineffective (see further *Case of V.* in Section 1.1.1.).

LESBIAN BISEXUAL QUEER AND TRANSGENDER (LBQT) WOMEN

1. DISCRIMINATION OF LBQT WOMEN - I. HUMAN RIGHTS OF WOMEN

1.1. Overview of the existing legal framework on non-discrimination of LBQT women

¹ CESCR, Concluding Observations on Kazakhstan, [E/C.12/KAZ/CO/1](#), 7 June 2010, para. 15.

² CEDAW, Concluding Observations on Kazakhstan, [CEDAW/C/KAZ/CO/3-4](#), 10 March 2014, paras. 16-17.

³ CEDAW, Fifth periodic report submitted by Kazakhstan, [CEDAW/C/KAZ/5](#), 1 June 2018.

⁴ [Family and Gender Policy Concept in the Republic of Kazakhstan until 2030](#) (2016).

⁵ OECD (2017), Gender Policy Delivery in Kazakhstan, OECD Public Governance Reviews. OECD Publishing, Paris.

⁶ Law of the Republic of Kazakhstan [On State Guarantees of Equal Rights and Equal Opportunities for Men and Women](#), 8 December 2009, Article 3.

⁷ Law of the Republic of Kazakhstan [On State Guarantees of Equal Rights and Equal Opportunities for Men and Women](#), 8 December 2009.

Although Kazakhstan has ratified key international treaties relevant to equality and non-discrimination, it falls short in meeting international standards in their implementation. Despite a number of provisions directed at equality across national legislation, at best this offers “a patchwork of protection from discrimination” with a weak enforcement and implementation framework and no codified definition of the “discrimination” term, its forms and its grounds⁸.

There is no explicit prohibition of discrimination on the basis of sexual orientation and gender identity under Kazakhstan’s Constitution or any other national law. When confronted with a question to provide information on the measures taken to prevent discrimination on grounds of sexual orientation and gender identity⁹ the State commonly highlights sufficiency of Article 14 of the Kazakhstan’s Constitution¹⁰ which provides that “[n]o one shall be subjected to discrimination on grounds of origin, social, property status occupation, sex, race and nationality, language, religion, convictions, place of residence or any other circumstances”¹¹. Whilst it may be argued that “other circumstances” in Article 14 extend to sexual orientation and gender identity there have been no precedents of any court judgements finding discrimination against LBQT women under this provision.

Similarly, in the second cycle engagement with the Universal Periodic Review (UPR), Kazakhstan rejected recommendations to “strengthen the legal framework for the protection and non-discrimination” of LGBTI people¹², though at the same time, the state responded to the recommendation to “enact specific legislation that prohibits discrimination against women on the basis of sexual orientation and develop a system through which all individuals can safely report cases of discrimination and access avenues of redress” by stating that this had already been implemented¹³. In 2019 UPR review Kazakhstan received 10 recommendations urging the state to “adopt comprehensive anti-discrimination legislation that includes an explicit prohibition of discrimination on the basis of sexual orientation and gender identity”¹⁴.

The concern about absence of a comprehensive legal framework ensuring non-discrimination of women on the grounds of sexual orientation and gender identity was expressed in the alternative report of the Kazakhstan Feminist Initiative "Feminita" on the implementation of the provisions of the International Covenant on Civil and Political Rights in 2016¹⁵. Then Kazakhstan received recommendations from the Human Rights Committee, in which the State party was recommended to include sexual orientation and gender identity as prohibited

⁸ The Equal Rights and the Kazakhstan International Bureau for Human Rights and Rule of Law, [In the Name of Unity: Addressing Discrimination and Inequality in Kazakhstan](#), The Equal Rights Trust Country Report Series: 10, London, December 2016, p. 26.

⁹ CESCR, List of Issues in relation to the Second Periodic Report of Kazakhstan, [E/C.12/KAZ/O/2](#), 23 April 2018, para. 7.

¹⁰ CESCR, Reply to List of Issues in relation to the second periodic report of Kazakhstan, [E/C.12/KAZ/O/2/Add.1](#), 7 December 2018, paras. 62-64.

¹¹ [Constitution of the Republic of Kazakhstan](#), 30 August 1995, Article 14.

¹² Human Rights Council, Universal Periodic Review, Report of the Working Group on the Universal Periodic Review: Kazakhstan, [UN Doc. A/HRC/28/10](#), 10 December 2014, para. 126.24.

¹³ Human Rights Council, Universal Periodic Review, Report of the Working Group on the Universal Periodic Review: Kazakhstan, [UN Doc. A/HRC/28/10](#), 10 December 2014, para. 124.6.

¹⁴ Human Rights Council, Universal Periodic Review, Report of the Working Group on the Universal Periodic Review: Kazakhstan, [A/HRC/43/10](#), 10 December 2014, paras. 139.44-139.54.

¹⁵ Kazakhstan Feminist Initiative “Feminita”, [Alternative Report on the Implementation of the Provisions of the International Covenant on Civil and Political Rights Related to LGBT People in Kazakhstan](#), 27 May 2016

grounds for discrimination¹⁶. The Committee's enquiry to "indicate whether steps have been or are being taken to adopt comprehensive anti-discrimination legislation that addresses discrimination, including in the private sphere; prohibits direct, indirect and multiple discrimination; contains a comprehensive list of prohibited grounds for discrimination, including sexual orientation and gender identity; and provides for effective remedies in judicial and administrative proceedings"¹⁷ the State reported that "regulations on the prohibition of any form of discrimination, without distinction between indirect, direct and multiple discrimination, are set out in the relevant laws. Establishing an exhaustive list of prohibited grounds for discrimination, as the Committee has requested, seems impracticable, as the right of persons to bring proceedings before a court would be limited if they faced a form of discrimination not covered by such a list"¹⁸.

The Human Rights Committee's recommendation on adoption of comprehensive anti-discrimination legislation was reiterated by the Committee on Economic, Social and Cultural Rights (CESCR) in March 2019¹⁹ and by the Committee on the Elimination of All Forms of Discrimination Against Women (CEDAW) in November 2019²⁰. Recalling the importance of Sustainable Development Goal 5 and of the mainstreaming of the principles of equality and non-discrimination throughout all 17 Goals, the latter also urged the state for the realization of *de jure* (legal) and *de facto* (substantive) gender equality, in accordance with the provisions of CEDAW, throughout the process of implementing the 2030 Agenda for Sustainable Development.

In March 2018 Kazakhstan Feminist Initiative "Feminita" in partnership with the Kazakhstan International Bureau for Human Rights and Rule of Law and other local CSOs with the support of the Equal Rights Trust has presented a road map on implementation of the UN Human Rights Committee's recommendations on adoption and promotion of the anti-discrimination legislation which would include sexual orientation, gender identity and expression, and sex characteristics (SOGIESC) as prohibited grounds for discrimination to the state authorities²¹. So far the government has not taken steps towards initiation of a lawmaking process and implementation of the recommendation. The State party should adopt the comprehensive anti-discrimination legislation which includes SOGIESC as a protected ground in line with the above-mentioned recommendations of Human Rights Committee, CESCR, CEDAW and implement it in accordance with the road map presented by the local civil society.

1.1.1. Article 145 of the Criminal Code and its application in practice

¹⁶ Human Rights Committee, Concluding Observations on Kazakhstan, [CCPR/C/KAZ/CO/2](#), 9 August 2016, para. 10.

¹⁷ Human Rights Committee, List of Issues in relation to the second periodic report of Kazakhstan, [CCPR/C/KAZ/O/2](#), 4 December 2015, para. 3.

¹⁸ Human Rights Committee, Reply to List of Issues in relation to the second periodic report of Kazakhstan, [CCPR/C/KAZ/O/2/Add.1](#), 24 March 2016, para. 11.

¹⁹ Committee on Economic, Social and Cultural Rights, Concluding Observations on Kazakhstan, [E/C.12/KAZ/CO/2](#), 29 March 2019, para. 11.

²⁰ Committee on the Elimination of All Forms of Discrimination Against Women, Concluding Observations on Kazakhstan, [CEDAW/C/KAZ/CO/5](#), 12 November 2019, para. 12.

²¹ Kazakhstan Feminist Initiative "Feminita", '[Feminita' takes part in development of "the road maps"](#), 11 April 2018; Kazakhstan International Bureau for Human Rights and Rule of Law, '[Seven stumbling "road maps"](#)', 27 March 2018.

In its submission the state party states that since Kazakhstan's accession to the CEDAW Convention in 1998 "the concept of "discrimination", which is widely used in the texts of the Constitution, laws and regulations, has been applied in judicial practice"²². Yet, in fact, the term "discrimination" *per se*, with no definition, is used only in the state constitution, while related judicial practice is almost non-existent. The state report also underlines the role of Article 145 of the Criminal Code of Kazakhstan in ensuring compliance with non-discrimination legislation²³. It is important to note that, firstly, Article 145 is worded as "violation of equal rights of a human and a citizen" (as opposed to "discrimination"), next it establishes criminal liability for direct and indirect "limitation of rights and freedoms of a human (citizen)" and an open-ended list of grounds: of origin, status, official position, material circumstances, gender, race, ethnic background, language, attitude to religion, beliefs, place of residence or any other circumstances"²⁴. In practice the number of cases invoking Article 145 is extremely low (about 1-2 cases per year) with the majority of them being dismissed.

Despite the stipulated criminal liability for "violation of equal rights of a human and a citizen", the following *case of V.* demonstrates ineffectiveness of Article 145 of the Kazakhstan's Criminal Code in ensuring non-discrimination of women on the basis of SOGIESC in practice.

Case of V. A transgender woman V. was refused to withdraw money from her bank account at a local branch of Halyk Bank, the country's biggest bank, in Almaty on the basis of her gender identity. A bank clerk refused to render the requested service because V.'s name, surname, patronymic did not match her physical appearance.

When V. turned to the police to seek remedy for the faced discrimination and submit a complaint on a criminal offense under Article 145 of the Criminal Code, the Almalinsky police department was highly reluctant to accept the complaint. It only did so on the following day. However, V.'s complaint was registered not in the Unified Register of Pre-trial Investigations but in the Book of Information Records as "information" and was later dismissed as "material" to an indexed registered record without any investigative work on grounds of "absence of features of criminal offence". V. was not notified on the dismissal of the complaint as stipulated by the procedural norms. V.'s consequent complaint to the Specialised Interdistrict Investigative Court of Almaty to find the failure to register the complaint and launch respective investigation unlawful and reverse the decision was not supported.

Although the court foreclosed her complaint based on a value judgement not backed up with a thorough investigation, V.'s appeal to the Almaty City Court (1) to reverse the Specialised Interdistrict Investigative Court n decision, (2) to issue a decision on finding non-registering her complaint by the police department unlawful and (3) to restore her right by registering her complaint and launching an investigation was also not supported. At both court hearings supervising prosecutors assumed the role of the police body whose actions were challenged²⁵.

²² CEDAW, Fifth periodic report submitted by Kazakhstan, [CEDAW/C/KAZ/5](#), 1 June 2018, para. 59.

²³ Ibid.

²⁴ [Criminal Code of the Republic of Kazakhstan](#), 3 July 2014, Article 145.

²⁵ Case documented by Tatiana Chernobyl, Amnesty International consultant.

As a result, the lack of legal protection and judicial remedy under Article 145 prevents people from reporting to the police or filing cases to the court. (On discriminatory procedure of legal gender recognition of transgender women please see Section 1.2.2. below).

1.2. Discriminatory legislation

Further to not fulfilling its state obligations to protect from discrimination on the grounds of sexual orientation and gender identity at the national level, Kazakhstan retains a number of discriminatory laws.

1.2.1. Discriminatory provisions in the criminal legislation: “Lesbianism”.

The State Report states that the criminal legislation contains “no provisions that discriminate against women”²⁶. However, in the same passage it makes a clear reference to the criminal liability established under Article 123 of the Kazakhstan Criminal Code for “[c]oercion to sexual intercourse, sodomy, lesbianism or other acts of sexual nature by use of blackmail, threats of destruction, damage or seizure of property or use of material or other dependence of a victim”²⁷. Similarly, criminal liability is set under Article 121 for “[s]odomy, lesbianism or other acts of sexual nature with use of force or with threat of use of force” (punishable by 3 to 5 year imprisonment)²⁸ and under Article 122 for “[s]exual intercourse, sodomy, lesbianism and other acts of sexual nature with a person under the age of sixteen” (punishable by imprisonment for up to 5 years)²⁹.

The Normative Decree of the Supreme Court of the Republic of Kazakhstan of 11 May 2007 defines that rape should be understood as “a sexual intercourse in a natural form with use of force or threat of use of force”, while “acts committed [...] under same circumstances in unnatural form” such as “lesbianism, sodomy, etc” should be understood as “other violent acts of a sexual nature”³⁰.

Although consensual same-sex relationships were decriminalised in Kazakhstan after the disintegration of the Soviet Union with adoption of the Criminal Code in 1999, at the same time the legislator introduced the above-mentioned discriminatory provisions which still remain in the Kazakhstan’s updated Criminal Code of 2014. Despite having a specific article setting the criminal liability for “[r]ape, i.e. sexual intercourse with “use of force” or “using the helpless state of a victim”³¹, the Kazakhstani legislator singles out “sodomy” and “lesbianism” and appends it to separate *corpus delicti* (e.g. pedophilia, rape), therefore, creates a negative representation and stigmatisation of lesbian, bisexual and queer women and a wider LGBTIQ community at large.

Whereas the prohibition of violent sexual acts are commended, the purposeful inclusion of “sodomy” and “lesbianism” as distinct from “other acts of sexual nature” clearly represents a direct discrimination on grounds of sexual orientation. On the one hand, such framing implies that same-sex relations are not equivalent to other forms of sexual behaviour, while on the other hand, this approach may have serious implications by creating an impression that

²⁶ CEDAW, Fifth periodic report submitted by Kazakhstan, [CEDAW/C/KAZ/5](#), 1 June 2018, para. 68.

²⁷ [Criminal Code of the Republic of Kazakhstan](#), 3 July 2014, Article 123.

²⁸ [Criminal Code of the Republic of Kazakhstan](#), 3 July 2014, Article 121(1).

²⁹ [Criminal Code of the Republic of Kazakhstan](#), 3 July 2014, Article 122.

³⁰ [Normative Decree of the Supreme Court of the Republic of Kazakhstan](#), 11 May 2007.

³¹ [Criminal Code of the Republic of Kazakhstan](#), 3 July 2014, Article 120.

the public are in need of additional protection against gay men and women, or that such individuals may be more likely to commit violent sexual offences.

It is important to note that the state party does not touch upon SOGIESC and LBQT women's rights with the sole exception of the reference to the criminal liability established under the above-mentioned provisions of the Kazakhstan Criminal Code. The fact that the party presents the above provisions as instruments "applied to protect women"³² is misleading and disturbing. The State party should repeal all the discriminatory provisions from the Criminal Code, namely, Articles 121-123, which single out people based on their sexual orientation. As a result of "Feminita's" advocacy effort at CEDAW in 2019, the Committee called upon the state to "revise articles 121 to 123 of the Criminal Code to remove the reference to "lesbianism"³³ which should now be delivered in practice.

1.2.2. Discriminatory procedure on legal gender recognition of transgender women

The mandatory requirement for changing the gender marker, surname, name and patronymic set by the Kazakhstan legislator is to undergo invasive and expensive genital surgeries which include sterilisation and deprive transgender women of their reproductive health. This requirement is stipulated in Article 257(13) of Code on Marriage (Matrimony) and Family of the Republic of Kazakhstan. It establishes that transgender people can only change their name, surname and patronymic, according to the selected gender, after sex reassignment surgery³⁴ The procedure on legal gender recognition is indirectly regulated by Article 88(3) of the Code on People's Health and Healthcare System³⁵ and Order No. 187 of the Minister of Health and Social Development of the Republic of Kazakhstan On approval of the medical examination and rules for "sex change" for persons with gender identity disorders³⁶. The former introduced the right to "sex change" of persons with "gender identity disorder" specifying sex reassignment surgery. The latter established that gender reassignment medical measures are realised upon the results of the State psychiatric commission's decision, and include two stages: (1) hormonal therapy and (2) surgical correction.

In 2015, the transgender people's initiative group AlmaTQ conducted a survey of 41 transgender people in Kazakhstan. When asked what needed to happen to help them become better integrated in society, nearly two-thirds of respondents answered that they needed to change their legal gender on documents, while only two respondents had actually been able to do so³⁷. Many transgender people do not undertake sterilisation as required by law and undergo sex reassignment surgeries either due to problems with their health, lack of finances or lack of desire to lose their reproductive abilities.

³² CEDAW, Fifth periodic report submitted by Kazakhstan, [CEDAW/C/KAZ/5](#), 1 June 2018, para. 68.

³³ Committee on the Elimination of All Forms of Discrimination Against Women, Concluding Observations on Kazakhstan, [CEDAW/C/KAZ/CO/5](#), 12 November 2019, para. 48 (b) (iv).

³⁴ [Code on Marriage \(Matrimony\) and Family of the Republic of Kazakhstan](#), 26 December 2011, Article 257(13).

³⁵ [Code on People's Health and Healthcare System of the Republic of Kazakhstan](#), 18 September 2009, Article 88(3).

³⁶ [Order No. 187 of the Minister of Health and Social Development of the Republic of Kazakhstan](#) On approval of the medical examination and rules for "sex change" for persons with gender identity disorders, 31 March 2015.

³⁷ Human Rights Watch, ["That's When I Realised I Was Nobody": A Climate of Fear for LGBT People in Kazakhstan](#), 23 July 2015, p.19.

For transgender women in Kazakhstan, as detailed above, the legal gender recognition procedure requires invasive and humiliating procedures in order to change gender in official documents. Transgender women who attempted to go through the procedure described being harassed and insulted by officials, and coerced into having medically unnecessary procedures performed³⁸. Due to difficulties with legal gender recognition of their gender identity transgender women cannot find work, face unfair dismissal and discrimination in the workplace, at school/university, face intense social prejudice, bigotry among others on the part of police, border control officials, healthcare staff.

The State party should take the necessary legislative, administrative and other measures to guarantee respect for the autonomy and physical and psychological integrity of transgender women, including by removing invasive preconditions for the legal gender recognition of transgender persons, such as sterilisation, invasive genital surgery and coercive institutionalisation. With this respect, the State party should fulfill its obligation to implement the recommendation received from CEDAW on “review the legislation, including article 257(13) of the Code on Marriage and Family, to remove sex reassignment surgery from the list of requirements for gender recognition”³⁹.

1.2.3. Discriminatory legislation on marriage and family life

Article 16 of the Convention on the Elimination of All Forms of Discrimination against Women sets a state obligation to eliminate discrimination against women in all matters relating to marriage and family relations and provides for, on a basis of equality of men and women, the same right to enter into marriage⁴⁰. The State reports that in accordance with the Kazakhstan Code on Marriage (Matrimony) and Family adopted on 26 December 2011 “marriage is an equal union between a man and a woman concluded with free and full consent of the parties in compliance with the procedure established by the Kazakhstani law, with the aim of creating a family, and bearing property and personal non-property rights and obligations between spouses”⁴¹. Although states have been urged by UN treaty bodies to provide legal recognition of same-sex civil unions⁴², no such recognition for same-sex relationships is provided under the Kazakhstan’s family law.

Moreover, Article 11 of the Family Code explicitly prohibits same-sex marriages and, therefore, directly discriminates LBQT women’s rights to marriage and family life established by the CEDAW⁴³. Although the previous Law on Marriage (Matrimony) and Family adopted on 17 December 1998 defined the marriage similarly as an equal union between a man and a woman it did not explicitly ban same-sex marriage. As a result, this discriminatory legislation prevents LBQT couples from acquiring respective “property and personal non-property rights and obligations between spouses” guaranteed by Articles 32-38 of the Family Code. Article 91 (8) of the Family Code further bans “individuals of non-traditional sexual orientation” from adoption⁴⁴.

³⁸ Ibid.

³⁹ Committee on the Elimination of All Forms of Discrimination Against Women, Concluding Observations on Kazakhstan, [CEDAW/C/KAZ/CO/5](#), 12 November 2019, para. 48 (b) (i).

⁴⁰ [Convention on the Elimination of All Forms of Discrimination against Women](#), Article 16(a).

⁴¹ CEDAW, Fifth periodic report submitted by Kazakhstan, [CEDAW/C/KAZ/5](#), 1 June 2018.

⁴² CESCR, Concluding Observations on Bulgaria, [E/C12/BGR/CO/4-5](#), 30 November 2012, para. 17.

⁴³ [Code on Marriage \(Matrimony\) and Family of the Republic of Kazakhstan](#), 26 December 2011, Article 11.

⁴⁴ [Code on Marriage \(Matrimony\) and Family of the Republic of Kazakhstan](#), 26 December 2011, Article 91(8).

2. PARTICIPATION IN PUBLIC LIFE OF FEMINIST AND LBQT GROUPS ADVOCATING FOR LBQT WOMEN’S RIGHTS - G. WOMEN IN POWER AND DECISION-MAKING

2.1. Challenges to registration and operation of CSOs advocating for LBQT women’s rights

Article 7(c) of the CEDAW Convention establishes a state obligation to ensure the right of women “to participate in non-governmental organisations and associations concerned with the public and political life of the country”⁴⁵.

In 2019 CESCR expressed a concern on information that some civil society organisations (CSOs) in Kazakhstan, “working for the protection and promotion of human rights, in particular on the rights of lesbian, gay, bisexual and transgender persons, had faced difficulty in registering”⁴⁶. Despite CESCR recommendation to guarantee an enabling environment for these NGOs, “including a functional and accommodating registration procedure”⁴⁷, the situation with registration of NGOs working on LBQT women’s rights have not been improved.

Case of “Feminita”⁴⁸. Following 3 consecutive decisions to discontinue the terms of registration by the Almaty Justice Department on 9 January 2018⁴⁹, 20 February 2018⁵⁰ and 3 January 2019⁵¹, on 12 March 2019 Kazakhstan Feminist Initiative “Feminita” filed a complaint to the Almaty Medeu District Court: (1) to find the orders of the Almaty Justice Department unlawful, and (2) to register “Feminita” as a legal entity. On 27 May 2019 the Almaty Medeu District Court dismissed the claim on two grounds largely based on reasonings of the Almaty Justice Department⁵².

On 27 June 2019 “Feminita” filed an appeal to the Almaty City Court. On 3 September 2019 the Almaty City Court upheld the decision of the court of first instance. The appeals court found that:

“Article 2 of the Law On Charities establishes that the goal of charity is to support the development of self-organisation of society by means of forming, supporting and strengthening the spiritual and moral values of charity in society.

The goal of charity is reached by realisation of, among others, objectives on support of strengthening peace, friendship and public accord, unity of the nation, spiritual

⁴⁵ [Convention on the Elimination of All Forms of Discrimination against Women](#), Article 7(c).

⁴⁶ Committee on Economic, Social and Cultural Rights, Concluding Observations on Kazakhstan, [E/C.12/KAZ/CO/2](#), 29 March 2019, para. 8.

⁴⁷ Committee on Economic, Social and Cultural Rights, Concluding Observations on Kazakhstan, [E/C.12/KAZ/CO/2](#), 29 March 2019, para. 9.

⁴⁸ Kazakhstan Feminist Initiative “Feminita”, [Alternative Report on Implementation of the Convention on the Elimination of All Forms of Discrimination Against Women in Kazakhstan](#), January 2019, Annex 1, pp. 18-19.

⁴⁹ Almaty Justice Department, Order №24 On Discontinuation of Terms of Registration of “Kazakhstan Feminist Initiative “Feminita”, 9 January 2018.

⁵⁰ Almaty Justice Department, Order №124 On Discontinuation of Terms of Registration of “Kazakhstan Feminist Initiative “Feminita”, 20 February 2018.

⁵¹ Almaty Justice Department, Order №2 On Discontinuation of Terms of Registration of “Kazakhstan Feminist Initiative “Feminita”, 3 January 2019.

⁵² Amnesty International, [Kazakhstan fails to register the LBO initiative “Feminita”](#), 6 June 2019.

culture, prestige and role of the family in society as well as protection of motherhood, patriotic upbringing of children and youth.

*The court [of first instance] came to a well founded conclusion that the objectives of the fund's activities stipulated in paragraph 2 of its Charter **do not provide for strengthening of well-established spiritual and moral values, spiritual culture, prestige and role of the family in society.***

*Furthermore, [according to] paragraph 2.1 of the entity's Charter are entitled to **bring changes in the political sphere which is unacceptable for a legal entity in the form of a public fund**".*

"In light of the above and in accordance with Article 72 of the Civil Procedural Code, the court of first instance came to the right decision that claims of Gulzada Serzhan ["Feminita"s co-founder] are unfounded and are subject to dismissal". "Feminita" has submitted a communication to the Human Rights Commissioner (Ombudsman) and plans to challenge the decision in the court of cassation.

It is important to note that registration and operation of NGOs in Kazakhstan is not a subject of regulation of the Law On Charities. Registration and operation of NGOs in Kazakhstan is a subject of regulation of the Law On Non-commercial Organisations. An independent legal expertise conducted by the ICNL found "Feminita"s registration documents compliant with the requirements of local legislation, including the requirements of the Law On Non-commercial Organisations. Regarding the second reasoning of the Appeals Court, the first edition of the "Feminita"s Charter included an objective to *protect political rights* which is allowed and not prohibited by the Law On Non-commercial Organisations. In two consecutive editions of the Charter this objective was put down⁵³. In either case there has been no violation of the relevant law in substance.

Following the trial Human Rights Watch condemned the Appeals Court judgement stating that it "allows an arbitrary and discriminatory decision by the Ministry of Justice to stand"⁵⁴. Earlier Front Line Defenders stressed that this decision was "solely motivated by "Feminita"s peaceful and legitimate work protecting LGBTIQ women's rights" to curtail the full operation of the human rights organisation⁵⁵.

With respect to this case, in November 2019 CEDAW called upon Kazakhstan "to remove disproportionate restrictions on the registration of civil society organizations and ensure that such organizations, including feminist organizations promoting women's human rights and the rights of lesbian, bisexual and transgender women and intersex persons, are able to exercise their rights to freedom of expression, assembly and association without undue interference"⁵⁶. Recalling the latest UPR recommendation to "guarantee an enabling

⁵³ The latest Charter objectives read as follows (in para 2.1. of the Charter):

"The main objective of the Fund ["Feminita"] is **protection of rights, legitimate interests of individuals**, namely, support in protection of rights of women with limited physical and mental abilities, LGBTIQ (lesbian, bisexual, transgender, intersex, queer) communities, sex workers; human rights awareness raising".

⁵⁴ Human Rights Watch, "[Kazakhstan: Feminist Group Denied Registration](#)", 13 September 2019.

⁵⁵ Front Line Defenders, "[Human Rights Organisation Feminita Denied Registration](#)", 4 June 2019.

⁵⁶ Committee on the Elimination of All Forms of Discrimination Against Women, Concluding Observations on Kazakhstan, [CEDAW/C/KAZ/CO/5](#), 12 November 2019, para. 18 (b).

environment for civil society activities, activist groups and human rights defenders of lesbian, gay, bisexual, transgender and intersex persons”⁵⁷, UN Special Procedures expressed their serious concern about “apparent discriminatory registration process and consider that the refusal to register “Feminita” as a legal entity may be related to the organisation’s peaceful activities in advocating and speaking out against discrimination and defending human rights of LGBTIQ persons” and that, as a result, “LBTIQ human rights defenders could have been targeted due to their engagement in activities for the advocacy of human rights related to sexual orientation, gender identity and gender equality and that they face serious restrictions related to their right to freedom of expression, peaceful assembly and association”⁵⁸.

This state approach placing limitations to activities of initiative groups advocating for LBQT and women’s rights not only prevents them from operating as a fully-fledged organisation receiving various benefits that accompany formal legal status, including the right to open bank accounts, apply for institutional donor funding, and own/rent an office/estate in their organisation’s name, but it can deter the formation of such associations in the first place by sending a loud and visible message that such organisations are not welcome. The state’s repeated rejection to register Kazakhstan Feminist Initiative “Feminita” creates a chilling effect on other LBQT initiatives which, according to testimonies, prefer to remain unregistered until “Feminita” is successfully registered proving the feasibility of registering a CSO advocating for LBQT rights in Kazakhstan. The State party should guarantee the right to freedom of assembly and association of the feminist and LBQT groups advocating for LBQT women’s rights by allowing these initiatives to register as legal entities in practice.

2.2. Challenges to peaceful assembly of feminist groups advocating for LBQT women’s rights

Over the past two years there has been an increasing crackdown on and closure of civic space for feminist groups advocating for LBQT women’s rights. Activists are being surveilled and persecuted in a systematic way.

Case of 8 March. In February 2019 feminist and queer feminist activists Gulzada Serzhan of Kazakhstan Feminist Initiative “Feminita”, Veronika Doloman of KazFem, Zuleikha Makhmudova and Dilda Kulmagambetova have submitted 4 individual applications to the Almaty Akimat (City Hall) to hold a peaceful assembly (a women’s march) in Almaty on 8 March to mark the historical significance of the International Women’s Day as required under the Law on the Order of organisation of and conducting peaceful meetings, rallies, processions, pickets and demonstrations⁵⁹ and Article 32 of the Kazakhstan Constitution⁶⁰. None of the marches was

⁵⁷ Human Rights Council, Universal Periodic Review, Report of the Working Group on the Universal Periodic Review: Kazakhstan, [A/HRC/43/10](#), 10 December 2014, para. 139.48.

⁵⁸ Mandates of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on the situation of human rights defenders; the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity; the Special Rapporteur on violence against women, its causes and consequences and the Working Group on discrimination against women and girls, [AL KAZ 4/2019](#), 25 October 2019, p. 4.

⁵⁹ [Law on the Order of organisation of and conducting peaceful meetings, rallies, processions, pickets and demonstrations in the Republic of Kazakhstan](#) №2126 dated 17 March 1995 requires a prior authorisation of peaceful assemblies with local authorities.

⁶⁰ [Constitution of the Republic of Kazakhstan](#), 30 August 1995.

authorised. The applicants received same/closely worded replies from the Almaty Akimat that:

“In accordance with paragraph 1.2 of the Decision of XVII session of the Almaty City Maslikhat of III convening №167 dated 29 June 2005, it is recommended to hold all non-governmental events of public-political nature in the square behind the “Saryarka” cinema theatre. In light of non-compliance with the established legal norms, your application is subject to return”.

In their applications the activists indicated different assembly points in the city (other than the square behind the “Saryarka” cinema theatre which is located in the city suburbs) to hold the marches.

When the activists resubmitted their applications with indication of the suggested assembly place they received consecutive rejections. Namely, Gulzada’s five consecutive applications to hold a women’s march on 8 May, 8 June, 8 July, 8 August, 8 September 2019 were rejected. At all five occasions the Almaty Akimat either claimed that on those dates “on the square behind the “Saryarka” cinema theatre organisation of national sport competitions dedicated to the Youth Year in Kazakhstan is planned” or alleged “scheduled sewage replacement works”. Similarly, Zuleikha and Dilda’s individual applications were rejected.

Following Veronika’s consecutive applications for a peaceful women’s march she was summoned to the Almaty Akimat on 20 July 2019 for a 1,5 hour talk with a deputy head of the Department of Public Development. The authorities expressed a concern that “LGBT people may attend the demonstration which they viewed as dangerous and to which Kazakhstan was not ready”.

On 28 September 2019 the first feminist assembly on the square behind the “Saryarka” was authorised following Veronika’s latest of 36 applications themed for combating domestic violence. Themed differently, applications of Zuleikha and Dilda to hold an assembly on the same date were denied.

The replies of the Almaty Akimat and the Decision of the Almaty City Maslikhat it refers to are unlawful as they contradict Article 32 of the Kazakhstan Constitution, the Law on the Order of organisation of and conducting peaceful meetings, rallies, processions, pickets and demonstrations as well as Article 21 of the International Covenant on Civil and Political Rights which guarantee exercise of the right to freedom of assembly and association and to which Kazakhstan is a party.

The show case against Zhanar Sekerbayeva is a clear illustration of the authorities’ intolerance to queer feminist groups which they do not endorse, as well as harassment, digital surveillance, persecution and constant pressure these activists constantly face in their daily work. By targeting the high profile activists and human rights defenders the authorities send a chilling message to the wider community of feminist groups and activists advocating for LBQT women’s rights. Amnesty International has called upon the state authorities to end

their illegitimate interference in Zhanar Sekerbayeva’s rights to freedom of expression and peaceful assembly⁶¹ yet she was found guilty of petty hooliganism.

The State party should stop persecution of feminist and LBQT women’s rights activists and carry out an immediate, thorough and impartial investigation into the above cases and guarantee in all circumstances that all women human rights defenders in Kazakhstan are able to carry out their legitimate human rights activities without fear of reprisals and free of all restrictions. The State party should also guarantee fulfillment of the right to freedom of expression, peaceful assembly and association of LBQT activists and advocacy groups.

3. DISCRIMINATION OF LBQT WOMEN IN EDUCATION - B. EDUCATION AND TRAINING OF WOMEN

The women’s right to education is guaranteed under Article 10 (a) of the CEDAW Convention⁶². Para. 46(i) CEDAW General recommendation No. 36 (2017) on the right of girls and women to education provides for implementation of measures to “address discrimination against lesbian, bisexual, and transgender, women and girls, and intersex persons by ensuring that policies are in place to address the obstacles that impede their access to education”, including by eliminating stereotyping and discrimination, removing barriers to access to education⁶³.

Under Article 30 of the Constitution of the Republic of Kazakhstan free mandatory secondary education is guaranteed to every citizen and that every citizen has a right to access higher education⁶⁴. Referring to Article 3(1) of the Law on Education of the Republic of Kazakhstan which sets “equality of all citizens to receive quality education, accessibility of all levels of education” and “respect for human rights” as “a fundamental principle of the state education policy”⁶⁵, the country report states that “at the legislative level equal access of men and women to education is guaranteed” and that such access is “fully implemented in practice”⁶⁶. The report concludes that “this demonstrates the absence of discrimination in access to education on the basis of sex”⁶⁷. Yet, the state party’s report remains silent on access of LBQT women to education. There are multiple cases of discrimination in access to education of LBQT women in Kazakhstan. The *case of S.* is a clear example of this.

Case S. S., a transgender woman, was expelled from her high school in Pavlodar, one of Kazakhstan’s fourteen regional centres, in 2015 after she came out as a transgender woman, when she was less than a year away from her graduation. In 2017, when school and university officials were approached to advocate on S’s behalf by a high level American diplomat, doors were politely but firmly closed in her face. According to the diplomat’s testimony: “No one would own up to transphobia, of course. But my pleas fell on deaf ears, even at international schools and the elite Nazarbayev University [the leading state university and research hub] where officials

⁶¹ Amnesty International, [Kazakhstan: Feminist LGBTI activist standing trial for photoshoot](#), 16 August 2018.

⁶² [Convention on the Elimination of All Forms of Discrimination Against Women](#), 18 December 1979, Article 10(a).

⁶³ CEDAW, General Recommendation No. 36 (2017) on the right of girls and women to education, [CEDAW/C/GC/36](#), 16 November 2017, para. 46(i).

⁶⁴ [Constitution of the Republic of Kazakhstan](#), 30 August 1995, Article 30.

⁶⁵ [Law on Education of the Republic of Kazakhstan](#), 27 July 2007, Article 3(1).

⁶⁶ CEDAW, Fifth periodic report submitted by Kazakhstan, [CEDAW/C/KAZ/5](#), 1 June 2018, p. 23.

⁶⁷ Ibid.

told me that administrative rules prevented them from enrolling a transgender student. Perhaps, the admissions officer at Nazarbayev suggested, S. would be better off studying abroad. The director of an international school recommended trying a community college in the United States”⁶⁸. Consequently, S. was successfully admitted to a community college in the United States, however, her visa application was denied three times and she remains in Kazakhstan without a chance to continue her education⁶⁹.

3.1. Harmful and sexist stereotypes in education

Under Article 10(c) the CEDAW Kazakhstan undertakes an obligation to eliminate discrimination against women through “the elimination of any stereotyped concept of the roles of men and women at all levels and in all forms of education”, in particular, by “the revision of textbooks and school programmes and the adaptation of teaching methods”⁷⁰.

In its Concluding Observations of 10 March 2014 on the country’s combined third and fourth periodic reports the Committee made a recommendation to Kazakhstan to “educate people and raise their awareness of existing sex-based stereotypes that persist at all levels of society, with a view to eliminating them” and “expand public education programmes on the negative impacts of such stereotypes on women’s enjoyment of their right”⁷¹. With this respect, the state party’s report is limited to description of coeducation stating that “in general coeducation of boys and girls in secondary schools are in place”⁷². The report also states that 30% of secondary school subjects are aimed at “forming family and moral values” and a moral-spiritual programme is implemented at all levels of education⁷³.

Analysis of the substance of the mentioned state-approved textbooks and programmes show that they reinforce the traditional family institute designating the women’s reproductive function as its cornerstone. For example, textbook for “Human and Society” class defines the family as “the mainstay of society, its primary cell” and marriage as “a free and equal union of a man and a woman”⁷⁴. It further elaborates that:

“The essence of a person's life is determined by the presence or absence of a family. Without a family, a person cannot feel fulfilled in life. According to the socio-psychological research of scientists, a person who did not create his/her own family fails at his/her professional duties and is more inclined to injustice and aggression”. “From the point of view of the Kazakhstan’s current demographic policy this approach [spouses’ decision to have a childfree family] cannot be approved”⁷⁵.

Such description and understanding of the family leave no space for various forms of families. Such negative stereotyping has a continuation at the higher education level where

⁶⁸ [Why Is The U.S. Denying This Young Trans Woman A Student Visa?](#) Huffington Post, 14 November 2017.

⁶⁹ Case documented by Kazakhstan Feminist Initiative “Feminita”.

⁷⁰ [Convention on the Elimination of All Forms of Discrimination Against Women](#), 18 December 1979, Article 10(c).

⁷¹ CEDAW, Concluding Observations on Kazakhstan, [CEDAW/C/KAZ/CO/3-4](#), 10 March 2014, paras. 16-17.

⁷² CEDAW, Fifth periodic report submitted by Kazakhstan, [CEDAW/C/KAZ/5](#), 1 June 2018.

⁷³ CEDAW, Fifth periodic report submitted by Kazakhstan, [CEDAW/C/KAZ/5](#), 1 June 2018.

⁷⁴ “Human and Society” textbook for the 9th grade, paras. 19-20 on “Family and Youth”.

⁷⁵ Ibid.

state universities and colleges incorporate and amplify these messages on the role of family and women in their curricula.

Case of the Nazabayev University. In 2017 the Astana Akimat (City Council of Astana, the capital city) in partnership with “Astana Youth Policy Department” and “Alem” Volunteer Centre organised a series of lectures on “Moral Education of Maidens” with speakers Gulzat Asanova from “Asyl Bala” (“Precious Child”) Association and Alvina Yusupova from “Moe Vozrozhdenie” (“My Rebirth”) Psychology Centre. On 24 October 2017 the speakers delivered a lecture for female students at the Nazarbayev University, a leading state university and research centre, where Asanova declared:

“My paramount goal is to lay the seed in you that the main value of a woman living in Kazakhstan is her family, first and foremost, her children”. The participants were outraged by the lecturer’s subject of “Moral Education of Maidens” as, in their view, morality does not depend on gender and traditions and rather coincides with the universal human morality. Speaker A. Yusupova noted that: “The [lecture’s] subject is established by the state. We, ourselves, did not fully agree with it”⁷⁶.

This lecture was financed from the state budget and was also conducted in other universities, colleges and institutions.

Case of the Kazakh State Women’s Pedagogical University. In March 2016 the Kazakh State Women’s Pedagogical University hosted a round table with participation of the Spiritual Administration of Muslims of Kazakhstan and the Tole bi mosque on the topic titled “If you want to save the nation - nurture the girls”⁷⁷, where women were attributed to traditional roles bordering discrimination. For example, one of the speakers, Zeynep Akhmetova, said that “the purpose of women is motherhood, and in addition, every self-respecting wife should watch out for comfort in the house and respect the elders”⁷⁸.

The UN Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity highlights the link between “the quality of the educational spectrum and how to nurture a sense of empathy for sexual orientation and gender identity” and “invites to reappraisal of both educational content and textbooks, and the building of pedagogical tools and methodology, to promote an open mindset and respect for human biodiversity”⁷⁹. Reinforcing it, CEDAW General recommendation No. 36 (2017) recommends states parties to take all appropriate measures to ensure the right of LGBTI girls and women to education “by eliminating stereotyping and discrimination” and “by ensuring policies are in place”⁸⁰. Nevertheless, state universities and colleges remain among the most conservative educational establishments in Kazakhstan.

⁷⁶ https://www.youtube.com/watch?v=x5O_fJ3yVkw&t=891s

⁷⁷ Time KZ, “The taming of the disobedient”, 23 March 2016

⁷⁸ Article on the Kazakh State Women’s Pedagogical University’s website titled “[If you wish to save your nation, you must train your girls](#)”.

⁷⁹ [Independent Expert on protection against violence and discrimination \(2017\), A/HRC/35/36, para. 61.](#)

⁸⁰ CEDAW, General Recommendation No. 36 (2017) on the right of girls and women to education, [CEDAW/C/GC/36](#), 16 November 2017, para. 46(i).

Case of the Kazakh Agrotechnical University. A., a student of the Kazakh Agrotechnical University named after Saken Seifullin in Astana complained about the teacher's prejudice when she was studying towards becoming a programmer. The professor did not give her any relevant class assignments on coding and programming, but instead made her do paperwork for him and the class, justifying this with his misogynist beliefs. According to him, A. cannot be a professional coder because she is a woman, so she has to work with paper jobs only⁸¹.

4. DISCRIMINATION OF LBQT WOMEN IN EMPLOYMENT - F. WOMEN AND ECONOMY

Article 11 of the Convention on the Elimination of All Forms of Discrimination against Women provide for an inalienable right to work for women free from discrimination⁸². As it is highlighted in the CESCR General Comment No. 23 (2016) on the right to just and favourable conditions of work (article 7 of the ICESCR), “equality applies to all workers without distinction based on [...] sexual orientation [and] gender identity or any other ground”⁸³; and the State parties should “[g]uarantee through law the exercise of the right [to just and favourable conditions of work] without discrimination of any kind as to [...] sexual orientation, gender identity, intersex status [...] or any other status.”⁸⁴ CESCR General comment explicitly includes such grounds as sexual orientation and gender identity into the scope of article 2, paragraph 2 of the ICESCR.⁸⁵

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

In its fifth periodic report in 2018, Kazakhstan notes that all necessary legal conditions for realisation of women’s right to work in Kazakhstan are created⁸⁶. Article 6 of the Kazakhstan Labor Code states that no one may be subjected to any discrimination in the exercise of labor rights on grounds of origin, social, official and property status, sex, race, nationality, language, attitude towards religion, beliefs, residence, age or physical disabilities, as well as belonging to public associations.

However, the provisions of the laws are violated by the state itself. During the period 2016-2019 - we know of several cases, when SOGIESC caused the dismissal of a person from employment.

⁸¹ Case documented by Kazakhstan Feminist Initiative “Feminita”.

⁸² [Convention on the Elimination of All Forms of Discrimination Against Women](#), 18 December 1979, Article 11.

⁸³ CESCR, General Comment No. 23 (2016) on the right to just and favourable conditions of work, [E/C.12/GC/23](#), 27 April 2016, para. 11.

⁸⁴ CESCR, General Comment No. 23 (2016) on the right to just and favourable conditions of work, [E/C.12/GC/23](#), 27 April 2016, para. 65(a).

⁸⁵ CESCR, General comment No. 20 (2009) Non-discrimination in economic, social and cultural rights, [E/C.12/GC/20](#), 2 July 2009, para. 32.

⁸⁶ CEDAW, Fifth periodic report submitted by Kazakhstan, [CEDAW/C/KAZ/5](#), 1 June 2018, p. 26.

Case of private correspondence. In the Soros Foundation Kazakhstan based research project on "Stigmatization of the LGBTIQ community in interaction with law enforcement agencies in the Republic of Kazakhstan," a case was recorded: "My acquaintance [from the LGBTIQ community] was fired from her job. The system administrator read and gave her private correspondence with her girlfriend to the company's leadership, which immediately fired the woman. But she did not report this case to law enforcement bodies on this occasion because of lack of direct prohibition of people based on their sexual orientation and gender identity."⁸⁷

Case of Border Guard Service. On May 6, 2015, management of the Border Guard Service of the National Security Committee of the Republic of Kazakhstan fired two female soldiers for kisses between them following an anonymous video taken from outdoor CCTV-surveillance cameras broadcasting monitor that went viral in the local social media. On the video the two women, clearly identifiable, are seen kissing at the security outpost. Following the scandal the management of the border service instituted disciplinary proceedings against women and dismissed them, stating, as an official reason, "absence from post for 3 hours or more without a good reason". After the dismissal, these women soldiers appealed to the local court demanding that their dismissal be declared illegal. The court granted the claim and found their dismissal illegal⁸⁸. In its decision, the court did not refer to discrimination as the possible reason for the dismissal of women from military service. The Border Service of the Committee of the National Security Committee of the Republic of Kazakhstan denied the connection between the video and dismissal of women. Women themselves link their dismissal with the online video and their sexual orientation.

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

Case of D. At work, lesbian D. was outed and her direction called her for meeting to speak privately. She has three chiefs, a general director and two of his deputies. They immediately summoned her and said: "We did not know about your personal life, we got information and we give you a guarantee that it will stay between us. "We are the four of us and no one else will know about you. We do not want to lose you as an employee. So choose - rather you hide your personal life or you have to leave your

⁸⁷ Pushilin A., Stigmatization of the LGBTIQ community in interaction with law enforcement agencies in the Republic of Kazakhstan, Almaty, 2016, p. 15.

⁸⁸ Today.kz, "[In Atyrau dismissed women border guards won the court](#)", 27 August 2015.

job”, - direction commented. D. chose to hide her private life. “But after six months I realised that everyone knows [about my sexual orientation]”, - lesbian D. concluded.

5. HEALTH NEEDS OF LBQT WOMEN - C. WOMEN AND HEALTH

Article 12 of the CEDAW Convention provides for women’s right to health, including the right to access to health care services without discrimination⁸⁹. When it comes to women’s right to health the state party’s report primarily focuses on the women’s reproductive health and leaves the question of LBQT women’s health and specific needs unaddressed. According to the needs assessment research of LBQ-women in Kazakhstan conducted by Kazakhstan Feminist Initiative “Feminita” in 2016-2017⁹⁰, the most important services for 228 respondents included those of a psychologist (for 105 respondents), possibility to attend an informational-resource center (105) and general medical services (93). Also 64% of respondents answered that they do not know anything about specific health needs of LBQ-women.

The discourse about the health of L(G)BQT people in Kazakhstan is aimed at covering only those related to HIV/AIDS, whereas L(G)BQT people can have very different health needs and problems or not have them at all. In the former Soviet Union homosexuality was seen as "homosexuality," which only meant illness. When visiting medical institutions lesbian, bisexual, transgender women are perceived by default as heterosexual. And often, in order to avoid unnecessary questions and/or interference in privacy, LBQT women prefer not to disclose their sexual orientation. The following cases demonstrate this in practice.

***Case of A.** When visiting clinics, lesbian woman A. often pretends that she is a heterosexual, because when once she informed a medical specialist about her sexual orientation she was forced to listen to gynecologist’s instruction regarding the importance of having children and that men’s sexual energy is important for women’s health and life purpose⁹¹.*

***Case of N.** A bisexual women N. told her gynecologist that she has sexual relationships with women. The doctor was shocked and recommended her to go to a psychiatrist first. She denied to conduct observation of N⁹².*

***Case of Z.** Lesbian woman Z. shared information, that in order to have HIV tests lesbian women in Astana had to pretend that they were sex workers. In other cases access to HIV tests was limited⁹³.*

Because of such unpleasant experiences lesbian, bisexual and transgender women rarely visit medical specialists, prefer self-medication at home and do not visit HIV centers or HIV-focused projects such as UNI (sponsored by the Columbia University, USA) which serves only men, excluding women and transgender people without transition. Such practices

⁸⁹ [Convention on the Elimination of All Forms of Discrimination Against Women](#), 18 December 1979, Article 12.

⁹⁰ Kazakhstan Feminist Initiative “Feminita”, [“I call my partner “sister”: Results of needs assessment of lesbian, bisexual, queer women in Kazakhstan”](#), May 2018.

⁹¹ Case documented by Kazakhstan Feminist Initiative “Feminita”.

⁹² Case documented by Kazakhstan Feminist Initiative “Feminita”.

⁹³ Case documented by Kazakhstan Feminist Initiative “Feminita”.

eliminate LBQT women from health services related to AIDS/HIV and may be an alarm for changing the situation.

As a result of “Feminita”s 2019 research on the right to health for LBQT women and transgender men in Kazakhstan, different issues specifically related to LBQT women have been identified. One of the most common issues that have been noted by the respondents was the fear of facing stigma and discrimination while receiving healthcare services. This mainly led to hiding one’s sexual orientation and (or) practices while attending doctors. Moreover, some respondents have been denied services based on their sexuality or dealt with unprofessional treatment and attitude from the medical staff. In addition, the breach of confidentiality was noted to be one of the main problems that the respondents have experienced or are afraid of while seeking professional medical help. Thus, most respondents shared that they prefer self-medication at home. Most respondents also highlighted that in case of discrimination and (or) abuse from medical staff, they would not file complaints due to associated risks of disclosing their sexual orientation and the absence of trust that it would change the situation.

In general, one of the main trends that were common for most of the respondents is low level of awareness about HIV and STIs. The widespread belief among respondents is that lesbian sexual practices do not bear any health risks and, henceforth, there is a low level of adherence to practicing safe sex. On the other hand, those respondents who knew about the risks of STIs and HIV, still did not have access to so-called “friendly offices” that exist in urban AIDS centers. Such offices provide free and anonymous services, such as testing and distribution of condoms and lubricants for men practicing sex with men (MSM) and sex workers, yet LBQ women are not covered by such services. As a result, several respondents admitted that they had to pass themselves as sex-workers, which made them feel humiliated due to general stigmatisation and prejudice against sex-workers in the society.

Among other problems that were identified by the research, an issue of forced conversion by relatives of LBQ women have been raised a number of times. One of the cases of institutional instances of a “conversion therapy” was testified by a *respondent D*.

Case of D. In September 2019, young queer woman D. from the capital of Kazakhstan reported that her parents attempted to “treat” her by means of a conversion therapy. “My parents discovered about me [D.’s sexual orientation]. My brother has connections in the Ministry of Healthcare and he made enquiries on what could be done with me. [They] suggested [to undergo] on an anonymous basis the following option: work with a psychologist, with subconscious, you sleep constantly, [they] constantly pump [drugs], treat you under hypnosis. It starts with 2 weeks, then a month, a complete course lasts 4 months. I was about to be placed there by my family and it costs 3 800 000 tenge for 4 months”. D. recalled her personal experience of treatment by a narcologist at a state hospital on the city’s leftbank where she later learned about the possibility of treatment of “lesbianism” in private”.

When it comes to reproductive services, some participants of the research admitted that they have experienced cases when they were denied services, even in private centers. For some, having a heterosexual intercourse in order to conceive a child was seen as the only available

choice of reproduction given the high costs of reproductive services and professional negligence of medical staff due to one's sexual orientation and gender identity.

Following the advocacy effort based on these research findings at CEDAW in 2019, the Committee issued a recommendation to “ensure that its health-care policies and HIV programme take into account the needs of transgender women”⁹⁴ which the state is now due to implement.

Both the World Health Organisation (WHO) and the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity stress the adverse effects SOGIESC-based discrimination and stigmatisation on health of individuals: “Many people in the world are stigmatised and discriminated against because of their actual or perceived sexual orientation or gender identity. Among other disparities, lesbian, gay and transgender people are significantly more likely than the general population to be targeted for violence and harassment, to contract HIV, and to be at risk for mental health concerns such as depression and suicide”.⁹⁵

According to the WHO's 2017 data Kazakhstan has one of the highest suicide rates in the world and leads on the suicide rating among teenagers⁹⁶. As it turned out during the needs assessment research by Kazakhstan Feminist Initiative “Feminita” 55% of the interviewed respondents noted signs of depression. In addition, data on suicide attempts were obtained, more than 35% of respondents said that they had ever tried to commit suicide or had thought about it. 14% of respondents indicated that they had made such an attempt once, 12% had not taken any action, but had similar thoughts, 11% - made such attempts several times. 22% of the participants caused themselves conscious bodily injuries without the desire for suicide⁹⁷.

6. ACCESS TO JUSTICE OF LBQT WOMEN - D. VIOLENCE AGAINST WOMEN

The UN committees have already expressed its concerns on hate crimes, violence and police abuse against LBQT women and recommended State parties to take relevant measures to address the problem.⁹⁸

Despite the government provided data, cases of gender-based violence remain underreported⁹⁹. The Criminal Code of Kazakhstan has no provision enabling individuals to report on cases of hate crime based on SOGIESC. As a result, when reporting internationally the state claims

⁹⁴ Committee on the Elimination of All Forms of Discrimination Against Women, Concluding Observations on Kazakhstan, [CEDAW/C/KAZ/CO/5](#), 12 November 2019, para. 48 (b) (ii).

⁹⁵ World Health Organisation, [Sexual Health, Human Rights and the Law](#) (2015), p. 23;

Human Rights Council, Report of the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity, [A/HRC/35/36](#), p. 11.

⁹⁶ [World Health Statistics 2017: Monitoring health for the SDGs](#), p. 61.

⁹⁷ Kazakhstan Feminist Initiative “Feminita”, [“I call my partner “sister”: Results of needs assessment of lesbian, bisexual, queer women in Kazakhstan”](#), May 2018, p. 54.

⁹⁸ CESCR, Concluding Observations: Morocco, [E/C.12/MAR/CO/4](#), 22 October 2015, paras. 15-16; CESCR, Concluding Observations: Uganda, [E/C.12/UGA/CO/1](#), 8 July 2015, para. 16; CESCR, Concluding Observations: Dominican Republic, [E/C.12/DOM/CO/4](#), 21 October 2016, paras. 25-26; CESCR, Concluding Observations: The former Yugoslav Republic of Macedonia, [E/C.12/MKD/CO/2-4](#), 15 July 2016, paras. 25-26.

⁹⁹ Amnesty International [World Report 2017/18. The State of the World's Human Rights](#), pp. 221-222.

alleged absence of such crimes.¹⁰⁰ On rare occasions when LBQT women report abuse, they “face indifference and hostility from authorities”.¹⁰¹

The enforcement and implementation of the imperfect existing framework on equality and non-discrimination in Kazakhstan requires strengthening. It has been noted that in addition to improving legal protection from discrimination, Kazakhstan must also provide effective remedies for violation of the right to non-discrimination on the basis of SOGIESC¹⁰². However, in reality LBQT women often have no effective access to justice, investigation and remedy where state actors, among them police, law enforcement, prison authorities and courts, often act as perpetrators or accomplices of violations. The *case of T.* demonstrates respective misconduct by police and law enforcement authorities, the *case of Viktoriya Berkhozhaeva* is an example of misconduct by prison authorities

Case of T. In March 2017, a lesbian T. was beaten near a gay club. She filed a statement to the Almalinsky Department of Internal Affairs in Almaty. The case on infliction of bodily injuries of medium gravity was recorded, but no investigative actions, except face-to-face questioning, were conducted.

In addition, when filing the application, T. and her friend were subjected to bullying by the Almalinsky police department. According to T., police officers established her nationality, then switched to sexual orientation. They asked why a woman went to a club of “some perverts and pedophiles”, questioning if T. was “normal”. The questioning was accompanied by verbal insults, swearing and laughter from the officers of the district Internal Affairs Department. The police in the presence of T. and her friend recommended their attackers to write a counter-charge, which they did. The police accepted the statement of the attacker without requesting any medical examination certificates and threatened T. and her friend that they would be punished, not the attacker.

For nearly a full year, T. could not find out the names of the investigators who were assigned to conduct the investigation. All attempts by the victim to clarify the name and position of the investigators were ignored. The case has been held for almost three years without effective investigation and was closed twice by the police. T. with support of a lawyer reopened it twice. The investigators of the case have been changing constantly. They either claim that they cannot find medical examination certificate of T. or call T. and ask her to withdraw her complaint or turn to mediation. The police are still using different tactics not to bring the case to the courtroom.¹⁰³

Case of Viktoriya B. In March 2017 transgender woman Viktoriya B. was convicted of especially grave extortion and sentenced to 7 years in prison. During her time in prison she faced humiliation, violence by both the staff, the administration and the convicts. In July 2019 was raped by the prison staff which was attested by the medical expertise. “The administration not only creates conflict situations, but also encourages those convicts who fulfill their will. Such “goats” are not punished, they

¹⁰⁰ OSCE/ODIHR [Hate Crime Reporting. Kazakhstan](#) (2012-2017).

¹⁰¹ Human Rights Watch, [The World Report 2018](#).

¹⁰² The Equal Rights and the Kazakhstan International Bureau for Human Rights and Rule of Law, [In the Name of Unity: Addressing Discrimination and Inequality in Kazakhstan](#), The Equal Rights Trust Country Report Series: 10, London, December 2016, p. 83.

¹⁰³ Case documented by Kazakhstan Feminist Initiative “Feminita”.

are allowed to “educate” other convicts, throwing a knife, insulting, etc. Since Victoria B. once changed her sex and became a woman, she is called “It,” - shared lawyer Ayman Umarova.

According to the US Department of State’s Country Reports on Human Rights Practices for 2017, there were no prosecutions of anti-LGBTIQ violence in Kazakhstan¹⁰⁴. Although there were no government statistics on discrimination or violence based on sexual orientation or gender identity, there were reports of such actions. According to an NGO survey within the LGBTIQ community, 48% of respondents experienced violence or hate because of their sexual orientation, and 56% responded they knew someone who suffered from violence¹⁰⁵. The most frequent forms of abuse were verbal insults, harassment, interference in private life, and physical assaults.

Violence against LBQT women is often exercised by family members. However, in 2017 the Kazakhstan’s legislator decriminalised domestic violence committed by family members. By adoption of the new law of 3 June 2017, “intentional infliction of light bodily harm” (Article 108) and “battery” (Article 109) were reclassified from criminal to administrative offence. In 2020 the Kazakhstani legislator further replaced the liability for the named offences from a fine to warning¹⁰⁶. Oftentimes cases of domestic violence are covered by the police and courts because of their strong family orientation, where it is believed that family matters should remain behind closed doors and dealt with privately.

The State party should guarantee and ensure in practice equal access to justice and remedy as well as provide effective legal protection to LBQT women by police, law enforcement, prison authorities and courts. In 2019 CEDAW Committee comprehensive recommendations to counter violence against LBQT women: (1) “criminalise offences based on sexual orientation and/or gender identity as a stand-alone crime and consider “sexual orientation and gender identity” as aggravating circumstances if they are used as a motive for committing a crime”; (2) “investigate reports of threats and blackmailing against lesbian, bisexual and transgender women and intersex persons and prosecute the perpetrators and bring them to justice, as appropriate”; and (3) “ensure that lesbian, bisexual and transgender women and intersex persons are not prosecuted merely on the ground of their real or assumed sexual orientation or gender identity”¹⁰⁷.

WOMEN LIVING WITH HIV, WOMEN WHO USE DRUGS, SEX WORKERS

1. Access to health services, including sexual and reproductive health

1.1. Women living with HIV

In Kazakhstan, the rights of women living with HIV are systematically violated in the area of sexual and reproductive health. HIV-status increases the likelihood of discrimination and vulnerability of HIV-positive women in healthcare sector. More towards, the violation of reproductive rights is expressed in forced sterilization without a woman’s consent (six times

¹⁰⁴ US Department of State, Bureau of Democracy, Human Rights and Labor, [Country Reports on Human Rights Practices for 2017](#).

¹⁰⁵ Ibid.

¹⁰⁶ [Code on Administrative Violation](#) of the Republic of Kazakhstan, 5 July 2014.

¹⁰⁷ Committee on the Elimination of All Forms of Discrimination Against Women, Concluding Observations on Kazakhstan, [CEDAW/C/KAZ/CO/5](#), 12 November 2019, paras. 48 (b) (iii), (v), (vi).

more often than men); and in recommendations not to have children (1.5 times more often than men). 24.2% of women living with HIV experienced forced abortion from medical personnel, and 34% of women living with HIV have never received counseling on reproductive health issues and opportunities. Due to a lack of timely and competent advice, many women living with HIV refuse to plan a child, making false conclusions about their inability to protect the child from HIV infection.

1.2. Women who use drugs

Drug use is widely condemned in Kazakhstan. Often, women who use drugs pass through the multiple forms of discrimination because of their "*inappropriate behavior*". Due to stigmatization, pregnant drug dependent women are reluctant to seek medical help and take necessary medical services, including narcological, antenatal and postnatal care.

Case of Olga, Temirtau. "A group of health workers were trying to persuade me into getting rid of my baby, despite the fact that I was 5 months along. The reason for persuading me for abortion was my drug use and HIV-status".

The case No3 shows that the patient was not recommended to be referred to the OST program, in spite of the WHO recommendations and treatment guidelines adopted in Kazakhstan, where the most appropriate type of treatment for pregnancy is supportive medical care with opioid agonists and with methadone. Despite the fact that 13 OST sites operate in Kazakhstan today, and 58 women out of 322 patients take methadone therapy, opioid substitution therapy is not available for women in maternity hospitals.

Case of Irina, 36 years old, Ust-Kamenogorsk, focus-group of 11.11.2017. "I am a participant in the opioid substitution therapy program. In early 2017, I gave birth to a healthy daughter in the maternity hospital in Ust-Kamenogorsk. The next day I had to leave my baby with bystanders (as according to today's rules, newborns are with their mother after childbirth), and run through the city to take methadone. At the same time, I had a rough time of it with my baby and doctors forbade me to get up."

In June 2017, the Ministry of Internal Affairs called for the immediate cessation of the OST program. As a follow up measure, on September 20, 2017, the Minister of Health issued Order No. 709 "On Some Issues Regarding the Implementation of Supportive Therapy Programs." During the first meeting of the Technical Working Group, it was decided to conduct monitoring visits to four OST sites to assess the effectiveness of the substitution treatment program.

During the work of the Interdepartmental Commission there were registered violations committed by the members of the working group regarding the rights of women and clients of OST. Members of the commission disregarded the rights of patients to informed consent, the right to confidentiality of medical information and the right to respect for human dignity.

According to the appeals to the NGO ALE Kazakhstan Union of People Living with HIV, women, participants in the substitution therapy program were frightened, they also reported fear of persecution by the police and violations of confidentiality and invasion of privacy.

On 20 December 2017, the Ministry of Health and Ministry of Interior Affairs of the Republic of Kazakhstan, with the participation of the General Prosecutor's Office and the Ministry of Justice, decided to continue the implementation of substitution therapy without

expanding the pilot regions and without including new patients in the program until a final decision is made.

1.3. Sex workers

According to “Ameliya” PA, there are instances of violation of the reproductive rights of sex workers from medical personnel, in particular, humiliation of dignity, causing physical and psychological violence.

Case of Polina, 37 years old, Taldykorgan. “Once I turned to a friendly consulting room for a gynecological exam. Typically, a doctor should select a medical tool of the appropriate size, based on the physiological characteristics of women / patients. I told the gynecologist that I'm a sex worker. After that, the doctor's expression changed and it was clear how she hated me. After that, she took a huge gynecological speculum and shoved it into my vagina without any supporting tools. I cried that she hurt me very badly. Instead of anesthetizing the procedure, the doctor called me a "whore" and said: “And it doesn't hurt to share a bed with other guys???” I believe that this is violence. She called me bad names she knew, and hurt me physically. I complained to the hospital administration, and I was told that I did not have to say about my sex work. The doctor was not punished. Next time I will have to hide my work, which leads to the stigma of sex workers and to the next violent actions. Doctors continue to commit violations with impunity”.

2. Ending violence against women and girls

2.1. Women living with HIV

In Kazakhstan, the existence of a legislation providing for criminalization of HIV transmission contributes to a higher risk of HIV infection, violence and gender inequality in family, healthcare facilities, and society. Although this provision is intended to reduce the incidence of HIV infection, in practice it has the inverse effect – it increases the stigmatization of people living with HIV, limits their access to treatment, and reduces the effectiveness of government measures to combat HIV/AIDS.

Women living with HIV have limited access to accommodation services in existing shelters that are designed to help victims of violence. The reasons for limited access to these services include ignorance of the ways of HIV transmission, high level of stigma in the society, and shortage of places in the shelters. At the moment, the Government of Kazakhstan does not implement effective measures to organise and support crisis centers or shelters for women, and its number is extremely limited in Kazakhstan. The existing centers and shelters are overstretched repeatedly and incurred lack of funding.

Case of Anastasia, Almaty, 27 years old. “They asked me to provide them with a statement of good health and confirmation that I was not registered with a psychiatric facility and drug dependence clinic. Fortunately, I was not registered and I agreed, although I must say that I had such problems. However, I informed them about my registration with the AIDS Center and after that they told me they would call back. As a result, I was not admitted to the specialized crisis center and I was sure that my HIV status became the reason for this, because when they called me back, they asked me

for a long time about my HIV status, its duration, whether I was taking therapy, side effects, how often I need medicines, etc....”.

2.2. Women who use drugs

Article 2 of CEDAW, in particular parts (d), (e), and (f) are not implemented by Kazakhstan with regard to violence against women who use drugs. According to the available recorded cases collected by the NGO "My Home" in Temirtau, women who use drugs report the prevalence of extreme police brutality. Self-stigma and vulnerability before the law and the law enforcement agencies lead to a constant fear of women for their own safety, fear of harassment and hopelessness. Police actions contradict the right to patient confidentiality.

Case of Julia, 36 years old, Temirtau, March 2017. “...I stood by the side of the road, when police officers saw my track marks. They took my phone, burned me down and said “a drug addict, prostitute”, threatened me with criminal liability, and planned to put me in a preliminary detention cell. I experienced terrible feelings at that moment - shock, fear, humiliation, depression, and I was crushed. Such pressure from the police continued for a long time...”.

2.3. Sex workers

In Kazakhstan, due to their legal status, sex workers are vulnerable to violence, including from the medical personnel, and fairly often their HIV status is disclosed to third parties. Sex workers are forced to hide from timely diagnosis; in the case of a HIV+ status, they do not perform diagnostics for viral load and immune status and, as a result, they experience lack of timely HIV treatment and have poor adherence to ART. Police raids and compulsory HIV testing, provided in conjunction with the AIDS Centers, violate the rights of sex workers to voluntary diagnose HIV infection. Approaches used by the police force sex workers into hiding and avoid timely HIV testing and treatment in AIDS Centers. Mandatory medical examination can't be justified by any considerations related to public health. Citizens of Kazakhstan and oralmans [repatriants] have the right to a voluntary anonymous and (or) confidential medical examination and counseling on HIV-infection on a free basis in the manner determined by the authorised institution.

2.4. Women in prison

In Kazakhstan, the lack of research and disaggregated data in open sources shows that due attention is not paid to the specific needs of women in prisons. In its concluding observations on the Kazakhstan's fifth periodic report, the CEDAW Committee expressed concern about the lack of data on women who use drugs out of and in prisons, who are in need of drug dependency treatment and women living with HIV/AIDS. In the fifth periodic report, the state cites data on the legislative acts that provide access to medical services for women prisoners. Unfortunately, this does not answer the question of whether this satisfies the needs of women prisoners.

WOMEN WITH DISABILITIES

1. Restriction of the reproductive rights of women with disabilities

According to the official data for 2018, Kazakhstan has 297,701 women with disabilities, which amounts to 43.8% of the total number of people with disabilities in the country or

1.6% of the total population. Kazakhstani women with disabilities face continuous cross-sectoral discrimination based not only on their gender but also on their disability. It is impossible to hold anybody accountable for discrimination in Kazakhstan due to the lack of anti-discrimination legislation.

The Kazakhstan State Medical System does not ensure the implementation of the right to healthcare to the highest attainable standard without discrimination for women with disabilities. Despite the fact that the reproductive rights are stipulated at the legislative level, in practice women with disabilities in Kazakhstan are coerced into the use of contraceptives to prevent pregnancy, into abortion; forced sterilization is widespread among women who have been deprived of legal capacity due to mental and intellectual disabilities.

According to official statistics, as of June 1st, 2017, , 776 cases of childbirth by women with disabilities were registered over a 5 year period in Kazakhstan, which is 0.04% of the total number of children born in this period. Out of 142 thousand women of childbearing age with a disability, only every 183th woman with a disability exercises her right to independent motherhood.

The direct text of legislation does not stipulate that a disability is the basis for abortion or sterilization. The word “disability” and its derivatives are not used in the basic legal acts regulating these procedures. At the same time, 80-85% of the “reasons” for abortion and sterilization are diagnoses that a disability is associated.

Even if the diagnosis of a woman with a disability is not on the list, the doctor has the right to refer her to a consultation of doctors to consider the possibilities of terminating the pregnancy. Gestational age in this case has no legal value. The criterion for establishing medical indications for an abortion is to preserve the life of the mother. A pregnant woman with a disability may refuse an abortion, but at the same time she will have to accept the disclaimer of the responsibility of the medical institution for her condition and her unborn child.

Situation with sterilization is complicated by the fact that if there are medical indications for the sterilization from the list, the procedure is possible regardless of the age of the woman and her existing children, and by the fact that a guardian can decide on sterilization. The lower threshold for the age is not set, meaning that a guardian has the right to sterilize a young 18 year old girl deprived of legal capacity without her notification of the procedure.

The target indicators are of great importance for the statistics in the country; therefore, such indicators as maternal and newborn mortality, the proportion of pregnant women with extragenital diseases directly affect the actual number of women with disabilities who have given birth to children. According to the algorithm for examining women of childbearing age at the level of primary health care, women with contraindications for pregnancy because of their extragenital diseases are subject to 100% coverage by effective methods of contraception according to current standards. Contraception coverage of at least 90% of women of childbearing age with medical contraindications for pregnancy and a 5% decrease in the number of pregnant women with medical contraindications affect the cash bonuses of primary health care workers, as they are directly related to the key indicator “Maternal mortality”.

As a rule, reproductive health decisions are not made by the woman herself but by third parties, including legal representatives, guardians and family members, which is a violent form of reproductive health control, including sterilization and abortion. Accessible information is not provided to women with disabilities, and there is no education on sexual and reproductive health for people with disabilities in general.

Violations are expressed in the form of physical and economic inaccessibility of medical services, lack of qualified personnel, health services and programs, including sexual and reproductive ones, modern diagnostics. The level of quality of medical care provided in remote settlements is significantly lower than urban ones. In violation of the law, medical personnel do not always inform patients about their right to free and informed consent to medical intervention. Lack of knowledge about human rights, dignity, ethical standards leads to discriminatory practices.

Particular attention should be paid to the complete or partial lack of physical accessibility of medical facilities for women with disabilities, as part of the complex problem of the lack of physical access for people with limited mobility.

2. Rights of women with psychosocial and intellectual disabilities: deprivation of legal capacity

All are equal before the law. Article 16 of the ICCPR recognises that each person, regardless of where they are located, has the right to be recognised as a person before the law.

Figures:

1. The official total number of persons with psychosocial and intellectual disabilities in Kazakhstan is 108,817. However, the number of persons with psychosocial and intellectual disabilities who are registered with the health authorities is 188,667. The number of persons deprived of legal capacity and with limited legal capacity (who are registered with alcohol and/or substance abuse) is 35,944.
2. In total, there are 16 624 people with psychosocial and intellectual disabilities living in 45 medical and closed social institutions. However, *official statistics do not provide a gender breakdown.*

Socio-medical facilities – Closed institutions for people with psychosocial and intellectual disabilities:

1. Socio-medical institutions strictly place women and men in different departments according to internal rules. In some institutions, both sexes are allowed to participate in leisure and cultural activities for persons with minor impairments and a slight degree of mental disability. In Turkestan Oblast (South Kazakhstan), the administration completely prohibits any external contact between men and women. The residents live separately. In all other institutions, people with moderate to severe impairments are prohibited from external contact with others, which leads to control of reproductive health from the side of the institution.
2. None of the socio-medical institutions have co-habitation units, conditions for family formation, and/or partnership relations.
3. According to the guidance on guaranteed free medical care, facilities do not provide intrauterine spirals for female citizens. However, the administration of the institutions

does not hide the fact that almost all women under their care have an intrauterine device purchased at the expense of the women (purchased from the disability allowance). There are cases of forced abortions. In one of the institutions, the staff reported that women help each other to remove the spiral in order to get pregnant. Pregnancy for women in isolation is seen as a chance to leave the closed institution.

Deprivation of Legal Capacity:

No individual recommendations on legal capacity were given to Kazakhstan as part of the previous recommendations under the CEDAW. We believe that the situation in Kazakhstan requires attention.

Currently in Kazakhstan, more than 150,000 people who have been registered as having some psychiatric diagnoses are at risk of being stripped of their legal capacity since there are no alternatives. The law allows for deprivation of legal capacity with respect to people with psychosocial disabilities, particularly people who have been or are currently institutionalised in specialised social facilities. Also, there is no clear understanding of what civil law regulations are in effect if a person has lost legal capacity when entering a closed sociomedical institution. For instance, in the psychiatric institution of Almaty city, there are 300 women who are deprived of legal capacity out of 710 patients.

In fact, people with disabilities who are in custody lose their capability to exercise all or almost all their civil rights and do not control the decision-making processes affecting their life, ranging from concluding transactions to choosing where and with whom to live. If needed, decisions for people with psychosocial and intellectual disabilities, especially with regards to marriage, divorce, procurement or sale of property, and signing of contracts are made by their guardians appointed by court, usually a family member or director of an institution.

In addition, people deprived of legal capacity lose the access to fair trial that others enjoy. Without this right they cannot challenge a court's decision or change a guardian. Moreover, people deprived of legal capacity are subjected to abuses by psychiatric services by means of forced hospitalization and inpatient treatment. People with disabilities can only get advice, but no more.

F. WOMEN IN ECONOMY

The Law on Gender Equality expressly prohibits discrimination on the basis of sex in economic life.⁶⁴ Article 10 specifies that employers shall ensure equal rights and opportunities of men and women. This is supported by Article 7 of the Labour Code which prohibits discrimination in the exercise of labour rights, including on the basis of sex. Despite these legislative provisions, "In the Name of Unity", a research prepared by Equal Rights Trust in partnership with the Kazakhstan International Bureau for Human Rights and the Rule of Law, identifies significant patterns of discrimination against women and inequality in employment.

According to the Human Development Report, compiled by the United Nations Development Programme (UNDP), labour force participation of women in Kazakhstan is significantly

lower than that recorded for men¹⁰⁸. “In the Name of Unity” also finds a persistent gender pay gap, exacerbated by a segregated labour market where women continue to be primarily employed in the lowest paid sectors such as healthcare, education and agriculture¹⁰⁹.

The vertical and horizontal segregation of the labour market also results in women facing a lack of free choice in their employment. When a group of Kazakhstani experts were asked in 2010 to identify the ways in which the principle of gender equality is most often violated, among the most common answers was that “the type of work [available to women] is non-prestigious, low-skilled, and in low-paid sectors”, with 65.2% of respondents selecting this option¹¹⁰. Women are disproportionately employed in a limited number of sectors thought to be traditionally “feminine”, such as healthcare, social services or education¹¹¹, where they represent over 70% of the total employees¹¹². Other fields, such as construction, transport or industry, are male-dominated¹¹³.

1. Restrictions on women's employment: the list of banned professions for women

In reviewing Kazakhstan's most recent State Party report in 2019, the CEDAW Committee expressed concern about “the reports of discrimination in employment”, “the significant gender pay gap (34 per cent) and the horizontal and vertical segregation in the labour market, including the list of 191 prohibited occupations for women, the concentration of women in traditional and low-paid sectors of the economy and a glass ceiling that precludes most women from reaching senior management positions”¹¹⁴. The Committee recommended that the State party should repeal the list of prohibited occupations for women and facilitate access for women to such occupations, and ensure that any restrictions are applied individually and not across the board to all women¹¹⁵.

Articles 16 and 26 of the Labour Code 2015 mandate the creation of a “list of jobs” involving “harmful and/or hazardous conditions” which women cannot perform¹¹⁶. An Order issued by the Minister of Health and Social Development pursuant to these provisions, listed 287 jobs

¹⁰⁸ United Nations Development Programme, Human Development Reports – Kazakhstan, available at: <http://hdr.undp.org/en/countries/profiles/KAZ>.

¹⁰⁹ The Equal Rights and the Kazakhstan International Bureau for Human Rights and Rule of Law, *In the Name of Unity: Addressing Discrimination and Inequality in Kazakhstan*, The Equal Rights Trust Country Report Series: 10, London, December 2016.

¹¹⁰ National Commission for Women Affairs, Family and Demographic Policy and the UNDP, *Results of Studies on the Development of an Action Plan to Improve Conditions for the Economic Empowerment of Women*, 2010, p. 38.

¹¹¹ Committee on the Elimination of Discrimination against Women, *Report submitted by Kazakhstan under Article 18 of the Convention on the Elimination of All Forms of Discrimination against Women*, UN Doc. CEDAW/C/KAZ/3-4, 22 March 2012, Para 21.

¹¹² Ibid.

¹¹³ Ibid. para. 22.

¹¹⁴ Committee on the Elimination of All Forms of Discrimination Against Women, Concluding Observations on Kazakhstan, [CEDAW/C/KAZ/CO/5](https://www.unhcr.org/refugees/country-observations/country-observations/kazakhstan), 12 November 2019, para. 37.

¹¹⁵ Committee on the Elimination of All Forms of Discrimination Against Women, Concluding Observations on Kazakhstan, [CEDAW/C/KAZ/CO/5](https://www.unhcr.org/refugees/country-observations/country-observations/kazakhstan), 12 November 2019, para. 38.

¹¹⁶ Labour Code of the Republic of Kazakhstan dated 23 November 2015 No. 414-V (as amended in 2016), Articles 16 and 26.

which women are prevented from undertaking, a large number of which are in the construction sector, involving manual labour or exposure to hazardous conditions¹¹⁷.

In its fifth periodic report to CEDAW, Kazakhstan acknowledged that Article 26 of the Labour Code prohibits the employment of women in harmful and/or hazardous working conditions, pursuant to the Order cited above¹¹⁸. It further notes that different occupations and specialities are prohibited for women in order to "ensure maternity protection and also safeguard women's health"¹¹⁹. The list of occupations has been the subject of various discussions for reform¹²⁰. According to the State Party's report, the list of professions which women are prohibited from undertaking has been updated following the adoption of a Decree by the Minister of Labour and Social Security of the Population on 13 August 2018¹²¹ which narrowed down the list from 287 to 219 professions.

Nevertheless, more than 200 professional roles in more than 20 spheres are still inaccessible to women. Women are prohibited from working on railways and other transportation systems. Other professions which women are unable to access include those involving extremes of heat and cold, vibrations, work at height or underground and work in confined spaces. These prohibitions remain in place despite the fact that the Committee, in a decision on the individual communication under the Optional Protocol, has underlined the fact that lists of restricted occupations should "apply strictly to protecting maternity"¹²².

While these measures may have been taken with the intention of affording women additional protection, intention is not a necessary component of discrimination. Regardless of intention, prohibiting women from undertaking any occupation on the basis of their gender is directly discriminatory. The maintenance of a system of prohibitions on women working in certain roles, professions or types of work is an unjustified interference with, and denial of, their freedom of choice in respect of employment, and contributes to horizontal and vertical segregation in the labour market.

Grounding the rationale of the List's existence in protection of mothers and maternity leaves out a vast majority of women outside of the perinatal period. As a result, women (1) who are not able to have children or (2) who already have them or (3) lead a childfree lifestyle are not able to overcome these professional bans. Above all, women are denied the opportunity to choose a job and decide what their priorities for personal and professional development are which reinforces the stereotype that "limit the role of women exclusively to the care and upbringing of children, which affects the empowerment of women in all areas"¹²³.

¹¹⁷ Order of the Minister of Health and Social Development, "On the approval of the list of jobs where persons under the age of 18 may not be employed, limits for carrying and handling weights by persons under the age of 18, and the list of jobs where women may not be employed, and of limits and manual handling of weights by women", No. 944 of 8 December 2015.

¹¹⁸ CEDAW, Fifth periodic report submitted by Kazakhstan, [CEDAW/C/KAZ/5](#), 1 June 2018, p. 29.

¹¹⁹ Ibid.

¹²⁰ ADC Memorial, *Gender Discrimination: Jobs Banned for Women*, March 2018, p. 31.

¹²¹ CEDAW, Fifth periodic report submitted by Kazakhstan, [CEDAW/C/KAZ/5](#), 1 June 2018, p. 29.

¹²² CEDAW, *Annex: Views of the Committee on the Elimination of Discrimination against Women under article 7 (3) of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (sixty-third session) concerning Communication No. 60/2013*, 15 August 2013, Para 13.

¹²³ CEDAW, List of Issues, [CEDAW/C/KAZ/O/5](#), 18 March 2019, para. 7.

*Case of A*¹²⁴. A woman named A. has reported her case of employment discrimination to “Feminita”. In June 2019 while working as a heavy truck driver [job No. 60 of the List], on one of her work shifts A. decided to record a video for her social media channel. As soon as it was noticed by the company’s administration, the administration immediately launched her search. Right on a work shift A. was unexpectedly interrupted by a security officer for “a talk”. According to A.:

“I was taken off the car, they introduced themselves and there I learned that the List existed and that I was not allowed to perform this job. That I can work but not for public display - “quietly” or what to call it... In the recorded video I just wanted to tell about myself and my job, nothing more... I wanted to inspire other people that everything is possible!”

“It was unexpected and scary that I was treated as a criminal as if I committed a crime. And they [the security officers] terrorised me until 21:30 at a 12 hour shift on a hot day without giving me some time to rest. [They] asked me why I posted the video and told that it was not allowed because of the list; I was saying that I didn’t understand that the list existed - that’s when I discovered its [the List of banned jobs for women] existence”.

As a result, A. was forced to submit a notice on her voluntary resignation and leave the job. In addition to forcing to leave the workplace, A.’s records in her employment history book were backdated where she was registered as a driver of a lighter vehicle and was remunerated accordingly. This is despite the fact that she was qualified for the job, had been performing required workload in full and the employer had no complaints regarding the quality of the work performed.

Being a remnant of the Soviet time, the List, nevertheless, establishes direct employment discrimination against women, contributes to widening of the gender pay gap and, above all, reinforces the gender roles limiting women to childbearing and care in a modern day Kazakhstan. In light of the above, the State party should stop assuming a protective approach to the women’s reproductive function, improve working conditions at the listed jobs for employees of all genders and repeal the List in full. The State party should ensure fulfillment of all women, to free choice of profession and occupation and the right to safe working conditions free from any discrimination guaranteed under Article 24 of the Kazakhstan’s Constitution¹²⁵ complaint with its obligations under Article 11 of the CEDAW Convention.

G. WOMEN IN POWER AND DECISION-MAKING

In 2005, the state adopted the Strategy on Gender Equality for 2006-2016¹²⁶. The Strategy set a target of achieving a 30% representation of women at the decision-making level of elected and appointed bodies by 2016. This target was not achieved. In 2016 as the time-frame for the 10 year Strategy came to an end, the state adopted a new Family and Gender Policy Concept¹²⁷. This Concept includes *inter alia* targets for the share of women in executive,

¹²⁴ Case documented by Kazakhstan Feminist Initiative “Feminita”.

¹²⁵ [Constitution of the Republic of Kazakhstan](#), 30 August 1995, Article 24.

¹²⁶ Strategy on Gender Equality in the Republic of Kazakhstan for 2006-2016, approved by the [Decree № 1677](#) of the President of the Republic of Kazakhstan, 29 November 2005.

¹²⁷ The Concept of Family and Gender Policy of the Republic of Kazakhstan until 2030, approved by the [Order №384](#) of the President of the Republic of Kazakhstan, 6 December 2016.

representative and judicial authorities, state, quasi-state and corporate sectors at the decision-making level, as follows: by 2020 - 22%, by 2023 - 25%, by 2030 - 30%. However, there are no clear programmes and actions to achieve these targets.

In 2018, Kazakhstan Feminist Initiative “Feminita” undertook research on participation of women in politics and decision-making. “Feminita” surveyed 116 women involved in local government and non-government bodies and undertook 25 interviews in 11 cities. Approximately 60% of surveyed women were party members and 57% were expecting promotions or running for office. The survey indicated that women believe government support is necessary in order to increase women’s representation in elected positions. Thus, 48% of those surveyed supported the adoption of an effective government policy to encourage women's participation in politics, 32% were in favour of legislative quotas (special measures), while only 13% supported voluntary programmes by political parties.

One of those interviewed by “Feminita”, former MP Aigul Solovyova spoke of the government’s approach to increasing women’s participation in public life. She explained that the government does not have a proactive approach, but instead the National Commission for Women’s Affairs and Family and Demographic Policy “keeps a list of active, socially significant women and recommends them to the government”. She continued:

There is no special programme. In any case, together with international organisations they [the National Commission] provide round tables, involve women to participate in the grant programs. Therefore, I would not call it a programme. This is policy”¹²⁸.

Another former MP Zauresh Battalova, now the president of an NGO focused on the development of parliamentarism in Kazakhstan stated that:

No, we do not have quotas [for women]. We have a Commission on Women's Affairs under the President of Kazakhstan, which is not aimed for supporting women. It aims to create the image of the President and the State in the gender policy scope (...) If there are guaranteed state quotas, I would use them to promote women at all levels, including regions and districts (...) I've been a politician since 2001. Over the years I understand that the most important thing is that now the country needs changes in this system of full autocracy (...) I have a feeling if more women were involved then we would change the country¹²⁹.

Feminita found that, in addition to a lack of proactive policy by the government, gender stereotypes and prejudice inhibit women’s participation in public life. During interviews in some cities where people speak in Kazakh (including Aktobe, Atyrau and Shymkent) interviewees referred to a popular proverb which is used to discourage women from assuming leadership positions: “Қатын бастаған көш оңбайды” (translated as “a caravan led by a woman will be lost”)¹³⁰. The proverb involves a stigmatised synonym of the word “woman”, which increases its potency as an insult of women seeking leadership positions. This is just one of a number of popular proverbs in Kazakh which call into question women’s intellectual

¹²⁸ Kazakhstan Feminist Initiative ‘Feminita’, Research on women in politics and decision-making roles, excerpt from the interview of Solovyeva A.

¹²⁹ Kazakhstan Feminist Initiative ‘Feminita’, Research on women in politics and decision-making roles, excerpt from the interview of Battalova Z.

¹³⁰ Ibid.

abilities and competence. For example: “[w]omen have long hair, but short intellect”¹³¹, “[a]ny simple man is more valuable than a gold-worthy woman”¹³², and “[a] female horse does not win the race”¹³³. Alongside these proverbs are others which seek to legitimise violence against women, thus further inhibiting women who wish to assume more prominent roles in public life.

There are also examples of state media and educational institutions reinforcing harmful gender stereotypes, in particular in reference to traditional and family values. For example, in 2018, the state television and radio corporation *Kazakhstan* produced a programme using as its title the proverb “Any simple man is more valuable than a gold-worthy woman”¹³⁴. Statements given by purported experts on the programme illustrate the negative social stereotypes promoted by the programme:

*[T]here is a domination of women in society. Over the past 10 years, the share of women entrepreneurs in business has increased by 50%. 55% of civil servants are women, and, in the parliament, the number of women has increased and exceeds 27%. In the past 10 years, unemployment among young women has decreased by 1.6% (...) Equal status of women with male citizens in labor, in most cases, leads to the disintegration of families. According to experts, quarrels, disagreements and rivalry in the family begins with this [equal status of women]*¹³⁵.

In 2019 Concluding Observation CEDAW expressed its concern that: (a) the goal of 30 per cent representation of women in decision-making by 2016, which was set in the previous gender equality strategy, has not been achieved in all sectors and regions of the State party, and the full realization of the goal has been postponed to 2030 in the concept for family and gender policy for different areas; (b) there is a lack of information about specific temporary special measures that the State party intends to take to achieve 30 per cent, and ultimately 50 per cent, representation of women¹³⁶. With this in mind the Committee recommended to Kazakhstan to take a series of actions to guarantee advancement of women in power and decision-making: (a) review the bill on family and gender policy to ensure that it defines “temporary special measures” and “gender quotas” in line with article 4 (1) of CEDAW; (b) introduce temporary special measures as a necessary strategy to accelerate the achievement of substantive equality for women in all areas in which women are underrepresented; (c) establish a mechanism to monitor the implementation of temporary special measures and assess their impact; (d) allocate sufficient resources for the implementation, monitoring and

¹³¹ From Kazakh “Әйелдің шашы ұзын, ақылы қысқа”. Google Search provides 72 800 pages matching the statement.

¹³² From Kazakh “Алтын басты әйелден, бақыр басты еркек артық”. Google Search provides 1 580 pages matching the statement.

¹³³ From Kazakh “Қатынды бастан, баланы жастан”. Google Search provides 3080 pages matching the statement and some images of punishment of women and children.

¹³⁴ Kazakhstan TV (State Television and Radio Corporation), “*Shanyraq*” Television Programme, Issue 6 “Any simple man is more valuable than a gold-worthy woman”, 17 September 2018, available at: <https://www.youtube.com/watch?v=Gx64BCyestk>

¹³⁵ Ibid.

¹³⁶ Committee on the Elimination of All Forms of Discrimination Against Women, Concluding Observations on Kazakhstan, [CEDAW/C/KAZ/CO/5](#), 12 November 2019, para. 21.

impact assessment of such measures¹³⁷. The state is now due to implement these recommendations.

Recommendations

LESBIAN BISEXUAL QUEER AND TRANSGENDER (LBQT) WOMEN

1. The State party should adopt **comprehensive anti-discrimination legislation** that addresses direct and indirect discrimination and encompasses all the prohibited grounds of discrimination, **including sexual orientation and gender identity (SOGI)** in line with the UN Human Rights Committee (2016)¹³⁸, CESCR (2019)¹³⁹ and CEDAW recommendations and implement them in accordance with the roadmaps developed and presented by the local civil society in 2018¹⁴⁰.
2. The State party should review and **repeal all discriminatory provisions on the grounds of SOGI** from the national legislation, including provisions on “**lesbianism**” and “**sodomy**” from **Articles 121, 122, 123** of the Criminal Code.
3. The State party should take the necessary legislative, administrative and other measures to guarantee respect for the autonomy and physical and psychological integrity of transgender people, including by repealing all provisions on **sex reassignment** and **coerced sterilisation surgeries** from the list of requirements for **legal gender recognition**, *i.e. changing the last, first and patronymic names and the gender marker by transgender people*, in particular from **Article 257, Subsection 13 of the Family Code**¹⁴¹.
4. The State party should guarantee an enabling environment for civil society organisations (CSOs) and human rights defenders (HRDs) engaged in the advocacy and protection of the LBQT women’s rights, including by ensuring a **functional and accommodating registration procedure**.
5. The State party should reverse the course of arbitrary and discriminatory decisions by the Ministry of Justice and national courts, which deny registration of feminist and LBQT advocacy groups like Kazakhstan Feminist Initiative “Feminita”, and allow them to register and operate lawfully within the country.
6. The State party should **stop persecution** of feminist and LBQT rights activists, among them Zhanar Sekerbayeva and Veronika Doloman, and carry out an immediate, thorough and impartial investigation into reported cases and guarantee in all circumstances that all feminist and LBQT activists in Kazakhstan are able to carry

¹³⁷ Committee on the Elimination of All Forms of Discrimination Against Women, Concluding Observations on Kazakhstan, [CEDAW/C/KAZ/CO/5](#), 12 November 2019, para. 22.

¹³⁸ Human Rights Committee, Concluding Observations on Kazakhstan, [CCPR/C/KAZ/CO/2](#), 9 August 2016, para. 10.

¹³⁹ Committee on Economic, Social and Cultural Rights, Concluding Observations on Kazakhstan, [E/C.12/KAZ/CO/2](#), 29 March 2019, para. 11.

¹⁴⁰ Mindet.kz, [Road map on the Recommendation No. 25](#), [Road map on Recommendation No. 26](#); Kazakhstan Feminist Initiative “Feminita”, [‘Feminita’ takes part in development of “the road maps”](#), 11 April 2018; Kazakhstan International Bureau for Human Rights and Rule of Law, [Seven stumbling “road maps”](#), 27 March 2018.

¹⁴¹ Human Rights Committee, Concluding Observations on Kazakhstan, [CCPR/C/KAZ/CO/2](#), 9 August 2016, para.10.

out their legitimate human rights activities **without fear of reprisals and free of all restrictions.**

7. The State party should guarantee the right to **freedom of assembly of feminist and LBQT rights groups** by allowing them to hold peaceful assemblies and women's marches in practice **without discrimination on the basis of SOGI.**
The State party should regulate all forms of peaceful assemblies by changing from an existing permit system requiring prior authorisation of local authorities to a system of notification.
8. The State party should **withdraw from any future attempt to adopt and (or) reintroduce legislation banning so-called "propaganda of non-traditional sexual orientation"** which impede the right to freedom of expression of LBQT women and rights groups.
9. The State party should ensure systematic consultations with the local civil society and interest groups, including feminist and LBQT advocacy groups, at all stages of relevant legislative and policy making process.
10. The State party should repeal the diagnosis F64 from the "List of Diseases Under which a Person Cannot Adopt a Child, Take him Under Guardianship or Patronage".
11. The State party should repeal the diagnosis F64 from the "Requirements for Compliance with the State of Health of Persons for Service in the Internal Affairs Bodies".
12. The State party should **address widespread misconduct of police, law enforcement, prison and judicial authorities** in relation to LBQT women, hold perpetrators accountable and provide effective remedies to victims.
13. The State party should take all the necessary steps to (1) **prevent and combat hate crimes on the basis of SOGI**, (2) enact tailored legal protections of LBQT women against attacks and harassment, and (3) ensure their equal access to justice and effective remedy.
14. The State party should (1) criminalise all forms domestic violence, (2) introduce a mechanism of protective orders, (3) classify all gender-based violence crimes as crimes of public accusation, and (4) remove the provisions which require prosecutions to end or relieve individuals of responsibility for rape or any other form of gender based violence on grounds of reconciliation.
15. The State party should take all the necessary steps to ensure the **effective access to all available medical services for LBQT women** without facing discrimination and (or) humiliation, in particular to services on **HIV prophylaxis.**

WOMEN LIVING WITH HIV, WOMEN WHO USE DRUGS, SEX WORKERS

1. Access to health services, including sexual and reproductive health

1. Provide training for medical staff about the provision of quality services based on WHO recommendations in regards to sexual and reproductive health for HIV-positive

women, sex workers, women who use drugs, taking into account age, receiving ART and/or OST.

2. Ensure the systematic training of narcologists and psychotherapists, and obstetrician-gynecologists on the issues of pregnant women with opioid dependence.
3. Secure the access to OST for pregnant women; make OST available during pregnancy at women's health clinics and maternity hospitals to ensure continuity of drug treatment and postpartum care for women who use drugs, and access to prevention of vertical transmission in those who live with HIV.
4. Involve non-governmental organizations in the development and implementation of low threshold programs for sexual and reproductive health for target groups of women.
5. Provide funding for contraceptives, training and consulting for women from disadvantaged groups.
6. Ensure free access to condoms and other means of contraception, as well as to information on these opportunities for women from disadvantaged groups.
7. Include workshops and other training activities for medical professionals in the HIV and AIDS prevention programs at the local level in AIDS centers and in a general medical network. Training topics include counseling sex workers on sexual and reproductive health, safe contraceptive methods, condom use and safe behavior, HIV-related issues and others health issues.
8. Include the substitution therapy program in the national health care system and narcological practice, with further expansion and scaling up nationwide in Kazakhstan.

2. Ending violence against women and girls

1. Revise article 118 “ Infection with the human immunodeficiency virus (HIV / AIDS)” of the Criminal Code of Kazakhstan of July 3rd, 2014 No 226-V 3RK in order to reduce the stigma of people living with HIV and improve the effectiveness of their treatment; abolish the norm that establishes criminal liability for posing in risk of contracting HIV.
2. Create departments in the crisis centers for work with women who use drugs and HIV-positive women.
3. The State Party should mobilise efforts to expand the network of crisis centers/shelters and other emergency services to women experienced domestic violence, and to ensure sufficient public funding for these institutions.
4. Systematically educate crisis centers' representatives about the work with and counseling services for women from marginalized groups experienced multiple discrimination.

5. Develop and adopt policy of humanization in regards to drug users, laws and practices based on respect for human rights that will ensure protection and exclude any discrimination and violence against women.
6. Ensure that law enforcement practices do not hinder HIV-prevention and treatment programs aimed at sex workers, including training on HIV, harm reduction and human rights for law enforcement officers.
7. Actively investigate cases of violence and any unlawful actions committed by law enforcement officials against sex workers, women who use drugs and participants of opioid substitution therapy, including cases documented and reported by the community-based organisation representing marginalised women.
8. Develop mechanisms of personal safety and privacy guarantees that will allow women to report incidents of violence without fear.
9. Conduct beneficiary satisfaction surveys of services related to the preserving sexual and reproductive health of HIV-positive women, as well as to the access to drug dependence treatment in prisons.
10. Collect age-disaggregated data on women living with HIV and women who use drugs in prisons, which characterise their access to ART and OST.

WOMEN WITH DISABILITIES

1. Restriction of the reproductive rights of women with disabilities

1. Improve access for women with disabilities to sexual and reproductive health services and provide comprehensive sexual education, especially for adolescent girls.
2. Take all measures to ensure that women with disabilities have the opportunity to exercise their legal capacity, making their own decisions on maintaining their fertility and reproductive autonomy, exercising their right to choose the number of and intervals between children, in matters related to their sexuality, etc. d. This should happen without coercion, discrimination and violence. Forced sterilization and forced abortion are a form of violence against women and must be criminalised.
3. Ensure that women with disabilities have equal access to health services, including gynecological consultations, physical examinations, family planning and adapted support during pregnancy.
4. Organise the training of medical staff on the informed consent of patients to medical intervention and ensure adequate education and information on human rights. Promote a culture of respect for human diversity, integrity and dignity.
5. Provide procedural guarantees to protect the right of women and girls with disabilities to free and informed consent to any medical intervention.
6. Ensure compliance with the prohibition of degrading, cruel, inhuman treatment, and torture in medical institutions.

7. With regard to abortion, risk assessment – based review and reduction of the current list are necessary.
8. Regarding sterilization, it is necessary to abandon medical indications for sterilization, making the basic criteria mandatory for all women (age no less than thirty-five years or at least 2 children)
9. Regarding the registration of women of childbearing age with a disability, it is necessary to abandon indicators related to the reduction of pregnancies among women with disabilities and their contraception.
10. Regarding the responsibility of doctors who monitor women of childbearing age who have contraindications to pregnancy, it is necessary to abandon the division into fertility groups, providing all women (regardless of medical diagnosis, social status, etc.) with equal opportunities at the legislative level to exercise their reproductive rights.
11. Regarding the refusal of medical care, the state is obliged to provide a woman with a disability with quality medical care, providing all the necessary conditions for the safe course of pregnancy, both for the woman herself and her child.
12. Ratify the Optional Protocol to the Convention on the Rights of Persons with Disabilities.

2. Rights of women with psychosocial and intellectual disabilities: deprivation of legal capacity

1. Review legislation to abolish or void laws and regulations that directly or indirectly limit the legal capacity of people with disabilities and (or) allow decision making by proxy.
2. Ratify the Optional Protocol of the Convention on the Rights of Persons with Disabilities.
3. Amend Article 323 of the Civil Procedure Code of the Republic of Kazakhstan to allow persons deprived of legal capacity to apply to the court directly or through a representative of their choice (for example, organizations working with disability issues could also be able to file such applications). In addition, the legislature must provide regularly and timely reviews for decisions on disability and/or mandatory periodic review of such decisions.

F. WOMEN AND ECONOMY

1. The State party should **repeal the list of prohibited professions for women** which consists of 219 professions listed in the Decree adopted by the Minister of Labour and Social Security of the Population on 13 August 2018¹⁴² and ensure equal accessibility to all professions to women.

G. WOMEN IN POWER AND DECISION-MAKING

¹⁴² Decree of the Minister of Labour and Social Security of the Population dated 13 August 2018

1. The State party should: (a) review the bill on family and gender policy to ensure that it defines “temporary special measures” and “gender quotas” and codify its intention to achieve 30 per cent, and ultimately 50 per cent, representation of women in line with article 4 (1) of CEDAW; (b) introduce temporary special measures as a necessary strategy to accelerate the achievement of substantive equality for women in all areas in which women are underrepresented; (c) establish a mechanism to monitor the implementation of temporary special measures and assess their impact; (d) allocate sufficient resources for the implementation, monitoring and impact assessment of such measures.

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This report has been prepared by Kazakhstan Feminist Initiative “Feminita” in cooperation with initiative group AlmaTQ, Kazakhstan Union of People Living with HIV, and experts from the New Generation of Human Rights Defenders Coalition.

Kazakhstan Feminist Initiative “Feminita” is a grassroots queer-feminist activist group working on advancement of LBQ(TI) women’s rights and freedoms and dignified life on the basis of systematic feedback loop from communities in Kazakhstan. "Feminita" was created in 2015 and has two primary focuses: (1) national and international advocacy; (2) research and education on human rights, feminism, queer theory, and corporeality.

Initiative Group AlmaTQ is a trans led community based initiative group. Its main directions of work are community mobilisation and empowerment, social support and trans advocacy. AlmaTQ was formed in 2014. (Section on Discriminatory procedure on legal gender recognition of transgender women).

Kazakhstan Union of People Living with HIV is a union of 20 Kazakhstan based organisations with a mission to provide people living with HIV and their close ones decent quality of life, including access to quality HIV prevention, treatment, care and support services. (Section on Women living with HIV, women who use drugs, sex workers, and women in prison).

Experts from the New Generation of Human Rights Defenders Coalition:

Irra Bobkova, Head of Tandau Public Foundation, Member of the New Generation of Human Rights Defenders Coalition. (Section on Restriction of the reproductive rights of women with disabilities).

Gulzhan Amangeldinova, Program Development Coordinator at Psychoanalysts Association, Member of the New Generation of Human Rights Defenders Coalition. (Section on Rights of women with psychosocial and intellectual disabilities: deprivation of legal capacity).